

LAW ENFORCEMENT STUDY COMMITTEE MEETING MINUTES
JOHNSON / HYDE PARK / WOLCOTT
REMOTE PARTICIPATION VIA ZOOM TELECONFERENCING
WEDNESDAY, JANUARY 20, 2021

Present:

Committee Members: Duncan Hastings, Diana Osborn, Jim Olsen, Peter Gallo

Note: All votes taken are unanimous unless otherwise noted.

1. Call to Order

Duncan called the meeting to order at 6:30.

2. Changes to Agenda

No changes to the agenda were needed.

3. Review and Approve Minutes from 12/16/20

Diana moved to accept the minutes as presented and the motion was seconded and passed.

Diana asked if copies of anything referred to in the minutes such as the spreadsheet Duncan created are included with the minutes or if copies are available to anyone who wants to see them. Duncan said they could be available to people who want to see them. His only hesitation on the spreadsheet is that he considers it a work in progress. Once we have a document reviewed and approved he thinks it should be readily available to anyone who wants to see it and he could send it to Donna to attach to the minutes.

4. Public Comment Opportunity

Diana asked if Duncan got any input from any members of the public in between meetings. Duncan said no. He knows Ron Rodjenski is posting minutes and agendas on the Hyde Park town web page and he believes Brian Story is posting them on the Johnson town website. Roger Marcoux emailed Duncan to find out if the committee had scheduled him for a Zoom meeting yet. Duncan updated him on where the committee is and sent him a draft of his spreadsheet in case he wanted to provide any input.

5. Report, Review and Discussion of Committee Member Assignments

Jim said he worked on trying to calculate response times to events based on the data provided to him by the sheriff's department. He was seeing response times of around 25 minutes on average with some outliers that were more like a couple of hours. Then he looked at the dates and saw that total response time was worse than he had thought because in some cases days passed between the 911 call coming in and the initial dispatch. He has to factor that into recalculating total response time. Sometimes there are duplicate incident numbers and he believes that represents a follow-up to the initial incident. He has to weed out those as secondary responses. Hopefully he will have revised numbers by the end of the week and will be able to email them out by early next week.

Diana asked if it is possible, instead of having to adjust each one, to subdivide into emergent response versus non-emergent response. Jim said he wants to try to create a pivot table that will break events down into broad categories of severity. Then he can look at response times with regard to severity of the call.

Jim said the data he is looking at is relevant to the question of whether there are enough officers to cover the three towns. It appears quite possible that the sheriff's department might be shorthanded when it comes to handling all the calls.

Duncan asked if Jim knows what Roger Marcoux's actual manpower roster number has been. Jim said he does have Roger's manpower documents. Roger has stated that he loses people because they get picked up by other organizations. One solution Roger might consider is that if the sheriff's department spends a certain amount of money training a person there could be an expectation that the person remains employed by LCSO for a certain number of years and if they leave earlier Roger would recoup a certain portion of the training expense. That is one possible solution that can be written into employment contracts. He remembers seeing that there were about six officers for the three towns. The response times he saw including the dispatch times signal to him that there are not enough personnel to cover the contracts as well as the other towns Roger is also obligated to respond to. He thinks the sheriff's office is spread thin. He thinks LCSO will need additional people to cover the three towns and any other contracts with reasonable response times and dispatch times.

Diana said she feels it is important when presenting information to the selectboards that we discriminate between operational things that are within the selectboards' scope to delineate in the contract and operational details that are none of our business. We can specify the amount of hours we want LCSO to provide but not necessarily the number of personnel or specify in our contract that Roger should require a certain number of years served after sending employees to school.

Jim said he is not suggesting putting that in the contract but if Roger is having a manpower or retention issue he might want to consider that option. He is suggesting asking if he has thought about it, not mandating it. The data he is pulling is not to tell Roger how to run his office but to let people in Wolcott and the other contract towns know that maybe we don't have enough manpower. Then selectboards can bring that up with the sheriff however they want.

Peter said the village of Hyde Park has an issue with finding adequate lineman. They have to make considerable investments in training to maintain staffing. If Rogers is facing a personnel issue maybe he is not being competitive. If people are leaving for better jobs that is something towns need to consider. Hyde Park has talked about bringing on its own traffic control officer. Maybe we should find out which areas the sheriff wants to provide services in.

Duncan said he thinks we should remember this as a question we want to pose to Roger or bring up at a meeting when he is there. He thinks it is appropriate for us as a committee to raise the issue without necessarily making a specific recommendation. When he managed the Johnson Village Water and Light Department they had a problem with getting qualified line workers and they paid tens of thousands of dollars to train people. Every line worker agreed at the outset as a condition of employment that if the village was going to invest a certain amount of money in their training they were going to work for the village for a specified

period or pay back a portion of the investment. He has mentioned that to Roger in the past but Roger has been reluctant to consider it. If Roger plans to have a roster of seven or eight and he is only able to keep five on his roster that impacts us.

Diana suggested that maybe we can identify the response time we expect and note what the actual response time is and that we are dissatisfied and say that the solution needs to come from the sheriff to maintain the contract. We could ask the sheriff's department what proposal they have to come closer to meeting our expectation for response time. That keeps us out of the position of telling Roger how to manage his department.

Jim said he already raised with the selectboard in Wolcott his opinion that we have to be specific in the contract and identify deliverables so if they fail to meet expectations we can take it to arbitration. What Diana is suggesting is exactly what is needed. We need to say what response time we need to be in line with the rest of the state. What the sheriff needs to do to accomplish that will be the sheriff's decision. An increase in manpower will impact the cost of the contract. What he is trying to do is look at performance metrics to see if they are in line with something that is acceptable to the towns.

Duncan said he feels we don't necessarily need to get into details in our report. The report could include a recommendation that the selectboards carefully review the contents of contracts and consider including performance metrics. There will be competing values. There will be some pushback from taxpayers or selectboard members who feel we are already paying too much. If we want to increase manpower and reduce response times there will be an associated cost. Our obligation is to point out what response times are and advise the selectboards that that is an issue to think about.

Peter said he thinks it is important to bring Roger in and find out what his needs are. Is he interested in performing all these services? What is he interested in focusing on? When you look at his budget it is clear that he doesn't really need our contracts. Diana said she would beg to differ. When she looked at the numbers it became clear to her that these three towns really subsidize the overall sheriff's budget. Without these three towns his department would take a big hit. Peter said it would take a hit but it has other sources of revenue. Duncan noted that Roger gets 5% of the value of every contract. Peter had mentioned that Roger may not necessarily need us. Roger hasn't come out and said that, but he has made it clear that he is doing these contracts as a service. If he were to strictly perform his statutory responsibilities that would be a pretty low bar. Duncan thinks these contracts are generally pretty lucrative for sheriffs' departments. He thinks Roger is one of the highest paid sheriffs in the state. Peter pointed out that we have to be aware of the fact that the sheriff is a political position.

Duncan said Diana questioned in the past if we should look at more of a 21st century policing model or farming out some work to other agencies. He would like to have a better idea how much LCSD already works with other agencies, for instance on mental health.

Diana said it would be important to her to hear from selectboards about what they are willing to consider. If they are open to having contracts not just with the sheriff's department but also with mental health services, that is a different picture than if they only want to work with the

sheriff's department. Maybe we can't say that we would like LCSD to embed a mental health worker but we can say our expectation is that their policing match contemporary models or selectboards could see what other agencies they might want to contract with besides the sheriff's department.

Duncan said it is both an advantage and a disadvantage of contracting with a law enforcement entity that you don't get much say in how their department is run. He has been at selectboard meetings where someone comes in to complain about a law enforcement issue and the selectboard says they simply have a contract with the sheriff and don't get to tell him how to run his department. That can be convenient, but the sheriff's department may not provide services our citizens think it should be providing.

Diana said that is why it is important to her to distinguish whether this is an analysis of the sheriff's department specifically or an analysis of all options that might be available. Duncan said he thinks to some extent we get to make that call because the boards told us they wanted independent review.

Peter said selectboards have a statutory responsibility to provide law enforcement. Diana and Duncan said no, that is not the case. There is no requirement under state law for towns to provide law enforcement services. Diana said it was just in the headlines that Barton decided to cancel their contract with the sheriff's department and rely on State Police, which is the default. State Police currently provide coverage for 201 towns and 50 towns have other arrangements. There is legislation pending that would prevent State Police from contracting with individual municipalities. There are towns that choose not to contract with their sheriff's department, can't afford to have their own police department and that State Police won't cover them. Duncan said by state statute State Police are the default police organization in the state. Legally they are required to respond, but the response might be that there will be no response if it is an issue such as a car burglary. Diana said the proposed legislation is about contracting with a municipality. The default is that they would provide coverage, it would just be lousy coverage.

Duncan said he talked today to Abby Friedman and Trevor Whipple from VLCT. Abby is the head of the Municipal Assistance Center. Trevor is a law enforcement expert who is a retired law enforcement officer. Duncan had a conversation with him to go over options. The picture isn't very pretty. Contracting with the sheriff's department is a relatively cost-effective approach but there are issues with it. Forming a union municipal district is definitely an option. Some communities have not been able to do that because their selectboards couldn't agree on issues of priority and control. Another option would be to ask Morristown, Stowe, Hardwick or some entity with a police department if they wanted to provide services. St Albans Town puts its law enforcement contracts out to bid. That would be an option for us. We could recommend that selectboards develop a bid package.

Diana said that seems like it would give us more control over what we are getting for what we are paying. We could say what our expectations were. Can we set a cap on the amount we will pay? Duncan said yes. And we could set very specific performance criteria. The existing contract doesn't really have anything to measure.

Duncan said another issue with the contract that has always bothered him is that if the contract were to end, the sheriff's department retains control of any assets that were bought with our contributions. Diana said that is one thing that led her to the conclusion that we are subsidizing the sheriff's department. We are funding things like their vehicles and uniforms. Duncan said a good question to ask Roger is exactly what our contract covers. Based on conversations with the budget advisory group he believes the cruisers listed in the budget are patrol town specific. If the patrol contract didn't exist Roger wouldn't be buying that cruiser. And he wouldn't need six officers. Duncan thinks the six patrol officers are specific to the patrol contract. Jim agreed he thinks they are.

Jim said he saw mention of 12-hour shifts. With six people on 12-hour shifts, technically we should have 24-hour coverage with two officers per town. If that were the case we would see really low response time, so he thinks that is not the case. There was a speed sign that was in his area that he noticed was taken away and appeared up in Irasburg. He thinks if equipment is purchased for the three towns as part of the contract and is possibly being used for other contracts, that is an issue. He suggested the three towns could form a union municipal district and put out a bid together for a law enforcement contract. It would be more attractive to bidders if it was for three towns. He thinks part of the contract would be that if we have to purchase equipment it stays with us and not with the entity we are contracting with.

Diana said one option would be a union municipal district where we had a larger, more regional group hiring the entire sheriff's department. In Waterbury what they did was not contract with the State Police as a whole but create a contract where they hired two troopers from the State Police. It was not like the town of Waterbury paying the Vermont State Police. Rather the town of Waterbury was paying the salaries of two troopers. Rather than money going into a big pot, they just paid for their town to have two troopers for a certain amount of hours per week.

Duncan said he thinks it shouldn't be up to this committee to come up with solutions. We should point out issues and options and give the selectboards a report. Initially he was thinking this committee might do a citizen survey to find out what citizens want but now he is thinking that perhaps it should be a recommendation of the committee that selectboards survey their citizens. Jim said he thinks we stick to identifying what is broken and what is working, give a report to the selectboards and let them decide how to fix issues.

Diana asked Jim if it is possible to identify the amount of time officers spend not on calls and what they are doing in that time. Jim said we can calculate how many hours a week they spend responding to incidents. His question after seeing the data was what officers were doing that prevented them from immediately responding in some cases. He assumes if they are not responding to calls they are doing paperwork, transporting people to prison, etc. If they are working 12-hour shifts with two per town you would think that each town would be covered for 24 hours. But that is clearly not the case. Sometimes they are obligated to respond if another law enforcement agency is asking for assistance. It is written into the law that they can't reject a request for assistance from another law enforcement agency. He doesn't know how many officers are truly covering the contract towns. It seems it should be

one per 12-hour shift but each patrol officer is obviously not spending 12 hours in one of the contract towns. They have a broader area of responsibility. That gets back to the question of whether they have enough staff. What officers are doing during the time they are not responding to calls is something to consider, but we can't tell the sheriff how to run his department.

Diana said our responsibility might not be to report to the selectboards how many hours are spent on calls or other duties but we could report that currently we have no accountability measures in our contract to let us know how our towns are being served and our recommendation to selectboards is to create accountability measures in the contract.

Jim said he likes the open bid concept of us telling people that if they want a contract with us they have to provide x, y and z. For instance, we might require current policing techniques like having a mental health professional available for domestic disputes, mental health crises, etc. He feels the best way to go is if the three towns form a union municipal district and put out a bid together. He had to meet he met with his selectboard on December 30 and one question he asked them is who writes the contract with the sheriff's department. He was assuming the town's lawyer wrote it but the selectboard told him that the town had nothing to do with writing it, that it was given to them by LCSD. He was a bit shocked. If he were to make a decision tomorrow he would probably push for a union municipal district and putting a contract out for bid after getting information on what communities want for policing.

Duncan asked Jim how difficult it would be to analyze the total number of calls based on the hour of day. A lot of municipal police departments provide 16 or 18 hours of coverage. They may have an officer on call who can respond to an emergency from midnight to 6:00 am. He wonders how much bang for the buck we are getting by having a full 24-hour contract which requires Roger to have officers out during hours that are probably not that productive. Could we not provide coverage from, say, 2:00 a.m. to 6:00 a.m.? The Vermont State Police doesn't provide coverage during those hours. What is the effectiveness of having 24-hour patrol vs. having the same number of officers doing 16 or 18-hour patrol?

Jim said he can look at the days and times 911 calls came in. If we are seeing that a significant amount of calls come in between 2:00 and 6:00 in the morning we might decide we want 24-hour coverage or at least a duty officer on then. Is there a 911 dispatcher there 24 hours a day? Duncan and Diana said yes. Jim said he will try to show the days and times when we might see the most calls.

Jim said when Roger comes to a meeting we can ask him about what officers do when they are not responding to calls and why if there are six officers for three towns we do not have two officers per town.

Duncan asked if Diana has anything else to report. Diana said she thinks she covered it in the process of the other discussions. Duncan said Diana did a nice collection of data and put it on Google Docs. The information she put up led him to a VTDigger article about a survey done by UVM and VTDigger on what towns in the state are spending. He incorporated some of that into the spreadsheet he sent out.

Duncan said he suggests using his spreadsheet as an appendix to our report and highlighting some of the findings. One thing he found interesting is actual cost per capita. He also sent the spreadsheet to the three town administrators. Ron is the only one who has responded. He said as far as he can tell the data is good. What is spent on the LCSD contract is a pretty big chunk of money from each town as a percent of total budget and as a percent of tax rate. It has a real impact on taxpayers. It was interesting to do a comparison of total number of calls. The total number of calls in each town breaks out fairly closely to the percentages the towns are paying for services. One thing he thinks could be a recommendation from this committee would be to consider changing the format of the contract to blend population and grand list as the means of assigning contract percentage. That is what is done for the dispatch contract and the county budget.

Diana asked if incorporating the grand list into the formula means that people with higher value properties would be paying proportionately more. Duncan said yes. He thinks blending population and grand list is a reasonably effective way to approach that. If we strictly went with the grand list some people would complain it was an unfair burden. He wouldn't make that argument, but some people would. He thinks using both population and grand list in combination makes sense because it is already being done for the dispatch contract and the county tax.

Diana said a question she tried to answer by looking at the spreadsheet was, given what the per capita cost is, how does the percentage of the property tax she is paying compare to that? Is her household of two people paying two times the per capita cost or more or less than that? Duncan said his spreadsheet gives the figure for the impact on tax rate per thousand dollars of property valuation. She could use that and if she has a \$150,000 home, she could multiply the rate impact per thousand by 150. He thinks Diana has a good point and that information would be pretty easy for him to calculate. Diana said that would help her as a taxpayer see if the per capita cost is reasonable. If she is never made a call to the sheriff's department she would have a bigger issue than someone who uses their services a lot. If she already felt like she was paying a lot and not using the service she would not want large annual increases.

Duncan said he sees two potential problems with the point Diana is trying to make. Knowing the impact on the tax rate is not necessarily an accurate representation of your tax liability, because in Vermont tax is based on income. If you have low income your tax liability is reduced by a payment through the state, so it is hard to make hard and fast comparisons. Another problem is that you could make the same argument about the school system, that you shouldn't pay school tax because you never had kids in school, or you could say that you shouldn't have to pay for fire service if you've never had a fire. Another part that gets difficult is that the per capita cost is based on population but in Johnson we have a large rental population. They are not paying taxes but often require services.

Diana said she was just using herself as an example to highlight the question of whether we want to recommend that boards take into consideration that people who use law enforcement services may not be paying anything towards them and that taxpayers will care whether they

perceive they are getting value for their money. She wanted to bring up how that might affect our report presentation.

Duncan said he thinks per capita cost is often used because it is easy. Jim said there is also the issue of how many people in the community we serve. Not all served are property owners and not all are town residents. People in the middle class don't want to pay taxes but these are services that have to be provided. How do they get paid for? We are trying to look at the contract and see what we are getting out of it and what we are expecting. Are we getting adequate services and does LCSD even feel comfortable providing them? Does LCSD want to focus on some things and have us contract out to someone else for others?

Duncan said he would welcome anyone's comments on the spreadsheet he sent out. Diana's comment was good and he will incorporate that one change. He thinks he has done about as much as he can do with this information. He would recommend that this become an appendix to our report. If committee members have any concerns with the spreadsheet they can let him know. Otherwise he will assume it is okay and include it as part of the final report.

Duncan said he also sent out a really rough draft of a potential survey for selectboard members. He tried to incorporate most of Diana's questions. He ran it by Eric Osgood, who thought it met some key points for him. It was relatively short and easy to fill out and covered most of the areas that were important to him. Duncan would love to be able to proceed with that. He would like any feedback or suggested changes. He would love to send it out as an online Survey Monkey survey. It is quick and easy to collate the data if the survey is done that way.

Diana asked about what Duncan meant by provision of less comprehensive and more directed services. Does that mean just speed patrol, or crises involving people? Duncan said he specifically tried not to say "just speed patrol." The contract we have says something to the effect of full service law enforcement 24/7, as opposed to, say, Elmore, which contracts with the sheriff's department for about 16 hours a week specifically dedicated to moving traffic patrol. When he was town administrator with the Town of Georgia they had a 24-hour per week contract that was basically speed patrol and did not include responding to burglaries, accidents, etc. This is an attempt to get the board to think about what it is they want. Diana said she sees what he is saying about not saying "just traffic patrol" because that might be limited.

Diana suggested a wording change to another question. She suggested adding an additional question asking whether selectboard members are open to the idea of an individual town approach. Is there any interest in a town police department or an individual town constable? Jim said he thinks that is a great question. Maybe there could be a combination of both with towns hiring a constable for something specific like traffic control.

Diana said she was uncomfortable with one of the other questions. There was some discussion about possible rewording. Duncan asked if Diana would be willing to try to draft language she is comfortable with for that question and the additional question she had suggested. Diana said she will do that.

Duncan said after he gets that wording back from Diana he will recirculate this document. If everyone responds back individually that they are okay with it, would the committee be okay with him putting it on Survey Monkey and circulating it to boards? Committee members agreed they would be.

6. *Next Steps*

Duncan said he thinks we are at the point where we ought to invite Roger to a meeting fairly soon. Before that he would love to develop questions for him to think about before he meets with us, as that would make a more efficient meeting. He suggested finalizing and formalizing the questions at the next meeting and then inviting Roger to the meeting after that. The board agreed to that.

Duncan asked if committee members have any thoughts on next steps. There was general agreement that meeting with the sheriff is a priority.

Duncan said how we want to develop a written report may be a topic of discussion for the next meeting.

7. *Adjourn*

Diana moved to adjourn at 7:49 and the motion was seconded and passed.

Minutes submitted by Donna Griffiths