



VERMONT MENTAL HEALTH CRISIS RESPONSE COMMISSION

2018 Report to the Governor, General Assembly and Chief Justice, Vermont
Supreme Court



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WILDA L. WHITE, ESQ., CHAIR
wildalwhite@gmail.com

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Executive Summary

This is the annual report of the Vermont Mental Health Crisis Response Commission submitted to the Governor, General Assembly and the Chief Justice of the Vermont Supreme Court pursuant to 18 V.S.A. §7257a.

Governor Phil Scott signed into law the Act which established the Mental Health Crisis Response Commission on May 23, 2017. The Commission was created to review and improve law enforcement interactions with persons acting in a manner that created reason to believe a mental health crisis was occurring. The Commission was first proposed by community members in response to the death of Ralph “Phil” Grenon, who was killed in his apartment by a Burlington police officer on March 21, 2016.

Attorney General TJ Donovan convened the Commission’s first meeting on September 12, 2017. By statute, the Commission is comprised of 11 members. They include John Campbell, Kristin Chandler, Laurie Emerson, Mourning Fox, Frank Koss, Maurice Lamothe, Ed Paquin, David Scherr, Sandra Steingard, Cindy Taylor-Patch, and Wilda White. At its first meeting, the Commission elected Wilda White as its Chair and Cindy Taylor-Patch as its Vice Chair. The Commission also agreed that the subject of its first investigation would be the death of Ralph “Phil” Grenon.

The Commission has undertaken to determine the root cause(s) of Mr. Grenon’s death and how his death could have been prevented.

Since its initial meeting, the Commission has met eight additional times through January 2019. Sandra Steingard was temporarily recused as a Commissioner after the November 29, 2017 meeting because of a conflict of interest. Kate Lamphere has temporarily replaced her.

The Commission’s proceedings are, by law, confidential. Each Commissioner has signed a Confidentiality Agreement. Generally, since its inception the Commission has (1) reviewed Vermont’s laws on involuntary commitment; (2) heard from law enforcement about policies and procedures on police use of force and police interactions involving people who are in mental health crisis during the interaction; (3) requested documentary evidence from five entities; (4) held hearings and received testimony from 10 witnesses to date; and (5) notified all Vermont law enforcement agencies of their reporting requirements under the law that created the Mental Health Crisis Response Commission.

The Commission anticipates interviewing up to a dozen additional witnesses as part of our review into the death of Phil Grenon. The Commission is also still awaiting the receipt of some requested documentary evidence.

The Commission expects to meet monthly through early fall 2019 and to complete its Grenon investigation by the end of September 2019, at which time the Commission will submit a report of its conclusions and recommendations.

I. About the Report

The Mental Health Crisis Response Commission hereby submits this report pursuant to 18 V.S.A. §7257a. All Commissioners participated in the drafting and review of this report, and all Commissioners have accepted the report as the report of the Commission.

Pursuant to 18 V.S.A. §7257a, subdivision (i), the Commission is required to report its conclusions and recommendations to the Governor, General Assembly and Chief Justice of the Vermont Supreme Court as the Commission deems necessary but no less frequently than once per calendar year. The report shall be available to the public through the Office of the Attorney General.

Because the Commission has not yet concluded its investigation into the death of Phil Grenon, this report does not include our final conclusions and recommendations. This is a report on the status of the Commission's work.

II. Background of Mental Health Crisis Response Commission

On May 23, 2017, Governor Phil Scott signed Act 45, a law relating to establishing the Mental Health Crisis Response Commission. The law is codified at 18 V.S.A. 7257a.

The Commission was created to review and improve law enforcement interactions with persons acting in a manner that created reason to believe a mental health crisis was occurring.

The creation of the Commission was proposed and advocated for by community members following the death of Ralph "Phil" Grenon, a Burlington native who was killed in his apartment by a Burlington police officer on March 21, 2016. At the time he was killed, Burlington police officers were aware that Mr. Grenon was in the midst of a mental health crisis.

Under Act 45, interactions resulting in death or serious bodily injury to any party to the interaction must be referred to the Office of the Attorney General by the relevant law enforcement agency within 60 days of the incident.¹ Other interactions, including those with positive outcomes, may be referred for optional review to the Commission.

"Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes substantial loss or impairment of the function of any bodily member or organ or substantial disfigurement. (18 V.S.A. §1912.)

¹ In early 2018, the Commission mailed letters to every law enforcement agency in the State of Vermont to inform them of their reporting responsibilities under Act 45.

The proceedings of the Commission are confidential and are exempt from disclosure. The Commission’s review process shall not commence until any criminal prosecution arising out of the incident is concluded or the Attorney General and State’s Attorney provide written notice to the Commission that no criminal charges shall be filed.

The Act authorizes the Commission to issue subpoenas whenever the information sought cannot be obtained by a formal request.

The Commission must report its conclusions and recommendations to the Governor, General Assembly and Chief Justice of the Vermont Supreme Court as the Commission deems necessary, but no less frequently than once per calendar year.

III. Purpose of Mental Health Crisis Response Commission

In the course of conducting reviews of law enforcement interactions with persons acting in a manner that created reason to believe a mental health crisis was occurring, the Commission is also charged with:

- 1) Identifying where increased or alternative supports or strategic investments within law enforcement, designated agencies or other community services could improve outcomes;
- 2) Educating the public, service providers and policymakers about strategies for intervention in and prevention of mental health crises;
- 3) Recommending policies, practices and services that will encourage collaboration and increase successful interventions between law enforcement and persons acting in a manner that created reason to believe a mental health crisis was occurring;
- 4) Recommending training strategies for public safety, emergency or other crisis response personnel that will increase successful interventions; and
- 5) Making recommendations based on the review of cases before the Commission.

IV. Commission Membership

The statute designates the composition of the Commission by affiliation. The following table lists the membership categories designated by the statute and the names and affiliations of Commission members.

Statutory Designation	Designee
Attorney General or Designee	David Scherr, Esq. Assistant Attorney General
Commissioner of Mental Health or Designee	Mourning Fox, LCMHC Deputy Commissioner of Mental Health

Statutory Designation	Designee
Vermont State Police Member (Commissioner of Public Safety)	Lt. Maurice Lamothe Vermont State Police
Frontline Local Law Enforcement (Vermont Association of Police Chiefs)	Chief Frank Koss Hinesburg Police Department
Executive Director, Vermont Criminal Justice Training Council or Designee	Cindy Taylor-Patch Training Director
Designated Agencies Representative (Vermont Care Partners)	Sandra Steingard, M.D. Chief Medical Officer Howard Center
Disability Rights Vermont Director or Designee	Ed Paquin Executive Director Disability Rights Vermont
Person with Lived Experience (Vermont Psychiatric Survivors)	Wilda L. White, Esq. Former Executive Director Vermont Psychiatric Survivors
Family Member of Person with “Lived Experience” (National Alliance on Mental Illness)	Laurie Emerson Executive Director National Alliance on Mental Illness
Regionally Diverse At-Large Member (Governor)	John Campbell, Esq. Executive Director Department of State’s Attorneys and Sheriffs
Regionally Diverse At-Large Member (Governor)	Kristin Chandler, Esq. Coordinator, Team Two

Sandra Steingard, M.D. was temporarily recused from the Commission on November 29, 2017 because of a conflict of interest pursuant to 18 V.S.A. § 7257a, subdivision (c)(3). She has been temporarily replaced by Kate Lamphere, Director of Adult Services Division for Health Care & Rehabilitation Services (HCRS) in Windham County.

V. Commission Meetings

By law, the Attorney General or designee was required to call the first meeting of the Commission to occur on or before September 30, 2017. (18 V.S.A. §7257a, subdivision (d)(1).) The Commission must meet “at such times as may reasonably necessary to carry out its duties, but at least once in each calendar quarter.” (18 V.S.A. §7257a, subdivision (d)(3).)

Attorney General TJ Donovan convened the first meeting of the Commission on September 12, 2017 in Montpelier.

As of January 9, 2019, the Commission will have met nine times. The following table lists meeting dates and the status of commission members at each meeting.

LEGEND									
	= Active commission member	E = Not yet appointed	R = Recused						
Commission Meeting Dates									
Commissioners	9/12/2017	11/29/2017	1/17/2018	2/14/2018	9/4/2018	10/2/2018	11/6/2018	12/4/2018	1/9/2019
Campbell, Esq., John	E								
Chandler, Esq., Kristin	E								
Emerson, Laurie									
Fox, LCMHC, Mourning									
Koss, Frank Chief									
Lamothe, Maurice Lt.									
Lamphere, MSW, Kate	E	E							
Paquin, Ed									
Scherr, Esq., David									
Steingard, M.D., Sandra			R	R	R	R	R	R	R
Taylor-Patch, Cindy									
White, Esq., Wilda L.									

For the convenience of witnesses, the Commission met in Burlington on November 6 and December 4, 2018 and January 9, 2019. All other meetings were held in Montpelier.

VI. Commission Chair and Vice Chair

The statute requires the Commission to select a chair and vice chair from its members at the first meeting. (18 V.S.A. §7257a, subdivision (d)(2).)

The Commission selected Wilda L. White as its chair, and Cindy Taylor-Patch, as its vice-chair.

VII. Status of Commission Investigation

By statute, meetings of the Commission are confidential. Each Commissioner has signed a Confidentiality Agreement, a copy of which is included in the Appendix to this report. Because the first meeting was convened in public without the cloak of confidentiality, the minutes of the first meeting were made available to the public through the Attorney General's website and are included in the Appendix to this report.

At the first meeting, the Commission decided to review the killing of Ralph "Phil" Grenon. Attorney General William H. Sorrell and Chittenden County State's Attorney's Office both announced in May 2016 that the police's use of force that resulted in Mr. Grenon's killing was justified and no prosecution would be undertaken.

The question the Commission has committed to answering is larger than the discrete question the Attorney General's office asked. The Commission has sought to determine "the root cause(s) of Mr. Grenon's death and how his death could have been prevented."

Using root cause analysis, the Commission is seeking to identify the point or points in the causal chain that would prevent the problem from occurring. We are reviewing behaviors, actions, inactions and conditions.

To date, the Commission has devoted its time to (1) learning about Vermont's involuntary commitment mental health laws; (2) learning about police use of force policies and practices; (3) learning about police policies and procedures pertaining to interactions involving persons experiencing a mental health crisis; (4) gathering and reviewing documentary evidence; and (5) soliciting testimony from witnesses, both formally and informally.

Through January 9, 2019, the Commission has formally interviewed 10 witnesses, and requested documents from five organizations and individuals. The Commission's Chair has also talked informally to five witnesses and received documentary evidence from two individuals.

The formal interviews have taken place before the entire Commission. All Commissioners participated in the questioning, although a single Commissioner led the initial questioning of each individual witness. When requested, witnesses were permitted to have the assistance of legal counsel during the testimony, however, the attorney was not permitted to address the Commission.

Before testifying formally, witnesses affirmed the following statement:

I affirm that the testimony I am about to give will be true and accurate to the best of my knowledge, belief and ability.

While the Commission has subpoena power, we have yet to use it. To date, we have been able to obtain documentary evidence through negotiation and the written authorization of Mr. Grenon's next of kin.

A few witnesses have declined to testify before the Commission because they are still traumatized by Mr. Grenon's death. Mr. Grenon was killed in a large, Burlington apartment building that is home to elderly and disabled persons. Many heard the shots and were displaced from their apartments during the police action. Because the Commission has obtained the sworn statements these witnesses gave police shortly after the killing, the Commission has decided not to pursue their testimony through the subpoena process.

The Commission has also determined that a few potential witnesses have died or moved outside the State of Vermont and therefore cannot be compelled to testify.

VIII. Next Steps

We expect to interview up to a dozen additional witnesses as part of our review into the death of Phil Grenon. We are also still awaiting the delivery of documentary evidence from several entities.

We expect to meet monthly through early fall and complete our Grenon investigation by the end of September 2019, at which time we will submit a report of our conclusions and recommendations.

IX. APPENDIX

A. Confidentiality Agreement

This Agreement for non-disclosure of information is entered into among the members of the **Mental Health Crisis Response Commission** (“Commission”) for the purpose of preventing unauthorized disclosure of confidential information.

In accordance with 18 V.S.A. § 7257a(f) and (h) the proceedings, meetings, and records of the Commission are confidential and are not subject to subpoena, discovery, or introduction into evidence in a civil or criminal action. The Commission shall not use the information, records, or data for purposes other than those designated by subsections (a) and (i) of 18 V.S.A. § 7257a.

For the purposes of this Agreement, confidential information includes all information, records, and data gathered or produced in the course of the Commission’s duties. Confidential information also includes the Commission’s proceedings, meetings, and records thereof.

Commission members shall not make unauthorized disclosures of confidential information.

Commission members shall take all reasonable care to maintain the confidentiality of any information, records, or data gathered or produced in the course of the Commission’s work. Commission members understand that maintaining confidentiality will be essential to the Commission’s work.

Nothing in this Agreement shall be construed to limit the Commission’s duties and obligations pursuant to 18 V.S.A. § 7257a.

This Agreement shall not create any legal liability or private right of action for any signatory, or for any other person or entity.

This Agreement shall be governed by and construed in accordance with the laws of the State of Vermont.

By: _____

Print Name: _____

B. Mental Health Crisis Response Commission Minutes – September 12, 2017

I. A message from the Convener of the Commission, Attorney General TJ Donovan:

Speaks about the necessity and importance of the commission's mission

II. Election of Commission Chair and Vice Chair:

AG Donovan recommends that Mourning Fox be nominated as chair.

Wilda White nominates Wilda White as chair.

Mourning Fox withdraws from consideration.

Wilda White is elected chair without objection.

Cindy Taylor-Patch is elected vice-chair without objection.

III. Review of Act 45:

Panel reviews enacting statute and discusses the scope of the panel's purpose.

IV. Doing the Work:

Panel discusses how to organize itself and conduct the work. Panel agrees to look at Phil Grenon case first, and also plans to educate itself further about the system and the issues involved.

V. New Business

None

VI. Adjournment