

VERMONT DEPARTMENT OF PUBLIC SAFETY  
LAW ENFORCEMENT ADVISORY BOARD



# SUMMARY REPORT

## 2012

---

The Law Enforcement Advisory Board advises the commissioner of public safety, the governor, and the general assembly on issues involving the cooperation and coordination of all agencies which exercise law enforcement responsibilities.

Prepared by: DPS Law Enforcement Advisory Board

Date: January 15, 2013

# Table of Contents

Introduction .....	3
Report on S. 248 .....	5
Report on S. 132 .....	16
Full Time/Part Time Certification Comparison.....	29
Report on S. 87.....	34
Eyewitness Identification Training Progress.....	36
Individual Complaints to Law Enforcement.....	37
Essential Components of a Fair and Impartial Policing Policy.....	40
List of Members .....	Appendix A
VCJTC Table of Organization.....	Appendix B
2007 VCJTC Survey and Analysis.....	Appendix C

# SUMMARY REPORT 2012

## INTRODUCTION

In 2004, the Vermont General Assembly created a Law Enforcement Advisory Board (LEAB) of the Department of Public Safety with authorizing language contained in T.24 V.S.A. § 1939. The purpose of the Board is to advise the Commissioner of Public Safety, the Governor, and the General Assembly on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities. Membership of the Board is set by statute. The current members are listed in appendix A.

In 2012, Senate Government Operations tasked the LEAB with examining three proposed bills and reporting back in January, 2013. To do this, the full board created working groups tasked with “drilling down” into the topics and reporting back. The working groups met on numerous occasions and brought information and recommendations back to the full board for discussions and decisions. During the course of the meetings the topics identified in the introduction were discussed at length. This report will focus on those issues.

The Board’s major focus in 2012 has been work on the following:

- S. 248 proposal repealing the VCJTC
- Baker report to VCJTC
- Comparison of full time certification to part time certification
- Identifying essential components of a fair and impartial policing model policy
- S. 87, internal investigations of law enforcement officers

An update on the progress of the eyewitness identification training project is included.

## 2012 LEAB Report to the Legislature

---

As always, LEAB members would welcome an opportunity to offer testimony and answer any questions regarding any subject in this report.

Richard B. Gauthier  
Executive Director  
VT Criminal Justice Training Council  
2012 Chair LEAB

## LEAB Report on S. 248

### Regulation of Law Enforcement Officers

The Law Enforcement Advisory Board (LEAB) was tasked by the Senate Government Operations Committee with, among other things, addressing the contents of S. 248, including law enforcement officer registration and licensure, renewal of licenses, training programs, unprofessional conduct, part time vs full time officers, and ongoing criteria for licensure. The Committee requested that the LEAB work with Chris Winters or his designee from the Office of Professional Responsibility (OPR) to better understand how to regulate professions and how those processes might apply to law enforcement officers.

To accomplish this, the LEAB formed a working group that reviewed literature and took input from the following:

- Dr. Roger Goldman, Saint Louis University School of Law
- Prof. Stan Shernock, Norwich University
- Dr. William Clements, Norwich University
- Chris Winters, Director, Vermont Office of Professional Responsibility
- Joel Cook, Executive Director, VT Chapter of the National Education Association
- Janet Steward, Past Director, VT Education Standards Board

Their input is briefly summarized here (Goldman, Shernock, Clements, and Winters had all reviewed the draft of S. 248 prior to making their comments). Members of the LEAB working group are available to provide testimony if desirable.

Prof. Shernock advised that there wasn't anything wrong with the current system in Vermont, and believed that S. 248 would have an adverse impact on the unity of police training in this state if it was enacted.

Dr. Clements agreed with Prof. Shernock, and noted that S. 248 would, in effect, do away with the Vermont Police Academy (VPA) as a standardized training institution.

Chris Winters believed that the only changes we needed to make were in the decertification process and criteria. He didn't see a need for law enforcement to be overseen by OPR, and in fact stated that he didn't want to take that on.

## 2012 LEAB Report to the Legislature

---

Joel Cook spoke of the process of getting the members of a profession, including unions, to “buy in” to changes that increased professionalism and accountability. He pointed out that having peers take part in the process was vital to establishing credibility.

Janet Steward spoke of how the Teacher’s Standards Board provided an alternative route for members of the public to complain directly to them about teacher misconduct; essentially, the Board would contact the principal in a given school and refer the complaint to them for investigation and reporting back.

Based on testimony provided the working group, the following short- and long-term goals were identified:

- Establish universal hiring standards for VT law enforcement officers
- Develop a tiered certification system that is task-oriented, i.e., level of certification will determine what activities the officer can perform
- Create significantly more robust decertification/license revocation processes and criteria
- Create a mechanism to more effectively facilitate the decertification/revocation process
- Establish public transparency by providing an avenue to contact the VCJTC directly with complaints of officer misconduct, providing a process for investigation of complaints and for informing the complainant and public of results of the investigation in a timely manner, and publicizing a list of officers who have been decertified

The Vermont Criminal Justice Training Council (VCJTC) was consulted and provided a synopsis of this report. During the December 2012 meeting, the VCJTC reached consensus for a tiered certification system, creating hiring standards, and making the decertification process more robust. No recommendations on the contents of the report were given by the Council.

The LEAB concluded that the desired changes could be effectively made using the existing VCJTC structure, and did not necessitate repealing the Council and replacing it with a board under the OPR (a conclusion with which Chris Winters agreed). The Criminal Justice Training Council serves as a governing body dictating entry standards into the Vermont Police Academy and standardized training curriculums. Accordingly, this response recommends that the current structure remains in place, with appropriate modifications. The working group and the LEAB recommend the Criminal Justice Training Council be given broader rule making authority to determine hiring standards and professional conduct standards including greater decertification authority.

## 2012 LEAB Report to the Legislature

---

It should also be noted that because the VCJTC currently uses the word “decertification”, that’s the word that will be used throughout the response.

Dr. Goldman noted that most states have a more robust decertification or license revocation process with a broader range of categories of misconduct than Vermont. Dr. Goldman provided the working group with an International Association of Directors of Law Enforcement Standards and Training (IADLEST) document entitled “Standards of Professional Conduct”. The working group used this document to frame its report to the Legislature. The Italicized portion of the report is the original content of the document, with the working group response immediately below. The working group believes that these standards should be embraced by the Vermont law enforcement community as a way of increasing the professionalism of the profession.

### ***Model Minimum State Standards of Professional Conduct***

#### ***6.0 Standards of Professional Conduct***

*Every state should establish by law a commission with the power to certify or license law enforcement and corrections officers pursuant to professional standards set forth in the law. The commission should also have the power to revoke the license or issue lesser discipline for officers who have been found to have violated standards of conduct set forth in the statute.*

#### ***Commentary***

*Every state has the authority to regulate occupations and professions in order to protect the public. Typically this power is exercised by a commission that issues a certificate or license indicating the person has met specified minimum standards. In addition, these commissions should be granted the authority to revoke the licenses of persons who have violated the standards of conduct set forth in the law.*

#### ***6.0.1 Content***

*State law and commission regulations should set forth standards for initial certification, including selection, training and continuing education requirements. They should also specify the grounds for decertification and lesser discipline and provide for procedural protections including notice, hearing and appeal. The process for recertification should be set forth. The state should participate in the IADLEST National Decertification Index of decertified officers.*

### **6.0.2 Certification**

*Each commission should have the authority to certify that individuals have met the state selection and training standards required for employment as a law enforcement or corrections officers.*

#### **Commentary**

*The public should be made aware of the state selection, character and training standards required in order for a person to be employed as a law enforcement or corrections officer.*

### **6.0.3 Uniformity**

*As is the case for other professions, the minimum state standards for certification should be uniform throughout the state.*

### **6.0.4 Compliance**

*Prior to issuance of a certificate or license, the commission should ensure that the applicant has complied with minimum standards, by collecting, verifying and maintaining all documentation establishing compliance, and assuring that a proper background investigation and criminal history check have been completed and requiring the training institution or hiring authority to provide assurance of completion of all pre-hiring requirements, subject to verification by commission audit.*

Response: The VCJTC is statutorily authorized to establish training and certification standards for all full and part time VT law enforcement officers, as well as minimum acceptable levels of annual training to maintain certification. These standards are posted on the VCJTC website, easily accessible to the public.

With the exception of certain ongoing required trainings, i.e., firearms, first aid, domestic violence, agency heads are left to determine what will or will not

## 2012 LEAB Report to the Legislature

---

constitute acceptable in-service training for the officers. Other trainings (fair and impartial policing, eyewitness identification, etc) are developed and provided to the law enforcement community at large. Levels and quality of training are unevenly distributed throughout Vermont law enforcement agencies.

The VCJTC has adopted a process to decertify officers, but the criteria under which the VCJTC can decertify are, in the words of one working group member, “woefully inadequate”. They are:

- Conviction of a felony subsequent to certification
- Certification issued as a result of fraud
- Certification issued as a result of error
- Failure to maintain training requirements after being provided reasonable opportunity for remediation

There is no provision for lesser discipline. There is no provision to suspend certification pending the outcome of an investigation into an alleged infraction. There is either decertification under the above conditions, or nothing. Professional misconduct, abuse of law enforcement authority, and misdemeanors cannot be addressed through the decertification process.

The VCJTC does not have hiring or pre-hiring requirements. Instead, there are standards that must be met before a recruit can enter the program at the Vermont Police Academy (VPA). These standards, to varying degrees, have become hiring standards for many agencies, but, for example, the VCJTC does not currently mandate that agencies use the polygraph as part of the background investigation.

### ***6.0.5 Ongoing Compliance***

*The commission should be authorized to monitor and enforce ongoing compliance with minimum standards of conduct.*

#### ***Commentary***

*In order to insure that certified officers who engage in serious misconduct do not continue to serve, each state should establish procedures for detecting and issuing discipline, including decertification. Such a system is necessary for reasons of professionalism as well as protecting the public. Potential hiring agencies should be made aware of any discipline issued by the commission.*

Response: Currently, if staffing permits, the VCJTC conducts random audits of agencies to determine if officers are meeting minimum annual training

## 2012 LEAB Report to the Legislature

---

requirements, and to ensure that officers possessing part time certification are not exceeding the scope of allowable annual hours. However, there is no mechanism to immediately suspend certification if an officer is found to be in noncompliance with either standard. Additionally, if the range of potential infractions is expanded, compliance checks will prove challenging, given the current staffing level at the VPA.

### **6.0.6 Application, Certification and Denial**

*Each commission should require a formal application for certification. If minimum standards are met, the applicant should be certified. If the applicant does not meet minimum standards, the commission should formally notify the applicant of its intention to reject the application and allow a hearing, pursuant to applicable state law, if the applicant files a timely request for such a hearing.*

Response: The VCJTC doesn't use a formal application for certification; instead, there is a formal application process for admission to the VPA program, upon which successful completion confers certification. Failure to meet the admission requirements will result in a refusal of entry into the program; failure to successfully participate in or complete the course of training will result in denial of certification.

### **6.0.7 Reporting Misconduct to the Commission**

*Employing agencies should notify the commission when an officer leaves employment, whether the officer resigned, retired, was terminated or was laid off. The facts leading to the separation should be required to be disclosed where there is reason to believe the officer has committed decertifiable conduct. The employing agency should investigate the conduct and report its findings to the commission **even in those cases where the officer has resigned**. All law enforcement agencies in the state should be required to report to the commission the arrest of any person known or identified to them as a law enforcement or corrections officer.*

#### **6.0.7.1 Reporting Misconduct to Law Enforcement Agencies**

*On request of a law enforcement agency conducting a background investigation of an applicant for the position of a law enforcement or corrections officer, another law enforcement agency employing, previously employing or having conducted a complete*

## 2012 LEAB Report to the Legislature

---

*or partial background investigation on the applicant shall advise the requesting agency of any known misconduct.*

### **6.0.7.2 Good Faith Reporting**

*Civil liability may not be imposed on either a law enforcement agency or the commission for providing information required to be provided if there exists a good faith belief that the information is accurate.*

### **Commentary**

*When the public becomes aware of serious misconduct by law enforcement and corrections officers, its confidence is shaken and all criminal justice professionals and agencies suffer a loss of public respect and cooperation. It is imperative that agencies share information with the commission and sister agencies concerning known officer misconduct.*

Response: The VCJTC requires that agencies report personnel changes such as hiring or separation, but there are no sanctions for failure to comply. The form includes a line for the agency to indicate the officer was discharged, but only asks if this was due to resignation or retirement; there is no proviso to indicate if the resignation or retirement was due to a pending or active internal investigation.

Civil liability currently prevents agencies from sharing information about misconduct in the event an officer leaves one agency for another. If the officer is allowed to resign in lieu of being terminated and a non-disclosure settlement is reached as part of that process, the terminating agency is prohibited from disclosing the misconduct, even if the officer has signed a release with the hiring agency.

### **6.0.8 Investigation of Misconduct**

*The commission should investigate all allegations from hiring agencies or other sources that certified officers have violated commission standards. The investigation should be completed even if the officer has resigned. If the investigation indicates that an officer is in violation of the standards, the matter should be presented to the commission or executive director as appropriate for determination. If the investigation results in a conclusion that no cause exists, the employing agency and officer should be notified. If cause is found, the commission should issue a formal complaint, specifying the conduct for which sanctions may be imposed.*

### **6.0.9 Grounds for Discipline**

*Grounds for commission discipline of certified officers should be specified in state law and should include at least the following: conviction of a felony or serious misdemeanor (including a plea of guilty or nolo contendere regardless of whether there is a suspended imposition or execution of sentence; the commission may also consider convictions that have been annulled); regardless of whether there is conviction, acts of dishonesty, such as perjury and filing false reports; acts showing an intentional or reckless disregard for the rights of others; unlawful sale, use or possession of a controlled dangerous substance; and violation of the code of conduct as established by the commission. The commission shall have the authority to revoke any certificate that has been obtained through misrepresentation or fraud or that was issued as the result of an administrative error on the part of the commission or the employing agency. When permitted by statute or regulation, a certificate may be immediately suspended where the officer is under indictment for, is charged with, or has been convicted of the commission of any felony or where the officer's certificate has been suspended or revoked by another state.*

### **6.1.0 Range of Sanctions**

*Depending on the type of violation, the facts and circumstances of the case, and any prior commission discipline, the commission should impose the most appropriate administrative sanction, to include suspension or revocation of the license or certificate, probation, which may include remedial retraining, or formal reprimand or censure. An officer may voluntarily surrender his license, temporarily or permanently.*

### **6.1.1 Sanction Procedure**

*In accordance with the state administrative procedure act or other applicable law, the officer should be given notice of the commission proceeding, be provided with an opportunity to be heard, and be permitted to be represented by counsel at his own expense. If the hearing results in a finding that the standard of professional conduct was not violated or a conclusion that the conduct in question does not warrant administrative discipline, the case should be dismissed. In the event a violation of*

## 2012 LEAB Report to the Legislature

---

*professional standards is found, the commission should impose sanctions as appropriate. The standard of proof for a finding that the standards have been violated is preponderance of the evidence.*

Response: As noted above, the VCJTC only has authority to decertify an officer for an extremely narrow range of misconduct or failure to meet training standards.

Currently, there is no provision for a peer review process for either sanctions or the sanction procedure in general.

At present, the VCJTC does not have staffing to ensure that all complaints against law enforcement officers that could result in decertification are properly investigated.

### **6.1.2 Effect of Decisions by Employee Agencies**

*Action by a law enforcement agency or a decision resulting from an appeal of that action does not preclude action by the commission to deny, cancel, suspend, or revoke the certified status of an officer.*

Response: VCJTC rules do not address this one way or the other.

### **6.1.3 IADLEST National Decertification Index (NDI)**

*Each commission that has the power to decertify law enforcement and corrections officers should submit information that an officer has been decertified or given a lengthy suspension. In addition, each commission should query the NDI as part of the background check for initial certification. The commission should also grant permission for hiring agencies to query the NDI.*

### **Commentary**

*The number of law enforcement and corrections officers who have been decertified continues to grow. Some of these officers have sought to be certified in other states without disclosing the fact they have been decertified. To protect criminal justice agencies from employing a person who has been decertified in one state, each state should have the authority to provide information on decertified officers to the NDI.*

## 2012 LEAB Report to the Legislature

---

### **6.1.4 Dissemination**

*The commission should be empowered to provide to the NDI information regarding the decertification or lengthy suspension of officers for misconduct. NDI policies set forth the process for submitting information as well as querying the NDI.*

Response: The VCJTC already belongs to the NDI and submits information when applicable. It's not clear if hiring agencies are either aware of this or attempt to use it themselves.

### **6.1.5 Recertification**

*Each commission should develop a process whereby an officer may apply for restoration of a license that has been revoked. The policy should include the number of years an officer must wait to reapply. Prior to recertification, the officer must comply with minimum certification requirement. If recertification is denied, the officer should be given the reasons for the denial and the procedure for filing an appeal.*

Response: Given that recertification after decertification for a felony conviction, or for certification issued as a result of fraud, is not an option, a process to address that has not been adopted. If an officer has been decertified due to failure to adhere to annual training requirements, or because the original certification was issued as a result of error, there is an option to address these issues within a specified time frame.

### **6.1.6 Failure to Comply**

*Willful failure by the head of the law enforcement or corrections agency to comply with the provisions of this chapter constitutes a misdemeanor and is also grounds for commission discipline.*

Response: At present, there is no requirement that an agency head or his/her designee be required to report misconduct, but that's due almost entirely to the fact that, other than a felony conviction, there are no acts of misconduct or crimes that will cause an officer to be decertified. Agency heads are required to make an annual

## 2012 LEAB Report to the Legislature

---

report swearing that all officers in its employ have met minimum annual training requirements, or, if not, provide a reason why along with a plan to bring that officer into compliance.

### Recommendation

The LEAB recommends that legislation be implemented empowering the VCJTC to create rules governing these issues identified by the LEAB.

# LEAB Report on S. 132

On May 1, 2012, The VT Senate Government Operations Committee tasked the LEAB with, among other things, a report on how the Vermont Criminal Justice Training Council (VCJTC) addressed recommendations contained in Col. Baker's report of findings concerning the Vermont Police Academy (VPA). For the purposes of this report, the LEAB will focus on the recommendations contained in each problem area and detail the progress made towards completing them.

### 1. Table of Organization and Structure

Col. Baker noted that the organizational structure in place when he arrived did not establish clear lines of authority, caused staff to go directly to the Executive Director with any issue, and promoted the perception that favored staff members received preferential treatment and the rest did not (see VCJTC Organization Chart dated 01-15-08). He also observed that compliance efforts were minimal at best, and 'ownership' and completion of projects was haphazard. Col. Baker recommended:

- The position of Assistant Director should be eliminated.
- There should be the creation of two separate divisions under the Executive Director, one for training and one for administrative support.
- Each division should be headed by a chief or similarly titled position
- The training division should be responsible for development, maintenance, and delivery of all training. This position should look and function as an Academic Dean in a collegiate setting.
- The administrative division should be responsible for all support functions to include, but not be limited to, written policy development, IT support, infrastructure oversight, purchasing, contract and grant management. This position should function as support services does in a police organization.
- The position of Senior Training Coordinator should be retained in order to create more opportunity for staff growth, and add depth of knowledge and supervisory oversight of the basic training program.

Response: The position of Assistant Director has been eliminated, and the positions of Director of Training and Director of Administration have been created; both were

## 2012 LEAB Report to the Legislature

---

filled with existing staff members, and both positions report directly to the Executive Director. Responsibilities and duties of both positions were clearly established when they were created, and are consistent with the above recommendations.

The position of Senior Training Coordinator was also retained, though has not yet been filled, as the VPA works on establishing criteria and responsibilities as it relates to the Director of Training.

Other than the two directors, no staff member reports directly to the Executive Director, either formally or informally.

### 2. Staff Development

Col. Baker noted staff frustration, lack of a career path, and inadequate hiring practices as contributing to personnel issues and turnover. He made the following recommendations:

- A formal hiring process that meets state protocol but is germane to the needs of the VPA be memorialized in a written policy
- All employees, especially training coordinators, be required to have a written career development plan.
- A formal mentoring program for new staff be established
- Set a minimum number of in-service training hours for each employee
- Future budgets continue to support funds to develop employees
- All managers/leaders at VPA be required to participate in leadership development programs such as the LPO, VPM, etc.
- Leadership be afforded the opportunity to attend non-traditional institutes such as the UVM Certificate Program, etc.
- The job reclassification be completed as soon as possible with an eye towards developing a career path for employees
- The supervisor structure be restructured as outlined in the Table or Organization and Structure in order to create a career path, leadership development, and better management of programs

Response: Job reclassifications for training coordinator positions and the two director positions were completed; salaries were elevated, are competitive, and responsibilities more clearly delineated. Staff members are encouraged to identify

## 2012 LEAB Report to the Legislature

---

trainings of interest that will either enhance or create subject matter expertise, and that will also benefit the VPA. The VPA has not designated a minimum number of training hours, opting instead to identify specific trainings that will elevate an employee's expertise and knowledge base.

Both new directors were advised that attending leadership training was an expected part of their job, and one director has completed the LPO and is currently in the VPM. The other director is newer to her position and hasn't yet had an opportunity to attend either of these trainings, but she will be required to do so at the next opportunity.

The hiring process for all positions now includes a fairly comprehensive background investigation, and applicants are subject to a hiring process designed to test for desirable abilities. A formal mentoring plan has not been developed.

The Organizational Table has been restructured and clearly indicates which position falls under which director, and what responsibilities each director has. The chain of command is very clear (see attached VCJTC Table of Organization, created 08/11, revised 03/12, 04/12, 09/12).

Staff members identify annually what trainings they would like to attend, and understand these are supposed to enhance professional development and subject matter expertise.

### 3. The Role of Training Coordinators (TCs) in Basic Academy

Col. Baker noted that this was a high-stress position that, by its nature, the power differential between the TC's and the recruits, and the requirements of the job, could lead to improper conduct and burnout without adequate supervision and opportunity to get away from the job. The VPA had previously relied on one training coordinator to work with the basic recruit class throughout the session, which created significant issues with regards to conduct, and it had been the practice that the Executive Director had very little contact with either the recruits of the training coordinator assigned to the class. To address these areas of concern, he implemented the following:

- Assigned two TC's plus a supervisor to the basic class
- Allowed TC's to schedule time away from the VPA during the class

## 2012 LEAB Report to the Legislature

---

- Executive Director is briefed on all issues regarding the class, and meets with recruits to probe for issues
- The Executive Director meets with staff and training assistants to “set a tone”

His recommendations are as follows:

- Processes put into place be allowed to mature
- A process similar to an internal affairs process be put into place to allow recruits to report acts of misconduct to the Executive Director
- A formal clinical support program be put into place to provide support to the training coordinators and supervisor
- No basic academy class be run without two coordinators and a supervisor.
- The Executive Director have direct involvement and set the expectation tone for the basic training program.
- A formal training program be put into place that develops and grows the training coordinators assigned to the basic class.
- A formal peer review process be utilized to review conduct and work performance during basic training
- A policy be established that allows for candid feedback from recruits on staff members
- A SOP for the basic class be developed.

Response: The processes that involve the Executive Director with the class directly have remained in place. The Executive Director meets with all training assistants, staff members, and recruits (separately) on Day One to state expectations, reiterate the need for higher standards and modeling appropriate conduct, the need to immediately address misconduct, and to inform recruits that demands on staff are as great as the demand on them and they should report any breaches of conduct right away. They are given the choice of going either to the Director of Training or to the Executive Director.

The Executive Director meets with recruits at various points throughout the class, with the class as a whole, with group leaders, and with some individual recruits when time allows. Part of the discussion involves the conduct of VPA staff from the recruit’s perspective. The Executive Director also joins classes unannounced to monitor instructors, and stays overnight at the VPA on an irregular basis.

## 2012 LEAB Report to the Legislature

---

There are always two training coordinators assigned to the class, though both are not present all the time. Neither of them is allowed to stay more than two consecutive nights, or three nights total if there is high demand during a week, and both are required to stagger their schedules so that they are not here 16 hours a day unless on the infrequent occasion that it's unavoidable. This is intended to put 'distance' between the training coordinators and the recruits. Additionally, the Director of Training has her office two doors away from theirs, and meets with them on a daily basis while the full time basic class is in session.

A formal peer review process has not been utilized at this time, primarily due to some turnover in that position.

The SOP for the basic class has been finished and is currently in the review process to make sure it's as up to date and following best practices.

#### 4. Vermont Criminal Justice Training Council Structure and Interaction

The report noted that the current VCJTC practice during meetings is to focus on operational issues such as certifications, standing committee reports, and granting waivers versus long term visionary issues, which tends to send a message to staff that the Executive Director does not have authority over routine issues. This results in less ability for the Executive Director to push authority down to subordinates, which gives them less autonomy. The report recommends:

- A review of the enabling statute to address who is appointed to the VCJTC
- Require that commissioners name permanent proxies to add consistency
- The Secretary of Administration should be a representative to the VCJTC
- The VCJTC should have active subcommittees, to include budget, strategic planning, and legislative liaison
- That meetings be more formal, properly measured in time, and follow structure, such as a board of trustees of collegiate institutions
- All waiver requests and other rules applications be handled by the Executive Director
- The VCJTC move their purview to the "10,000 foot level"

## 2012 LEAB Report to the Legislature

---

- An annual report should be done by the VCJTC in conjunction with the Executive Director. It should be delivered to the Secretary of Administration, and should measure completed goals against the Strategic Plan.

Response: The VCJTC established Budget, Rules, and IT subcommittees, which meet as necessary. The Executive Director or his designee is responsible for bringing issues to the subcommittees and facilitating meetings. The Rules subcommittee has not been active because the LEAB was tasked with reviewing S. 248, and it's expected that the results of this review and any subsequent legislative action will provide the foundation for subsequent rules changes. The IT subcommittee is working with VPA staff with regards to implementing the IT grant. Strategic planning as currently practiced is a whole Council function, in that the entire Council is part of any strategic plan review and revision. As noted during the original strategic planning session in May of 2011, the plan guides the activities of VPA staff and will be revisited in February of 2012 for review of completed goals and establishment of new goals.

There is no formal legislative subcommittee. The VCJTC Chair acts as the legislative liaison and meets with the Executive Director for committee testimony. Other VCJTC members with particular expertise or legislative interests will also provide testimony as necessary. Legislative issues are discussed during Council meetings.

To assist the Council in taking the "10,000 foot view", the Executive Director and staff are currently developing standards and processes for certifications and waivers, to enable the Council to hear appeals of the Executive Director's decisions rather than the Council having to make the decisions. Some of this may actually require a change in the rules regarding Council functions.

### 5. Financial Management

The report noted that there was a long history of problems associated with budget management at the VPA, all associated with lack of knowledge, lack of long-term planning, lack of fiscal control, ignorance of budgeting practices, failure to get grant expenditure reimbursement, and no regular budget reviews. There was no indication of foul play of any sort. Additionally, the Center for Crime Victims Services and the DPS Department of Homeland Security were concerned that the

## 2012 LEAB Report to the Legislature

---

funds they provided to the VPA were not being expended and accounted for appropriately. To alleviate this, Col. Baker made the following changes:

- Limited purchase card use to supervisors and the Financial Services Clerk
- Established an MOU with BGS AoA Financial Services that provides budget support and management assistance, any reports to the legislature, and FY closeout reports.
- The VPA received monthly reports
- Regular communications with the budget analyst assigned to the VCJTC as well as the VCJTC Chair
- Grant management practices and responsibilities were clarified and realigned
- Established MOU's with granting agencies that clearly defined expenditures and outcome measures
- Used the VT Department of Finance and Management Self-Assessment Tool to establish benchmarks and measure annual progress

The recommendations are:

- Continue relationship with BGS AoA Financial Services
- Critical infrastructure needs be identified and planned for in a five year plan
- Expand the capabilities of the in-house Financial Services Clerk to include financial management of grants and a better
- The VCJTC form a sub-committee of Council members who meet and review budget performance reports

Response: The VPA has continued its relationship with BGS Financial Services, and the Executive Director is in regular contact with the assigned budget analyst as needs dictate.

Critical infrastructure needs have not yet been built into a five-year planning process. Many of the needs cited in the report (computers, classroom technology, training equipment) have already been addressed via grants or carryover funds, so it's anticipated that a five year planning process will begin FY14, pending legislative approval.

## 2012 LEAB Report to the Legislature

---

Expanding the knowledge base of the Financial Services Clerk is an ongoing process. One of the challenges of the VPA partnership with BGS is the continuing review of internal processes and best practices, which introduces new procedures to the VPA. The Administrative Director is responsible for learning these procedures, bringing them to the VPA, and training the Financial Services Clerk as he does so. The VCJTC has not established a sub-committee of members who meet and review budget performance reports; these reviews are easily enough accomplished during the regular meetings, and any concerns that may arise between meetings are brought to the Chair.

### 6. Programming

The report noted two flaws in the academic programming process at the VPA, that there was no one in the position of “academic dean” who was responsible for the establishment, maintenance, and review of training programs, and that standing committees such as Use of Force and the Canine Program tended to operate without VPA staff oversight and set policy by training implementation. There was no clear strategic direction in curriculum development and coordination.

The recommendations were:

- Create a position of Director of Training with oversight responsibility for planning, prioritizing, development, maintenance, and implementation of all training programs
- Establish clear written academic standards for curriculum
- Create a formalized structure that follows what other academic institutions utilize to create departments of subject matter training
- Have better oversight of the committees and have their role clearly defined as advisory
- Assign senior leadership to committee work to guide the advisory role.

Response: As noted earlier, the position of Director of Training has been created and assigned the abovementioned responsibilities. Significant work on the curriculum has been delayed, due to the job task analysis (JTA) that will have been completed by the time this report is made available to legislators. The JTA is intended to review the current academic program, which will be used as the

## 2012 LEAB Report to the Legislature

---

baseline not only for curriculum revision, but also for potentially restructuring staff assignments and development of subject matter expertise.

Staff members usually attend committee meetings and offer input from the VPA perspective, but it wasn't always clear just what their level of authority was or how they were to interact with the committees. Now, the practice is for a senior staff member to attend most committee meetings, and the Executive Director has met at least once with every committee to reaffirm that their work is clearly advisory, with no decision or policy making ability. Staff members who attend committee meetings are encouraged to be assertive and help steer meetings that may be unproductive or exceeding their mandate.

### 7. Lack of Policies and Formalized Processes

The report noted a lack of a central SOP manual and policy manual, which left VPA staff attempting to resolve issues by noting past practices. The recommendations were:

- Create an administrative division that takes ownership for policy development
- An internal affairs process similar to a police department be developed
- Standard operating procedure be developed for the basic class and other programs such as entrance testing
- A code of conduct be developed for staff members to include a swearing to that code.

Response: As noted earlier, the position of Director of Administration was developed, and the person assuming that position was tasked with creating the SOP manual for the basic class. This was done, and the manual is in the final steps before adoption. A policy manual has also been developed that essentially pulls together and updates the existing policies into one location, and this is in the final review process as well. Both manuals should be in place by the time this report is provided to legislators, barring any need for significant revision as determined by the JTA.

The internal affairs process is already addressed in the Vermont Human Resources manual (an electronic copy of which has been placed on every staff member's computer) section on disciplinary procedures.

## 2012 LEAB Report to the Legislature

---

The code of conduct has not yet been developed.

### 8. Connectivity to State Government

The report noted the lack of partnerships with state government entities such as Human Resources, Department of Information and Innovation, or BGS, which would provide oversight and subject matter expertise in those areas. This left the VPA struggling with processes and decisions in several key areas, which led to confusion and poor practices as well as tying up staff time with projects that would not normally fall under their job description or responsibility. The following partnerships were put into place:

- Human resources
- Building and General Services for budget and contracts assistance
- Attorney General's Office for legal services
- Department of Information and Innovation for IT support

The recommendations were:

- These partnerships be maintained and matured
- An MOU with the AG's office be signed
- Budgetary support continue for development and maintenance of IT systems at the VPA
- Further develop the IT infrastructure to update the VCJTC website to include online class registration
- Computer hardware and software replacement plans be followed and reevaluated on an annual basis

Response: The partnerships with HR, DII, BGS, and the AG's Office continue, and have provided oversight without sacrificing VCJTC autonomy. MOU's are in place for all except the AG's Office at this time.

As noted earlier, improvements, additions, and replacements in the IT processes at the VPA have been supported primarily by grants at this time, so regular budgetary support will be requested beginning FY14.

Online class registration proved to be problematic, in that the proposed solution actually created more problems than it purported to solve, and made the overall process more cumbersome and far less customer friendly. The project was placed on hold at this time.

## 2012 LEAB Report to the Legislature

---

It's anticipated that the Council IT sub-committee will be involved in the annual IT review.

### 9. VCJTC Rules Compliance and Enforcement

The report observed that there was a lack of rules compliance oversight and enforcement, primarily because there was no staff or structure to document officer behavior and agency compliance. This has the effect of harming VCJTC credibility. The recommendations are:

- An Administrative Division be formed, with responsibility for compliance enforcement
- Policy and process be created to enforce VCJTC rules on certification and decertification
- A permanent auditing process to review annual training records be institutionalized
- The VCJTC partner with the Law Enforcement Advisory Board to study the issue of creating a licensing process for law enforcement officers modeled after the process used by the VT Secretary of State to license and investigate other professions.

Response: As noted earlier, an administrative division at the VPA has been created, and rules compliance is one of the responsibilities of this division. A permanent auditing process has been created and is being implemented, and the Administrative Director has been tasked with making at least six agency audits a year in addition to any audit that might be deemed necessary due to developing noncompliance information. Also as noted earlier, the Council created a Rules Sub-Committee intended to review the rules and make changes accordingly.

The LEAB was charged with reviewing and providing a report on the issues raised by S. 248 regarding repealing the Council and requiring that all law enforcement officers be licensed under the Office of Professional Regulation. The result of this review is provided as part of the 2012 LEAB Report to the Legislature.

Changes to the VPA and the VCJTC

## 2012 LEAB Report to the Legislature

---

The changes and benefits to the VPA and the VCJTC have been immediate as well as providing a foundation for continued improvement.

### Staff

The creation of the Director of Training and the Director of Administration positions served several purposes. Immediately, it provided two promotion opportunities for staff, which hadn't existed before, and clearly established two divisions with distinct responsibilities and authority. This, along with the revised organization chart, provided staff with clear guidance on who they report to and that they report to only one individual. The perception or reality that the Executive Director favored certain staff members is no longer supported by practice or organizational chart.

Hiring practices have been tightened, and applicants must pass a background investigation before being employed. Training staff now receive a much improved level of supervision and guidance while being encouraged to expand their areas of expertise and enhance their professional development. The establishment of the two director positions and the retention of the Senior Training Coordinator position provide opportunities for formal advancement as well.

To improve communication and promote cohesiveness, training staff and administrative staff meet regularly with their directors, and the directors meet weekly with the Executive Director. Staff meetings are held at least once a month, and twice a month if possible.

### Processes

There is an ongoing project to bring all the processes and policies into one manual, as well as standardize and memorialize processes so that it would be evident to even a casual observer what the VPA does and why. Additionally, processes that are either outdated or no longer operate as efficiently as they should are being revised or eliminated outright. Staff members provided input and feedback. Much of what is involved in changing processes will rely on the outcome of the JTA, so those portions affected by that have not yet been significantly changed.

### Partnerships

## 2012 LEAB Report to the Legislature

---

One of the most significant influences on change at the VPA has been the partnership with various state agencies and the guidance/oversight they've provided. The VPA staff now pursues best practices in budgeting, contracting, HR policies and procedures, and IT use. Though this can be problematic at times (more to do with learning and implementing these practices), the outcome is very positive in that the VPA has the ability to consult and work with experts in their respective fields. It should also be noted that these partnerships go a long way towards preventing some of the management errors that had previously been an issue.

### Budgeting

The move from special funding to general funding was very important. The VPA could rely on an established level of funding annually, with the security and extra accountability this provides. The BGS budget analyst assigned to the VPA is extremely responsive and not only provides ongoing information about the budget, but attends committee meeting and provides testimony.

### Certification and Compliance

At this time, there has been very little formal work done on certification and decertification at the Council level, given that the LEAB is taking this up in another report and any changes in these processes would require legislative action. The LEAB report on that topic accompanies this report. It should be noted that the VCJTC Executive Director and one Council member also sit on the LEAB, so there is consistency in message between the two entities.

### Recommended Statutory Changes

Changes will depend on the ultimate legislative decision regarding licensure and/or repealing the VCJTC. Either way, there should be considerable attention dedicated to the criteria under which law enforcement officers can be decertified and/or have their licenses revoked. Currently, Vermont's standards are so low that, other than for lack of training or a mistake or falsification in issuing the certification, officers can only be decertified for conviction of a felony subsequent to certification. At this time, there is no way to decertify officers for professional misconduct, ethical violations, conviction of some misdemeanors (i.e., stalking, domestic assault), or a pattern of conduct in general that diminishes public confidence in law enforcement.



# LEAB Report on a Comparison of Full Time Certification vs Part Time Certification

The State of Vermont, through the Vermont Criminal Justice Training Council (VCJTC), recognizes two levels of certification for law enforcement officers: full time and part time.

## Requirements for Part Time Certification

### Selection Process to Enter Program

- Must pass a written test with a score of 70 or above. This is intended to indicate if a person can successfully complete the academic portion of the basic training program.
- Must take a psychological test, currently the MMPI-II, scored by a licensed psychologist (agencies are left to decide for themselves if the results of the test are acceptable).
- Must have a completed medical evaluation by a physician who must affirm that the candidate can participate in rigorous exercise and training (no rigorous exercise or training normally associated with the part time program).
- Agencies must complete a background investigation on the applicant, which must include a fingerprint-supported criminal record check and a reference check.

### Part Time Certification Program Requirements

- Phase I: 58 hours of primarily classroom training (with the exception of firearms) with designated topics

## 2012 LEAB Report to the Legislature

---

- Phase II: Additional 50 hours (minimum) of training with a mix of core courses and electives
- Phase III (Can run concurrently with Phase II): A minimum of 60 hours in the Field Training and Evaluation Program (FTEP)
- Total minimum number of hours: 168 over 12 months

### Restrictions

An individual with part time certification can perform all law enforcement duties at the same level as an officer possessing full time certification for up to 32 hours a week, 52 weeks a year.

### Annual Certification Requirements

Officers with part time certification must complete a minimum of 30 hours of training annually, to include first aid, firearms, and any other topic required by the VCJTC.

### Requirements for Full Time Certification

#### Selection Process to Enter Program

- Must pass a written test with a score of 70 or above. This is intended to indicate if a person can successfully complete the academic portion of the basic training program.
- Must take a psychological test, currently the MMPI-II, scored by a licensed psychologist (agencies are left to decide for themselves if the results of the test are acceptable).
- Must pass a physical agility test at the Cooper 40<sup>th</sup> percentile or higher, normed for age and gender (see attached chart). This test is intended to determine if a person can participate in the physical portions of the basic training program.
- Must have a completed medical evaluation by a physician who must affirm that the candidate can participate in rigorous exercise and training
- Agencies must complete a background investigation on the applicant, which must include a fingerprint-supported criminal record check and a reference check.

#### Full Time Basic Training Program Requirements

- 16 weeks of a residential (Monday-Friday) program in a military-style environment designed to instill discipline and self-control under stress.

## 2012 LEAB Report to the Legislature

---

- Mixture of classroom instruction and practical scenarios designed to allow recruits to role-play what they learned to date.
- Most of the classroom instruction is provided by current or former practitioners with subject matter expertise.
- Total number of hours involved in the 16-week program is approximately 860
- Up to an additional three weeks of training for recruits needing certification in such topics as DUI, etc, involving up to another 120 hours.
- (Optional) Most agencies also put their recruits through the FTTEP (Field Training and Evaluation Program) involving approximately 400 hours; this is intended to give agencies an opportunity to evaluate how recruits apply their skills they learned during the basic training program.

### Restrictions

None. An officer possessing full time certification can perform all law enforcement duties for an unrestricted number of hours.

### Annual Certification Requirements

Officers with full time certification must complete a minimum of 25 hours of training annually, to include first aid, firearms, and any other topic required by the VCJTC.

### Issues and Concerns

Under the current structure, part time certified (PTC) officers have the same level of authority, the same access to confidential information, and the same opportunity to respond to all manner of calls that a full time certified (FTC) officer has, and are restricted only in the number of hours that officer is permitted to work. In addition, the VCJTC has determined that certain tasks (traffic control, courtroom security, DARE/SRO functions, prisoner transport, and administrative work) are not “traditional” law enforcement duties and hours spent performing them are not counted against the 32 hour/week limitation. As a result, a number of PTC officers around the state hold full time jobs by combining hours engaged in ‘traditional’ law enforcement with hours spent performing the exempted tasks.

There is no mechanism in place that would allow the VCJTC to routinely track hours worked by PTC officers either in total or in various activities. To compound

## 2012 LEAB Report to the Legislature

---

the problem, some PTC officers work for two or more agencies and, while the hours worked for each agency would not exceed the 32 hour limitation, aggregate hours between the agencies routinely do violate that restriction. Agencies are not now required to report the number of hours a PTC officer works for them. Those issues come to the attention of the VCJTC on an irregular basis, when someone makes a complaint. However, even in those cases where it can be established that a PTC officer is exceeding the hourly/weekly limit of his/her authority, there is no provision authorizing the executive director to suspend that officer's authority.

Small municipalities in Vermont rely on PTC officers for either their primary law enforcement or as an initial responder to work in conjunction with the VSP—many of these officers, if not most, are constables. These municipalities usually cannot afford to hire full time officers with benefits, send them through the full time basic training program, and equip them afterwards. Those that do attempt this can't compete with the salaries and benefits offered by larger agencies, and they often find those officers leaving to go to bigger agencies at the first opportunity. It's much less of a financial commitment for small municipalities to use PTC officers/constables.

Additionally, small communities tend to use PTC officers for traffic enforcement and to address "quality of life" offenses, while relying on the VSP to handle major crimes. From that community's perspective, traffic enforcement is conducted on a regular basis (and generates revenue to help offset the cost of the officer), and response time to minor offenses is much faster with the PTC officer than the VSP can offer.

Sheriff's departments in Vermont rely on PTC officers to perform tasks related to courtroom security, traffic control, prisoner transport, security details, and, in some instances, contracted patrols to communities (though the use of PTC officers appears to be much more common).

### Discussion Points

It should be stated clearly that there is a useful role for PTC officers in Vermont, and there is no movement or desire to eliminate this option for agencies and communities. The discussion should revolve around what the appropriate role for

## 2012 LEAB Report to the Legislature

---

PTC officers is, and the viability of moving to a more task-oriented method of making a distinction between part time certification and full time certification.

There is approximately five to six times the number of hours of training between part- and full-time certification, which allows the training involved in the full time basic program to go much more in depth in substantive topics, involving the use of numerous practical scenarios, while immersing the recruit in an environment that stresses professionalism, self-discipline, and integrity.

According to a survey of all states undertaken in 2007 by the VCJTC, most states require that all law enforcement officers receive the same level of training, and that it's up to individual agencies to determine if they're going to use the officer on a full- or part-time basis. A number of other states use a form of tiered certification, that determine which tasks the officer can perform or which type of agency the officer can work for by his/her level of certification.

In the December 2012 meeting, the VCJTC reached consensus that a tiered task-oriented certification should be developed.

### Recommendation

The LEAB recommends that the VCJTC be legislatively empowered to create rules governing levels of certification.

### LEAB Report on S. 87 Internal Investigation of Law Enforcement Officers

In 2012, Senate Government Operations requested a number of groups, the LEAB among them, to address issues regarding internal investigations of law enforcement officers. Thematically, the issues involved questions of confidentiality of records, when internal investigation results can or should be released to the public, and related concerns.

#### Confidentiality and Process

Currently, internal investigations are confidential, unless the officer is criminally charged as a result of the investigation. Investigations that determine the officer did nothing wrong are not usually part of that officer's personnel record, though the agency may keep those investigations in a separate location. Those investigations that conclude the officer committed an infraction (or a summary of the conclusions) and any resultant disciplinary actions become part of an officer's personnel record, barring any contractual prohibitions against that. Generally, there are contractual limitations as to how long those records stay in the folder. For example, many working agreements stipulate that the disciplinary action is removed from the officer's personnel record after two years, provided there is no repetition of that sort of offense.

Officers may be compelled to answer all questions truthfully during an internal investigation, but, because of this compulsion, anything that would incriminate them cannot be used against them.

## 2012 LEAB Report to the Legislature

---

### Public Release

The results of an internal investigation cannot be released to the public, even to the individual(s) who brought the issue to the agency in the first place, and even if they conclude the officer did nothing wrong. As a result, it's extremely easy for public perception to be skewed and allow for a belief that law enforcement agencies are "taking care of their own" to avoid accountability.

The exception to this prohibition against releasing records is the State Police Advisory Commission (SPAC), which, by statute has full access to all internal investigation records for the VSP and has authority to report the results of the investigations to other authorities or to the public.

The specific language, found in 20 VSA 1932 (d)(1)(2)(3), reads:

- (d) Records of the office of internal investigation shall be confidential, except:
  - (1) The state police advisory commission shall, at any time, have full and free access to such records; and
  - (2) The commissioner shall deliver such materials from the records of the office of internal investigation as may be necessary to appropriate prosecutorial authorities having jurisdiction; and
  - (3) The state police advisory commission shall, in its discretion, be entitled to report to such authorities as it may deem appropriate, or to the public, or to both, to ensure that proper action is taken in each case. (Added 1979, No. 156 (Adj. Sess.), § 1; amended 1981, No. 155 (Adj. Sess.), § 2, eff. April 12, 1982.)

There is no such language enabling sheriffs, police chiefs, or governing bodies in counties or municipalities to disclose the results of investigations to the public.

### Recommendation

Statutory language mirroring that involving SPAC should be enacted to enable governing bodies or employers to disclose, at their discretion, the results of internal investigations to the public.

### Eyewitness Identification Training

In January of 2012, following up on the LEAB recommendation in the 2011 report, the VCJTC was tasked with identifying best practices in eyewitness identification and offering training to Vermont law enforcement officers. A training summit was held at the Vermont Police Academy in April, and representatives from the national chapter of Project Innocence and New England chapter of Project Innocence were in attendance, along with the trainer. Twenty-three (23) VT law enforcement officers were trained as trainers themselves, and the goal of providing every VT law enforcement officer with this training was identified. Additionally, a model policy was provided to all trainers to disseminate as needed.

The training itself wasn't made readily available to Vermont law enforcement in general until August or later, but as of December 31, trainers report providing training to a little over 300 officers. The push to provide eyewitness identification training to all VT law enforcement officers will continue throughout 2013, with the goal of having 75% of the officer receiving this training and all state's attorneys having this issue introduced to them.

### Individual Complaints to Law Enforcement

In 2012, the LEAB was statutorily tasked with examining “...how individuals make complaints to law enforcement...” Because of the broad language contained in the statute, the assumption being made for the purpose of this report is that the legislature wants to know how and to which agency citizens report misconduct or criminal behavior on the part of law enforcement officers. Members of the LEAB were not aware of this addition to its statutory charge until very late in the year and have not, as a result, conducted a formal assessment of the process. In lieu of that, this report will be an overview of the process. Should the Legislature desire a more in-depth examination, the LEAB is happy to put this on the 2013 business plan.

#### Misconduct

As used in this report, “misconduct” will refer to actions or inaction on the part of a law enforcement officer that constitutes a violation of an agency’s rules or policies, but either does not rise to the level of a criminal act or is more effectively handled as misconduct than misdemeanor.

Complaints of misconduct or unprofessional conduct are almost exclusively handled within the officer’s employing agency, and are generally received from individuals in one of four ways:

1. The individual contacts the agency head with his/her complaint, or;
2. The individual contacts the head of the jurisdiction governing body (mayor, select board chair, etc), or;
3. The individual contacts a neighboring law enforcement agency or state’s attorney’s office, or;

## 2012 LEAB Report to the Legislature

---

4. Other officers within the agency report an instance or a pattern of misconduct to their supervisor.

On occasion, an aggrieved individual may contact a newspaper or television station reporter first, but those instances are relatively rare. On other occasions, individuals may make complaints of misconduct on behalf of a friend, family member, patient, client, etc, because the victim may be reluctant to bring a complaint forward for a number of reasons.

Because sanctions for verified misconduct are almost always administrative and applied by the employing agency, the complainant will, regardless of how he or she started the process, eventually be requested to provide a statement to the person assigned by that agency to conduct internal investigations. For these reasons, outside agencies do not conduct investigations into allegations of misconduct unless requested by the employing agency.

### Criminal Conduct

As used in this report, “criminal conduct” refers to actions or inaction on the part of law enforcement officers that may not only be rule/policy violations within their agencies, but will also readily constitute a violation of criminal law, i.e., various forms of assault, larceny, perjury, among others.

In general, the avenues available to report misconduct can also be used to report criminal activity on the part of a law enforcement officer, but the response and/or obligation of the agency receiving the complaint will vary significantly. Depending on circumstances, a criminal investigation is started with or without the agency’s or officer’s knowledge and/or cooperation. If the crime is substantiated, the officer is subject not only to agency administrative sanctions, but also criminal penalties.

As with complaints of misconduct, the complainant/victim will almost always be requested to provide a statement of what happened.

The law enforcement advisory board was also instructed to prepare key components of a policy on Fair and Impartial Policing. A subcommittee was tasked with accomplishing this initiative and below is the components of such a policy.

### Key Components of Fair and Impartial Policing Policies

#### **Purposes, Personal Criteria, and Training**

1. The purpose or goal of any Fair and Impartial Policing Policy is to provide guidance and promote accountability for law enforcement officers to interact with all persons in a manner that is fair and impartial, and which is as free from bias towards personal criteria as reasonably possible.
2. Fair and Impartial Policing Policies should set forth the personal criteria for which law enforcement officers should be trained to recognize, acknowledge, and mitigate on implicit biases.
3. Fair and Impartial Policing Policies should provide procedures for all law enforcement officers about fair and impartial policing. Such training shall have the goal of producing more culturally aware and sensitive officers.

#### **Operations**

4. Fair and Impartial Policing Policies should establish the legitimate, bias-free, bases for initiating and carrying out law enforcement actions.
5. Fair and Impartial Policing Policies should establish the legitimate instances in which law enforcement may consider personal criteria in seeking or dealing with a specific individual described as a having one or more personal criteria.
6. Fair and Impartial Policing Policies should establish when law enforcement may disclose information concerning an individual's personal criteria.
7. Fair and Impartial Policing Policies should establish a procedure for responding to reports of criminal activities based on the personal criteria of persons involved in the activity.

### **Accountability**

8. Fair and Impartial Policing Policies should establish a procedure for receiving, investigating, adjudicating, and documenting complaints that a law enforcement officer violated the department's Fair and Impartial Policing Policy.

### **Special Issues Involving Foreign Nationals**

9. Fair and Impartial Policing Policies should set forth the instances in which law enforcement may inquire into an individual's immigration status. Law enforcement agencies whose jurisdiction borders Canada should indicate any circumstances unique to their jurisdiction that would warrant such inquiries.
10. Fair and Impartial Policing Policies should set forth the instances in which law enforcement may make referrals to federal immigration officials. They should also set forth procedures for responding to individuals whose only violation of law is that they are foreign nationals present in the United States without lawful authority.

### **Other Issues**

11. Fair and Impartial Policing Policies should state that a violation thereof does not establish a right to institute a private cause of action and that they do not establish the legal standard applicable in any such action.

### Appendix A 2012 LEAB Member List

Chair: Richard Gauthier, Executive Director, Vermont Criminal Justice Training Council

Vice-Chair: Paco Aumand, Director, Criminal Justice Services Division

Commissioner Keith Flynn, Department of Public Safety

Colonel Thomas L'Esperance, Director, Vermont State Police

Chief Tom Hanley, Middlebury Police Department, Vermont Association of Chiefs of Police

Sheriff Keith Clark, Windham County Sheriff, Vermont Sheriffs' Association

Karen Horn, Director, Vermont League of Cities and Towns

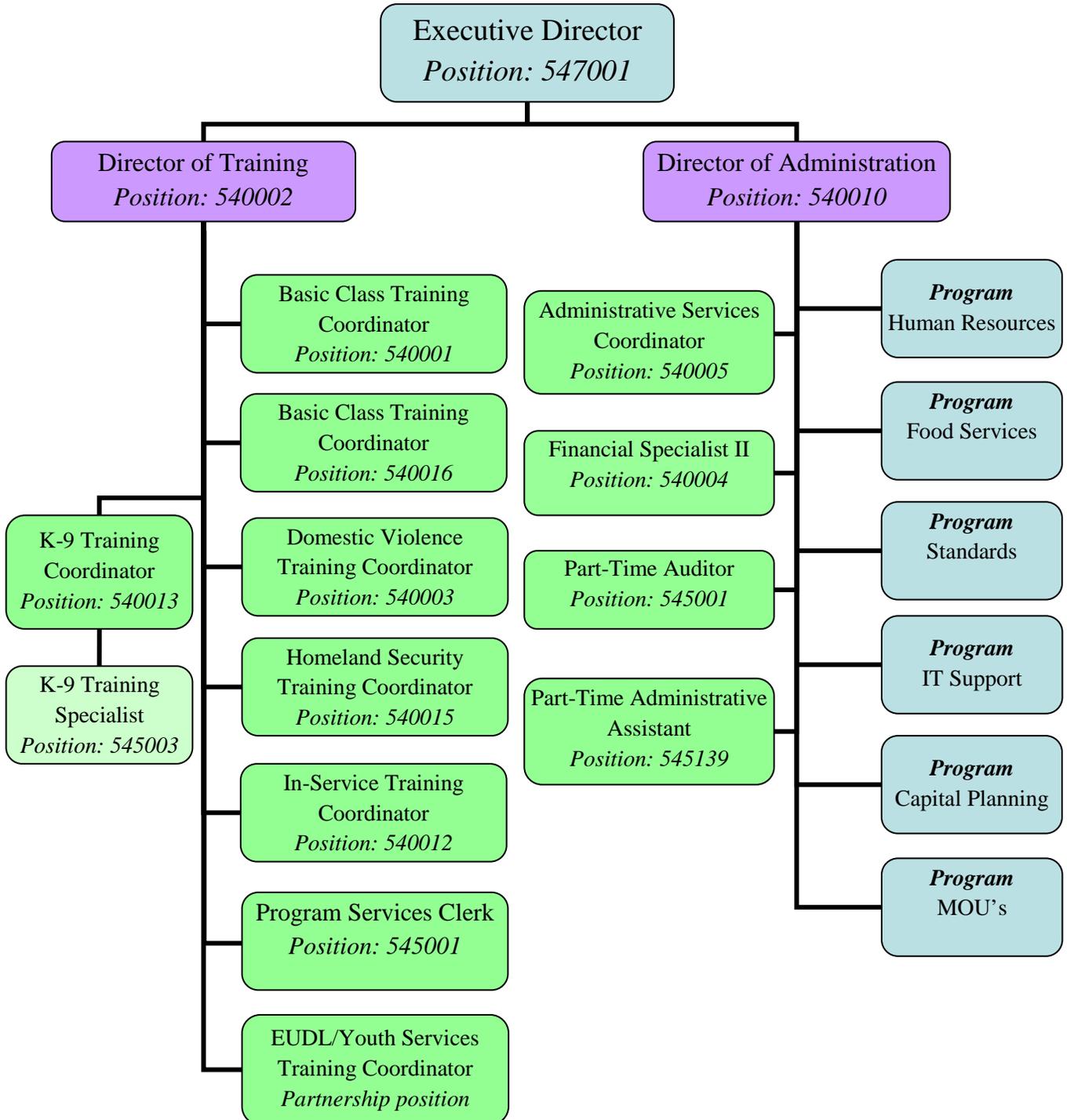
Cindy Maguire, Attorney General's Office

James Mongeon, Executive Director, State's Attorney & Sheriff's Office

James Leene, U. S. Attorney's Office

Michael O'Neil, Vermont State Police Representative

Appendix B  
VCJTC Table of Organization



### Appendix C 2007 VCJTC Survey and Analysis

During the months of February and March 2007 a survey was sent out to all 50 states and the District of Columbia requesting information about part-time law enforcement officers. In total there were 42 states and the District of Columbia that responded to the part-time officer survey. Out of 51 possible responses this equates to an 84% response rate. The eight states who did not respond to the survey were unable to be reached by either electronic mail or telephone.

The data shows that of the states who responded to the surveys, five, as well as the District of Columbia, have no part-time law enforcement officers. Those states who indicated that they have no part-time officers include Alaska, Hawaii, New Mexico, Maryland, and Oregon. For these states no further data was gathered.

Eleven states responded that they make no distinction between full-time law enforcement officers and part-time law enforcement officers. These states include: Arizona, Connecticut, Indiana, Kansas, Kentucky, Michigan, Nevada, North Carolina, Pennsylvania, South Dakota, and West Virginia. The data indicates that making "no distinction" between full and part-time officers usually means the state does not define part-time law enforcement officers. Although these states may have law enforcement officers that do not work 40 hours per week, they do not consider them to have a part-time status. These states have entry standards and training requirements that are the same for all law enforcement officers, regardless of the number of hours that the officers work.

## 2012 LEAB Report to the Legislature

---

Several other states from across the country do not have part-time officers, but instead have created a classification of law enforcement officers called "reserve officers". These reserve officers are in most cases volunteers that are called to service when needed. The seven states that define reserve officers include California, Colorado, Massachusetts, Texas, Washington, Wyoming, and Oklahoma. Among these reserve officers there is a great deal of variation about training and certification. Some of these states require training for their reserve officers that is equivalent to that of regular full-time officers, while some states require less training such as reserve academies. Usually reserve officers are limited in either their authority or job function or both. However, certain states such as California have created classes of reserve officers, with a level of reserve officers that have the same authority as full-time law enforcement officers. Of the states that reported having reserve officers, most utilize such officers in support functions for full-time law enforcement officers or require that they only perform duties in the supervision of a full-time officer. Examples of support duties include traffic control, event security, evidence and prisoner transportation, and other duties that are not likely to result in physical arrests.

The remaining 17 states that responded to the survey all indicated that they did indeed have part-time law enforcement officers in their state; All of these states except Florida defined part-time officers by a certain number of hours that part-time officers work (by week, month, or year).

Since the purpose of this report was to compile information about part-time officers throughout the United States, this analysis will focus on data from the 17 states with a recognized part-time law enforcement officer status. These states include Alabama, Arkansas, Florida, Georgia, Idaho, Illinois, Iowa,

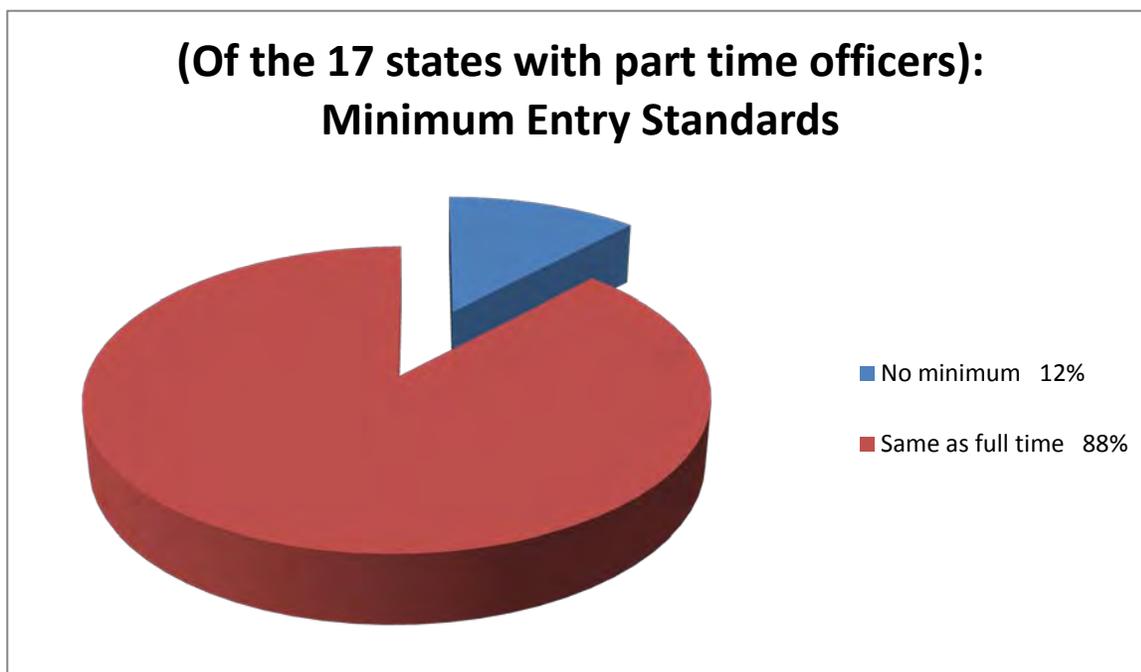
## 2012 LEAB Report to the Legislature

---

Maine, Minnesota, Missouri, New York, North Dakota, Ohio, South Carolina, Tennessee, Vermont, and Wisconsin.

### Entry Standards

Of those states that have part-time law enforcement officers, the majority (15) have entry standards for those part-time officers that are the same or equivalent to the standards used for full-time officers. Only two states, Illinois and New York, do not have minimum entry standards that are mandated by the state. In Illinois entry standards are left up to the hiring agency. In New York some hiring agencies have no minimum entry standards while others require civil appointment.



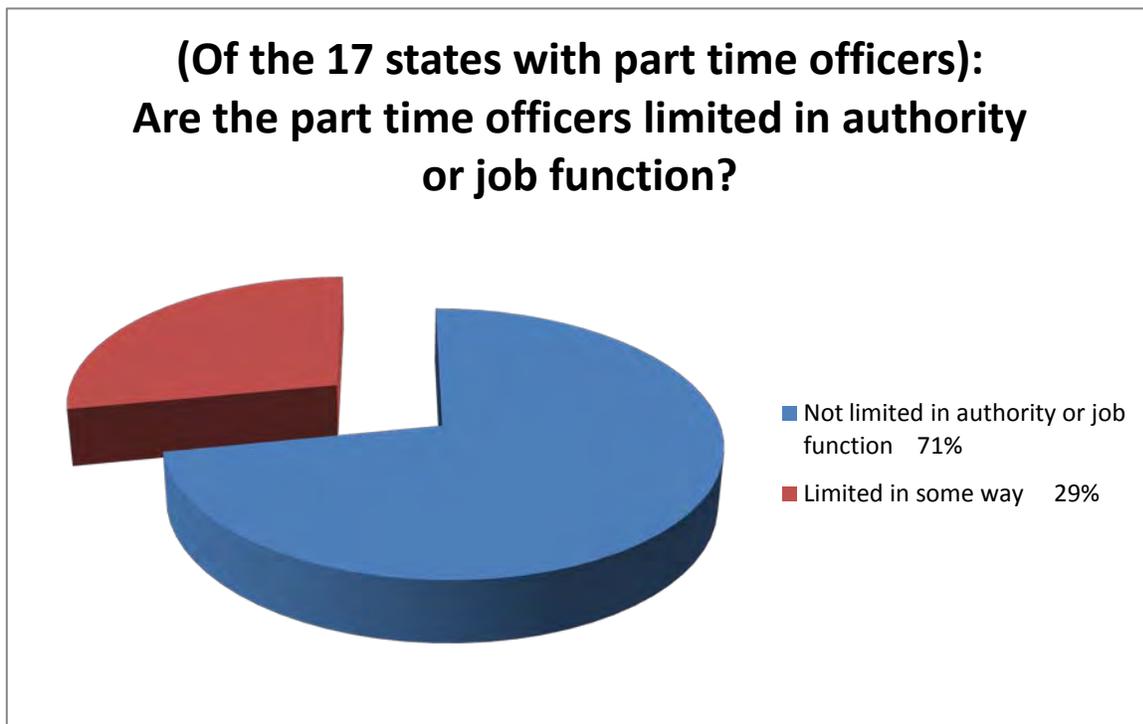
### Limitations on Authority or Job Function

In the 17 states that have part-time law enforcement officers, 12 states reported that these officers are not limited in authority or job function by the state. Several of these 12 states, however, reported that part-time officers

## 2012 LEAB Report to the Legislature

---

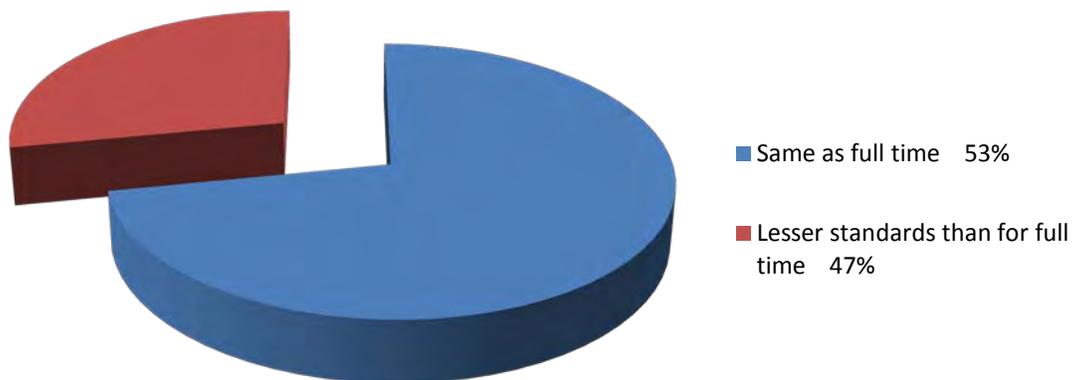
may be limited in either their authority or job function by the employing agency. The remaining five states all limit the authority or job functions of part-time officers in some way. The state of Maine limits the job functions of part-time law enforcement officers by saying that they are not allowed to investigate "serious" investigations or fatal crashes. North Dakota similarly limits the job function of part-time officers by saying that they may only perform duties that fall within the scope of their training. Idaho and Minnesota require that part-time law enforcement officers may only act under "supervision" of a full-time certified officer. Tennessee states that the primary responsibility of part-time officers is a "support" role for full-time law enforcement officers, but did not say how this would limit authority or job function. The terms "serious", "supervision", and "support" that were used to describe limited authority or job functions of part-time officers were not defined in the survey.



### Training Programs

In nine of the 17 states that have part-time officers the training program for these officers is the same as for full-time officers. The eight other states, (which include Vermont), have a training program for part-time officers that is a lesser standard than the training program for full-time officers. The minimum training hours vary in each of the states. In Vermont the minimum number of training hours required is 168. Vermont's training requirement for part-time officers falls somewhere in the middle of this group because Tennessee, Maine, and Arkansas all require less than 168 hours, while Illinois and Idaho both require more: 400 hours and 233 hours respectively. Minnesota and North Dakota both indicated that part-time officer training was less than the required training for full-time law enforcement officers, but neither state reported the number of training hours required for part-time officers.

**(Of the 17 states with part time officers):  
What does the training program consist of  
for part time officers?**



## 2012 LEAB Report to the Legislature

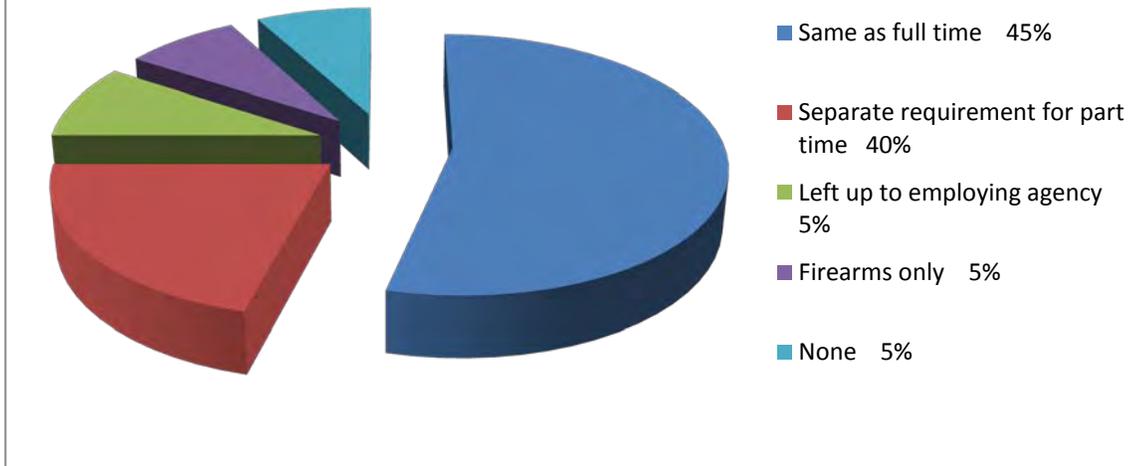
---

### Annual In-Service Training Requirements

When asked about minimum annual in-service training requirements for part-time officers nine of the 17 states indicated that their part-time law enforcement officers had to meet the same in-service training standard as the full-time officers. Five other states with part-time officers responded that they had a separate in-service training standard for part-time law enforcement officers. The State of Florida lets each employing agency decide how many in-service training hours they require of their part-time officers. The State of Illinois only requires that part-time law enforcement officers must qualify with firearms annually. The State of New York has no minimum in-service training requirement for part-time officers.

While the minimum basic training requirements for part-time law enforcement officers in Vermont may be comparatively low, minimum in-service training standards are not. Most states reported that minimum in-service training requirements were the same for both full-time and part-time officers. By requiring 30 hours of in-service training annually for part-time officers, Vermont actually requires more in-service training for part-time officers than for full-time officers. Of those states whose survey response gave a total number of minimum in-service hours required, Vermont only had less than three states: Tennessee and Kentucky, which require 40 hours per year, and North Dakota, which requires 60 hours per year.

**(Of the 17 states with part time officers):  
Minimum annual training requirements**



Of all the states with part-time officers only the State of Idaho requires that part-time officers work a minimum number of hours to maintain their part-time status: 120 hours annually in a peace officer capacity to retain certification.

The states with part-time law enforcement officers were asked if there was a requirement that part-time officers complete a full-time certification within a certain time if they exceeded their hour limits. Nine states answered that the question was not applicable because they either required their part-time officers to have a full-time certification already, or they do not have a maximum hour limit. Four of the 17 states reported that there was a requirement of completing a full-time certification within a certain time frame and the remaining four states indicated that there was no such requirement in their

## 2012 LEAB Report to the Legislature

---

state. Of the four states that reported a requirement of completing a full-time certification the time frames given to complete this task ranged from six months to one year.

In conclusion, only 17 states out of the 43 that responded to the survey have part-time law enforcement officers that are comparable to part-time officers in Vermont. Of these 17 states, most take the same approach as Vermont when it comes to minimum entry standards for part-time officers. Vermont is among the 15 states that require part-time officers to meet the same entry standards as full-time officers.

Vermont also falls in the majority group of states with part-time officers who do not choose to limit part-time officers in authority or job function. However, of those 12 states that do not limit part-time officers' authority or job function, only two have a basic training program that is not equivalent to the regular full-time officer training. Only Illinois and Vermont allow part-time officers who have been trained at a lesser standard than full-time officers to have authority and job function that are not limited in any way. That being the case, the State of Illinois has a part-time officer training program that consists of 400 hours of training. The training program for part-time officers in Vermont consists of only 168 hours.

Compared to the rest of the nation, Vermont part-time law enforcement officers are required to complete the least amount of training for the authority that they have.