

Vermont Constables' Associations Legislative Agenda 2013-2014 **DRAFT**

The Vermont Constables association has a number of issues that needs the Vermont Legislature to correct.

PREAMBLE

Constables are the oldest of all law enforcement entities. They have been a tradition in Vermont from the early 1700's and even cited in the Vermont constitution. Constables have served communities for many hundreds of years. They are truly local law enforcement that embodies the concept of community policing; a concept trying to be adopted by large police departments.

They fill the gap between expensive town police departments, Sherriff and State Police organizations. Like Volunteer Fire Departments and Ambulance Service they provide a profession effective cost alternative to paid or full time fire and EMS departments.

Constables in Vermont vary in form from Town Constabularies that operate like police departments to one or two constables that respond to local emergencies before the VSP or Sherriff can respond. Vermont constables are part Vermont Constitution and in fact can be called up by the governor to assist in time of civil unrests or other emergency. They have statutory powers regardless of their police training.

In 2009 due to the urging of the paid/professional Police the Vermont legislature decided that Constables with "law enforcement powers" should have formal police training – a concept most Vermont Constables agree with. But, like all legislation it is the devils in the details that created our current crises.

ISSUES

- **Field Training** – Field Training is required to successfully complete Police Training. This by far is the biggest problem constables have. It is near impossible to get a department to partially train a constable or do all the training. Hence no certification.
- **Time to Complete Training** - After the academy, only 12 months are allotted to complete the additional training requirements. The 1st issue is the cause of this one. Constables have to search for a department to do all or some of their Field Training. If a department does agrees to train them then they have to fit into that department's schedule. Combine this with the constables other time constraints (like earning a living) and this become nearly impossible.
- **Certification Sign-off** – Currently there are two signatures required to submit the training package to the Vermont Law Criminal Justice Training Council. A Department FTO and Department Head. This is a major issue elected Constables have no department head. Even appointed Constables usually don't have a department head.
- **Certification sign-off from multiple departments.** If a constable is able to get Field Training from multiple departments the current structure allows for only 1 sign-off. The final or predominate training organization is not going to sign-off on what the other department has done. Hence no certification.
- **Lack of Statewide Police Powers or its perception** – Under common convention, not State Law, constables basically have jurisdiction in their towns only. That sort of makes sense if they're not trained. However current State Law states Part-time

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Certified Police Officers have statewide law enforcement powers. Certified Police Constable seemingly fall within both categories.

- Transitioning from part Time Status to full Time status - Currently the only way to transition is to go to the academy. The Academy is 550 Hours plus FTO time, where as a PT Officer completes about 200 plus of initial training - about half. So, it would seem when the PT Officer exceeds the same training hours in the same areas then they should be able to transition to FT officer and save us all the hassles of the current situation. Although the idea of attending the Academy is laudable, it's neither practical nor the most effective means to transition.

RECOMMENDATIONS

- Field Training – The legislature can provide any number of remedies:
 - 1) Enact legislation that absolves training organizations from liability for training constables or other departments. This simply raises the bar for a frivolous suit and limits the plaintiff attorney from shopping for more money.

It is believed this issue is just an easy way to say no to constables that need Field Training. Note, if an officer works for or is trained by one town and then goes to work for another jurisdiction is this liability issue? It is true that anyone can sue anyone for anything, but it is highly unlikely. This issue should be the same for the Police Academy who trains just about every Police Officer in Vermont but apparently is not liable?
 - 2) Legislate that both the VSP and Sheriffs departments that are funded by Vermont's taxpayers should be required to FTO Constables. They have the expertise and resources to do this.
- Training time -- clearly is the easiest of the issues to resolve. By statues enable the Constable or Part Time officers to obtain their certification after the academy in 18 months with mandatory extensions if training can not be obtained from official training sources. 18 months enables the constable or PT Officer to use vacation time over two years to complete their training. The new 1st Phase is 2 Weeks, field training takes about 80 that's three weeks of training. Having 18 months enable this to be done reasonable without the Constable or Officer to giving up income. The goals of having a well-trained officer are still met.
- Sign-offs -- For elected constables or appointed, this is relatively easy fix with legislation. Amend the statues to enable the constables to sign-off for their certification and training, with written proof of their training information. Training documentation is mandatory for all police part-time or otherwise and is closely scrutinized by the VCJTC. So it changes nothing.

Town Selectmen or manager can sign-off as a final confirmation of the constables law enforcement status, not to their training.

Sign offs for training done by multiple departments can easily be done by eliminating the one signature requirement. Each department signs off for what they did and the VTCJTC reviews and decides if the training is adequate. After all they are the final arbiters in whether someone gets their police certification.

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- Statewide Jurisdiction - This is relatively easy to remedy by enhancing the current statutes to simply state, "Constables may act with full police powers if they witness or become aware of a misdemeanor, felony or dangerous situation that maybe in progress or about to occur, back-up other police officers or sheriffs, as well as stop a vehicle driving erratically or dangerously if they have the means to do so safely and detain for local law enforcement if necessary."

It is only in recent history that Constables had their police powers limited to their own town because many of them were not certified and therefore it was thought they should not operate in another town.

Limiting non trained constables makes sense, but the legislature has given Constables the same training and powers of other Certified Police Officers.

When police officers acts in another jurisdiction they are acting in a mutual aid capacity, as do firefighters and EMTs who respond to another town or district. Why not Constables?

Also note, Law Enforcement Constables have higher insurance coverage charged by the VLCTs and have the same liability protection of the PO that works for a department.

- A seat at the on the VCJTC -- Another simple thing that the legislature could enact to cure a problem. This is essential to provide insight to the council and also be aware of the council's new edicts and ideas. The new PT Academy has been extended to two weeks. No one argues with additional training, but the devil is in the details. How to accomplish the goal sensibly.
- Transition from Part Time to Full Time – This also requires legislative edict. It would seem that once a Part Time Officer meets or exceeds that training curriculum of the Academy they should be able to transition given certain other criteria the Academy imparts. That is military discipline.

We have constables that are retired military, honorably discharged Vets with combat duty, a retired DOD Counter Intelligence Officer, a Military Police Senior NCO, all which cannot transition unless they go to the academy. I am sure this situation exists with other PT Officers and Sheriffs.

ISSUES REFINED

- Field training is the third component to police certification. It requires a candidate to ride patrol with a certified trainer/evaluator (FTO) for a minimum of 60 hours or until he satisfactorily completes at least 90% of the task on the evaluation sheet. (5 pages both sides) The evaluator both trains and evaluates the candidate of their ability to do law enforcement. Most FTO training is more like 80 to over 100 hours. Some can do it in 60 hours depending on the departments call volume and type of calls.

Departments claim there may be a liability issue training someone who works for another department. Or, they don't have the resources to train someone from another jurisdiction. So departments won't train constables or they may only offer to do some of their training. Partial training causes another problem – sign off.

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However, police officers in one department that works for another department, the issue of who was trained by whom does not appear to be an issue in these cases.

- Training time of one year is not practical for Constables or other Part Time Officers. Constables have to obtain training from the academy when courses are offered and/or squeeze in to schedules of departments that may be willing to offer training. Whereas a part-time officer working for a police organization has the resources of that organization to provide the training. Also they have a department head that has a vested interest in seeing the candidate completes their training on time.
- Training signoffs can be a problem for both elected and appointed constables. Although the town manager, town clerk, a Select Board member can sign-off on the document or they can choose not to sign-off. This requirement gives one elected or non-elected official power over another elected official, which is contrary to Vermont statutes and case law.

Since there is no police chief to monitor and manage the constables training it puts the signatory of the document in legal peril in that they swear that the constable has had the training.

As mentioned before if the constable obtains training from multiple departments then there is no one person that can sign-off, or it places a burden for sign-off on one department of all the training which they are reluctant to do.

- Statewide law enforcement powers are essential to certified constable who maintain their certifications, just like the Capital Police, state court officers, liquor control agents, part time VSP and certain federal officers. A Constable that maintains their mandated training are better trained and actually perform police work in their communities unlike the Capital Police, court officers or other special police.
- Lack of representation on the Vermont Police Training Council

Also, note there is no distinction between a police officer or sheriff that is sworn in their jurisdiction then a Constable Sworn in their town. You're not going to see a Burlington Police officer sitting in Rutland giving out tickets, unless their asked to. No difference with Constables

The advantage of clarifying the issue of statewide enforcement clearly benefits the people of Vermont. It eliminates ambiguity that enables the Constable to aid other police officers, intervene in a Domestic Violence situation, assault, and burglary etc. without fear of possible legal action.

In these case the officer would be mitigating the situation until the officers in that jurisdiction arrive to make the arrest or manage the situation forward.

If the constable witnesses a person driving erratically or dangerously and has the means to effect a safe stop and detain the person(s) for the police of that jurisdiction to make an arrest, if necessary, it would benefit all of us.