

Testimony on S.75 Civilian Oversight of Law Enforcement

February 23, 2023



To: Members, Senate Government Operations Committee

From: Gwynn Zakov, Municipal Policy Advocate

Date: February 21, 2023

Re: S.75 Civilian Oversight of Law Enforcement

Thank you for the opportunity to testify on S.75.

VLCT represents 247 cities and towns in Vermont, and 54 of these municipalities have police departments of varying sizes. In our 2023–2024 municipal legislative policy adopted by our membership, VLCT supports 21st Century Policing. A major tenet of 21st Century Policing is ensuring resident involvement in policing at the local level. In Vermont we have locally elected officials – selectboards, city councils, boards of aldermen – who serve as the citizen oversight boards of police departments. In municipalities with a city or town manager, that oversight is provided by professional municipal managers. VLCT supports maintaining the current structure of elected officials and professional municipal management overseeing and

managing local police departments and personnel. VLCT supports police advisory boards, created by the local legislative body, that work alongside municipal leaders and police departments to create a bridge between management, law enforcement, and the broader community.

In 2017 the legislature passed Act 56, an incredibly important piece of legislation that created a statewide, professional regulation system. Act 56 revamped the former Vermont Criminal Justice Training Council and formed what is now known as the Vermont Criminal Justice Council (VCJC) to be the statewide authority and entity charged with establishing rules, policies, regulation and standards for certification and training of criminal justice personnel. Act 56 defined and categorized the types of professional misconduct that must be reported to the VCJC, and the VCJC is the state entity responsible for investigating reports of professional misconduct, determining whether reported conduct rises to the level of professional misconduct under law, conduct hearings of misconduct allegations, and ultimately imposing varying sanctions on law enforcement personnel's certifications, ranging from a written warning, suspension, revocation with the option of recertification at the VCJC's discretion, and permanent revocation. S.75 fully ignores the role the VCJC plays in the oversight and professional regulation of all law enforcement personnel at the state, county and municipal levels.

Act 56 of 2017 also mandated that each law enforcement agency in Vermont must adopt an effective internal affairs program by July 1, 2018. Additionally, the VCJC created a model internal affairs policy, and all agency must either adopt the state model policy or create one that meets all the requirements mandated in Act 56 and set forth in 20 V.S.A. Chapter 151.

S.75 would create a system that ignores the processes, procedures and underlying requirements of a valid internal affairs program as mandated by law and set forth in the state's model internal affairs policy. Any new powers and duties that may be assigned to a citizen board as proposed in S.75 need to either align with the requirements of 20 V.S.A. Chapter 151, or, those sections of law relating to internal affairs programs and internal investigations need to be significantly amended to align with what is proposed in S.75.

Instead of investing in, and making meaningful adjustment to the current professional regulatory system recently created in Act 56 of 2017, S.75 proposes to create town and city level civilian boards that serve the same roles already assigned to the VCJC, to elected

officials on selectboards and city councils pursuant to 24 V.S.A. § 872, and to municipal managers pursuant to 24 V.S.A. § 1236. It's unclear what the added value is of creating a system where elected officials and professional managers relegate their statutory duties to unelected persons with no explicit accountability to local voters and the community at large. S.75 would give all authority under 24 V.S.A. §§ 1931 –1934 to civilian boards, meaning unelected civilian boards could create a police department, dismantle a police department, hire and fire all personnel within the police department, and set the compensations of personnel. S.75 also gives civilian boards the authority to spend tax dollars with no oversight, no limitation, no understanding of the proper management of taxpayer dollars, and interestingly, no ability to raise revenues that are necessary to implement S.75.

If Vermont intends to create meaningful and consistent professional regulation of all law enforcement, at every level of government, properly investing in the capacity of the VCJC would be the best first step. VLCT strongly supports the work and mission of the VCJC as the neutral, independent hearing officer for the state, and encourages the legislature to resource the VCJC adequately to meet the statutory obligations currently in law. As S.75 authorizes civilian boards to hire legal counsel, hire investigators and hire administrative staff at the local level, the VCJC is struggling to hire for those very same positions. It seems unconstructive that taxpayer money would be used so inefficiently and ineffectively at the local level, when the professional regulatory body that controls the certification of every law enforcement officer in the state continues to be underfunded and under resourced.

VLCT strongly encourages civilian involvement at the local level that is advisory in nature, to help in hiring, community outreach, and development and review of localized law enforcement policies and training. When done skillfully, such civilian involvement may include review of complaints made against law enforcement, and meaningful analysis of data. Civilian oversight can help bridge the gap between law enforcement and the community they serve. Communities across Vermont are actively implementing these initiatives, yet it takes time, skill, investment, leadership, and community involvement do it properly, and in a manner that serves all stakeholders.

VLCT encourages the legislature to continue to make investments in the VCJC, the Vermont Police Academy, and associated training and education opportunities for law enforcement. VLCT supports increased reporting and data sharing that is standardized and transparent across the state. Providing incentives and technical support to communities to encourage

development of civilian advisory boards is a welcome approach by law enforcement agencies and municipal leadership alike.

Thank you again for your time and attention.