



Department of State's Attorneys and Sheriffs

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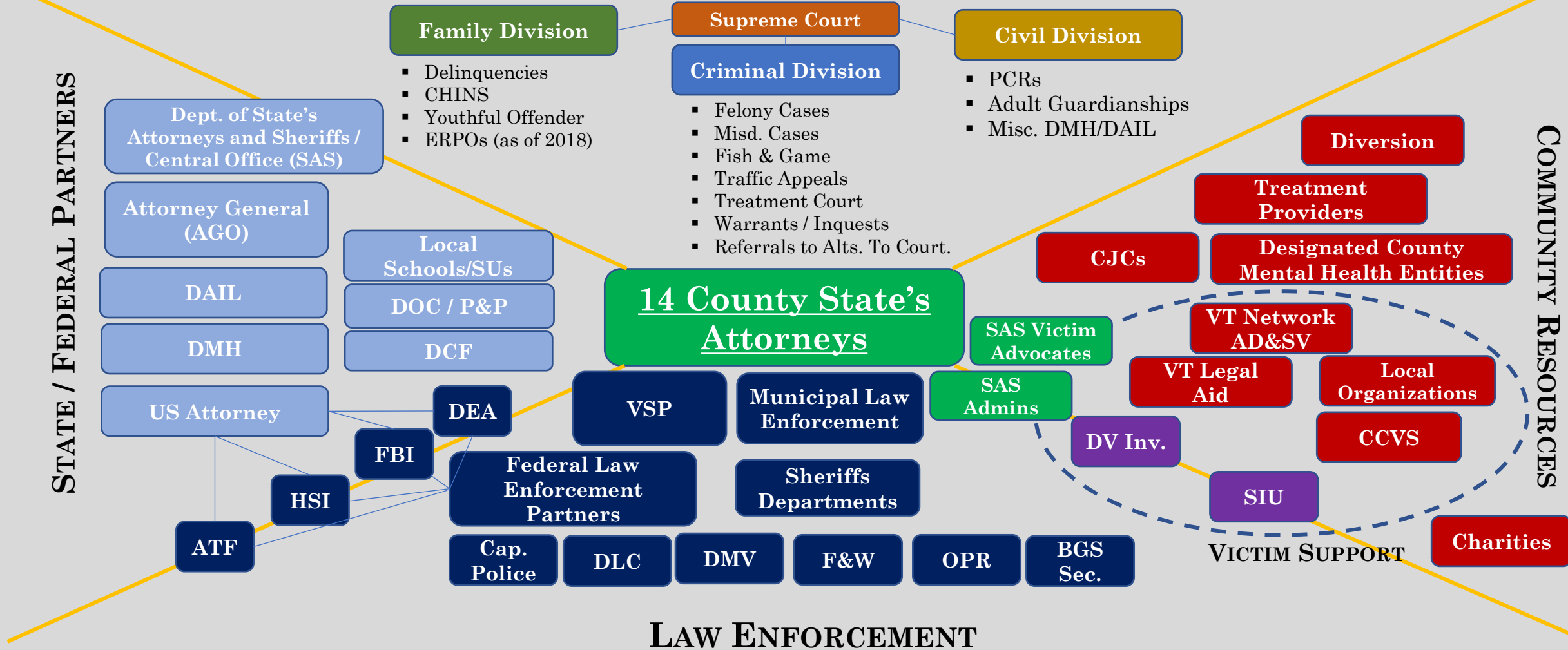


Organizational Structure and Jurisdiction of State's Attorneys



ORGANIZATIONAL STRUCTURE AND JURISDICTION

COURTS & JUDICIARY





- **State's Attorneys** are elected every four years and serve as county prosecutors with jurisdiction for prosecution of adult criminal conduct, associated/related civil matters, juvenile delinquencies, YO, and petitions for “Children in Need Of Care or Supervision” (“CHINS”). In Vermont, the majority of *cases/dockets* are filed by State's Attorneys.
- **State's Attorneys are Constitutional Officers**, within the executive branch, thus, separation of powers doctrine applies.
 - “The Constitution of Vermont provides, Chap. II, Sec. 5, that ‘The Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the others.’ While this section does not mean an absolute separation of functions, and one department may properly be authorized to exercise certain powers which may in some manner pertain to another, these powers must be such as are incidental to the discharge of the functions of the department exercising them, and beyond this the powers of one department may not constitutionally be conferred upon another. *Source: In re Opinion of the Justs.*, 115 Vt. 524, 529, 64 A.2d 169, 172 (1949); *Trybulski v. Bellows Falls Hydro-Elec. Corp.*, 112 Vt. 1, 6-7, 20 A.2d 117, 119-20 (1941); *Source: State v. Pierce*, 163 Vt. 192, 195, 657 A.2d 192, 194–95 (1995).
- **The Attorney General shares concurrent jurisdiction** and the same “authority throughout the State as a State's Attorney.” *Source: 3 V.S.A. § 152.*
- **Note:** Petitions to request to terminate parental rights (“TPR”) may be filed by the State, through the Commissioner of the Department of Children and Families, or the attorney for the child, in accordance with the following. 33 V.S.A. § 5114. In practice, an Assistant Attorney General files TPR petitions.



➤ **The Department** of State's Attorneys and Sheriffs (“the Department”), serves as the central supporting office for all fourteen State's Attorneys.

- **The Department provides support in a variety of areas**, including: *training, budgetary management, human resources, policy and legislative affairs, victim advocate coordination, information/media requests and public records, interoffice coordination, special and limited appearances in active cases, coordination and response of statewide issues, grant management, intergovernmental relations, service on boards and committees, appellate matters, ad hoc prosecutorial-related legal support, oversight of the case management system, IT support, as well as other topics that arise.*

➤ **The Department's Central Office is located in Montpelier.**

- **Staff includes:** *the Executive Director (John Campbell), the Labor Relations and Operations Manager (Annie Noonan), the Legislative and Assistant Appellate Attorney (Tim Lueders-Dumont), an Appellate Attorney (Evan Meenan), and a Victim Advocate Program Coordinator (Sarah Roberts), amongst other staff that support prosecutors statewide. The Department was created pursuant to 24 V.S.A. § 367.*
- **Note that the Department provides certain types of support to elected Sheriffs and Transport Deputies** (benefits and salary are coordinated through the central office but Sheriff law enforcement operations are independent of the Department). *The Department of SAS, under 24 V.S.A. § 367, provides the administrative and budgetary oversight and structure for the Sheriffs for the transportation and extradition work. The State General Fund pays for 14 Sheriffs, 20 Transport Deputies, 1 Transport Coordinator, and 1 Executive Staff Assistant. Sheriffs provide professional law enforcement services, including transport of prisoners, mentally ill persons, and juveniles who are in the custody of the State of Vermont.*





VERY BRIEF OVERVIEW OF VERMONT COURTS WHERE STATE'S ATTORNEYS PRACTICE

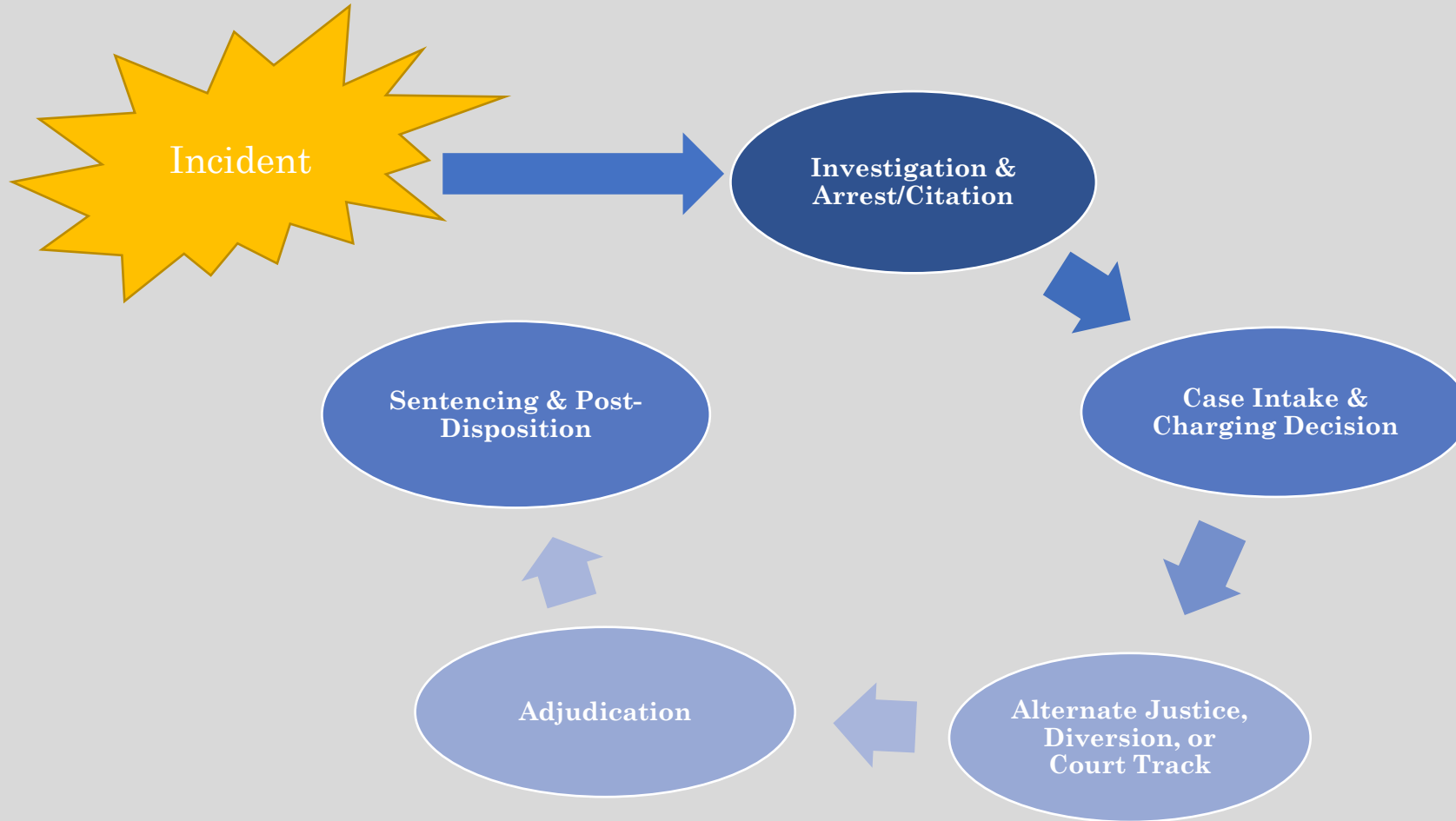
(Source Judiciary Website)

- **The Criminal Division** of the Vermont Superior Court has jurisdiction over all criminal cases and certain civil cases, most of which are ancillary to criminal prosecutions (license suspension hearings etc.) The Criminal Division also holds hearings on restitution and extradition matters. In the Criminal Division of the Superior Court the Vermont rules of Criminal Procedure will be applied.
 - *Prior to the 2010 restructuring, the Criminal Division of the Superior Court was known as the District Court. The Criminal Division also hears appeals of final decisions of the Judicial Bureau. Each County is referred to as a "unit." In practice, "Vermont Superior Court, Criminal Division, Washington County Unit."*
- **The Family Division** has original jurisdiction over a host of mostly family and youth related law, including juvenile proceedings; cases that started in the Criminal Division but upon transfer/or direct filing of a youthful offender petition (requesting that a defendant under 22 years of age in a criminal proceeding who had attained 12 years of age but not 22 years of age at the time the offense is alleged to have been committed be treated as a youthful offender); ERPOs; abuse prevention proceedings; and, several other protective service issues.
 - *Prior to the 2010 the Family Division of the Superior Court was known as the Family Court.*
- **State's Attorneys and their Deputies, and the appellate attorney for the Department, also appear before the Vermont Supreme Court on appeals** stemming from decisions made by lower courts.

Note: The Judicial Bureau has jurisdiction over traffic violations, civil ordinance violations, minor fish and wildlife violations, violations of the laws concerning tobacco, littering, burning of solid waste/illegal dumping, hazing, unauthorized disclosure of criminal records, various violations of the laws pertaining to alcohol, amongst other areas of the law.



CRIMINAL JUSTICE PROCESS



A Dynamic Process:

Prosecutors are one of the few stakeholders with a role to play in each stage of case progression.

Investigations are law enforcement led, with advice and assistance from State's Attorneys

The remainder of the process involves community partners, the court system, public defenders, and in some cases the Department of Corrections.



Initial “off-ramps” - Restorative Justice, CJsCs, and Diversion

“**Restorative justice** is a theory of justice that emphasizes repairing the harm caused by criminal behavior. Practices and programs reflecting restorative purposes will respond to crime by 1) identifying and taking steps to repair harm, 2) involving all stakeholders, and 3) transforming the traditional relationship between communities and government in responding to crime. The goal of restorative justice is to bring together those most affected by the criminal act—the offender, the victim, and community members—in a nonadversarial process to encourage offender accountability and meet the needs of the victims to repair the harms resulting from the crime (Bergseth and Bouffard 2007).” ([Restorative Justice Literature Review \(ojp.gov\)](#)).

(Also see): [Benefits of Community Justice in Vermont](#) | [Offenders Victims Community](#) | [Restorative Justice \(cjnvt.org\)](#)

At present, there have never been as many ways to address criminal conduct outside of the traditional criminal justice system.

County Diversion Programming. Vermont has emphasized the use of court diversion programs to resolve criminal cases without adjudication or conviction. County Court Diversion programs receive cases on a referral from the State and are voluntary alternative to the formal court process for certain youth and adult offenders. Some of the goals of Diversion are to see that victims have input into a participant's steps to repair the harm (sometimes in a contract) and receive appropriate restitution / response for their losses. After programming is successfully completed, the case may be dismissed by the State.

Community Justice Centers. In 2007, Vermont provided a statutory framework for community justice centers (“CJsCs”) to resolve disputes and address the wrongdoings of individuals who have committed “municipal, juvenile, or criminal offenses.” Pursuant to 24 V.S.A. § 1964(a)(3) the CJsCs “shall include programs to resolve disputes, address the needs of victims, address the wrongdoing of the offender, and promote the rehabilitation of youthful and adult offenders.”

In Practice: *Certain cases that may not be Referred to a Community Justice Center.* Pursuant to 24 V.S.A. § 1967 “[n]o case involving domestic violence, sexual violence, sexual assault, or stalking shall be referred to a community justice center except in Department of Corrections offender reentry programs pursuant to protocols protecting victims.” A set of choices are available to divert a case from the trial track, ranging from CJC referrals, either pre-charge or post-charge/post-arraignment, diversion referrals, “Tamarack” referrals, and even in the midst of traditional criminal court track, there may a Treatment Court option or other alternative pathways.



Vermont Treatment Courts:

- Treatment Courts are one of the potential off-ramps to the typical criminal justice process. Treatment Courts are specialty courts which aim to assist those who come to interact with the criminal justice system, and stand accused of criminal conduct, who are experiencing substance-use-related dependency. Treatment Courts represent an alternative way for those with high-risk needs to receive fair and just treatment while interacting with the criminal justice system.
- A person accused of a crime may be referred and screened for Treatment Court / During the course of the participant's treatment court tenure the criminal docket will remain active.
- Participants must follow program rules and a show up for treatment / court hearings while a Treatment Team monitors participant progress. The Treatment Team is composed of: Judge, Prosecutor, Defense, Coordinator, Treatment Service Providers, Law Enforcement, and Department of Corrections.
- Upon completion of the phases of Treatment Court the participant may graduate and in exchange receive a more favorable outcome including, in some instances a dismissal or deferred sentence. Harm reduction, honesty, and accountability are at the heart of specialty courts.

Where are the Vermont Treatment Courts?

- Chittenden Adult Drug Treatment Court and Adult Mental Health Treatment Docket (And Family Treatment Court Docket)
- Rutland Adult Drug Treatment Court Docket
- Washington Adult Drug Treatment Court Docket
- Windsor DUI Treatment Court Docket (Southeast Regional DUI Treatment Docket)

Basic Treatment Court Model:

- *Offender screening and assessment of risk and need*
- *Judicial interaction*
- *Monitoring (e.g. substance use testing) and supervision*
- *Graduated sanctions and incentives*
- *Treatment and rehabilitation services*



Relevant Statutory Guidance Followed by Prosecutors

- Pretrial Services/Diversion: 3 V.S.A. § 164(b)(1)-(2) & (e)(1)
- Bail/Conditions of Release: 13 V.S.A. § 7554
- Pretrial Discovery: V.R.Cr.P. 15, 16, & 16.22
- Sentencing Alternatives: 13 V.S.A. § 7030
- Collateral Consequences: 13 V.S.A. § 8005
- Community Justice Centers: 24 V.S.A. ch. 58
- “Listed Crimes”: 13 V.S.A. § 5301(7)
- “Big 12” Crimes: 33 V.S.A. § 5204
- [Vermont Model Criminal Jury Instructions \(vtjuryinstructions.org\)](http://vtjuryinstructions.org)

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