PERFORMANCE AUDIT

OF THE

DEPARTMENT OF PUBLIC SAFETY

Conducted by
the
House Committee on Appropriations

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HOUSE COMMITTEE ON APPROPRIATIONS

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INTRODUCTION

In line with the continuing responsibility of the legislature to evaluate and review programs and agencies in the executive branch, the House Appropriations Committee decided at the close of the 1975 session to conduct a performance audit of the department of public safety - state police.

A performance audit is an evaluation of the performance of a particular agency. It involves a systematic inquiry into how well an agency is performing programs mandated by the legislature. Three general areas are examined:

(1) Whether the agency is in faithful compliance with the statutes;

(2) Whether the agency is performing its functions efficiently;

(3) Whether the program is managed and controlled effectively.

The decision to review the performance of the department of public safety was particularly well-timed because of the impending retirement of many key members of the state police hierarchy. 1977 presents both a problem and an opportunity. Good management decisions are critical now, while at the same time there is a unique opportunity to implement changes.

Although the committee might have reviewed the civil defense and fire marshal functions of public safety, the study was instead limited to the state police. A review of Vermont law enforcement generally - including sheriffs and local police departments - was also a possibility. Although some attention was given to the relationships among the three levels of law enforcement, the committee focused specifically on the

state police and how the effectiveness and efficiency of that department might be improved.

It is easy to focus on problems in a study of this kind, and certainly one finding of the committee is significant only by its absence. Vermont is extremely fortunate in having a state police department which, by all accounts, is free of corruption and political influence. The integrity and dedication of both the leadership and the working police officer must be credited with this achievement.

The findings contained in this report were developed from information obtained from testimony in committee meetings, two public hearings, a tour of Redstone, the Pittsford training academy, VCIC/Middlesex, interviews with the commissioner, the executive officer of the department and with individual officers, and a questionnaire which was sent to all troopers, corporals and sergeants. A list of those persons testifying and additional documents and supporting material, excluding the questionnaires, are available for inspection at the Legislative Council.

A few of the recommendations in this report would require additional state expenditures for implementation. However, the committee does not hereby express a judgment that these additional expenditures are more urgent than some required elsewhere in state government, nor that they justify a tax increase at this time.

I. ORGANIZATION OF THE DEPARTMENT - SERVICES PROVIDED

A. Departmental Organization

The department of public safety is organized into troops, subtroops and outposts. The state is divided into five troop areas, each commanded by a lieutenant. Presently the troop headquarters are located in Rockingham, Rutland, Middlesex, Colchester and St. Johnsbury. Subtroop headquarters, commanded by sergeants, are located in Brattleboro, Shaftsbury, Middlebury, Bethel, St. Albans and Derby. In addition, there are approximately 30 outposts, most of which are operated by one trooper with a few having two troopers.

The justification for organization into troops and subtroops, as opposed to dispersed outposts, is the ability to marshal a large number of troopers in an emergency. Although this committee agrees with the need for manpower pools, as will be discussed subsequently, reorganization into an expanded outpost system might provide the same needs with better local coverage and fewer administrative persons.

The command structure of the Vermont state police is similar to that typically employed in the military. The head of the state police, the commissioner, is given the rank of colonel. The commissioner is appointed by the governor to a six year term and can only be removed for cause. An executive officer carries the rank of major. There are two captains, a special services captain and a staff services captain. A lieutenant is in charge of each troop headquarters. Additionally, several other lieutenants are presently employed in a variety of other duties.

The sergeants typically are in charge of the subtroops. There are also several other sergeants, who provide a variety of other services. The corporals are the so-called patrol commanders, and they provide direct supervision over the various shifts.

According to the department's figures, the total of 220 persons in the sworn force consists of: 1 commissioner, 1 major, 2 captains, 10 lieutenants, 27 sergeants, 67 corporals and, presently, 116 troopers (130 are authorized).

In addition to the sworn force, 114 non-sworn positions are currently held within the department of public safety. Of these, 4 are administrative, 64 are dispatchers, 26 are clerical, 11 are communication technicians, 3 are supply personnel, 2 are chemists and 3 are cooks.

At present, all of the 220 sworn state police officers are men. This committee is convinced that there is often a need for female state police officers. It is therefore of some concern to this committee that the discrimination section of the proposed departmental regulations (Article 3.8) refers to race, color, national origin and political or religious opinions or affiliations - but not sex. When attempting to fill the existing vacancies, the committee believes that the department has an excellent opportunity to actively recruit a number of well qualified women.

There may be an excess of supervisory positions. About one-half (104) of the sworn officers (220) in the department can, to some extent, be classified as supervisors. The import of these figures must be tempered however because they include those officers of the rank of corporal

or above as supervisors. The role of corporal in the state police is mixed. While he is considered a patrol commander with supervisory and desk assignments, he also spends at least half of his time in the field.

On the other hand, the manner in which most supervisors are utilized by the department indicates less rather than more need for them. There is apparently a rather rigid "chain of command" within the department which all officers are expected to use. Troopers are encouraged to bring issues to the immediate attention of the patrol commanders (corporals), who relay the message to the subtroop commanders (sergeants), who then relay the message to their troop commanders (lieutenants), who refer it to the captain, who then relays it to the major or commissioner for resolution. Although it would be an exaggeration to suggest that all field decisions are resolved in this manner, the committee was surprised to discover the large number that were. The committee found that the department s executive officer (the major) was in effect the department's primary field decision maker. The utilization of intermediate decision-makers does not appear to be what it should be.

The committee strongly urges the department to obtain expert consultation in the areas of internal management, assignment of positions and functions, the distinctions between ranks, and the appropriate and efficient use of supervisory personnel. It is reasonable to hope that a study of this kind would result in greater field coverage with the same number of personnel.

B. Services Provided

1. Responses to Citizen Complaints

The majority of citizen complaints and requests are phoned in to the "barracks" or troop headquarters, and troopers are dispatched to answer them. Both troop and subtroop barracks are expected to have sufficient personnel to respond to any emergency situation, both within the area itself and, if need be, in another area within the state. The barracks system is complemented with a number of outposts. At the barracks most of the administrative detail is handled, including preparation of court reports, accident reports, affidavits, and other administrative matters. In order to carry out some of these functions, a number of stenographers and typists, who often double as dispatchers, are employed.

2. Criminal Investigations

The bureau of criminal investigation (B.C.I.) is charged with investigating criminal activities. The troopers responding to the questionnaire were divided on the effectiveness of the B.C.I. unit, although almost all agreed that it was necessary. Many of the outpost troopers suggested that they in fact were doing most of the criminal investigation within their area, and that the B.C.I. men were not doing enough for them.

3. Narcotics

Closely related to the bureau of criminal investigation is the drug unit. Practically all those responding to the questionnaire suggested that the state's drug problem is worsening, especially with more rigid penalties imposed on drug sales in neighboring New York.

4. Computerized Crime Information

The state police presently operate the Vermont crime information

center (V.C.I.C.), which is located at Middlesex. V.C.I.C. attempts to provide field officers with an instantaneous computerized record search of criminal information and identification. One of the problems is that many sheriffs and police departments do not send in their records to V.C.I.C., making the information incomplete. The committee urges that the state police and local enforcement officers work to improve the V.C.I.C. records.

Overcrowding of the Middlesex barracks, because of the presence of the V.C.I.C., had been suggested by the department as a problem. However, an inspection of the facilities there demonstrated that this is not the case, and that the office is no more crowded than many of today's state offices.

5. Pownal Patrol

The state police have one officer who is presently employed at the Green Mountain Track in Pownal. This trooper's duties include the investigation of any possible crime at the track. The expense of this trooper is borne by the owners of the track.

6. Governor's Escort

The state police provide a driver for the governor. Due to the amount of traveling which any executive is expected to do today, and the potential need for protection, this committee does not find this assignment to be unreasonable.

7. Dispatching Services

Under what are usually informal agreements, the department provides dispatching services for several towns within the state. This service is generally available only to towns without 24-hour dispatching capability

police, were reached through the operator. Now, as then, the operator is often slow to answer the phone. When a few seconds can mean life or death, a few seconds waiting for the operator or waiting for the second connection is obviously of major importance.

8. Crime Laboratory

The state police crime laboratory is presently located at Redstone. Following a tour of the laboratory, the committee was particularly concerned with the organization of evidence which appeared to be in no particular containers, shelves, racks or whatever. The committee believes that the laboratory is in need of modernization and better organization and recommends that the supervisors of the state police meet with the state buildings director to arrive at a solution to this problem.

9. Special Services

There are several special services teams, such as bomb services, a sniper team and a mobile crime lab. The sniper team is composed of troopers who are regularly involved in other duties.

The Vermont state police also participate in the operation of the training academy, which is located at Pittsford. The committee inspected the facility and reviewed the training at the academy. The committee finds that this is an adequate training facility and believes that it should not be abandoned, but renovated. It might be noted that the Pittsford training academy presently has enough vacant space to house other departments of state government. This committee recommends the continued exploration of the use of this vacant space.

10. Safety Education

There are five safety education officers; one sergeant and four corporals. These officers are utilized exclusively for the purpose of conducting

but with 24-hour coverage. For the 26 towns receiving this service, state police dispatching begins at 5:00 P.M.

There has been some discussion about the possibility of coordinating dispatching for all police, with the ultimate goal of combining all emergency dispatching. The so-called "911" system, which is used in many areas throughout the country, does this, but it is an expensive system both to install and to maintain.

Almost a year ago, a first step was made toward the combining of all police dispatching. The "0" or operator-assist system, was instituted, with the help of a federal grant, in late 1974. To use this system, the caller simply dials "0", and tells the operator that the call is a police emergency. The operator connects the caller directly to the state or municipal police dispatcher and remains on the line until the call is completed.

The advantages of the system are its simplicity - anyone anywhere may reach the police by dialing "0" - and the fact that the call is monitored until completed.

Only recently, however, has there been a concerted effort by the department to publicize the system, and its use has been somewhat disappointing. However, according to the commissioner, there has been an increase in usage since July, and therefore the system will continue for another year with federal funding. However, the commissioner does not anticipate an effort to obtain state financing when the federal funds run out.

The simplicity of the system is in some ways a drawback, too. One cannot help but be reminded of the old days when everyone, including the

safety education classes for community and school groups. This is a very commendable and useful service which the committee encourages; however, the committee questions the utilization of officers of this high rank solely for this purpose, a situation which lends credence to the charge that these positions are used by the department to take certain individuals out of the chain of command. In the judgment of the committee, it might be preferable to use troopers who routinely patrol the area served by each school.

11. General Patrol

The great majority of the trooper's time is spent on two activities, motor vehicle enforcement and criminal investigation. This committee does not recommend any substantial change in this emphasis.

According to departmental figures, the Vermont state police spent the following amounts of time in the following areas:

	1973	1974
Motor vehicle activity	53.07%	50.08%
Criminal activity	18.18%	23.65%
Special activities	19.15%	16.47%
Training activities	9.59%	9.79%
Safety education	.01%	.01%

The committee suggests that, if any changes are made, the department should continue to spend more time on criminal activities, and less on motor vehicle enforcement.

The great majority of those responding to the questionnaire believed that there was no significant interstate patrol capability today, primarily because of the lack of manpower. Despite this fact, approximately 50 percent of the trooper's time is spent on motor vehicle activities.

C. The Outpost System

The committee recommends expansion of the outpost system. The outpost troopers are responsible for covering a large amount of territory, with minimal supervision, and at all hours of the day and night. This committee believes that, in a rural state such as Vermont, the outpost system is the best way to achieve full time law enforcement.

In the committee's view, expansion of the outpost system would mean at least two and possibly three officers in each outpost. At present, most outpost troopers work alone, are on duty 24 hours a day, and rely on wives or family to provide telephone answering services and relaying of messages. For these reasons the committee recommends retaining the pay differential of $75.00 per month between regular and outpost troopers and reinstalling the automatic telephone answering services.

The costs of the outpost system should be shared by the towns receiving the benefit of an outpost. All taxpayers support the state police. Residents of cities or towns with municipal police departments also pay for that protection, and they do not receive as much benefit from the state police. In effect, they are paying twice for police protection. The committee therefore believes that it is not unreasonable to ask a town receiving the services of an outpost trooper to contribute toward the cost.

Under this system, outpost troopers would remain under the control of the department, rather than town officials. The state police should not become involved in town politics, nor should direction or supervision of troopers be exercised by town officials. This committee recommends no such division of authority.

A resident trooper program has been initiated in Connecticut and testimony heard by the committee indicates that the program is a successful one. The committee recommends that legislation expanding the outpost system with cost sharing should be adopted on an experimental basis.

The criteria presently used by the commissioner in selecting outpost locations are satisfactory to the committee. These criteria are:

(1) Major crime in the area;

(2) Motor vehicle accidents in the area;

(3) The presence, or lack thereof, of other full time enforcement personnel;

(4) The accessibility of the area in terms of year round roads and distance from nearest state police office;

(5) The impact of population changes on the areas which attract a large number of tourists or part time residents;

(6) Areas with seasonal residents requiring seasonal increases in business establishments; and

(7) Areas with relatively large population generally scattered over many small communities which lack any police protection.

II. RULES AND REGULATIONS

A recurring complaint throughout this study has been the lack of available written departmental regulations. 87 of the troopers and corporals responding to the questionnaire stated they did not have up-to-date regulations; 81 stated they were not given a copy when they were first employed; 99 said they had had no input in writing the new regulations; and 74 said they had not seen them.

The committee has been informed that the proposed regulations which are referred to in various parts of this report will be sent to the printer immediately. The committee supports this move. Although the proposed regulations have not yet been adopted, in view of the department's stated intentions, they will be discussed in this section as though they have been.

Excluding the section on promotions (which may be rewritten), there appear to be certain major weaknesses in the proposed regulations. Two have been addressed in other sections of this report. First, the transfer policy (Article 12) is left entirely to the discretion of the commissioner, without guidelines and without review. As stated in chapter III, the committee recommends that these guidelines be clarified and that so-called disciplinary transfers be subject to review.

Second, the procedure for handling minor offenses is vague and without protection for the disciplined member. While there are safeguards for disciplinary proceedings on major offenses, reprimands and loss of compensation or vacation time may be levied on the disciplined member for minor offenses, with the only stipulation being that the member agree in writing. The regulations do not specify what happens if he does not agree.

The immediate effect of a written reprimand may be negligible; however, promotions and transfers are decided at least in part by the material in an officer's personnel file. If there is no way to remove a written reprimand - which may have been given without cause - the eventual effect on the officer's career in the state police may be substantial.

Since minor offenses are doubtless more common than major ones, and since this type is more apt to affect more persons than major ones, it is important that the procedure for handling minor offenses be clarified.

Another area of concern is Article 8, Property and Uniforms. The troopers and corporals complained frequently about the lack of written guidelines relating to uniforms. In some cases the regulations cover minute details, while other matters are left to broad interpretation. Consistency and neatness in appearance are important; however, a requirement that "Buttoned or zippered articles of uniform shall be properly buttoned or zippered at all times while being worn" (Article 8.5) may be carrying this concern too far.

The policy on the wearing of hats has created problems - in a recent well-publicized case, a formal reprimand was given to the trooper. However, the regulations do not state that a trooper is required to wear his stetson when he is out of his car.

The committee commends the department for its move to adopt these regulations. The criticisms here are not intended to minimize the importance of this effort; however, regulations should always be under review and open to change and it is hoped that these comments and suggestions will be read in that light.

III. TRANSFERS

Transfers of personnel within the department of public safety are subject only to the commissioner's administrative discretion. There are no current written policies regarding the transfer of personnel, nor are there any in the proposed new regulations. There are also no procedures

for appeal or review of a transfer, except to the commissioner.

The commissioner exercises his administrative discretion to transfer personnel to different geographical areas for a variety of reasons. In interviews, the commissioner and the executive officer indicated that the following is a list of the reasons for the physical transfers of personnel:

(1) promotion,

(2) creation of a new position,

(3) filling of a vacancy,

(4) adjustment in troop strength,

(5) accomodation of a request for a transfer,

(6) career development, and

(7) disciplinary reasons.

The commissioner has provided a list of all the physical transfers ordered by him in the past three years. Of the 83 transfers listed, reasons were offered for 44 of them, most of them being to accompany promotions, fill vacancies, and accommodate personal requests. Through interviews with the commissioner and the executive officer, it was further established that the department's reasons for the remaining 39 transfers were to achieve one of the seven administrative purposes listed previously. Eight of the total of 83 transfers listed were for reasons characterized by the commissioner and the major as "disciplinary."

It was further established that the reasons for transfers were often not given to either the public or to the officer himself. This is particularly true of the department's policy toward disciplinary transfers. In matters of discipline, the department's leadership takes the position that they are often transferring a trooper "to save him from himself."

The commissioner and the executive officer have stated that they have endeavored to save a man through transfer when suspicions arise about a man's extramarital activities, or when other matters arise which the executive officer feels may damage a trooper's reputation in the area in which he works. In such cases, the commissioner and the executive officers feel that the less that is said about the reasons for the transfer the better.

When a transfer is made to discipline an officer, an additional vacancy is usually created, thereby leaving the department's executive officers with the task of making one or more additional transfers to balance troop strength. The need for these additional transfers is based upon sound administrative reasons, but the discretion of the commissioner to select the individuals to be transferred is completely unfettered.

It is the exercise of this unfettered discretion that has engendered the most criticism in testimony before the committee. State's Attorney Sten Lium has charged that these transfers are ordered with an insensitive regard to personal and family needs, a form of "muscle flexing," designed to show a recalcitrant trooper who's boss, or worse, to run him out of the department.

These extreme charges are, of course, matters of opinion which the committee regards with caution. Nonetheless, evidence does exist which tends to establish significant dissatisfaction among the troopers with regard to the commissioner's use of his transfer authority. Of the troopers answering the committee's questionnaire, a majority of 62 to 49 thought that the department's transfer policies were unfair. A large majority of 85 to 24 thought that transfers were a common disciplinary

tool. 77 out of 94 officers thought that transfers should be made less frequently.

At the same time, a similarly large majority of 73 to 33 thought that transfers for disciplinary reasons were justified, although many voting in the minority commented: "Why transfer a problem?"

In all transfer situations, whether for administrative or disciplinary reasons, the trooper has no appeal except to the commissioner. This procedure for appeal or review is inadequate in the opinion of 79 of the 111 troopers responding to the committee's questionnaire.

From all the testimony presented to it, the committee finds that to effectively manage the department, the commissioner must retain the authority to make transfers of personnel when these are needed to fulfill administrative purposes. However, because of the potential for abuse of this authority, and in the face of evidence that it may have been abused, the committee recommends that the authority to transfer personnel be exercised by the commissioner only pursuant to publicly adopted regulations incorporating substantially these elements:

A. No transfer shall be made unless it is characterized as administrative or disciplinary. Administrative transfers shall be those:

(1) pursuant to a promotion,

(2) to fill a newly created position,

(3) to fill a vacancy,

(4) to achieve needed adjustments in troop strength,

(5) to accommodate the personal request of the transferee, or

(6) to develop individual careers by providing assignment rotations incident to a written policy.

All other transfers shall be characterized as disciplinary.

B. No administrative transfer shall be made without notifying, in writing, the officer to be transferred, indicating which of the above stated reasons is the basis for the transfer. A copy of the transfer notice shall be submitted to the department of personnel, which shall compile all such notices, and make them available, on request, to inspection by the public. The department of personnel, or the officer subject to transfer, may require of the department of public safety a clarification of the reasons for the transfer, in such detail as the department of personnel deems appropriate. The department of personnel shall not hereby have the authority to approve or disapprove any transfer.

C. No disciplinary transfer shall be made without notifying, in writing, the officer to be transferred, and the reasons therefor. Prior to any such transfer the officer subject to transfer shall have the right to institute grievance proceedings in the manner described in this report.

Transfers are also costly, both to the trooper being transferred and to the department, and must be held to an absolute minimum.

It is the department's policy to contribute to the costs of a physical transfer if it is ordered for any administrative reason other than to accommodate the personal wishes of the trooper. If a transfer is requested, the trooper pays for the entire cost of the transfer. If a transfer is ordered for disciplinary reasons, the department, at times, contributes a portion of the cost, and at other times the transfer is made at the trooper's expense. Whether or not the department contributes is decided by the department. If the department does pay the costs of the transfer, it pays only as much as is allowable under rules prepared for

all state employees by the department of personnel. There are many costs incidental to moving which are not covered under the standard personnel reimbursement guidelines, therefore, even when the department does contribute toward the cost of a transfer, there still remains a substantial financial penalty attached to most physical transfers.

The committee recommends that the departments of personnel and public safety review the policy of reimbursement for moving expenses for state police personnel. Although the committee generally agrees with uniformity of treatment for all state employees, in the department of public safety, where transfers are frequent, involuntary and without appeal, the committee feels that some additional consideration must be given the individuals involved.

The committee recommends that the department of public safety clarify its position on reimbursement of moving expenses incidental to disciplinary transfers. To withhold moving expenses is equivalent to levying a fine on an employee. While this is questionable as a matter of policy, it is probably illegal without providing the employee an impartial grievance procedure, which to this date has not been the case.

IV. PROMOTIONS

An organization determines its future direction and policy through promotions. With the 1977 retirements approaching, this issue becomes even more important to the Vermont state police. Promotions in the department are made according to a system developed about three years ago, and used on three different occasions. Basically, the system consists of:

(1) A written test, which is developed and administered by the Department of Personnel,

(2) An interview by an Oral Board, composed of three officers from state police organizations in neighboring states (who are recommended for selection by the executive officer),

(3) A Performance Potential Review, which is conducted by the executive officer, a captain, and the five district lieutenants.

Under the proposed state police regulations, the weight of the three parts of the promotion process will be as follows:

(1) For corporal, sergeant, lieutenant

Written Test	30 percent
Oral Board	30 percent
Promotion Potential	40 percent

(2) For captain and major

Written Test	50 percent
Oral Test	50 percent

The final decision on promotions is made by the commissioner. There is no appeal of the score on the written test, nor of the score given by the Oral Board. However, there is an appeal to the commissioner on the score given by the performance potential review team. On the two occasions when an appeal has been made, the commissioner has appointed an appeals panel, composed of a field captain and two other lieutenants.

There has been little objection to the written part of the promotion system. Generally, the scores have been fairly high, which may indicate that the examination needs strengthening. However, this is not considered a major problem.

According to the results of the questionnaire, a number of troopers and corporals feel that the Oral Board is somewhat less fair, in that an officer who makes a good impression in the fifteen-minute interview with three strangers is not necessarily the same officer who will become a good supervisor. There is some possibility for influence by the executive officer in terms of philosophy, since he is the person who recommends the selection of the members of the Oral Board, and is the only person in the state police who visits with them prior to the interview. Again, however, this does not appear to be a significant problem.

The performance potential review is probably the most vulnerable phase of the promotion process. The review is conducted in private, with the candidate's personnel file as a guideline. A rating sheet is filled out by each of the seven members of the team, after a general discussion of the candidate. These scores, which range up to 100, are combined into a performance potential score which then becomes the third part of the promotional evaluation.

The three scores - written test, Oral Board, and Performance Potential - are combined, and the names of the top three candidates are given to the commissioner. He customarily selects the top scorer.

While giving the appearance of impartiality, this elaborate system of evaluation probably results in more mystery than effective leadership. No one argues with the need for a written test. And while not wanting to depend on it alone, no one has serious argument with the Oral Board.

Leadership is always difficult to predict, and some means to evaluate performance and potential is necessary for the department to responsibly select its leaders. We seriously question whether the performance

potential review team is the way to select leaders. There are seven men - none of whom necessarily know the candidate - alone in a room with a file filled with reprimands, letters of commendation, and an annual merit system evaluation, which almost everyone agrees is meaningless. Neither the candidate nor his supervisor has any role in the most critical part of the promotional process.

While the commissioner needs to have guidance in making a promotion, the committee believes this guidance should come from the supervisor of the candidate - not from officers who may never have met him. Furthermore, the evaluations for promotion could also be used as feedback to the candidate on his strengths and weaknesses.

The committee therefore recommends the elimination of the performance potential review team, and the institution of an annual performance rating, in addition to the existing merit evaluation, to be used as a supervisory tool and as a guideline for promotions. The committee also recommends that the commissioner take a more active role in promotions, interviewing the top three candidates.

V. COMPLAINTS AND GRIEVANCES

Section 926 of Title 3 provides that the State Employee Labor Relations Board shall make final determinations on the grievances of all state employees, subject to the rules and regulations promulgated by that board. These regulations provide a four step grievance procedure. The employee is required to take his complaint or grievance first to his immediate supervisor, then to the administrative head of the department in which he is employed, then to the department of personnel, and finally to the State

Employee Labor Relations Board itself.

Section 1004 of Title 3 removes from the jurisdiction of the Labor Relations Board all matters relating to "discipline, disciplinary action, transfer or suspension" of the Vermont state police. Since most of the complaints of the troopers uncovered by the committee's investigation either were or could be characterized as relating to discipline, transfer or suspension, grievance procedures available to all other state employees are by statute denied to them.

The reason for this exclusion is the historic recognition of the fact that the state police are a unique group of state employees in a "para-military organization." The required discipline of a state trooper has always been and continues to be far more important than that of the average state employee. The committee recognizes this need for greater discipline in the department of public safety, and supports reasonable efforts to maintain it.

In lieu of the procedure available to other state employees, the department of public safety must establish grievance procedures consistent with its para-military organization. There are no such provisions in their proposed regulations.

A grievance procedure must be distinguished from the disciplinary procedures that have been in effect in the department and are codified under Article 5 of the proposed rules and regulations. The essential difference is that a grievance procedure is a procedure designed to impartially adjudicate a complaint initiated by the employee against the behavior of and his treatment by the department. A disciplinary procedure, on the other hand, is a procedure designed to adjudicate a complaint of

the department against the behavior of the employee. The protections afforded parties in each case may seem similar, but the essential differences are fundamental. Therefore to note, as the commissioner has done, that the department's disciplinary articles require a board of review, is no answer to the question of whether there exists an employee grievance procedure.

A reasonable grievance procedure would permit airing of complaints before an impartial arbitrator without fear of retribution for the effort. If the complaint was unfounded, it would at least be a safety valve. If it was well founded, it could result in improved procedures and communications within the department. Also, although this is admittedly speculative, it might have reduced the pressure among the troops for concerted protective activity which culminated recently in the certification of an international union as the troopers' collective bargaining representative.

Therefore, the committee recommends that the department immediately promulgate regulations establishing an internal grievance procedure.

VI. COMPENSATION AND RETIREMENT

The troopers and corporals who responded to the questionnaire were almost unanimous in stating that their pay was inadequate. Many of them cited the risks they take, the long hours they work, and the near impossibility of supporting a family on a trooper's or corporal's salary.

When offered a choice between overtime pay or higher starting salaries, the responses were divided, with many stating they would like both. Those who objected to the overtime frequently did so on the grounds that it would result in too much emphasis on hours worked at the expense of performance.

There has been some disagreement over the status of the state police with the department of personnel and the compensation review board. 20 V.S.A. § 1874 gives the commissioner the authority to "create, rearrange and abolish divisions, establish grades, ranks and positions to be held by members ... designate or change the rank or grade to be held by a member ... assign or transfer members to serve at such stations and, within the limits of this chapter or other existing law, to perform such duties as he shall designate." In addition, the department was placed under the personnel department for the purposes of determining compensation in 1969. Recent collective bargaining contracts have also dealt with some of the areas mentioned in 20 V.S.A. § 1874, thus appearing to supersede that statute. With the recent change in collective bargaining representation, this issue may become even less clear.

There appears to be general agreement that the promotion system and the system of rank are under the authority of the commissioner, and are neither bargainable nor subject to the direction of the personnel department.

When the department of personnel took over the responsibility for setting compensation for state police, it first developed a plan which did not relate specifically to rank. After encountering opposition to this proposal, the department reworked the salary structure and related it to rank. This is the system we have now in the state police.

With this system an officer is eligible for a substantial increase in salary only if he is promoted. Some critics of this system have suggested that a trooper who wants to remain a trooper and does well in the field should be able to receive continuing increases in salary without

having to be promoted. Although adopting this approach would effectively eliminate the maximum level in each of the state police pay grades, the committee feels there is sufficient justification in the case of the state police to do so. The committee therefore recommends that the commissioners of personnel and public safety jointly develop a proposal to accomplish this objective.

For purposes of comparison, it is interesting to note that a trooper starts at a pay grade 10 and moves to a pay grade 12 at the end of a year, while a game warden, with somewhat similar responsibilities and duties, starts as a pay grade 9 and goes to 11 at the end of a year. In addition, the trooper has a guaranteed overtime amounting to 12.5 percent of his base salary, a meals allowance, and if he is assigned to an outpost, an additional $75.00.

Although it has often been stated that a trooper 2/C starts at a salary of $134.00 a week, in fact, with the overtime guarantee, he will receive $157.50. At the end of one year, the average salary for a trooper 1/C is $210.00 a week. This figure does not include the overtime guarantee nor other fringe benefits such as meals allowance, transportation and clothing allowances, extra holiday pay if he works on a state holiday, and the possibility of $75.00 additional pay if he is in an outpost.

The foregoing is not intended to demonstrate that state police are adequately paid, especially taking into account the risks and responsibilities in the job. On the contrary, the committee recognizes that the overtime guarantee, coupled with the starting salary, does not adequately cover the time actually worked, and that the risks encountered in police work, plus the strain on the police officer's family, are inadequately

represented by the dollars and cents he receives. Rather than cause a major wrench in the state's overall classification plan, with comparable increases for other groups of employees who may be comparably underpaid, the committee recommends that additional troopers be hired to lessen the workload instead of increasing the compensation of the troopers now on the payroll. The additional troopers recommended represent the fifteen or more positions which are now frozen.

The state police retirement system provides, effective July 1, 1977, for mandatory retirement at age 55 at 50 percent average final compensation. An officer is eligible for retirement after 20 years service at age 50 but, if he retires before 55, his benefits will be actuarily reduced. The committee believes that this system is fair but that some thought might be given to improving death and disability benefits.

Another area in which fringe benefits might be improved is in the provision of leave time for injuries received while on duty. If a trooper is injured in the line of duty he is legally only eligible for as much leave as he has sick time and vacation time accrued. If he continues to be absent he must go off the payroll, losing not only pay but other benefits as well. The committee believes that a trooper receiving an injury while on duty should be entitled to a leave of absence with pay in excess of his normal sick time.

VII. EQUIPMENT AND UNIFORMS

Throughout its study, the committee heard complaints from members of the department about the equipment presently in use. It was stated that the equipment was not only old or deteriorated, but often in such bad shape

as to make its use dangerous. In response to the question, "What equipment do you need which is not being supplied", the most frequently mentioned items were cruisers (58), shotguns (46), cameras (29), breath testing equipment (14), tape recorders (10), radar sets (10) and ammunition (10). In answer to the question, "What equipment do you have which is too old or deteriorated to be in a safe working condition", the troopers most often mentioned cruisers, shotguns and cameras.

By far the biggest complaint concerned the cruisers. The troopers considered them to be too small and too light for high-speed pursuit driving. They repeatedly stated that necessary maintenance was neglected or delayed because of budgetary considerations. The troopers also stated that the "shared-car" approach created a false economy, with more time (and money) consumed in shuffling the cars about than would be the case if a few extra cars were purchased. A personal car was seen as necessary to properly organize a portable office.

The uniforms, which are owned by the state, are kept in Redstone. The policy has been to provide uniforms and to clean them at the department's expense, rather than to provide the men with a uniform allowance for this purpose. This cleaning policy was adopted, according to the executive officer, because it was felt that the money received by the troopers as a uniform allowance might not be spent by them for this purpose. Although the department has on hand a great many sets of trousers, shirts, coats and the like, the sizes which are left are most often the unusual sizes and not usable by the majority of officers. A quick inventory at the facility at Redstone showed that there were almost 300 shirts

and pairs of trousers on hand, but that they were in various stages of deterioration, with the most popular sizes being in very low supply.

Although the committee is sympathetic to the needs of the department, it seems unlikely, because of continuing budgetary problems, that the equipment needed could possibly be supplied within the near future. The committee is particularly impressed, however, with the need of the troopers to have adequate cars, especially when those cars are regularly involved in pursuit activities, often at a high rate of speed. Not only are the cars often too old, with maintenance neglected and tires being run too long, but the cars, even when new, were too light to adequately perform pursuit activities. Heavier cars, although initially more expensive, would substantially improve the performance of the car and the maintenance required, thus making the investment worthwhile. This committee therefore suggests that a review of the purchasing policy with regard to cars be made by the purchasing agents and executive officers of the department.

VIII. REPRESENTATION IN COLLECTIVE BARGAINING

Representation for state police in collective bargaining has been changing dramatically during the course of this study. As the study began, the state police were represented by VSEA, as part of the non-management unit. In late summer, acting on a petition, the State Labor Relations Board approved the creation of a separate bargaining unit for state police troopers, corporals and sergeants. Both the VSEA and the IBPO were named on the ballot, which was distributed in mid October. By October 24th the troopers, corporals and sergeants had voted, by a large margin, to be represented by the IBPO.

The ramifications of this vote and the decision by the Labor Relations Board to establish a separate bargaining unit, are still a subject for speculation. The relationship between the state police and the VSEA had been a difficult one, partly because the VSEA has been more inclined to focus on benefits for the larger group of state employees, whose working conditions are very much different from the state police. In addition, state police are limited by statute (3 V.S.A. § 1004) from participation in any collective bargaining agreement relating to matters of "discipline, disciplinary action, transfer or suspension ..." Of specific concern here is the grievance procedure available for other state employees in situations of discipline, transfer or suspension.

The committee believes that the recent change in state police representation may well have had its roots in the dissatisfactions with working conditions which are described in other parts of this report. The effect of the change is, of course, still unknown.

IX. TRAINING

The 1975 General Assembly, through its passage of Joint Resolution R-41, reaffirmed the state's commitment to the training facility at Pittsford.

The facility is operated by the Criminal Justice Training Council, through a staff appointed by them. The goal of the training facility is to upgrade police service to Vermont citizens by the continued development of more efficient, effective and professional police officers, both at the recruit and the in-service level. As such, the training council is responsible for the training of municipal police officers and county

sheriffs while the commissioner of public safety is responsible for the training of the state police.

According to departmental figures, during fiscal year 1972-1973, the following persons received training at Pittsford:

(1) State police - 1,079 training days

(2) Local and county - 202 training days

(3) Other - 466 training days

For fiscal year 1973-1974, 930 state police training days were held, 333 local and county, and 959 other.

According to the department's figures, in fiscal year 1972-1973, the sum of $206,000.00 was spent for training. In fiscal year 1973-1974, about $208,000.00 was spent for training.

In addition to the training provided through the Pittsford facility, state police officers take advantage of other out-of-state training. Within the last year an officer has completed a four-month management course at the Southern Police Institute, in Louisville, Kentucky. Other officers have received training at the Smith and Wesson Firearms Armament Instruction School. Still others have received training at the Babson College Police Administration School. In addition, federal highway safety funds recently financed a state police officer for a nine month traffic management course at Northwestern University.

The officers responding to the questionnaire indicated that their initial training had been excellent with comprehensive courses being taught on a variety of important subjects; however, a great majority of officers saw the need for more refresher courses, some indicating the following areas: pursuit driving, criminal investigation, public relations, court testimony, psychology, and legal interpretation.

Ten percent of a state policeman's time each year is spent in training activities (departmental figures). While both the officers and the committee would like to see more refresher courses given, it seems unlikely that more troopers could be spared from duty in order to pursue much additional training. In view of budgetary considerations, the committee therefore does not recommend a substantial increase in the number and length of the courses currently offered to state police officers.

The committee is ready to commit itself to the continued utilization and improvement of the training facility at Pittsford. The committee finds it to be ideally located and in good structural shape.

X. LEADERSHIP

The committee found that the major problems of the department of public safety lie in the area of personnel management. Those now running the department are imbued with an outdated philosophy of police management, viewing the troopers as enlistees subject to their unchecked command and having few personal rights. This philosophy tends to incline the department's leadership to act in secrecy with continual hints of retribution to those expressing discontent.

The committee does not attribute this philosophy to any sinister motives on the part of the present leaders. The philosophy is a residue of history, and persists as a conscious and well-intentioned adherence to what was once considered good police administration. The committee doubts whether it is appropriate to modern police administration and urges for the good of the department that it be discarded.

While the committee has made many suggestions in this report of means to provide troopers with greater personal rights and more agreeable working conditions, all of these suggestions could be subverted by a departmental leadership operating under the prevailing philosophy. In the last analysis the committee's suggestions require the good faith cooperation of the department's leadership.

To work toward achieving greater administrative accountability, the committee recommends that the commissioner have the authority to appoint his own deputy as executive officer who will serve at the commissioner's pleasure.

Whether the present leadership can at this juncture alter its management philosophy and exhibit the good will required to regain the confidence of the troopers in the field is the central question. At stake is the morale and retention of a large number of good state troopers, and the continued effectiveness of the department in serving the state.

XI. ETHICAL CONDUCT AND DEPORTMENT

The committee did not intend to and did not undertake any investigation into the ethical conduct of members of the department of public safety.

Throughout the course of the performance audit of the Vermont state police, no significant questions of ethical impropriety came to the committee's attention. Inasmuch as the committee invited and heard testimony from members of the public and obtained confidential responses to a wide ranging questionnaire addressed to all troopers, corporals and sergeants, we think that the lack of any real criticism of the ethical conduct of members of the department is in itself very significant.

The people of Vermont are proud of the integrity of their state police officers, and all of the officers and the department's leadership must be commended.

The committee notes with approval the recodification in the proposed draft of departmental rules and regulations of several provisions which have undoubtedly contributed toward this commendable performance. This recodification includes:

(1) Section 3.10 prohibiting an officer from engaging in any outside employment or business activity which might conflict with his official duties;

(2) Section 3.11 prohibiting gaming;

(3) Section 3.12 prohibiting the acceptance of any gifts or presents;

(4) Section 3.13 requiring the payment of debts within a reasonable time;

(5) Section 3.21 prohibiting the solicitation by officers of donations;

(6) Section 3.22 prohibiting the issuance of any card, badge or statement which might appear to give the recipient special privileges; and

(7) Section 3.23 prohibiting testimonials for commercial use.

As is the case with ethical conduct, the personal department of the Vermont state troopers is exemplary. Our state troopers work many long hours under strenuous and often harassing conditions. The charge of "police brutality," so commonly heard in other states, is rarely mentioned in Vermont.

The troopers in the field and the leadership should be highly commended for their devotion to duty, courage, dedication and courtesy.

PERFORMANCE AUDIT

SUMMARY OF FINDINGS AND RECOMMENDATIONS

(Complete text is available at the Legislative Council)

(1) Management study: The committee recommends that the department's internal organization be thoroughly reviewed by police management experts, and notes with approval the recent actions by the governor and the commissioner to achieve this purpose. (Page 3)

(2) Expansion of outposts: The committee recommends the expansion of the outpost system with each outpost composed of at least two and possibly three troopers. On a trial basis, the costs for this expanded system should be shared by the towns directly benefiting from the outpost coverage. Supervision of outpost troopers should remain exclusively with the department, and not involve town officials. (Page 9-10)

(3) Recruitment of women: The department should take affirmative action to recruit female state police. (Page 2)

(4) Special facilities: The committee finds that the facilities of the Middlesex barracks can adequately accomodate the Vermont Criminal Information Center (V.C.I.C.) presently located there. The committee finds that the Crime Laboratory, located at police headquarters at Redstone, requires modernization and better organization, which may include expansion and relocation. (Page 7)

(5) Safety education: Rather than using officers of advanced rank for this commendable and useful service, the committee recommends that troopers who routinely patrol the area speak to community and school groups within their area. (Page 7-8)

(6) Internal regulations: Comprehensive, current written regulations governing the conduct of troopers and administration of the department have not been made available to most departmental personnel. This must be done immediately, and the committee notes with approval the department's recent efforts to comply. Nevertheless, the department's newly proposed regulations require substantial additions. Absent are any regulations governing some of the areas of greatest controversy and misunderstanding, such as personnel transfers and grievances. (Page 10)

(7) Transfers: The commissioner's unfettered discretion to transfer members of the department about the state has been a main concern of most troopers. At the same time there are many valid administrative reasons necessitating transfers. The committee recommends that the department adopt regulations relating to transfers. These regulations must clearly list the reasons for administrative transfers, distinguish them from disciplinary transfers and provide the opportunity to those subject to transfer to obtain more detailed reasons for the transfer. The regulations should also require a disciplinary hearing for disciplinary transfers and access to a grievance procedure for those feeling abused by administrative transfers. (Pages 15-16) Furthermore, since transfers are costly to those affected, the committee recommends that the Department of Personnel review with the Department of Public Safety the reimbursement guidelines with consideration to covering a greater portion of the costs borne by troopers due to transfers. (Page 17)

(8) Promotions: The promotion process is crucial to the future direction and policy of the department. The committee finds that the

department's three-part promotion rating system constitutes a sincere effort in the direction of impartiality in the promotion process, but that it does not operate as effectively as it could or should. The Performance Potential Review is the most critical to the candidate, and the most vulnerable to partiality. It is conducted by seven senior officers in the absence of the candidate or his immediate supervisor utilizing only his personnel file. From their judgment there is no effective appeal. Therefore, the committee recommends elimination of the potential performance review team and replacement by a meaningful annual performance rating conducted by the supervisors of the candidate. The committee also recommends that the commissioner take a more active role in the promotion process, interviewing the top three candidates. (Page 20)

(9) Complaints and grievances: There is currently no effective grievance procedure for members of the department by virtue of section 1004 of Title 3. That section excludes from the procedures available to all other state employees any matters relating to "discipline, disciplinary action, transfer or suspension" of the Vermont state police. The department has not instituted any internal grievance procedures in its place. The committee recommends that the department establish an internal grievance procedure with guidelines respecting the para-military structure of the department and recognizing the greater need for discipline in this department. (Page 22)

(10) Compensation: The committee recommends that the present system of compensation, under which an officer is eligible for a substantial

increase in salary only if he is promoted to a higher rank, be revised in favor of a system in which an officer who wishes to remain in his present position and continues to do well would be eligible for continuing increases in salary. The committee therefore recommends that the Department of Personnel and the Department of Public Safety jointly develop a plan to accomplish this. (Page 24)

(11) Compensation: The committee finds that the present overtime compensation does not adequately cover the hours worked, the risks involved and the strain on families. Yet, rather than revise the state's compensation plan at this time, the committee recommends that additional troopers be hired up to the number presently authorized with the result of lessening the workload. (Page 25)

(12) Compensation: The committee recommends the adoption of legislation providing for a leave of absence with pay for a trooper who is injured while on duty. (Page 25)

(13) Equipment and uniforms: The committee recommends that the department's purchasing policy with regard to cruisers be reviewed to determine whether the purchase of heavier cruisers is desirable in terms of both safety and economy. (Page 27)

(14) Training: The committee finds that the department has made considerable and commendable efforts toward training, both initial and in-service, with the result that approximately ten percent of each officer's time is spent in training activities. Due to budgetary considerations and inability to spare more time of troopers from field duty, the

committee does not recommend substantial increases in the number and length of training courses offered to state police troopers. The committee does however commit itself to the continued utilization and upgrading of the training facility at Pittsford. (Page 30)

(15) Leadership: To achieve greater accountability, the executive officer should be appointed by the commissioner and will serve at the commissioner's pleasure. (Page 31)

(16) Leadership: The committee finds that the department's present leadership is imbued with an outdated philosophy of police management viewing the troopers as enlistees subject to their unchecked command with few personal rights. This philosophy, which is a residue of history and not of malice, is nonetheless counterproductive in modern police management. It is the source of the most serious personnel problems uncovered by the committee. While the committee's other recommendations should do much to make the working conditions of the rank and file troopers more agreeable, these recommendations will mean little if not instituted by a cooperative departmental leadership. (Pages 31-32)

(17) Ethical conduct and deportment: Throughout its study the committee was not made aware of any examples of ethical misconduct of state police officers, and at the same time received substantial evidence of exemplary personal conduct on the part of the majority of officers. For this the department's leadership and the troopers in the field should be highly commended, and in this regard Vermont is being very well served by its state police. (Page 34)

/s/ Rep. Emery Hebard, Chairman
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/s/ Rep. Anthony Buraczynski
REP. ANTHONY BURACZYNSKI
VICE-CHAIRMAN

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