

Law Enforcement Advisory Board Meeting
DPS Headquarters, 3rd Floor Conference Room, Waterbury VT
Notes of Meeting
August 7, 2014

- Chairman Rick Gauthier called the meeting to order at 1:04 pm with the following present: Tom Hanley, VT Association of Chiefs of Police; Roger Marcoux, Vermont Sheriff's Association; John Treadwell, Attorney General's Office; Michael O'Neil, VSP; Major Glen Hall, VSP; Allen Gilbert, ACLU; David LeCours, Fish & Wildlife; Paco Aumand, Department of Public Safety; Glen Button, Department of Motor Vehicles; and Suellen Royea, Criminal Justice Services Admin. It was noted that a quorum was present. Jonathan Wolff, Primmer Piper Eggleston & Cramer PC on behalf of TASER; A. J. Rubin, Disability Rights of Vermont; Nelson Tift, Vermont Constable Association; and James Leene, U. S. Attorney Office-VT all joined the meeting after it started.
- **Review of Minutes from June 19, 2014 Meeting:** Tom Hanley moved to accept the minutes. The motion was seconded by John Treadwell. Motion passed.
- **Old Business:**
 1. **CEW Model Policy Revision:** John Treadwell described the changes to the draft of the CEW Model Policy noting one copy was annotated to the applicable statute except Section B1. One suggestion was that a possible link may be to Section 4.3, Training, in the policy. An issue still to be added is measurement and calibration. A question was asked regarding what agencies do with the Taser after a deployment and if it is treated as evidence. A discussion was held that included there are two sides to look at, criminal and civil; testing after each deployment if testing equipment is available; returning the Taser to the officer depending on the results/outcome of the investigation; and a review of how firearms are handled. John Treadwell offered to write something regarding this for the policy.
 2. **Measurement & Calibration:** Rick Gauthier reported that based on the equipment that Dr. Adler mentioned and information that Taser provided, Taser has offered to send someone to train testers to operate the measurement and calibration equipment. The frequency of measurement and calibration was reviewed. The consensus was to test upon delivery and upon unusual outcome. Other times suggested included quarterly, semi-annually and annually. It was noted that the recommendation would be to have several machines around the state. There was a brief review of self-calibrating Tasers. One question asked was about any costs associated with the testing. It was noted an expected cost would be for the upfront cost of the equipment (about \$15,000 each) and any additional costs may be for the tester's time. The consensus of the group was to recommend a testing station for each county, seek funding through the Legislature, and the testing frequency would include: upon delivery, upon deployment and annually.

3. **Reporting Mechanism and Criteria:** It was reported that Rick Gauthier, Allen Gilbert, and R. J. Rubin met earlier today. They talked about the goals and challenges of obtaining data including the officer's perception at the time and balancing the individual's privacy rights. One suggestion was to code the information. Rick Gauthier shared that the Council has a form that an agency can complete. Another topic they discussed was the frequency of reporting by agencies, which their suggestion would be the first of the month. One concern noted was that this might be a burden to the Council's staff. Another suggestion was to start collecting with aggregate information and then to modify once other needs are identified. Rick, Allen and RJ will set up another meeting.
4. **Eyewitness Identification and Custodial Interrogation:** Rick Gauthier reported that a report is due on October 1, 2014. The anticipated work to be done for the report would include reviewing and/or updating the model policy drafted by the group some time ago, determine what agencies have for equipment and how to get equipment for those that do not have equipment. Rick asked Tom Hanley and Roger Marcoux to find out what their agencies have for equipment, if they have a space in their facility that is equipped or if there is a space nearby they use. It was noted that all Vermont State Police offices have at least 1 room.

Paco Aumand shared that he reviewed the link from the Innocence Project and found some of the model policies may have been the same as Massachusetts and that there was some information from the Toolkit that could be altered to fit our needs. Rick Gauthier noted a request has been made to send someone from the Council to the next train-the-trainer event as it has been difficult getting trainers to put on trainings. The policy statements vary and Paco Aumand suggested this may be an area to further discuss. Rick added that the sequential process came under attack at the Legislature last year.

- **New Business:**
 - **2015 Legislative Session:** Paco Aumand inquired about what the session might mean for the LEAB. Rick Gauthier noted there are a number of reports due. Paco asked if there would be any additional work on the CEW model policy. It was thought that it might depend on whether there is agreement with the interested parties.
 - **Tier Certification:** It was noted that there is some opposition to the transition from Tier 2 and Tier 3; the Chiefs are opposed and the sheriffs are waiting to see the legislation language. It was noted that the Chiefs are meeting on Tuesday and that the Council has to come up with something. Rick Gauthier noted that transitioning from 2 to 3 will be difficult.
 - **Roadside Data Collection:** There is a requirement to work with Council to have the data available for analysis. A question was asked regarding how the data is being collected. It was noted it is being collected through warnings and tickets and that both systems can pull data out to be put into an Excel spreadsheet.

- **Drugged Driving:** Glen Button suggested that drugged driving may be an issue for the Board to review. It was noted that Highway Safety prepared a report but additional work is needed. The ability to do impaired drug testing here instead of sending out to out-of-state labs is being reviewed. Also noted was the importance of quick turnaround times.
- Tom Hanley made a motion to adjourn. John Treadwell seconded the motion. Meeting adjourned at 1:56 pm.