



Special Committee on Impeachment Inquiry
Report Addressing the Matter of
Franklin County Sheriff John Grismore

Pursuant to House Resolution 11 of 2023

Prepared by the Special Committee on Impeachment Inquiry
and the Office of Legislative Counsel

April 2024

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A. Charge of the Special Committee on Impeachment Inquiry

2023 House Resolution 11

House resolution relating to establishing the Special Committee on Impeachment Inquiry and granting it investigatory powers

Offered by: Representatives LaLonde of South Burlington and McCarthy of St. Albans City

Whereas, the results of an independent investigation completed in April 2023 substantiated allegations that Franklin County State’s Attorney John Lavoie has engaged in a pattern of harassment and discriminatory conduct toward his employees and others, and

Whereas, recent concerns regarding financial improprieties in office have been raised regarding Franklin County Sheriff John Grismore, who was previously captured on video while a captain in the Franklin County Sheriff’s Department kicking a handcuffed prisoner who was being held by the Department, now therefore be it

Resolved by the House of Representatives:

That the Special Committee on Impeachment Inquiry is established to investigate whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Franklin County State’s Attorney John Lavoie or Franklin County Sheriff John Grismore, or both, and be it further

Resolved: That the Special Committee shall be composed of seven members of the House of Representatives, not all from the same political party, who shall be appointed by the Speaker of the House, and be it further

Resolved: That the Special Committee is authorized to meet during the 2023–2024 biennium, including during adjournment thereof, shall adopt rules of procedure, and shall report to the House of Representatives such resolutions, articles of impeachment, or other recommendations as the Special Committee deems proper, and be it further

Resolved: That the Special Committee is authorized to require, by subpoena or otherwise, the attendance and testimony of any person and the production of documents and other items of any kind, and be it further

Resolved: That the Special Committee or any member so designated by the Special Committee may administer oaths or affirmations to any witness, and be it further

Resolved: That the Special Committee may hire investigators and may request assistance from other governmental entities as needed to assist the Special Committee in conducting its investigations.

B. Members of the Special Committee on Impeachment Inquiry

Rep. Martin LaLonde, Chair, Chittenden-12

Rep. Michael McCarthy, Vice Chair, Franklin-3

Rep. Matthew Birong, Addison-3

Rep. Carolyn Branagan, Franklin-1

Rep. Thomas Burditt, Rutland-2

Rep. Karen Dolan, Chittenden-22

Rep. Kelly Pajala, Windham-Windsor-Bennington

C. Background

In February 2019, then-Franklin County Sheriff Roger Langevin hired John Grismore to serve as the full-time bookkeeper for the Franklin County Sheriff's Office.¹ At the time of his hiring, Mr. Grismore was a certified law enforcement officer in the State of Vermont. Mr. Langevin testified that he and Mr. Grismore agreed that, in addition to Mr. Grismore's full-time responsibilities as the Sheriff's Office bookkeeper, Mr. Grismore could also work as a deputy sheriff.

Subsequent to his hiring, Mr. Grismore's responsibilities at the Sheriff's Office quickly increased, and he was ultimately promoted to the position of Chief Deputy, essentially Mr. Langevin's second-in-command. Mr. Grismore continued in his role as Sheriff's Office bookkeeper. According to Mr. Langevin, he faced significant health problems during his tenure as Sheriff and this contributed to his need to rely on Mr. Grismore to manage the Office. During Mr. Grismore's term as bookkeeper, Mr. Langevin relied exclusively on Mr. Grismore to manage the bookkeeping responsibilities of the Sheriff's Office, including payroll.

On August 7, 2022, Mr. Grismore was involved in a widely publicized use-of-force incident during which he kicked a shackled man in Franklin County Sheriff's Office custody. As a result, on August 18, 2022, Mr. Langevin terminated Mr. Grismore's employment at the Sheriff's Office.

At the time of the incident, Grismore was running unopposed for Franklin County Sheriff. Despite calls from Republicans and Democrats in Franklin County to end his candidacy,

¹ According to Franklin County personnel policies, the duties of Sheriff's Office bookkeeper include responsibility for the department's "financial activities to include accounts payable and receivable, payroll, taxes, and fiscal reporting."

Grismore refused to withdraw from the race. On November 8, 2022, John Grismore was elected Franklin County Sheriff. He took office on February 1, 2023 for a four-year term.

In October 2022, the Grand Isle State's Attorney charged Mr. Grismore with the misdemeanor offense of simple assault in connection with the incident. The charge stated that on or about August 7, 2022, Mr. Grismore recklessly caused bodily injury to Jeremy Burrows in violation of 12 V.S.A. § 1023(a)(1). Mr. Grismore pleaded not guilty. The case has not yet been resolved.

In January 2023, the accounting firm McSoley McCoy & Co ("McSoley") began its biennial audit of the Sheriff's Office on behalf of the State Auditor. During that process, McSoley noted two issues: (1) the apparently high overtime rate at which Mr. Grismore had been paid and (2) a series of four Sheriff's Office checks made out to Mr. Grismore and signed and deposited by him, purportedly for retirement contributions. At the direction of the State Auditor, McSoley ceased performing the audit and the matter was referred to the Vermont State Police for investigation, which is ongoing.

These matters precipitated action by the Vermont General Assembly. On May 11, 2023, the Vermont House of Representatives adopted House Resolution 11 establishing a Special Committee on Impeachment Inquiry. This Resolution, reprinted in full above, cited the concerns that had been raised regarding Grismore related to financial improprieties in office and referred to the video of Grismore kicking the handcuffed prisoner being held by the Sheriff's Office. The Resolution then granted the Special Committee powers to investigate whether sufficient grounds exist for the House of Representatives to exercise its constitutional power to impeach Franklin County Sheriff John Grismore.

D. Summary of the Special Committee Authority and Actions

The Vermont Constitution authorizes the House of Representatives to “order impeachments” and “impeach state criminals.”² It makes “[e]very officer of [the] State, whether judicial or executive, ... liable to be impeached by the House.”³

On May 16, 2023, pursuant to House Resolution 11 and the constitutional authority of the House of Representatives, Speaker of the House Jill Krowinski appointed the members of the Special Committee on Impeachment Inquiry (see section B of this report). On May 23, 2023, the Special Committee convened for the first time. At that meeting, the Special Committee reviewed the impeachment process and its authority under House Resolution 11 and the Vermont Constitution. The Special Committee also adopted procedures and rules for its operation as authorized by House Resolution 11.

After convening on May 23, the Special Committee focused first on the part of its charge that directed it to investigate whether sufficient grounds existed for impeachment of Franklin County State’s Attorney John Lavoie. After months of testimony, Mr. Lavoie announced his resignation on August 22, 2023. As a result of Mr. Lavoie’s resignation, the Special Committee recommended on August 25, 2023, against pursuing any further impeachment actions against him. The Special Committee then turned its attention to the matter of Sheriff John Grismore.

On June 9, 2023, the Special Committee voted to engage Downs Rachlin Martin, PLLC (“DRM”) to investigate the following areas of concern related to Grismore: (1) the Franklin County Sheriff’s Office current performance under its law enforcement contracts with municipalities, (2) Grismore’s calculation of his own overtime rate while serving as bookkeeper

² Vt. Const. CH II, §§ 14, 57.

³ Vt. Const. CH II, § 58.

and deputy sheriff, and (3) Grismore’s self-issued and signed checks for retirement contributions while serving as bookkeeper and deputy sheriff. DRM provided a draft report to the Special Committee on February 22, 2024. The report was prepared for the Special Committee pursuant to its contract with DRM for legal services, and the Committee does not intend to release that report.

On September 9, 2023, the Committee began its investigation of Sheriff John Grismore. The Committee met a total of five times during the autumn of 2023 on the Grismore matter. It received testimony from 26 witnesses, including 18 witnesses in executive session.

E. Legal Framework

1. Office of the Sheriff

The Vermont Constitution provides for the office of sheriff:

Sheriffs shall be elected by the voters of their respective districts as established by law. Their term of office shall be four years and shall commence on the first day of February next after their election.⁴

Pursuant to statute, “[a] sheriff’s department is established in each county. It shall consist of the elected sheriff in each county and such deputy sheriffs and supporting staff as may be appointed by the sheriff.”⁵ Among other requirements, before beginning any duties, an elected sheriff must “take the oath of office.”⁶ Pursuant to that oath, the sheriff must swear or affirm that the sheriff “will faithfully execute the office of [sheriff]” and “will therein do equal right and justice to all persons, to the best of [the sheriff’s] judgment and ability, according to law. . . . Under the pains and penalties of perjury.”⁷

⁴ Vt. Const. CH II, § 50.

⁵ 24 V.S.A. § 290.

⁶ 24 V.S.A. § 291.

⁷ Vt. Const. CH II, § 56.

A sheriff's statutory duties are as follows:

- (a) A sheriff so commissioned and sworn shall serve and execute lawful writs, warrants, and processes directed to the sheriff, according to the precept thereof, and do all other things pertaining to the office of sheriff.
- (b) A sheriff shall maintain a record of the sheriff's work schedule, including work days, leave taken, and any remote work performed outside the sheriff's district for a period of more than three days.
- (c) If an individual who has a relief from abuse order pursuant to 15 V.S.A. § 1103 requires assistance in the retrieval of personal belongings from the individual's residence and that individual requests assistance from a sheriff's department providing law enforcement services in the county in which that individual resides, the sheriff's department shall provide the assistance.
- (d) A sheriff shall provide law enforcement and security services for each county and State courthouse within the sheriff's county of jurisdiction in accordance with section 291a of this title.⁸

2. Legal Standards for Impeachment

a. Interpreting the Vermont Constitution

Because a State Executive or Judicial constitutional officer enjoys a constitutionally defined term of office, such an officer can only be removed from office pursuant to constitutional procedure. Impeachment is that constitutional procedure.⁹

Impeachment is specifically provided for in Vt. Const. Ch. II, § 58, which states that “every officer of State, whether judicial or executive, shall be liable to

⁸ 24 V.S.A. § 293.

⁹ While Vermont does not have robust caselaw on the topic, courts in other states have held that where a constitution provides the method of removing an officer from office, that is the only method available. See *State v. Gravolet*, 168 La. 648, 650 (1929) (S. Ct. of LA) (“Where the Constitution provides a method of debarring or removing an officer from his office, such method is exclusive.”) and *In re Georges Township School Directors*, 286 Pa. 129, 133 (1926) (S. Ct. of PA) (“The constitutional method of removal must be resorted to, where applicable, for it is ‘exclusive and prohibitory of any other mode which the Legislature may deem better or more convenient.’”).

be impeached by the House of Representatives,” and that the Senate has the “sole power of trying and deciding upon all impeachments.”

The Supreme Court of Vermont described impeachment proceedings as “a constitutionally established procedure before the legislature, which has sole power in this respect.”¹⁰

Despite the common shorthand use of the term “impeachment” to suggest both the charge itself and removal of the accused from office, to impeach an official is only to charge that official with wrongdoing. In Vermont, a vote of two-thirds of the members of the House of Representatives is required to order an impeachment, after which the impeached officeholder is tried in the Senate. If two-thirds of the Senators present vote to convict the officeholder after the trial, the subject of the impeachment may be removed from office and disqualified from holding office in the future.¹¹

The Vermont Constitution does not set any standards for what constitutes impeachable conduct. Instead, it provides the Vermont General Assembly with broad authority to determine the grounds on which an elected official may be impeached and removed from office.

The grounds for impeachment in Vermont’s history and in other state and federal contexts provide insight into what the Special Committee may consider regarding the bases for articles of impeachment. (It is important to recognize that

¹⁰ *Mayo v. State*, 138 Vt. 419, 420 (1980).

¹¹ Vt. Const. CH II, §§ 57, 58.

some examples are connected to the standards set forth in the constitutions of other states and the United States.)

b. Examples from Vermont Impeachments

Vermont has had few impeachments in its history. Most recently was the impeachment of Washington County Sheriff Malcolm M. Mayo in 1976.

To date, most impeachments in Vermont seem to have relied on the grounds of “maladministration.” It is unclear whether this was always due to the actual nature of the actions giving rise to the charges in each case or whether it was based on the language in the constitution that provides that “[e]very officer of [the] State ... shall be liable to be impeached by the House of Representatives, either when in office or after resignation or removal for maladministration.”¹² If the latter, it may be that this reliance was misplaced: the reference to “removal for maladministration” is likely outdated language left over from an earlier version of Vermont’s Constitution that allowed the General Assembly to remove county officers for maladministration.¹³

The charges in the articles of impeachment in Vermont have been more specific, however, than merely alleging maladministration and pointing to the conduct that formed the basis for the charges. In the case of Sheriff Mayo, the House Resolution impeached the sheriff for “maladministration in office” in violation of his oath and duty through three articles of impeachment: (1) falsification of reports and documents, (2) failure to perform functions of office,

¹² Vt. Const. Ch. II, § 58.

¹³ [Memorandum from Clerk of the House BetsyAnn Wrask to Speaker Jill Krowinski](#), dated May 4, 2023, posted to [web page](#) of Special Committee on Impeachment Inquiry on May 23, 2023.

and (3) breach of duty as a peace officer.¹⁴ In support of the first charge, the article identified four reports or documents that had been falsified, either by the sheriff personally or at the sheriff's direction. In support of the second charge, the article cited the sheriff's order to all members of the Washington County Sheriff's Department not to cooperate with any other law enforcement agency, make patrols, initiate criminal cases, or issue traffic citations, until further notice. In support of the third charge, the article cited three instances in which the sheriff engaged in conduct that breached his duty to preserve the peace and suppress unlawful disorder. The House of Representatives adopted the resolution impeaching Sheriff Mayo, including all three articles of impeachment, but he was acquitted in the Senate.

Few detailed records are available of earlier impeachments in Vermont history, but of those identified by the Secretary of State's office, only three have resulted in convictions, the most recent in 1785.¹⁵ Some early efforts at impeachment were complicated by disagreements between the Council of Censors¹⁶ and the House of Representatives (then the only chamber of the General Assembly) regarding the respective scope of each body's authority. In 1800, John Chipman, High Sheriff of Addison County, was ordered by the Council of Censors to be impeached for "mal-administration of his office" by "wittingly and

¹⁴ H.R. 13 (adopted), as printed in the [Journal of the House dated March 9, 1976](#), posted to [web page](#) of Special Committee on Impeachment Inquiry on May 23, 2023.

¹⁵ Vermont State Archives & Records Administration, History of Impeachment [web page](#) visited May 30, 2023.

¹⁶ "In order that the freedom of this Commonwealth may be preserved inviolate" the 1777 constitution established a Council of Censors. 1777 Constitution, Section XLIV. This body consisted of thirteen elected members, chosen every seven years, but not from the Council or General Assembly. They were to check that "the legislative and executive branches of government have performed their duty as guardians of the people." Id. In an amendment to the Constitution in 1870, the Council of Censors was abolished.

willingly tak[ing] and receiv[ing], for summoning the grand jury to serve before the supreme court holden at Middlebury, . . . greater fees for his said services, than are allowed by the law of the state, under colour of his said officer of Sheriff.”¹⁷

Upon investigation, a House committee determined that the Supreme Court had in fact approved Chipman’s accounts, and the House voted to take no further action on the Council’s order.

Similar charges and the same result had occurred the previous year, when the Council of Censors ordered that High Sheriff William Coley of Bennington County be impeached for “mal-administration of his office” for taking higher fees for his services than allowed by law, “under color of his said office of sheriff.”¹⁸ The House had also appointed a committee to investigate, which determined that the charges against Coley were “wholly unsupported,” and the House again dismissed the Council’s order of impeachment.

c. Examples from Impeachments of Officials in Other States

The language used in other states’ articles of impeachment has varied, but the common theme is that the official being impeached allegedly engaged in conduct incompatible with the official’s public office. The following are examples from a few different states to illustrate both the commonalities and the variations in terminology.

¹⁷ [Records of the Council of Censors of the State of Vermont](#), Results of the 1799–1800 Council, p. 173 (footnote 18).

¹⁸ *Id.* at pp. 159–60.

i. Arizona

The Arizona Constitution provides that “the governor and other state and judicial officers ... shall be liable to impeachment for high crimes, misdemeanors, or malfeasance in office.”¹⁹ The Arizona Supreme Court found in a 1989 case involving a gubernatorial impeachment that “there is almost unanimous agreement that offenses are impeachable when they ‘involve serious abuse of official power.’”²⁰ Those offenses include “misapplication of funds, abuse of official power, neglect of duty, encroachment on or contempt of legislative prerogatives, and corruption.”²¹

ii. Connecticut

In 1983–84, the Connecticut General Assembly considered impeaching Probate Judge James Kinsella for his mishandling of a large estate; Judge Kinsella was also censured by the Council on Probate Judicial Conduct for his actions. A committee was appointed to investigate and recommend to the Connecticut House of Representatives whether Judge Kinsella should be impeached. Though the Connecticut Constitution does not specify standards or grounds for impeachment, the committee’s *Final Statement of Information* found that the purpose of impeachment is to protect the state from abuse of power by its

¹⁹ Ariz. Const. Art. 8 Pt. 2 § 2.

²⁰ *Meacham v. Arizona House of Representatives*, 162 Ariz. 267, 268 (1989) (citing L. Tribe, *American Constitutional Law* § 4-17, at 291 (2d ed. 1988)).

²¹ *Id.*

officeholders and that “[t]he emphasis of the impeachment process has been on the significant effects of the conduct—undermining the integrity of office, disregard of constitutional duties and oath of office, abrogation of power, and abuse of the governmental process.”²² The committee suggested that the House should consider an official’s course of conduct, not merely individual acts, when determining if impeachment is warranted.

iii. Nebraska

Unlike impeachment in most states, in which the House of Representatives orders the impeachment and the Senate conducts the trial, Nebraska has only one legislative chamber. Thus, while the Nebraska Constitution specifies that “[t]he Legislature shall have the sole power of impeachment,” an impeachment ordered by its unicameral legislature is then tried by the Nebraska Supreme Court.²³ The Nebraska Constitution says that officials “shall be liable to impeachment for any misdemeanor in office or for any misdemeanor in pursuit of such office.”²⁴

The Nebraska Supreme Court has long indicated that “misdemeanor in office” is not limited to violations of criminal law but includes “neglect of duty willfully done, with a corrupt intention,” and “negligence ... so gross and ... disregard of duty so flagrant as to warrant

²² [Impeachable Offenses](#), Connecticut Office of Legislative Research (OLR) Research Report 2004-R-0134 (2004) and [Burden of Proof for Impeachment](#), OLR Research Report 2004-R-0144 (2004).

²³ [Neb. St. Const. Article III-17](#).

²⁴ [Neb. St. Const. Article IV-5](#).

the inference that it was willful and corrupt.”²⁵ The Nebraska Supreme Court held in 2006 that there are three categories of conduct that “may constitute an impeachable offense by a state officer:

1. An act that violates a statute, constitutional provision, or oath and is related to the officer’s duties;
2. A simple neglect of duty committed for a corrupt purpose; or
3. A neglect or disregard of duty that is so gross or flagrant, the officer’s willful and corrupt intent may be inferred.”²⁶

iv. Texas

The Texas Constitution does not specify standards or grounds for impeachment, but the Supreme Court of Texas held in 1924 that impeachment has a long history in English and American parliamentary law and “was designed, primarily, to reach those in high places guilty to official delinquencies or maladministration.”²⁷ The Court said that conduct justifying impeachment did not need to violate a statute or the common law, but were instead “grave official wrongs.”²⁸

d. Examples from Impeachments of Federal Officials

It is well known that, under Article II, Section 4 of the U.S. Constitution, federal officials may be “removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors.” It is

²⁵ *State v. Douglas*, 217 Neb. 199, 201 (1984) (citing *State v. Hastings*, 55 N.W. 774, 780–781 (1893)).

²⁶ *Nebraska Legislature ex re. State v. Hergert*, 271 Neb. 976, 995–96 (2006) (citing *Douglas and Hastings*).

²⁷ *Ferguson v. Maddox*, 114 Tex. 85, 96 (1924).

²⁸ *Id.* at 96–97.

also generally accepted that there is no specific definition of “other high Crimes and Misdemeanors,” much as there is no specific definition of what constitutes a “state criminal” under the Vermont Constitution.

According to the U.S. House of Representatives Practice Manual, impeachments usually involve charges of “misconduct incompatible with the official position of the office holder,” with conduct falling into three broad categories:

1. abusing or exceeding the lawful powers of the office;
2. behaving in a manner grossly incompatible with the office; and
3. using the power of the office for an improper purpose or for personal gain.²⁹

As an example of abusing or exceeding the lawful powers of the office, one of the articles of impeachment recommended by the U.S. House Judiciary Committee against President Richard Nixon in 1974 was that “he used the power of the office of the Presidency to violate citizens’ constitutional rights, ‘impair[]’ lawful investigations, and ‘contravene[]’ laws applicable to executive branch agencies.”³⁰

Examples of federal officials using the power of their office for an improper purpose have included the vindictive use of power against critics and political foes, while examples of using an office for personal gain or giving the appearance of financial impropriety have included receiving payments in return

²⁹ [House Practice: A Guide to the Rules, Precedents, and Procedures of the House](#), Chapter 27, Impeachment, §§ 3 and 4, 2017.

³⁰ [Congressional Research Service \(CRS\): Impeachment and Removal](#), at 12 (citing *Impeachment of Richard. M. Nixon*, H.Rept. 93-1305, at 1–3 (1974)).

for making appointments, falsifying business accounts, falsifying tax returns, and judges securing business favors from litigants and potential litigants.³¹ Other language used in federal impeachments has included violation of an officer's official oath and violation of duty.

e. Conclusion

Articles of impeachment have been based on abuse of power, violation of the oath of office, violation of the public trust, and behaving in a manner (grossly) incompatible with the office. While the language of impeachment may vary based on the circumstances and the jurisdiction, the recurring theme appears to be that the subject of the impeachment has behaved in a manner incompatible with the position of trust to which the official has been elected and, for the good of the state (or nation), the official should be removed from office. A common element throughout almost all impeachment cases reviewed by the courts is a recognition that impeachment is solely a legislative power, and thus determination of the grounds for impeachment and what constitutes an impeachable offense or impeachable conduct is solely within the purview of the Legislative Branch. Based on the foregoing, the Committee concludes that it may impeach a constitutional officer for conduct including improperly exceeding or abusing the powers of office; behaving in a manner that is incompatible with the function and purpose of the office; or misusing the office for an improper purpose or for personal gain.

³¹ House Practice, § 4 at 610–612.

3. Considerations Regarding Pre-Election and Pre-Incumbency Conduct

Some of Mr. Grismore's conduct subject to the Committee's investigation occurred prior to his election and assumption of office. The Vermont Constitution does not preclude the legislature from considering pre-election and pre-incumbency conduct. The language in Chapter 2, Section 14 of the Vermont Constitution, which sets out the powers of the House of Representatives, suggests no such prohibition. It provides that the House "may expel [House] members, but not for causes known to their constituents antecedent to their election, administer oaths and affirmations in matters depending before them, and impeach state criminals." Chapter 2, Section 19 provides similar language for the Senate. When the Framers of the Vermont Constitution wanted to exclude causes known to constituents prior to an election, as they did in the case of expelling members, they knew how to do so. That they did not include limiting language related to impeachment suggests that no such limitation was intended.

The Vermont Supreme Court has not ruled on this provision in the Vermont Constitution nor on whether pre-election or pre-incumbency conduct is an appropriate basis for articles of impeachment. Cases from other states provide some insight into this topic even though the language of their constitutions may differ from Vermont's.

Courts have generally held that acts committed prior to being elected to a public office cannot form the basis of impeachment or removal from that office. They emphasize that the electorate can condone a candidate's misconduct in a prior term or a prior office by electing or re-electing that individual. In such cases, the courts have refused to consider that misconduct as grounds for impeachment.

For example, the Alabama Supreme Court has said: “The question presented is whether an office holder may be impeached for an offense involving moral turpitude which occurred prior to his assumption of office. We hold that he cannot.”³² The opinion referred to an earlier case from that state, *State v. Hasty*, that had held “that acts of a previous term cannot be made the basis of charges for impeachment. The court adopted as one of the bases for its holding the so-called ‘condonation theory.’ Simply stated, the ‘condonation theory’ is that reelection to an office operates as a condonation of the officer’s conduct during the prior term.”³³

The Michigan Supreme Court went even farther, stating that the electorate is free to choose any candidate, regardless of their prior misconduct. In 1894, that court held:

[S]o far as [the charges] relate to the acts of [the officer] committed before his appointment to, and induction into, this office, [they] are clearly beyond the jurisdiction of the [Council] to determine. There is no provision in the [state] constitution nor in the laws which prevents a person from holding office for misconduct in another office which he held prior to the one to which he was elected or appointed. . . . The misconduct for which any officer may be removed must be found in his acts and conduct in the office from which his removal is sought, and must constitute a legal cause for his removal, and affect the proper administration of the office. There is no restriction upon the power of the people to elect, or the appointing power to appoint, any citizen to office, notwithstanding his previous character, habits, or official misconduct.³⁴

Courts have allowed limited consideration in impeachment proceedings of conduct prior to taking office, but only as evidence tending to show misconduct committed while in office. The Nebraska Supreme Court decided a case in which an officer had made several intentionally untimely and misleading campaign finance filings

³² *Parker v. State*, 333 So.2d 806 (Ala. 1976).

³³ *Id.* at 808, citing *State ex rel. Attorney General v. Hasty*, 184 Ala. 121 (1913).

³⁴ *Speed v. Common Council of City of Detroit*, 98 Mich. 360, 364-65 (1894).

during the primary and general elections in order to deprive his campaign opponents of public funding that otherwise would have been available to them.³⁵ After taking office, the officer made additional false statements and obstructed the investigation into his actions. Citing the Alabama Supreme Court decision in *Hasty*, the Nebraska Supreme Court held that “in an impeachment proceeding, an officer’s pre-incumbency conduct is relevant to the extent it bears upon the officer’s pattern of conduct and shows the officer’s motives and intent *as they relate to the officer’s conduct while in office.*”³⁶ Although the court allowed consideration of the events prior to the officer taking office for that limited purpose, the impeachment convictions that the court upheld were for “false reporting” and “obstruction of government operations” that occurred after he had been sworn into office.

The weight of precedent indicates that conduct occurring before an election generally should not be considered grounds for impeachment. Although the Committee believes that the Vermont Constitution does not itself prohibit consideration of pre-election or pre-incumbency conduct in deciding whether to impeach an official, the Legislature should be reluctant to rely on conduct that was known to the voters before the officer’s election. Only in extraordinary circumstances should the Legislature nullify the results of an election, particularly where there was widespread media coverage of the candidate’s pre-election conduct and the electorate nonetheless chose to elect him to the office. “In the long run it is far better for democracy that it should endure the ills

³⁵ *Nebraska Legislature ex rel. State v. Hergert*, 720 N.W.2d 372, 391-92 (Neb. 2006).

³⁶ *Id.* (emphasis added).

resulting from its unwise selections than that some heroic recall remedy should be provided.”³⁷

If pre-incumbency or pre-election conduct is not known to the electorate, however, it may be more appropriate for the Legislature to consider the conduct as grounds for impeachment. In the *Treatise on Constitutional Law – Substance and Procedure*, the authors say that “[if] we learn *after* a person assumes office that he or she committed serious crimes *before* he or she assumed office, in some cases impeachment should be an appropriate remedy. If those crimes have a functional relationship to the present office—e.g., it is discovered that a federal judge, who holds a position of trust, committed serious fraud or embezzlement just before accepting the position. Or, the judge secured the judgeship by bribery . . . impeachment should lie although the offense occurred earlier.”³⁸

F. Recommendations and Final Action

The Committee considered five potential grounds for impeachment:

- Mr. Grismore’s use of excessive force;
- Mr. Grismore’s decertification as a law enforcement officer;
- the current performance of the Franklin County Sheriff’s Office under its law enforcement contracts with municipalities;
- Mr. Grismore’s calculation of his own overtime rate while serving as bookkeeper and deputy sheriff; and

³⁷ J. Hampden Dougherty, *Inherent Limitations Upon Impeachment*, 23 Yale L.J. 60 (Nov. 1913).

³⁸ 1 *Treatise on Const. L.*, § 814(b) (emphasis in original).

- Mr. Grismore’s self-issued and signed checks for his own retirement contributions while serving as bookkeeper and deputy sheriff.

1. Use of Force

The community’s respect for law enforcement is critical for ensuring public safety and the functioning of Vermont’s criminal justice system. When an officer uses unjustified force, such an abuse of power brings disdain and disrespect upon the officer’s office and violates the public trust. As explained in the preamble of the Vermont Criminal Justice Council’s Statewide Policy on Police Use of Force:

Every law enforcement officer in Vermont is committed to upholding the Constitution, as well as the laws of the United States and Vermont, while defending the civil rights and dignity of all persons. Whenever possible, police seek to accomplish lawful objectives through cooperation with the public and with minimal reliance on physical force to overcome resistance.

[O]fficers who use unreasonable force degrade the community’s confidence in the police and expose themselves and the agency to legal risks.³⁹

The use of excessive force will usually result in an officer’s suspension. When then-deputy sheriff Grismore kicked a detained individual who was handcuffed and shackled, then-Sheriff Langevin found this use of force to be excessive and summarily fired Mr. Grismore. Despite this conduct, Mr. Grismore was elected to the office of Franklin County Sheriff two months later.⁴⁰

While the Special Committee has concluded that, as a general rule, an officer should not be removed from office for pre-election conduct that the electorate knew about, we agree that such conduct is significant. After he took office, Mr. Grismore’s

³⁹ Vermont Criminal Justice Council, [Statewide Policy on Police Use of Force](#), effective April 5, 2023

⁴⁰ His name was the only one that was printed on the ballot. Mr. Grismore defied calls from both the Franklin County Republican and Democratic Committees to decline their nominations when the video of the alleged assault surfaced within days of the August 2022.

continued defiance and his frequently-asserted position that his use of force was reasonable caused many in the community to lose confidence in the Franklin County Sheriff's Office. Rather than taking responsibility for his actions, seeking to repair the harm done to Mr. Burrows and to the community's perception of the sheriff's office, or undergoing counseling or additional training, Mr. Grismore instead defended his actions on numerous occasions. Although this behavior is deeply concerning, it does not in itself provide grounds for impeachment.

As one court stated, "preincumbency conduct is relevant to the extent it bears upon the officer's pattern of conduct and shows the officer's motives and intent as they relate to the officer's conduct while in office."⁴¹ The Committee found no evidence that, since he took office, Mr. Grismore has used force (reasonable or excessive), instructed his deputies on the use of force, or commented on whether any of his subordinates' use of force was reasonable. When the Committee asked his subordinates whether they believed Mr. Grismore's use of force in the Burrows incident was appropriate, most witnesses provided one of two responses. Several deputies said that Mr. Grismore's use of force was not appropriate. Others responded that they were not present at the incident and could not opine on whether the use of force was excessive. Given the renown of the incident, the latter response was troubling, but did not support a conclusion that these officers' understanding of the appropriate use of force was negatively influenced by Mr. Grismore's actions or his defense of his actions.

⁴¹ *Nebraska Legislature ex rel. State v. Hergert*, 720 N.W.2d 372, 391-92 (Neb. 2006).

2. Law Enforcement Decertification

To be a law enforcement officer in Vermont, an individual must be certified by the Criminal Justice Council. There are three levels of certification under Vermont law, each with a defined scope of practice setting forth the criminal offenses the certified officer can enforce.

- A Level I certified officer's scope of practice is restricted to security, transports, traffic control, and vehicle escorts.
- A Level II certified officer's scope of practice includes investigating matters related to specified statutory criminal offenses.⁴²
- A Level III certified officer has "all law enforcement authority," including investigating all felony crimes.

A Level II certified officer cannot investigate most felony crimes without the direct supervision of a Level III certified officer. In addition to investigating matters, a certified officer can apprehend and detain individuals suspected of criminal offenses that are within the certified officer's scope of practice.

Mr. Grismore received his Level II certification in 2014. At the time of his election to the Franklin County Sheriff's Office in November 2022, he held the Level II certification.

On November 14 and December 6, 2023, the Vermont Criminal Justice Council ("Council") held hearings to consider the imposition of sanctions against the law enforcement certification held by Mr. Grismore based on his alleged use of excessive force under 20 V.S.A. § 2401(2)(C). On December 6, 2023, by a unanimous vote, the

⁴² 20 V.S.A. § 2358(2)(B).

Council found by a preponderance of the evidence that Mr. Grismore engaged in unprofessional conduct by using excessive force under authority of the State. The Council then determined by a 15-1 vote that the appropriate sanction was the permanent revocation of Mr. Grismore's law enforcement officer certification.

In a decision issued on December 11, 2023, the Council made findings of fact related to the incident involving Jeremy Burrows, the individual who was kicked by Mr. Grismore.⁴³ In brief, the Council found that Deputies Christopher Major and Karry Andleigh brought Mr. Burrows to the Franklin County Sheriff's Office station and "seated him in a holding area with his hands cuffed behind his back and his ankles shackled to the bench."⁴⁴ Although not scheduled to work that day, Mr. Grismore was present at the station and observed the interactions between Mr. Burrows and the Deputies. At one point, Mr. Burrows fell on his face while attempting to walk away from the holding area. The Deputies lifted him from the floor and placed him back on the bench, then Mr. Burrows stood and behaved in a verbally abusive and threatening manner. The Deputies testified that they were not, however, threatened by Mr. Burrows because he was handcuffed and shackled.⁴⁵

Mr. Grismore entered the holding area and used his right foot to strike Mr. Burrows in his abdomen/hip area, resulting in Mr. Burrows falling to a seated position. Mr. Burrows stood back up despite Mr. Grismore's commands to sit down. Mr. Grismore then kicked Mr. Burrows again in the abdomen/hip area "with demonstrably greater force than the prior time." Deputy Major testified that he did not believe it was

⁴³ Decision and Order Regarding Permanent Revocation of Law Enforcement Certification, pp. 2-7 (December 11, 2023).

⁴⁴ Id. at 4.

⁴⁵ Id. at 4-5.

urgent to re-seat Mr. Burrows, and an expert witness testified that “the amount of force used against Mr. Burrows by Mr. Grismore was neither reasonable nor necessary considering the totality of the circumstances he faced. . . .”⁴⁶

The Council considered whether Mr. Grismore engaged in “Category B conduct,” defined in 20 V.S.A. § 2401(2)(C) as “gross professional misconduct . . . that involve[s] willful failure to comply with a State-required policy, or substantial deviation from professional conduct as defined by the law enforcement agency’s policy or if not defined by the agency’s policy, then as defined by Council policy,” and includes “excessive use of force under authority of the State, first offense.”⁴⁷ The Council explained:

The Statewide Policy on Police Use of Force confirms: “[w]hen force is necessary to bring an event or incident under control, officers will use only objectively reasonable force to accomplish lawful objectives.” Moreover, “[w]hether the decision by a law enforcement officer to use force was objectively reasonable shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances.” Failure to use reasonable alternatives is a consideration in the evaluation. The Policy confirms that contributing factors determining objectively reasonable use of force include whether the subject was an “immediate threat to officers.”⁴⁸

The Council concluded that “the second kick to Mr. Burrows, which Mr. Grismore had described as ‘a distractionary front kick,’ was objectively unreasonable, unnecessary, punitive, and demonstrative of a failure to use reasonable alternatives. Mr. Burrows was not an immediate threat to Mr. Grismore or the Deputies; he was handcuffed behind his back, and his legs were shackled.”⁴⁹ The Council determined that

⁴⁶ Id. at 6.

⁴⁷ Id. at 7–8.

⁴⁸ Id. at 8 (citations omitted).

⁴⁹ Id. at 8–9.

the appropriate sanction for his misconduct was a permanent revocation of Mr. Grismore's law enforcement officer certification.

Following the Council's decision, Mr. Grismore no longer holds his Level II certification; in fact, he holds no law enforcement certification of any level. The Vermont Constitution does not require a Sheriff to hold a law enforcement certification. In fact, the Vermont Constitution does not impose any qualifications for individuals seeking election to a Sheriff's Office or serving as a Sheriff other than to be at least 18 years of age, a U.S. citizen, and a resident of Vermont at the time of election and when assuming office. Nevertheless, the Committee has considered whether the lack of such certification so undermines or limits Mr. Grismore's ability to fulfill the functions of his office that the Legislature should seek his removal through impeachment.

20 V.S.A. § 2358(a) states that "[u]nless waived by the Council under standards adopted by rule, and notwithstanding any statute or charter to the contrary, no person shall exercise law enforcement authority as a law enforcement officer without completing a basic training course and annual inservice training..." A decertified officer is no longer permitted to complete annual training and therefore is not authorized to exercise law enforcement authority.

Current law provides that a "sheriff so commissioned and sworn shall . . . do all other things pertaining to the office of sheriff."⁵⁰ While the Vermont Constitution enumerates sheriffs, making them "constitutional officers," it is silent as to their actual duties. This leaves sheriffs' duties to be determined by statute and the common law. A

⁵⁰ 24 V.S.A. § 293.

search of Vermont’s case law indicates that the Vermont courts likely have not examined the topic of common law duties of sheriffs. Regardless, there is a general understanding of what common law duties of sheriffs have historically been. The following is from Georgetown Law’s Fact Sheet on the debunked topic of “Constitutional Sheriffs,” specifically the section called “What are the duties of a sheriff?”:

In most states, the duties of sheriffs reflect the common law powers that sheriffs had at the nation’s founding, which included preserving the peace; preventing and suppressing all public disturbances (called “affrays” at common law), breaches of the peace, riots, and insurrections; arresting and taking before the courts persons who attempted to commit or who committed a public offense; attending court, providing court security, and serving court process; and administering the county jails.

These are all duties that Vermont sheriffs currently have in some form or used to have but have since been repealed (e.g. administering county jails). In the case of repealed duties, there is no reversion to common law duties; rather, this constitutes clear legislative intent to eliminate or modify these duties and powers.⁵¹

Vermont sheriffs also have statutory duties. Pursuant to 24 V.S.A. § 299, “[a] sheriff shall preserve the peace using force only as permitted pursuant to 20 V.S.A. chapter 151. A sheriff may apprehend, without warrant, individuals assembled in disturbance of the peace and bring them before the Criminal Division of the Superior Court, which shall proceed with such individuals as with individuals brought before it by process issued by the court.” Sheriffs also have the power to execute warrants:

In the daytime, a sheriff may enter and search houses, buildings, or other places for a person for whose apprehension he or she has a warrant, issued in a criminal prosecution, a prosecution for bastardy, or on a bailpiece. He or she may so enter

⁵¹ See *Soper v. Montgomery Cnty.*, 294 Md. 331, 337, 449 A.2d 1158, 1161 (1982) (holding that “. . . sheriffs are constitutional officers whose powers and duties are not expressly enumerated in the Constitution. Rather, those powers and duties are prescribed by the common law as modified by the Acts of the Legislature. Accordingly, sheriffs retain their common law powers and duties until deprived of them by the Legislature.”).

with a warrant or extent for the collection of taxes, or the collection of a fine, or with a warrant to search for goods or chattels stolen or purloined, when such property is supposed to be secreted therein. He or she shall not make return in any case that he or she cannot execute any such precept.⁵²

Without the legal authority under 20 VSA § 2358(a) to fulfill law enforcement duties due to his decertification, Mr. Grismore is himself unable to preserve the peace; prevent and suppress public disturbances, breaches of peace, riots, and insurrections; arrest and take before the court persons who attempted to commit or committed a criminal offense; provide court security; or execute search warrants.

Sheriff Roger Marcoux testified to the Committee on the importance of a Sheriff being a certified law enforcement officer. A Sheriff is responsible for supervising individuals who carry firearms and are authorized to use appropriate force, arrest people, and deprive people of their rights. To fulfill these responsibilities requires significant training in law enforcement actions, training that certified officers receive and must update annually to retain their certification. Sheriff Marcoux explained that, when a sheriff is decertified, the sheriff may not carry a firearm on duty, go on patrol, investigate, be privy to sensitive information, or manage or audit evidence. Sheriff Marcoux was not aware of any other Vermont sheriff who is not certified. He testified that a sheriff without a law enforcement certification should not review professional misconduct complaints or use of force reports. Marcoux concluded that it is not a good idea to have a sheriff who is not certified.

Sheriff Mark Anderson also testified to the Committee that it is important for a sheriff to have a law enforcement certification. Sheriffs are personally liable for the

⁵² 24 V.S.A. § 302

actions of their deputies. To manage that liability, a sheriff needs to understand law enforcement training, receive updates on use of force standards and other policies, and receive sensitive information available only to certified officers. He explained that a sheriff should, through the sheriff's actions, reflect appropriate use of force and statewide policy, which cannot be done without a law enforcement certification. He also noted that a sheriff without a certification could not help an individual with a relief from abuse order to obtain the individual's belongings.

Despite these limitations resulting from decertification, Sheriffs Marcoux and Anderson both testified that a sheriff can perform the office's administrative duties without a law enforcement certification and can delegate law enforcement tasks. Mr. Grismore would be able to fulfill some administrative duties on the "business" side of a Sheriff's office such as negotiating and obtaining contracts, invoicing, paying bills, bookkeeping, administering the payroll, and maintaining property such as vehicles, for which a law enforcement certification is unnecessary.

The Committee agrees that, although Sheriff Grismore cannot himself perform all duties of the office of Sheriff, he may delegate to other certified subordinates those activities requiring a law enforcement certification. It is "well-settled law that a sheriff may not be restricted in whom he or she assigns to carry out his or her constitutional duties if he or she is performing immemorial, principal, and important duties characterized as belonging to the sheriff at common law."⁵³ Indeed, it is not even necessary for Mr. Grismore to delegate law enforcement duties to his deputies: under 24

⁵³ Ozaukee Cnty. v. Lab. Ass'n of Wis., 763 N.W.2d 140 (Wis. Ct. App. 2008).

V.S.A. § 307, “[t]he duties of deputy sheriffs shall be the same as those imposed by law on sheriffs and other peace officers in the enforcement of the criminal law.”

Because Grismore was decertified for conduct predating his term of office, his decertification does not lead to the conclusion that he has exceeded or abused the powers of his office, behaved in a manner while in office that is incompatible with the function and purpose of the office, or misused the office for an improper purpose or for personal gain. The Vermont Constitution does not require an individual to be a certified law enforcement officer, or even to have any law enforcement training, in order to be elected sheriff, and the prevailing view of the courts is that a legislature cannot add qualifications for a constitutional office beyond those specified in the state’s constitution.⁵⁴

Accordingly, the Committee finds that Mr. Grismore’s decertification does not provide a basis for impeachment.

3. Franklin County Sheriff’s Office’s Contract with Municipalities

Pursuant to 24 V.S.A. § 291a, the Franklin County Sheriff’s Office may enter into contracts with towns within or outside of Franklin County to provide law enforcement services. Contracts must be approved by the sheriff and a majority of the town selectboard, provided that funding for the contract has been approved at a town meeting. The contract may provide for personal compensation to the sheriff of up to five percent of the total contract amount for administration of the contract and related services.

Most towns in Franklin County either do not have a contract with the Franklin County Sheriff’s Office or do have a contract but have no concerns about it. The Towns

⁵⁴ See, e.g., *Reale v. Board of Real Estate Appraisers*, 880 P.2d 1205 (Co. 1994).

of Bakersfield, Berkshire, Fairfield, Fletcher, Georgia, Highgate, Montgomery, and Swanton, and the City of St. Albans reported having no contract with the Franklin County Sheriff's Office during Mr. Grismore's term. The Towns of Franklin and Sheldon only recently entered into contracts with the Franklin County Sheriff's Office and have no concerns at this time. The Towns of Fairfax and St. Albans currently have contracts with the Franklin County Sheriff's Office but reported they were satisfied with Mr. Grismore's communication around available patrol hours.

The Towns of Enosburgh and Richford have ongoing contracts with the Franklin County Sheriff's Office, and both reported experiencing understaffing issues under their contracts. Pursuant to contracts entered into before Mr. Grismore became Sheriff, Enosburgh was to receive a set number of patrol hours. Early in Mr. Grismore's term, Enosburgh was billed in advance for the contracted hours for the upcoming month. The Sheriff's Office, however, provided fewer patrol hours than called for in the contract. In March 2023, the Enosburgh Town Clerk contacted Mr. Grismore about the lack of contracted services and Mr. Grismore's failure to notify the municipality of the service shortfall. Subsequently, the Sheriff's Office reimbursed Enosburgh for the difference between the hours contracted and the hours actually provided.

Since June, rather than taking advance payment for a set number of hours, the Sheriff's Office has billed Enosburgh varying amounts from month to month based on the number of hours of service provided. While the Sheriff's Office has provided more coverage since June 2023, Enosburgh has consistently received less than its contracted 40 hours per week of coverage. The town is only charged for the amount of hours actually worked. This practice continues today.

In mid-2023, Mr. Grismore attempted to modify the contract language with Enosburgh to add that the Sheriff's Office would "provide said services as staffing allows with the target of providing forty (40) hours of service per week." The Enosburgh Selectboard rejected this modification. Town officials expressed a deep loss of trust in Mr. Grismore through this series of incidents, but stated they had no other law enforcement options with capacity to offer them a contract.

The Town of Richford has a three-year contract with the Franklin County Sheriff's Office for services from July 1, 2021 through June 30, 2024. Prior to Mr. Grismore's tenure as Sheriff, Richford was billed in advance at a flat monthly rate. Due to staffing issues, the Sheriff's Office provided less than the contracted hours in 2021–22 and reimbursed Richford for its overpayments.

Since April 2023, rather than taking advance payment for a set number of hours, the Sheriff's Office has billed Richford varying amounts month-to-month based on the number of hours worked. While the Sheriff's Office provided more coverage in some months than others, on average Richford has received less than the contracted 40 hours per week of coverage. The town is only charged for the amount of hours actually worked. This practice continues today.

In late 2023, Mr. Grismore attempted to modify the contract language with Richford to provide for a target of 40 hours per week, as staffing allows. The Richford Selectboard rejected this modification. Richford Town officials expressed that they have no qualms with Mr. Grismore's communication or professionalism but stated that he is not fulfilling their contract due to ongoing staffing issues. Like the Town of Enosburgh, Richford explored other law enforcement options but has not found a feasible alternative.

Mr. Langevin acknowledged that difficulties with recruitment and retention impacted the Sheriff's Office's ability to fully staff these contracts. Mr. Grismore acknowledged that, due to staffing challenges, the Sheriff's Office is not always able to provide all contracted hours of service to each of the towns. For the new contracts he negotiated with the Towns of Franklin and Sheldon, Mr. Grismore stated that they contain an hourly target, rather than an hourly requirement, to accommodate staff availability. Mr. Grismore said that while he is bound to the contracts entered into by his predecessor, he attempted to renegotiate those contracts to move from an hourly requirement to an hourly target, under which the town would only pay for hours served. He testified that the Towns of St. Albans and Fairfax agreed to modify their contracts, while the Towns of Richford and Enosburgh did not. Although the communities refused to renegotiate the contracts, Grismore proceeded to charge for only patrol hours actually provided. He indicated that he has met with the towns multiple times about how to meet their law enforcement needs. However, Mr. Grismore admitted that the Franklin County Sheriff's Office is not currently fulfilling all of its municipality contract requirements.

In summary, in the first few months of Mr. Grismore's term, the Franklin County Sheriff's Office significantly under-patrolled the Town of Enosburgh and did not promptly inform the Town of the lack of police coverage. This impacted the Town Manager's and Selectboard's trust in Mr. Grismore's reliability and candor. This issue did not begin with Mr. Grismore's term, however. Particularly with respect to the Town of Richford, the Franklin County Sheriff's Office has a history of failing to provide full service and of maintaining a lack of transparency around hours actually worked. Mr.

Grismore has taken steps to improve monthly reporting and to restructure billing so as to only charge municipalities for hours actually provided .

Despite an apparent inability to fulfill the requirements of his preexisting contracts, Mr. Grismore entered into two additional municipal contracts during the past year, with the Town of Franklin in June 2023 and with the Town of Sheldon in September 2023. He expressed a desire to spread limited resources equally among the towns of Franklin County. Given the difficulties faced by the Towns of Richford and Enosburgh in locating alternative sources for law enforcement services, it is unlikely that Franklin or Sheldon would have any patrol hours if the Franklin County Sheriff's Office were unwilling to contract with them.

The Committee is concerned that at the beginning of Mr. Grismore's term he failed to communicate with municipalities, particularly Enosburgh, regarding the Sheriff's Office's inability to fulfill the terms of its contracts. It is also concerned that the Sheriff's Office continues to underserve certain communities and is not fulfilling its patrol requirements for at least Enosburgh and Richford. The Committee, however, appreciates the difficulty in recruiting and retaining law enforcement officers in Vermont. It understands that staffing shortages has impacted the Franklin County Sheriff's Office's ability to provide contracted coverage and that municipalities are being charged only for hours served as opposed to contracted hours. In addition, based on the testimony of officers in the Franklin County Sheriff's Office, the difficulty in recruiting and retaining Sheriff deputies in the Office is not attributable to Mr. Grismore but to the low pay for such positions in sheriffs' offices relative to other law enforcement agencies and to the general unavailability of applicants. The Committee finds that Mr. Grismore's conduct

related to the contracts was not incompatible with his position of trust. He did not improperly exceed or abuse the powers of his office, behave in a manner that is incompatible with the function and purpose of the office, or misuse the office for an improper purpose or for personal gain. For these reasons, the Committee concludes that Mr. Grismore's conduct related to municipal contracts is not grounds for impeachment.

4. Bookkeeping Irregularities

In January of 2023, the accounting firm McSoley McCoy & Co ("McSoley") began performing its biennial audit of the Sheriff's Office on behalf of the State Auditor. During that process, McSoley took note of two issues: (1) the apparently high overtime rate at which Mr. Grismore had been paid as deputy sheriff and (2) a series of four Franklin County Sheriff's Office checks made out to Mr. Grismore that he personally signed and deposited when he served as bookkeeper, purportedly for retirement contributions. At the direction of the State Auditor, McSoley ceased performing the audit and the matter was referred to the Vermont State Police for investigation. McSoley also prepared a short document entitled "Fraud Findings" that summarizes the firm's findings regarding the overtime and retirement issues. On behalf of the Committee, DRM investigated these issues and provided a report of its findings on February 22, 2024.

a. Overtime Payments

During calendar years 2021 and 2022, Mr. Grismore, acting as both bookkeeper and a deputy sheriff for the Franklin County Sheriff's Office, was paid overtime in 19 different pay periods. DRM reviewed these payments pursuant to the federal Fair Labor Standards Act ("FLSA"), which covers all public agency employees of a State, a political subdivision of a State, or an

interstate government agency.⁵⁵ During this time, Mr. Grismore was paid for his bookkeeping work by the County, with supplemental payments for that work and for his work as a deputy sheriff coming from the Franklin County Sheriff's Office. Based on its review, DRM concluded that the general approach used to calculate Mr. Grismore's overtime rates when he was both a deputy sheriff and bookkeeper, which combined his hourly rate from the Sheriff's Office with his compensation from Franklin County, followed the correct approach under the FLSA. After considering DRM's detailed examination of this issue, the Committee accepts this conclusion. Further, there is no evidence that Mr. Grismore has received overtime pay since taking the oath of office as Franklin County Sheriff in 2023.

For these reasons, the Committee finds no grounds for impeachment based on Mr. Grismore's receipt of overtime payments.

b. Retirement Benefits

The second issue set forth in McSoley's "Fraud Findings" report is a series of payments to Mr. Grismore, purportedly as retirement benefits.⁵⁶ Specifically, McSoley concluded that in FY 2021 and FY 2022, Mr. Grismore wrote four checks to himself "for his retirement contribution instead of submitting the retirement contribution to the state." The Vermont State Employee Retirement System ("VSERS") requires retirement contributions from employees and

⁵⁵ 29 U.S.C. § 203(s)(1)(C), (x).

⁵⁶ The McSoley Fraud Report is mistakenly dated June 30, 2022. McSoley did not perform its audit until January 2023, so the correct date of the report likely should have been June 30, 2023.

employers.⁵⁷ Mr. Grismore sought to take the Sheriff’s Office out of this system by paying himself the amount of both the employee and employer retirement contributions rather than paying those sums to VSERS. All four checks were “made out to John Grismore, signed by John Grismore, and then endorsed by John Grismore for deposit.” According to McSoley, “Sheriff [Langevin] reviewed and approved the retirement calculation, but not the check to Mr. Grismore.” The four checks at issue in McSoley’s report are summarized as follows:

Date	Check No.	Check Memo	Amount
12/1/2021	32789	Retirement Payout July–Sept 2021	\$4,744.02
2/1/2022	32952	3006-0028	\$4,615.90
4/21/2022	33107	3006-0028	\$3,415.24
7/20/2022	33280	3006-0028 Retirement FY22 Q\$ Apr–Jun	\$3,774.98
		TOTAL	\$16,550.14

Sheriff Langevin testified that he recalled discussing with Mr. Grismore the question of whether the Office could withdraw funds from VSERS and set up an alternative retirement system for employees. Mr. Langevin recalled authorizing Mr. Grismore to investigate the matter.

⁵⁷ VSERS requires contributions from two sources: the employer and the employee. Employee contributions to VSERS are calculated by multiplying an employee’s gross earnings by a set percentage rate. The resulting amount is required to be withheld from the employee paycheck and provided to VSERS. The employer contribution is also calculated by multiplying the employee’s gross earnings by a (different and higher) set percentage rate. The employer must provide the resulting amount to VSERS.

Mr. Langevin testified that he and Mr. Grismore learned that there was no mechanism by which the Office could withdraw from VSERS. Documentary evidence corroborates Mr. Langevin's testimony. On July 7, 2022, Mr. Grismore sent an e-mail to VSERS "seeking the process for removing the Franklin County Sheriff's Office from the VSERS plan" because "[t]he most recent increase from 13.84% to 19.5% has made this plan unaffordable." In a response dated July 8, 2022, Timothy M. Duggan, Director of VSERS, wrote to Mr. Grismore: "As I have previously indicated, there is no process to terminate participation in VSERS under existing state law."

Documentation, including four checks and other related documents with handwritten notes, shows that Mr. Grismore wrote himself four Department checks in amounts equal to the quarterly retirement contributions (both the employee and employer portions) that the Sheriff's Office would have otherwise made to VSERS for Mr. Grismore's retirement. It is not clear when Director Duggan had previously indicated that Mr. Grismore could not terminate participation in VSERS, but despite the Director's clear advice on July 8, 2022, Mr. Grismore still wrote himself a check for his retirement contributions two weeks later, on July 22, 2022. He had written three checks to himself prior to the July 8 communication despite the "previously indicated" instruction from Director Duggan to the contrary or, at a minimum, out of ignorance of the applicable law.

The Committee received conflicting testimony regarding whether Mr. Grismore had permission to write the checks to himself. Although Mr. Langevin

recalled agreeing to look into the possibility of alternative retirement benefits for Mr. Grismore, he did not recall discussing specific amounts of money with Mr. Grismore, nor did he recall authorizing Mr. Grismore to pay himself retirement funds. Two documents provided showed handwritten retirement contribution calculations corresponding to two of the checks written to Mr. Grismore. These documents included Mr. Langevin's signature. When shown these documents, Mr. Langevin acknowledged that he signed them without knowing what they meant. Mr. Langevin testified that he believed that he had been "sold a bill of goods" from Mr. Grismore on the retirement issue.

In contrast, Mr. Grismore testified that Mr. Langevin had approved of Mr. Grismore paying himself retirement contributions. He testified that he had received conflicting opinions about whether it was possible for the Department to withdraw from VSERS. He also testified that he understood that his Sheriff's Office compensation was not required to be included in the VSERS system. Mr. Grismore testified that he had received advice of counsel on these questions. Mr. Grismore described this as a "test mechanism" for potential withdrawal of the entire Sheriff's Office from VSERS.

Once he returned to the Department to serve as Sheriff, Mr. Grismore was informed that the Sheriff's Office had been required to pay VSERS for the retirement contributions that were not made with respect to his Sheriff's Office earnings. As of December 2023, Mr. Grismore had not repaid the Sheriff's Office. As of April 2024, the Special Committee remains unable to determine whether any repayment has occurred.

As explained in section E.3, it is exceedingly rare for an officer to be impeached for conduct that predated the individual's taking office. One recognized exception to this standard suggests that if it becomes known after a person has assumed office that the person committed serious crimes *before* assuming office, impeachment could be an appropriate remedy in some instances. Here, it is clear that Mr. Grismore acted contrary to the law by paying his retirement contributions to himself rather than paying them into VSERS. It is not clear, however, whether Mr. Grismore had permission from Sheriff Langevin to make these payments.

Mr. Grismore and Mr. Langevin provided inconsistent testimony on this issue, with Mr. Langevin testifying that he did not recall approving the retirement distributions and Mr. Grismore testifying that Mr. Langevin did approve them. The documentary evidence is ambiguous. Mr. Langevin's signatures underneath two sets of the handwritten retirement calculations do not definitively prove that Mr. Langevin approved the distributions—as opposed to merely the calculations. Moreover, Mr. Langevin testified that he signed those materials without understanding their contents. But it is arguable that Mr. Grismore's reliance on that signoff was reasonable, at least for the payments predating the communication from Director Duggan of VSERS. The final payment on July 20, 2022, after Mr. Grismore was specifically informed by email that Sheriff's Office personnel could not withdraw from VSERS, is more problematic. Mr. Grismore asserts that he received legal advice that his actions were permissible. He did not

share that advice with the Committee, but Mr. Grismore would likely assert that his reliance on the advice was reasonable.

Although this is a close case, the Committee believes there is insufficient evidence at this time that Mr. Grismore lacked permission to take the action of paying himself the retirement contributions. It is possible that additional evidence may be uncovered during the investigation by the Vermont State Police. If additional evidence implicates Mr. Grismore, this matter may be reopened.

The Committee is troubled that Mr. Grismore has failed to pay the Sheriff's Office back for the amount that it had to subsequently pay to VSERS for his retirement contributions. Mr. Grismore paid himself \$16,550.14 for his retirement compensation between December 2021 and July 2022; the Department was required to provide VSERS \$20,232.02 in January 2023 to restore the unpaid contributions to Mr. Grismore's retirement account.

It is not clear from the evidence before the Committee that, since taking office on February 1, 2023, Mr. Grismore improperly exceeded or abused the powers of his office, behaved in a manner that is incompatible with the function and purpose of the office, or misused the office for an improper purpose or for personal gain. Nor are the facts here sufficiently clear and compelling for the Committee to base an article of impeachment on pre-incumbency conduct unknown to the electorate.

G. Conclusion

For the foregoing reasons, the Special Committee does not recommend articles of impeachment for Sheriff John Grismore. The Committee, however, believes that Mr. Grismore is doing Franklin County a disservice by remaining in office. First, the Committee believes it is important for a Sheriff to be able to fulfill law enforcement duties, not simply administrative ones. Second, to effectively manage a staff of deputies exercising law enforcement duties, a Sheriff should receive ongoing law enforcement training, which is unavailable to a decertified officer. Third, a Sheriff should demonstrate and uphold the highest standards of honesty, integrity, conduct, and service. Through his conduct prior to taking office and his continued insistence that his use of force was appropriate, Mr. Grismore demonstrates none of these.

The Special Committee also concludes that it will maintain the confidentiality of the testimony and documents received in executive session to protect the privacy of the individuals involved.