



Vermont Criminal Justice Council

Council Meeting Minutes

February 1, 2023
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
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 Herrick, VT Fish & Wildlife
Erin Jacobsen – Proxy for Attorney General Charity Clark
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
Jennifer Harlow – Proxy for Mark Anderson, VT Sheriff's 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
Karen Tronsgard-Scott – Executive Director VT Network DOMV/Sexual Violence

Other Attendees:

Heather Simons – Vermont Police Academy
Christopher Brickell – Vermont Police Academy
Jemielee Bedard – Vermont Police Academy
Doug Allen – Chief, Colchester Police Department
Lindsay Thivierge – Vermont Police Academy
Matthew Romei – Chief, Capitol Police Department
Jeffrey Burnham – Chief, Springfield Police Department
Jennifer Firpo – Vermont Police Academy
Matthew Sullivan – Chief, Swanton Police Department
Brock Marvin – Vermont Police Academy
Ken Hawkins – Vermont Police Academy
Barbara Kessler - Captain, VSP
Loretta Stalnaker – Chief, Royalton Police Department
Michael Thomas – Chief, Shelburne Police Department
Robert Montgomery – Chief, Killington Police Department
Shawn Burke – Chief, South Burlington Police Department
David Fox – Sheriff, Rutland County Sheriff's Department



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Tim Bilodeau – Chief, University of Vermont Police Services
Travis Bingham – Chief, Newport Police Department
Tom Williams – Chief, Chester Police Department
Anthony Cambridge – Chief, Hinesburg Police Department
George Merkel – Vermont State Police
Michael Scruggs – Chief, Thetford Police Department
James Pontbriand – Chief, Berlin Police Department
Skyler Genest – Sr. Dir. Of Licensee Operations, Department of Liquor and Lottery
Kevin Ryan

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

Today is the first day of black history month and the memorial service for Tyre Nichols. The Council took a moment to reflect.

Additions or deletions to Agenda: Welcome back to the Executive Director in general discussion. Erin Jacobsen requested a discussion around the Domestic Violence Fatality Review Commission Report and the recommendations that are relevant to law enforcement in Act 56. Also, Karen Tronsgard-Scott would be available to walk us through the recommendations. This will be discussed in the legislative updates. All are in favor of the agenda as presented.

Minutes from January 4, 2023, meeting minutes:

Motion to approve minutes from January 4, 2023, meeting by Bill Sorrell, second by Cassie Burdyslaw, no discussion on the motion, all in favor.

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

S17 Summary - Professional Regulation and some recommendations within the bill there may be other members of the Council that do have concerns with the entire bill or sections of it, this overview will allow for that discussion.

- Category B - definition changes – addition of language under Category B is to encompass Sheriff accountability. Sections H and I have been added.
 - In most cases they already fall within this category. An elected sheriff can maintain their office even if they are decertified.
 - The current Category B as written has seven sections that define a scope for the Professional Regulation Subcommittee, with language that allows for flexibility. If additional language is added, will it limit the flexibility of the Subcommittee to look at additional violations that fall outside of the scope?
 - Sheriff Harlow – Vt Sheriff's Association agrees that S17 language is limiting and does not support S17, they are especially concerned that the added language limits the subcommittee but looks forward to working together to find a path forward.
- Contracts for Sheriffs – shall not have provisions for contracting.
- Duties as a peace officer – use of force only as permitted pursuant to Title 20.



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Discussion ensued: What happens if a recommendation from the Council comes out that a council member's organization does not agree with? We should have some provisions in place.

- The purpose of the Council is to include many voices and differing opinions, we may not always vote unanimously on an issue.

S6 Summary – Custodial interrogation issues – new language has been added that puts specific responsibilities on the Council. Requires agencies to adopt, follow, and enforce a model interrogation policy developed by the Council with specific parameters.

- Effective date of law is July 1, 2024, then the Council is asked to have this policy for statewide application by January 1, 2025. S124 requires the Council to approve the BWC policies for statewide application and calls upon the Council to prepare policies for facial recognition or military equipment to become prevalent in VT policing. The idea is to have the various voices of the Council engage and come out with something that everyone can live with that would be guidance and a mandate across the state.
- Would be consistent with the Council's vision.
- Resources would be needed if this stayed with the Council, it is a lot of work.
- Concern with compliance parameters – how do we establish compliance and how do we know when interrogations are happening?

Review of Category A, B, and C misconduct – *Category A*- mostly criminal violations (felonies or misdemeanors while on duty or under color of authority). It doesn't require a conviction. The Subcommittee can't review until due process has been completed in court. *Category B* violations fall under a multitude of listed offenses but have some flexibility for identifying policy violations that rise to the level of gross professional misconduct. *Category C* – Council processes. Council doesn't do a valid investigation, an agency doesn't complete Rule 13. Category A and C violations can be put directly to the Council for sanction. Category B 1st offense that doesn't happen, a letter gets sent out. There are some Category B violations that are concerning that one would think would rise to the level of being sent to the Council for a hearing.

- Category B1 discipline cannot be imposed by the Council with limited exceptions (excessive use of force, chokehold, or failure to intervene).

Council members should consider if the first bite of the apple (Category B1) should be reviewed by the Council to determine if the facts of the case identify egregious behavior that should impact their certification.

Legislative Updates: Erin Jacobsen, Proxy for AG Charity Clark, and Karen Tronsgard Scott, Executive Director VT Network DOMV/Sexual Violence

Carolyn Hanson was the point person for the AG's office for the investigation and creation of the report on DV fatalities in VT. Erin Jacobsen is the designee of the Council and frequently in the legislature. She is able to work with the Network and assist with drafting or proposing legislation in line with the report's recommendations.

Karen Tronsgard Scott – Report has four recommendations. VT DV Fatality review commission has been in operation for nearly 2 decades, it is comprised of 17 stakeholders. Each year they review fatalities from the previous year. The report seen today is from 2021, the recommendations come from the investigations that are conducted by the Commission for that year.



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Recommendation - juvenile proceedings that will change the course for juveniles that cause harm and allow them to gain access to resources and supports.

Recommendation - Technical change for the service of protection orders when a person is in court.

Recommendation - Reporting of aggregate data coming from Act 56 cases which comes from a list of suggestions the Council created regarding transparency with the subcommittee and to also record that actions are happening within the professional regulation subcommittee.

Recommendation - The adoption of model policy across all Law Enforcement jurisdictions. The first model policy in VT was adopted in 2010 and not everyone has adopted that so there is a strong recommendation for universal adoption.

Recommendation - Specific language about including domestic violence actions on the part of law enforcement officers under Act 56 so they would come to the Professional Regulation Subcommittee.

The Network supports these recommendations because in VT more than 50% of all homicides are related to Domestic Violence. The other reason is that if you look at the new heat map coming out from the DPS – DV is one of the most frequent calls for LEOs, 61% of calls in Barre were DV related.

These directly relate to law enforcement and although these provisions speak specifically to when LEOs are using violence in their relationship. We have to be honest about the relationship between the nature of the job of law enforcement and the use of power and control and how that can play out in a law enforcement officer's home. There is plenty of room to develop approaches to improve the rate of officer domestic violence and have fewer people removed from their job and more people safe in their homes.

Discussion ensued: The aggregate data and recording are just for domestic or sexual violence allegations or actions that come before the professional regulation subcommittee?

- PRS members are aware that they are answerable to communities so there have been discussions on how to aggregate data and report it out so there is some sense of an accountability mechanism and demonstrate things are being done. We would aggregate data and this recommendation is specific to domestic violence.
- The proposal discussed in the legislature will be specific to domestic violence. Separate and apart from that is the suggestion for an annual report from the subcommittee across a range of cases brought before the subcommittee.
- The Network would never recommend any action taken against someone who has committed an act of domestic violence that comes through the subcommittee would ever be reported on individually because that could be the victim in danger.
- If an officer was charged with Domestic Violence that would trigger a category A but doesn't require a conviction. A final relief from abuse order is issued that would be a Category B violation unless it were an A or a B. Is that correct?
 - o In order for someone to be the subject of a final relief of abuse order the state has determined they pose a risk. It is the action of a civil court that determines this person poses a risk.
 - o It's a public record that an officer would be charged criminally but if the officer is subject to a relief from abuse order would that go into legislation



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that the Council is notified and whose responsibility is it to notify the Council that this has happened? Frequently these matters are done quietly. Would it go in the legislation that someone needs to advise us that an RFA has been issued?

- Currently no language. We have discussed this issue in Professional Regulation.
- lose sight of the fact that this is about safety. How we get there needs to be practical.
- If an RFA is issued against a law enforcement officer would be a category B violation – would this be a category B violation that would allow the Council through the subcommittee and perhaps full council to take action on certification the first time through?
 - In the recommendations to the report this is a Category A.
 - Chair Sorrell requested Erin Jacobsen discuss these questions with the AG's office. Erin is requesting any additional information to assist in the drafting of legislation.
- Shawn Burke - The hope is that a model policy will be mandated for domestic violence and that it would fall into Category B in a number of ways. The Council should think about how much better it would be to have a policy that is much more flexible than changing the law.

A Category B violation may not appeal to the Council a decision by the Professional Regulation Subcommittee. This issue will be before the Council in the next few months when our overall Rules revision comes to the Council.

How many agencies in VT have not adopted the model policy? - In the report, there is a map of Vermont that shows how many agencies have not adopted the model policy.

The chair expressed great appreciation for Rachel Lawler, she responded to the request to offer testimony on behalf of the council on different issues as this legislative session progresses.

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

Returning after being out with long Covid – working in the background and now becoming more visible and more active. Thanks were expressed for the texts, calls, and cards.

Outreach was offered for anyone going through long covid or if they know someone and need to talk.

There is an enormous amount of opportunity this legislative season and with all of the work and we can take advantage of that.

Chair Sorrell expressed thanks and looks forward to the director being a regular participant and a leader in the operation.

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

- Day one will be February 6, 2023



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- Training has changed in the first two weeks. TCs are Preloading community policing, fair and impartial policing, and mental health to get recruits in the right frame of mind to understand everything that is ahead of them.
- Day one will start at 8 AM instead of 2 PM. This will allow for some individuals to come in and talk about peer support and stress, so recruits understand what their minds and bodies go through in a stressful environment.
 - We operate in a police discipline model which can be stressful for new recruits, we will have them speak about what their first experiences have been so that we make sure they learn how to mitigate that stress and what it all means.
- Orientation let recruits know what Day one would look like and what the expectations are including room standards, facility tour, and greeting of the day.
- Peer support group will be with them for 1-1 ½ hours.
- These are volunteers from the Vermont Center for Responder Wellness.
- We have an upcoming hearing date of February 21st. For that hearing date, there will be one stipulated agreement and a second case that we believe will also be a stipulated agreement. If this goes to a hearing it will have a lot of detail and will be long. Concerns about the quorum were expressed and a reminder was given that the day before is a holiday.

General Discussion: None

Motion to adjourn made by Chris Louras and seconded by Brian Searles, all in favor.

Meeting Adjourned 11:20.