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*Office of the Executive Director*

April 24, 2019

To: Sen. Richard Sears, Chair  
Senate Committee on Judiciary

From: Richard Gauthier, Executive Director  
VT Criminal Justice Training Council

Re: HRC Changes to Their Proposed Amendment to H. 518

I had the opportunity last night to see what the Human Rights Commission was proposing as language that would 'narrow' the scope of their proposed amendment to H.518, and the Council still opposes the amendment as written.

Regarding the change in the language, the only difference between the two versions is that in the latest version, the compliance assessment needs to be requested by an elected official. This call to assess doesn't even need to be made by an elected politician in the affected community. The remainder of the language appears to be the same, and is still objectionable for the reasons I offered during testimony.

The HRC proposal usurps a Council function that the legislature put in place less than two years ago. Part of the rationale for advancing this is, as quoted in their letter, "*...critics have decried the current Fair and Impartial Policing Policy as ineffective because there is no meaningful consequence when an agency fails to effectively adopt the model policy or comply with training requirements.*" This is simply false. Failure to abide by a state mandate/statute can be a Category B offense as stated in Act 56 of 2017, put there by Senate Committee on Government Operations specifically for this sort of situation, and failure to comply with training requirements has long had consequences.

I would note that Migrant Justice had copies of policies that were not the latest version of the model policy, but rather than make the report to the Council so we could take corrective action, they chose instead to hoard them for months for later use as justification for an argument that no one was doing anything. But as I testified last week, when I obtained the policies, I found that Migrant Justice did not present entirely accurate information to your committee.



Regardless, I was able to address every policy provided by Migrant Justice in a half day's work. By the following Monday, every agency that did not already have the model policy in place, except one, had either adopted the model policy or is having its policy reviewed by the AG's Office. The sole agency that had not done so by Monday had done so by Wednesday. I'm not sure how much faster or more effective the process can be than that. There were no consequences because I didn't find any 'willful failure' (the Act 56 standard) to abide by the state mandate. The bottom line is that there has been a failure to demonstrate there is a problem.

There was another issue that revolved around the language in Act 54 that stated that an agency was "deemed to have adopted" and a failure to adopt a policy. I've spoken with leg counsel for both Senate and House Committees on Judiciary and Government Operations about this, and I would suspect they'll brief the respective committees more completely.

Respectfully submitted,

Rick Gauthier, Executive Director  
VCJTC