

OVERSIGHT OF POLICE CONDUCT IS INCONSISTENT

Despite the Vermont Constitution’s provision that control of police lies with the Legislature, law enforcement accountability in Vermont is decentralized. For citizens, lines of authority are confusing, leaving many to wonder who’s in charge.

The American Civil Liberties Union receives numerous complaints about police

misconduct. Short of a lawsuit, though, it’s often hard to sort out whether an officer has acted inappropriately.

The lack of accountability is doubly frustrating, for public and police alike. The public is left not knowing who’s a good officer and who’s not. Police are left with a black eye that may, or may not, be deserved.

DIFFERENT MODELS OF ACCOUNTABILITY

Nearly every profession in Vermont is regulated and governed by boards within the secretary of state’s office or elsewhere in state government – but not law enforcement.

Instead, Vermont officers are “certified” by the Vermont Criminal Justice Training Council following a training course at the Vermont Police Academy in Pittsford.

Until recently, there has been no process for decertification, as there is in 44 other states.

This has meant that a Vermont officer could be found through an internal investigation to have committed any of a number of inappropriate or unauthorized actions, and be fired – only to pick up a job with another department in another part of the state.

However, in 2009 the training council exercised new authority and decertified a local police chief who had lied about training requirements. This was the first time a Vermont police officer had ever lost certification.

The decertification was for 21 days, making it more like a suspension than the loss of a valuable license.

Most complaints about officers are handled through an investigation conducted by



the officer’s employer – the police department itself or a local select board or city council.

Complaints against state police officers are handled by the Department of Public Safety’s State Police Advisory Commission.

In extreme cases, the Attorney General’s office may handle complaints, but that’s rare.

One Vermont municipality – Brattleboro – has experimented with what are commonly called “civilian review boards.” Success in Brattleboro has been mixed.

Lacking is the consistent oversight that could be provided by an independent body that would accept complaints from the public, regularly review license renewals, investigate any cases that may warrant license revocation, and report to the public.

Article 5 of Vermont Constitution

“That the people of this state by their legal representatives, have the sole, inherent, and exclusive right of governing and regulating the internal police of the same.”

Bad Cop: Paul Lawrence

Paul Lawrence was an undercover police drug investigator in the 1960s and 1970s who had an astonishing success record. Some had suspicions he was planting evidence, but he got passed from one department to the next until he was finally caught – by special investigator Robert A. Gensburg. The story of this out-of-control cop is told in the book *Mocking Justice* by Hamilton Davis.

Lawrence stands as an example of the bad things that happen when police accountability is lacking.

RACIAL PROFILING BY POLICE

Allegations that Vermont police target racial and ethnic minorities are frequent. Sadly, in most cases there's no way to prove if the allegations are justified or groundless. Vermont is one of only two states – Mississippi is the other – where police don't collect what's called "stop" data.

That's beginning to change. Following charges of profiling in the Burlington area, four departments in Chittenden County have started voluntarily collecting data.

The Vermont State Police announced late in 2009 that they, too, would gather "stop" data. That decision came after a report by the Vermont Advisory Committee to the U.S. Commission on Civil Rights that said the perception alone of profiling is reason

to collect data and to address problems.

Profiling is bad for two reasons. First, targeting a person because of race rather than evidence of a crime is poor police work. Second, prejudice degrades a community; it has no place in any community, especially among public officials.

A bill backed by the ACLU was introduced in the Vermont Legislature nearly 10 years ago to address profiling. It failed. Congress is currently considering a federal bill, "End Racial Profiling."

If racial profiling exists, the officers responsible must be identified and sanctioned. But no one knows if profiling exists until data are collected by federal, state, and local police agencies.

The Poison of Profiling

"The Committee is concerned that inaction or ineffective action with regard to racial profiling will breed greater distrust between law enforcement and persons of color as Vermont's population grows more multiracial, multi-ethnic, and multi-lingual." – Vermont Advisory Committee to U.S. Commission on Civil Rights

TASER USE: A CASE STUDY IN UNACCOUNTABILITY

In 2007, the attorney general's office announced a review of police use of "Tasers" following several highly publicized incidents involving the stun guns. Police were criticized for inappropriate use of the weapons. One incident involved a protestor chained to a barrel.

A major goal of the review was to develop statewide standards for police to follow – a "consistent practice across the state," the attorney general's office said.

The review took eight months, and the results were disappointing.

No standards were developed. Instead, police were "advised to have written protocols" governing Taser use. Training was recommended, but not required.

In its report, the attorney general's office didn't analyze the protocols that departments had in place regarding what it termed "less lethal means of force." There was no determination whether appropriate standards had been set.

Without standards, determining misuse is difficult. Lawsuits are inevitable – which in fact did occur following one of the incidents that prompted the report.

An opportunity to establish accountability through adoption of statewide standards was lost. Ironically, the attorney general's report noted that "the most powerful asset in a police officer's arsenal is public support." Such support is not forthcoming when accountability is lacking.

Police Settle Taser Lawsuit

The Vermont State Police paid \$40,000 in November 2009 to settle a case brought by a man who said he was unnecessarily "tased." The man had a history of seizures and was hiding from police under a pick-up truck. Why settle? You never know what a jury might award, the state said.

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