



STATE OF VERMONT
OFFICE OF THE STATE AUDITOR

March 1, 2023

State Auditor's Office Testimony Re: VCJC Recommendations Bill – Draft 1.3

Our 2022 VCJC audit included three matters for the Legislature to consider.

1. Consider modifying 20 V.S.A. §2358 to require that candidates for law enforcement certification take a minimum of four hours of Fair and Impartial Policing training.
2. Consider requiring VCJC to review and assess whether law enforcement agencies have adopted the policies required by Title 20, Chapter 151 for their current policy versions *and* whenever an agency makes a change.
3. All officers are supposed to have received 16 hours of ARIDE training by Dec 31, 2021. VCJC guidance appears to contradict the law, which will need to be addressed either by VCJC requiring compliance or seeking a change to the law.

Audit Recommendation #1

Sections 1 +2 of the draft relate to Recommendation #1, but use a “competency” approach to FIP training rather than a minimum number of required training hours as we suggested. As background, the status quo looks like this:

- Initial FIP training for Level III officers has been a six hour block
- Initial FIP training for Level II officers was expected to be a four hour block
- All certified officers are required to receive a refresher course in FIP (of an unspecified nature and amount) every odd year
- The Legislature required all officers to receive four hours of FIP training by December 31, 2018

Adopting a competency approach is a policy choice for the committee to make. Competency-based assessments can be effective, and we have no reason to believe the VCJC will not devise a plan that effectively trains officers in this important aspect of law enforcement. We highlight the potential risk of this approach with an example for you to consider, though. In our audit, we found one officer who appears from the documentation to have completed the required biennial FIP training in just one to two *minutes*. Presumably, that training module also intended to develop FIP competency, but we do not suspect one to two minutes is a length of time the Legislature expected current and future officers to engage with the complex topic. If you stick with the competency approach, we recommend the Committee direct the VCJC to report back

to the House and Senate Gov Ops Committees to describe the new competency training by a date certain to ensure the training aligns with your expectations.

Audit Recommendation #3

Sections 2 +3 remedy the failure to follow statute by removing the statutory requirement that all officers receive ARIDE training.

Audit Recommendation #2

The current draft does not address this concern. The Legislature intended for there to be extremely significant consequences for any agency that did not adopt various policies (FIP, Conducted Electrical Weapons, Body Cameras) that either met or exceeded established model policies. However, the Legislature did not require the VCJC to establish procedures to ensure that some initial adopted policies (body cameras, CEWs) were compliant, nor is there a requirement for the VCJC or the Attorney General to review any subsequent changes to adopted policies (the AGO reviewed initial FIP policies).

Here are two examples from our audit in which adopted policies deviated from model policies without anyone opining on whether the departures were acceptable:

- One agency did not include model policy language in its conducted electrical weapon policy to avoid use on the abdomen of a pregnant woman.
- The model FIP policy states that (1) supervisors shall ensure that all employees in their command are in compliance with the policy and (2) supervisors will be alert for and respond to indications of potential biased reporting. One agency's policy changed the former language to "supervisors will address the FIP policy annually during roll-call training" and omits the latter language.

The Committee could require the VCJC and/or the Attorney General's Office to establish procedures and review all initially adopted policies to confirm that they have met the minimum requirements of the model policies. It could also require that any modifications to agencies' adopted policies be filed with the VCJC or the AGO to confirm that the amended policies are compliant.