



Vermont Criminal Justice Council (VCJC)

VCJC Did Not Confirm That Law
Enforcement Officers Met Training
Requirements



Mission Statement

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Dear Colleagues,

To be a law enforcement officer in Vermont, a person must first be certified by the Vermont Criminal Justice Council (VCJC). VCJC has established training requirements based on Statute and Rule that officers must complete to be initially certified as well to maintain this certification.

This audit focused on how VCJC ensured officers met both its initial and annual training requirements. Additionally, this audit evaluated whether VCJC had established procedures to prohibit law enforcement agencies from using its training services if the agencies did not meet certain statutory requirements.

VCJC's basic training courses included topics required by statute and rule, but its documentation of whether candidates completed these courses had shortcomings. For example, VCJC allowed officers and agencies to self-certify that some required courses were taken, rather than mandating that candidates submit documentation proving that they took the classes. VCJC was also missing some documentation showing that a handful of candidates had passed certain exams. Nevertheless, a selection of 20 officers who completed VCJC's certification processes in 2019 or 2020 appeared to have satisfied the initial certification requirements.

To maintain their certification, VCJC's Rule 13 requires officers to obtain at least 30 hours of training annually and to take courses on certain topics, such as use-of-force. This Rule also requires law enforcement agencies to maintain training records. VCJC did not ensure that these requirements were met.

VCJC required law enforcement agency heads to submit signed affidavits to VCJC each year summarizing the training hours of each officer in that agency to show compliance with Rule 13. This was not an effective process as VCJC did not (1) always follow up on affidavits that indicated that requirements were *not* met and/or (2) verify that law enforcement agencies had documentation supporting the affidavit. In addition, VCJC guidance to law enforcement agencies on how to comply with Rule 13 was lacking.

Our review of the 2019 and 2020 training records for 60 officers at 12 law enforcement agencies found numerous discrepancies between what these agencies reported to VCJC in their Rule 13 affidavits and their supporting documentation. In particular, 21 of the 60 officers (35 percent) did not have documentation proving they had completed the required training hours and/or all of the required training courses in one or both years. Moreover, even in many of the cases in which the officer appeared to meet the 30-hour minimum, law enforcement agency training records were flawed. For example:

- While agencies kept logs for most officers that recorded the date and hours of training courses, they did not always have documents substantiating the data in the log. To illustrate, an agency recorded that an officer had completed 19 one-hour online courses. But the agency's system that recorded the completion of these courses showed that the officer had spent less than five

minutes to finish some of them.

- Officers took computer security courses that the vendor reported should take 15 minutes to complete but some agencies recorded that these courses took 30 minutes or an hour.
- The training records of two officers showed that they obtained use-of-force training from an instructor that VCJC had not certified to teach this course, which is required by Rule 13.

VCJC was not positioned to identify such anomalies because it had not established a verification process.

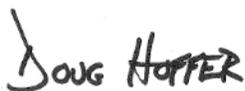
Lastly, VCJC had not established procedures to prohibit use of its services by law enforcement agencies under certain circumstances contained in 20 V.S.A. §2359. For example, VCJC was to prohibit agencies from using its services that have not adopted model policies for fair and impartial policing, conducted electrical weapons (often called a TASER®, which is a specific brand name for this type of device), and body cameras. The Statute required that such prohibitions go into effect eight months ago on January 1, 2022.

Out of 12 law enforcement agencies reviewed, (1) four had policies that differed from the fair and impartial policing model policy, (2) seven had policies that differed from the conducted electrical weapon model policy, and (3) four had policies that differed from the body camera model policy. The types of differences from the model policies varied and do not necessarily mean that an agency is not compliant with the statutory requirements. (Some differences were noteworthy—one agency did not include model policy language in its conducted electrical weapon policy to avoid use on the abdomen of a pregnant woman.) VCJC had not evaluated the differences in policies, though, to make a determination.

This report contains recommendations to improve VCJC's certification and Rule 13 processes as well as to implement procedures to enforce 20 V.S.A. §2359. In commenting on a draft of this report, VCJC agreed with our recommendations and summarized their planned approach to address each one. We also identified some areas where the Legislature may consider statutory changes to add clarity to training requirements and VCJC's oversight responsibilities.

I would like to thank the staff at VCJC and the 12 law enforcement agencies we reviewed for their cooperation during this audit. This report is available on the state auditor's [website](#).

Sincerely,



DOUGLAS R. HOFFER
State Auditor

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The Honorable Becca Balint
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Highlights

The Vermont Criminal Justice Council (VCJC) was created to promote and protect the health, safety, and welfare of the public. Among other duties, the Council and its Executive Director are responsible for (1) operating the Vermont Police Academy (VPA), which conducts basic training for candidate law enforcement officers, (2) certifying law enforcement officers, which allows them to exercise law enforcement authority, and (3) establishing requirements for annual in-service training for certified officers (promulgated in VCJC's [Rule 13](#)).¹ Law enforcement officers can be certified as either Level II or Level III.² In broad terms, as established by statute, the scope of practice for Level III officers includes all law enforcement authority while the scope of practice for Level II officers generally excludes violent felonies.

Our audit focused on processes VCJC uses to ensure that law enforcement officers meet certification and training requirements and the statutory requirement ([20 V.S.A. §2359](#)) that VCJC prohibit law enforcement agencies from using its training and other services if they do not meet certain statutorily required policing criteria. Our specific audit objectives were to (1) determine whether and how VCJC ensures a person exercising law enforcement powers has met the State's initial certification requirements, (2) assess whether VCJC ensures law enforcement officers meet the annual in-service training requirements required by Rule 13, and (3) evaluate whether VCJC has established processes to effectively implement 20 V.S.A. §2359.³

Objective 1 Finding

VCJC's basic training courses included training topics required by statute and rule, but its documentation of whether candidates completed these courses had shortcomings. Specifically, VCJC did not require that candidates submit documentation supporting that they had taken some of the required courses. Instead, VCJC allowed these officers and their agencies to self-certify that the courses had been taken. VCJC was also missing documentation showing that some Level III candidates had passed certain exams or assessments. Nevertheless, a

¹ [20 V.S.A. §2351a\(3\)](#) defines a law enforcement officer as a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor and Lottery who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State's Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; a police officer appointed to the University of Vermont's Department of Police Services; or the provost marshal or assistant provost marshal of the Vermont National Guard.

² [20 V.S.A. §2358\(b\)](#). This statute also provides for a Level I certification but this certification level is not used.

³ Appendix I contains details on our scope and methodology, including the law enforcement agencies that we selected for testing as part of objectives 2 and 3. Appendix II contains a list of abbreviations used in this report.

selection of 20 officers who completed the Level II or Level III certification process in 2019 or 2020 appeared to have satisfied the initial certification requirements.

Objective 2 Finding

While VCJC required law enforcement agencies to annually submit summary reports on their officers' completion of 30-hours of in-service training requirements required by [Rule 13](#), VCJC had no assurance that the training had been completed and, in some cases, agencies' documentation did not support that requirements had been met. To show compliance with Rule 13, VCJC required the head of each law enforcement agency to submit a signed affidavit that lists each officer in the agency, the total hours of training received, and has checkboxes to indicate whether mandated training (e.g., use-of-force) was completed. If an officer did not obtain the required training (e.g., for medical or military deployment reasons), VCJC can and has granted time-extension waivers of Rule 13 requirements upon request.

VCJC did not require law enforcement agencies to submit detail on the training courses nor documentation supporting that the training was taken. Our review of supporting documentation for 60 officers (5 officers from each of 12 selected law enforcement agencies) for 2019 and 2020 found significant differences between the summary of officers' hours on agencies affidavits and the supporting documentation. In at least 12 cases, the officers' documentation did not support that they met the 30-hour requirement in one or both years. In addition, for 11 of the 60 selected officers, the documentation did not support that they took one or more required courses or that they took those courses for the minimum number of hours (e.g., took two or three hours instead of the required four hours of use-of-force training). Taken together, about a third of the 60 officers we selected for review did not meet one or more of these requirements in at least one of the two years in our scope.⁴ VCJC had not issued a waiver of any of these requirements in these cases.

Rule 13 requires that a law enforcement agency's training records be available for review. However, VCJC issued very little guidance on how to comply with this rule. As a result, even in many of the cases in which the officer appeared to reach the 30-hour minimum, the documentation supporting these hours had significant weaknesses. For example, law enforcement agencies (1) included activities that VCJC staff members stated should not be treated as training under Rule 13, (2) recorded a different number of hours for the same training courses, (3) did not always document that a class was taught by an authorized instructor, and (4) did not always have documents that showed the participant's name, and the name, date, and number of hours of a course.

VCJC, unlike another State office that licenses about 50 other professions, was not positioned to identify such discrepancies because it had not established a verification process. Specifically, for three professions we reviewed that are licensed by the Secretary of State's Office of Professional Regulation, license holders, not

⁴ Two officers missed both the 30-hour requirement and a mandated course.

their employer, were required to submit documentation to the office's licensing database supporting that they met training requirements. This office also conducted random audits as part of its re-licensing process. Such a verification approach would provide more integrity to the State requirement that law enforcement officers take at least 30 hours of in-service training annually along with mandated courses. To implement such a process, VCJC would need to address certain challenges.

Objective 3 Finding

VCJC had not established procedures to implement [20 V.S.A. §2359](#), which requires it to prohibit, as of January 1, 2022, law enforcement agencies that do not meet certain requirements from having their officers or applicants trained by VPA or to utilize other VCJC services. Among other requirements, VCJC is to enforce this prohibition if law enforcement agencies do not adopt, follow, or enforce required policies pertaining to fair and impartial policing (FIP), conducted electrical weapons (CEW),⁵ and body cameras. Vermont statute requires law enforcement agencies to adopt model policies developed by State entities on these topics. According to a VCJC official, although VCJC does not have written procedures to implement 20 V.S.A. §2359, it has unwritten practices to confirm compliance. The practices were not effective as there were law enforcement agencies that adopted policies that differed from the required model policies. For example, out of 12 law enforcement agencies reviewed, (1) four had policies that differed from the FIP model policy, (2) seven had policies that differed from the CEW model policy, and (3) four had policies that differed from the body camera model policy. The types of differences from the model policies varied and do not necessarily mean that an agency is not compliant with the statutory requirements. VCJC had not evaluated these differences to make this determination.

20 V.S.A. §2359 requires that the VCJC adopt enforcement procedures that may allow for waivers for agencies with a plan to obtain compliance. As of the end of August 2022 (eight months after the statute's implementation timeframe), VCJC had not developed such procedures. According to a VCJC official, this was due to the general counsel's workload, which includes obligations to other boards and councils. As of mid-August 2022, VCJC was recruiting to hire a staff attorney.

Recommendations

We made several recommendations to improve VCJC's certification and Rule 13 processes as well as to implement procedures to enforce 20 V.S.A. §2359. After the completion of our audit, VCJC provided us with a plan and supporting material about how they intend to address our recommendations. We will evaluate VCJC's execution of this plan and determine whether our recommendations were implemented during a follow-up to this audit next year.

⁵ CEWs are a less lethal law enforcement device that delivers an electrical pulse to the body of a subject. CEWs include electronic control devices which are defined by 20 V.S.A. §2367(a)(1) as a device primarily designed to disrupt an individual's central nervous system by deploying electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses.

Background

[Title 20, Chapter 151](#) sets forth VCJC's membership, powers, and duties (see Appendix III). The Council has 24 members from various public safety and law enforcement organizations (e.g., the commissioners of Public Safety and Corrections and representatives of police associations, such as chiefs of police, sheriffs, and State troopers) and non-law enforcement (e.g., Executive Director of Racial Equity) entities as well as seven public members appointed by the Governor.⁶ The seven public members cannot be law enforcement officers or have a spouse, parent, child, or sibling who is a law enforcement officer. Among other powers and duties, [20 V.S.A. §2355](#) tasks the Council with adopting rules for minimum basic training and in-service training requirements for law enforcement officers.

All mandates and decisions made through VCJC get enacted into practice through VPA staff members who are Council employees. VPA generally conducts three Level II and two Level III law enforcement officer basic training classes every year. The different levels signify the type of law enforcement authority officers can exercise per Vermont statute (see Appendix IV).⁷ [20 V.S.A. §2358](#) assigns various law enforcement authorities to Level II officers except for violent felonies while Level III officers can exercise all law enforcement authority. According to VCJC's Training Advisory Subcommittee, not all law enforcement agencies use Level II officers and those that do vary in how they are used. For example, some agencies limit Level II officers to court security, highway construction details, prisoner transports, and motor vehicle enforcement.

VCJC certifies about 50 Level II officers and 75 Level III officers annually. According to VCJC, as of March 10, 2022, Vermont had 230 Level II officers and 1,105 Level III officers for a total of 1,335 officers in the state. These officers were employed by about 80 law enforcement agencies at the state, county, and municipal levels.

Objective 1: VCJC's Documentation of Its Certification of New Officers Had Shortcomings

VCJC's basic training courses for Level II and Level III candidates and out-of-jurisdiction (OOJ) waiver applicants covered topics required by statute and

⁶ [Act 166](#) (2020) changed the Council's name from the Vermont Criminal Justice Training Council. In addition, this Act increased the membership of the Council from 12 to 24 members with the proviso that existing members of the Council could continue to serve the remainder of their terms.

⁷ The statute also provides for a Level I officer whose scope of practice is limited to security, transport, vehicle escorts, and traffic control but this level has not been put in place.

rule. But there were shortcomings with how VCJC documented candidates had completed the basic training requirements. For example, VCJC allowed officers and agencies to self-certify that some required courses were taken, rather than requiring candidates to submit supporting documentation. VCJC's documentation also did not always indicate that candidates had passed every exam required to graduate the Level III basic training course. Nevertheless, a selection of officers appeared to have satisfied the initial certification requirements based on available documentation and discussions with VCJC staff. Lastly, VCJC did not ensure that constables who could exercise law enforcement duties, such as enforcing local municipal ordinances, obtained law enforcement certification as required by statute.

Law Enforcement Certification Requirements

Vermont requires that individuals complete a basic training course before they can be certified to exercise Level II or Level III law enforcement powers. Individuals with at least three years of law enforcement experience outside of Vermont are eligible for an OOJ waiver. This waiver allows experienced officers to receive a Level III certification without attending VCJC's Level III basic training. According to VCJC, it provisionally or unconditionally certified 208 law enforcement officers in 2019 and 2020 (see Table 1).⁸

Table 1: Number of Officers VCJC Provisionally or Unconditionally Certified in 2019 and 2020^a

	Provisionally Certified	Unconditionally Certified
Level II	39	51
Level III	8	105
OOJ Level III Waivers	0	5

^a These numbers were provided by VCJC and we did not verify them.

As shown in Table 2, basic training requirements are different for Level II certifications, Level III certifications, and OOJ waivers. Level II candidates must successfully complete three phases of basic training: (1) a 2-week course at VPA, (2) additional classroom training, and (3) field training.⁹ These candidates receive a provisional certification after completing the 2-week course and unconditional certification after successfully finishing all three

⁸ Some officers with a provisional certification may not have completed the rest of the basic training elements required to be unconditionally certified at that level.

⁹ During field training, an officer works directly with a certified field training officer who assesses and attests to the new officer's ability to perform specific tasks.

phases.¹⁰ Level III candidates receive an unconditional certification upon graduating from a 17-week basic training course.¹¹ Once OOJ waiver applicants successfully finish a Level III waiver course, they are provisionally certified and are unconditionally certified when they complete field training.

Table 2: Basic Training Requirements for Law Enforcement Certification

Basic Training Element	Level II Certification ^a	Level III Certification	OOJ (Level III) Certification
Vermont Police Academy	<ul style="list-style-type: none"> • 80 hours over two weeks • Classroom training on topics such as: <ul style="list-style-type: none"> ○ 12 hours of criminal law ○ 8 hours of patrol procedures ○ 8 hours of motor vehicle law ○ 20 hours of firearms 	<ul style="list-style-type: none"> • 840.5 hours over 17 weeks^b • Classroom and scenario-based training on topics such as: <ul style="list-style-type: none"> ○ 56 hours of criminal law ○ 110 hours of patrol procedures ○ 44 hours of motor vehicle law ○ 28 hours of firearms ○ 50 hours of use-of-force ○ 6 hours of FIP 	None – officer completes basic training outside of Vermont
Post-Academy Training	<ul style="list-style-type: none"> • 50 hours • 13 required courses on topics such as use-of-force and FIP 	None ^c	<ul style="list-style-type: none"> • 24-hour OOJ waiver course covering Vermont specific laws and firearms • Use-of-force and other topics as needed based on VCJC’s analysis of previous training
Field Training	60 hours	None	60 hours

^a VCJC is considering changes to the Level II training requirements that would include additional training hours as well as scenario-based and hands-on training.

^b Based on the curriculum for the basic training class that graduated in July 2022.

^c There are three optional courses officers can take after completing the 17-week basic training course.

Vermont statute details some topics to be covered in Level II and III basic training and VCJC’s basic training courses covered these topics. For example, Vermont statute requires that individuals receive search and rescue training

¹⁰ A provisional certification allows officers to exercise law enforcement authority but only under the supervision of an officer with an unconditional certification.

¹¹ Due to COVID impacts, graduates of one of the 2020 Level III basic training courses were issued provisional certifications and were required to complete field training to receive an unconditional certification.

as part of basic training.¹² This topic was included in both the Level II and Level III basic training courses.

[VCJC's Rule 8a](#) includes specific core courses that must be included as part of Level II basic training. These were covered as part of VCJC's 2-week VPA course and subsequent training courses Level II candidates were required to take.

[VCJC's Rule 9](#) requires the Council to approve the content of the Level III basic training course not already required by law, as well as the minimum number of hours allotted to each major topic category. According to a VCJC official, the curriculum for the Level III basic training course was last approved in 2001—more than 20 years ago. Overall, the curriculum for the Level III basic training course that finished in July 2022 appeared to cover the same major topic areas (e.g., patrol procedures and criminal law) as the 2001 version, but there are differences in specific courses and hours. In particular, the approved 2001 curriculum included 784 hours of basic training while the more recent curriculum had about 840 hours. Other examples of the differences between the curriculum the Council approved in 2001 and the 2022 curriculum include:

- the 2001 curriculum did not include FIP training, which is required by statute and was a six-hour class in the 2022 curriculum,
- the 2001 curriculum included eight hours of hate crimes investigations, which had been reduced to four hours in the 2022 curriculum, and
- four courses that were optional post-basic training in 2001, such as fingerprinting techniques, were required basic training classes in the 2022 curriculum.

There was no evidence that the July 2022 Level III curriculum was explicitly approved by the Council as required.

VCJC's Verification of Certification Requirements

VCJC used different processes to verify that the different types of candidates met certification requirements.

Level II and III Certifications

To ensure Level II and III candidates successfully completed the relevant multi-week VPA course, VCJC required candidates to pass various exams and

¹² [20 V.S.A. §2365a](#).

assessments. For Level II officers, who are required to complete additional courses and field training after the 2-week VPA course, VCJC also required agency heads and field training officers to submit documentation to support that officers completed the requirements for a Level II unconditional certification.

We reviewed VCJC's documentation for a selection of 20 officers who received a Level II or III certification in 2019 or 2020 (5 for each level for each year). While there were shortcomings with VCJC's processes and documentation, the selected officers appeared to have met the requirements for their respective certification level based on available documentation and explanations by VCJC staff.

Regarding Level II officers:

- VCJC relied on certifications by law enforcement agencies heads and applicable officers that the additional courses required for Level II unconditional certification were taken and did not require documentary evidence to be submitted.
- VCJC did not always document that candidates completed FIP training.¹³ [20 V.S.A. §2358\(e\)\(1\)](#) requires that basic training include FIP topics, but does not specify the number of hours that should be obtained. The statute states that officers had to complete four hours of FIP training before December 31, 2018 but does not establish how many hours of training is required for new officers as part of the certification process. VCJC staff stated they expected Level II officers would complete four hours of FIP as part of the certification process. However, VCJC certified 5 of the 10 selected Level II officers even though documentation indicated the officers had only completed between 1 and 3 hours of FIP training. A VCJC official said officers were expected to spend additional time reviewing the law enforcement agency's policy on FIP to satisfy the four-hour training requirement. However, the form officers were required to fill out detailing their training did not state that FIP training had to be four hours. As a result, the officers may not have been aware of this requirement and VCJC did not verify it was completed.

For Level III officers, the documentation did not always indicate that a candidate passed all 13 written and practical exams required to graduate the basic training course. VCJC recorded exam grades in a spreadsheet. A review of the grades for all 124 candidates (not just those in our test selection) who graduated from a Level III basic training course in 2019 or 2020 found four

¹³ FIP training is covered during the basic training course for Level III candidates.

instances in which the spreadsheet indicated candidates had failed one of the 13 exams. Specifically,

- Two candidates did not pass the crash investigations practical exam, and
- Two candidates did not pass the report writing practical exam.

VCJC staff said these four officers all passed a makeup exam, but VCJC did not record these scores and did not have copies of the makeup exams because they had been destroyed in accordance with VCJC's record retention policy. According to VCJC staff, the original grade was kept in the spreadsheet to calculate final overall scores.

There was another instance in which a candidate did not have a grade recorded for the crash investigations written exam, and VCJC staff were unable to locate documentation indicating this candidate had passed the exam. Since VCJC did not record the scores for makeup exams and could not locate documentation for the candidate without a recorded score, there is no record these five officers passed all the exams required to graduate Level III basic training.¹⁴

Another shortcoming with the documentation for Level III officers was that VCJC staff could not locate physical fitness assessments for any of the 38 graduates of one of the basic training courses held during our scope period. Level III candidates are required to pass a physical fitness test to graduate but VCJC did not record the test results in the same spreadsheet with the other exam grades. VCJC staff asserted that all candidates from this class passed the physical fitness test.

OOJ Waivers

VCJC's process for OOJ waiver applicants involved assessing the applicant's training history. VCJC staff would then develop a training plan to ensure the applicant was trained to Vermont standards. As with Level II certifications, VCJC required that agency heads and field training officers submit documentation to support that officers completed the additional courses and field training requirements for an unconditional OOJ waiver certification.

We reviewed documentation for all five officers who received an OOJ waiver in 2019 or 2020. While there were similar shortcomings with VCJC's process documentation as found for Level II and III certifications, all five officers

¹⁴ None of these five officers were part of those we selected for detailed testing.

appeared to meet the requirements for an OOJ waiver based on available documentation and explanations by VCJC staff.

One shortcoming was that none of the training records for the five OOJ waiver applicants included documentation of VCJC staff's assessment of the applicant's training history. As a result, SAO could not verify that the training plans were appropriate. For example, the training plan for one of the officers did not require the officer to complete FIP training, but the other four did require FIP training. It is unclear if this officer did not need to take FIP training or if staff made a mistake when developing this training plan.

As with Level II officers, VCJC accepted self-certifications from agency heads that the OOJ waiver applicants had completed required courses. Moreover, for one of the five OOJ waiver applicants, VCJC could not locate a completed training plan although VCJC's documentation included a certification from the agency head that the officer had completed all the required courses. Nevertheless, without the completed training plan VCJC could not know when or where the officer had completed the training. Additionally, three of the five OOJ waiver applicants did not have documentation showing they met the expected number of training hours related to FIP.

VCJC staff are in the process of updating procedures for OOJ waiver applications, to include new forms and updated guidance to agencies.

Constables

Vermont statute sets the duties that constables can exercise, such as the destruction of animals, servicing civil or criminal process, and transporting prisoners from criminal court.¹⁵ A town may also vote to prohibit constables from exercising law enforcement duties. Constables who exercise law enforcement powers are included in the statutory definition of law enforcement officers and are required to obtain VCJC certification.¹⁶ For example, constables must receive Level II certification to enforce municipal ordinances.

Although statute requires municipalities to notify VCJC when constables are elected or appointed within 10 business days,¹⁷ VCJC managers said this does not happen consistently. VCJC was not aware of which towns had constables and their duties. As a result, constables could be exercising law enforcement authority without lawful permission. On August 31, 2022, VCJC's Executive Director sent a letter to towns to educate the municipalities about the

¹⁵ [24 V.S.A. §1936a](#), [12 V.S.A. §691](#), and [24 V.S.A. §296](#) respectively.

¹⁶ [20 V.S.A. §2351a\(3\)](#).

¹⁷ [20 V.S.A. §2362](#).

requirement to notify VCJC when constables are elected or appointed and request that the town manager fill out a form summarizing the duties and responsibilities of their constables.

In November 2021, the Vermont League of Cities and Towns (VLCT) provided SAO a list of more than 200 Vermont municipalities that had constables. According to the VLCT's list, most of these town constables did not have a law enforcement certification.

A review of ordinances in six towns from VLCT's list found that each town had at least one ordinance that could be enforced by the town's constable, such as animal control. The constable position was vacant in one of these towns, but only one of the other five constables had a law enforcement certification.

Objective 2: VCJC Did Not Ensure that Law Enforcement Officers Met Annual In-Service Training Requirements

VCJC did not ensure that law enforcement officers met the [Rule 13](#) requirements that they obtain 30 hours of in-service training and take specifically mandated courses annually. To determine whether officers met these requirements, VCJC relied on law enforcement agency heads to submit signed affidavits to VCJC each year. These affidavits summarized the training hours each officer in that agency had obtained. This was not an effective process as VCJC did not (1) always follow up on affidavits that indicated that requirements were not met and/or (2) verify that law enforcement agencies had documentation supporting the affidavit. Our analysis of the documentation maintained by 12 selected law enforcement agencies to support their 2019 and 2020 affidavits found numerous discrepancies for the 60 officers checked. In at least 12 cases, the law enforcement agency's documentation did not support that the officer met the 30-hour requirement for one or both years reviewed. Moreover, even in cases in which the officer appeared to reach the 30-hour minimum, law enforcement agency training records were flawed. These flaws can be partly attributable to VCJC's lack of guidance on what constitutes valid training records. As part of evaluating VCJC's approach to Rule 13, we reviewed other State organizations that license or certify members of other professions. One such organization, the Secretary of State's Office of Professional Regulation (OPR), is tasked with licensing individuals in many professions. OPR had more detailed training rules, as well as more robust documentation and verification practices.

VCJC's Process for Checking Rule 13 Compliance

VCJC's Rule 13 requires that certified law enforcement officers participate in a minimum of 30 hours of in-service training and that this training include firearms requalification, use-of-force training, and first-aid training (unless the officer is currently certified in first aid). Vermont statute also requires law enforcement officers obtain training in FIP and domestic violence biennially.¹⁸ Lastly, the State's model policy for CEW requires annual training for officers who are authorized to carry such devices.¹⁹ A law enforcement agency can request VCJC grant a time-extension for a Rule 13 requirement for an officer via a [waiver request](#). VCJC has approved Rule 13 waiver requests for a variety of reasons, such as for medical purposes or military deployment. Under VCJC [Rule 19](#), the Council has the authority to suspend or revoke the certification of an officer for failing to comply with in-service training requirements after the officer has been provided reasonable notice and time to remediate the deficiency.²⁰

While individual officers are responsible for complying with Rule 13, VCJC requires each agency head to certify that the officers employed by that agency have complied with the requirements. Specifically, by March 1st of each year, each agency head is required to submit an affidavit certifying a summary of the training hours in the prior calendar year obtained by each officer working for the agency. The affidavit also indicates whether each officer completed the mandated trainings.

VCJC's process for ensuring law enforcement officers met the Rule 13 in-service training requirements was limited to having a staff member review the affidavits. VCJC did not (1) require law enforcement agencies to submit documentation, (2) have VCJC staff members conduct site visits, or (3) employ another process to verify that agencies training records supported the hours on the affidavits. Verification is an important control because it enables an entity like VCJC to ensure that activities are being performed in accordance with its own rules and State law. Moreover, without such a verification process, VCJC had no assurance that law enforcement officers had taken the training courses used to support the hours reported in the affidavits.

¹⁸ [20 V.S.A. §2358\(e\)\(3\)](#) requires FIP training in odd-numbered years and [20 V.S.A. §2365\(b\)](#) requires domestic training biennially, which VCJC requires to be in even-numbered years.

¹⁹ [20 V.S.A. §2367\(b\)](#) requires the Law Enforcement Advisory Board to establish a statewide policy on the use of and training requirements for the use of electronic control devices. CEWs include such devices.

²⁰ Prior to suspending or revoking a law enforcement officer's certification, written notice and opportunity for a hearing must be provided to the officer.

In addition, while a VCJC staff member stated she contacted agencies about officers who did not appear to have met the training requirements, this did not always appear to be the case. Several affidavits we reviewed showed an officer with less than 30 hours of training or without indicating that a mandatory class was taken and in which VCJC had no evidence that the law enforcement agency was asked about the discrepancy. For example, one agency reported an officer only took 27.25 hours of training instead of the required 30 hours in 2020, there was no evidence that the VCJC staff member followed up on this Rule 13 noncompliance with this agency, and no waiver was issued.

Figure 1 shows a 2020 affidavit which indicates one law enforcement officer at this agency did not complete the required 30 hours of training nor the mandatory domestic violence training.²¹ On April 20, 2021, a VCJC official emailed the agency head to point out that this officer was not in compliance with the 30-hour requirement and requested that this noncompliance be addressed. In response to this email, the law enforcement agency requested VCJC grant this officer a waiver for the 30-hour requirement. The head of the agency stated that VCJC did not respond. The affidavit also indicates four officers did not complete CEW training. Since the affidavit does not require agencies to identify whether an officer carries a CEW, it is not possible to tell whether the officers needed to take this training. Lastly, the agency head did not certify the agency had documentation to support the reported training hours.

²¹ VCJC records show this officer completed the mandatory domestic violence course in February 2021—about six weeks past the December 31, 2020 deadline.

Figure 1: Example of 2020 Rule 13 Compliance Affidavit

DATE: 3/9/2021

AFFIDAVIT OF RULE 13 COMPLIANCE

I, undersigned, declare upon oath and under penalty of perjury, I am the Agency Authority of the person(s) listed below. I further declare the person(s) listed below has/have complied with Rule 13 of the Vermont Criminal Justice Training Council Rule and Regulations unless otherwise noted on final page.

For the period of January 1, 2020, through December 31, 2020

FULL NAME (Alphabetical by last name)	LAST 4 DIGITS OF SSN	TOTAL HOURS OF TRAINING Academy and Agency hours	Check the boxes for each of the following mandatory trainings the officer has complied with. (Firearms qualifications, CEW training, and UOF training must administered by VCJTC certified instructors)					
			<input checked="" type="checkbox"/> Firearms	<input checked="" type="checkbox"/> First Aid	<input type="checkbox"/> DV	<input checked="" type="checkbox"/> UOF	<input checked="" type="checkbox"/> CEW if applicable	
[REDACTED]	[REDACTED]	17	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	1
[REDACTED]	[REDACTED]	35.5	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
[REDACTED]	[REDACTED]	30.5	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
[REDACTED]	[REDACTED]	33	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
[REDACTED]	[REDACTED]	31.5	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
[REDACTED]	[REDACTED]	34	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
[REDACTED]	[REDACTED]	31.5	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
[REDACTED]	[REDACTED]	39	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2
[REDACTED]	[REDACTED]	30	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
[REDACTED]	[REDACTED]	38	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2

Notes for Specific Officers:

3

I further declare this training includes any Council or Legislatively mandated training, and there is documentation for these reported training hours at our agency.

This agency has adopted, and continues to maintain:

Fair & Impartial Policing policy which includes the essential components as identified by statute, Title 20 VSA 2366.

Conducted Electrical Weapon policy that includes the essential components as identified by the Law Enforcement Advisory Board, if applicable.

Body Worn Camera policy that includes the essential components as identified by the Law Enforcement Advisory Board, if applicable.

Internal Affairs Policy which includes the essential components required by statute, Title 20 VSA 2404(a).

[REDACTED] _____
Agency Head's Signature

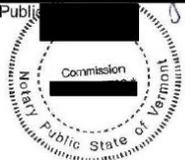
[REDACTED] _____
Printed Name

03/09/2021
Date

Subscribed and sworn to before me this 9 day of March, 2021 in the city of [REDACTED] county of [REDACTED], State of Vermont, in the United States of America

[REDACTED] _____
Notary Public

01/31/2023
Commission Expires



SAO Notes:

1. Red Circle— Officer did not meet the 30-hour requirement and did not take required domestic violence (DV) course (the officer took this course in February 2021, about six weeks after the deadline).
2. Green Circles— Four officers did not take a CEW course.
3. Blue Circle— Agency head did not check that there was documentation supporting the reported hours.

In addition, VCJC’s training record system did not contain a detailed record of all training courses taken by Vermont law enforcement officers. A VCJC staff member recorded the classes officers took at VPA as well as certain required online training courses (e.g., domestic violence). The VCJC staff member then manually subtracted each officer’s total training hours in the VCJC system from the total number of hours on the affidavit and recorded all other training hours as a single item.

Figure 2 shows an officer’s 2020 record in VCJC’s training record system. This officer’s agency reported the officer took 57 hours of training on the 2020 affidavit. From this number, a VCJC staff member subtracted the 11 hours already in the VCJC system and recorded the remaining 46 hours as a single item under the title “Rule 13 – Mandatory Compliance.”

Figure 2: Example of Law Enforcement Officer’s 2020 Record in VCJC’s Training Record System

Date	Year	Crs ID	Cls ID	Course Title	Status	Hours
12-31-2020	2020	N3006	2020	Rule 13 - Mandatory Compliance	Completed	46.00
11-04-2020	2020	N3676		Spillman Dispatcher Training	Completed	8.00
6-29-2020	2020	DV015		Domestic Violence 2020 Mandatory Training	Completed	2.00
2-28-2020	2020	N4407		Fair & Impartial Policing - 2019 Mandatory Part II	Completed	1.00

Review of Training Records at 12 Selected Law Enforcement Agencies

Rule 13 requires that a law enforcement agency’s training records be available for review. VCJC published a pamphlet in 2019 and 2020 that specified certain courses officers were required to take for both years. These pamphlets do not address what constitutes valid law enforcement training more generally nor do they specify the types of documentation that an agency should maintain to meet the Rule 13 training record requirement. VCJC’s website included three forms issued in 2013 that a law enforcement agency can use internally to document and track the training hours for their officers. However, only one of these forms—a [training log](#)—was used by some of the agencies we reviewed. We did not observe the use of the other two forms, a [training submittal form](#) and an [instructional time submittal form](#).

We reviewed the supporting documentation for 60 officers at 12 selected law enforcement agencies for 2019 and 2020 (a total of 5 officers at each agency). In most cases there were differences between the number of hours the agency reported on its affidavits and the supporting documentation—sometimes more hours and other times less. When the supporting documentation showed that the officer obtained fewer training hours than shown in the affidavit, the differences ranged from .25 hours to 16 hours.

The importance of these differences varied. In many cases, officers still met the 30-hour in-service training requirement. For example, one agency reported an officer completed 62.5 hours of training in 2020. Although documentation only supported 57.5 hours, this still exceeds the 30-hour requirement in Rule 13 for this year.

At least 12 officers in 8 different agencies²² had insufficient documentation to support that they took 30 hours of training in 2019 and/or 2020.²³ For example, one agency reported on its 2019 affidavit that an officer took 30 hours of training, but our analysis only found support for 28.75 hours. This agency had a training log that listed the course names, dates, and hours for this officer that totaled to 30 hours, but documentation for two of the courses on the log indicated fewer hours than the agency recorded.

Additionally, the documentation for 11 officers did not support that they completed one or more of the mandated courses in 2019 and/or 2020, or that they did not complete the required number of hours for a topic. For example, several officers took two or three hours of use-of-force training in 2020 rather than the required four hours. An additional nine officers completed a mandated course, but after the deadline.

Taken together, 21 of the 60 officers (35 percent) selected for review did not have documentation supporting that they had taken the required 30 hours of training and/or one or more mandated courses (two officers did not meet both) in at least one of the two years in our scope. There was also no evidence VCJC had issued these officers a waiver of these requirements. Officials from law enforcement agencies cited various reasons why requirements were not met, including confusion as to how to apply VCJC's instructions, difficulty in obtaining training hours during the COVID-19 pandemic, and mistakes.

²² There could be other officers who did not meet the 30-hour requirement because it was not always possible to determine with certainty how many training hours an officer obtained. For example, there were several cases in which there was a training record that showed that an officer took a course but there were no hours for the course listed in documentation (e.g., there was a certificate of completion that did not have any hours and the agency had not recorded the number of hours).

²³ Seven of the officers have since left the law enforcement agencies.

Even in cases in which the officer appeared to reach the 30-hour minimum and had taken the mandated courses, agency training records were flawed. The following includes reasons for the discrepancies between the affidavits and our analyses and explains some of the documentation flaws observed.

Invalid Activities Under Rule 13

According to a VCJC official, an agency should not count a physical training test as part of the Rule 13 hours. However, VCJC did not have documentation that this guidance had been communicated to law enforcement agencies. One agency generally recorded four hours of physical training towards its officers' Rule 13 training hours. Two of the officers we reviewed at this agency fell below the required 30 hours in one year due, in part, to removing physical training hours from their list of training courses.

Officers that Worked for Multiple Agencies.

The 2019 and 2020 Rule 13 affidavits required agency heads to certify that all officers reported met the Rule 13 requirements unless otherwise noted. According to a VCJC official, each agency that employed an officer should have shown all the training hours for that officer even if the officer obtained the training from another agency. However, agencies sometimes only reported the hours obtained from that agency, which could be less than 30 hours. In one case, an agency head did not indicate that an officer obtained two of the mandatory courses (CEW and use-of-force) in its 2020 affidavit. This agency's records indicate that it believed this officer had obtained this training at another agency. However, they had no evidence of this, and the officer was not listed on the second agency's 2020 affidavit. Thus, it does not appear that this officer took the two mandatory classes.

In mid-2022, VCJC changed its instructions, stating that law enforcement agencies should report only the training hours for an officer that the agency had sponsored or approved on their affidavits. However, even if the total number of hours for an officer reported by multiple agencies totals more than 30 hours, VCJC is not positioned to know whether the officer met the Rule 13 requirement by looking at the affidavits. This was because VCJC does not obtain detailed training records from law enforcement agencies so it would not know whether each agency was counting the same training courses in their affidavit totals.

Documentation Did Not Always Fully Support Hours Reported

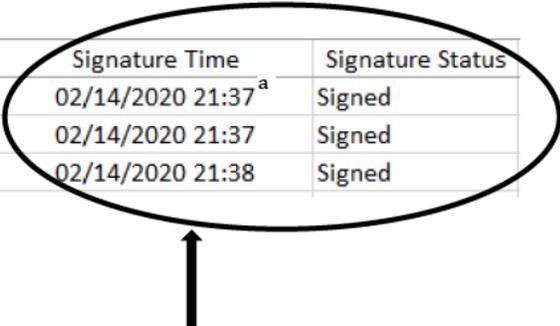
With the exception of a training log template, VCJC has not issued written guidance on how to document officers' training records that was being used by law enforcement agencies to prove that they had completed courses to comply with the Rule 13 requirements. There were a lot of disparities in the type and quality of these records. The selected law enforcement agencies

kept a training log for most officers that included the date and hours of training courses. However, these logs were not always backed up by documents that substantiated the training (e.g., had the participant’s name, and the name, date, and number of hours of a course). For example, sometimes (1) training courses were only supported by a list of courses maintained by the agency with no additional documentation and (2) supporting documents did not show the number of training hours for the course. In addition, a few agencies used self-attestations forms submitted by officers to support that they had taken some courses.

One law enforcement agency used an internal system that automatically recorded how long it took for an officer to complete online courses. This agency recorded many more hours for these online courses than was supported by this system. For example, the agency recorded that an officer completed 19 different one-hour online courses. However, the internal system showed that in some cases the officer spent less than five minutes on a given course. To illustrate, the agency recorded a total of three hours of training for three classes, but Figure 3 shows the officer spent less than five minutes in those three classes. According to the individual that tracks training for this agency, this officer was given credit for three hours of training because the agency counts each online course captured by their internal system as an hour. This staff member stated that the agency does this to maintain consistency and because some participants may need an hour to complete a class considering, for example, time to discuss the class with others or to take quizzes.

Figure 3: Example of Time to Complete Three On-Line Courses by an Officer that Were Recorded Automatically

Document Name	Signature Time	Signature Status
TRAIN-1130 Life Hammer Tool	02/14/2020 21:37 ^a	Signed
TRAIN-1132 Service Of APO Entries In Spillman	02/14/2020 21:37	Signed
TRAIN-1131 Fair and Impartial Policing Training	02/14/2020 21:38	Signed



SAO Note: Date and military time recording completion of three training courses

^a The entry before this was the officer’s review of a directive that was signed as completed at 21:34.

Inconsistencies in How Training Hours were Counted

VCJC did not provide guidance on how to calculate the time counted towards training. Some law enforcement agencies appear to have counted the total time an officer took to complete the training while others counted the time the training organization said the course should take. As a result, agencies recorded different hours for the same courses. For example, officers frequently took on-line computer security courses provided by a vendor, Security Mentor. Documentation about these courses shows that they should take 15 minutes to complete. Training records for some agencies showed these courses as 15 minutes while others recorded 30 minutes or an hour for these same classes. To illustrate the difference, we noted two officers who took the same five Security Mentor classes. The officer at one agency recorded 1.25 hours in total for these five classes, while an officer at a different agency recorded five hours in total, or four times the amount of the other officer.

Additionally, a VCJC staff member recorded two hours in the VCJC training record system for the 2020 domestic violence course. According to the course provider, this was only a 1.5-hour course. Some agencies recorded 2 hours for this course and others recorded 1.5 hours. According to the VCJC staff member, she rounded up the time in the VCJC training system for all attendees because some law enforcement officers required more time in this course. There were at least two officers in our selection who did not meet the 30-hour requirement when the domestic violence course was recorded as 1.5 rather than 2 hours.

Documentation Did Not Support Usage of Authorized Trainers

Rule 13 requires that VCJC-certified instructors conduct use-of-force and firearms qualification training. VCJC's 2019 and 2020 Rule 13 compliance pamphlets included reminders of this requirement. VCJC did not provide guidance on documenting instructors for these courses. For 13 selected officers, agency documents did not include the name of the instructor(s) for these trainings in 2019 and/or 2020, so it was not possible to determine whether the instructors were VCJC-certified. For an additional two officers at two agencies, the agency's records listed an instructor that VCJC had not certified as an instructor for a course on use-of-force.

Other Licensed Professions Continuing Education Processes

As part of evaluating VCJC's Rule 13 processes, we contacted other State organizations that license or certify members of a profession that require continuing education. In particular, we contacted the Secretary of State's OPR, which is tasked with administering the issuance and renewal of licenses

for about 50 professions.²⁴ Table 3 compares OPR's approach for three selected professions to VCJC's approach. It shows that OPR's approach differed from VCJC's in that OPR (1) required individual license holders to report their training hours and upload supporting documentation to its database, (2) had rules that listed topics qualified as acceptable training and specified what supporting documentation was needed, and (3) conducted random audits of individual license holders training records.

²⁴ [3 V.S.A. Chapter 5, Subchapter 3.](#)

Table 3: Comparison of How Continuing Education Requirements are Handled for Different Professions

Attribute	Law Enforcement Officer	Selected Comparison Professions		
		Physical Therapist	Acupuncture	Accountancy
Licensing organization	VCJC	Secretary of State - OPR	Secretary of State - OPR	Secretary of State - OPR/Board of Accountancy
Continuing Education Requirements				
Hours	30 hours annually	24 hours biennially	30 hours biennially	80 hours biennially
Minimum required courses?	Yes	No	No	Yes
Specification of what is a valid training course?	No	Yes	Yes	Yes
Reporting to Licensing Organization				
Who reports?	Head of employing agency	Individual license holder	Individual license holder	Individual license holder
What is reported?	Summary of hours	Attestation that the required hours were taken and documentation supporting the courses were completed	Attestation that the required hours were taken and documentation supporting the courses were completed	Attestation that the required hours were taken and documentation supporting the courses were completed
How is training reported?	Affidavit emailed to VCJC by head of agency	Documentation uploaded to OPR's licensing database as a condition of renewal	Documentation uploaded to OPR's licensing database as a condition of renewal	Documentation uploaded to OPR's licensing database as a condition of renewal
Rules or Guidance About Continuing Education				
What constitutes valid supporting documentation?	No	Yes	Yes	Yes
How to count training hours?	No	Yes	Yes	Yes
Whether instruction counts as training?	No	Yes	Yes	Yes
Verification of Training Requirements				
Licensing organization verifies training?	No	Yes - audits a random selection of up to 10% of renewals	Yes - audits a random selection of up to 10% of renewals	Yes - audits a random selection of up to 10% of renewals

Another Vermont entity, the Vermont Fire Service Training Council (VFSTC) also requires that certified firefighters complete annual continuing education. To maintain their certifications, full-time firefighters are required to obtain 24 hours of in-service training annually. Like VCJC, the Vermont Fire Academy requires agency heads to submit affidavits that contain summary training data for each firefighter and does not collect or review supporting

documentation. However, Fire Academy staff said they are considering a new process and are working on a proposal to submit to VFSTC for approval. The process being considered would be like OPR's process in that it would require individual firefighters to report their training hours and submit supporting documentation when renewing their certification. Fire Academy staff said they are in the process of implementing a new automated system that will allow individual firefighters to electronically upload training documentation.

A verification process like OPR's would add more integrity to the State requirement that law enforcement officers take at least 30 hours of in-service training annually. However, there are several challenges that would have to be addressed for VCJC to implement such a verification process. First, VCJC's current Rule 13 does not require law enforcement agencies to submit supporting documentation and only requires that training records be available for review. Although VCJC could request agencies to submit documentation supporting officer's training hours, such submissions could not be automatically uploaded into VCJC's current training system. The limitation of this system is a second challenge. The vendor-based system VCJC uses to track officer training has the capability to upload training records, but the version VCJC implemented does not include this function.

These two challenges would not prevent VCJC from implementing a verification process, but they would likely cause VCJC to use a staff-intensive process. For example, VCJC could require agency heads to email training records or otherwise make them available and perform audits of these records, at least on a sample basis. However, such a manual process would likely be time-intensive and thereby exacerbate a third challenge, staffing.

As of mid-2022, only one of VCJC's 15 authorized positions, the Director of Administration and Compliance, has explicit responsibility for conducting on-site audits of law enforcement agency training records. This position also has other responsibilities, including evaluating waiver requests and supervising VCJC's administrative functions such as human resources, capital planning, and management of the VPA facility. The remaining 14 authorized positions include the Executive Director, Deputy Director, staff attorney, staff investigator, administrative assistant, technology support, Director of Training and six staff members devoted to training, which includes ensuring that candidates for certification meet requirements, and a part-time clerk.²⁵ To implement a Rule 13 verification process, VCJC would need to evaluate

²⁵ As of August 31, 2022, three of the full-time positions and the part-time clerk position were vacant. In addition, VCJC intends to request that the Department of Human Resources reclassify the investigator position to a Director of Compliance and Professional Regulation position.

how to fit such a task into the duties of its existing authorized staff positions or request additional positions.

Objective 3: VCJC Has Not Established Procedures to Prohibit Use of its Services by Agencies That Have Not Adopted Required Policies or Reported Roadside Stop Data

VCJC has not established procedures to implement [20 V.S.A. §2359](#), which prohibits law enforcement agencies from using VCJC training and other services if they do not adopt certain policies or comply with reporting requirements. VCJC does not have an effective means to determine whether agencies have adopted policies as required, and some agencies had policies different from the model policies required by statute. Moreover, VCJC did not identify a small number of entities that failed to report their 2020 roadside stops data, as required by statute.

Act 166, which was signed into law October 7, 2020, established 20 V.S.A. §2359. This statute requires that on or after January 1, 2022, VCJC exclude a law enforcement agency from using VPA training and other VCJC services if the agency has not complied with statutory requirements to adopt, follow, and enforce mandated policies and report roadside stops²⁶ and certain incidents relating to mental health.²⁷ VCJC is also required to adopt procedures to enforce this statute, which can include a waiver process for agencies with a plan to obtain compliance.

As of August 31, 2022—a little under two years after the Act establishing the requirement—VCJC had not adopted procedures as required by statute. For example, VCJC had not established how and when a determination of non-compliance will result in exclusion of an agency from VPA training and other VCJC services and had not established the criteria and parameters for a waiver process. According to a VCJC official, VCJC has not adopted the required procedures because of the general counsel's workload, which includes obligations to other boards and councils. Act 74 (2021) authorized a

²⁶ [20 V.S.A. §2366\(e\)](#) requires every State, county, and municipal law enforcement agency to collect certain data, such as the age, gender and race of the driver and the grounds for the stop. This data is required to be submitted annually to VCJC and others.

²⁷ VCJC is required to implement the prohibitions in 20 V.S.A. §2359 if law enforcement agencies do not comply with the reporting requirement under [18 V.S.A. §7257a\(b\)](#) to report each incident involving an interaction between law enforcement and a person acting in a manner that created reason to believe a mental health crisis was occurring that resulted in a death or serious bodily injury to any party to the Office of the Attorney General for review by the Mental Health Crisis Response Commission. VCJC has a seat on the Mental Health Crisis Response Commission and there have only been a small number of incidents reported under this statute.

staff attorney position for VCJC. As of August 10, 2022, VCJC was recruiting for this position. According to the VCJC official, one of the staff attorney's first priorities will be to work on procedures to implement 20 V.S.A. §2359.

According to a VCJC official, VCJC's unwritten practice consists of agency heads attesting that they have adopted required policies as part of the annual Rule 13 affidavits and verification that all agencies have provided roadside stops data to VCJC. This was not an effective practice. First, according to internal control standards, documentation of procedures is critical to the operations of a department and unwritten procedures can be easier to circumvent and reduce accountability.²⁸ Second, there were notable exceptions in law enforcement agencies' adoption of required policies and reporting of roadside stop data, which indicates that VCJC's unwritten practices were not effective.

Policies

VCJC must implement the prohibitions in 20 V.S.A. §2359 if law enforcement agencies do not adopt policies required by Title 20, Chapter 151. This Chapter requires adoption of three model policies. In only one case did the statute require that the State confirm that law enforcement agencies adopted the model policy.

- *Fair and Impartial Policing.* [20 V.S.A. §2366](#) requires law enforcement agencies and constables that exercise law enforcement authority to adopt a FIP policy that includes each component of the model policy adopted by VCJC. The statute allows agencies to include additional wording in their policy so long as it does not allow more involvement with federal immigration authorities than the model. VCJC's [model FIP policy](#) was issued in 2017 and law enforcement agencies were required to submit their policies for review to the Attorney General's office by July 1, 2019.²⁹ Agencies are required to repeat this review process every time the model policy is changed. However, if a law enforcement agency changes its FIP policy other than when the model changes, there is no requirement that the revised policy be reviewed by the Attorney General's office or VCJC. Of the 12 selected agencies, several had revised their FIP policies after the Attorney General's office's review had determined that the prior version complied with statute.

²⁸ 2013 Internal Control – Integrated Framework® Committee of Sponsoring Organizations of the Treadway Commission (COSO). All rights reserved. Used with permission. Internal Control Standards: A Guide for Managers (Vermont Department of Finance and Management, Edition 2.0, September 3, 2019).

²⁹ [20 V.S.A. §2366](#) states that VCJC, in consultation with the Attorney General's office shall review law enforcement agencies and constables required to adopt a FIP policy to ensure that their policies comply with the statute.

- *Conducted Electrical Weapons.* [20 V.S.A. §2367](#) requires law enforcement agencies and constables that are not employed by an agency to adopt the model policy established by the Law Enforcement Advisory Board (LEAB).³⁰ LEAB's [model CEW policy](#) was issued in 2015 and there is no requirement for State review of the CEW policies adopted by law enforcement agencies.³¹
- *Body Cameras.* [20 V.S.A. §2369\(a\)\(1\)](#) requires every law enforcement agency that uses body cameras to adopt VCJC's model policy. VCJC's [body camera model policy](#) went into effect in January 2022 and there is no requirement for State review of the body camera policies adopted by law enforcement agencies.

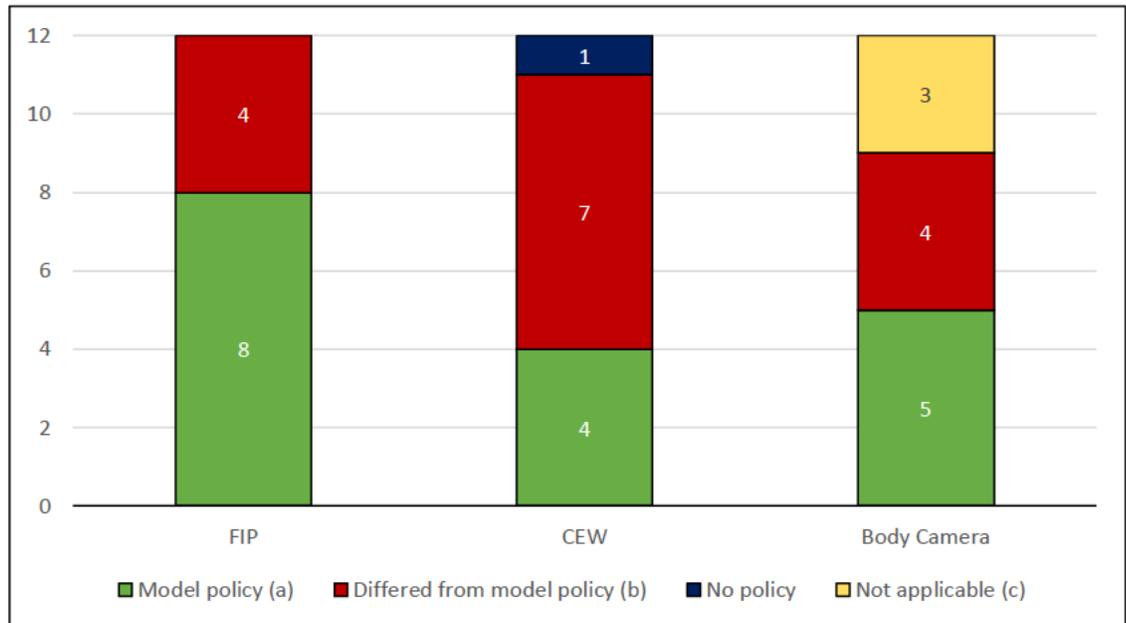
VCJC has not reviewed the FIP, CEW, and body camera policies adopted by law enforcement agencies.

Our review of these policies at 12 selected agencies identified that a little less than half differed from the required model policies, as shown in Figure 4. In four cases, an agency did not have a policy. In the three cases related to body cameras, the statute only required policies if the law enforcement agency used such devices. In the case of one agency that did not have a CEW policy, an official at that agency said that it was because they did not use CEWs. However, 20 V.S.A. §2367 requires agencies to adopt the statewide policy and does not permit an exception for agencies that do not use CEWs. The differences between law enforcement agency policies and the model policies do not necessarily mean that an agency is not compliant with the statutory requirements. A determination of noncompliance would require a legal analysis, which neither we nor VCJC have performed.

³⁰ The LEAB is part of the Department of Public Safety, and its purpose is to advise the Commissioner of Public Safety, the Governor, and the Legislature on issues involving the cooperation and coordination of all agencies that exercise law enforcement responsibilities.

³¹ The LEAB model policy is for CEWs, which, according to the policy, includes electronic control devices.

Figure 4: Policies of 12 Agencies Compared to Models



- (a) This denotes that an agency adopted the model policy, with minimal changes such as inserting the agency’s name in applicable sentences. This category also includes FIP policies that the Attorney General’s office accepted as compliant, and cases in which the agency changed its policy to use language that the Attorney General’s office had indicated was acceptable.
- (b) This denotes that an agency adopted a policy that differed from the model by more than minimal changes. In the case of law enforcement agencies’ FIP policies, some had been revised since the Attorney General’s office’s review in 2019.
- (c) According to statute, only those law enforcement agencies that authorize their officers to use body cameras are required to have policies. Three of the law enforcement agencies we reviewed reported that they did not use body cameras.

The differences from the model policies varied greatly in terms of their scope and potential impact. The following are examples of policies with more noteworthy differences:

- One law enforcement agency wrote its own CEW policy rather than use the model policy. An official from this agency stated that part of its process in writing policies is to ensure that all requirements are met but provided no evidence that a comparison was made between its CEW policy and the required model policy. We found elements of the model policy that were absent from this agency’s policy.³² For example, this agency’s CEW policy omitted the “stomach of a pregnant woman” in its list of areas that officers should avoid when using a CEW, which is in the model policy.

³² This agency’s FIP policy also had differences but the review by the Attorney General’s office found it to be compliant with the statute.

- An agency's FIP policy had some paragraphs that were identical to paragraphs in the model, some that differed from the model by a few words added, changed, or omitted, and also omitted some of the model's paragraphs. For example, this agency omitted the model policy's definition of the term "federal immigration authorities." An example of a change in wording in this agency's policy from the model relates to the section on the accountability and compliance of supervisors. The model policy states that (1) supervisors shall ensure that all employees in their command are in compliance with the policy and (2) supervisors will be alert for and respond to indications of potential biased reporting. This agency's policy changed the former language to "supervisors will address the FIP policy annually during roll-call training" and omits the latter language.
- Several agencies' policies omitted definitions that were in a model policy. For example, one agency's CEW policy omits the definition of "active resistance" that is in the model policy.
- An agency omitted wording that is in the body camera model policy addressing release of body camera footage to the public following a lethal force incident, including that, whenever possible, release will occur within 30 days.

Some agency policies included additional material not contained in the model. For example, law enforcement agencies sometimes also included internal operational or procedural practices in their policies. In these cases, the additional material did not appear to undermine wording in the model policies.

In addition, several law enforcement agencies had adopted a FIP or CEW model policy issued by VLCT instead of the one required by statute. While most of the text of the VLCT policies for FIP and CEW was identical to the required models, the VLCT versions contained additional material and, in some cases, footnote omissions and errors in internal references.^{33, 34} As a result, several law enforcement agencies' policies, including four of the CEW policies noted in Figure 4 as differing from the model policy, also included the additional material, omissions, and errors.

Rather than obtain and review agencies' policies, VCJC relied on the agencies to attest annually that they have adopted the statutorily required policies via

³³ After we brought these differences to the attention of VLCT, they changed their model FIP and CEW policies to be consistent with the required policies.

³⁴ For example, VLCT's model FIP policy and the VCJC model both include a reference to "Section XI below." Section XI is "Collaboration with Federal Immigration Officers" in the VCJC model policy, while that section is Section XIII in the VLCT model.

its Rule 13 affidavit. This failed to identify exceptions that we found, and therefore was not an effective control.

Another issue that complicates VCJC's implementation of 20 V.S.A. §2359 is that Vermont statute states that law enforcement agencies that fail to adopt the model FIP and CEW policies by a certain date³⁵ shall be deemed to have adopted and shall follow and enforce the model policy. One law enforcement agency explicitly acknowledged this in its FIP policy and appended a copy of the model to its policy, stating that its officers had to follow the model policy. The other law enforcement agencies in our selection with policies that had language that differed from the FIP and CEW model policies did not do likewise. VCJC will need to determine whether the law enforcement agencies that have language in their FIP and CEW policies that differed from the model would be subject 20 V.S.A. §2359 since the statute states that they are deemed to have adopted the model policies. This is an important consideration because it is doubtful that a law enforcement agency could effectively enforce a policy (as required by statute) that it has not explicitly told its officers about.

Another policy or set of policies required by Title 20, Chapter 151 relates to a requirement in [20 V.S.A. §2402\(a\)](#) that law enforcement agencies have an effective internal affairs program. [20 V.S.A. §2401\(4\)](#) defines an effective internal affairs program as including "language in its policies or applicable collective bargaining agreement that outlines for its officers expectations of employment or prohibited activity, or both, and provides due process rights for its officers in its policies. These policies shall establish a code of conduct and a corresponding range of discipline."³⁶ According to advice we obtained from the Office of the Attorney General, this requirement falls within the scope of 20 V.S.A. §2359. VCJC's Rule 13 affidavit includes a checkbox on whether a law enforcement agency has an internal affairs policy, but it does not address whether the agency has policies that support compliance with 20 V.S.A. §2401(4).³⁷

Roadside Stop Data

VCJC is required to implement the prohibitions in 20 V.S.A. §2359 if law enforcement agencies do not comply with the requirements for collecting roadside stop data under 20 V.S.A. §2366. This statute requires agencies to

³⁵ July 1, 2019 for FIP and January 1, 2016 for CEW.

³⁶ VCJC has created an [internal affairs program model policy](#) as statutorily required ([20 V.S.A. 2402\(b\)](#)) but unlike the FIP, CEW, and body camera model policies, its usage by law enforcement agencies is optional.

³⁷ The Rule 13 affidavit asks the law enforcement agency attest that it has a policy that complies with 20 V.S.A. §2404(a), which deals with agency investigations.

collect certain data relating to roadside stops and to report the data annually to VCJC for publication.

A comparison of reported roadside stops to citations for traffic offences contained in a database used by the Judicial Bureau to track citations found that almost all law enforcement agencies that issued tickets also reported roadside stop data. There were three exceptions.³⁸ Two constables and one small law enforcement agency reported traffic citations to the Judicial Bureau in 2020, but reported no roadside stops to VCJC. These three entities submitted between 4 and 285 citations to the Judicial Bureau (the number of citations does not necessarily correspond to the number of roadside stops).

VCJC's unwritten practice to determine agencies' compliance with the requirement in 20 V.S.A. §2366(e)(3) to report roadside stops data to VCJC did not identify these exceptions.

Other Matters

During this audit, we identified an instance of noncompliance with a statute related to Advanced Roadside Impaired Driving Enforcement (ARIDE) training, which was developed by the National Highway Transportation Safety Administration. According to VCJC, ARIDE training helps officers become more proficient in detecting and apprehending impaired drivers, including for substances other than alcohol.

Vermont statute requires that all law enforcement officers receive at least 16 hours of ARIDE training on or before December 31, 2021.³⁹ According to VCJC, 95 Level III officers had not completed ARIDE training as of June 27, 2022. In addition, only 2 of the 10 Level II officers in our Objective 1 selection had obtained ARIDE training.

The lack of compliance appears to be due, at least in part, to VCJC's guidance to agencies. In 2019 and 2020 VCJC published guidance which stated that ARIDE certification was only required for Level III officers certified after May 22, 2015 and must be done within three years of certification. This guidance does not comply with the wording of the statute.

VCJC's website indicates ARIDE is an advanced training that requires officers to be highly skilled in field sobriety testing. Minutes from a 2021 VCJC meeting indicate VCJC members discussed requesting that the Legislature

³⁸ Our comparison of the traffic citation data to the roadside stop data could only identify whether a law enforcement agency did not report any roadside stop data. Our analysis was not able to assess whether the roadside stop data reported by the law enforcement agencies was accurate or complete. In part this was because not all roadside stops result in citations.

³⁹ The ARIDE requirement was added to statute as [20 V.S.A. §2358\(f\)](#) with the passage of Act 164, related to the regulation of cannabis, in 2020.

give VCJC the authority to decide which officers need ARIDE training. VCJC members noted that VCJC did not require all officers take basic driving under the influence training, so not all officers would need advanced training like ARIDE. VCJC did not provide any documentation showing such a request was made.

Conclusions

VCJC plays a pivotal role in ensuring that Vermont law enforcement officers receive training in topics such as use-of-force, fair and impartial policing, firearms, and criminal and motor vehicle law. This is done through (1) basic training classes conducted at VPA or required by VCJC that officers must successfully complete to be certified and therefore legally exercise law enforcement authority and (2) annual in-service training requirements for certified officers. Except for courses taken at VPA, VCJC largely relied on assertions by law enforcement agencies that training requirements were met rather than requiring agencies to submit supporting documentation or otherwise verify the information. Verification is an important control because it enables an entity such as VCJC to ensure that activities are being performed in accordance with its own rules and State law. In particular, the lack of a verification process, combined with limited VCJC guidance on what constitutes valid training and documentation, resulted in disparities in the quality of training records that document compliance with the in-service training requirement of Rule 13. Our review of documentation provided by 12 selected agencies in support of their 2019 and 2020 affidavits identified numerous deficiencies and that some officers did not meet Rule 13 requirements.

VCJC also has not established and implemented statutorily required procedures to apply the prohibitions on the use of its training and other services if law enforcement agencies do not meet certain criteria. This is an important omission because our results indicate that some law enforcement agencies may not be meeting these criteria.

Recommendations

We make the recommendations in Table 4 to the VCJC Executive Director:

Table 4: Recommendations and Related Issues

Recommendation	Report Pages	Issue
1. Obtain approval of the Level III basic training curriculum as required by Rule 9.	7	There was no evidence that the current Level III curriculum was explicitly approved by the Council, as required by Rule 9. According to a VCJC official, the Level III curriculum was last approved in 2001, more than 20 years ago and there have been changes made to the curriculum since then.
2. As part of verifying whether Level II candidates and OOJ waiver applicants meet certification requirements, obtain documentation to verify that they attended all the training classes required to obtain final certification.	8-10	VCJC did not require law enforcement agencies to provide support that courses not taken at VPA by Level II and OOJ officers were completed. Instead, officers and agency heads completed a form stating the officer had completed the training.
3. For future Level III basic training, document the results of makeup exams that prove that a candidate for certification passed all exams.	8-9	VCJC's documentation did not always support that a Level III candidate passed all 13 written and practical exams required to graduate. We found cases in which VCJC records showed that candidates had failed one of the exams. While VCJC officials stated that these officers passed a makeup exam, VCJC did not have a record of them.
4. As part of developing OOJ waiver applicant training plans, document the results of their analysis of the applicants' training history and whether they meet Vermont standards.	9-10	VCJC's OOJ procedures required staff assess the applicant's training history. The purpose of this assessment was to develop a training plan to ensure the applicant was trained to Vermont standards. However, none of the training records for the five OOJ waiver applicants included documentation of this assessment.
5. Identify and contact every town with a constable and determine whether the constable is performing duties that require that the constable be certified as a law enforcement officer.	10-11	Constables who exercise law enforcement powers are defined in statute as law enforcement officers and are required to obtain VCJC certification. For example, constables must receive Level II certification to enforce municipal ordinances. We reviewed ordinances for six towns with a constable. All six towns had at least one ordinance the town's constable was responsible for enforcing. The constable position was vacant in one of these towns, but only one of the other five constables had a law enforcement certification.

Recommendation	Report Pages	Issue
6. Develop and implement a plan to verify that law enforcement officers are meeting the Rule 13 in-service training requirements. Such a process could include, for example, requiring that law enforcement agencies submit supporting documentation along with their affidavits or reviewing a sample of supporting documentation annually.	12-19	VCJC's process for ensuring that law enforcement agencies met the Rule 13 in-service training requirements was limited to having a staff member review affidavits that the heads of law enforcement agencies submit. VCJC did not require all or a sample of law enforcement agencies to submit documentation, conduct site visits nor otherwise have a process to verify that agencies training records supported the hours attested to on the affidavits. The Secretary of State's OPR, which is tasked with administering the issuance and renewal of licenses for many professions, conducted random audits of individual license holders training records.
7. Issue Rule 13 guidance to law enforcement agencies that addresses, at a minimum, (1) the type of training that is valid, (2) how training hours should be counted, (3) what constitutes valid training documentation, and (4) how to document the usage of authorized instructors in the courses in which they are required.	12-19	Rule 13 requires that a law enforcement agency's training records be available for review. However, VCJC has not provided guidance about what should be in the training records. OPR had rules that listed topics that qualified as acceptable training and specified what supporting documentation was needed.
8. Evaluate the feasibility of developing an automated process for recording all law enforcement officer training, which should include contacting other State organizations that perform similar tasks.	12-19	VCJC's system did not contain a detailed record of all training courses taken by Vermont law enforcement officers. OPR required individual license holders to report their training hours and upload supporting documentation to its database.
9. Adopt written procedures to apply the prohibitions of law enforcement agencies' use of VPA training and other services under 20 V.S.A. §2359, including how it will reach decisions on when and under what circumstances the prohibitions will be enforced and lifted. VCJC should communicate this information to law enforcement agencies and begin to immediately apply their procedures.	23-24	20 V.S.A. §2359 requires that on or after January 1, 2022, if a law enforcement agency has not complied with statutory requirements to adopt, follow, and enforce policies and report roadside stops and certain incidents relating to mental health, VCJC exclude that agency from VPA training and other VCJC services. VCJC is also required to adopt procedures to enforce the statute, which can include a waiver process for agencies with a plan to obtain compliance. VCJC had not adopted such procedures.
10. Adopt written practices to explicitly confirm whether law enforcement agencies have adopted the policies required by Title 20 Chapter 151 currently and whenever the agencies policies are changed.	24-28	VCJC must implement the prohibitions in 20 V.S.A. §2359 if law enforcement agencies do not adopt policies required by Title 20, Chapter 151. VCJC's unwritten practices did not identify the many differences between the three model policies and the adopted policies of the 12 law enforcement agencies we reviewed. Rather than obtain and review agencies' policies, VCJC relied on the agencies to attest annually that they have adopted the statutorily required policies via its Rule 13 affidavit. This failed to identify exceptions that we found, and therefore was not an effective control.

Recommendation	Report Pages	Issue
11. Adopt practices to explicitly identify whether law enforcement agencies are complying with statutory requirements to collect and report roadside stop data.	28-29	Our comparison of reported roadside stops to citations for traffic offences contained in a database used by the Judicial Bureau to track citations found two constables and one small law enforcement agency that did not report roadside stops. VCJC’s unwritten process to determine agencies’ compliance with the requirement in 20 V.S.A. §2366(e)(3) to report roadside stops data to VCJC did not identify these exceptions.
12. Expediently require law enforcement agencies to obtaining ARIDE training for all officers or seek to amend the statute to require only Level III officers obtain such training.	29-30	Vermont Statute requires all law enforcement officers receive at least 16 hours of ARIDE training on or before December 31, 2021. VCJC’s guidance to agencies in 2019 and 2020 stated that ARIDE certification is only required for Level III officers certified after May 22, 2015 and must be done within three years of certification. VCJC’s guidance does not comply with the wording of the statute. Minutes from a 2021 VCJC meeting indicate VCJC discussed requesting that the Legislature give VCJC the authority to decide which officers need ARIDE training, but VCJC did not provide any documentation showing such a request was made.

We recommend that the Legislature consider statutory changes contained in Table 5.

Table 5: Matter for the Consideration of the Legislature

Recommendation	Report Pages	Issue
1. Consider modifying 20 V.S.A. §2358(c) to require that candidates for law enforcement certification take a minimum of four hours of FIP training.	8	20 V.S.A. §2358(e)(1) requires that the training required for certification include FIP topics but does not specify the number of hours that should be obtained.
2. Consider requiring VCJC to review and assess whether law enforcement agencies’ have adopted the policies required by Title 20, Chapter 151 for their current policy versions and whenever an agency makes a change.	24-25	VCJC must implement the prohibitions in 20 V.S.A. §2359 if law enforcement agencies do not adopt policies required by Title 20, Chapter 151. There is no requirement for ongoing state review of law enforcement policies adopted by law enforcement agencies.

Management’s Comments

On August 31, 2022, VCJC’s Executive Director provided written comments on a draft of this report. These comments are reprinted in Appendix V.

Appendix I

Scope and Methodology

For all of the objectives, we

- reviewed 20 V.S.A. Chapter 151 and VCJC rules,
- reviewed guidance and other information on the VCJC website,
- reviewed VCJC council minutes and, where relevant, subcommittee minutes,
- reviewed VCJC reports submitted to the Legislature, such as VCJC’s fiscal year 2022 budget proposal, and
- interviewed and obtained email explanations from the VCJC executive director, deputy director, director of training, director of administration and compliance and other VCJC staff members as needed.

In addition, for objectives 2 and 3, we selected 12 law enforcement agencies to conduct test work. These agencies are listed in Table 6 along with the characteristics that we considered in choosing them. We also considered the size of the law enforcement agency—choosing 4 each that were small (10 or fewer officers on average in 2019-2020), medium (between 11 – 20 officers on average in 2019-2020), and large (more than 20 officers on average in 2019-2020).

Table 6: Characteristics of Law Enforcement Agencies Selected for Test Work in Objectives 2 and 3

Law Enforcement Agency	Government Level	County	Approximate Drive Time to VPA	Officers Carry CEWs?
Small Law Enforcement Agencies				
Bristol Police Department	Town	Addison	47 minutes	No
Dover Police Department	Town	Windham	92 minutes	Yes
Hardwick Police Department	Town	Caledonia	119 minutes	Yes
Northfield Police Department	Town	Washington	78 minutes	Yes
Medium Law Enforcement Agencies				
Essex County Sheriff’s Department	County	Essex	163 minutes	Yes
Grand Isle Sheriff’s Department	County	Grand Isle	107 minutes	Yes
Hartford Police Department	Town	Windsor	68 minutes	No
Swanton Village Police Department	Town	Franklin	112 minutes	Yes
Large Law Enforcement Agencies				
Bennington Police Department	Town	Bennington	76 minutes	Yes
Rutland City Police Department	City	Rutland	15 minutes	Yes
South Burlington Police Department	City	Chittenden	77 minutes	Yes
Vermont State Police	State	n/a	varies	Yes

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Scope and Methodology

The following describes the specific methodology used for each objective. Our internal control work was limited to the work performed under these methodologies and we considered internal control criteria⁴⁰ when evaluating the results of our work. Also, we did not rely solely on data from VCJC's training system to draw conclusions on our objectives. We primarily used this system to confirm procedures described by VCJC staff members and to research the certification and training history of particular officers.

Objective 1

We compared the curriculum for Level II and Level III basic training to requirements in statute and rule. We also obtained and evaluated VCJC's procedures and practices for determining whether Level II, Level III, and OOJ waiver candidates had completed requirements to obtain provisional and unconditional certification. Lastly, we randomly selected 10 Level II and 10 Level III officers certified in 2019 or 2020, as well as all five OOJ waiver officers from those years, and obtained documentation to test whether these mechanisms were followed.

We also obtained information on the statutory authorities of constables. We sought advice from the Attorney General's office about whether certain constable responsibilities required Level II certification. We also obtained information from VLCT on the number of constables in Vermont. We reviewed the ordinances of five towns regarding the authority and responsibility of their constables, determined whether these required Level II certifications, and checked whether their current constables had obtained this certification.

Objective 2

We reviewed the guidance VCJC provided law enforcement agencies on compliance with Rule 13. Since VCJC did not have written procedures regarding how they ensured compliance with Rule 13, we interviewed VCJC staff to obtain a description of their process for evaluating agencies' Rule 13 affidavits and the waiver process.

We chose five officers from each of the 12 selected law enforcement agencies to test whether the agencies had documentation to support the training hours listed in their 2019 and 2020 affidavits. We chose officers after reviewing the agencies' affidavits to see examples of officers who (1) did and did not meet Rule 13 requirements, per a review of the affidavits, (2) were and were not listed as having a waiver, (3) had a wide range of training hours

⁴⁰ 2013 Internal Control – Integrated Framework® Committee of Sponsoring Organizations of the Treadway Commission (COSO). All rights reserved. Used with permission. Internal Control Standards: A Guide for Managers (Vermont Department of Finance and Management, Edition 2.0, September 3, 2019).

Appendix I

Scope and Methodology

completed (from below 30 to over 100 hours in one year), and (4) were contained on the 2019 affidavit but not the 2020 affidavit or vice versa.

For each of the selected officers we obtained and evaluated the supporting documentation from the applicable law enforcement agency. We checked whether the agency had (1) a list of the training courses taken by each officer and (2) documentation supporting the number of hours reported. Law enforcement agencies provided a variety of supporting documentation, including certificates of completion, training rosters, officer attestation forms, and system printouts. We checked whether the supporting documentation contained the name of the officer and the name, date, and hours of the training course. We queried officials from the law enforcement agency if we had questions about the documentation provided. We accepted almost all types of documentation as at least partially supporting the officer's training hours because VCJC had not issued guidance to the law enforcement agencies specifying the type of documentation that was acceptable. In addition, we queried VCJC staff if we were uncertain whether certain types of activities counted as training under Rule 13.

As part of evaluating VCJC's process for checking law enforcement compliance with Rule 13, we interviewed officials from the Office of the Secretary of State's Office of Professional Regulation and the Vermont Fire Academy as these organization license or certify other professions. We queried these officials about the processes they use to ensure that annual training requirements were met. We also reviewed the rules for three professions licensed by OPR.

Objective 3

We inquired of VCJC about what, if any, procedures they had implemented to comply with 20 V.S.A. §2359 and their future plans regarding this statute. We performed the following actions for each of the requirements in the statute:

- **Policies.** We identified and obtained the FIP, CEW, and body camera model policies covered by 20 V.S.A. §2359. We compared these policies to those of the 12 selected law enforcement agencies and identified differences. As applicable, we inquired about the differences. We found that some law enforcement agencies were using model policies issued by VLCT, so we compared these policies to those of the required model policies and identified differences. We inquired of VLCT the reason for these differences. With respect to the FIP model policy, we also obtained the results of a 2019 review of these policies from the Attorney General's office. We accepted the results of their review when we determined that the version of the law enforcement policy reviewed by this office was the same as the agency's current version. We also sought advice from the

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Scope and Methodology

Attorney General's office regarding the applicability of 20 V.S.A. §2359 to policies pertaining to internal affairs.

- **Roadside Stop Data.** We interviewed the officials that compile and report the roadside stop data from the two major systems used by law enforcement agencies. We also reviewed reports related to the reliability of this data conducted by the vendor that used to issue reports using this data. To identify organizations that did not report roadside stop data in 2020, we (1) downloaded the roadside stop data from VCJC's website and (2) obtained a spreadsheet of traffic citations from the Judicial Bureau. We then used our data analysis software (IDEA®) and MS Excel® to compare the two sets of data and identified law enforcement organizations that had issued traffic citations but had not reported roadside stop data. We sent a copy of these results to VCJC for their review and response.
- **Reporting of Mental Health Incidents.** We reviewed the reporting requirements in 18 V.S.A. §7257a. We also queried an official from the Attorney General's office who was responsible for obtaining the reports and reviewed the reports issued to the Legislature by the Mental Health Crisis Response Commission, which is part of the Attorney General's office. Lastly, we queried a VCJC official about their membership on the Commission.

Compliance with Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II Abbreviations

ARIDE	Advanced Roadside Impaired Driving Enforcement
CEW	Conducted Electrical Weapons
DV	Domestic Violence
FIP	Fair and impartial policing
LEAB	Law Enforcement Advisory Board
OOJ	Out-of-jurisdiction
OPR	Office of Professional Regulation
SAO	State Auditor's Office
VCJC	Vermont Criminal Justice Council
VFSTC	Vermont Fire Service Training Council
VLCT	Vermont League of Cities and Towns
VPA	Vermont Police Academy
V.S.A.	Vermont Statutes Annotated

Appendix III

VCJC Membership, Powers, and Duties

The following are the statutes that contain VCJC membership and the powers and duties of the Council.

20 V.S.A. §2352(a)(1)—Council Membership

The Vermont Criminal Justice Council shall consist of:

(A) the Commissioners of Public Safety, of Corrections, of Motor Vehicles, of Fish and Wildlife, and of Mental Health;

(B) the Attorney General;

(C) the Executive Director of the Department of State's Attorneys and Sheriffs;

(D) the Executive Director of Racial Equity;

(E) a member of the Vermont Troopers' Association or its successor entity, elected by its membership;

(F) a member of the Vermont Police Association, elected by its membership;

(G) a member of the Chiefs of Police Association of Vermont, appointed by the President of the Association;

(H) a member of the Vermont Sheriffs' Association, appointed by the President of the Association;

(I) a law enforcement officer, appointed by the President of the Vermont State Employees Association;

(J) an employee of the Vermont League of Cities and Towns, appointed by the Executive Director of the League;

(K) an individual appointed by the Executive Director of the Center for Crime Victim Services;

(L) an individual appointed by the Executive Director of the Human Rights Commission;

(M) an individual appointed by the Executive Director of the Vermont Network Against Domestic and Sexual Violence; and

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VCJC Membership, Powers, and Duties

(N) seven public members, appointed by the Governor, who shall not be law enforcement officers or have a spouse, parent, child, or sibling who is a law enforcement officer, current legislators, or otherwise be employed in the criminal justice system.

(i) At least one of these members shall be a mental health crisis worker.

(ii) At least one of these members shall be an individual with a lived experience of a mental health condition or psychiatric disability.

(iii) At least two of these members shall be chosen from among persons nominated by the Vermont chapters of the NAACP, and each of these members shall represent a different Vermont NAACP chapter. In order to assist the Governor in making these appointments, each Vermont chapter of the NAACP shall nominate at least three individuals for these gubernatorial appointments.

20 V.S.A. §2355—VCJC Powers and Duties

(a) The Council shall adopt rules with respect to:

(1) the approval, or revocation thereof, of law enforcement officer training schools and off-site training programs, which shall include rules to identify and implement alternate routes to certification aside from the training provided at the Vermont Police Academy;

(2) minimum courses of study, attendance requirements, and equipment and facilities to be required at approved law enforcement officer training schools and off-site training programs;

(3) minimum qualifications for instructors at approved law enforcement officer training schools and off-site training programs;

(4) minimum basic training for law enforcement officers in each level of law enforcement officer certification and the time within which that training shall be completed;

(5) [Repealed.]

(6) minimum annual in-service training requirements for law enforcement officers in each level of law enforcement officer certification;

(7) minimum courses of training for other criminal justice personnel;

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VCJC Membership, Powers, and Duties

(8) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to those categories or classifications;

(9) recertification of persons who have not been employed as law enforcement officers for a three-year period;

(10) a definition of criminal justice personnel and criminal justice training for purposes of this title; and

(11) [Repealed.]

(12) permitting its Executive Director to grant up to a 60-day waiver to a law enforcement officer who has failed to meet his or her annual in-service training requirements but who is able to complete those training requirements within the time period permitted by the Executive Director.

(b) (1) The Council shall conduct and administer training schools and offer courses of instruction for law enforcement officers and other criminal justice personnel. The Council shall offer courses of instruction for law enforcement officers in different areas of the State and shall strive to offer non overnight courses whenever possible.

(2) The Council may also offer the basic officer's course for preservice students and educational outreach courses for the public, including firearms safety and use of force.

(c) (1) The Council shall appoint, subject to the approval of the Governor, an Executive Director who shall be an exempt State employee and who shall hold office during the pleasure of the Council.

(2)(A) The Executive Director shall perform such duties as may be assigned by the Council.

(B) The Executive Director may appoint officers, employees, agents, and consultants as he or she may deem necessary and prescribe their duties, with the approval of the Council.

(3) The Executive Director is entitled to compensation as established by law and reimbursement for expenses within the amounts available by appropriation.

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VCJC Membership, Powers, and Duties

- (d) The Council may, in addition:
 - (1) accept and administer under this chapter and for its purposes contributions, capital grants, gifts, services, and other financial assistance from any individual, association, corporation, or other organization having an interest in criminal justice training, and from this State and the United States and any of their agencies and instrumentalities, corporate or otherwise; and
 - (2) perform such other acts as may be necessary or appropriate to carry out the purposes of this chapter.
- (e) Any agency or department of State, county, or municipal government may, notwithstanding any provision of this chapter, engage in and pay for, from sums appropriated for that purpose, training activities for employees in addition to any minimum training required by the Council.
- (f) The Council shall charge participants or employers of participants in law enforcement training programs as follows:
 - (1) The tuition fees for any of the basic training or annual in-service training required under section 2358 of this chapter shall be set forth in rules adopted by the Council. The tuition fees shall be set to reflect the actual costs for operation of the particular programs offered. The fees for basic training shall not be charged for persons employed by police agencies at the time of training.
 - (2) The tuition fees for training not required under section 2358 of this chapter shall be set to reflect the actual costs for operation of the particular programs offered, with an additional \$30.00 entrance exam fee assessed on all training, except educational outreach courses for the public.
- (g) The Council shall develop and maintain a comprehensive drug training program.

20 V.S.A. §2358 sets forth the scope of practice for Level II and III law enforcement officers.⁴¹

Level II Law Enforcement Officer

20 V.S.A. §2358(b)(2)(B) states that the scope of practice of a Level II law enforcement officer shall be limited to investigating:

- 7 V.S.A. §658 (sale or furnishing to minors; enabling consumption by minors);
- 13 V.S.A. chapter 7 (advertisements);
- 13 V.S.A. chapter 8 (humane and proper treatment of animals);
- 13 V.S.A. §§505 (fourth degree arson), 508 (setting fires), and 509 (attempts);
- 13 V.S.A. chapter 19, subchapter 1 (riots);
- 13 V.S.A. §§1022 (noise in the nighttime), 1023 (simple assault), 1025 (recklessly endangering another person), 1026 (disorderly conduct), 1026a (aggravated disorderly conduct), 1027 (disturbing peace by use of telephone or other electronic communications), 1030 (violation of an abuse prevention order, an order against stalking or sexual assault, or a protective order concerning contact with a child), 1031 (interference with access to emergency services), 1042 (domestic assault), and 1062 (stalking);
- 13 V.S.A. chapter 35 (escape);
- 13 V.S.A. chapter 41 (false alarms and reports);
- 13 V.S.A. chapter 45 (flags and ensigns);
- 13 V.S.A. chapter 47 (frauds);

⁴¹ 20 V.S.A. §2351a(3) defines a law enforcement officer as a member of the Department of Public Safety who exercises law enforcement powers; a member of the State Police; a Capitol Police officer; a municipal police officer; a constable who exercises law enforcement powers; a motor vehicle inspector; an employee of the Department of Liquor and Lottery who exercises law enforcement powers; an investigator employed by the Secretary of State; a Board of Medical Practice investigator employed by the Department of Health; an investigator employed by the Attorney General or a State's Attorney; a fish and game warden; a sheriff; a deputy sheriff who exercises law enforcement powers; a railroad police officer commissioned pursuant to 5 V.S.A. chapter 68, subchapter 8; a police officer appointed to the University of Vermont's Department of Police Services; or the provost marshal or assistant provost marshal of the Vermont National Guard.

Appendix IV

Levels II and III Law Enforcement Officers' Scope of Practice

- 13 V.S.A. chapter 49 (fraud in commercial transactions);
- 13 V.S.A. chapter 51 (gambling and lotteries);
- 13 V.S.A. chapter 57 (larceny and embezzlement), except for subchapter 2 (embezzlement);
- 13 V.S.A. chapter 67 (public justice and public officers);
- 13 V.S.A. chapter 69 (railroads);
- 13 V.S.A. chapter 77 (trees and plants);
- 13 V.S.A. chapter 81 (trespass and malicious injuries to property);
- 13 V.S.A. chapter 83 (vagrants);
- 13 V.S.A. chapter 85 (weapons);
- 13 V.S.A. §7559(d), (e), and (f) (violating condition of release);
- 18 V.S.A. §§4230(a) and 4230d (cannabis possession);
- 18 V.S.A. §4231(a) (cocaine possession);
- 18 V.S.A. §4232(a) (LSD possession);
- 18 V.S.A. §4233(a) (heroin possession);
- 18 V.S.A. §4234(a) (depressant, stimulant, or narcotic drug possession);
- 18 V.S.A. §4234a(a) (methamphetamine possession);
- 18 V.S.A. §4235(b) (hallucinogenic drug possession);
- 18 V.S.A. §4235a(a) (ecstasy possession);
- 18 V.S.A. §4476 (drug paraphernalia offenses);
- 20 V.S.A. §3132 (firework prohibitions);
- 21 V.S.A. §692(c)(2) (criminal violation of stop-work order);

Appendix IV

Levels II and III Law Enforcement Officers' Scope of Practice

- any misdemeanor set forth in Title 23 of the Vermont Statutes Annotated, except for 23 V.S.A. chapter 13, subchapter 13 (drunken driving), 23 V.S.A. §3207a (snowmobiling under the influence), 23 V.S.A. §3323 (boating under the influence), or 23 V.S.A. §3506(b)(8) (operating an all-terrain vehicle under the influence);
- any motor vehicle accident that includes property damage and injuries, as permitted by the Council by rule;
- any matter within the jurisdiction of the Judicial Bureau as set forth in 4 V.S.A. §1102;
- municipal ordinance violations;
- any matter within the jurisdiction of a game warden or deputy game warden as set forth in 10 V.S.A. chapter 103, subchapter 4 (game wardens); and
- any matter within the scope of practice of a Level I law enforcement officer.⁴²

A Level II law enforcement officer may also practice in additional areas approved in writing by VCJC based on a special certification or training approved by the Council.

In addition to the scope of practice outlined above, a Level II officer may also respond to calls regarding alleged crimes in progress and may react in the following circumstances if the officer determines that it is necessary to do any of the following:

- protect an individual in the presence of the officer from the imminent infliction of serious bodily injury;
- provide immediate assistance to an individual who has suffered or is threatened with serious bodily injury;
- detain or arrest an individual who the officer reasonably believes has committed a crime in the presence of the officer; or
- detain or arrest an individual who the officer reasonably believes has committed a felony under Vermont law.

⁴² The scope of practice for a Level I officer is security, transport, vehicle escorts, and traffic control.

Appendix IV

Levels II and III Law Enforcement Officers' Scope of Practice

The statute requires a Level II officer that responds to calls regarding alleged crimes or reacts to the circumstances described above to call upon an officer certified to respond to and assume law enforcement authority over the incident.

Level III Law Enforcement Officer

20 V.S.A. §2358(b)(3)(B) states that the scope of practice of a Level II law enforcement officer shall include all law enforcement authority.

Appendix V Comments from Management

The following is a reprint of management's response to a draft of this report.



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Office of the Executive Director

August 31, 2022

Douglas R. Hoffer
Vermont State Auditor
Office of the Vermont State Auditor
132 State Street
Montpelier, VT 05633

Auditor Hoffer,

In response to your report "*Vermont Criminal Justice Council (VCJC): VCJC Did Not Confirm That Law Enforcement Officers Met Training Requirements.*" please incorporate this enclosed letter as the management's response.

The above statement is correct. Attached to this letter is a table outlining the work in progress and the work required to understand the issues identified by the SAO. It also includes steps the Executive Director and the Vermont Criminal Justice Council (established in 2021) can take in partnership with law enforcement leaders for corrective action.

This audit has provided a comprehensive and overdue assessment of the gaps in compliance and shed light on the vast responsibilities required of the Vermont Criminal Justice Council, the VCJC Executive Director, and the VCJC staff. There are twelve recommendations made to the executive director. Each assumes an organizational structure supporting policy, data, website, technology, curriculum, leadership development, compliance monitoring, and learning management systems. We have assessed each area for resources and have already requested or plan to request resources to improve efficiencies and, more specifically, provide a standardized definition of law enforcement training and certification. Our work to accredit will strengthen our capacity for instructors and provide police agencies with a road map for tier-based, measurable training with full accountability.

The management believes it's unnecessary to outline specific challenges endured with covid or staffing and resource challenges. The Vermont Police Academy did not shut down or turn away any qualified candidates during the audit period and still hasn't to date. Adaptability is critical and it's our priority to deliver needed services to police in Vermont. It should be noted that the SAO team was most considerate and forgiving of our operational needs, and they worked very hard to accommodate the unplanned changes associated with Covid and staff shortages.

Many of the issues identified by the SAO in this report have been identified by police agency heads and brought to our attention in the last year. Vermont has the unique distinction of having one police academy and an opportunity to certify across all law enforcement agencies. We have experienced full cooperation and support from law enforcement leaders across the state and we're confident these changes are in keeping with their mission to be transparent and accountable and to professionalize at the highest level.

Thank you for your time and consideration.

Respectfully submitted,

A handwritten signature in black ink that reads "Heather Simas".

Executive Director
Vermont Criminal Justice Council



Appendix V Comments from Management

1	<p>Audit Finding: There was no evidence that the current Level III curriculum was explicitly approved by the Council, as required by Rule 9. According to a VCJC official, the Level III curriculum was last approved in 2001, more than 20 years ago and there have been changes made to the curriculum since then.</p> <p>Audit Recommendation: Obtain approval of the Level III basic training curriculum as required by Rule 9.</p> <p>Management Response: Agree. The Council voted and approved the 2022 curriculum on 8/17/2022. The Executive Director is pursuing full accreditation certification and if resourced would be completed in three years' time. This request will include a needs assessment, job task analysis, curriculum review and development, regulatory requirements, standards evaluation, and implementation. Funding for full accreditation will include a position specific to Accreditation program management.</p>
2	<p>Audit Finding: VCJC did not require law enforcement agencies to provide support that courses not taken at VPA by Level II and OOJ officers were completed. Instead, officers and agency heads completed a form stating the officer had completed the training.</p> <p>Audit Recommendation: As part of verifying whether Level II candidates and OOJ waiver applicants meet certification requirements, obtain documentation to verify that they attended all the training classes required to obtain final certification.</p> <p>Management Response: Agree. We have identified areas where new processes and forms are needed and will work to implement these changes. If funded, these processes will be reviewed continuously through the accreditation process through IADLEST (International Association of Directors of Law Enforcement Standards and Training) to ensure the Academy meets regulatory requirements and standards.</p>
3	<p>Audit Finding: VCJC's documentation did not always support that a Level III candidate passed all 13 written and practical exams required to graduate. We found cases in which VCJC records showed that candidates had failed one of the exams. While VCJC officials stated that these officers passed a makeup exam, VCJC did not have a record of them.</p> <p>Audit Recommendation: For future Level III basic training, document the results of makeup exams that prove that a candidate for certification passed all exams.</p> <p>Management Response: Agree. As part of the Accreditation process, improvement areas will be defined to include training tracking, attendance, lateral evaluations, course delivery, curriculum standards, and competency-based assessments. A record retention review will be initiated with the Vermont State Archives and Records Administration (VSARA) Targeted Assistance Program (TAP) to align our records and processes. In addition, we have assessed various training and tracking systems and have found that a new record management system would meet the needs for compliance monitoring, records retention, and accreditation standards. The Executive Director has previously requested resources for an upgrade to our records management system and will revisit this funding need again. The system that has been identified is <i>Acadis: Public Safety Training and Compliance Software</i> which is in use with the Department of Public Safety through the Vermont Fire Academy and the Vermont State Police. This system includes compliance and policy monitoring, grade book tracking, professional regulation, testing, online course delivery methods, monitoring, scheduling, and tracking.</p>

Appendix V Comments from Management

4	<p>Audit Finding: VCJC's OoJ procedures required staff to assess the applicant's training history. The purpose of this assessment was to develop a training plan to ensure the applicant was trained to Vermont standards. However, none of the training records for the five OoJ waiver applicants included documentation of this assessment.</p> <p>Audit Recommendation: As part of developing OoJ waiver applicant training plans, document the results of their analysis of the applicants' training history and whether they meet Vermont standards.</p> <p>Management Response: Agree. The waiver process and all Out-of-Jurisdiction (OOJ) assessments will include an internal review checklist. Further areas to improve processes and forms have been identified and will continue to be assessed, developed, and implemented over time. Resources will be requested to make this process move to a digital system (previously referenced) to monitor compliance, gather, and retain documents, and track changes to reduce human error. Additionally, the move towards Accreditation will require a full needs assessment for competencies will determine the plausibility of test-out options, and a management-level task analysis will determine what level of skills training is needed at the management and executive level.</p>
5	<p>Audit Finding: Constables who exercise law enforcement powers are defined in statute as law enforcement officers and are required to obtain VCJC certification. For example, constables must receive Level II certification to enforce municipal ordinances. We reviewed ordinances for six towns with a constable. All six towns had at least one ordinance the town's constable was responsible for enforcing. The constable position was vacant in one of these towns, but only one of the other five constables had a law enforcement certification.</p> <p>Audit Recommendation: Identify and contact every town with a constable and determine whether the constable is performing duties that require that the constable be certified as a law enforcement officer.</p> <p>Management Response: Agree. A letter with supporting information has been sent to each town and will continue to be sent each election period thereafter. We will identify further needs and strategies when the success of the letter is able to be measured. An assessment of data accuracy and a system to track will be included in budget requests for policy and data specialists.</p>
6	<p>Audit Finding: VCJC's process for ensuring that law enforcement agencies met the Rule 13 in-service training requirements was limited to having a staff member review affidavits that the heads of law enforcement agencies submit. VCJC did not require all or a sample of law enforcement agencies to submit documentation, conduct site visits nor otherwise have a process to verify that agencies training records supported the hours attested to on the affidavits. The Secretary of State's OPR, which is tasked with administering the issuance and renewal of licenses for many professions, conducted random audits of individual license holders training records.</p> <p>Audit Recommendation: Develop and implement a plan to verify that law enforcement officers are meeting the Rule 13 in-service training requirements. Such a process could include, for example, requiring that law enforcement agencies submit supporting documentation along with their affidavits or reviewing a sample of supporting documentation annually.</p> <p>Management Response: Agree. The Vermont Criminal Justice Council's process of accepting attestations is being evaluated and new strategies and resource opportunities are being assessed for how to request, track, and retain documentation from Agencies. Part of this evaluation will include requesting funding for a compliance unit to include a compliance officer, a policy development contract, guidance manuals, website updates, and a legal review. In addition, part of the unit will be Training and Compliance Specialists that travel and assist agencies with their training and compliance plans. Until such time, the Vermont Criminal Justice Council will request manual audits of record compliance.</p>

Appendix V Comments from Management

7	<p>Audit Finding: Rule 13 requires that a law enforcement agency’s training records be available for review. However, VCJC has not provided guidance about what should be in the training records. OPR had rules that listed topics that qualified as acceptable training and specified what supporting documentation was needed.</p> <p>Audit Recommendation: Issue Rule 13 guidance to law enforcement agencies that addresses, at a minimum, (1) the type of training that is valid, (2) how training hours should be counted, (3) what constitutes valid training documentation, and (4) how to document the usage of authorized instructors in the in which they are required.</p> <p>Management Response: Agree. This requires Council, the community, and law enforcement cooperation to determine the current required skills for law enforcement. Resources requested for accreditation will impact changes to guidance to agencies that will be more specific and refined. As changes occur, they will be communicated using all channels to ensure agencies are fully informed.</p>
8	<p>Audit Finding: VCJC’s system did not contain a detailed record of all training courses taken by Vermont law enforcement officers. OPR required individual license holders to report their training hours and upload supporting documentation to its database.</p> <p>Audit Recommendation: Evaluate the feasibility of developing an automated process for recording all law enforcement officer training, which should include contacting other State organizations that perform similar tasks.</p> <p>Management Response: Agree. A full review and research of multiple record management systems within law enforcement were conducted in 2021. Budgetary constraints did not allow for a record management upgrade. We will revisit budget requests for a full record management system upgrade similar to other state agencies and many academies across the country. This request will be for funding for <i>Acadis: Public Safety Training and Compliance Software</i>. This software allows individual officers to remain compliant, submit documentation, evaluate discrepancies, and obtain additional guidance.</p>
9	<p>Audit Finding: 20 V.S.A. §2359 requires that on or after January 1, 2022, if a law enforcement agency has not complied with statutory requirements to adopt, follow, and enforce policies and report roadside stops and certain incidents relating to mental health, VCJC exclude that agency from VPA training and other VCJC services. VCJC is also required to adopt procedures to enforce the statute, which can include a waiver process for agencies with a plan to obtain compliance. According to a VCJC official, as of mid-June 2022 VCJC had not adopted such procedures.</p> <p>Audit Recommendation: Adopt written procedures to apply the prohibitions of law enforcement agencies’ use of VPA training and other services under 20 V.S.A. §2359, including how it will reach decisions on when and under what circumstances the prohibitions will be enforced and lifted. VCJC should communicate this information to law enforcement agencies and begin to immediately apply their procedures.</p> <p>Management Response: Agree. The executive director will recommend to the council the formation of a policy committee. A policy committee will be created as a subset of the Council that will focus on policy review and compliance as well as written procedures. Policy development can assist with the expediting full review and implementation of Vermont Criminal Justice Council policies. We acknowledge that there is no full-time position at the Academy that is dedicated to areas of Fair and Impartial policing. We will continue to request resources for evaluation of the legitimacy and accuracy of roadside stop data in conjunction with the committee.</p>

Appendix V Comments from Management

10	<p>Audit Finding: VCJC must implement the prohibitions in 20 V.S.A. §2359 if law enforcement agencies do not adopt policies required by Title 20, Chapter 151. VCJC's unwritten practices did not identify the many differences between the three model policies and the adopted policies of the 12 law enforcement agencies we reviewed. Rather than obtain and review agencies' policies, VCJC relied on the agencies to attest annually that they have adopted the statutorily required policies via its Rule 13 affidavit. This failed to identify exceptions that we found, and therefore was not an effective control.</p> <p>Audit Recommendation: Adopt written practices to explicitly confirm whether law enforcement agencies have adopted the policies required by Title 20 Chapter 151 currently and whenever the agencies' policies are changed.</p> <p>Management Response: Agree. The Vermont Criminal Justice Council will create a written practice that implements standardization of the collection and reporting of policies. Until such time as compliance issues can be funded, a manual audit of policies will be initiated, and these will filter through a subset of the Council. This subset will assist in the establishment of parameters on how and when to determine non-compliance with policies. Resources are critical to developing a comprehensive compliance program, funding requested will include policy and data specialists.</p>
11	<p>Audit Finding: Our comparison of reported roadside stops to citations for traffic offences contained in a database used by Judicial Bureau to track citations found two constables and one small law enforcement agency that did not report roadside stops. VCJC's unwritten process to determine agencies' compliance with the requirement in 20 V.S.A. §2366(e)(3) to report roadside stops data to VCJC did not identify these exceptions.</p> <p>Audit Recommendation: Adopt practices to explicitly identify whether law enforcement agencies are complying with statutory requirements to collect and report roadside stop data.</p> <p>Management Response: Agree. Any work product that is created by the Vermont Criminal Justice Council, National Police Institute, and any contracted resource will be utilized to adopt compliance practices. Part of the critical mission of law enforcement and the Vermont Criminal Justice Council is to expand and develop in the areas of fair and impartial policing. We acknowledge that there is no full-time position at the Academy at this time. Resources are being requested to initiate a Diversity, Equity, and Inclusion unit to include a director, staff support, data analyst, community outreach, and a legal and compliance advisor.</p>
12	<p>Audit Finding: Vermont Statute requires all law enforcement officers receive at least 16 hours of ARIDE training on or before December 31, 2021. VCJC's guidance to agencies in 2019 and 2020 stated that ARIDE certification is only required for Level III officers certified after May 22, 2015 and must be done within three years of certification. VCJC's guidance does not comply with the wording of the statute. Minutes from a 2021 VCJC meeting indicate VCJC discussed requesting that the Legislature give VCJC the authority to decide which officers need ARIDE training, but VCJC did not provide any documentation showing such a request was made.</p> <p>Audit Recommendation: Expediently require law enforcement agencies to obtaining ARIDE training for all officers or seek to amend the statute to require only Level III officers obtain such training.</p> <p>Management Response: Agree. A member of staff and a member of the Council are developing legislative language to recommend changes in statute to reflect the necessary needs of law enforcement. This request will be presented in writing during this 2022 legislative session.</p>