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The Honorable Richard Sears Jr., Chair
Senate Committee on Judiciary
Vermont Legislature
State House
Montpelier, Vermont

RE: H.518 – An act relating to fair and impartial policing

Dear Chair Sears and Members of the Committee:

Thank you for the opportunity to provide written testimony to the Committee on this very important bill. As you know, our mission at the Human Rights Commission is to promote full civil and human rights in Vermont. The Commission enforces the laws over which it has jurisdiction through investigations, conciliations and litigation, as well as providing education and training. It develops and advances policies and legislation relating to the protection of the most vulnerable Vermonters.

The Commission fully supports H.518. This bill would allow *agencies and constables to include additional restrictions on agency members' communication and involvement with federal immigration authorities or communications regarding citizenship or immigration status.* Allowing each local entity to determine their level of cooperation with federal immigration authorities honors the knowledge, insight and experience possessed by these agencies and constables regarding members of their own agencies and communities.

Furthermore, the Commission supports language that prohibits *agencies and constables from adopting policies that allow for greater communication or involvement with federal immigration authorities than permitted under the model policy.* Over thirty years of implicit bias studies reveal that our best intentions can be compromised by unconscious factors. Though we can easily grasp the idea that an American/U.S. citizen can be a person of color or an individual whose primary language is not English, we may nevertheless assume the contrary and behave accordingly. Furthermore, there is a misconception that immigrants (undocumented or permanent legal residents) are associated with criminal activity, and are more dangerous or more threatening to the safety of communities when in fact, studies have shown that when the immigration population grows, crime declines.¹ When agency members are encouraged to

¹ <https://www.wsj.com/articles/the-mythical-connection-between-immigrants-and-crime-1436916798>

collaborate more freely with federal immigration authorities, we are more likely to see an increase in racial profiling and discriminatory practices by law enforcement.

Lastly, 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. The Human Rights Commission has the statutory authority to enforce anti-discrimination laws in places of public accommodations (including roads and law enforcement agencies) and has the ability to initiate an agency complaint. Thus, the Commission respectfully submits the following amendment to H.518 for consideration:

For the purpose of assessing compliance with the provisions of this section, the Human Rights Commission or designee, may, with 48 hours-notice, at reasonable times and without unduly disrupting business operations enter and inspect the records of any State, county, and municipal law enforcement agency or question any person who is authorized by the agency or constable to comply with the requirements of this section, and examine an agency's records, policies, procedures and training materials related to the Fair and Impartial Policing Policy. An agency or constable may agree to waive or shorten the 48-hour notice period.

Following an inspection and examination pursuant to this section, the Human Rights Commission shall notify the State, county, and municipal law enforcement agency or constable of the results of the inspection and examination, including any issues or deficiencies identified, provide resources and identify any technical assistance that the Attorney General or the Human Rights Commission may be able to provide to assist the State, county, and municipal law enforcement agency or constable address any identified issues or deficiencies.

The aforementioned language is drawn from Act.183, an act relating to the prevention of sexual harassment that gave the Human Rights Commission similar statutory authority. I regret that I cannot be present to answer any questions you may have. Should this testimony raise additional questions, concerns or interests, please do not hesitate to reach out to me for another opportunity to appear before the Committee to address those questions.

Thank you for your time and consideration.

Sincerely,



Bor Yang
Executive Director and Legal Counsel