November 1, 2023

10:00 AM

Teams Meeting

**Members in Attendance:**

William Sorrell, Chair – Governor Appointed

Brian Searles – Governor Appointed

Karim Chapman – Governor Appointed

Shawn Pratt – Governor Appointed

Christopher Louras – Governor Appointed

James Whitcomb – Vice Chair, Proxy for Commissioner Jennifer Morrison, Public Safety

Glenn Boyde – Proxy for Nicholas Deml, Dept of Corrections

Wade Cochran – Proxy for Commissioner Wanda Minoli, Motor Vehicles

Chris Herrick – Commissioner for VT Fish and Wildlife

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

Erin Jacobsen – Proxy for Attorney General Charity Clark

Tim Lueders-Dumont - Proxy for John Campbell, Executive Director, States Attorney & Sheriff’s

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

Michael O’Neil – Proxy for VT Trooper’s Association

Jennifer Frank – Vice Chair, VT Chief’s Association

Mark Anderson – VT Sheriff’s Association

Jennifer Harlow – Proxy for VT Sheriff’s Association

Trevor Whipple – Vermont Leagues of Cities and Towns

Sadie Donovan – Proxy for Jennifer Poehlmann, Center for Crime Victim Services

Cassandra Burdyshaw – VT Human Rights Commission

Karen Tronsgard Scott – ED VT Network DOMV/Sexual Violence

**Other Attendees:**

Heather Simons – Vermont Criminal Justice Council

Christopher Brickell – Vermont Criminal Justice Council

Lindsay Thivierge – Vermont Criminal Justice Council

Kim McManus – Vermont Criminal Justice Council

Jennifer Firpo – Vermont Criminal Justice Council

Ken Hawkins – Vermont Criminal Justice Council

David Fox – Rutland County Sheriff’s Department

Michael Thomas – Shelburne Police Department

Mandy Wooster – Department of Public Safety

Matthew Romei – Northfield Police Department

Whit Montgomery – Killington Police Department

Shawn Burke – South Burlington Police Department

Jason Covey – Middlebury Police Department

Travis Bingham – Newport Police Department

Trevor Colby – Essex County Sheriff’s Department

Jason Wetherby – St Albans Police Department

Darla Mariduena – Human Rights Commission

Bruce Nason – Bristol Police Department

Annie Noonan – Department of States Attorneys and Sheriffs

Roger Marcoux – Lamoille County Sheriff’s Department

Paul Talley – St Albans Police Department

Matthew Sullivan – Swanton Police Department

Jeffrey Burnham – Springfield Police Department

Dave Dewey – Colchester Police Department

John Grismore – Franklin County Sheriff’s Department

Joseph Thomas – St Albans Police Department

Nicole Dernier – Winhall Police and Rescue

Daniel Gamelin – Chittenden County Sheriff’s Department

Kevin Lane

**Call to Order:**  Vermont Criminal Justice Council Chair, William Sorrell 10:06

**Approval of prior minutes**:

* Bill Sorrell quote remove you from “whether they would you like”.
* Motion to approve minutes from October 4, 2023, meeting, Bill Sorrell, second by Brian Searles. All in favor.

**S17 Report –***Lamoille County**Sheriff, Roger Marcoux and Director of Labor Relations and Operations State’s Attorney and Sheriff’s, Annie Noonan*

* Senate Government Operations Committee is interested in Sheriff’s and what oversight and Accountability should be instituted for the sheriffs.
* Nine points in S17 they were asked to address.
  + When a sheriff is leaving how do they disperse property and assets in the department?
  + When does the auditor go in and do an audit? Who pays for that?
  + Conflict of Interest Policy
  + Annual Financial Disclosure
  + Require the Department to develop model policies for the Sheriff’s on compensation and benefits.
  + How Sheriffs are able to use the money they take in from private or public contracts and how it gets utilized for compensation and benefits. Which would involve creating the Director of Sheriff Operations.
  + Sheriff’s maintain record of work schedule (out of state)
  + Requiring Sheriffs to provide law enforcement security to courts.
  + Require Sheriff’s to provide assistance in Relief from abuse orders or retrieval of property and how will that be paid.
* Report shows policies that would be implemented statewide, many of which the Criminal Justice Council would be significantly interested in. There are also things that are specific to Sheriff Department operations in regard to employees and operations. Sheriff Marcoux offered to use his policies as the starting point for review.
  + These policies can be provided to the Council.
  + Proposed creating a policy committee with equal representation from small, medium, and large Sheriff’s offices, the new Director of Sheriff Operations, Executive Director for State’s Attorney and Sheriff’s, SAS Attorney, Deputy SAS Attorney, Attorney General representation, and Council representation.
  + Online training available - Police One that has a lot of certified courses that Sheriff’s and Sheriff’s staff can take advantage of - build in additional training money to sheriff’s budget.
  + Increase efficiency and equity in the delivery of public safety services by the Sheriff’s Department by standardizing policies, procedures, and rates of pay for similar services.
  + Compensation structure for sheriff’s, Deputies, and department staff salaries, retirement, and benefits.
    - Sheriffs are constitutionally elected officers and salary is set by statute. State Transport Deputies are covered by a collective bargaining agreement.
    - Sheriff’s employ their own staff and the State’s Attorney and Sheriff’s have no input on who those employees are, since they are a part of the Sheriff’s Department not the States Attorney and Sheriff’s.
    - Law enforcement certification is not required, however if a Sheriff has a Level II certification, they have a 10% reduction in pay. If they have no certification the statute is silent.
      * The Legislature recommends that a Vermont Sheriff must possess a Level III certification. Deputy States Attorney and Sheriff’s Office recommends Level II sheriffs be grandfathered into this requirement.
* Current construction of Sheriff’s – Sheriff’s are elected, salary and benefits come from Deputy SAS office, so they are on Vermont payroll and benefits. State transport deputies have their own. Sheriffs are able to fund and operate through the contracts they can secure. Sheriff compensation is defined by statute, but they are also high-level business managers and have high liability without protections. In 14 offices they employ about 300 Vermonters. When looking at job responsibilities and comparing it to other law enforcement titles the Sheriff would be comparable to a Major in VSP, and salary should be adjusted accordingly.
* Move Sheriff’s into State Group G retirement.
* Sheriffs receive a 5% administrative fee by statute to administer contracts. This is similar to federal grant indirect cost rate of owning the work and oversight on the grant.
  + **Suggestion:** Total transparency, accountability, and oversight. Perhaps utilize quarterly reporting as to what is being taken in and what its being used for, including a list of allowable and non-allowable expenses on the 5%.
  + Public Record Requests on Sheriff salaries don’t show the 5%. There is a perception that Sheriff’s make $300-400K dollars a year when in reality the highest paid sheriff is paid less than all of the other executive level law enforcement officers in the state.
* *Discussion ensued*: *Bill Sorrell* – Is the formal study group making affirmative recommendations for what the rules and regulations should be or will that be left to the legislature? Will your recommendations require constitutional amendment?
  + *Roger Marcoux*: For the 5% - We suggested that Sheriff’s that hold no law enforcement certification should have their salary decreased significantly. That will require a constitutional amendment.
  + *Annie Noonan***:** We will be continuing to work on recommendations for rules, regulations, and processes. We continue to work with the auditor’s office. There was conversation around an outgoing sheriff providing bonuses to his employees, but the other side of the story is that the Sheriff didn’t feel he had enough money to provide health insurance to his employees so as money came in, he would provide bonuses to his employees so that they could purchase health insurance.
  + *Bill Sorrell* – Is there any hammer for policies that are not adopted and not followed or not adopted and ignored? Is the VCJC potentially taking action on a Sheriff’s certification? Will that require a constitutional amendment?
    - *Annie Noonan* **–** Possibly. The report does say under recommendations page 6 – “further we recommend that a Sheriff’s compensation be reduced by an additional percentage amount for each year that a Sheriff fails to come into compliance with the mandatory provisions of Act 30 (S17) after written notice of non-compliance by the Sheriffs Executive Committee.”
    - *Roger Marcoux –*A big piece of this will be the Director of Sheriff’s Operations. If a Sheriff is not in compliance that position will have to be the reporter. We will be taking this question up with the legislature and other partners we have not yet talked to and see what we can do that is realistic.
  + *Bill Sorrell* – The Council, AG’s office, and HR were to have consulted on this report, is this the kind of thing where under the statute you look to us for some opinion or inputs, but you are the ones that own it? Or does the Council stand behind your report and recommendations.
    - *Roger Marcoux* – The Council should review it and mark it up. This is something that is the future of the Sheriff’s, the more input the better.
  + *Heather Simons* – I appreciate your comments about the negative narrative – it’s delicate to move through this kind of change without context. I suggest to the Council that this is the kind of report-out that we have been working towards and I appreciate Roger and Annie taking the time to move through these points. I think we need to keep moving forward and not hurry through this so we can have a healthy collaborative conversation.
    - *Annie Noonan* – we will make ourselves available and continue to send updates. There are a couple of pieces of this that I think the Council will have significant conversations and discussions, such as: what happens when a complaint comes in? Creation of the advisory commission and conversations around training and policy.
  + *Brian Searles* – Thank you, this is a great presentation, and I learned a lot. I appreciate the emphasis you put on the front end of hiring a Sheriff.
  + *Karen Tronsgard Scott* – I appreciate everything you have done. The composition of the Council has changed and so I am wondering if you have thought of including stakeholders from marginalized communities in any of these oversight committees, I think they add so much.
  + *Annie Noonan* – In conversations about the Advisory committee the list was extensive that we reviewed of members to have for stakeholders. There are some things such as ‘policy on how to clean a cruiser’ we will decide which policies impact various communities and bring them into the conversation.
  + *Roger Marcoux* – Look at the State police and the advisory commission – it works well because they advise the commissioner, and they work with state police investigators – we need some sort of centralized highly trained group to investigate things so that they are done the same way and they work close with the commission – there may be policy violations that make no sense to talk to the Sheriff’s Executive Director or Sheriff’s about. The problem for the Executive Director for the sheriffs is that they will have to go to 14 different agency heads to advise them. We have a lot of work to do to make it meaningful and easy to use. We have a lot of folks and groups to consider having this be of value.
  + *Annie Noonan* – pieces of this have to go to the Council but what would they not want to hear about? We want to work very closely with the Council on the complaints process.
  + *Roger Marcoux* – A complaint on a sheriff the Executive Director must have the resources to investigate that complaint. A credible complaint must be sent to the Council within ten days. We will need qualified investigative capability.
  + *Mark Anderson* – There is a lot of talk that the Sheriff is an employee of Vermont, but their employees are not employees of Vermont. It is a split and fractured system. When we talk about building policies or resources, we often say we are neither fish nor fowl, we don’t always know where we belong. As one of the advocates for creating these resources and policies to create a foundation for new sheriffs, the idea was, they [a new sheriff] could walk in the door and have a binder to know what to do. It’s important to say that the professional regulation aspects would certainly involve the Council, there are a variety of vested interests but it’s also important to not overload the Council. I want to emphasize the fractured system. Some improvements could be constitutional, statutory, or best practices. We have been working for years now to professionalize sheriffs and bring resources to them.
  + *Roger Marcoux* – we lay out a training program for new sheriffs coming in and some continuing education for sheriffs on the management level. 10 hours a year over the 30 hours prescribed by the Council.
  + *Heather Simons* – could you talk a little more about the reasoning behind the requirement to have Sheriff’s certification Level III
    - *Roger Marcoux* – we want to do everything we can to professionalize Sheriff’s. It is the highest standard we can achieve with law enforcement piece. You have to know about law enforcement, business, and politics to be a sheriff. Two weeks of classroom followed by 60-100 hours of field training for Level II compared to Level III 17 weeks and additional training hours from an agency, there is a big difference.
  + *Heather Simons* **–** I am just wondering what Sheriffs you lose with that requirement. The Council and the Academy are going through a similar transition. Trying to address one thing that turns into a thousand things. I was interested in the thinking behind how you got there. We are taking a look at the profession overall and competencies, it is a lot of work. Communication around thinking in general is helpful to me as we try to figure out what our target audience is and how deep into information do we want to get when things change so quickly. I am looking forward to the continued conversation and training is a big deal.
  + *Roger Marcoux –* I don’t see any additional work for the academy, and we can’t survive without a Level II or equivalent just to pick up what municipalities and VSP can’t do. I look forward to working with you and the academy staff so we can understand your pressures as well.

**Canine Committee:** *Colchester Police Department and Canine Committee Chair, David Dewey*

* The Council has been sent updated canine standards.
* The previous canine standards were in place over 40 years and have been updated in various places through the years. In 2022 we decided to overhaul the old standards and start over.
* The committee took current NESPAC (New England State Police Administrators Conference) standards and adjusted them to align with Vermont best practices.
* The committee added in how they determine who our instructors are and added some requirements for annual training for these instructors to keep updated. Some things that happen out of state are brought into the Academy and reflected in basic certification training so there will be a requirement to keep up with those changes.
* *Bill Sorrell* – Where are the major changes and were those changes unanimously approved by the Committee or were there larger conversations.
  + *Dave Dewey* – There are no major changes in the training, but some are in the testing of the training. Mostly these revised standards clarify what was on paper compared to practice.
    - Now instructors must train in the Academy at least once a year to help in the basic certification training and the canine academy position.
    - There were larger conversations about the requirements for instructor certifiers. Large agencies provide more flexibility for instructors so they can attend training at the academy, which is more difficult for smaller agencies.
    - Annual PT test – all handlers have to pass a physical test annually. It is written differently in the new standards. It used to be the Cooper standard, but we reviewed the rower and task based physical tests. The Canine Committee is asking the council to allow the flexibility to come up with an appropriate test.
* *Heather Simons* – Are you expecting the standards to be an action item at the next Council meeting?
  + *Dave Dewey* – once we get all of the feedback, we would like it to go to the Council for approval. Feedback can go to Dave Dewey.
* *Heather Simons* – The canine program needs to be staffed. The position was posted and closed, then reopened. While the canine committee is reviewing the standards, we have to make operational decisions about where we will go in the future and who’s responsibility is it.
  + The position of Training Coordinator is held by the Council and the Academy. All TC’s have that title, some people had specialties, but this position is generic training coordinator. That matters as we may need to do an RFR for a head trainer because this position is completely related to Canine. It’s the outcomes of the program we need to pay attention to and how we are going to build capacities for instructors and where standards start and stop in relation to training metrics for the council and academy and instructor certification. We will have to figure out how much further past the standards the academy will go in regard to capacity, accountability, certification, etc. Then there is the bigger question of one person can’t do this.
* *Dave Dewey* – The standards only minimally address the actual training aspect of the program, it’s more testing the final product of the Basic certification schools. It is also the annual test of teams to make sure they are meeting the minimum requirements. Skills that are tested are not different but how they are tested are.
* *Kim McManus* –The standards tie the Training Coordinator and the head trainer together so that needs to be separated. We also want to make sure that the certification of canine instructors follows the Councils proposed rules of how instructors are certified by the Council. The last piece is around safety and risk management for trainers and instructors. I will be working with the committee, and we can decide if we separate the document into two pieces to get it in front of the council a piece at a time.

**Act 56 Working Group Report:** *Vermont Criminal Justice Council, Act56 Chair, Chris Louras*

Act 56 legislative task was to review the unprofessional regulation statute and determine:

* Whether the current statutes pertaining to unprofessional conduct should be amended to include all off duty conduct of law enforcement officers.
* Whether the current statutes pertaining to unprofessional conduct should be amended to adjust the scope of category B conduct that the VCJC may act on for first offense.
* Any other recommendations that are deemed appropriate by the Council.

The report includes three topic discussions in committee. The current committee agreements are as follows:

1. The current definition for Category B conduct is unnecessarily tied to local law enforcement agencies individual policies and that creates inconsistent outcomes because we have inconsistent policies across the state.
2. The current definition for Category B conduct can and should be simplified. Law enforcement officers and those representing officers recognize the need to expand the Councils ability to sanction professional misconduct in behaviors that have historically fallen outside the current definition of Category B but rises to the level of professional misconduct.
3. Expansion of the Councils ability to sanction an officer for Category B offenses should be balanced with greater clarity to the definition of Category B so that officers have proper prior notice and an understanding of expectations.
4. Actionable off duty behaviors require a nexus between the offending conduct and the officer’s job-related responsibilities. No nexus needs to be determined for conduct already predetermined for conduct already defined in state statute to be actionable either on or off duty.

The Act 56 committee proposes that the definition of Category B conduct violation be edited as follows: within current statute we remove the phrase “substantial deviation from professional misconduct” as defined in that law enforcement agencies policies. The list shall include the offenses. *Policies throughout the state are inconsistent and substantial deviation needs to be defined.*

We would create a code of conduct that will encapsulate the values of and the expectations of behavior for law enforcement officers throughout the state of Vermont.

* The code of conduct will incorporate the policies that are and were enumerated. In 20 VSA 2401 (2) A-I.
* The code of conduct would encompass on and off duty actions and a caveat that a professional misconduct complaint for an off-duty behavior would require a nexus between the behavior and the officer’s ability or inability to continue their duties.
* Code of Conduct would be a council document that could be amended by a council vote and would not be incorporated into legislative language.

The workgroup had areas of disagreement to include:

* Whether or not there should be a limit on Council sanctions for a first-time code of conduct offense and if there’s a limitation on that, should it be tied to disciplinary action of the employing agency?
* Does the current committee code of conduct draft properly address discrimination and sexual harassment?
* Does the current committee code of conduct draft capture all the behaviors that have inadvertently fallen outside of the Council’s ability to act in past cases.
* We agree conceptually on how the conduct would fit within Act56 but have not agreed on any specific suggested language at this time.

A final report will be sent to the Council after the Act56 workgroup meeting following the Council meeting.

*Discussion ensued: Bill Sorrell –* Thank you. The deadline for this report is December 15th so having the report with the issues that were not resolved will allow council members to evaluate Option A and Option B and be prepared to discuss it at the next council meeting.

**Executive Director Updates** *Vermont Criminal Justice Council Executive Director, Heather Simons*

* A council retreat is needed to focus on communications and roles and responsibilities. We would like to bring you a document that outlines the last couple of years to include personnel, responsibilities, initiatives, committee progress.
* I have a meeting next week with Kristen Klauser with regards to capital request. We are prioritizing our requests based on risk, liability, and safety which goes back to the range, the driving pad, and the gym floor.
* Personnel decisions will be made such as assignments, roles, and responsibilities, because we have new positions coming in, support and onboarding.
* The Entrance Testing Committee hasn’t met in a while. They took it as far as they could in regard to finding a test and identifying what it was for and that it was fair and equitable. I think it will be awhile before we can do that. I don’t have faith in generic tests because we lose so much talent, but what I understand from our customers is that we are having to do a lot of legwork on the other end with regards to someone’s ability to be successful. It may also be impacting recruit success in the basic class. We would like to bring those committee members back together in a retreat to see what we can do next.
  + They had chosen an exam and we got wrapped up in a contract, but we had issues with the contractor agreeing to the contract provisions.
* Committees in general - we need to provide updates and potential solutions to how we get those things in front of you quickly and still have timely conversations.

*Kim McManus –* We have three public meetings scheduled for feedback on our proposed rules. We have gone through ICAR and filed our rules with the Secretary of State. Council members provide me feedback at any time, it doesn’t have to be the dates listed for the public.

**General Discussion:**

*Bill Sorrell* – We have our first contested hearing on the 14th with Sheriff Grismore.

* There will be a pre-hearing session with attorneys.
* In-person hearing at the Fire Academy that will start at 09:00 that day.
* Brief opening remarks then the evidentiary phase with live witnesses and a video. Each side will likely call an expert witness.
* We will break for lunch. At the close of evidence there will be closing arguments.
* We will go into executive session to deliberate and then have a vote.

A Quorum is essential, anyone not able to participate consider formally naming a proxy. Please let Lindsay know your availability.

*Discussion Ensued - Mark Anderson –* Do individual members ask questions or do those questions get funneled to someone?

*Bill Sorrell –* Council members do you prefer to ask the question yourself or would you rather communicate that to someone else to ask?

*Cassie Burdyshaw –* As part of the Human Rights Commission we have meetings that consider allegations against an individual which can be similar to what we are talking about. We have five commissioners which ask questions themselves, which can be helpful but also unwieldy. I feel like the size of this group would benefit from having questions filtered to one person to ask.

*Erin Jacobsen –* I would agree except that I would add that the question asker has the opportunity to have their name shared so the public can know who asked the question.

*Bill Sorrell* – We will have to figure out a mechanism to have that not be unduly time consuming.

Motion to adjourn Bill Sorrell, second Chris Louras – all in favor.

Meeting Adjourned 12:19