

**VERMONT LAW ENFORCEMENT STRUCTURE IN THE OPERATION OF
GOVERNMENT: LEGAL REFERENCE GUIDE**

I. CAPITOL POLICE DEPARTMENT.

- a. **Generally.** The Capitol Police Department is created within the Office of the Sergeant at Arms. The Sergeant at Arms appoints Capitol Police officers, one of whom shall be Chief. [2 V.S.A. § 70\(a\)](#).
- b. **Certification.** Capitol Police officers are required to be Level II or III certified, except the Chief is required to be Level III. [2 V.S.A. § 70\(b\)\(2\)](#).
- c. **Duties.** The Capitol Police Department shall provide security within the State House and assist the Commissioner of Buildings and General Services in providing security detail and law enforcement services within the Capitol Complex pursuant to an MOU. [2 V.S.A. § 70\(c\)](#).
- d. **Jurisdiction; authority.** Capitol Police officers have the same statewide authority as sheriffs and other LEOs, including the authority to arrest, enforce civil and criminal laws, and serve civil and criminal process.
[2 V.S.A. § 70\(b\)\(1\)](#).

II. CONSTABLES.

- a. **Authority.**
 - i. A town may vote to prohibit a constable from exercising law enforcement authority. [24 V.S.A. § 1936a\(a\)](#).
 - ii. Even if a constable is prohibited from exercising law enforcement authority, via [24 V.S.A. § 1936a\(b\)](#), a constable may perform the following duties:
 1. serve civil or criminal process, via [12 V.S.A. § 691](#);
 2. destroy animals, in accordance with [20 V.S.A. ch. 193](#);
 3. kill injured deer, via [10 V.S.A. § 4749](#);
 4. provide assistance to the health officer in the discharge of the health officer's duties, via [18 V.S.A. § 617](#);

5. serve as a Criminal Division of the Superior Court officer, via [24 V.S.A. § 296](#) (“transportation of prisoners”);
6. remove disorderly people from town meeting, via [17 V.S.A. § 2659](#); and
7. collect taxes, when no tax collector is elected, via [24 V.S.A. § 1529](#).

b. ***Constitutionally required?***

- i. Constables are mentioned *once* in the Vt. Const. in [Vt. Const. Ch. II, § 47](#), which requires “the Constable” to seal up the votes for Governor and deliver them to the General Assembly. Constables do not actually perform this duty.
- ii. *Compare to:*
 1. [Vt. Const. Ch. II, §§ 43 and 52](#), which require towns to elect justices of the peace.
 2. [Vt. Const. Ch. II, § 54](#), which mentions once as an incompatible office the Surveyor-General. This office was abolished by the General Assembly via 1838, Act No. 25.
 3. [Vt. Const. Ch. II, § 62](#), which requires deeds and conveyances to be recorded “in the Town Clerk’s office in their respective towns; *and for want thereof*, in the County Clerk’s office in the same county [emphasis added].”
- iii. The Supreme Court of Vermont discussed — but did not provide a holding on — this issue in [Opinion of the Judges of the Supreme Court on the Constitutionality of “An Act Providing for Soldiers Voting”, 37 Vt. 665, 671 \(1864\)](#) [starting on pg. 7, par. 1 in link]:

“It has been suggested that the office of constable is one not created, or required by the constitution; that it would be perfectly competent for the legislature to abolish the office, and provide that some other officer should preside in freeman’s meetings, as they have already, in the case of the absence or disability of the constable.

“But, granting all this to be true, it proves nothing, provided the constitution, in the use of the word constable, meant the constable of the town, whose official authority was, of course, by law limited to the town, and who could not legally act officially, either in receiving votes, or otherwise, beyond its limits.

“For, although the legislature might have power to provide some other officer to preside in the meeting, it would still remain equally clear that the constitution intended voting to be in the town, or *freemen’s* meeting.”

- iv. See also this [Analysis of the General Assembly’s Authority to Control the Qualifications to Vote and Hold Office in Local Elections](#), which on pgs. 3-4, § II(D)(1) discusses the SCOV’s 1789 State v. Marsh case (elections by ballot) and on pg. 4, § II(D)(3) the SCOV’s similar 1886 Rowell v. Horton case (oaths), each of which held that the Vt. Const. does not control local government or local elections.
- c. ***Elected or appointed.*** A town is required to elect a first constable, and if needed a second constable via [17 V.S.A. § 2646\(7\)](#), unless the town has authorized its selectboard to appoint those constables via [17 V.S.A. § 2651a](#).
- d. ***Jurisdiction.*** Constables do not have statewide law enforcement authority because statute does not provide it to them.
 - i. “As a general rule, a peace officer acting without a warrant outside his territorial jurisdiction lacks official power to apprehend offenders, unless state statute provides such authority . . . Since a constable is a town officer [citing [17 V.S.A. § 2646\(7\)](#)], it necessarily follows that the constable’s authority to enforce the law, absent statutory expansion of such authority, is limited to the territorial confines of that particular town.” State v. Hart, 149 Vt. 104, 106 (1987).
 - 1. In Hart, the SCOV held that a Bethel constable did not have authority to make a warrantless DUI arrest in Royalton.

2. The case specifically did not address the issue of fresh pursuit. *Id.* at 108.
- ii. The law only allows constables to act outside their jurisdiction in a few instances, such as:
 1. [12 V.S.A. § 691](#), which allows constables to serve civil or criminal process statewide;
 2. [24 V.S.A. § 1936a\(c\)](#), which allows constables to transport people arrested for DUI to another town’s police department for processing (so long as the constable is authorized to enforce the law, and the constable is certified by the Council to perform DUI processing); and
 3. [24 V.S.A. § 1936a\(d\)](#), which allows one town’s constable—who is authorized to enforce the law—to exercise law enforcement authority in another town.
 - e. *Service and transport.* Constables may receive fees for civil process, transportation, and care of prisoners, juveniles, and patients with a mental condition or psychiatric disability. [32 V.S.A. § 1591](#).

III. DEPARTMENT OF ENVIRONMENTAL CONSERVATION; INVESTIGATORS.

Investigators employed and designated by DEC may enforce specified environmental laws and arrest violators thereof pursuant to [10 V.S.A. § 906](#), but are not included within the definition of a “law enforcement officer” in [20 V.S.A. § 2351a](#) and are therefore not required to be certified as law enforcement officers.

IV. DEPARTMENT OF FISH AND WILDLIFE; GAME WARDENS.

Game wardens who are Level II or Level III certified have the same law enforcement authority as State Police, sheriffs, constables, and municipal police. [10 V.S.A. § 4198](#). Game wardens are included within the definition of a “law enforcement officer” in [20 V.S.A. § 2351a](#).

V. **DEPARTMENT OF PUBLIC SAFETY.**

a. *Generally.*

- i. *Creation.* DPS was created “for the purpose of consolidating certain existing police and investigating agencies, **to promote the detection and prevention of crime generally**, and to participate in searches for lost or missing persons, and to assist in case of statewide or local disasters or emergencies.” [20 V.S.A. § 1811](#).
 - ii. *Cooperation.* DPS is required to cooperate with other State entities and with the federal government “for the purpose of preventing and detecting crime and apprehending criminals.” [20 V.S.A. § 1814](#).
 - iii. *Law enforcement, generally.* Aside from other specified law enforcement duties, DPS is required to administer and enforce the law re: **the patrol of highways and the operation of traffic on them**; “the identification and records division;” and the Office of State Fire Marshal. [20 V.S.A. § 1813](#).
 - iv. *Missing persons and search and rescue.* The Commissioner of DPS is required to:
 1. Coordinate State and local efforts when necessary to protect a missing person from harm. [20 V.S.A. § 1827](#).
 2. Have jurisdiction over all search and rescue operations and to coordinate State, local, county, and nonpublic efforts when necessary to conduct a search and rescue operation. [20 V.S.A. § 1842](#).
 - v. *MOUs.* The Commissioner of DPS is required to enter into MOUs with the Commissioners of Fish and Wildlife, of Motor Vehicles, and of Liquor Control and their respective directors of law enforcement to generally coordinate services. [20 V.S.A. § 1883](#).
- b. *Vermont State Police.* VSP officers are peace officers with the same law enforcement powers as sheriffs, constables, and local police. [20 V.S.A. § 1914](#).

- VI. **INTERMUNICIPAL AGREEMENTS.** [24 V.S.A. § 1938](#) allows for intermunicipal law enforcement agreements among municipal police, sheriffs, UVM police, and State agencies.
- VII. **INTERSTATE AGREEMENTS.** [24 V.S.A. § 1937](#) allows for reciprocal assistance agreements between Vermont municipal police chiefs or sheriffs and neighboring states.
- VIII. **LAW ENFORCEMENT ADVISORY BOARD.** [24 V.S.A. § 1939](#) created the Law Enforcement Advisory Board within the Department of Public Safety to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. It is composed of a variety of law enforcement-related appointees. While created as an advisory entity, the General Assembly has also given it substantive authority, such its authority in [20 V.S.A. § 2367\(b\)](#) to establish the statewide policy that law enforcement officers must follow for being trained on and using electronic control devices and its authority in [2016, Act No. 163](#) to establish a model policy for law enforcement officers who use body cameras.
- IX. **MIDDLEBURY COLLEGE, DEPARTMENT OF PUBLIC SAFETY.** Middlebury College does not have a police department. Instead, its Department of Public Safety provides uniformed *security officers* who patrol campus and respond to emergencies. These security officers do not have the authority to enforce the law. *See* the Department's [webpage](#).
- X. **MUNICIPAL POLICE.**
- a. **Creation.** The legislative body or town manager of a city, town, or incorporated village may establish a police department. [24 V.S.A. § 1931](#).
 - b. **Jurisdiction; authority.** Municipal police have the same authority as sheriffs and their power may be exercised statewide. [24 V.S.A. § 1935](#).
 - c. **Ordinance and traffic ticket revenue.** [13 V.S.A. § 7251](#) provides for the payment to towns of fines/forfeitures/penalties imposed by the Judicial Branch.

- i. *Town ordinance violations.* Subsec. (a) provides that town ordinance fines/forfeitures/penalties are paid to the town, except for a \$12.50 administrative charge/case that is retained by the State.
- ii. *State highway violations.*
 1. Subsec. (b) provides that when a town LEO enforces State highway traffic violations, the fine/forfeiture/penalty is paid to the town via the formula in subsec. (c), except for a \$12.50 administrative charge/case that is retained by the State. This revenue is distributed annually in the first quarter of the fiscal year following the fiscal year the fine/forfeiture/penalty is collected.
 2. Subsec. (c) provides the formula. The Court Administrator updates the allocated revenue annually under the formula. A town cannot receive more than 5% of the total revenue in any year. The formula is based on the percentage of the town's law enforcement expenditures as compared to its total municipal taxes.

XI. **NEW HAMPSHIRE LAW ON POLICE COVERAGE.** New Hampshire does not require towns over a certain size to have a police department. Instead, [N.H. Rev. Stat. Ann. § 106-B:15](#) provides in part that a NH State Police officer **shall not act within the limits of a town having a population of more than 3,000 or in any city**, unless the officer witnesses a crime, is in pursuit, is searching for a criminal or witness, is faced with a public safety emergency, is requested to act by another law enforcement agency, or is performing other misc. specified duties.

XII. **SHERIFFS.**

- a. ***Accounting; audits; financial reports.*** Sheriffs are required to comply with accounting required by the Auditor of Accounts; sheriff departments are required to be audited; and sheriffs are required to file annual financial reports with the Auditor of Accounts, with a copy to the county's assistant judges. [24 V.S.A. § 290b.](#)

- b. **Bond.**
- i. Sheriffs are constitutionally required to give a bond “in such sums as shall be directed by the Legislature.” [Vt. Const. Ch. II, § 25](#).
 - ii. Sheriff bonds are \$100,000.00. [24 V.S.A. § 291](#).
 - iii. Failure to bond renders a sheriff’s office vacant. [24 V.S.A. § 292](#).
- c. **Budget.** The Executive Director of the Department of State’s Attorneys and Sheriffs submits budget materials re: State sheriff appropriations; monitors and reports on the sheriffs’ transport budgets; and provides centralized support services. If a sheriff is aggrieved by the Executive Director’s decision re: a sheriff expenditure, the question is decided by the Executive Committee of the Vermont Sheriff’s Association. [24 V.S.A. § 367](#).
- d. **Compensation; fees.**
- i. *Salary.* Elected sheriff salaries are set forth in [32 V.S.A. § 1182](#). Under that section, all sheriffs receive the same salary, except the CHI sheriff is entitled to a higher amount and a sheriff’s compensation is reduced 10% if sheriff is not a Level III certified LEO.
 - ii. *Service and transport.* Sheriffs may receive fees for civil process, transportation, and care of prisoners, juveniles, and patients with a mental condition or psychiatric disability. [32 V.S.A. § 1591](#).
- e. **Contracts.** Sheriffs may contract “to provide law enforcement or other related services including security services, central dispatching for police, fire, or ambulance services, and centralized support services.” Statute provides requirements for and reporting of contracts. [24 V.S.A. § 291a](#).
- f. **Districts; number.**
- i. Statute determines the number of sheriff districts because sheriff districts are “as established by law.” [Vt. Const. Ch. II, § 50](#).
 - ii. Statute establishes a sheriff’s department in each county. [24 V.S.A. § 290\(a\)](#).
- g. **Duties; powers**
- i. *Peace officer.* Sheriffs shall preserve peace and suppress unlawful disorder. [24 V.S.A. § 299](#).

ii. *Service.*

1. Sheriffs “shall serve and execute lawful writs, warrants, and processes directed to him or her[.]” [24 V.S.A. § 293](#).
2. Deputy sheriffs serving process need not be LEOs, but if not an LEO, shall not have arrest powers or carry firearms. [24 V.S.A. § 307\(b\)](#).

iii. *Transport.* Sheriffs and deputy sheriffs shall make commitments to a State correctional facility or other place named by the Commissioner of Corrections or committing court. [24 V.S.A. § 296](#).

iv. *Warrants.* Sheriffs may conduct searches with warrants. [24 V.S.A. § 302](#).

h. *Elections.*

- i. Sheriffs are elected every four years “by the voters of their respective districts as established by law.” [Vt. Const. Ch. II, § 50](#).
- ii. Sheriffs are elected at the general election. [Vt. Const. Ch. II, § 43](#).

i. *Employees.*

- i. *Generally.* Sheriff has discretion to appoint deputy sheriffs and supporting staff. [24 V.S.A. § 290\(a\)](#).
- ii. *County.* “Full-time employees of the sheriff’s department, paid by the county, shall be county employees for all purposes but shall be eligible to join the State Employees Retirement System, provided the county shall pay the employer’s share.” [24 V.S.A. § 290\(a\)](#).
- iii. *State.* [24 V.S.A. § 290\(b\)](#):
 - “Full-time deputy sheriffs whose primary responsibility is transportation of prisoners and persons with a mental condition or psychiatric disability shall be paid by the State of Vermont.
 - “The appointment of such deputies and their salary shall be approved by the Governor or his or her designee.
 - “The Executive Committee of the Vermont Sheriffs Association and the Executive Director of the Department of State’s Attorneys and Sheriffs shall jointly have authority for the assignment of position locations in the counties of State-paid deputy sheriffs and shall review

the county location assignments periodically for efficient use of resources.”

- j. ***Incompatible office.*** [Vt. Const. Ch. II, § 54.](#)
- k. ***Jurisdiction; statewide.*** Sheriffs and deputy sheriffs may exercise their law enforcement statewide. [24 V.S.A. § 312](#) and [24 V.S.A. § 307\(c\).](#)
- l. ***Legal entity.*** “Equity, indebtedness, ownership of equipment, and title to motor vehicles associated with the operation of each sheriff’s department and purchased with department funds shall be held in the name of the department, not in the name of the sheriff. The department is constituted as a legal entity with the power to contract and incur liabilities.” [24 V.S.A. § 290\(c\).](#)

XIII. SPECIAL INVESTIGATIVE UNITS.

- a. ***Generally.*** [24 V.S.A. § 1940](#) requires the Department of State’s Attorneys and Sheriffs to collaborate with other entities in order to establish special investigative units that are required and permitted to investigate specified crimes, many involving sexual crimes and crimes against children.
- b. ***Sex offenders.*** [13 V.S.A. § 5415](#) requires SIUs to investigate violations of sex offender registry requirements.

XIV. VERMONT CRIMINAL JUSTICE TRAINING COUNCIL; LAW ENFORCEMENT OFFICER CERTIFICATION AND PROFESSIONAL REGULATION.

- a. ***Certification, generally.***
 - i. *VCJTC (Council).* The Vermont Criminal Justice Training Council certifies law enforcement officers. [20 V.S.A. § 2358.](#)
 - ii. *Certification required.*
 - 1. Unless the Council by rule waives certification, a person must be certified to exercise law enforcement authority. [20 V.S.A. § 2358\(a\).](#)
 - 2. The option for an elected official (ie., a sheriff or constable) to exercise law enforcement authority without certification was

repealed on July 1, 2012 via [2008, Act No. 195, § 8](#), as amended by [2010, Act No. 108, § 11](#).

- b. **“Law enforcement officer”** defined in [20 V.S.A. § 2351a](#). This section requires a person to be employed by a law enforcement agency in order to be a certified law enforcement officer.
- c. **Levels of certification.** There are three levels of certification via [20 V.S.A. § 2358\(b\)](#):
 - i. **Level I**, which is limited to **security, transport, vehicle escorts, and traffic control**. These officers may react in specified emergency situations, but must call upon an officer certified to respond and assume authority over the incident.
 - ii. **Level II**, which is limited to specified crimes. These officers may also practice in additional areas approved by the Council if they obtain special training or certification. These officers may also react in specified emergency situations, but if not within the officer’s scope of practice, s/he must call upon an officer certified to respond and assume authority over the incident.
 - iii. **Level III**, which is full law enforcement authority.
- d. **Professional Regulation.** The Council also professionally regulates LEOs under the provisions of [20 V.S.A. ch. 151, subch. 2](#) (unprofessional conduct).
 - i. This subchapter:
 - 1. Defines what constitutes unprofessional conduct for all of the State’s certified LEOs and organizes that conduct into the following categories:
 - a. Category A (specified crimes);
 - b. Category B (gross professional misconduct); and
 - c. Category C (misconduct pertaining to Council processes or operations). [20 V.S.A. § 2401](#).
 - 2. Requires each law enforcement agency to adopt an effective internal affairs program to manage complaints regarding the agency’s officers, [20 V.S.A. § 2402](#); to investigate unprofessional

conduct complaints about the agency’s officers in most cases, [20 V.S.A. § 2404](#); and to report to the Council alleged unprofessional conduct in specified circumstances, [20 V.S.A. § 2403](#).

3. Permits the Council to warn, suspend, or revoke an LEO’s certification upon a finding of unprofessional conduct, [20 V.S.A. § 2406](#), except for first offenses of Category B conduct, [20 V.S.A. § 2407](#).
 - ii. These unprofessional conduct provisions were added pursuant to [2017, Act No. 56](#), which significantly changed LEO professional regulation. See [2017, Act No. 56 Summary](#).

XV. UNIVERSITY OF VERMONT, DEPARTMENT OF POLICE SERVICES

- a. **Generally.** The University of Vermont is permitted to establish a Department of Police Services. A UVM LEO must be certified. [16 V.S.A. § 2283](#).
- b. **Jurisdiction; authority.** A UVM LEO has the same statewide law enforcement authority as a municipal police officer. [16 V.S.A. § 2283](#).
 - The Vermont Supreme Court upheld the General Assembly’s delegation to UVM police of this statewide law enforcement authority in [State v. Curley-Egan](#), 180 Vt. 305, 315-316 (2006) (“UVM’s status as a state instrumentality enabled the Legislature to delegate police power to UVM validly under [Vt. Const. Ch. I,] Article 5 [internal police]. Because UVM’s public status made it a proper recipient of the Legislature’s delegation of police power, the Legislature was free to allocate statewide jurisdiction to UVM’s police force.”).