



**STATE OF VERMONT**  
**Capitol Police Department**  
**Chief of Police Matthew S. Romei**

Memorandum

To: Senate Judiciary Committee

From: Chief Matthew Romei  
Capitol Police Department

Re: S.30

Date: 27 January 2021

I write today to convey a few points for the Committee to contemplate as you consider S.30. For the record, The Capitol Police Department does not take a position in favor or against this bill.

**Current Standards**

The Capitol Police operate under different rules and laws based on location within the Capitol Complex<sup>1</sup>. What is consistent across the locations, is that nearly every action we take is viewed through the lens of First Amendment Protected Activity. If the conduct arises during a First Amendment Protected Activity, there is a significant restraint on enforcement conduct, and it must be 100% content-neutral, and based on time-place-manner restrictions.

Within the State House, the Capitol Police also act as Deputy Sergeants at Arms<sup>2</sup>. Firearms are prohibited by Joint Legislative Rule 26 (c), with an exception for "official purposes". If we were notified that a member of the public had entered the building with a firearm, we would approach the person and inquire if they were in possession a firearm. If they were in possession of a firearm (or other "dangerous or deadly weapon"), we would inform them of the Rule, and ask that they return the item to their vehicle and secure it there. If they refused, we would ensure they understood the rule, and if they continued to refuse, we would give them a trespass warning and eject them from the building for the remainder of the day<sup>3</sup>. Everything up to this point is done in the capacity of Deputy

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<sup>1</sup> Defined in 29 V.S.A. § 182 (1)

<sup>2</sup> 2 V.S.A. § 70 (a)

<sup>3</sup> 13 V.S.A. § 3705 and Vermont Constitution Chapter II § 8 "The doors of the House...shall be open for the admission of all persons *who behave decently*" (Emphasis added).

Sergeant at Arms. If they refused to leave, we would, acting in the capacity of a Capitol Police Officer, arrest them for Criminal Trespass. Under the current process, absent any other complexities (warrants, significant criminal history etc.), that person would be most likely processed and released on conditions of release and a citation to Washington County Criminal Court and their weapon would be returned to them at the time of release. *This has never happened in the memory of any Capitol Police Officer, or the Sergeant at Arms.*

In the Supreme Court Building at 115 State Street, we respond (on request) to assist Judicial Security with any issues. A person bringing a weapon into that facility would be in violation of 13 V.S.A. § 4016 and we would arrest, process, and most likely release on conditions and a citation as above.

### **Current Standards (continued)**

Other State Office buildings in the Complex, security is the responsibility of the Commissioner of Buildings and General Services<sup>4</sup>. Firearms are prohibited in State Buildings by Administrative Rule<sup>5</sup>, and by BGS Administrative Policy 0007<sup>6</sup>. Under the current Memorandum of Understanding<sup>7</sup> the Commissioner of BGS has conveyed to the Capitol Police the authority to enforce rules promulgated by the Commissioner. Capitol Police would respond at the request of BGS Security or as dispatched for a complaint within the Capitol Complex. Absent active violence or an imminent threat, we would coordinate with BGS Security on further actions, including removal from the premises. If the offending person committed a crime in the presence of a Capitol Police Officer, including trespassing after warning, where BGS Security directed the person to leave, the Officer has the discretion to arrest. Once processed, the person would likely be released on conditions of release and a citation to Washington County Criminal Court and their weapon would be returned to them at the time of release.

The State House Lawn is a “State Ground” and a “State Facility” under the Administrative Rules and has a couple of additional sets of rules that govern it. Firearms are “discouraged” on the State House Lawn but are not prohibited<sup>8</sup>. There have been numerous events where persons have “open carried” weapons on the Lawn. Where we have observed the open carriage of long guns, Capitol Police have engaged with the persons, and encouraged them to stow them in their vehicle. If they have been adamant about carrying them, we have ensured they kept them slung, and understood the consequences of misconduct would be swift.

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<sup>4</sup> 29 V.S.A. § 171, 172

<sup>5</sup> CVR 10-050-003 5.0

<sup>6</sup> <https://bgs.vermont.gov/commissioner/adminpolicies/0007>

<sup>7</sup> 29 V.S.A. § 171(f)

<sup>8</sup> 2018-09-25 – State House Lawn Guidelines Section 11.

**Thoughts to consider on S.30 (as currently drafted)**

- This bill would eliminate one barrier to screening in State Buildings, including the State House. To be clear, there would be several barriers remaining. In considering passive weapon screening measures and technology for possible use at the State House, I have been advised by Legislative Counsel that screening amounts to a search, and we cannot lawfully search for something that is not illegal.
- The modification beginning on line 13 “that is currently in use for the performance of essential governmental functions” could minimize the effectiveness of any comprehensive screening program that could be implemented. For instance, we could not screen at the State House for Farmer’s Night, which would allow someone to bring a weapon or device into the State House and secret it for subsequent use.
- The exemption contemplated beginning on Line 18 of Page 1, applies to “legitimate law enforcement purposes, whether the officer is on or off duty.” I take that to mean that if a law enforcement agency authorizes the officer to carry off duty, they could still carry under this potential law. I would like to see this clarified, so not to arrive at the issues we see under the Weapons on School Grounds/in School Buildings statute (13 V.S.A. § 4004).
- Perhaps addressing 18 U.S.C. 926B or 926C in this would help. 926B is the “Carrying of concealed firearms by qualified law enforcement officers” and 926C is the same for qualified retired law enforcement officers. This statute does not limit laws that “prohibit or restrict the possession of firearms on any State or local government property, installation, building, base, or park”<sup>9</sup>. However, the General Assembly could limit the application of this law in that fashion or authorize the custodians of the property to create administrative rules to govern their buildings. For instance, the State House could adopt rules that prohibit carrying by QLEOs when screening is in place etc.
- If S.30 were to pass as currently written, I do not see a significant change in the safety of occupants of the listed prohibited places, unless those places implement a comprehensive, full-time screening program.

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<sup>9</sup> 18 U.S.C. § 926(B)(b)