

Josh Arneson <jarneson@richmondvt.gov>
to Susan

Dec 8, 2020, 3:35 PM (9 days ago)

Susan,

To follow up on both the adoption process and liability regarding an updated FIPP please see the attached letter submitted to the Richmond Selectboard by the ACLU and NLG. It is their opinion that the Selectboard can adopt policy for the police department. This is contradictory to the guidance you shared on this topic. Can we discuss, or can you reply with, your thoughts on the conclusions reached in the attached letter?

Thanks for all your help on this complicated topic.

Josh Arneson

Town Manager
Town of Richmond
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Susan Senning

Dec 9, 2020, 11:14 AM (8 days ago)

to me

Hi Josh,

This is an area that may have some statutory guidance but will involve some nuance so I don't think I can provide a cut and dry answer. There are several things at play here and various officers with different statutory authorities involved in the decision-making process as I mentioned in my earlier response from July 15. The information that follows explains some of this in more depth but remember our Law Enforcement Consultant, former Chief Trevor Whipple, is available as a resource. He may be reached at twhipple@vlct.org. This issue may warrant a consultation with the town attorney; if any decision or process is challenged, they will be the attorney defending the town so you may want to engage them on this topic now before action is taken.

As I mentioned, per 20 VSA 2366(a)(1) municipal law enforcement agencies must adopt a fair and impartial policing policy. Here's a link to the statute <https://legislature.vermont.gov/statutes/section/20/151/02366>. This would be the police chief, not the selectboard. However, as I mentioned, the selectboard and manager have supervisory powers in terms of overseeing the police chief as a town employee.

The statutory scheme for a town with a selectboard/manager/police chief is as follows: The selectboard hires the manager and the manager is subject to the direction and supervision of the selectboard "In all matters he shall be subject to the direction and supervision and shall hold office at the will of such selectmen, who, by majority vote, may remove him at any time for cause." 24 V.S.A. § 1233. The manager has charge, control, and supervision of the police department, if any, and shall appoint and remove officers and fix their salaries. The manager "shall have authority and it shall be his duty: (t)o have charge, control and supervision of the following matters: (t)he police department, if any, and shall appoint and may remove the officers thereof and shall fix their salaries." 24 V.S.A. § 1236(9)(A). The selectboard or town manager may appoint a chief of police. "The legislative body, and in its stead, the town manager, when appointed pursuant to chapter 37 of this title, of a municipality as defined in section 2001 of this title may establish a police department and appoint police officers and a chief of police who shall be a police officer." 24 V.S.A. § 1931(a). "The direction and control of the entire police force, except as otherwise provided, shall be vested in the chief of police. 24 V.S.A. § 1931(b). The chief of police is accountable to the selectboard and the manager, who can remove the chief for cause. "They shall be sworn and shall hold office during good behavior, unless sooner removed for cause." 24 V.S.A. § 931(a). Of course, this is outside consideration of any individual contract or collective bargaining agreement in place.

Twenty-four V.S.A. § 1931 recognizes the manager's authority over the police department by authorizing the manager to establish a police department and appoint a chief and police officers. Except for the authority to appoint, remove and set compensation, direction and control over the police force are vested in the chief of police, but in exercise of that direction and control over the police force, the chief is accountable to the board and the manager, who can remove the chief for cause. Each town's relationship with its chief of police is going to vary. The key to clarifying these lines of authority and responsibility is communication between the parties - both formal (e.g., job descriptions, performance evaluations) and informal (e.g., regular discussion).

I think, ultimately, the town's best interests will be served if there is a spirit of cooperation among all officials involved. If there is any disciplinary issues between supervisor(s) and employees, I strongly recommend you reach out to the PACIF EPL Referral Program for assistance. However, I hope it doesn't get there. I think consulting Trevor and the town attorney should clarify what you will do next. I hope this helps.

Sincerely,
Susan