

Testimony to House Judiciary  
January 24, 2019, 09:30, Room 10  
Mark Hughes

Good morning Madam Chair and members of the House Judiciary Committee.

For the record, I am Mark Hughes. I am a retired army officer and a Vermont resident of 10 years. I am the architect of Act 54 (2017), Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel and Act 9 (2018), Racial Equity Panel and Executive Director. It is as a result of Justice For All, the Racial Justice Reform Coalition, and the commitment of countless Vermonters and the tireless hours of the legislature these laws exist.

Respectfully, I first want to go on record expressing concern about both the limited legislative and constitutional jurisdiction and the narrow scope and of this body. For the benefit of those listening or reading, jurisdictionally, per Article 5 and 6 of the Vermont Constitution and House Rule 25, the House Government Operations Committee has responsibility for matters relating to civilian oversight of law enforcement. I am therefore submitting a separate statement to the House Government Operations Committee requesting that they conduct public hearings for civilian oversight of law enforcement. I have provided a petition signed by 300 citizens of Vermont.

I have cited the following Law Enforcement Infractions to House Government Operations;

- 1) VCJTC changed the FIPP without advising the Human Rights Commission (November 2017).
  - a. Violation Act 54, established process
  - b. **After the AG's review verifying compliance with federal immigration statute**
  - c. Reason: US Attorney General threats to withhold 500K grant).
- 2) Vermont State Police have failed to adopt the FIPP, as required by law.
- 3) Conflict of interest. Nancy Sheahan Chair, State Police Advisory Commission.
- 4) Conflict of interest Attorney General's membership on the Vermont Criminal Justice Training Council.
- 5) Training legislatively mandated by Act 147 (2016) not started.
- 6) Police attempt to attend training with the Israeli military, police and secret service.
- 7) Severe emotional and physical abuse and mistreatment (including assault) of recruits in academy training.

This Committee's limited scope to the Fair and Impartial Policing Policy fails to address the very nature and purpose of the FIPP. The FIPP was legislatively mandated in Act 134 (2012), Racial Disparities in the Criminal Justice System. It was by no mistake that it was revisited in Act 54 (2017), Racial Disparities in the

Criminal and Juvenile Justice System Advisory Panel. It is my feeling that because the FIPP is but a single component of a broad approach to address systemic racism in Vermont the scope of this proceeding should encompass the Implementation of Act 54 on a whole. To do otherwise does a grave injustice to its intent and neglects the oversight of the implementation of this landmark legislation, designed to address systemic racism in Vermont.

To that end, I urge the committee to consider a joint hearing with Senate Judiciary for the purposes of providing transparency into the **full** implementation of ACT 54. My hope is that this will provide a space where matters regarding the resignation of the Chair and the Vice Chair (myself) from the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel and updates on the panel's progress will be addressed. This would also enable us to receive actionable updates on the historic Act 54 Attorney General and Human Rights Commission Task Force (all systems) report.

## **FIPP**

The need to legislatively mandate the Fair and Impartial Policing Policy is rooted in the efforts of Chittenden County's own **Uncommon Alliance** race data collection initiative. 20 V.S.A. § 2366, has always included race data collection AND policy. Title 20 V.S.A. § 2358 legislates training. Simply put, the intention is to train to policy and measure with race data collection. It has been my experience that this is what is being referred to when spoken amongst legislators.

First, the years of data that you have legislatively mandated to be collected are in spreadsheets and buried on the Crime Research Groups Web site. They are not user friendly. Citizens of the state are unable to conduct ANY statistical, comparative or trending analysis. The training has been unapologetically kicked down the road for years, culminating with a missed deadline that had a two and a half year runway. Regarding policy, the issues seem relatively straightforward. Law enforcement agencies are either refusing to adopt the policy or failing to use the legal process to change the policy. The pushback that law enforcement is giving is surrounding immigration. Much of this seems to be tied to their fear of losing federal funding.

## **Conclusion**

In conclusion, as you establish new deadlines for law enforcement completion of FIPP and implicit bias training, please consider penalties in the form of fines, for failure to implement this training. The same should be true for failure to implement policy or make data easily discoverable and user friendly. I would urge you to also consider the painfully obvious fact that the prospect of law enforcement budgetary offsets for loss of federal funding resulting from state compliance with FIPP should also be on the table. Law enforcement's pushback on the immigration component of the FIPP has led to a compromise of the efficacy of the process to change FIPP. As a result ALL protected categories are less safe. If you do not act to

address this matter, a decoupling of the immigration component should be considered to protect the integrity of the policy. To be clear, this paradox is economically driven and has been created by law enforcement. It is ours to resolve.

Thank you for struggling with these very difficult issues and **Thank you for your service.**

Respectfully,

Mark Hughes  
Executive Director,  
Justice For All