September 13, 2022

10:00 AM

Teams Meeting

**Members in Attendance Public Session:**

William Sorrell, Chair – Governor Appointed

Brian Searles – 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

Chris Herrick – Commissioner for VT Fish and Wildlife

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

Jay Green – Proxy for Xusana Davis, E.D. Racial Equity

Erin Hodges – VT Trooper’s Association

Michael Major – VT Police 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

**Other Attendees:**

Heather Simons – Vermont Police Academy

Christopher Brickell – Vermont Police Academy

Lindsay Thivierge – Vermont Police Academy

Jacob Humbert – Assistant Attorney General

Wesley Lawrence – Attorney, Theriault & Joslin

James Park – Vermont Police Academy

Member of the press – VTDigger

**Call to Order:**  Vermont Criminal Justice Council Chair, William Sorrell 10:01

**Additions or deletions to Agenda:**  No additions or deletions

**Case 2020JLF**: Proposed stipulated agreement: if approved there will be no contested hearing. The individual, represented by counsel, negotiated a resolution of the matter contained in the Notice of Hearing. Process of events are as follows:

* Hearing of Facts
* Questions can be asked as if it was a contested hearing.
* If legally appropriate, the council could go into an executive session to discuss the matter further. If that happens there will be a separate link for members to get into the meeting.
* If there is an executive session, we will come back into the open session and consider whether to approve the agreement or reject it.
* If the agreement is rejected, there will either be a rescheduled contested hearing or some other attempt to resolve the matter.
* Today we will be reviewing a negotiated, stipulated resolution to the matter 2020JLF. Attorney Wesley Lawrence is on the meeting, and he’s been under contract to provide legal advice to the council.

*Discussion: Erin Jacobson, AG’s office:*

Erin Jacobsen presented transparency on any perceived conflict: Attorney Humbert is the administrative prosecuting attorney for this meeting, and he is also an assistant attorney general. Erin Jacobsen is also an assistant attorney general and has had no communications about this issue or Officer Trybulski’s case with Attorney Humbert. Erin reports to General Young. And stated that from her perspective, she can be impartial and there are no issues or conflicts of interest.

*Chair Sorrell*: The Chair wished to confirm that Trybulski was aware of the meeting today and if he had been afforded the opportunity to attend.

If was confirmed that Trybulski was not on the meeting.

*Attorney Jacob Humbert gave a summary of the proposed stipulated agreement:*

* The Council has a statute for procedures under the council’s accessibility and confidentiality statute, specifically section 2409.
* Information is confidential in records unless and until action is taken.
* 2409(d), speaks to council and hearing officer to keep confidential information confidential except required information to be released under this section.
* There are fairly limited circumstances where information can be disclosed, and in this circumstance, there has been a notice of hearing issued, the public record identifies the allegations, the sources of authority implicated here, and the noticed hearing alleged on February 4, 2021, where Trybulski alleged to conduct a motor vehicle stop and allegations are the stop was conducted without probable cause or reasonable suspicion.
* This also involved the request and securing of volunteer consent despite no reasonable suspicion or probable cause for criminal activity.
* The conduct was such that the State would intend, if gone to hearing, prove three violations of three Williston Police Department policies.
* Violation of such policies, as noticed of hearing, amount to three violations of professional conduct, and would amount to a category B conduct as defined in the statute.
* Until there is a stipulation that would be approved by the council, that stipulation would remain confidential, 2409(c)(2) refers to what is contained in the public register related to complaints and provides info beyond the date and nature of the complaint and summary of the concluded investigation. That information is to remain confidential. Information beyond that would be a result of the taking of disciplinary action or charges to be filed. I can’t provide advice, but Attorney Lawrence may be able to.

*Chair Sorrell - Understanding of the facts:*

* There was a call to Williston PD by an individual reporting that a dark-skinned individual was knocking on the caller’s door and wasn’t leaving.
* Williston PD responded.
* Trybulski on another matter checked out of that matter and responded to the scene. He responded to a car with an individual, who was not dark-skinned.
* Trybulski engaged with the car, which had already been stopped by another officer, and proceeded to make inquiries about suspected drug activity.
* There was a request for a consensual search of the vehicle, which was granted.
* Allegedly that intervention by Trybulski was in violation of various Williston PD rules and regulations. There is a determination that his actions were inappropriate, and consequently, action was taken.
* Trybulski has not been employed by Williston PD for some time.

*Discussion of the proposed stipulation commenced:*

* The proposed resolution would permanently revoke law enforcement certification in the State of Vermont.
* A record of the revocation of his law enforcement certification will be filed with a national databank (NDI).
* Under terms of the proposed resolution if he seeks employment by a Vermont law enforcement agency for a certified position, he would be required to submit a letter or notice of this matter in the stipulated agreement.
  + *Evan Meenan:*  Based on the wording of the stipulation agreement, he was not prepared to vote.
  + The definition of category B conduct is the willful failure to comply with state law and policy.
  + The proposed stipulation flags that the applicable section of the statute that defines category B conduct is biased enforcement.
  + Paragraph 7 of the proposed stipulation doesn’t indicate that former Officer Trybulski conducted the stop as a result of biased enforcement.
  + There is no reference to the demographics or other relevant considerations to the incident itself.
  + If these stipulations become public, and without additional information in the stipulation, would someone conclude that any time it’s determined a stop was not based on reasonable suspicion that this Council might revoke certification?
    - *Attorney Humbert:* The state would intend, if this case goes to hearing, to prove that the various elements of a category B misconduct finding occurred.
    - If there are issues with the stipulation agreement that need to be resolved that would occur through further negotiations with Trybulski moving forward.
      * *Evan Meenan:* If the Council is going to make stipulations available to the public and people may or may not be citing these stipulations as some type of persuasive authority in future persuasions those additional facts on enforcement based on demographics are not summarized in this stipulation.
        + Chair Sorrell had a similar reaction on review of the stipulation.
* *Mike Major:* Was the vehicle stopped prior to Officer Trybulski arriving?
  + *Chair Sorrell:* The vehicle was stopped by another Williston officer, the initial officer responding to the call of the dark-skinned individual.

Trybulski who was on another call checked off and went to the other officer. He came upon a vehicle that had been stopped and took actions that resulted in a complaint of unprofessional conduct to us.

**Executive Session:** Mark Anderson made a motion to enter an executive session with members of the council, academy staff, and Attorney Wesley Lawrence, second by Evan Meenan, all in favor.

*This portion is closed.*

*Reason for the executive session:* professional matter and to not violate Trybulski’s due process rights should the stipulated agreement be rejected by the council and at future date move to a contested hearing.

Members of the Professional Regulation sub-committee will not be going into executive session and consequently need not vote on going into executive session.

**Public Session:**

*Chair Sorrell:* The council conducted an interesting discussion in the executive session and are back in public. The matter for the council is to accept or reject the negotiated resolution of Trybulski’s case that would call for him to permanently be barred from working as a certified law enforcement officer in Vermont and other restrictions set forth in the negotiated resolution.

Brian Searles moves to approve the stipulation and consent order as presented, Glenn Boyd seconds the motion, no discussion.

Vote in Favor: **(13)** *Mark Anderson, Glenn Boyde, Cassandra Burdyshaw, Chris Louras, Jay Greene, Chris Herrick, Erin Hodges, Erin Jacobsen, Kevin Lane, Mike Major, Tom Mozzer, Sadie Donovan, and Brian Searles*

Vote in Opposition: **(1)** *Evan Meenan*

**Discussion of votes:**

*Evan Meenan*: No vote does not mean Officer Trybulski did not engage in category B conduct or that revocation of the officer’s license would not be appropriate. The no vote was because the facts in paragraphs 4 through 7 don’t lay a sufficient foundation to conclude that Trybulski willfully failed to comply with the applicable policies referenced in the stipulation of the policies at Williston PD, including their fair and impartial policing policy. It sounds as though such facts exist and would enable me to vote yes but those facts were not included in the stipulation.

*No other discussion on the votes.*

*Chair Sorrell:* This is the first time since the Council went into effect on January 1, 2021, that it has had the opportunity to have a discussion like this on a matter of the livelihood of a Vermont law enforcement officer.

The Council has taken this particular issue very seriously but has also discussed questions on the process. Mr. Trybulski will not wear a badge in Vermont law enforcement for the rest of his working life. The allegations and underlying facts prompted Williston PD to sever ties and consequently, the Council has upheld the recommendation of the subcommittee given the facts of the history are warranted.

The Chair thanked everyone for their serious participation and involvement.

Director Simons extended appreciation for the time and thoughtfulness that went into this from the professional regulation subcommittee members, the attorneys, and the staff.

*A press release will be submitted.*

Motion to adjourn Mike Major, second Kevin Lane – all in favor.

Meeting Adjourned.