December 7, 2022

10:00 AM

Teams Meeting

**Members in Attendance Public Session:**

William Sorrell, Chair – Governor Appointed

Brian Searles – Governor Appointed

Rachel Lawler – Governor Appointed

Maira Tungatarova – Governor Appointed

Christopher Louras – Governor Appointed

Shawn Pratt – 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, Department of Motor Vehicles

Chris Herrick, Commissioner, VT Fish & Wildlife

Justin Stedman– Proxy for Commissioner Chris Herrick, VT Fish, and Wildlife

Erin Jacobsen – Proxy for Attorney General Susanne Young

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

Xusana Davis –Executive Director, Office of 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

Thomas Mozzer – VT State Employee 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

**Other Attendees:**

Christopher Brickell – Vermont Police Academy

Lindsay Thivierge – Vermont Police Academy

Ken Hawkins – Vermont Police Academy

Jennifer Hier – Vermont Police Academy

Jennifer Firpo – Vermont Police Academy

Jamielee Bedard – Vermont Police Academy

Dan Pennington – Vermont Police Academy

Jacob Hansell – Vermont Police Academy

Amanda Garces – Director of Policy, Education, and Outreach, HRC, FIP Chair

Megan Campbell – Assistant Attorney General

Patrick Owens – Chief, Manchester Police Department

David Fox – Sheriff, Rutland County Sheriff’s Department

Braedon Vail – Chief, Barre City Police Department

Robert Montgomery – Chief, Killington Police Department

Paul Talley – Lieutenant, St Albans Police Department

Bill Humphries – Chief, Fair Haven Police Department

Barb Kessler – Captain, Vermont State Police

Shawn Burke – Chief, South Burlington Police Department

Jeffrey Burnham – Chief, Springfield Police Department

Robbie Blish – Chief, Woodstock Police Department

James Blanchard – Lieutenant, Manchester Police Department

Rob Hoague – Chief, Essex Police Department

Travis Bingham – Chief, Newport Police Department

Al Cormier – Chief, Department of Corrections

Paul Doucette – Chief, Bennington Police Department

Henry Michael – Sergeant, Burlington Police Department

Trevor Colby – Sheriff, Essex County Sheriff’s Department

Maurice Lamothe – Chief, St. Albans Police Department

Frank Scalise – Lieutenant, Milton Police Department

Matt Murano – Chief, Wilmington Police Department

Michael Thomas – Chief, Shelburne Police Department

Bruce Nason – Chief, Bristol Police Department

James Rice – Executive Director of OPSC, Department of Corrections

Jon Murad – Chief, Burlington Police Department

Dom Amato – Journalist and Anchor, WCAX

Mandy Wooster – Deputy Chief, UVM Police Services

Michael Scruggs – Chief, Thetford Police Department

Ted Brady – Executive Director, Vermont League of Cities & Towns

Ann Schroeder – Windham NAACP

Karen Horn – Director of Public Policy and Advocacy - Vermont League of Cities & Towns

802-734-3576 - Karen Horn – Director of Public Policy and Advocacy - VLCT

802-342-2468 – Crime Research Group

802-393-0705 - Unknown

**Call to Order:**  Vermont Criminal Justice Council Chair, William Sorrell 10:00

**Additions or deletions to Agenda:**  Kevin Lane made a motion to add the Entrance Test Working Group PT recommendation, action item, to the agenda after the Body Worn Camera Policy. Second by Trevor Whipple, all in favor.

**Minutes from October 5, and November 10, 2022, meeting minutes**:

Motion to approve minutes from October 5 and November 10, 2022, meeting by Chris Herrick, Second by Brian Searles, all in favor.

**Minutes from September 21, 2022, meeting**:

Motion to approve by Erin Jacobsen, and second by Cassie Burdyshaw. No discussion, all were in favor. 9/21 meeting minutes approved.

**Body Worn Camera Policy Update:**  Chief Shawn Burke, South Burlington PD & Captain Barb Kessler, VSP

* A clean copy of the Body Worn Camera policy was sent out for review.
  + The first update is in the second paragraph at the end of the second sentence. The revision allows agency heads to adopt additional components to the policy that satisfy partners in law enforcement that have regulatory functions such as the AG’s Office or Department of Liquor Control.
    - This policy would be the foundation and all critical components must be in every agency’s policy.
  + This second update of the policy aims to address patrol functions and uniform police encounters with the public.
    - Detectives wearing a body-worn camera would have to adhere to this policy.
  + Section 1 under the use of body-worn cameras – there are minor formatting changes and is more of a policy direction to law enforcement.
  + Subsection D – the previous language was removed which stated “any call for service”.
  + Section 1, subsection F, the language that pertains to privacy concerns in residences. The previous policy contradicted itself and was difficult to operationalize. The language was created with DPS and the AG’s office which states that an officer as soon as practical will let the personal privacy interest know that they have a body-worn camera running.
    - If the occupant objects, the officer must consider whether the encounter needs to continue and if so what exceptions to the warrant requirement or exceptions to consent exist.
  + Subsection G the permissive agency restrictions - discontinue or not starting- Removed the section regarding when an officer should be mindful of recording a person in a compromised state. Would like to rely on the rules of criminal procedure and how evidence is included or excluded from a case. Also, if an agency were requested by the public for a copy of that record, then navigating the privacy interests in that regard.
  + Section 2 - equipment and training- cleaned up the nomenclature.
  + B4 on page 6 of 8, 30 seconds of video bring always available for recapture, but the audio portion is struck.
  + Under storage and retention - relies heavily on the public records law to give guidance.
  + This technology is constantly changing, and this policy will need to be revisited in years to come.
* Kevin Lane made a motion to approve the proposed changes to the Statewide Body Worn Camera Policy as outlined by Shawn Burke, seconded by Mike Major, all in favor.
* *This policy is effective as of this vote and communication of these changes will happen forthwith with the understanding that the requisite training and adherence to the newly revised policy will be implemented expeditiously.*

**Entrance Test Working Group:**  Vermont Criminal Justice Council, ETWG member, VTFW Colonel, Justin Stedman

* The Entrance Test Working Group previously changed the entrance standard from the Cooper Standard as it was no longer defensible and no longer supported as a means for an entrance testing mechanism.
  + The Council then adopted an entrance test that relied only on the rower.
  + The Entrance Test Working Group evaluated the effectiveness of change with the Academy. There seems to be a correlation between the change in the entrance standard and some PT issues in training.
  + Texas DPS entrance standard is a 500-meter row and a 1.5-mile run. The defensible test is backed by decades of research. The Texas DPS standard has gone through many evolutions to be at the 70th percentile, it was recommended that we begin at the 40th percentile.
    - The scores of the row and run will be averaged for a final percentage score.
  + Since the initial change there has been an increase in injuries and lower performance in physical fitness components of training.
* *Discussion ensued on changes, the impacts on law enforcement, and the impacts on training.*
* Chris Herrick made a motion to approve the recommended changes to the Entrance Testing standard as outlined by Justin Stedman and Jon Murad, second by Erin Hodges, all in favor.
* *This new entrance standard will not be used for the entry of recruits to the 115th but it will be in place as a PT component in the Academy and the 116th moving forward.*

**DOC Report:**  Department of Corrections Chief Al Cormier, and Executive Director of OPSC, James Rice.

* H435 in the 2021 legislative session asked for the Council and Corrections to come together to talk about a proposal for governing minimum standards, complaint investigations, certification, and decertification.
* Director Simons and Chief Cormier met with Joint Justice in December of 2021 and asked for an extension on the report until October of 2022.
  + It was presented to Joint Justice that it was a heavy lift, and there was a lack of clarity in the language of the bill.
  + Joint Justice then asked for the training standards for the Department of Corrections.
* DOC is working with the Bureau of Justice Administration and the Moss Group to standardize the training of the Correctional Academy nationally, and Vermont is one of several states involved in developing that curriculum.
* To certify corrections officers there would be a lot of responsibility put onto the Council, it would require a major statutory change and language change around the definition of a correctional officer.
* Correctional Professional Regulation - If a correctional officer leaves their position there is nowhere else, they can go, they can’t be rehired at another agency like a law enforcement officer could, and notification even goes to other states should the correctional officer seek employment elsewhere.
* Correctional training is a six-week residential academy, after the academy, they return to the facility, there is a two-week FTO program and then they are allowed to work in their own unit for a six-month probation period.
* Commissioner Deml and Chair Sorrell met to discuss the Council and the Department of Corrections.
  + The Council has not taken a vote on whether it should have any responsibility in the training arena for DOC personnel.
  + DOC is an important part of law enforcement in Vermont and the Council would be happy to consider those issues and take a hard look at what resources would be needed if the legislature requested.

**Vermont League of Cities and Towns:**  VLCT advocate and attorney, Gwynn Zakov

* Every two years the League brings proposals for solving municipal issues to the legislature. This year the League has included the work of the Academy and the work of the Council in their proposal.
  + Page 1 – the VLCT policy proposal mentions conducting an outside assessment of what is working and what is not working in policing in Vermont, this is still being considered.
  + Page 2 of the proposal focuses on recruitment and retention – municipal departments are facing issues with staffing levels.
    - Professionalizing training will assist with recruitment and retention.
    - Resourcing the Academy to have trainers on staff so as not to borrow from agencies that are understaffed.
    - Increase training and predictable schedules.
    - Alternative training models – state colleges and universities in obtaining some training.
  + Communities want to focus on diversity, equity, & inclusion, and professionalization of law enforcement.
    - Professional regulation backlog of complaints – resourcing investigator position.
  + Potential funding sources – sports betting legalization, cannabis revenue resources.
* *VLCT’s proposal on increasing accountability bullets 1,3, and 4, are already being done and the Academy wanted to make Council members aware of these things.*

**Professional Regulation:**  Vermont Criminal Justice Council, Deputy Director, Christopher Brickell

* The Council had two dates on its agenda for contested hearings. Yesterday and December 13th but they have both been postponed. The case from yesterday has been rescheduled to January 24th due to a motion to continue from the representative of the officer involved. There was also a pre-hearing conference this morning with membership and legal counsel on another case that is also scheduled for the January 24th date.

*Overview of the Professional Regulation process and some identified issues*

* Cases before the Council of a potential decertification of a Chief or Sheriff do not necessarily mean that the Chief or Sheriff will now be unemployed. Sheriffs are elected, and Chiefs can be administrative Chiefs. Decertification is separate from employment actions. Does this need a legislative change?

*Discussion ensued on the implications behind the issue of a potential legislative change and expanding the role of the Council from certification to employment decisions.*

* Statutory requirement that an agency goes back to an officer’s immediate past agency and no others. Do we want to include additional past agencies?
  + Indemnification clause in statute without liability is lost after they move on to the tertiary agency. Also, consider protecting agency heads if they have to release the information.
* Council process for a hearing – membership of 24 has to have a quorum of 13. Five members of professional regulation are not able to be involved and so there are difficulties in scheduling and maintaining a quorum. Legislative language would suggest a hearing panel.
* Add a potential action of a condition on certification such as training or counseling.

*Additional updates include:*

* An officer receiving a B1 notification did not have the ability to contest the B1 notification. There is now a letter that gives the officer an opportunity to submit additional evidence for the subcommittee to consider.
* There is no ability to appeal that decision only from the decision of the Council.
* Transparency to complainants – there is no language that allows for a complainant to know the findings due to confidentiality. There is a process now in place to notify the complainant and the officer.
* We are losing legal representation after the end of the year – there are several candidate applications, and a contract is being worked on as a backup.
* There is no RMS system for Act56 cases which has limitations for reporting and tracking.

*Discussion ensued:*

* Changing quorum for contested hearings, if we change the quorum does there need to be a change in the language with respect to voting so we can make sure the process is secure on appeals?
* Should this be a subcommittee – VLCT could be a good partner in this conversation.

**Director Updates:**  Vermont Criminal Justice Council, Deputy Director, Christopher Brickell

* Start date for January 3rd for new Training Coordinator to replace Andrew Graham’s position.
* Attorney’s position has some interest, the close date is December 15th.
* WCAX was here last week doing a three-part story on the Academy. They were here last week filming recruits on car stops and use-of-force scenarios. They will be filming today on DUI training. A reporter will also be able to go through the simulator to see decision-making in real time for officers. It is an opportunity to shed some light on the excellent training that happens here.
* Another issue for the Professional Regulation Subcommittee and potential legal advice – should there be a criminal proceeding and the subject of the criminal proceeding has a hung jury or acquittal, under the criminal standard of beyond a reasonable doubt, is the Council in that situation precluded from taking any disciplinary action on the certification status?
* Thank you to Chris and Lindsay for their hours of support helping the Brady Giglio Database Study Subcommittee.

**General Discussion:** None

Motion to adjourn made by Brian Searles and seconded by Timothy Lueders-Dumont, all in favor.

Meeting Adjourned 12:01.