April 5, 2023

10:00 AM

Teams Meeting

**Members in Attendance Public Session:**

William Sorrell, Chair – Governor Appointed

Brian Searles – Governor Appointed

Karim Chapman – Governor Appointed

Rachel Lawler – Governor Appointed

Maira Tungatarova – Governor Appointed

Michael Major -

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

Glenn Boyde – Proxy for Nicholas Deml, Dept of Corrections

Chris Herrick – Commissioner, VT Fish & Wildlife

Justin Stedman – Proxy for Commissioner Herrick, VT Fish & Wildlife

Erin Jacobsen – Proxy for Attorney General Charity Clark

Timothy Lueders-Dumont – Proxy for VT State’s Attorney & Sheriff’s ED John Campbell

Xusana Davis –Executive Director, Office of Racial Equity

Erin Hodges – VT Trooper’s Association

Jennifer Frank – VT Chief’s Association

Mark Anderson – VT Sheriff’s Association

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

Cassandra Burdyshaw – VT Human Rights Commission

Karen Tronsgard-Scott – Executive Director VT Network DOMV/Sexual Violence

**Other Attendees:**

Heather Simons – Vermont Criminal Justice Council

Christopher Brickell – Vermont Criminal Justice Council

Jamielee Bedard – Vermont Criminal Justice Council

Jennifer Firpo – Vermont Criminal Justice Council

Ken Hawkins – Vermont Criminal Justice Council

Brock Marvin – Vermont Criminal Justice Council

Lindsay Thivierge – Vermont Criminal Justice Council

Jennifer Hier – Vermont Criminal Justice Council

Kim McManus – Vermont Criminal Justice Council

James Blanchard – Lt., Manchester Police Department

Larry Eastman – Deputy Chief, Barre Police Department

William Humphries – Chief, Fair Haven Police Department

Steve Laroche – Chief, Milton Police Department

Michael Thomas – Chief, Shelburne Police Department

Patrick Owens – Chief, Manchester Police Department

Patrick Foley – Chief, Williston Police Department

Robbie Blish – Chief, Woodstock Police Department

Barbara Kessler – Captain, Vermont State Police

Ron Hoague – Chief, Essex Police Department

Braedon Vail – Chief, Barre City Police Department

Shawn Burke – Chief, South Burlington Police Department

Jeff Burnham – Chief, Springfield Police Department

Mandy Wooster – Deputy Chief, UVM Police Services

Loretta Stalnaker – Chief, Royalton Police Department

Wilda White – Policy and Training Consultant, Department of Public Safety

Timothy Bilodeau – Chief, UVM Police Services

Jason Wetherby – Lieutenant, Saint Albans Police Department

James Pontbriand – Chief, Berlin Police Department

David Fox – Sheriff, Rutland County Sheriff’s Department

Wade Cochran – Chief, Norwich Police Department

Samantha Sweet – Director of Mental Health Services, Department of Mental Health

Travis Bingham – Chief, Newport Police Department

Trevor Colby – Sheriff, Essex County Sheriff’s Department

Fairlee Police

Anthony Jackson-Miller

1-802-393-0705

Mike

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

**Additions or deletions to Agenda:**  Fair and Impartial Policing Subcommittee removed from the agenda.

**Minutes from March 21, 2023, meeting minutes**:

Amendment to page 4 second bullet point, significant guardrails on how “chairs” changed to “sheriffs”. Motion to approve minutes from March 21, 2023, meeting with amendment by Brian Searles, second by Mark Anderson, no discussion on the motion, all in favor.

**Legislative Updates:**  *Vermont Criminal Justice Council Chair, William Sorrell*

Big Bill - Governors recommended appropriations for the Council to include two fair and impartial policing positions and the first year out of a three-year accreditation process, and technology upgrades.

We are providing testimony in House Judiciary on S6, a bill that came out of the senate and was changed to add significant responsibilities to the Council. The provisions relate to interrogations by law enforcement to those of suspected criminal activity. The Council will work in conjunction with the AG’s office to hear from interested stakeholders and have a proposed policy by October 1, for statewide application and implementation by law enforcement in the arena of interrogations.

As of January 1, 2024, or shortly thereafter, that policy is to be adopted by all state and local law enforcement of Vermont. The council has ongoing responsibilities to make sure departments are adopting and following policies and taking any appropriate disciplinary actions up to and including denial of services from the Academy to any department not in compliance.

* *Chris Brickell -* October 1, 2023, deadline for model policy between the Council and AG’s office to outline the following:
  + Custodial interrogations that occur in places of detention
  + Interrogations outside of detention
  + Interrogations that are not considered custodial.
  + Interrogations that include developmental, intellectual, and psychiatric disabilities, Substance Use Disorder, and low literacy.
* January 2024 - update the policy with stakeholders.
* April 2024 – Agency compliance of the policy - if not adopted they cannot apply for grants.
* By July 1 a report must be made to House and Senate.
* The Council has the authority to enforce compliance. Every other even year a review must be done in consultation with stakeholders and if necessary, update. The Council must also ensure that every agency has adopted the policy and review to make sure it complies. If the policy doesn’t meet the standard, then we must work with the agency to come into compliance.
* Puts the responsibility of training on the Council.
* Large ask with no appropriation. Language for a policy director was put in on the first draft but that was stripped out when it went to Senate appropriations. We are not unwilling, but it comes with significant work.

*Discussion ensued: Bill Sorrell -* Policy Director should not be one-time funding ask. The legislature complements us by giving us these steady responsibilities, but we are still a small operation during a time of great change.

*Jennifer Frank -* For law enforcement we have been making a shift towards policy that says, “do it or else”. Law enforcement wants to do the right thing. By having negative compliance outcomes, it seems to put one side against the other, which is not the case at all. We recognize deficiencies, what do we need to do to fix it, can we become more collaborative in the effort to craft legislation and speaking to legislators so there is not a punitive response.

*Bill Sorrell –* Would encourage the Chiefs Association to weigh in accordingly in the legislature.

*Erin Jacobsen* – There is the Domestic Violence Involving Law Enforcement model policy, potential changes to the Fair and Impartial Policing policy. These are positive steps forward, but it is a lot at once. I hope that the legislature hears the request. The AG’s office is testifying on S6. I will try to get them to pay attention to the study committee and the need for a policy person. Julio Thompson is testifying on S6 with focus on juvenile interrogations. AG’s office is in support of S6 but with a caveat that they will ask for the juvenile age to be reduced from 22 to 18, which was also the original recommendation from the Innocence Project. Concerns were initially raised by ICAC (Internet Crimes against Children). Julio will speak out in support of the juvenile interrogations provisions but will also propose the reduction in age to 18.

*Brian Searles –* Are we asking for a time extension? To write, adopt, implement, and review in one year is unrealistic given the resources, even with a new position it will take time.

*Heather Simons* – We were not looking to extend it we are acknowledging that it is aggressive. The training component is the heaviest lift, we have to see what the policy looks like to see if we are training to the policy or if it will be a whole new competency package. Does that include a vendor? New curriculum? Realities around scheduling will make it even harder.

*Bill Sorrell –* But we could use the short schedule to underscore the need for additional resources. Even if we get a position, it will be very difficult to fill before the deadline for the first contact of policy.

*Heather Simons* – It’s not uncommon to have a start date and then add an end date. We could offer up a timeline that goes backwards.

*Chris Brickell* – Going back to the testimony, Julio Thompson supported the initial dates because he thought we already had a policy director, and the committee went along with those recommendations.

**Use of Force Policy Review and Update:**  *Wilda White, Vermont State Police Director of Policy.*

Proposal from the Department of Public Safety to update the use of force policy because the current policy misstates the law.

* The policy was developed pursuant to executive order which directed the Department of Public Safety to create a use of force policy for consideration of the Vermont Criminal Justice Council.
* Appendix D has to do with responding to calls involving mental impairment, the current policy suggests that an officer, if they encounter a person who’s a danger to self or others, can take the person into protective custody.
  + Under the current law, the term protective custody only applies if a person is inebriated.
  + The correct terminology should have been temporary custody if the person meets three conditions (they are in danger to self, because of a mental illness, and that danger to self or others has to be immediate unless restrained).
* The proposal then is to simply change the language to accurately reflect the law.
* Law enforcement in the field rely on the current language and there is currently one lawsuit and one complaint to the Human Rights Commission where officers are using the current policy language as their defense which is not correct.

*Chris Brickell* – The documents the council members received and the comments from Vermont Care Partners outline the same concerns. Vermont Care Partners would like to see the best outcomes for the people in crisis and for law enforcement. There has been positive communication back and forth.

*Bill Sorrell* – The recommendations put forth by Rachel Lawler at the last meeting were they changed?

*Wilda White* – That is not the recommendation of Department of Public Safety, we wouldn’t want to add anything about qualified mental health practitioners to a law enforcement policy. This is only for law enforcement officers.

*Rachel Lawler* – On its face it reads as though the request is for law enforcement specifically to engage in the process of applying for a warrant for emergency evaluation, and its not clear whether law enforcement have the same discretion that they do currently to utilize a community partner to engage in that process.

*Wilda White* – If it is under the law, you can only take a person into temporary custody and without delay apply for an emergency warrant based on personal observations. Our recommendation is that we adhere closely to the law. If a law enforcement officer has to take someone into temporary custody, they have to apply without delay for the warrant.

*Chris Brickell –*Law enforcement has the authority to take somebody into protective custody. But there are others that can apply for the warrant besides law enforcement in practice. The purpose of this vote today is to correct the language around law enforcement action.

*Bill Sorrell* – This will not prevent mental health workers from seeking the same adjudication or treatment.

*Wilda White -* Correct

Bill Sorrell – If we approve this will it make things better?

Wilda White – This will not change the status quo we are just making sure the policy aligns with the law.

*Karim Chapman –* I agree with Wilda and Rachel. I would like to echo the conversation from last meeting and have a clear line of what roles are being played in the field. Take a vote to immediately get it clear for folks. The more we talk about it, the more people are getting harmed.

*Kevin Lane made a motion to vote on the document before us, seconded by Chris Herrick, no discussion on the motion. All in favor.*

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

* Today is a short meeting, we wanted to make sure we had the opportunity to discuss the vote this morning.
* We want to have an in-person meeting or a retreat, possibly the June 7th date. This was originally scheduled for Montpelier, but we would also like you to come to the Academy.
  + Xusana has been helping us with getting a facilitator.
* On the next agenda we would like to begin a discussion around the efficiency of committees, how we appoint, how assignments are tracked, and revisit the 15-19 of them. We need to tighten up how all that works and figure out together what support these committees need.
* Alternative pathways – we are headed in that direction, but it will take some time.
  + Chief Frank is working on a potential presentation on another way to streamline certification and competencies.
  + Work with Brian Searles regarding waivers – what can we do collectively and creatively in stabilizing the workforce.
  + There may also be opportunities for training in specialized areas.
* I am also bothered by the punitive nature of the mandates, and I appreciate Chief Frank for bringing it up. If someone is not in compliance it is the responsibility of the leader of the agency, but the officers are impacted in training which can affect retention. The message it sends is also demoralizing.

*Bill Sorrell* – The Council did not recommend that language to the legislature, but it is possibly an outgrowth of some legislative frustration and concern that law enforcement professionals have been cavalier about meeting their responsibilities. How can we get greater adherence to responsibilities on the part of law enforcement leaders.

*Chief Foley -* Vermont is a very small state and often gets thrust into the big picture nationwide. When other states act up it seems we get penalized. If one or a couple agencies do not follow the rules, we need to go after those agencies.

We have a mechanism now with Act56, it took awhile to make it operational but it’s working. We are showing legislators that we are dealing with problem officers.

I have been doing this for 36 years as a police chief and three different agencies in two different states. It’s always the same, when one agency does something wrong, we all get blamed for it and the responsible parties don’t take responsibility. When those mechanisms that we have to deal with issues are not being used, then it is a concern. Taking training or grants away is not the way to do business.

*Bill Sorrell* – I don’t understand the legislative proposal to deny services from the Academy to departments that are in full compliance but maybe I’m misunderstanding something. I don’t think all get punished for the sins of a few, that is not the intention of the legislature.

*Karen Tronsgard Scott –* I agree with Chief Frank and Chief Foley, I have seen it and experienced it where something happens that then there is a reaction to it. We are only as good as our weakest member.

One of the reasons that all these voices were part of this body is that we were sent to keep an eye on all of you law enforcement officers. As Council members a couple years into participation, none have left in protest or done interviews with the Digger regarding corruption. It may encourage communities on how they can use us in political capital in support of our shared goals in the legislature. There is a strategy that offers itself here as a means for helping our legislature understand that the law enforcement community and the state has made incredible strides around reforms and the academy is our leader in that work.

*Xusana Davis­ –* I respect the sentiment that you don’t want to feel like everything has to be punitive or like you have to be beaten or cajoled to do something that we all agree is for the good of the good.

I struggle with that perspective because what we are talking about is an industry and a profession that has existed for enough years that we should know what’s right and what’s not right and what we need to do to correct disparities.

When I hear stories about 6-year-old brown children having panic attacks in the rear seat of a vehicle because they’re brown parent just got pulled over and they think they are going to watch mom and dad get murdered today, that is the kind of thing that to me says we’re inheriting trauma into our bones as children.

I find it really difficult for us to say we are members of a profession, and we don’t want to feel like everything has to be negative. Its’ hard when you read about villains who look like you get murdered and hear people say don’t be negative about it and I know that’s an oversimplification I know that’s not what you are necessarily saying here but I do think that if we’re doing what we’re supposed to be doing and we are in compliance then you are not being punished. You’re theoretically being treated relatively neutrally, and I know it something feels onerous or burdensome and it feels like new work or extra work, but I’d like to think of it not as new or extra, but really just catching up to what we should have been doing all along.

So, I don’t want to discount that perspective because as the child who often got blamed for things that she didn’t do, I know what its like to feel like you are constantly being watched and people are waiting for you to make a misstep so that they can say “ha ha I knew it”. But its more complex than that, its more about rampant activity that we’re seeing happening nationally and we’re trying to get a hold of it as best we can.

*Bill Sorrell –* I think its great to hear the different views in the meting like today and this really underscores what the legislature was trying to do by doubling the size of the Training Council, differing voices to hear on important issues as it relates to law enforcement in the state and its great to see the number of guests we have, we have over 50 participants.

**General Discussion:** *Bill Sorrell –* The rules committee brought the full proposed rules changes to the full council, suggestions were reviewed, and some changes were made. Kim McManus will be shepherding what the Council approves of through the next stages.

Motion to adjourn made by Brian Searles and seconded by Kevin Lane, all in favor.

Meeting Adjourned 11:05.