

Law Enforcement Advisory Board Meeting
DPS Headquarters, Lab Classroom, Waterbury VT
Minutes of Meeting
June 15, 2016

- Chairman Michael Major called the meeting to order at 1:00 pm with Nelson Tift, Vermont Constable Association; Bill Bohnyak, Orange County Sheriff; Jason Batchelder, Fish & Wildlife; Capt. James Whitcomb, VSP; Jake Elovirta, DMV; Rick Gauthier, VCJTC (via conference call); and Suellen Royea, DPS/CJS present. Gwynn Zakov from the Vermont League of Cities and Towns arrived at 1:30 pm.
- **Review of Minutes from March 23, 2016 Meeting: Nelson Tift made a motion to accept the March meeting minutes. The motion was seconded by Bill Bohnyak. The motion carried.**
- **New Business:**
 - **Legislative Bill S.155 Review:** Michael Major reviewed a request (a copy was distributed) he received from Public Safety Commissioner Flynn to review S.155 on LPR, Information protection and Privacy Act and suggested putting together a subcommittee to review this. Jake Elovirta volunteered to be a committee member. Mike Major indicated that John Treadwell would also be a member. Captain Whitcomb volunteered to be on the subcommittee, as well. Jake expressed some concerns (data retention, search warrant requirements, and reporting requirements) with the bill and reviewed the history of the bill. The Drone language and usage was discussed. It was noted that the legislature was concerned with the use of drones for law enforcement surveillance. Michael Major also volunteered to be part of the sub-committee and asked Jake to coordinate the subcommittee.
- **Old Business:**
 - **Update on Model FIP Policy:** Rick Gauthier reported that two versions were presented and reviewed with the Council yesterday. The Council did require 95% of the essential elements be included but did not require the detainer warrants and judiciary warrants. The result was a version everyone was okay; Border Patrol also thought it was fine and better language than they thought. Rick hopes to have the final version posted on their website in the next few days.
 - **Discuss Body Camera Policy:** Rick Gauthier reviewed that John Treadwell was part of the initial working committee. He reached out to Rick Hebert, who declined to be part of the sub-committee but was willing to attend a meeting. In addition, the ACLU wants to have a representative on the sub-committee. It was recognized that there was not a strong regulatory process pertaining to conduct. Some legislation language was drafted and Senate Gov Ops requested additional work on the issues. The next meeting is scheduled for June 30, 2016.

- **De-certification:** Rick Gauthier noted that the decertification document is still being worked on. Michael Major noted that Captain Scott Tucker from Rutland PD may be interested on being part of the sub-committee. Rick noted that this sub-committee needs to draft some legislative language by December, 2016.
- **LEAB Membership:** It was reviewed that the language to modify the LEAB membership did not pass. As a result, Captain Whitcomb volunteered to chair the sub-committee reviewing Bill S.155.
- **Legislative Update:** Rick Gauthier reviewed the Race data collection status. He explained that not all agencies were making the information readily available to the public. The Legislature passed a law that the report be available to the public in a format that the public can readily access and that the data be given to a vendor selected by VCJTC (potentially Crime Research Group). Rick is scheduled to meet with Karen Gennette from CRG in the next couple of weeks.
- **FIP Policy Continued:** Michael Major asked about the Legislature's request for everyone to be trained by 2018. Rick Gauthier reported that in 2019 and every odd year, refresher trainings are to be held. Unlike some other types of training, there are not a lot of trainers available for Fair and Impartial Policing. Senator Sears put some funding in the bill to pay for a half-time position; however, it is hard to get someone for a half-time position. The Council is on the road to possibly adding some positions as the Governor's Highway Safety Program has a pool of money for training. Rick met with Scott Davidson about a training coordinator position and they are working on putting together the position classification.
- **Other Business:**
 - Jason Batchelder reported that the Legislature repealed the sunset on suppressors, which can be used on fire ranges and can be mounted on firearms. They are surprised by the number of people going through the permit process to have a suppressor.
 - Bill Bohnyak asked if they should refer requests for public records pertaining to stats to the Crime Research Group. Rick Gauthier answered that once they are officially on board, they will have everyone's data. Jake Elovirta asked about the timeframe. Rick Gauthier thought everything should be in place around July 1, 2017. Michael Major added that the documents should be locked.
 - Jake Elovirta shared that by the end of the month, there will be a DMV bulletin with DMV updates; some new codes were created, new definitions for motorized bicycles, the violation for not wearing a helmet for motorcycles changed to a no point violation, and added some eye protection requirements.
- **Adjournment:** Meeting adjourned at 1:44 pm.



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Law Enforcement Advisory Board

Dear Captain Major,

As you are aware the Legislature passed S. 155 and it was subsequently signed into law by Governor Shumlin. This law creates new tasks for not only the Department of Public Safety but also on all law enforcement entities. Therefore, in that this law calls for a collaborative effort in meeting many of the reporting requirements between the Department of Public Safety and various law enforcement agencies in Vermont, I would request that the LEAB review the same and form an advisory group to help in suggesting protocols and model governance policies that will aid in compliance with the new law. I have provided a summary of applicable provisions:

Drones:

20 VSA §4624. Reports

The Department of Public Safety must report to the House and Senate Committees on Judiciary and Government Operations on activities for the previous 12 months **FOR ALL LAW ENFORCEMENT AGENCIES** in regard to the following:

- The number of time a drone was used in the previous 12 months. For each agency drone use, the type of incident; the type of information collected and the rationale for deployment of a drone;
- The number of criminal investigations aided by the use of the drone within the previous 12 months including a description of how the drone aided in each investigation or arrest; and
- The number of times a drone collected data on any person, home, or area other than the target of the surveillance within the previous 12 months and the type of data collected in each instance.



VERMONT ELECTRONIC COMMUNICATION PRIVACY ACT

13 VSA §8103

Requires ALL Law Enforcement Agencies to submit warrant-related information to DPS in either of two circumstances;

- No identified target of warrant or emergency request; or
- Issuance of an order delaying notice to target of investigation.

Publication must be redacted to remove names and identifying information. To protect privacy, redaction will have to be heavy, and the relevant personnel should be trained in proper procedures.

DPS is required to publish all reports required by this subsection for ALL LAW ENFORCEMENT AGENCIES on its website within 90 days of receipt. DPS is responsible for redacting names and other identifying information from the reports received by state wide law enforcement agencies.

ALPR

According to the bill, under section 7, page 21, DPS is responsible for submitted a written report to the House and Senate Committees on Judiciary and Transportation the following:

- The total number of out of state requests to the VIC for historical data, the average age of the data requested;
- The total number of alerts generated on ALPR systems operated by law enforcement officers in the State by a match between an ALPR reading and a plate number on an alert database and the number of these alerts that resulted in an enforcement action;
- The total number of criminal, missing person and commercial motor vehicle investigations and enforcement actions to which active data contributed and a summary of the nature of these investigations and enforcement actions;
- The total number of criminal, missing person, and commercial motor vehicle investigations and enforcement actions to which historical data contributed and a summary of the nature of these investigations and enforcement actions;
- The total annualized fixed and variable costs associated with all ALPR systems used by Vermont law enforcement agencies and an estimate of the total costs per unit; including: capital, operating, maintenance, personnel, training, and other costs. The estimate shall include a breakdown of costs by category.
- Conduct a cost-benefit analysis of the existing and planned use of ALPR systems in Vermont, and an analysis of how these costs and benefits compare with other enforcement tools that require investment of Department resources.

20 VSA § 1607(e) adds additional information to our annual report to House and Senate Judiciary and Transportation to include:

- The total number of out of state requests to the VIC for historical data, the average age of the data requested;

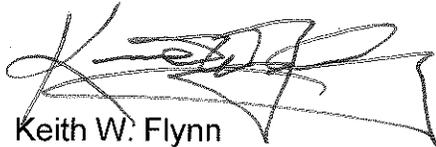


- The total number of alerts generated on ALPR systems operated by law enforcement officers in the State by a match between an ALPR reading and a plate number on an alert database and the number of these alerts that resulted in an enforcement action;
- The total number of criminal, missing person and commercial motor vehicle investigations and enforcement actions to which active data contributed and a summary of the nature of these investigations and enforcement actions;
- The total number of criminal, missing person, and commercial motor vehicle investigations and enforcement actions to which historical data contributed and a summary of the nature of these investigations and enforcement actions;
- The total annualized fixed and variable costs associated with all ALPR systems used by Vermont law enforcement agencies and an estimate of the total costs per unit.

DPS SHALL adopt rules to implement this section before January 1, 2018.

Thank you and the Law Enforcement Advisory Board for your consideration of this matter.

Respectfully submitted,



Keith W. Flynn
Commissioner, Department of Public Safety

