

STATE OF VERMONT

EXECUTIVE DEPARTMENT

EXECUTIVE ORDER NO. 03-20

[Governor's Public Safety Reform Initiative]

WHEREAS, just two months ago, this country watched the tragic death of George Floyd, and while Vermont has been committed to fair and impartial policing for some time, we must acknowledge work remains to be done; and

WHEREAS, Vermont's Constitution requires every officer of the State in authority, whether judicial or executive or military, to swear an oath that, in the execution of their office, they will do equal right and justice to all persons, to the best of their ability, according to law; and

WHEREAS, this oath imposes upon all state officers, including our state-wide elected officials, our judges, our prosecutors and our law enforcement officers an awesome responsibility and we must do all we can to ensure our officers and our institutions are prepared, in fact, to do equal right and justice to all persons; and

WHEREAS, in January of this year, the Department of Public Safety (DPS) put forth an outline for modernizing policing and public safety in Vermont, which is based, in part, on more than 50 years of studies, reports and legislative drafts; and

WHEREAS, in June of this year, together with law enforcement and community leaders, DPS drafted a comprehensive 10-point strategy to accelerate progress in the organization of state law enforcement operations, modernizing our data collection and reporting technology; expanding alternative crisis response methodologies such as field mental health workers; providing enhanced statewide model policies in key areas, including use of force; modernizing hiring practices, training and supervisor selection; and developing community oversight models; and

WHEREAS, nationally, community representatives, law enforcement representatives and other advocacy groups are debating the risks and benefits of these and other measures such as an end to qualified immunity for law enforcement officers, removal of police from schools, banning the use of certain military equipment and techniques and banning certain surveillance techniques, all of which merit open and informed debate and consideration in Vermont's communities and in the Legislature; and

WHEREAS, the scope of this Order is to use the current lawful authority of the Governor and the resources available to the Executive Branch to accelerate the modernization of public safety operations throughout Vermont.

NOW THEREFORE, I, Philip B. Scott, by virtue of the authority vested in me as Governor, do hereby order and direct as follows:

I. Short Term Priorities

A. Community Participation. The Commissioner of DPS shall, in consultation with the Executive Director of Racial Equity, actively engage with communities, particularly those communities that have been historically marginalized or harmed by policing, as we develop and deploy best policing practices. Only through extensive outreach and participation can we achieve the goals outlined in the DPS's 10-point strategy, move forward on these initiatives and develop equitable processes that ensure equitable outcomes.

B. Hiring and Promotion Practices. State and local law enforcement agencies must recruit, hire, retain and promote officers who reflect the values and diversity of the communities they serve. In furtherance of DPS's ongoing work in this area, on or before October 1, 2020, the Commissioner of DPS shall work with community representatives and other interested parties to develop model processes and begin to implement enhancements to systems for hiring interviews in selection processes, background investigations and polygraph and psychological examinations, for purposes of hiring and promotion, including the hiring of police executives in Vermont. The Vermont Criminal Justice Training Council (CJTC) shall consider the model processes developed by DPS for adoption by all law enforcement agencies statewide.

On or before December 1, 2020, the Commissioner shall, in consultation with the Commissioner of Human Resources and the Executive Director of Racial Equity, develop additional initiatives to reach out to a more diverse hiring pool. This shall include measurable assessments of those efforts and outcomes.

C. Data. DPS, in consultation with the Agency of Digital Services (ADS), shall prioritize the adoption of an updated statewide computer aided dispatch and records management data system that is standardized and mandatory for all agencies related to use of force, traffic stops, arrests, mental health and other related topics. Further, that system shall make data more swiftly and fully available to communities, Vermonters and researchers using a variety of modern tools ranging from easily accessible dashboards to raw data – excluding personally identifying information on any person. The Commissioner of DPS and the Secretary of ADS shall provide a weekly status update to the Governor on the progress toward statewide implementation of this system.

D. Body Worn Cameras. As we look forward to a time when all law enforcement agencies in the State will be using body worn cameras, the State will require clear, consistent statewide policies governing their use, including universal policy on activation / de-activation, privacy issues, and release of camera footage.

The Commissioner of DPS is hereby directed to expedite work to 1) identify the scope of need for cameras by all Vermont law enforcement agencies; and 2) in collaboration with Vermont community representatives, and in consultation with the Executive Director of Racial Equity and other stakeholders, develop for the consideration of the CJTC, a statewide model policy on body worn cameras for all law enforcement agencies and officers for use statewide.

E. Use of Force Policy. On or before October 1, 2020, the Commissioner of DPS, in consultation with the Executive Director of Racial Equity, community representatives and other interested parties shall develop, for the consideration of the CJTC, a statewide model

policy on the use of force for all law enforcement agencies and officers. The model policy shall establish a statewide definition for what constitutes a use of force by police, and include best practices on when use of force shall be prohibited, such as in response to peaceful protests, and under what circumstances proportional use of force may be necessary. The model policy shall also address when and under what circumstances police military equipment shall be prohibited and when and under what circumstances it may be necessary.

At this time Vermont's State Police and local police agencies do not possess or use invasive surveillance technologies, advanced autonomous weaponry, facial recognition software or predictive policing technologies. It shall be the policy of the State that these technologies and techniques shall not be adopted by any law enforcement agency without express authorization under State law.

Further, it shall be the policy of the State that a police agency's failure to adopt the statewide model use of force policy shall result in limitations on state funding and access to training for the agency.

F. Training. The Commissioner has proposed a detailed plan for comprehensive law enforcement training modernization. I hereby direct the Commissioners of DPS, Corrections, Motor Vehicles and Fish and Wildlife, as a members of the CJTC, together with the new Executive Director of the Council, to coordinate and lead the efforts of the Council to develop and use updated, statewide training, schedules and methods. On or before December 1, 2020, the Commissioner of DPS shall report to the Governor on the status of these efforts.

G. Improper Conduct Allegations. The process of investigating improper conduct allegations must be easily accessible and as transparent as possible, while protecting the privacy of both the accused and the complainant. Investigations must have swift and consistent outcomes and include community oversight.

Working with community representatives and other interested parties to develop the most suitable models, on or before October 1, 2020, the Commissioner of DPS, in consultation with the Executive Director of Racial Equity and the CJTC, shall recommend to the Governor a statewide model policy for investigating allegations of improper conduct. This process should consider different models used outside of Vermont, including those involving civilian investigators or investigators from other agencies.

II. Development of Legislative Proposals for 2021

A. Universal Reporting Portal for Improper Conduct Allegations. On or before October 1, 2020, working with community representatives and other interested parties, the Commissioner of DPS shall develop, for the Governor's consideration, a legislative framework for uniform, statewide release of data and information regarding misconduct allegations. This shall include a proposal for development and implementation of a centralized statewide reporting portal and universal phone number for reporting allegations of misconduct.

B. Use of Force Investigation and Review. On or before October 1, 2020, working with community representatives and other interested parties, the Commissioner of DPS shall propose, for consideration by the Governor, a statutory mandate that all lethal force used by law enforcement and all deaths in custody are investigated by the Vermont State Police Major Crime Unit and reviewed independently by the Office of the Attorney General and a State's Attorney in a manner that is free from both actual and apparent conflicts of interest.

C. Community Oversight Models. On or before December 1, 2020, the Commissioner of DPS, in consultation with the Office of Attorney General's Division of Human Rights, and community representatives, shall recommend to the Governor one or more models of civilian oversight of law enforcement and develop a statutory framework for the consideration of the Governor. Any such statutory framework shall include provisions designed to create civilian oversight boards which minimize the risk of conflicts of interest, and the appearance of conflicts of interest between those serving on local civilian oversight boards and law enforcement executives or officers of a given locality. Once such example would be civilian oversight of law enforcement on a county-wide basis structured in a manner that avoids both actual and apparent conflicts of interest.

This Executive Order shall take effect upon execution.



By the Governor:

A handwritten signature in black ink, reading "Philip B. Scott".

Philip B. Scott
Governor

A handwritten signature in black ink, reading "Brittney L. Wilson".

Brittney L. Wilson
Secretary of Civil and Military Affairs

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Dated: August 20, 2020