

Law Enforcement Modernization in Vermont  
~~A Partial Roadmap & Commitment by Law Enforcement Agencies to Work with our Communities to Achieve~~  
Racial Justice Legislation and Policy Initiatives that Address Systemic Racism  
DRAFT Updated June 12, 2020

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 communities on a range of topics. Our work is about service, dignity and respect. We will move forward together to ensure adherence to our core values and to end the pattern and practice of disparate, inequitable treatment of the people we serve. 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 allow robust community participation and input.

1. **Hiring practice** – The make-up of law enforcement agencies must proactively strive to reflect the community they serve and the community 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. Develop and deploy model questions and selection criteria, as well as undesirable characteristics, for all new officers and staff.
  - B. Identify and deploy a new written entrance examination for police applicants.
  - C. Identify and deploy a new psychological examination tool for all police applicants.
  - D. Review and update question banks for polygraph examinations of all police applicants.
  - E. Develop and deploy a list of essential areas of inquiry for police applicant background investigations.
  - F. Develop a community-based evaluation for new applicants.
  - G. Ensure that all applicants fully disclose any prior performance or disciplinary problems and/or any existing legal agreements with former employers.
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 (including the history of law enforcement upholding and protecting antiquated and unjust laws), implicit and explicit bias, cultural humility, effective communication and de-escalation 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 integrated 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.

Action Items

Develop and deploy updated, statewide training, schedules, and options using varied delivery methods on the topics listed above.

- 3. **Promotion/supervisor selection** – Prior to any promotion, candidates must exhibit cultural awareness and fully understand the importance and emphasis on fair and impartial policing practices as well as 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. Consider 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. Proper documentation of any investigation must be maintained, and early intervention systems must be in place. 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 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.
- D. Develop a new statutory framework for release of misconduct allegations for legislative consideration.
- E. Consider a statewide investigation model for internal affairs.
- F. Include a comprehensive definition and an effective ban on racial profiling.
- G. Prohibit the use of certain kinds of deadly force, such as chokeholds and knees to the neck.
- H. Make law enforcement disciplinary records public.
- I. Require community-level oversight boards to review law enforcement misconduct complaints.
- J. Create an independent commission to review and respond to complaints of racial profiling and regularly publish results of racial profiling investigations.
- K. Establish non-law enforcement response teams that include social workers or experts in mental health or substance use disorders (licensed counselors or clinicians) who assist in responding to behavioral health situations, minimize excessive use of force, reduce the prevalence of mental health and substance use crises, and avoid unnecessary entry into the court system when the matter is better handled by alternative services.
- L. Fund direct service organizations that provide assistance with housing, food, employment, education, mental health and substance use disorders.
- M. Establish a different emergency number, not 911, for the public to call when an incident does not involve immediate danger (e.g., 211).

## 5. End Stop and Frisk Abuses

### Action Items

- A. Ban pretextual stops—instances in which police use minor/common violations to inquire about drugs, guns, or other breaches of the law—of pedestrians and motorists.
- B. Prohibit searches and seizures by law enforcement that rest on subjective factors that are proxies for racial bias, including nervousness, threatening behavior, city of origin or destination, and flight.<sup>1</sup>
- C. Expand the right to an interpreter granted to hearing-impaired individuals, as established in 1 V.S.A. §§ 337, 338, to include those with limited English proficiency and require use of competent language interpreters. Amend the scope of these statutes to include juvenile delinquency proceedings.
- D. Require clear and convincing evidence of a valid consent prior to a warrantless search and seizure.
- E. Establish the right to consult with an attorney prior to responding to a request by law enforcement to consent to a warrantless search or seizure.
- F. Require suppression of illegally obtained evidence or dismissal of the case in criminal and juvenile delinquency proceedings when law enforcement engages in racial profiling or pretextual searches and seizures.
- G. Establish relief through the civil courts to stop individual law enforcement officers and departments from engaging in racial profiling and enforce anti-racist measures by specifically permitting compensatory and punitive damages; injunctive and declaratory relief; and such other relief as a court deems appropriate.

6.

7. **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.

8. **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 release of camera footage. **Establish a rule of evidence that prohibits the admission of law enforcement testimony about matters that the body cam would have picked up if the officer does not use the body cam.**

### 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.

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<sup>1</sup> See State v. Clinton-Aimable, 2020 VT 30; Zullo v. State, 2019 VT 1;

9. **Community Outreach** – Traditionally marginalized communities, and those in marginalized positions, must be proactively engaged by the criminal justice system, specifically law enforcement. Law enforcement must balance and bring congruence to operational and strategic priorities of the specific agency with an understanding of the concerns and public safety priorities of the community. Police act with authority as public safety professionals as an extension of our community and the standards and expectations set by our community. When community perceptions of legitimacy are damaged or agencies are operating in a way that is incongruent with community standards, departments lose legitimacy. The “guardian” approach to policing encourages trust building, cooperation, and collaboration with the community. Without legitimacy, community safety, and officer safety, suffers.

Action Items

- A. Develop recommendations and options for models agencies can use to engage 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.
10. **Community Advisory Panels** – All law enforcement agencies must have a community advisory panel to advise executive leadership on a range of topics including but not limited to: hiring, training, promotional process, policy development, and accountability/discipline.

Action Items

- A. Develop recommendations, options, and models 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.
11. **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. Duty for officers to intervene on improper use of force.
  - B. Prohibition of strangleholds and similar neck restraints.
  - C. Requirement to de-escalate except for rapidly evolving violence or threats.
  - D. Issue warning before using deadly force, if possible.
  - E. Prohibition of firing at moving vehicles.
  - F. Implementation of the use of force continuum.
  - G. Comprehensive reporting on all use of force and requisite review.
  - H. Statutory mandate that all lethal force used by law enforcement is investigated by the Vermont State Police Major Crime Unit and reviewed independently by the Office of the Attorney General and appropriate State’s Attorney.
  - I. 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.

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