September 21, 2022

10:00 AM

Teams Meeting

**Members in Attendance:**

William Sorrell, Chair – Governor Appointed

Maira Tungatarova – Governor Appointed

Shawn Pratt – Governor Appointed

Christopher Louras – Governor Appointed

Major Kevin Lane – Vice Chair, Proxy for Commissioner Michael Schirling, Public Safety

Glen Boyde – Proxy for Nicholas Deml, Dept of Corrections

Anthony Facos – Proxy for Commissioner Wanda Minoli, Public Motor Vehicles

Evan Meenan - Proxy for John Campbell, Executive Director, States Attorney & Sheriff’s

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

Erin Hodges – VT Trooper’s Association

Michael Major – VT Police Association

Jennifer Frank – VT Chief’s Association

Mark Anderson – VT Sheriff’s Association

Erin Jacobsen – Proxy for Attorney General Susanne Young

Trevor Whipple – Vermont Leagues of Cities and Towns

Thomas Mozzer – VT State Employee Association

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

Cassandra Burdyshaw – VT Human Rights Commission

Jennifer Poehlmann – Crime Victim Services

Karen Tronsgard Scott – ED VT Network DOMV/Sexual Violence

**Other Attendees:**

Heather Simons – Vermont Police Academy

Christopher Brickell – Vermont Police Academy

Lindsay Thivierge – Vermont Police Academy

Megan Campbell– Assistant Attorney General

Amanda Garces - Director of Policy, Education, & Outreach for the Human Rights Commission

Jamielee Bedard – Vermont Police Academy

Jason Covey – Middlebury Police Department

Kevin Geno – Rutland County Sheriff’s Department

Mandy Wooster – UVM Police Services

Paul Talley – Saint Albans Police Department

Maurice Lamothe – Saint Albans Police Department

Joshua Moore – Williston Police Department

Jennifer Hier – Vermont Police Academy

Kenneth Hawkins – Vermont Police Academy

James Blanchard – Manchester Police Department

Nicole Dernier

Bob Montgomery

802-863-7386

802-578-5368

**Call to Order:**  Vermont Criminal Justice Council Chair, William Sorrell 10:02

**Additions or deletions to Agenda:**

We will be discussing the outcomes of the Professional Regulation hearing there will be a possibility of an action item. There is also the possibility of a general discussion agenda item if additional issues not on the agenda need to be discussed.

**Approval of prior minutes**: Motion to approve minutes from 8.17.22 meeting, Michael Major, second by Chris Louras. All in favor.

**Contested Hearing 9.13.22 Discussion**

* September 13th was the first time the Council heard a professional regulation matter.
* The matter was for the Council to approve a negotiated stipulation agreement.
* The agreement was drafted by Jacob Humbert with the assistance of the Professional Regulation Subcommittee.
* The stipulation agreement was voted on by the Council to accept. There was one vote of opposition only against the wording of the stipulation agreement.
  + The person in opposition to the vote wanted more information that aligns the action and the policy violation for full transparency and to communicate the actions of the officer and outcomes over time.

*Questions around Professional Regulation*

* What kinds of cases will be coming forward for Council consideration?
* Could the Council get a report out on the matters that have been resolved by the Professional Regulation Subcommittee (PRS) with no appeal?
* What are the ranges of resolutions that will come to the Council for its vote?

*Discussion around Professional Regulation Subcommittee (PRS)*

* *Chris Brickell:* The PRS was formed and immediately started reviewing complaints. Case numbers were in excess of sixty. The subcommittee started meeting weekly because of the number of cases and the length of time needed for review. As a result, there were more than several findings of Category B offenses.
  + Category B offenses are not actionable by the Council. A letter is drafted by legal Counsel and sent by the Executive Director to the Officer and the Agency Head. Those Category B findings are kept in-house and in a confidential database. The Category B finding is not an appealable decision. The remaining cases that are likely coming to the Council would be in the neighborhood of 20 or so that have been reviewed by the PRS and they are ready to have hearing dates scheduled.
* The council has asked the PRS to do this work therefore the detailed intelligence conversations that go on when deciding and what the best course of action is going forward remain in the subcommittee.
* The statute allows the council to enact rules for that whole subchapter. Although the council can have a range of actions.
* If the Council gave PRS permission to do so, they could amend their draft procedures to resolve cases and anything more serious would go to the full Council.
* A stipulation is an agreement, and all of the facts may not be there. Thousands of hours of review have gone into these cases by the PRS. Doing that work will be the only way the Council will know the full extent of a case.
* *Trevor Whipple:* The Council will not see cases where misconduct was not found or any Category B 1 offenses that are listed on the website generically. Any solid action such as suspension or revocation has to come to the full council. The stipulation agreement goes to the council for a full review. There is a delicate balance between holding the officer accountable, and also trying to alleviate some of the burden on this council for hearing every case.

*Issues were discussed:*

* + The full Council may not have a quorum for that many cases
  + If everything will be in the stipulation agreement why wouldn’t the officer just come to the hearing and take their chances?
  + PRS will consider including more information in the stipulation agreement.
  + 20 cases will take a long time as a council and likely more will come in, maybe some of those will be stipulation agreements.
* *Karen Tronsgard Scott* – It is important for the Council to figure out what level of trust we will place in subcommittees and how we bring information to the Council as we work together on our shared goals.
* *Chair Sorrell:* Is it a statutory requirement that these matters come to the full council or is that more internal council rules and procedures?
  + Statutory Language says that the Council will act when misconduct is found but at the end of the section it allows the Council to make rules on how this process plays out.
  + If an officer is the subject of a misconduct complaint and they are not content with the actions of the subcommittee, they may appeal to the full council for a contested hearing.
  + Is the council comfortable with delegating the PRS the ability to impose a penalty? Would the council be comfortable hearing that instead of convening a hearing?
* *Karen Tronsgard Scott:* The subcommittee doesn’t deal with employee actions – our menu of interventions is very small and only as it pertains to certification.
* *Chris Brickell:* PRS has been working with what the statute allows and permitted council sanctions. If there is a sanction on officer certification it involves a **1.** written warning **2.** A suspension running concurrently with the suspension of the LEO that has an internal affairs program, or **3.** revocation.
* There may be an appetite from the council to afford the subcommittee to utilize and handle some of that work and report out.
* During a hearing the PRS does not have a vote, may not engage in discussions, and members cannot participate, this is to ensure the due process rights of the officer.
* *Evan Meenan:* Council’s ability to do conditional revocations – there is ambiguity in the statute – I don’t think it would be impermissible for the council to revoke someone’s certification and have the ability to recertify if certain conditions were met.
* Delegating authority PRS – I do envision a space where the committee has more authority to impose sanctions but would hesitate at this time. PRS may be used to their authority as they have been doing a lot of work, but the full council is not, and we have only wielded this authority one time. There are a lot of eyes on and it’s important to instill confidence. The Council should have more experience before delegating authority.
* *Megan Campbell* – Statute 20 VSA 2406 – The legislature has specifically delegated certain responsibilities to the council (you could get legal arguments that they are entitled to the full council for that reason). Counsel would urge the council to get further legal opinion on the delegation of those responsibilities before doing that.
* *Chris Louras* – No problem philosophically with delegation to the PRS as long as there is recognition that members of the community are part of that subcommittee. It is important to maintain diversity on the subcommittee and make sure that ten years from now it doesn’t become only law enforcement.
* *Chair Sorrell:* PRS members should share thoughts with the Rules committee and Rules will discuss where we stand with a recommendation and perhaps a change of policies and procedures.
* *Erin Jacobsen:* Question regarding the limitation on sanctioning first offenses of category B conduct and how there's an exception there for when there's excessive use of force, placing a person in a chokehold, or when an officer fails to intervene. But the language and the statute say that the Council may act for those kinds of first offenses. Who's making that determination?
* Chair Sorrell: It goes to the Professional Regulation Subcommittee right now. If the committee determines that there was sufficient evidence that there was a violation. The officer has no right to appeal to the full council that determination. Officers would argue that it is not just for a first category one violation and no right to contest and no mechanism to challenge that.
  + Rules Committee should consider this. I hope that both of those committees will also consider this issue of the first category B violation and the current lack of a right.
* *Chief Frank:* PRS working on a report – we discussed how we can provide information without revealing details. We heard Council comments from the hearing, and we are working to meet those needs.

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

* PRS is just one of the items being managed.
* October will be a jammed agenda; we will send you our draft budget. Within that is some new information that we will be using as an annual report and what we would like to do to collect more data such as meals, the number of those being trained, who has access to the building, and what we need for instructors.
* We have requested upgrades in our technology
* We are modernizing and that will loop back to professional regulation – tracking cases will be an agenda item in the next couple of months and how we bring that to you at the Council.
* Governance committee meetings – legislatively mandated – Mike Derosier from Public Safety is the chair and it’s made up of BGS, DOC, Fire, and includes a safety report. The report focuses on incidents, injuries, and COVID. These get reported out at House Institutions. Governance is focused on the feasibility of the west cottage and the main building with a lens for capacity. There is also an assessment of what needs to happen at the firing range.
* We need to plan around capacity and how many people can we support, train, and house at one time. This will be important information when we review the joint DOC report due. The report focuses on the feasibility of the council taking on certification and decertification of DOC. We have had several conversations with DOC, and they are in the same place we will have a shared timeline on what it would take.
* Impaired Driving has a grant connected with it, Jamielee Bedard has done a great job stepping into the role, there has never been a full assessment of what the assigned coordinator does there are also legislative implications with ARIDE.
* The audit response covers everything we do including policy, compliance with in-service, guidance in terms of tracking, and policy development. There were 12 recommendations to the Executive Director and 2 to the legislature. The audit will be a regular agenda item.
  + Documentation will now be required for training submissions. Guidance will go out in stages.

*Rule 13 Overview:*

* Firearms –this will become an accredited course
* First aid/CPR some agencies use American Heart Association and some use in-house trainers.
* Domestic Violence - revisit even years during the legislative session.
* Use of force and tactics – what is included and why?
* CEW – certification should not be driven by the vendor.
* Part of Act 80 is mental health which the VCJC owns but may want to revisit and update
* Fair and impartial policing – provided odd years - last year we had a contract *\*\*Reminder we do not have a full-time fair and impartial policing trainer.*

*Operational Updates*

* Personnel –An offer was made to an incoming training coordinator Dan Pennington, and he is due to start next week.
* TC Andrew Graham resigned; he is going to take a supervisory position with Bristol PD. He would like to stay connected to the Academy and stay involved with things like patrol pro.

*A discussion ensued around operational challenges:*

* Optics of high attrition. The staff works very hard at a relentless pace. The people that are here are committed, but there has been a challenge culturally. I will be asking agency heads for assistance and ask everyone to expand their thinking about how we solve problems internally, how we operationalize change, and how we build trust.
* Opportunities for earmarks or congressionally directed spending.
* New member representative of congress and a new US Senator it would be a good idea to get on their agenda sooner rather than later.
* Congratulation to TC Graham, it is honorable to go back out on the road right now and there is a shortage.
* Rules committee put on the agenda the issue of the composition of the PRS

Motion to adjourn Chris Louras, second Mike Major – all in favor.

Meeting Adjourned