



# Vermont Criminal Justice Council

## Council Meeting Minutes

November 17, 2021

10:00 AM

Teams Meeting

### **Members in Attendance:**

William Sorrell, Chair – Governor Appointed

Mark Anderson, Vice-Chair – VT Sheriff's Association

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

Anthony Facos – Proxy for Wanda Minoli, Dept of Motor Vehicles

Christopher Brickell – Vermont Chiefs' Association

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

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

Cassandra Burdyslaw – VT Human Rights Commission

Shawn Pratt – Governor Appointed

Karen Tronsgard-Scott – Vermont Network DOMV/Sexual Violence

John Federico

Thomas Mozzer

Brian Searles

Julio Thompson

Kevin Lane

Michael Manley

Jon Murad

### **Other Attendees:**

Heather Simons – Vermont Police Academy

Lindsay Thivierge – Vermont Police Academy

Cindy Taylor-Patch – Vermont Police Academy

Jacob Humbert – Assistant Attorney General



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**Call to Order:** Vermont Criminal Justice Council Chair, William Sorrell 10:05

**Changes to Agenda:** No additions or deletions

**Approval of prior minutes:** Chris Louras made a motion to accept the minutes from November 2nd. Second by Evan Meenan. All in favor. Motion passed.

### **Executive Director Updates: (Heather Simons)**

*112th Academy:* We have had three resignations and are currently at Week 4. The total for the class roster is currently 32. There is not a trend or a pattern for resignations they are just personal choices and not uncommon this early in the program. Graduation is set for February 25th

*113th Academy:* Staff is in the planning stages for the next academy which will occur soon after the 112th commences. Staff is working with VSP training staff to ensure that momentum continues but schedules do not overlap too much. Ultimately, we are all looking to get back on the traditional schedule that fits with holidays and weather limitations. The East Cottage will be finished soon which will hopefully give us more flexibility in operations and capacity.

*FIP Contract:* Contracts are signed, and the trainings are being scheduled, they will be accessible both online and in-person during various shifts to accommodate all officers.

Due to a delayed start date of the FIP training, the Waiver Subcommittee held a special meeting and approved a six-month extension on the FIP Rule 13 requirement. The new deadline is 6/30/2022.

There was discussion on how this FIP training differs from the FIP training being conducted during the basic academy. The FIP contractor has more traffic race data training and personal reflection, it is not required in addition to what is offered in Basic but is highly recommended. If the Council needs to make a recommendation to support staff and the training for FIP they are willing to do so.

*Governance Meeting:* There were not many bidders on the Feasibility study and so they have reposted the bid. There will be an update at the next meeting.

### **Body Worn Camera Model Policy: (Heather Simons and Col. Jason Batchelder)**

*There were a few remaining questions/concerns on the policy that went back to the LEAB for adjustments.*

*The requirement from S124 is that this policy be adopted by the Council before 1/1/2022.*

*Col. Batchelder described three changes made by the LEAB to the policy as it was presented 10/2021.*



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- Page 1 Paragraph 2: This policy will generally be used for uniform officers. Allows agencies to decide whether a Body-Worn Camera will be used by plainclothes/undercover officers.
- Page 3 Section C #2: Concern from the Attorney General's Office and State's Attorney and Sheriff's Office on the use of Body-Worn Camera's in a private residence. (Deletion and Addition)
  - "If entering a private residence for exigent circumstances or during the completion of any custodial arrest the use of Body Worn Cameras shall continue regardless of consent being granted. If entering a private residence pursuant to a search warrant the officer shall at the time of applying for a search warrant consult with the State's Attorney Office or the Attorney General's office to determine whether a search warrant is needed for the use of a Body-Worn Camera."
    - The initial concern came from camera use during child pornography cases
    - VT Supreme Court case law recognizes law enforcement enters a residence and records audio, without a warrant consent or legal exception to the requirement, the recording would be unlawful. There is concern that a video recording that records audio and visuals would also be deemed unlawful.
    - Attorney General's Office and State's Attorney and Sheriff's Office both support language change
- Page 5 #8: Routine Regulatory Footage Functions
  - "Recordings are not expected during some unique operations such as routine regulatory functions that are unique to specialized law enforcement agencies which are carried out by the VT Dept. of Fish & Wildlife Warden service, VT Dept. Of Motor Vehicle Enforcement and Safety Division, VT Dept. of Liquor & Lottery Division of Liquor Control. Another unique operation would be the execution of a search warrant for evidence in child pornography work where capturing recordings of such material and uploading them to third-party vendor storage would constitute a crime".
  - LEAB has approved these changes, the next formal step is approval by the Council because it is the Council's policy.
  - *Discussion ensued around approval* Change approval date by the LEAB to incorporate revisions made in November.
  - Concerns arose around additional language changes to incorporate unique agency functions of Sheriffs. Additional language change in Section 2 Subsection J: which is the requirement for an agency head to equip a 30-second buffer for audio and video, but technology may not be functional or adequate. Would request word change to 'encouraging' instead of 'requiring'.



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- Suggestions are noted for the record but today we would accept as currently drafted.
- *Unanswered questions asked around Council authority for waiving Body Worn Camera policy due to operational issues.*
- Additional language addition suggested at end of policy (Appendix A): Footage should be released as soon as practical in consultation with investigators, prosecutors, organizational leaders, *and victim services.*
  - Offered as an amendment instead of going back for review.
  - Additional stakeholders agreed with the amendment of the language
- Chris Louras moved to accept the policy as it is presented today, seconded by Karen Tronsgard Scott.
  - Chris Louras moved to amend language on page 15 to include victim services. Seconded by Brian Searles
  - Mark Anderson noted that this Appendix is the same used in the Use of Force policy. Will this change be for both the Use of Force policy and the Body-Worn Camera policy? Is the appendix part of the policy?
    - Proposal for LEAB and DPS to include the proposed amendment in the body of the Body-Worn Camera policy so as not to limit this interaction with Use of Force incidents.
    - Use of Force Policy not under the purview of the Council does the Council have the ability to change the wording in the Use of Force Policy?
    - No action was taken today but the conversation will continue in December's meeting with a motion on the table.
- **Professional Regulation Subcommittee (Chris Brickell)**
  - 66 investigations completed, 23 in progress (15 reviewed and sent back, 8 that are ongoing criminal investigations and have not come to a resolution), 8 Council Investigations that are awaiting a council investigator. There are 6 new cases we have not reviewed yet.
  - Jacob drafting documentation and letters
  - Scheduling of hearings from the Council after the first of the year.
  - Council investigator will be hired after the Deputy Director is announced.
- **Entrance Test Working Group (Jon Murad)**
  - Official recommendation coming to the Council next meeting for a physical test
  - RFP – Moving RFI to RFP will give us strong candidates with the possibility of a psychological option as well as an academic test.
- **Committee Process (Heather Simons)**



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- We have many sub-committees and working groups, but we need to make sure that they make sense and are functional, are approved by the council, and allow for us to bring everything to the learning environment.
- Public meeting law and conflicting priorities slow down the process on projects in areas where they don't need to be publicly warned meetings. Some projects are staff work.
- Captain Manley and Director Simons will work with staff to dissect subcommittees and working groups.
- **H435 Joint Legislative Report with DOC**
  - Feasibility of VCJC taking on certification and decertification of Corrections.
  - The study comes from a historical relationship that has been repaired with the vision that one day there will be a common Criminal Justice Center. The council reflects the diversity that is needed.
  - This is a vision and doesn't have to happen overnight. There are capacity issues for the Council and Corrections.
  - Joint Justice, Corrections, and the Council agree this is where we want to head in the future, and we will revisit in 2023.

**Additional Comments:** Valcour has an anticipated December 6<sup>th</sup> statewide rollout of a records management system.

No further questions, comments, or suggestions.

Motion to adjourn: Chris Louras moved, second by Chris Brickell. All in favor.

Meeting adjourned: 11:56

*Next Meeting Date Wednesday, December 1, 2021, at 10:00 AM*