



VT Human Rights Commission
14-16 Baldwin Street
Montpelier, VT 05633-6301
<http://hrc.vermont.gov>

[phone] 802-828-2480
[fax] 802-828-2481
[tdd] 877-294-9200
[toll free] 1-800-416-2010

March 13, 2014

The Honorable William Lippert, Chair
House Committee on Judiciary
105 State Street
Montpelier, VT 05633

RE: H.561 Bias-Free Policing Policies/ Race Data Collection

Dear Representative Lippert and Members of the Committee:

Thank you for the opportunity to testify concerning the above legislation. The Commission is charged, among other tasks, with examining and evaluating the existence of practices of discrimination that detract from the enjoyment of full human and civil rights and recommending measures designed to protect those rights. In addition, the Commission has jurisdiction to investigate claims of unlawful discrimination by a place of public accommodation. Thus claims of unlawful bias in police stops also fall within our enforcement jurisdiction.

The Commission recently found reasonable grounds to believe that a police department engaged in racial profiling/bias during a "Click It or Ticket" campaign/enforcement stop. Litigation ensued and as part of the settlement, the Commission requested a copy of the department's policy on bias-free policing, in addition to requiring other remedial efforts regarding dissemination of the policy and training around it. In comparing the department's policy with the model policy developed by the Attorney General's Office, I have identified a number of deficiencies in the policy.

In general this department's policy fails to offer much in the way of actual information about how to go about policing in a non-biased manner

and is simply full of platitudes about "equitable policing" and being "polite, courteous and professional." As we all know, discrimination and bias are not about politeness and courtesy but about biases that we all harbor and the extent of our ability to identify and overcome them. To argue, as this department did, that the officers were always polite and nice to the gentleman they detained for an hour and half, misses the point.

In addition, the only paragraph in the policy that attempts to address the more complicated issue of when, if ever, use of information about a person's protected status might be relevant, muddies the water by oversimplifying the information into a statement that protected status is not by itself a sufficient basis for action or inaction but may be sufficient in conjunction with other valid law enforcement factors. I'm not sure how this is useful to an officer in the field trying to apply the policy, particularly if the officer has had no specific training to augment his or her understanding.

By way of contrast, the Attorney General's Proposed Policy gives much more specific information about enforcement actions and states that the officer must be able to articulate the specific facts, circumstances and conclusions that support adherence to those standards. Coupled with an officer's understanding of his or her own bias, this approach offers a much more concrete way to examine one's own behavior and/or for a supervisor to determine whether bias played a role in the stop or arrest after the fact. The AG's policy also emphasizes that the purpose of the policy is to create a positive environment conducive to law enforcement's relationship with the community it is serving, giving an officer a positive context for wanting to comply rather than simply telling an officer, "don't do this" without much further guidance.

I would suggest amending H.561 to strengthen requirements around policy content by requiring all policies to either conform or substantially conform to the Attorney General's proposed policy.¹ I would also suggest requiring departments to get officers to sign off that they have read and understand the policy. In the case we investigated, the officers were given a one hundred page manual of policies, which included the anti-bias policy, to

¹I am not sure about the policy the State Police use which is also referenced in the bill as I have not had an opportunity to review it but to the extent that it is a good model, I have no objection to referencing both.

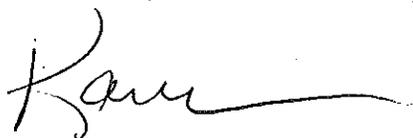
take home and read. Finally, the policies should be required to address how the agency intends to provide on-going bias-free law enforcement training and such training should be required to include the topic of "implicit bias." It is also important that the issue be re-visited on a regular basis not just as a one-time event. For example, in Burlington, Chief Shirling embeds information addressing bias issues in many of the other training events the department conducts. This approach provides a constant reminder to the officers of the importance of the issue and prevents backsliding.

The Commission also supports the data collection provisions. Without data, it is hard to convince an agency that there is a problem and difficult to fully examine the extent of the problem and any specific training needs of that department.

If the Commission can be of any assistance in policy collection, review, and/or training, I would be happy to discuss that role in more detail with the Committee. As Harry Levine lamented at the end of his article, "The Scandal of Racist Marijuana Arrests," *The Nation* (November 2013), [d]espite the many successes of the civil rights movement, we continue to live within two worlds of policing, separate and unequal: one for middle-class and wealthier people, the other for poorer Americans and, especially, for people of color." While Vermont, for the most part lacks the inner-city policing issues that this statement was largely directed at, we are not immune and cannot afford to be complacent if we want, as I believe most Vermonters do, to be a welcoming place for everyone.

Thank you for your attention to this very important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen", with a long horizontal flourish extending to the right.

Karen L. Richards
Executive Director