

**Vermont Department of Public Safety
Law Enforcement Advisory Board
Business Plan**

PURPOSE – What is our purpose?

As defined in the 24 V.S.A. § 1939 and by the members of the Law Enforcement Advisory Board the mission of the group is as follows;

To advise and report to the Commissioner of Public Safety, the Governor, the General Assembly on issues that affect the cooperation and coordination of more than one law enforcement agency.

GOAL – What are we working towards?

Given monies available, the Board shall review *policies* and *practices* in an effort of developing a *comprehensive approach* to providing the best policing services to Vermonters.

The Board shall also provide *educational resources* to Vermonters about public safety challenges in the state.

The Board shall develop *policies and recommendations* for law enforcement priority needs.

TASKS – What should the Board review?

Statutorily mentioned tasks include;

- Retirement benefits,
- Recruitment of officers,
- training needs,
- homeland security issues,
- dispatching, and
- Comprehensive drug enforcement.

Other tasks deemed important by the Board should also be reviewed. It is expected that issues or tasks may arise at any time and may be brought before the Board for resolution.

OUTCOMES – What are we going to produce?

The Board shall hold a formal review process to meet the above goals and tasks. A *report* shall be produced in brief summary to the General Assembly and Governor annually by January 15th. A *formal review process* shall include testimony from interested parties, if deemed necessary by the Board, or a thorough discussion of the issues/tasks followed by a recommendation made and voted on by the Board.

ORGANIZATION– What is the make up of the Board and how does it operate?

The Board is made up of the following;

- Commissioner of the Department of Public Safety (DPS)
- Director of the Vermont State Police (VSP)
- Director of the DPS/ Division of Criminal Justice Services (CJS)
- A member of the Vermont Association of Chiefs of Police appointed by the president.
- A member of the Vermont Sheriffs' Association appointed by the president
- A representative from the Vermont Leagues of Cities and Towns (VLCT) appointed by the Executive Director.
- A member of the Vermont Police Association appointed by the president.
- The Attorney General or his/her designee.
- A state's attorney appointed by the Executive Director of the Department of State's Attorneys and Sheriffs.
- The U.S. Attorney or his/her designee.
- The Executive Director of the Vermont Criminal Justice Training Council (VCJTC).
- The Defender General or his/her designee.
- One employee-representative of the Vermont state police, appointed by the director of the Vermont state employees' association.

The Board shall elect a chair and vice-chair who will serve for two years.

A quorum shall consist of 6 members.

Decisions of the Board shall require a majority vote.

Action Plan for 2010-2011

The Board shall meet a minimum of six (6) times in 2010.

The Board shall begin discussing the following issues with the outcome being to define the problem, document the problem or issue and offer recommendations to help solve the problem. These issues are in priority order.

1. Develop a model policy for the investigation of domestic violence situation involving police officers and promote its adoption in Vermont.
 - o Form a subcommittee of stakeholders.
 - o Finalize draft policy.
 - o Present it to the Chiefs and Sheriff's at their annual meeting on May 27, 2010.
2. The law enforcement advisory board shall comply with the provisions of H. 470 as passed by the 2010 General Assembly.
 - o Review the available reports that have addressed the issue in the past.
 - o Establish a subcommittee to determine the relevance of the report findings.
 - i. Brainstorm solutions.
 - ii. Determine cost issues.
 - iii. Present proposal options to the LEAB

BILL AS Passed into LAW H. 470

Sec. 238c. PRESERVATION OF EVIDENCE

(a)(1) The general assembly finds that it is in the interest of justice that Vermont establish a system for the preservation of any item of physical evidence containing biological material that is secured in connection with a criminal case or investigation by the government entity having custody of the evidence for the period of time that:

(b) The Vermont law enforcement advisory board shall develop a proposal for implementation of this section and present it to the senate and house committees on judiciary no later than January 15, 2010.

(c) The department of public safety, the department of buildings and general services, the police chiefs' association, and the sheriffs' association shall develop a proposal for establishing one or more facilities for retention of items of physical evidence containing biological material that is secured in connection with a criminal case or investigation. Such facilities would be available for use by all Vermont law enforcement agencies. The proposal shall be presented to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011.

- Review what has been written in other reports on the subject.
- Determine the issues and document the issues.

- Develop proposal alternatives.
- Develop the costs of the proposals.
- Prepare a draft report for consideration of the LEAB.
- LEAB to prepare final recommendations for the Senate and House.

Sec. 238d. RECORDING CUSTODIAL INTERROGATIONS; ADMISSIBILITY OF DEFENDANT'S STATEMENT

(a) It is the intent of the general assembly that on and after July 1, 2012, a law enforcement agency shall make an audio or an audio and visual recording of any custodial interrogation of a person when it is conducted in a place of detention after the person is arrested in relation to the investigation or prosecution of a felony.

(b) The Vermont law enforcement advisory board shall develop a proposal for implementation of this section and present it to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011. The proposal shall address the costs associated with purchasing, installing, and maintaining audio and visual recording as required by this section.

- Review what has been written in other reports on the subject.
- Develop proposal and cost alternatives associated with purchasing, installing and maintaining audio and visual recording equipment.
- Prepare a draft report for consideration of the LEAB.
- LEAB to prepare final recommendations for the Senate and House.

Sec. 238e. EYEWITNESS IDENTIFICATION BEST PRACTICES

(a) The general assembly finds that eyewitness misidentification remains the single largest contributing factor to wrongful conviction. According to the Innocence Project, there are currently 249 DNA exonerations across the nation, and in nearly 80 percent of them, there was at least one misidentification.

(b) A statewide study committee created by No. 60 of the Acts of 2007 reported that the Vermont police academy currently teaches best practices regarding eyewitness identification.

(c) To ensure that law enforcement agencies statewide are employing best practices with regard to eyewitness identification, the Vermont law enforcement advisory board shall develop a proposal to establish best practices that are well suited for Vermont and its many, small rural law enforcement agencies, including consideration of conditions for the use and administration of show-ups, use of blind administrators for lineups, proper filler selection in live or photo lineups, instructions for eyewitnesses prior to a live or photo lineup, and confidence statements from eyewitnesses. The Vermont law enforcement advisory board shall present its proposal to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011. The proposal shall address the costs associated with purchasing, installing, and maintaining audio and visual recording as required by this section.

- Review what has been written in other reports on the subject.
- Determine the issues and document the issues.
- Develop best practices.
- Develop the costs of the proposals.
- Prepare a draft report for consideration of the LEAB.
- LEAB to prepare final recommendations for the Senate and House.

3. Identify the issues associated with human trafficking specifically,
 - Is Vermont law compatible with Federal law?
 - Identify necessary funding sources to deal with the issue.
4. Review the implementation strategies associated with the all felon arraignee DNA sample collection law (S.13) and offer support and/or recommendations for successful compliance with the law.
5. Review the efforts surrounding electronic information sharing and identify problems and offer recommendations on solutions.
 - Document the status of the Vermont Justice Information Sharing (VJISS) effort.
 - Document the efforts of the Burlington Police Department in building a new records management system (RMS).
6. Fill all opens slots on the advisory board and evaluate the current organizational structure.
 - Determine if organizational changes need to be incorporated into the 2011 legislative session.
7. Explore the problems with the training of constables, including field training of constables.
8. Rural Law Enforcement issues.
 - Continue to review the consolidation and regionalization
9. Explore police training curriculum development issues.
 - Why are agencies outside of the criminal justice training council dictating curriculum issues to the law enforcement community?
 - How much of a problem is this issue?

Appendix

BILL AS Passed into LAW H. 470

Sec. 238b. LEGISLATIVE INTENT; FORENSIC LABORATORY ACCREDITATION

It is the intent of the general assembly that the Vermont crime laboratory remain continuously accredited by an accreditation organization. As used in this section, “accreditation organization” means a nonprofit professional association of persons who are actively involved in forensic science and who have substantial expertise in accrediting forensic laboratories.

Sec. 238c. PRESERVATION OF EVIDENCE

(a)(1) The general assembly finds that it is in the interest of justice that Vermont establish a system for the preservation of any item of physical evidence containing biological material that is secured in connection with a criminal case or investigation by the government entity having custody of the evidence for the period of time that:

- (A) the statute of limitations has not expired for a crime that remains unsolved; and*
 - (B) a person remains incarcerated, on probation or parole, or subject to registration as a sex offender in connection with a criminal case.*
- (2) For purposes of this section, criminal case or investigation shall include only the following offenses:*
- (A) arson causing death as defined in 13 V.S.A. § 501;*
 - (B) assault and robbery with a dangerous weapon as defined in 13 V.S.A. § 608(b);*
 - (C) assault and robbery causing bodily injury as defined in 13 V.S.A. 608(c);*
 - (D) aggravated assault as defined in 13 V.S.A. § 1024;*
 - (E) aggravated murder as defined in 13 V.S.A. § 2311 and murder as defined in 13 V.S.A. § 2301;*
 - (F) manslaughter as defined in 13 V.S.A. § 2304;*
 - (G) kidnapping as defined in 13 V.S.A. § 2405;*
 - (H) unlawful restraint as defined in 13 V.S.A. § 2406 or 2407;*
 - (I) maiming as defined in 13 V.S.A. § 2701;*
 - (J) sexual assault as defined in 13 V.S.A. § 3252(a)(1) or (a)(2);*
 - (K) aggravated sexual assault as defined in 13 V.S.A. § 3253.*
 - (L) burglary into an occupied dwelling as defined in 13 V.S.A. § 1201(c); and*
 - (M) lewd and lascivious conduct with a child as defined in 13 V.S.A. § 2602.*
- (3) For purposes of this section, “biological evidence” means:*
- (A) a sexual assault forensic examination kit; or*
 - (B) semen, blood, saliva, hair, skin tissue, or other identified biological material.*

(b) The Vermont law enforcement advisory board shall develop a proposal for implementation of this section and present it to the senate and house committees on judiciary no later than January 15, 2011.

(c) The department of public safety, the department of buildings and general services, the police chiefs' association, and the sheriffs' association shall develop a proposal for establishing one or more facilities for retention of items of physical evidence containing biological material that is secured in connection with a criminal case or investigation. Such facilities would be available for use by all Vermont law enforcement agencies. The proposal shall be presented to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011.

**Sec. 238d. RECORDING CUSTODIAL INTERROGATIONS;
ADMISSIBILITY OF DEFENDANT'S STATEMENT**

(a) It is the intent of the general assembly that on and after July 1, 2012, a law enforcement agency shall make an audio or an audio and visual recording of any custodial interrogation of a person when it is conducted in a place of detention after the person is arrested in relation to the investigation or prosecution of a felony.

(b) The Vermont law enforcement advisory board shall develop a proposal for implementation of this section and present it to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011. The proposal shall address the costs associated with purchasing, installing, and maintaining audio and visual recording as required by this section.

(c) In the first year of the 2011–2012 biennium, the senate and house committees on judiciary shall consider the proposal required by subsection (b) of this section for the purpose of enacting statutes by the date of adjournment in 2012 to implement a plan for audio and visual recording of any custodial interrogation of a person when it is conducted in a place of detention after the person is arrested in relation to the investigation or prosecution of a felony.

Sec. 238e. EYEWITNESS IDENTIFICATION BEST PRACTICES

(a) The general assembly finds that eyewitness misidentification remains the single largest contributing factor to wrongful conviction. According to the Innocence Project, there are currently 249 DNA exonerations across the nation, and in nearly 80 percent of them, there was at least one misidentification.

(b) A statewide study committee created by No. 60 of the Acts of 2007 reported that the Vermont police academy currently teaches best practices regarding eyewitness identification.

(c) To ensure that law enforcement agencies statewide are employing best practices with regard to eyewitness identification, the Vermont law enforcement advisory board shall practices that are well suited for Vermont and its many small rural law enforcement agencies, including consideration of conditions for the use and administration of show-ups, use of blind administrators for lineups, proper filler selection in live or photo lineups, instructions for eyewitnesses prior to a live or photo lineup, and confidence statements from Vermont law enforcement advisory board shall present its proposal to the senate and house committees on judiciary, the house committee on corrections and institutions, and the senate committee on institutions no later than January 15, 2011. The proposal shall address the costs associated with purchasing, installing, and maintaining audio and visual recording as required by this section.

Sec. 238f. 13 V.S.A. § 4010 is amended to read:

§ 4010. GUN SILENCERS

A person who manufactures, sells or, uses, or possesses with intent to sell or use, an appliance known as or used for a gun silencer shall be fined \$25.00 for each offense. The provisions of this section shall not prevent the use or possession of gun silencers for military purposes when so used or possessed under proper military authority and restriction by:

- (1) a certified, full-time law enforcement officer or department of fish and wildlife employee in connection with his or her duties and responsibilities and in accordance with the policies and procedures of that officer's or employee's agency or department; or*
- (2) the Vermont National Guard in connection with its duties and responsibilities.*

Sec. 239. EFFECTIVE DATES

(a) Except as provided in subsection (b), (c), or (d) of this section, this act shall take effect on July 1, 2010.

(b) Sec. 42 of this act shall take effect on July 1, 2010, except that the power to hire and remove staff, which is currently performed by county employees, as set forth in 4 V.S.A. § 491 as amended by Sec. 42 of this act, shall take effect on February 1, 2011.

*(c) The following sections of this act shall take effect on February 1, 2011:
Secs. 7a, 7f, 18, 18a, 19, 20, 21, 23, 23a, 24, 25, 28a, 44a, 73, 74a, 75, 76, 81,
91, 92, 120, 121, 122, 124, 125, 126a, 148, 149, 154a, 155a, 163a, 165, 197, 199, 200, 201,
203b, 204, and 238a.*

(d) Secs. 17a, 237(f), 238b, 238c, 238d, 238e, and 238f of this act and this subsection shall take effect on passage.