

Mark Hughes
Executive Director, Justice For All
H.518 Testimony
Senate Judiciary Committee
Room 1, Vermont Statehouse
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Good morning Mr. Chair and Senate Judiciary Committee. For Committee record, I am Mark Hughes, Director of Justice For All and Coordinator for the Racial Justice Reform Alliance. We created Act 54 (2017), Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel and Act 9 (2018), Racial Equity Panel and Director. Thus far this session we have put forward PR.2, H.478 (Reparations task force), S.119 and H.464 (Use of Force), S.132 (Racial Equity), S.145 and H.465 (discriminatory practices), and H284 (Data collection). I am also an advisor to the Coalition for Ethnic and Social Equity In Schools, the organization behind Act 1 (2019), an act relating to ethnic and social equity studies and standards for public schools.

We believe that H.518 offers an improvement on 20 V.S.A. § 2366, balancing law enforcement discretion in communication regarding citizenship and immigration with protecting the civil liberties of migrant workers. We support the bill.

1) 20 V.S.A. § 2366, FIPP

Section (a)(2) of the bill as passed by the house offers a good protocol for updating the model policy but it could use some improvement to ensure that it addresses “out-of-cycle” changes to the FIPP that are periodically initiated by the Council. Clarity in this area is critical to ensure the protection of the integrity of this process. We applaud the Human Rights Commission inclusion and appreciate the intent surrounding the involvement of the Attorney General (AG) in the existing biannual FIPP change process. It is our opinion that the AG’s membership on the Council renders the intended independent role less effective. The AG would be much more effective in this role (and all other instances where the AG is assigned law enforcement oversight authority) were the AG not a member of the Council. In 2017, *in the absence of HRC consultation and despite the AGs apprehension, the Council changed the FIPP in November of 2017*. We recommend that this be addressed in S.124, currently in Senate Government Operations and welcome an invitation to testify on the matter.

In defining protocol for changing the model FIPP in section (a)(2), we recommend words to the effect:

“On or before January 1 of every even numbered year and at any time a change to the FIPP is initiated the Criminal Justice Training Council, in consultation with others, including the Attorney General and the Human Rights Commission, shall review and, if necessary, update the model fair and impartial policing policy”

2) 20 V.S.A. § 2366, Race Data Collection

Race data collection is an integral component and extremely important element of fair and impartial policing. Though much progress has been made in addressing it, the system has a disconnect that is rendering it all but ineffective. The data are difficult to locate and provide little or no use to those who do. Data formats in the dozens of spreadsheets are inconsistent and there is no comparative or trend analysis capability. Additionally, the majority of agencies have not reported on 2017 and no data is available for 2018.

We recommend a second section be added to this bill to address race data collection. We ask that this section amend the language in **20 V.S.A. § 2366 section (e)(4) as follows:**

(e)(4) The data provided pursuant to subdivision (3) of this subsection shall be posted electronically in a manner that is ~~analyzable and~~ accessible, ~~and provides to the public~~ the ability to easily view trends and make comparisons on the receiving agency's website.

3) 20 V.S.A. § 2358 Implicit Bias and FIPP Training

We recommend a third section of this bill that addresses Implicit Bias Training. Implicit Bias Training is the third component of fair and impartial policing. Under section **(e)(1) of 20 V.S.A. § 2358** the criteria for minimum training standards includes “anti-bias training approved by the Vermont Criminal Justice Training Council and training on the State, county, or municipal law enforcement agency's fair and impartial policing policy”. This section mandated this training to be completed by December 31, 2018. Law enforcement **missed this deadline**. Subdivision **(e)(3) of 20 V.S.A. § 2358**, which became effective January 1, 2019 states that “a refresher course on the training required by this subsection during every odd-numbered year in a program approved by the Vermont Criminal Justice Training Council” is required “in order to remain certified”. **This has not been accomplished**. It is incredibly important that these deadlines be extended. In moving forward, we urge the legislature to consider incentives and/or sanctions to ensure that this important training be accomplished.

We wholeheartedly support the work of Migrant Justice in their efforts to update the FIPP. We however believe it is the collective power of the FIPP, race data collection and training that work together to provide a comprehensive framework for fair and impartial policing. The framework works when we train officers in implicit bias and the FIPP and measure progress with race data collection. This is an excellent strategy for ensuring the protection all those who are vulnerable in Vermont but it is only effective when all three components are properly implemented. As we expressed in our testimony on FIPP in the House, the matter that we are addressing is far larger than policy, training or race data collection. Civilian oversight of law enforcement must be addressed in Vermont. **With what appears to be yet another death at the hands of law enforcement over the last several weeks** (in Burlington), we also implore you to use this as an opportunity to address the law enforcement appropriate use of force, de-escalation and cross-cultural awareness. **We ask that you consider integrating the sound policy that we have offered in S.119 into 20 V.S.A. § 2358 and 2366 in your amendment to H.518**. Now is the time to address law enforcement use of force in Vermont.

Thank you for taking up such an important issue at this time in the first year of the biennium. It is my hope that this bill be amended, passed and signed into law as soon as possible. I am happy to answer any questions the committee requires and the chair entertains.

Thanks for taking my testimony and thank you for your service.

Respectfully,

Mark Hughes
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Coordinator,
Vermont Racial Justice Alliance