

Law Enforcement Advisory Board Meeting
Vermont State Police Barracks, Derby VT
Notes of Meeting
March 20, 2014

- Chairman Rick Gauthier called the meeting to order at 6:00 pm and gave an overview that the purpose of the meeting was to gather input on the policy and answer any questions about training, and reviewed how the Law Enforcement Advisory Board reached this point. (The meeting was audio recorded.) Introductions around the room included: Rick Gauthier, Police Academy Director; Suellen Royea, Criminal Justice Services; Karen Horn, Vermont League of Cities and Towns; John Treadwell, Attorney General's Office; Chris Roy, Newport Daily Express; Sgt. Mike Henry, VSP Derby; Lt. Kirk Cooper, Station Commander; Sgt. Larry Smith, VSP Patrol Commander; Chief Seth DiSanto, St. Johnsbury Police Department; Frank Davis; Brian McNeal; and Jennifer Cleveland. The following arrived shortly after the start of the meeting: Chief Tom Hanley, VT Chief's Association & Middlebury Police Department; Laura Prive; Fabian Prive; Frances Bernier; and Shanon Bernier.

There was a review of the areas of concern (use of conducted electrical weapons on vulnerable individuals and where conducted electrical weapons fall on the use of force spectrum) and work left to be done which include reviewing the comments from public and law enforcement officers, reviewing the standards, additional research regarding imminent/immediate harm and how the language interacts with US Supreme court language, officer standard and level of training, reporting the mental health training, and calibration. It was noted that there was a third reading of Bill H.225 in the Legislature. The proposed changes included language changes to "...shall attempt to deescalate..." and "...shall warn..." and the addition of mandatory training for all officers to attend Act 80 training.

- The meeting was opened for questions/comments:

Mr. Brian McNeal, a retired federal law enforcement officer and resident of Newport, VT, reviewed his experience with dealing with drug smugglers and his training that a gun never comes out unless one is going to kill someone and to use common sense for the given situation. He shared his experience at a training held at the University of Mississippi where he was taught not to get into a state of mind that common sense was lost and force needed to be used. Sgt. Henry shared a case scenario and the current training to judge a situation based on objective reasoning which was adopted as a result of a 1989 US Supreme Court case and the 1993 Vermont Supreme Court case, Cole vs. Johnson.

Mr. Frank Davis, from Derby Line, had several questions which included: if each agency does their own training, the difference between the national standard and Vermont's training, whether this training will affect federal law enforcement officers, and restrictions/training for citizens to purchase/carry a taser. It was noted: currently, each agency conducts their own training, but that the Council has adopted a curriculum which would be a statewide training; the

difference between the national standard and Vermont's training is that the course is the national standards with some additional Vermont requirements/standards; federal officers cannot enforce Vermont law and would not be required to go through our training; and there are no restrictions or training requirements regarding a citizen's purchase/use of a taser. Sgt. Henry did note that there are some differences in the law enforcement model versus citizen model; one of which is the duration of the charge/hit.

Christopher Roy, from the Newport Daily Express, asked if a citizen carries a conducted electrical weapon, do they have to go through a background or training. The answer was no.

Mr. McNeal suggested having a training standard and everyone receive the same training. He also inquired if the purchasing was done through a bid process and if standardization between brands would be necessary. Sgt. Henry noted that technology is always improving/changing and described putting a standard on a taser would be like putting a standard on a computer. It was noted that a conducted electrical weapon is not able to put out more charge than it has. The tasers used by Vermont State Police is a DC charge.

Mr. Fabian Prive, a taser victim, described his experience. He noted that he was arguing with law enforcement officers that stopped him to talk and was just standing there. He did not feel it was necessary to be tased multiple times and pinned to the ground. He felt the officers should be held accountable because they lied on their report.

Ms. Frances Bernier shared her support for the bill and described an experience with her son being tased. Her son has down-syndrome and was tased in the bathroom due to refusing to get dressed. The case was resolved with the Vermont State Police and she was pleased with the changes in their policy. She noted that there were two (2) mental health workers present during her son's incident and wonders if mental health workers are going to be involved enough so this doesn't happen again. She would like to see more training sooner rather than later.

Mr. McNeal spoke about the difficulty of obtaining information about individuals law enforcement officers are encountering given the freedom of information act.

Rick Gauthier noted that the input from meeting to meeting has been consistent. The next public meeting will be April 5, 2014, in Bennington at the Firehouse.

Chris Roy inquired about the purpose of these meetings if the House is already looking at this. Rick Gauthier noted that it is to see the effect on training and talk about the concerns with some of the contents of the policy.

Mr. Frank Davis added that we can't expect law enforcement officers to read someone's mind and there are already a lot of expectations put onto law enforcement officers.

Karen Horn, representative from Vermont League of Cities and Towns, added that in respect to the legislation, it will have to go to the Senate and there are sure to be changes.

- The public comment portion of the meeting closed and Rick Gauthier thanked everyone for coming. There was a break around 6:50 pm and the meeting resumed at 6:58 pm with Board members and a representative from the Sheriff Department present.
- John Treadwell updated the members present about some concerns with the language in H.225. He noted there was an amendment to shift from “should” to “shall”, and some concerns with a couple of definitions; there are a couple of different definitions of electronic control devices, and an unusual definition of law enforcement officer. He suggested a goal of having a final draft prepared for the LEAB meeting scheduled in April. A suggestion was made to pull the working group together. It was noted that if the working group were pulled together again, the meeting would have to be warned and an agenda circulated.
- Karen Horn noted that incidents of multiple tasing have been shared and wondered if the policy needs to reflect a reassessment after the first tase. It was noted that this is addressed and section 3.7 of the model policy was reviewed.
- An agency that has a policy but their policy looks different than the suggested model policy was reviewed. A suggestion was made to have a preamble that policies must cover the model policy. It was thought this was already stated. John Treadwell will work on putting something together.
- Rick Gauthier noted that at the Chiefs meeting earlier today, it was noted that the fair and impartial policing policy the Vermont League of Cities and Towns suggested does not satisfy the requirement. John Treadwell noted that there is an approved policy drafted by the Attorney General’s Office.
- Rick Gauthier reviewed the advertizing he did for the meeting; two (2) newspapers and radio ads.
- A representative from the Orleans County Sheriff’s Department shared that they can’t use OC spray in the hospital and they rely on the taser. He noted that they have displayed the taser, but have not had to use it. Tom Hanley noted they have the same situation in Middlebury.
- Meeting adjourned at 7:20 pm.