



# Vermont Criminal Justice Council

## Council Meeting Minutes

December 15, 2021

10:00 AM

Teams Meeting

### **Members in Attendance:**

William Sorrell, Chair – Governor Appointed

Paul Samataro, Proxy for Sheriff Mark Anderson, VT Sheriff's Association

Xusana Davis, Vice-Chair – E.D. Racial Equity

Christopher Louras – Governor Appointed

Glen Boyde – Proxy for Nicholas Deml, Dept of Corrections

Sadie Donovan – Proxy for Carol Brochu, Center for Crime Victim Services

Evan Meenan – Proxy for John Campbell, States Attorney & Sheriff's

Erin Hodges - Vermont Troopers Association

Trevor Whipple – Vermont Leagues of Cities and Towns

Michael Major – VT Police Association

Chris Herrick, Commissioner, VT Fish & Wildlife

Jason Batchelder - Proxy for Commissioner Chris Herrick, VT Fish & Wildlife

Justin Stedman - Proxy for Commissioner Chris Herrick, VT Fish & Wildlife

Michael Schirling – Commissioner of Public Safety

Barbara Kessler – Proxy for Commissioner Michael Schirling, Department of Public Safety

Cassandra Burdyslaw – VT Human Rights Commission

Shawn Pratt – Governor Appointed

Karim Chapman – Governor Appointed

John Federico – VT State Employee Association

Brian Searles– Governor Appointed

Gwynn Zakov – Proxy for Trevor Whipple, VT League of Cities and Towns

Michael Major – VT Police Association

### **Other Attendees:**

Heather Simons –Vermont Police Academy

Lindsay Thivierge – Vermont Police Academy

Cindy Taylor-Patch – Vermont Police Academy

Megan Campbell – Assistant Attorney General

Julio Thompson - Assistant Attorney General

Will Lambek – Migrant Justice

Enrique Balcazar – Migrant Justice

Jason Covey – Middlebury Police Department

Sarita Austin – Representative House Committee

S. Pachman

Mary



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Kitty Ufford-Chase  
Susan Schoenfeld  
Ciara C-H  
Sophie Cassel  
Alan Keays  
Lisa Barrett  
Spencer Edwards  
Ann Schroeder  
Daoudi  
Tereass i-phone  
Matt Witten  
Mia Schultz  
Noah Blue Sherrill  
Susan DeClue  
John McCright  
Bernie Carver  
Gina  
Cat Buxton  
Julia Berberan  
Robert Appel  
Jill Stevens

**Call to Order:** Vermont Criminal Justice Council Chair, William Sorrell 10:04

**Changes to Agenda:** To accommodate Migrant Justice and participants who would like to address the Council, we are moving the Fair and Impartial Policing portion of the meeting to after the Approval of the minutes. Motion to amend the agenda to change the order in the agenda Brian Searles, seconded by Commissioner Schirling. All in favor.

**Approval of prior minutes:** Mike Major moved to accept the minutes from December 1<sup>st</sup> as written. Second by Cassandra Burdyslaw. All in favor. Motion passed.

**Fair and Impartial Policing Policy Updates:** *Enrique Balcazar via Will Lambek (interpreting):* Enrique addressed the council from the perspective of the migrant community and why the policy changes that are being proposed are so important. For decades the migrant community has suffered from discrimination at the hands of the police whether through skin color, language, or our nationality. The principal goal is that Vermont does not expend its resources or be a party to persecution. Federal authorities target, incarcerate, put in detention, and deport immigrants resulting in the separation of families. When VT police collaborate with Federal officers, they are also seen as persecutors and will fear them. In 2014 Migrant Justice started working on the



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FIP policy to ensure there were strong protections and that is what we are here to propose and move forward.

The Statewide FIP policy in place does provide some protections to the immigrant community but unfortunately it does have some loopholes that allow police in the state of Vermont to use pretext in order to involve immigration agents and collaborate with them. That's why we are hoping to close these loopholes, so this policy truly protects immigrant rights and keeps Vermont police from being a party to the persecution and deportation of our communities. Because this currently is happening in our state.

*An example was given on a publicized traffic stop between Sheriff's and Border Patrol.* The CJC has the power to close those loopholes and improve the policy so that this no longer happens in our state. The recommendations we have put forth have already been adopted in police agencies around the state.

"We hope that you will take these recommendations under consideration in updating and improving the FIP policy. I am part of a community of over 1000 farm workers that are sustaining the state's dairy industry. We are an important community for the economy of the state but more important we are human beings that deserve the same dignity and equal treatment as anyone else. Thank you for the time and the space."

*Will Lambek:* Proposal is roughly separated into 5 recommendations:

- Section 6F Immigration agents should not have access to immigrants in custody. This language used to be in place in 2016 we ask that the CJC goes back to the stronger language.
- How LEO interact with people who they suspect or may want to investigate for criminal violations. We believe it's important that VT LEO not expend resources on anything that does not create a public safety risk.
- The policy forbids an LEO from taking in someone based on how they look but they can take them in based on immigration status.
- 4<sup>th</sup> and 5<sup>th</sup> ones are at the center of the issue. We have to recommend taking away broad carveouts and offer alternate language which would narrow when information sharing is allowed. We have participants available and eager to answer any questions you may have.

*Discussion Ensued:* Thanks were offered by Chair Sorrell. Council Member Shawn Pratt offered support to Enrique and Migrant Justice in hopes that all people of color are not being discriminated against by law enforcement in Vermont. Vice-Chair Xusana Davis spoke about our role in Government as employees, council members, committee members, and contractors. In these roles, when we ask to hear from the community, this is exactly what that means. Vice-Chair Davis also expressed the importance of demonstrating that we as a Council, are serious about the information we receive. It is very important that we act when we receive feedback and heartfelt presentations, because lives are literally on the line. Vice-Chair Davis also expressed her gratitude for Migrant Justice and Enrique and hopes that others have really heard what has been presented today and previously, it is owed to everyone who is present in Vermont to be



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protected regardless of their residency or any other status, particularly if there are any doubts about federal policies.

*Representative Sarita Austin:* Representative Austin questioned how race data is collected and what the data shows as well as who has access to that data? Representative Austin believes that the policy, procedures, and enforcement all need to be looked at but the data helps inform policy.

*Discussion ensued:* Data can be pulled from the DMV where all tickets are submitted, the information is on the back of the tickets, but the information is not disaggregated to include Migrant Workers. Commissioner Schirling spoke on the new statewide system that will begin January 1, 2022, where data can be pulled on this and other areas of interest in terms of research. Captain Kessler clarified that officers are prohibited from asking immigrant status or nationality on traffic stops. The data is all based on officer perception and that could make the data harder to track.

*Will Lambek:* Migrant Justice would like the Council to take into consideration that although there are complicated and vexing legal issues behind some of the issues, it is not all of them. Eight law enforcement jurisdictions have adopted these recommendations across the state. It has given clear guidance to officers in the field that there are no loopholes to ensure they are not discriminating or collaborating with federal agents. This has resulted in more secure communities and feelings of safety with local law enforcement.

*Julio Thompson* clarified that there is a process by which an agency has to submit their FIP policy to the Attorney General's (AG's) office and they will review it and make sure it fulfills the minimum requirements. The AG will send back a letter if the policy is compliant. The state statute says that if a state police policy is in violation of federal law (Federal Law US Code 1373), then the policy is abolished. The AG's office will respond to those agencies that they are compliant as long as nothing is intended to violate federal law. For example, Federal Law can't ask where John Doe lives but they can ask do you know John Doe's citizenship.

Lambek: This question of the Federal statutes US Code 1644 and 1373 affects one out of the five recommendations that Migrant Justice is putting forward. The constitutionality of these statutes has been brought into question. Ultimately it will be up to a court to decide. If VCJC decides that the statutes are unconstitutional then we can put a policy into place that will protect the immigrant community. We recognize that the 4<sup>th</sup> recommendation would need language adjustments.

*Discussion ensued:* Clarity was provided around which recommendations are impacted by Federal law. Number 5 (restricting the type of information shared) and Number 4 pertains to instances of collaboration or closing those loopholes and ultimately to restrict when info can be shared and what type of info is shared.

**Executive Director Updates:** Thanks and gratitude were given to everyone for having these conversations as they are very important.



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- General updates: There are 33 in the basic class and its week 8 Graduation will be Friday Feb 25<sup>th</sup>. Orientation for the 113<sup>th</sup> will occur the following Monday on the 28th. The next academy will start March 21<sup>st</sup>. Tentative date of Aug 22<sup>nd</sup> for the following academy.
- *Col. Batchelder Introduced new commissioner of fish and wildlife Chris Herrick.*
- Additional Updates include: Captain Manley from VSP has been assisting and will help transition in the new Deputy Director Chris Brickell Jan 3<sup>rd</sup>. He has been critical in building relationships with our partners instead of things all landing on the ED and he is assisting in developing leadership and capacity.
- Committees: There has been one common question who should be directing the subcommittees. Some of these subcommittees are very large and complex. TAC is large and it can be hard to conduct business and get a quorum. K9 Subcommittee is run by a state employee but made up of K9 handlers and gets support from a 501(c)3 and it is high liability training. Questions to answer are: How do we supervise training? How do we certify instructors? How do we do safety plans? Where do we get templates and models for best practices? Its not just as easy as a group of people getting together and hosting training there are many complex issues.
- Lindsay has been diligent in trying to get the web updated and information out to stakeholders. You will see more on our social media which brings us back to all of law enforcement and our communities and our commitment to recruitment.

*Chair Sorrell:* Welcomed Deputy Director Brickell. Acknowledged a full year of Council Meetings and the growing pains experienced but also the accomplishments that have occurred. Planning for a meeting at the beginning of the year to take stock on role and function of subcommittees. What we should be changing to have us work more effectively and more efficiently.

*Karim Chapman:* Expressed gratitude for being a part of the Council. Proposed an idea that asks members how we can give the community real access to us. How do we find a pathway that allows citizens to connect with us? How do we support the people who need help and that have had roadblocks and don't know where else to turn? How can people feel heard and how do we help and support them? These topics will be added to the agenda for the taking stock Council meeting in January. Director Simons also mentioned that we should have a process for Council Members to add things to the agenda.

### **Body Worn Camera Model Policy:**

- The requirement from S124 is that this policy be adopted by the Council before 1/1/2022.
- Suggested changes were made at the last meeting from Mayor Louras in the Appendix and Sheriff Anderson had some suggestions for changes as it relates to Sheriff's operations.



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- We will take action before the end of the December and before the LEAB meets in January.
- There were three attachments for this meeting: One was the original policy, 2<sup>nd</sup> were the changes proposed in Nov., and the 3<sup>rd</sup> was the proposal made by Sheriff Anderson.
- There is a Motion on the table for acceptance of changes made in November.

*Discussion ensued:* There are two different changes being proposed:

- Section 1E9: Change is designed to create an exception to running a body cam during a transport order, not part of an arrest when the cruiser cam is also running and capable of capturing the defendant.
- Section 2J: 30 second buffer that is supposed to happen. Due to technological issues due to aging equipment and financial issues with upgrades, would like language that captures that limitation.
- Evan Meenan stated he is in favor of voting for these changes.
- A question was asked about if the policy has to be revised by the LEAB before the council takes action, but Julio Thompson confirmed that it does not.
- Motion to accept policy changes presented at the November meeting to include the amended language made in the Appendix made by Chris Louras (on the table from the last meeting) and a second by Brian Searles.
- All voting in favor none in opposition

Motion to accept further changes on Sheriff Andersons proposed changes, Brian Searles moved to have changes made, Jon Federico seconded. Discussion ensued and vote was tabled until all stakeholders have the opportunity to review and discuss the changes that were proposed by Sheriff Anderson.

**FIP Subcommittee Process:** Meeting in January will focus on subcommittee concerns regarding what authority each of our committees operates under and what authority each committee has.

No further questions, comments, or suggestions.

Motion to adjourn with a hearty happy holiday: Mike Major, second by ???. All in favor.

Meeting adjourned: 12:03