

Vermont Law Enforcement Overview

Legal framework for law enforcement authority and regulation

January 11, 2023

Commissioner Jennifer Morrison



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Vermont Law Enforcement Overview

LAW ENFORCEMENT OFFICER: DEFINITION AND SCOPE OF AUTHORITY



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Law Enforcement Officer, Defined

“... a member of the **Department of Public Safety** who exercises law enforcement powers; a member of the **State Police**; a **Capitol Police officer**; a **municipal police officer**; a **constable** who exercises law enforcement powers; a **motor vehicle inspector**; an employee of the **Department of Liquor and Lottery** who exercises law enforcement powers; an **investigator employed by the Secretary of State**; a **Board of Medical Practice investigator** employed by the Department of Health; an **investigator employed by the Attorney General or a State's Attorney**; a **fish and game warden**; a **sheriff**; a **deputy sheriff** who exercises law enforcement powers; a **railroad police officer** commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; a **police officer appointed to the University of Vermont's Department of Police Services**; or the **provost marshal or assistant provost marshal** of the Vermont National Guard.”

Source: 20 VSA § 2351a



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Who May Exercise Law Enforcement Powers

Level I, II or III certification by the Vermont Criminal Justice Council (VCJC) is required to exercise law enforcement powers in the State of Vermont.

Source: 20 VSA § 2358



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Law Enforcement Officer Scope of Authority (20 VSA § 2358)

LEVEL I

- Limited to security, transportations, vehicle escorts, and traffic control
- May react in specified emergency situations, but must call upon a certified officer who assumes authority over incident

LEVEL II

- Limited to specified crimes
- May also practice in additional areas approved by VCJC if they obtain special training or certification
- May also react in specified emergencies but must call certified officer to assume authority over incident

LEVEL III

- Full law enforcement authority, including the authority to arrest persons and enforce the civil and criminal laws, keep the peace, provide security, and serve civil and criminal process



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STRUCTURE OF VERMONT LAW ENFORCEMENT



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LOCAL

Constable

Municipal law enforcement officer

COUNTY

Sheriff

Deputy Sheriff

STATE

Vermont State Police

Game Warden

DMV Motor Vehicle Inspector

Liquor and Lottery Investigator

UVM police officer

Secretary of State investigator

Board of Medical Practice investigator

AGO and SA investigator

Provost and Asst Provost Marshal



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Local Law Enforcement

	Constable	Municipal Law Enforcement
Creation	Referenced in State Constitution	Legislative body, town manager of a city, town, or incorporated village
Elected or Appointed	Elected unless the town has authorized its selectboard to appoint via 17 VSA § 2651a	Appointed
Authority/Duties	<ul style="list-style-type: none"> A town may vote to prohibit a constable from exercising law enforcement authority Even if prohibited, constable may exercise certain, statutorily specified authority 	Arrest persons and enforce the civil and criminal laws, keep the peace, provide security, and serve civil and criminal process, per certification
Jurisdiction	Limited to municipality, with a few exceptions	Statewide
Certification Required?	No, but may not enforce the law without certification	Yes



Local Law Enforcement (cont'd)

- 56 local law enforcement agencies in the State of Vermont
- In the absence of 24-hour coverage, Vermont State Police provide coverage
- Agencies may receive assistance from other agencies through intermunicipal agreements and/or interstate agreements
- Key voices include VLCT and VACOP



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County Law Enforcement

	Sheriff
Creation	Vermont State Constitution
Elected or Appointed	Elected every four years
Authority/Duties	<ul style="list-style-type: none">• Shall preserve the peace and suppress unlawful disorder• Service of process• Transport to correctional facilities or other places named by state authorities• Conduct searches with warrants• May contract “to provide law enforcement or other related services”
Jurisdiction	Statewide
Certification Required?	No, but salary reduced by 10 percent if not a Level III law enforcement officer; may not exercise law enforcement authority if uncertified
Key Voices	SAS and VSA



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State Law Enforcement

	Vermont State Police	Capitol Police
Creation	Created by statute	Created by statute within the Office of the Sergeant at Arms
Elected or Appointed	Appointed	Appointed
Authority/Duties	<ul style="list-style-type: none"> Uniform police services, special team responses, traffic safety enforcement, major crime investigation Primary law enforcement services to municipalities without police departments Investigation of officer-involved shootings statewide. 	Provide security within the State House and assist the Commissioner of Buildings and General Services in providing security detail and law enforcement services within the Capitol Complex pursuant to an MOU
Jurisdiction	Statewide	Statewide
Certification Required?	Yes	Yes



State Law Enforcement (cont'd)

	UVM Police Services	National Guard Provost Marshal Office
Creation	Created by statute	Created by statute
Elected or Appointed	Appointed	Appointed
Authority/Duties	Same authority as other certified law enforcement officers	Same authority as other certified law enforcement officers
Jurisdiction	Statewide	Statewide with respect to criminal activity in the National Guard only
Certification Required?	Yes	Yes



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State Law Enforcement (cont'd)

	Duties
Provost Marshal	<ul style="list-style-type: none">• Serve as the primary liaison between the Vermont National Guard and federal, State, and local law enforcement agencies• Supervise the Guard's utilization of the National Crime Information Center and the Vermont Crime Information Center• Oversee security-related issues• Respond to allegations of sexual assault within the Vermont National Guard
Secretary of State Investigator	<p>Investigate complaints received from the public for approximately 60 licensed professions, primarily “regulatory licensing matters” involving ethical lapses or rules violations. About 10 percent have criminal component, e.g., a licensee stealing drugs from patients or pharmacies, licensees assaulting individuals in their care.</p>



State Law Enforcement (cont'd)

	Duties
AGO Investigator	<p>There are two law enforcement units housed in the Office of the Attorney General: (1) Internet Crimes against Children Task Force; and (2) Medicaid Fraud Investigations.</p> <p>Internet Crimes against Children Task Force conducts either “proactive or reactive” investigations and perform forensic analysis of seized devices and charges alleged perpetrators</p> <p>Medicaid Fraud Investigations investigates fraud in billing and investigates residential abuse when an individual in a residential setting receives improper care.</p>



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State Law Enforcement (cont'd)

	Duties
Board of Medical Practice Investigator	<p>Vermont Board of Medical Practice, which is part of the Department of Health, licenses all doctors, physician assistants, anesthesiologists, anesthesiologist assistants, and podiatrists, a group that includes some 8,000 individuals.</p> <p>Investigators conduct both civil and criminal investigations of the people regulated by the Board of Medical Practice.</p> <p>Investigations are triggered by a complaint from a patient, pharmacy, DEA or police department. By statute, the Vermont Board of Medical Practice is required to investigate every complaint. The Board receives from 300 to 600 complaints annually.</p>



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State Law Enforcement (cont'd)

	Duties
Game Warden	<ul style="list-style-type: none">• Enforce compliance with applicable laws by going to places where people hunt, fish and fowl. In the summer, wardens patrol rivers and lakes on foot or in boats. In the winter, wardens patrol lakes on snowmobiles, or ATVs. Wardens also do specific snowmobile patrol on VAST trails. Wardens also do ATV patrol.• Wardens also respond to complaints
Liquor Control Investigator	<ul style="list-style-type: none">• Youth Access Compliance• Regulatory Inspections• Investigations related to violation of criminal statute that falls within jurisdiction of Liquor Control (mostly Title VII of the Vermont statutes, tobacco and alcoholic beverages)



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State Law Enforcement (cont'd)

	Duties
Motor Vehicle Inspector	<ul style="list-style-type: none">• The uniform Motor Vehicle Inspector performs field inspections at a fixed site or at roadside on commercial motor vehicles, drivers, and carriers for compliance with federal and state commercial motor vehicle laws and regulations.• The Detective Motor Vehicle Inspector regulates, monitors, audits and investigates specialized criminal and/or regulatory activities relating to licensing, registration and title fraud, dealer and inspection regulations, and provides general law enforcement support services to include the State's Total Abstinence Program. Coordinates enforcement actions with other Divisions, Departments, and Agencies at the local, state, or federal level.



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TIMELINE OF ENFORCEMENT REFORMS



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2014

- Introduced tiered certification levels
- Enacted policies on eyewitness ID, FIP, roadside stop data collection, custodial interrogation

2017

- Expanded VCJC disciplinary authority
- Established categories of unprofessional conduct
- Mandated internal affairs programs
- Regulated hiring practices

2020

- DPS modernization plan adopted
- Executive Order 3-20 issued
- Enacted prohibited restraint and duty to intervene laws

2016

- Limited use of drones and license plate readers
- Established body camera policy

2019

- Criminalized sexual exploitation of person in custody
- Established statewide FIP policy
- Exempted LEOS from employee privacy protections



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2020

- Renamed VCJC and expanded membership
- Adopted requirements re: hiring practices
- Required adherence to VCJC model body camera policy

2021

- Amended use of force law
- Changed prohibited restraint to chokehold



- Enacted moratorium on facial recognition technology
- Adopted statewide use of force law
- Tied grant funding and access to VCJC training to compliance



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USE OF FORCE LAW AND POLICY



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Law

- “[O]nly the force objectively reasonable, necessary, and proportional” to achieve a lawful objective
- No chokehold unless deadly force justified
- Deadly force justified where no reasonable alternative to prevent death or serious bodily injury
- Duty to intervene when officer observes another officer using a chokehold

Policy

- Written policy adopted by all state law enforcement agencies
- Includes deadly force post-incident procedures, minimum requirements for use of force reporting, guidelines for interacting with people experiencing mental impairment

Process

- Stakeholder engagement in statewide policy development
- Statewide, in-person and online training in fall 2021



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UNPROFESSIONAL CONDUCT



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VERMONT CRIMINAL JUSTICE COUNCIL

- Certifies law enforcement officers (20 VSA § 2358)
- Regulates law enforcement officers pursuant to 20 VSA § 2401 et seq.(unprofessional conduct)
- May sanction up to de-certification
- Currently has vacant positions for staff attorney and investigator



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STATUTORY FRAMEWORK (Act 56)

1. Statute defines unprofessional conduct and organizes conduct into three categories
2. Each LEA required to adopt effective internal affairs program to address complaints about agencies' officers, to investigate unprofessional conduct complaints and report to VCJC alleged unprofessional conduct in specified circumstances
3. VCJC may warn, suspend, revoke a certification upon finding unprofessional conduct except for first offenses of Category B conduct



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CATEGORIES OF UNPROFESSIONAL CONDUCT

- Category A (specified crimes)
- Category B (gross professional misconduct)
- Category C (misconduct pertaining to VCJC processes or operations)

Source: 20 VSA § 2401



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INVALID INVESTIGATIONS

- VCJC may investigate and take disciplinary action if agency investigation is invalid.
- An investigation shall not be valid if:
 - (i) the agency has not adopted an effective internal affairs program;
 - (ii) the agency refuses, without any legitimate basis, to conduct an investigation;
 - (iii) the agency intentionally did not report allegations to the Council as required;
 - (iv) the agency attempts to cover up the misconduct or takes an action intended to discourage or intimidate a complainant; or
 - (v) the agency's executive officer is the officer accused of misconduct.



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UNPROFESSIONAL CONDUCT – Executive Officer

- LEA must refer to VCJC any unprofessional conduct complaints made against LEA's **executive officer**
- VCJC must cause to be conducted an alternate course of investigation against an LEA's executive officer
- **VCJC may** investigate if the officer **resigned** before a valid investigation had begun or was completed

Source: 20 VSA § 2404



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LAW ENFORCEMENT DISCIPLINE



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VERMONT STATE POLICE DISCIPLINE

1. Internal investigation of VSP misconduct codified in statute (20 VSA § 1923)
2. VSP officers are mandated reporters of internal misconduct
3. State Police Advisory Commission (SPAC) advises and counsels DPS Commissioner in carrying out responsibilities for management, supervision and control of VSP
4. Office of Internal Investigation investigates or causes to be investigated allegations of trooper misconduct
5. Office reports findings to DPS Commissioner
6. If criminal conduct, Office reports findings to AG, SA, and Governor
7. All dispositions reported to SA, AG and Governor
8. VSP also reports to VCJC, per statute



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COUNTY AND MUNICIPAL DISCIPLINE

	MUNICIPAL	COUNTY
Executive Officer alleged misconduct	Referred to VCJC	Referred to VCJC
Employee alleged misconduct	<ul style="list-style-type: none">• 24 VSA § 1932 provides municipal officer misconduct oversight• Some municipalities have citizen or local govt review panels	<ul style="list-style-type: none">• Deputies serve at pleasure of sheriff (24 VSA §307)



Vermont Law Enforcement Overview

GLOSSARY



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Abbreviation	Definition
AGO	Attorney General Office
ATV	All Terrain Vehicle
FIP	Fair and impartial policing
LEA	Law enforcement agency
LEO	Law enforcement officer
MOU	Memorandum of Understanding
SA	State's Attorney
SAS	Department of State's Attorneys and Sheriffs
SPAC	State Police Advisory Committee
VAST	Vermont Association of Snow Travelers
VACOP	Vermont Association of Chiefs of Police



Abbreviation	Definition
VCJC	Vermont Criminal Justice Council
VLCT	Vermont League of Cities and Towns
VSA	Vermont Sheriff's Association or Vermont Statutes Annotated
VSP	Vermont State Police



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