



New England First Amendment Coalition

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Attn: Jeanette K. White, Committee Chair

SENT VIA EMAIL TO JWHITE@LEG.STATE.VT.US

June 18, 2020

Dear Members of the Senate Government Operations Committee,

I'm writing on behalf of the New England First Amendment Coalition. Our organization represents the interests of news organizations, journalists, librarians, academics and all concerned citizens throughout the state who have the right to know about their government. I plan to later send you an updated version of this letter with additional signatories, but in the interest of time I'm submitting this letter now so it can inform your ongoing hearings.

During the last several weeks, the issue of police brutality has risen in our national conscience and there now seems to be the political appetite to make necessary reforms to law enforcement policy. This is an opportunity for leaders such as yourselves to help make both local and state police departments as well as county sheriffs offices more accountable for their actions and to prevent instances of misconduct that have been plaguing communities throughout the nation.

While racism and inequity are rightfully at the forefront of this national dialogue, a parallel conversation needs to occur about transparency and its role in maintaining responsible law enforcement agencies. As NEFAC and more than 50 organizations said on June 12 in a statement on law enforcement transparency and accountability:

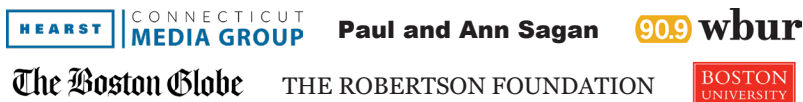
“Trust is a key element in police-citizen relationships. Secrecy is the enemy of trust. Effective public oversight of government institutions is what makes democracies work. Effective oversight of law enforcement requires meaningfully improving the flow of information to the public, both as a matter of law and as a matter of culture.”¹

To help improve that flow of information and change the culture of secrecy within many police departments, we believe the following must occur:

Consider Police Misconduct Broadly | Too often the term “police misconduct” is limited to excessive uses of force. In actuality, misconduct includes any action or decision — including possible criminal behavior — an officer makes that betrays the public’s trust. For the purposes of this letter and for the most effective community conversations moving forward, police misconduct must be understood as the latter.

Open Up the Vermont State Police Advisory Commission | SPAC, the oversight body for the Vermont State Police, has operated in secrecy for decades. During the last 40 years the commission has released details on just a very small fraction of the police misconduct cases it has heard — and those few became public only because they involved high-profile incidents. The state’s public records and open meeting laws need to apply to the commission.

MAJOR SUPPORTERS INCLUDE



Create a Publicly-Accessible Officer Misconduct Database | Public oversight is crucial to democratic control of law enforcement agencies. Citizens must have the ability to not only learn of complaints against local and state police officers, but they must also have an accessible online repository of all prior misconduct cases with detailed complaints and how they were resolved. Included in this database or made otherwise available to public must be Use of Force Reports.

Release Names of All Suspended Officers | When an officer is suspended or placed on paid/unpaid administrative leave for betraying the public's trust and/or engaging in misconduct of any level, that officer's name and reasons for suspension must be public record. Those officers who are failing in their obligation to protect the public should not be able to hide behind a veil of secrecy. They must be accountable to the communities they serve. This can only occur if their names are released.

Further Open the Decertification Process | Officers who are terminated or resign during the decertification process must be publicly identified and announced. By establishing a more transparent decertification procedure, citizens will not only oversee the process but they will also be more likely to trust that officers who are guilty of misconduct will no longer serve in any law enforcement capacity.

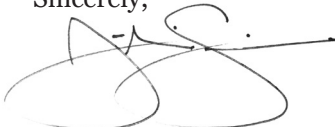
Mandate Use of Police Body Cameras | One of the most effective forms of police transparency is the footage captured by body-worn cameras and other similar recording devices (i.e. dashboard cameras). All officers must be required to wear body cameras and the videos taken from these cameras and similar devices must be subject to the state's public records law. Videos of alleged officer misconduct, specifically, must be released within 24 hours of a request.

Require First Amendment Education and Training | Instances of police misconduct often occur against citizens exercising their First Amendment rights to protest, to record police activity or to report on law enforcement action. Requiring all local, county and state police officers to be regularly educated on the First Amendment by outside experts and trained on how to perform their jobs while protecting civil rights will help prevent misconduct from occurring in the future. This includes First Amendment and media classes during initial certification and as a requirement for annual recertification.

With those in Vermont now discussing how law enforcement can best be structured and overseen by the public, this is an opportune time to make meaningful changes to our police departments. By making the changes summarized above, citizens can more easily build trust with and oversee their law enforcement officers. Police departments throughout the state will also be equipped to better protect the rights of the public and more effectively serve their communities.

We would be happy to discuss these suggestions in further detail. Thank you for the opportunity to submit these comments.

Sincerely,



Justin Silverman
Executive Director

¹ Full statement can be read at: <https://nefac.org/files/2020/06/Statement-on-law-enforcement-transparency-and-accountability-issues-June-2020-2.pdf>

