

Law Enforcement Modernization in Vermont

A Partial Roadmap & Commitment by Law Enforcement Agencies to Work with our Communities to Achieve

DRAFT Updated June 11, 2020

Initial drafting by the Department of Public Safety, Office of the Vermont Attorney General, Vermont Association of Chiefs of Police, Vermont Criminal Justice Training Council, and the Vermont Sheriff's Association in consultation with community representatives of the Fair & Impartial Policing committee.

America has experienced a tipping point in the nationwide crisis involving police use of force. Awareness and acknowledgement of institutionalized racism throughout the criminal justice system has likely never been at a higher level.

In Vermont, there must be a systematic approach to comprehensive police reform. While much of this work has been ongoing for years, this is a time for police and the criminal justice community to listen to the concerns and calls for action and accelerate this work as rapidly as possible. It is a time for leadership from the criminal justice community to universally engage and collaborate with communities on a range of topics. Our work is about service, dignity and respect. We will move forward together to ensure we not only follow constitutional, ethical, and core values, but match the needs of our respective communities. At a minimum, that means working together with all Vermonters to end the pattern and practice of disparate, inequitable treatment of people throughout the criminal justice system. More broadly, we must forge stronger ties with the communities we serve to understand their needs and priorities and work together to resolve them. Together with our communities and partners, we commit to these changes.

What follows is an initial draft of 10 key areas for accelerating modernization by ALL law enforcement agencies in Vermont each with *some* key action items identified. Law enforcement agencies statewide stand ready to implement these, and other modernization strategies as swiftly as possible – many within 3 to 6 months. However, that pace can and will as necessary - be tempered to provide opportunities for all Vermonters, especially those in communities that have experienced inequity firsthand, to offer us their ideas and collaborate with us to provide the best standards, practices, and outcomes we can achieve.

1. **Hiring practice** – The make-up of law enforcement agencies must proactively strive to reflect all members of the communities they serve and the communities they wish to attract. Hiring must be consistent, proactive, and standardized and agencies should focus equally on not only screening candidates 'in' for desirable characteristic but should also screen 'out' for undesirable ones. The community must be an active participant in recruiting, hiring, and retaining staff. Police academy screening and testing shall be reviewed and modernized. Specifically, the written entrance and psychological exams must be updated swiftly.

Action Items

- A. Invest in additional initiatives to reach out to a more diverse hiring pool, including measurable assessments of those efforts and outcome.
 - B. Develop and deploy model questions and selection criteria, for all new officers and staff.
 - C. Identify and deploy a new written entrance examination for police applicants.
 - D. Identify and deploy a new psychological examination tool for all police applicants.
 - E. Review and update question banks for polygraph examinations of all police applicants.
 - F. Develop and deploy a list of essential areas of inquiry for police applicant background investigations.
 - G. Develop a community-based evaluation for new applicants.
 - H. Ensure that all applicants fully disclose any prior performance or disciplinary problems and/or any existing legal agreements with former employers.
 - Option: Applicants must sign a waiver that allows previous employers to release information relating to prior job performance including any confidential agreements that are subject to non-disclosure agreements.
2. **Training** – There must be comprehensive law enforcement training modernization with emphasis on:
 - A. The importance of and detail surrounding the history of disparate treatment by police and all other

aspects of the criminal justice system. This includes the history of law enforcement upholding and protecting antiquated and unjust laws, implicit and explicit bias, cultural humility, effective communication and de-escalation. Such training must be regularly taught and updated at all levels.

- B. Consistent training and understanding of core values, drafted and adopted in collaboration with community, by all members of every agency.
- C. Mandatory annual training on critical topics including: core values of policing, cultural competency/humility, effective communication/de-escalation/use of force – including training scenarios.
- D. Emphasis on regional training delivery to ensure broad accessibility.
- E. Ongoing, sustained, advocacy with municipal and state officials for increased investment in training.
- F. Ongoing collaboration with communities to modify training as needed.

Action Items

Develop and use updated, statewide training, schedules, and different methods to provide such training.

- 3. **Promotion/supervisor selection** – Prior to any promotion, candidates must demonstrate through their work cultural awareness and their embrace of the importance and emphasis on fair and impartial policing practices as well as de-escalation and procedural justice. In other words, they must have a proven track record and understanding their role in ensuring fairness, dignity, and respect are essential in every response or encounter. This requires historical and institutional knowledge of the role of law enforcement in our country and our state. That knowledge must be applied to practice with a complete understanding of the principles of community policing and supervision. Action Items:
 - A. Develop and deploy model questions and selection criteria for all new supervisors
 - B. Develop and deploy pre-command courses and knowledge checklists for supervisors and executives to be used in selection and training of all new supervisors and as a basis to train / cross-check the knowledge of all existing supervisors. (e.g. Act 56 and other topics)
 - C. Develop a statewide hiring/consulting team for law enforcement executives (Chiefs).
- 4. **Improper Conduct Allegations** – The investigation of improper conduct must be as transparent as possible while protecting personnel and complainant privacy, including easy access to make complaints. Investigations must be consistent in outcomes and include community oversight. (As noted below, there are many different models of community oversight. We will work with our communities to develop the most suitable model(s).

Proper documentation of any investigation must be maintained. Early intervention systems must be in place to identify at the earliest opportunity officers or employees who are engaging in at-risk actions, failing to meet community or department standards, have personal welfare needs, or require training or other support. Such systems should also provide a means of identifying supervisors whose employees may be exhibiting deficiencies or needs. Early intervention provides a means for identifying potential problems and, whenever practicable, addressing them through non-punitive means to help officers and employees perform at the highest professional standards.

There must be statutory reform governing the release of police misconduct allegations as well as reform of the disciplinary grievance process. Employees discharged from service for misconduct by any agency should be reported to the Criminal Justice Training Council for consideration of de-certification.

Action Items

- A. Develop a statewide reporting portal and universal phone number for reporting allegations of misconduct. This portal will include a database of both sustained and non-sustained allegations. Develop policy for the operation, maintenance and transparency of the data housed in the portal.
- B. Develop recommendations and options for models agencies can use to engage community in the oversight process. (see also #7 below)
- C. Develop a statewide model policy for investigating allegations. The development process, in collaboration with our communities, should consider different models used outside of Vermont, including those

involving civilian investigators or investigators from other agencies.

- D. Develop a new statutory framework for release of data and information regarding misconduct allegations for legislative consideration.
 - E. Consider a statewide investigation model for internal affairs.
5. **Data** – There must be an updated statewide data collection system that is standardized and mandatory for all agencies related to use of force, traffic stops, arrests, mental health and other related topics. This data should be used to help shape oversight and training efforts, be fully accessible to the public in easy-to-read formats and housed as a statewide database.

Action Items

- A. The Department of Public Safety (DPS) will vendor and execute contract for deploying new computer aided dispatch and records management system (in progress) and deploy the system statewide.
 - B. DPS will develop statewide, publicly accessible data dashboards for key topics including but not limited to crime reports, calls for service, use of force, race data collection, etc.
 - C. DPS will develop a methodology to report raw, comprehensive statewide data, excluding personal identifying information.
6. **Body Worn Cameras** – All law enforcement agencies must be required to use body worn cameras and have clear, consistent statewide policies governing their use - including universal policy on activation / de-activation, privacy issues, and release of camera footage.

Action Items

- A. Identify scope of need for cameras by all Vermont agencies.
 - B. Identify possible grant funding sources.
 - C. Assess use of a single statewide contract.
 - D. Work with the administration and the legislature to identify possible state startup funding sources.
 - E. Identify and make available to all communities examples of national best practices in body worn camera policies, training, and practice.
 - F. Collaborate with the community to develop a model policy and training program.
7. **Community Collaboration** – We must redouble our commitment to work with all Vermonters — especially those in marginalized communities that have borne the brunt of explicit and implicit bias — to help us strike the right balance of community and public safety needs. Law enforcement officers are members of our community who pledge to provide public safety and meet community needs in the most professional, means possible. They and their agencies lose legitimacy when they fail to meet that obligation. Without legitimacy, community safety, and officer safety, suffers.

Our nation’s history tells us that such failures often arise when law enforcement adopts a “warrior” approach to public safety — where priorities are sometimes described or carried out in militaristic fashion, or where the emphasis is upon maximizing arrests or citations — rather than taking a community-based, problem-solving approach. . This latter approach, sometimes referred to as the “guardian” approach to policing, encourages trust building, cooperation, and collaboration with the community.

Action Items

- A. Develop recommendations and options for models that agencies can use to collaborate with our community in hiring, training, promotion, policy development, accountability process, as well as general information about the operation of and opportunities to partner with each agency.
 - B. Embrace restorative practices in daily operations and, possibly, as part of the process to achieve the goals and strategies within this document.
8. **Community Oversight Models** – All law enforcement agencies must one or more means of providing community oversight. Such oversight would include assessment of, and input regarding hiring, training, promotional process, policy development, and accountability/discipline.

Action Items

- A. Develop recommendations, options, and models that agencies can use to engage community in hiring, training, promotion, policy development, and accountability process.
- B. Consider stipends for community members serving in this capacity to ensure broad participation.
- C. Develop and deliver model law enforcement and criminal justice training and guidance materials for community members serving in oversight so that they may more effectively and consistently carry out their responsibilities.

9. **Policy** – There must be a statewide model policy on the use of force for all law enforcement agencies and officers. The model policy shall establish a statewide definition for what constitutes a use of force by police and the following standards shall be included:

- A. Authorizing the use of force only where it is reasonable, necessary, and proportional.
- B. Addressing the First Amendment rights of community members, including community gatherings or protests.
- C. Duty for officers to intervene on improper use of force.
- D. Prohibition of strangleholds and similar neck restraints.
- E. Requirement to de-escalate encounters with the public, whenever practicable, to reduce the risks to the public and officers alike.
- F. Issue warning before using deadly force, if possible.
- G. Prohibit firing at or from moving vehicles.
- H. Implementation of the use of force continuum.
- I. Evaluate uses of force not only for legal requirement or policy requirements, but also for any deficiencies in equipment, tactics, or training.
- J. Comprehensive reporting on all use of force and requisite review, including an assessment of de-escalation and other tactics leading up to the use of force. Such a review should also identify any equipment, resource, or training needs.
- K. Develop a feedback loop between use of force review and training. Officers complying with law and policy may nonetheless need additional training to avoid or better manage conflict or high-risk encounters in the future. Training instructors may also further refine curriculum to account for lessons learned from use of force incidents or high-risk encounters.
- L. Statutory mandate that all lethal force used by law enforcement and all deaths in custody are investigated by the Vermont State Police Major Crime Unit and reviewed independently by the Office of the Attorney General and appropriate State's Attorney.
- M. Requirements for comprehensive reporting and documentation.

Failure to adopt the model policy should result in limitations on state funding for the agency.

Action Items

Develop and adopt statewide, in all agencies, an updated use of force policy containing, at a minimum, all of the items listed above.

10. **Military Equipment** – Develop a statewide stance on the use of surplus military equipment.