



State of Vermont
Department of Public Safety
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To: The Honorable Philip B. Scott, Governor
House & Senate Committees on Judiciary
House & Senate Committees on Government Operations
All Vermont law enforcement agency heads
Chair William Sorrell, Vermont Criminal Justice Council

From: Michael Schirling, Commissioner, Department of Public Safety

Ref: Final draft of Vermont Statewide Policy on Police Use of Force

Date: July 1, 2021

In culmination of several months of intensive work, attached you will find a copy of the final draft of the “*Statewide Policy on Police Use of Force*”. This policy has been created in collaboration with lawmakers, numerous interested parties and the Vermont law enforcement community. It represents months of stakeholder engagement and dialogue on this most important topic. While the underpinning directives (S.119, H.145 and E.O. 03-20) have changed somewhat along the way, one thing has remained steadfast – the desire to create a policy that reflects the values of Vermont, while meeting all legislative mandates and operational necessities.

I believe this policy is amongst the most comprehensive and progressive in the nation. I am equally proud of the process by which this policy and its appendices were created. This process is described below.

Process of creating UOF statewide policy

1st draft process undertaken:

1. Relevant source documents gathered include:
 - a. Relevant legislation in VT and similar from other states
 - b. Existing case law
 - c. Policies from numerous police agencies
 - d. Review of the process used in Burlington (robust public engagement) to create June 2020 Use Of Force policy.
 - e. Other source documents such as the Commission on Accreditation for Law Enforcement Agencies standards, the President’s 21st Century Policing Report, Police Executive Research Forum guiding principles on Use Of Force, 8 Can’t Wait from Campaign Zero, etc.
2. Subject matter experts consulted:
 - a. Use of Force Instructors and national experts
 - b. Attorneys from Vermont and beyond
 - c. Legislators
 - d. Seattle Police Department and Washington State Training Academy
3. Opportunities for stakeholder and public input, model policies, and guiding principles prior



to creating a first draft of the policy.

- a. A press release was sent out on November 12th asking for input and directing the public to DPS's modernization website (dps.vermont.gov/modernization).
4. A spreadsheet was created to track all input received.
5. Input received (late October to early December) was reviewed and incorporated in to working drafts.
6. A first draft of Statewide Use of Force policy was developed on December 17, 2020. This draft was sent to key legislators, law enforcement leaders and stakeholder groups on December 17.
7. On December 22, 2020 a press release was issued announcing the draft had been posted to the DPS Modernization website with a request to receive feedback by January 6, 2021. Channel 22/44 ran a story about the draft policy on December 28, 2020.
8. Input was received and recorded on a spreadsheet. Second draft work began and continued throughout the legislative session.

Second draft process:

1. Policy language was updated to reflect new statutory language in H.145 (Act 27).
2. A thorough review of the six feedback documents (either submitted as feedback or created by aggregating multiple comments) took place and numerous changes were made to the first draft document. The six documents were made publicly available on the Modernization site and included:
 - a. MadFreedom feedback
 - b. ACLU VT feedback
 - c. Disability Rights VT feedback
 - d. Mr. Allen Gilbert feedback
 - e. Comments from Modernization site
 - f. Comments received via email
3. A review of the existing appendices was done.
4. Appendix D process ran simultaneously (see below for details on creation of Appendix D)
5. Track changes was used so that readers could see the changes from the version posted in December. We also posted a "clean" draft with all changes accepted for ease of reading. Both documents were made available to the public and shared with the known stakeholders, as well as law enforcement leadership in early May 2021.
6. There have been ongoing reviews of feedback and updates to the policy by the Commissioner or Public Safety, legal counsel and various subject matter experts.
7. Further feedback was received on the second draft until the first week of June.
8. The final draft was approved by the Commissioner of Public Safety on July 1, 2021.

Appendix D process:

1. DPS collaborated with the Crime Research Group (CRG) to serve as facilitators of an inclusive engagement process to design the process by which Appendix D would be created.
2. CRG surveyed all known stakeholders to ask their opinion on what the process should be and how much involvement each stakeholder (person or organization) wanted to have in the process of drafting Appendix D.



3. All stakeholders were invited to provide best practices, guiding principles, model policies or any other input they wished. These documents were posted publicly on the DPS Modernization website.
4. Once the survey results were reviewed, the CRG hosted an open meeting to discuss the results and collaboratively agree on a process for development of Appendix D.
5. At this meeting, it was agreed that a small group would be tasked with writing a draft and then sharing it back out to the larger group. The small group included advocates, persons with lived experience, practitioners and one law enforcement professional. This group met numerous times to develop a draft of Appendix D.
6. A first draft of Appendix D was shared back to the larger stakeholder group on June 8th with the opportunity to comment and provide feedback.
7. The small group reviewed all of the feedback received and made edits to the document.
8. Once the small group's work was completed, the Appendix was reviewed by legal counsel and the Commissioner of Public Safety. Any proposed changes were discussed with the working group.
9. Appendix D was finalized on July 1, 2021.

Training: Training on the contents of this policy and the underpinning legislation will be made available to all Vermont law enforcement officers prior to October 1, 2021. It is the responsibility of each agency to ensure all of its sworn members participate in available training prior to this policy's implementation date.

Instructions to Vermont law enforcement agency heads: This policy and its appendices are intended to be adopted in their entirety. All agency heads will receive a copy of this policy in MS Word format so that it may be copied into the agency's format. The watermark "Final Draft 7.1.2021" will indicate the approved final draft. All previous drafts should be discarded.

Agencies are reminded that pursuant to the Governor's Executive Order 03-20 dated August 20, 2020, failure to adopt the statewide policy shall result in limitations on state funding and access to training for the agency.

This policy goes into effect on October 1, 2021.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael E. Schirling".

Michael E. Schirling
Commissioner of Public Safety