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## Adoption Process

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Hi All,

I have copied the pertinent sections of my email conversation with VLCT Attorney Susan Senning regarding adoption of FIPP below:

**Josh to Susan: Oct. 2019**

I have a question about policies for Town departments. Do all of the Town department policies have to be adopted by the Selectboard? What about the Police Department, can they adopt policies on their own? Would Library Trustees adopt policy for the Library?

**Susan to Josh: Oct. 2019**

As with most things, it depends on which policy is being adopted. The personnel policy for town employees, conflict of interest, finance, firearm, and use of public buildings policies, etc., are all adopted by the selectboard. However, certain bodies have statutory authority to adopt their own policies.

For instance, per [20 V.S.A. Section 2366\(a\)\(1\)](#), municipal law enforcement agencies must adopt a fair and impartial policing policy. This would be the police chief adopting the policy, not the selectboard. Generally, per [24 V.S.A. Section 1931\(b\)](#), the police chief is vested with direction and control of the entire police force, except as otherwise provided.

**Josh to Susan: Nov 2019**

This was a very helpful response, thank you. We are actually looking at a Fair and Impartial Policing Policy and our Chief has adopted the state model. But there is a version that Migrant Justice is proposing that some on the Selectboard are for, while our Chief is against it. From what you said it is not the Selectboards call but the Chief's call on if we adopt this policy, correct?

**Susan to Josh: Nov 2019**

Yes, the fair and impartial policing policy is specifically under the authority of the municipal law enforcement agency and constable who is trained in/authorized to exercise law enforcement per 20 V.S.A. Section 2366(a):

**§ 2366. Law enforcement agencies; fair and impartial policing policy; race data collection**

(a)(1) On or before March 1, 2018, **every State, county, and municipal law enforcement agency and every constable** who exercises law enforcement authority pursuant to 24 V.S.A. § 1936a and who is trained in compliance with section 2358 of

this title shall adopt a fair and impartial policing policy that includes each component of the Criminal Justice Training Council's model fair and impartial policing policy.

Therefore, the selectboard could suggest or recommend that the chief take its version under consideration, but it cannot force the chief to adopt it.

**Josh to Susan: July 2020**

The topic of a Fair and Impartial Policing Policy is coming up again in Richmond. From your emails last fall it is clear that the policy adoption is the role of the Police Chief. However, how did Winooski adopt a policy by their Selectboard? Also, I think a few other Towns recently adopted a policy (or maybe a resolution?) via a vote at Town Meeting this past March. How do those decisions factor into the policy that needs to be formally adopted by the Police Chief?

Thanks for any insight that you can lend.

**Susan to Josh: July 2020**

I can't speak or speculate about Winooski's process. However, it appears from the purpose section of its policing policy that it was a joint effort between the City Council and the Police Department. It also states that the policy goes above and beyond the statutory requirements. <https://www.winooski.vt.gov/DocumentCenter/View/767/Fair-and-Impartial-Policing-Policy?bidId=>. Whether this was a friendly effort, or directive from the Council, I cannot say because I am uninformed about their process and history.

The police department must adopt a policy that, at a minimum, contains components of the Criminal Justice Training Council's model fair and impartial policing policy. The police department are employees of the town, as well. So, it could be that some coordinating between what the selectboard wants to see and what the police department/chief adopts is required. The statute sets the minimum contents and directs the agency or constable to adopt the policy. However, the town still has supervisory authority over its police department and chief (within the bounds of any union, etc). Some towns may want to pass something with more than the minimum contents. While selectboard input is not required by statute, it may be wise to collaborate between employer and employee in these situations.

Similarly to the selectboard's input, an article voted on at town meeting would be non-binding but could be worthwhile to consider as it reflects the feelings of the community it will serve. I think the bottom line is to work cooperatively in developing an appropriate policy that serves the town, but ensuring the police chief formally adopts it on behalf of the department. I hope that makes sense.

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