September 6, 2023

10:00 AM

Teams Meeting

**Members in Attendance Public Session:**

William Sorrell, Chair – Governor Appointed

Brian Searles – Governor Appointed

Shawn Pratt - Governor Appointed

Karim Chapman – Governor Appointed

Christopher Louras – Governor Appointed

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

Wade Cochran – Proxy for Commissioner Wanda Minoli, Dept. of Motor Vehicles

Justin Stedman – Proxy for Commissioner, VT Fish & Wildlife

Kathleen Hentcy – Proxy for Commissioner Emily Hawes, Department of Mental Health

Erin Jacobsen – Proxy for Attorney General Charity Clark

Timothy Lueders-Dumont – Proxy for Executive Director John Campbell, Dept. of SAS

Xusana Davis –Executive Director, Office of Racial Equity

Mike O’Neil – Proxy for Erin Hodges Vermont Troopers Association

Jennifer Frank – VT Chief’s Association

Mark Anderson – VT Sheriff’s Association

Trevor Whipple – VT League of Cities and Towns

Kelly Price – VT State Employees Association

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

Ken Hawkins – Vermont Criminal Justice Council

Kim McManus – Vermont Criminal Justice Council

Jennifer Firpo – Vermont Criminal Justice Council

Dan Pennington – Vermont Criminal Justice Council

Jennifer Hier – Vermont Criminal Justice Council

Jamielee Bedard – Vermont Criminal Justice Council

Brock Marvin – Vermont Criminal Justice Council

Brian Kilcullen – Rutland City Police Department

Jason Covey – Middlebury Police Department

John Grismore – Franklin County Sheriff’s Department

Loretta Stalnaker – UVM Police Services

Patrick Owens – Manchester Police Department

Darla Mariduena – Human Rights Commission

Norma Hardy – Brattleboro Police Department

William Humphries – Fair Haven Police Department

Robert Montgomery – Killington Police Department

Ron Hoague – Essex Police Department

Scott Clouatre – Randolph Police Department

Shawn Burke – South Burlington Police Department

Matthew Sullivan – Swanton Police Department

Braedon Vail – Barre City Police Department

Joe Swanson – Woodstock Police Department

James Blanchard – Manchester Police Department

Jacob Hansell – US Probation and Parole

Steve Laroche – Milton Police Department

Michael Thomas – Shelburne Police Department

Tim Bilodeau – UVM Police Services

Mandy Wooster – UVM Police Services

Concerned

John Flannigan – Flannigan Safety Consultants

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

**Additions or deletions to Agenda:**  No additions or deletions to the agenda. Amended to reflect action item for minimum entry requirements agenda item.

Meeting minutes from July 6 – Page 6, Bill Sorrell 4th statement – added subcommittee after the words ‘professional regulation’.

Meeting minutes from August 2 – Page 5, Bill Sorrell 1st statement – changed “every challenged” to “ever challenged”. Page 3 Mark Anderson 1st statement remove “Greg” from “John Greg Grismore”. Page 6 – Rule 15a the last paragraph “full certified” changed to say fully-certified.

*Chris Louras* – Clarification on the August 2nd minutes when we say 21st century policing what are we referring to? 100-year span of time or adhering to Obama’s task force of 21st century policing?

*Heather Simons* – Task Force - It’s in regard to best practices, and the presidential report and executive summary.

*Bill Sorrell* – The evolution of policing it’s not confined to a time frame.

Bill Sorrell makes a motion to approve the amended minutes, second by Mark Anderson, all in favor. *Brian Searles abstained from the vote for the July 6 minutes, he was not in attendance.*

**Co-Vice Chair Vote -** *Vermont Criminal Justice Council Chair, William Sorrell* 10:02

* Brief summary of the history of voting in the two vice chairs.
* Major Lane from the State Police retired in August. Xusana Davis has served for two years and has asked to be relieved of those duties.
* The first Co-Vice chair is pending with Rachel Lawler.

Trevor Whipple made a motion to accept Chief Jennifer Frank as second Co-Vice chair, seconded by Mark Anderson, all in favor.

**Executive Director Updates –** *Executive Director VCJC, Heather Simons*

*Minimum entry requirements request and decision – Lindsay Thivierge* – In August the VCJC received information from a department wishing to hire a candidate with a high school education in Canada. On further review of the request, it was discovered that a diploma had not been obtained. Additional transcripts were provided by a secondary school in Canada, that did not require a diploma, as well as a certification from the Vermont Department of Corrections. An additional letter was provided from the candidate’s high school requesting that we consider equivalent training as competency.

* Department of Corrections rule language allows for High School diploma or equivalent training. VCJC rule language does not.
* Executive Director Simons approved a waiver to the rule to accept the candidate.
* *Heather Simons –* We may see this come up more often as we go through the accreditation process and as we navigate transfer of credits and equivalency. My recommendation to the council is to uphold this decision and any others that come up and if there is another pass through on the rules to accommodate or change depending on what we learn over the year. We need to be versatile in how we view relevant experience in education.

Mark Anderson made a motion to ratify the Executive Director’s decision, seconded by Chief Frank, all in favor.

**Level II Review –** *Middlebury Police Department, TAC Chair, Jason Covey*

*Heather Simons did a brief review of events since the last discussion of the LII program including capital requests with technology and driving and how current decisions will impact the Job Task Analysis, National Certification, and accreditation.*

* May of 2022 was the last presentation of the work of the TAC (Training Advisory Committee) for the LII certification program.
  + The TAC interviewed core topic instructors for LII (Criminal Law, Motor Vehicle Law, Patrol Procedures, driving, use of force, firearms) and then analyzed the two curriculums.
  + Hour comparison – LII Academy is 80 hours long and the LIII is 813 hours (was 792 at the time of the review).
    - EVOC (emergency vehicle operations) was four hours of classroom time for Level II vs. 12 hours of classroom time and 24 hours of driving time for the Level III.
  + Survey of law enforcement agencies found 93% of agencies utilize Level II officers in a patrol capacity. They are being used in a full time, full response capacity. Framers of the Level II program probably did not intend for them to be used in this way.
  + Our recommendation in 2022 was that the Level II needs to be significantly expanded.
  + Met with Academy leadership last week and we discussed the possibility of making high liability training the same in Level II and Level III to make the Level II more equitable, if the job tasks and scope of practice are going to be so similar to Level III.
  + Level I program could become Level II and the current Level II becomes an enhanced version of what it is.

*Discussion ensued: Chief Frank –* We have a model in place with the Level II to IIE modular element. We have that demonstration in Level III- officers needing specific training such as SIU or death investigation have criteria to meet before attending additional training and certifications.

* We need part time officers and I believe the Level II to Level IIE modular style of learning builds off of the base instruction.

*Bill Sorrell –* Would de-escalation be a part of this expanded Level II training?

*Jason Covey –* Yes, de-escalation is currently not a part of the current Level II training, that was recommended for implementation regardless. The current Use of Force curriculum in the Level II is four hours of classroom instruction and two and a half days of practical experience with no scenario-based training which is in stark contrast to the Level III training.

*Mark Anderson* – In favor of training, modularization, and accessibility to training, it is something that we need to do, law enforcement staffing is in crisis.

* The Academy staff who has to do this, does not have the bandwidth to do the Level III curriculum review and implementation, or Job Task Analysis. We have other priorities we need to pick and focus on before doing this significant pivot.
* I use some Level II’s in a patrol capacity in controlled circumstances. I am concerned the survey gives quantitative perspective but fails at a qualitative level to explain how Level II officers are being used. What are the liability and the defensibility problems.
* Data provided by the Academy regarding professional regulation [2022] shows that roughly 90% of professional regulation cases are Level III. Lawsuits with the Academy and the Council have all been Level III.
* Concerned with curriculum review comparing Level II to Level III when we know there need to be changes to the Level III. More training is something we need to pursue. The Level IIE to Level III is a good pilot but I am also concerned that if we consider pursuing the TAC’s recommendation in the next 12-24 months then we are asking more from a chronically under resourced organization.

*Chris Louras –* These recommendations keep getting shelved, that has been a failure to the law enforcement community and the public. Not developing a strategy or process as soon as possible could result in further tragedies throughout the state. It goes beyond professional regulation because professional regulation addresses officer behavior and not officer response which are two different things.

* We should give ourselves a date for coming up with a process and also acting on it, because what we have been doing for Level II officers is not working. We have discussed staff vacancies and staff bandwidth and we should get an update on where we are long term with staff capacity as well.

*Bill Sorrell –* I apologize I thought the TAC was coming back to the Council with more information. I have been concerned that those Level II officers that are enforcing motor vehicle laws and interacting with the general public we are just waiting for a time when things go wrong, and the lens is the Council and the Academy have not been adequately preparing officers for those situations. I don’t want to get ahead of the three-year initiative, but I want to hear from Heather about what it would take to make revisions to the Level II training not in 24 months but expeditiously. I apologize my intention was not to shelve the issue.

*Mark Anderson –* The Vermont Sheriff’s Association supports the initiative developed by Chief Frank, the Level IIE to III proposal.

* The testimony of the lead instructor of the use of force program in 2020 was that de-escalation was built in as a part of the Level II and Level III, why are we hearing today that it is not? I know there is additional training, why can’t that be offered as in-service training?
* Part of the TAC proposal that I’m concerned about is that it ignores what occurs at the in-service level, training in the field, and work with Academy instructors to do additional things. The legislature asked how we increase accessibility, I have three women that wouldn’t be able to work for me if they were not Level II, that could be an equity issue which is what the legislature was focusing on when they were encompassing Level II to Level III.
* Distance training, satellite training, satellite academies, are ways we can make training accessible. If we do not have accessibility, we are going to isolate and be gatekeepers to a profession that is historically white men.
* The Level II discussion is being worked on just not at the council level. Each agency has a different need and a different officer.

*Karen Tronsgard-Scott –* The purpose of this Council is to work with the law enforcement community to be able to improve systems and approaches based on best practices and some of that has to do with some uniformity in approach.

* I agree that each jurisdiction and each agency will have different experiences and needs to fulfill.
* We (the Council) want to engage in discussions about this to set best practices. The Academy should be involved in any discussions, otherwise we risk undermining the leadership of our Director, who is a woman, and second guessing the work of the Committee.

*Brian Searles* – I want to echo what Karen said and this discussion is the core reason this group exists.

* This discussion has been going on for decades and there have been improvements but as a member of the TAC there are legitimate concerns.
* I appreciate that it is moving towards a modular approach as I think there may lie a significant part of the response we should make.
* Looking at the numbers, it shows that 93% of the Level II’s are doing patrol work and 2/3 of departments are using Level II’s, but I do believe the vast majority of policing services in the state are still delivered by Level III’s.

*Heather Simons –* This is on the agenda as a reminder of what had been discussed previously not in opposition to the proposal from the Chief’s and Sheriff’s. We have so many things going on at the same time I don’t think it’s a modular approach, vs. a Level II, vs. a full assessment of Level III, it’s that we are all drinking from a fire hose, and we recognize that when we don’t take action on a proposal it’s because there are other things that impact the direction we are going in or we are waiting on other things. We can’t talk about Level II without talking about waivers, we can’t talk about waivers without discussing accreditation and we can’t discuss accreditation without discussing resources. There are various levels of understanding about the skills that people leave these certification courses with and the Council deserves to be reminded. I would like to move in a direction where we do more education on the specificity around what you will receive for competency at any level. This is a process that will take time regardless of staff or resources. The timing for me had to do with recreating our budget asks and so if there are positions that we need or resources to speed things along we can figure that out. We are all headed in the same direction, of you can’t train too much or too often. We aren’t in opposition to any proposal we just want us all to be on the same page when we discuss what the impact of making changes are.

*Jennifer Frank* – Let’s take a look at the options and see if we can find the best way to support the Academy moving forward. We are all trying to support one another but sometimes an online forum makes it hard to understand where people are coming from. I’m happy to continue working on the options and working with the Academy to see how we can make these integrated to expand our level II. We all agree we need more training.

*Chris Louras –* I am frustrated that we have recognized on the TAC that for years there are exposure issues, liability issues, public safety issues and service to the community, issues associated with kicking the Level II issues down the road for possibly three years.

*Discussion was had throughout the Level II topic regarding having conversations to move this issue and others forward.*

**ARIDE –** *Vermont Criminal Justice Council, Deputy Director, Chris Brickell*

Brief summary of the history of ARIDE: Training that happens between DUI certification and DRE training.

* 2015 the Council voted to have every Level III officer receive ARIDE training within three years of graduation.
* 2020 Legislation was passed that changed the language to require all law enforcement officers to receive ARIDE training.
  + No resources to train that many officers, and instructors and times were untenable.
  + Some Level II officers and other Level III’s with specific designations that don’t require them to do patrol work so the mandate didn’t make sense.
  + Requested a legislative language change to go back to the Council making this decision. That was passed this last session.
  + What should be the best practice going forward? Jamie-lee Bedard (Impaired Driver Training Coordinator) and John Flannigan (DRE administrator) provided feedback for a recommendation that will be given to the Council in October.

*Summary of current status of operations at the Academy -* During this full-time class [116], we started with 63 registrations, there used to be a cap of 32 students, but the cap was lifted. By orientation we were down to 50 (some removed by the agency). Day one we have 47. We are now down to 44. There have been three resignations. 2 female and 1 male for personal reasons, and the resignation happened in concert with us and the agency.

* During week two we had three covid cases, week three - nine covid cases, week four - three. Today we have 0. We are following CDC guidelines; we have also been masking.
* Twenty-four of these students have prior college experience, ten prior military, twelve have prior law enforcement experience. This class graduates December 1st.
* On September 11th we have a Level II training that begins and goes for two weeks.
* September 18th, we have a firearms instructor school for one week.
* December 4th, we have a Use of Force instructor training brought to us by FLETC that was arranged by the executive director for additional support.
* February 5th is the next class [117]. We have many volunteer instructors from outside agencies that make this possible.

*Heather Simons –*

* John Flannigan is on contract as DRE administrator; he does a great job, he’s very knowledgeable and he has been managing this program. Jamielee Bedard, does most of the administrative work in support of John, which to me seems a little bit backwards. We would like to focus our strategizing on this program, it doesn’t have enough trainers and it is hard to fill classes. We need to support a full-time classified position at the Academy because Jamie is very limited in what she can do because her position is federally funded, and she would like to do more. These are the kinds of things I would want agency heads, chiefs, and sheriffs to weigh in on what the customer needs are before the program changes.
* Welcome to Wade Cochran is the proxy for Commissioner Wanda Minoli of the DMV.
* James Park did a lot of the technical assistance work as well as programming and data. He moved on to another position in the state. We have that position posted.
* Jake Hansell resigned to go to a federal position. He is one of the best trainers I have ever worked with, his instructor skills are in the top tier. He resigned because of me and some decisions I had made regarding a recruit who instructors felt strongly shouldn’t pass and stay. I agreed with them and supported them but then I changed my mind and he graduated.
  + This is hard on academy staff and instructors. We are trying to combine the pressure of high liability decision making in the training arena with our need to be versatile and flexible with adult learners and how we remediate and create an environment where people can be successful and sometimes that takes me getting involved. This is difficult for staff and instructors because we want to have clear rules. This is why we need to stay focused on things like measurable outcomes and being clear about what we mean by 21st century policing and best practices.
* We are looking at posting the two fair and impartial policing positions. One will be a Director of Community and Inclusion; we are in desperate need of an instructor for implicit and explicit bias, and someone to do program supervision (such as canine, impaired driver program, and domestic violence).
* IADLEST visit is September 25-26 they will be a small group doing work as a review team on the questions that will be framed to go out in a survey to all law enforcement. If anyone is interested contact Heather.
* FLETC – Federal Law Enforcement Training Center in Georgia they have a strong instructor development course for use of force, and they will be offering the training right after graduation December 4th. This will help us develop more streamlined and measurable outcome reports on criteria for instructors in general but in particular high liability areas. Encourage those that are interested to attend because it is free. Philip from FLETC will be joining us soon to talk about the broader conversation of training right now in law enforcement and how to address a skill development with staffing shortages and the need for leadership and accountability training to be combined into everything.
* *Mark Anderson –* FLETC is the Law Enforcement Academy for many federal agencies. They have a strong state, local, county, and tribal program where they will export training at a low or no cost to different parts of the country and they will invite you to their campus. They train close to 50,000 officers a year and have leading edge trainings.
* *Chris Louras –* Excited about the new FIP positions, are they going to supplement or supplant the work of Etan?
* *Heather Simons –* I don’t want to make moves without discussing them with Etan. I generally ask him to consult and not create any product or go anywhere because he has another job, but he has been participating with us on not just training but how we are going to define fair and impartial policing training moving forward.
* *Justin Stedman –* I have sent one of the wardens to Alabama to get canine trained and that is not sustainable for me, is there a plan?
* *Heather Simons –* yes there is a plan, it will be posted as a training coordinator position and look for a review with classification later on.

**General Discussion** - *Vermont Criminal Justice Council Chair, Bill Sorrell*

* Our next scheduled meeting is the 19th of September, and we will have two professional regulation cases on the agenda for that day.
* Sheriff Grismore case has been scheduled for October 17th; it will be extremely important to have a quorum that day. We will hear evidence then we would go right into executive session to deliberate and make a decision. We would give both sides two weeks to file any written arguments in requested findings of fact and then the Council will reconvene and deliberate back in open session before making a decision.
* We are looking for names from an NAACP chapter for the Governor’s consideration to appoint for the remainder of the term.
* The chair’s position term is up December 31st as well as some of the other appointees so we will have to start reaching out to the Governor’s office to see what the Governor’s office is planning in terms of appointments for the terms beginning January 1. Potentially there are significant changes on the Council ahead.

*Chris Louras –* NAACP Hartford may have its charter, there are a pool of folks there also Castleton University has a chapter.

*Mark Anderson –* Should we encourage the Governor’s office to stagger the appointees since we are potentially losing seven members of the Council.

*Bill Sorrell –* I would be surprised if the Governor wants to make widespread changes on the Council. We will be soliciting interest and willingness to remain on the Council.

Legislative tweaks to request could be some staggered appointments, one- or two-year appointments.

*Request was made to have an update from the Entrance Test Working Group on the MMPI and the Written Entrance Test.*

*Kim McManus –C*onflicts for October 17th hearing reach out to Chair Sorrell and Lindsay.

**Motion to adjourn** made by Chris Louras and seconded by Chief Frank, no discussion, all in favor.