

Action Pack: Bias-Free Policing Across Vermont



An End to Police Profiling for Communities of Color and Immigrants

First Edition
January 2011

Created by:
American Friends Service Committee in Vermont
Vermont Migrant Farmworker Solidarity Project

For more information contact: BiasFreeVT@gmail.com

Thanks to our Contributors:

Central Vermont Migrant Farmworkers Coalition, Vermont Immigration and Asylum Advocates (VIAA), New Neighbors Victim Outreach Project, Vermont Multicultural Alliance for Democracy and Equity (VT MADE), Vermont Action for Peace

Table of Contents

<i>Action Pack Introduction Letter</i>	1
To Vermonters in Support of the Equal and Fair Treatment of All	
<i>Step-By-Step Guide</i>	2
How to Form an Action Group	2
Strategy	3
Meet with Decision-Makers	4
Share Your Progress	5
Cultivate Lasting Change	6
<i>Talking Points</i>	7
Framing Your Discussions	
Public Safety for Everyone	7
Civil Rights for Everyone	7
Keeping State and Local Resources for Vermont	8
Protecting New Vermonters	8
<i>Personal Stories of Biased Policing</i>	9
Experiencing Discrimination in Vermont	
<i>BFP & Immigration Policy</i>	10
Optional Federal Programs: Pushing Federal Agency onto State and Local Police	10
Words Matter: Do's and Don'ts when Speaking about the Issues	11
<i>Sample Letter</i>	12
A Call for Bias-Free Policing	
<i>Policy Resources & Examples</i>	13
Attorney General Sorrell's BFP Policy Model	13
Middlebury	17
Burlington	17
VT State Police	17
<i>Additional Resources</i>	18
<i>Contact Information</i>	20
Staying Connected	
<i>Action Pack Background</i>	21

Dear Vermonters in Support of the Equal and Fair Treatment of All,

An African American graduate student was studying in Vermont for a year. During that year, he was stopped 13 times by the police, never given a traffic ticket, never arrested for anything. Apparently, he was violating no laws, yet he was regularly subjected to stops.



On Christmas day, after 2 years of work on a Vermont Dairy Farm, a Mexican migrant worker José was waiting at the gate in the Burlington airport to fly home because his grandmother had died. He recalls, "His uniform said, 'Sheriff.' He was dressed in black and when he saw I didn't look like everybody else, he asked, 'What's your name?'... 'Where are you from?'... 'Do you have papers?'" José spent the next 2 ½ months in Vermont and Massachusetts jails.

We come to you out of concern for the personal profiling, harassment, and unjustified deportations that plague the lives of many people of color in our state. These institutionalized practices humiliate, degrade, and marginalize a broad range of Vermont communities.

This Action Pack is a tool for democratically-minded Vermonters in pursuit of policies that ensure fairness and security for all.

Bias-Free Policing (BFP) is a set of criteria for law enforcement officials to follow when establishing reasonable suspicion or probable cause, while investigating a potential crime or misdemeanor. These criteria serve **to ensure that no person will suffer discrimination due to factors unrelated to the incident under investigation**. Currently, however, **few Vermont law enforcement agencies have adopted such criteria**. Without BFP policies, they lack guidelines to prevent discriminatory policing and fail to define consequences for acts of police discrimination if they do occur.

Fortunately, on Friday, November 19th of 2010, human rights activists, lawyers, community leaders, government officials and law enforcement personnel saw years of their collaborative efforts publicly recognized. Vermont's Attorney General William Sorrell announced his **recommendation to police departments across the state to actively adopt Bias-Free Policing policies**, and presented a "model" policy offering his ideal:

"Law enforcement officers will not consider race, ethnicity, or other Personal Criteria in establishing either reasonable suspicion or probable cause....Personal Criteria may include, but is not limited to, race, ethnicity, immigration status, national origin, color, gender, sexual orientation, gender identity, mental illness, religion, disability, and socioeconomic level."

While this model leaves room for improvement, it's a step in the right direction. Still, the Attorney General cannot force police departments to adopt BFP policy. Each department must decide on its own. This means **Vermonters have an opportunity to ensure that BFP policies are passed throughout our state!**

We devote a portion of this Action Pack to the relationship between police profiling and immigration. While Arizona and many other states seek to blur the lines between immigration enforcement and local police duties, we hope to reinforce important distinctions in their responsibilities. We were inspired to form this Action Pack out of our common backgrounds organizing for the rights of immigrants. With that, we emphasize the importance of building alliances among Vermont's diverse communities and with white allies, in order to **genuinely support the fair and humane treatment of all people living and working in Vermont, regardless of their immigration status.**

As more of us unite locally and across the state, our message becomes clear: **When one member of our community is treated unfairly for reasons beyond his/her control, we all suffer the absence of justice.** Whether we have been a victim of discrimination or a witness to it, the corrosive nature of inequality is a burden we all share. By holding ourselves, our communities and our institutions accountable, we can see the lasting transformation of deeply institutionalized attitudes and behaviors.

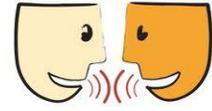
Please join us in ensuring that BFP policies are passed throughout our state!

Sincerely,
BFP Action Pack Creators

STEP-BY-STEP GUIDE

1 GETTING STARTED: How to Form an Action Group

If the idea of organizing locally for Bias-Free Police Policy seems overwhelming, these 4 steps can help get you going!



1. Start with Yourself

- ✓ Explore how racial profiling and police discrimination are affecting your community, and why Bias-Free Policing (BFP) is important in Vermont.
- *This Action Pack helps to outline the issue in a locally relevant way.*
 - ✓ **Read through the personal stories** in order to learn more about how bias in policing affects Vermonters.
 - ✓ **Read over policy examples** to learn more about different approaches to BFP, and reflect on how Bias-Free Policing can benefit your community and Vermont as a whole.
 - ✓ **Contact people already doing anti-racism or diversity work in your area, and/or those who have already initiated this process with the police** to explore anti-bias policing. Ask questions! Build diverse alliances!

2. Share Your Concerns Locally

- ✓ **Plan a small meeting** with 3-8 people who might share your concern.
- *Meet and speak with leaders from communities of color.*
 - ✓ Also speak with familiar community leaders, city councilors, select board members, local state representatives, faith community leaders, teachers, farmers, and local non-profit leaders.
 - ✓ **Invite people to the first meeting and explain its purpose.**

3. Get People Together

- ✓ **Explain your interest in working together** as a group to be sure your local police follow bias-free guidelines.
- ✓ Open a conversation about racial profiling and police discrimination in your community.
- ✓ Discuss the **Attorney General's recent recommendation to all police departments** across Vermont. **Share your own ideas about BFP** policies in your community.
- *Be prepared to share the Action Pack, the Attorney General's policy, and why those revisions are important.*
 - ✓ **Offer copies of the Action Pack** and/or share with them where to find it online.
 - ✓ Encourage people to **do some research** before your next meeting.
- *Divide up the research questions on page 3 and ask people to bring their findings to your next meeting.*
 - ✓ **Schedule a time to meet again soon. Exchange emails and phone numbers!**

4. Set the Group in Motion

- ✓ At your next meeting, **share research and define your next steps.**
- ✓ **Review, share and discuss the Action Pack.** Go over any additional findings. Determine what information you need to be successful.
- ✓ **Before the meeting ends, determine if you are ready to schedule a meeting with decision-makers.** Can you discuss your concerns and present your case for BFP in your community?

2 BIAS-FREE POLICING and YOUR COMMUNITY: Strategy

The conversation for Bias-Free Policing in Vermont is not new. Individuals or groups in your area might have already initiated the process. Or, you might be first on the scene. Either way, it's helpful to understand the local climate before you move further.

What Should I Know?



- ? How does police policy get set in your town?
- ? Who makes the decisions? Are these decision-makers in support of bias-free policing?
- ? Who is the Police Chief? What's his/her history? Whom might he/she listen to?
- ? Who may be sympathetic on city/town council, local selectboard and among your local state representatives? Who might your opposition be?
- ? Does your police department already have an anti-bias policing policy? If not, has there been talk of planning to follow Attorney General Sorrell's recommendation?
- ? What is police department's current policy regarding their interactions with *immigrants*? Do police cooperate with immigration enforcement/border patrol?
- ? Have incidents of unfair treatment or profiling by police occurred in your community? What happened? To the victim? To the officer?

1. Background and Research:

- ✓ Use the collective strength of your group to **find answers to the questions** on the left.
- ✓ Use the resources in the Action Pack to **understand Bias-Free Policing and the type of policies that support it.**
- *You may not know how decision-makers feel about BFP or the Attorney General's recommendation, until you speak with them directly.*

2. Local Outreach

- ✓ **Collect Personal Stories.** Find out what's been happening to people in your area. Research the incidents of profiling in your community.
- ✓ Meet with victims. Listen. **Document stories.** Invite victims to join the process.
- *Local stories reinforce that the need for BFP policy is not just political; it's also personal.*

🕒 Use this diagram to help you plan whom to target, depending on what the process is in your area.

POLICY-MAKING PROCESS in YOUR POLICE DEPARTMENT	PRIMARY Target: The Decision-Maker/s	SECONDARY TARGET: Influential Leaders	VERMONT EXAMPLE (?)
1. Police Chief or Sheriff passes Police Policy on his/her own.	(TBD)	(TBD)	(TBD)
2. Police Chief or Sheriff passes Police Policy with the approval of the city council, selectboard or police commissioners.	(TBD)	(TBD)	(TBD)
3. The city council or select board passes Police Policy on its own.	(TBD)	(TBD)	(TBD)

3 MEET WITH DECISION-MAKERS

With the information you've collected as a group, you now know whom to speak with and why. This is as much an opportunity to hear from decision-makers about BFP, as it is to express your own concerns.

1. Invitation to Meet:

- ✓ Send a letter to the Police Chief or decision-maker to request a meeting
- **Remember your long-term goal. This could be the beginning of a long-term relationship, so it's helpful to begin as cordially and positively as possible. We provide you with a sample letter on [page 12](#).**
 - ✓ Follow up with a call to the decision maker to set up a meeting
 - ✓ Introduce yourself/group. Be concise, clear and friendly.
 - ✓ Ask if they've received the Attorney General's recommendations for anti-bias policing.
 - ✓ Request a time to meet in person with a small group to discuss the policy

2. First meeting:

- ✓ **Keep it small, simple and positive.** Having 3-4 people is ideal.
- ✓ Ask as many questions as possible from the above research questions.
- **Even if you have your own answers to the questions, listen to theirs first.**
 - ✓ **Explain your goal** for a local Bias-Free Policing policy. Be clear **on the exact policy language** you'd like them to adopt.
 - ✓ Send a clear and simple message, such as:
 1. "Our concern is (see talking points, [pages 7-8](#)) and we'd like to see this adopted (hand them a copy of the desired policy from [page 13-16](#) and Middlebury's policy, [page 17](#))."
 2. "Would you be willing to read this over and meet again after you've had time to consider it?"
 - ✓ **Set up your next meeting date!**

3. Debrief with Your Group:

- ✓ What information did you get from the meeting?
- ✓ Discuss next steps.
- **Don't forget to send a thank-you letter!**

🕒 Where does your local police department stand with BFP? How does this shape your response?

1. Your department already has a type of BFP policy.

- What does it say?
- How is it implemented?
- Can they give you a copy?
- Would they be willing to make important revisions to it if necessary?

2. Your Department does NOT have a BFP Policy, but plans to follow the Attorney General's recommendation.

- What's their timeline?
- Will they consider the revisions suggested in the Action Pack?
- Can they keep you in the loop as the process moves forward?

3. Your department does NOT have a BFP Policy and lacks interest in or opposes adopting one.

- Why do they oppose BFP?
- Contact influential allies from your list of "Secondary Targets"
- Describe your goals for BFP and explain decision-makers' resistance.

④ SHARE YOUR PROGRESS: The Value of Keeping Track

As you learn about Bias-Free Policing in your community, don't forget to share. By tracking this process locally, you contribute valuable information to other organizers statewide.

1. Become a Part of Our Statewide Network

- ✓ Sharing specific information will help us watch the Bias-Free Policing landscape as it changes across Vermont.
- ✓ Email our listserve as you begin and continue the process of adopting BFP in your community.
- Contact us at BiasFreeVT@gmail.com to join our online network.
- Once a member of BFPVermont@googlegroups.com, please provide us with the following information:
 - Name of your town and police department
 - Jurisdiction of that police department (municipal, county, state, etc.)
 - Names and positions of community leaders you have met with
 - About your community police department:
 - a. Has a BFP and is willing to consider revisions
 - b. Has a BFP and is not willing to consider revisions
 - c. Has no BFP but is going to adopt the AG policy without revisions
 - d. Has no BFP and is willing to accept revisions to AG policy
 - e. Showed little/no interest or overt resistance to adopting any BFP
 - Your name/contact
 - Next steps that your group will take
 - Any support you may need from or offer to the state-wide network

2. Update the statewide network

- ✓ As you move through the process, don't forget to share your accomplishments with the group.
- ✓ Use the list serve as a place to give and receive tips and resources, ask and answer questions, express concerns and stay connected!!



5 NEXT STEPS: Cultivate Lasting Change

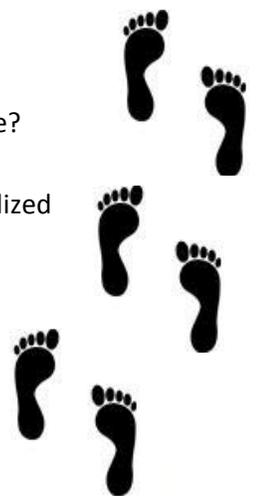
Changing policy doesn't mean anything unless people and institutions change with it. Real change requires time and continued efforts. Keep momentum up in your community!

1. Next Steps with Police

- ✓ After policies are adopted, how can we transform deeply ingrained attitudes and behaviors? The following questions should help guide ongoing conversations with police.
 - **Publicize the policy:** Encourage your police to announce the policy by holding a press conference, writing a press release, etc. to inform the community of the new BFP policy.
 - **Training:** Will there be new trainings now that the policy exists? Who? What? When? Where? Will the community be involved? What resources exist in Vermont to make these trainings effective? ***Ask police to create mandatory training to accompany passing BFP policy and invite community involvement in the process.***
 - **Implementation and Accountability:** What are the repercussions for not following this policy? How do victims file complaints? ***Ask police to make clear – and put in writing—the disciplinary repercussions for violations and create a clear process to file complaints. Recommend and explore the feasibility of installing video cameras in police vehicles to maintain records of traffic stops.***
 - **Data Collection and Evaluation:** Is the police collecting relevant data? How? Is the community collecting relevant data? How? ***Ask police to create a system for clear and transparent data collection of all traffic stops and detentions.***

2. Next Steps with Your Community:

- ✓ **Conduct outreach so that communities** most affected by police discrimination **are aware of the new policy, their rights, and what to do** in case of violations.
- ✓ **Create local community systems to monitor and collect data** regarding violations of policy. In particular, the issues with police and immigration enforcement are sometimes difficult to monitor.
 - Consider a community response to violations: **How do you effectively mobilize the community when incidents do occur?**
- ✓ **Continue to build the state-wide movement** and link with national movements:
 - How can we take what we did locally to expand it to the county sheriff? State police? Federal level....?
 - Keep meeting and working together in order to examine and challenge institutionalized racism and discrimination in your community.



TALKING POINTS

When speaking with chiefs of police, sheriffs, community leaders and other individuals, it's useful to keep a few key *talking points* in your back pocket (both figuratively and literally!).



NOTE: Some of the talking points below speak to Bias-Free Policing policies in relation to *immigration status*. When considering implementing BFP policies, decision-makers may have specific questions about the obligations of local and state law enforcement in regards to potentially undocumented persons.

For more talking points on the destructiveness of racial profiling and the benefits of anti-bias policing, check out these created by *The Rights Working Group*:

<http://www.rightsworkinggroup.org/content/racial-profiling-resources>

Why are we concerned about Bias-Free Policing policies in Vermont?

- **Public Safety for Everyone:** There is a threat to public safety unless EVERY community member feels safe to contact and interact with the police; in particular, when they're victims of a crime, a witness to criminal acts, or when they need any sort of assistance.
 - ✓ Communities of color who fear police (particularly immigrants) are hesitant to call 911 even in an emergency or when they are victims of or witnesses to crime.
 - ✓ Immigrants in Vermont have not been reporting crimes to police, out of a fear of deportation. Allowing local and state police to act as immigration agents weakens confidence in public safety goals. Victims of and witnesses to crimes remain especially vulnerable.
 - ✓ Adoption of Bias-Free Policing policies boosts the reputation of "trustworthiness" that VT police depend on to uphold their commitment to public safety.
 - ✓ Adoption of Bias-Free Policing policies helps lay the groundwork for trust between those Vermonters who don't experience police discrimination, and those who do.

- **Civil Rights for Everyone:** Our police are charged with protecting the rights of all Vermont community members. When law enforcement officials profile any community members, whether based on their skin color or suspected immigration status, it violates civil rights and undermines public safety for everyone.
 - ✓ Active adoption of Bias-Free Policing policies ensures that Vermont police departments provide equal protection for all those within our state's jurisdiction, as guaranteed by the *Equal Protection Clause* in the 14th Amendment of the United States Constitution.
 - ✓ When law enforcement officials ask those who *look like* immigrants about their immigration status, it raises serious civil rights concerns. It is racial profiling.

- **Creating Safe Space for Communities of Color:** Vermont is undergoing significant demographic changes, bringing new community members from throughout the US and around the world. The numbers below are a testament to the need for explicitly addressing immigration status in anti-bias policing:
- According U.S. census data, 94.5% of population growth in Vermont between 2000-2009 was due to communities of color.
 - According to the US Census Bureau, Vermont was home to 21,410 immigrants in 2007.
 - 56.0% of immigrants (or 11,999 people) in Vermont were naturalized US citizens in 2007 – meaning that they are eligible to vote, according to the Immigration Policy Center in April, 2010

Why should Bias-Free Policing policies include “immigration status”?

- **Protecting VT’s State and Local Resources:** The role of Vermont law enforcement is to maintain public safety for all Vermont communities. Given current budget issues, police have plenty to do with limited resources. Federal law does *not require* state and local law enforcement officers to ask about the immigration status of an otherwise law-abiding person.
- ✓ Being in the US without documentation is not a crime, but rather a *civil* violation.
 - ✓ Using immigration status *alone* to determine reasonable suspicion or probable cause is in direct violation of federal law.
 - ✓ A victim and witness protection policy is *insufficient* (as in the case of State and Burlington police departments). Instead, *policy must clearly state* that officers shall not consider immigration status as a sole basis for establishing reasonable suspicion or probable cause. Without such a policy, immigrants reasonably assume that interacting with police would endanger other members of their family or community.
 - ✓ As a border state, Vermont will continue to face increasing pressure from the federal government, as they attempt to establish formal and informal partnerships between state/local law enforcement and “Homeland Security” agencies. These programs incentivize racial profiling by allowing state and local police to profile perceived foreigners.
 - ✓ There is no benefit to local communities should police opt into agreements with federal agencies (see [pg 10](#)). For example, *287g*, *Secure Communities* and *Operation Stonegarden* are all federal programs that blur the lines between police and immigration agents, doing more to *undermine* safety in our communities than uphold it.
 - ✓ Voluntary enrollment in these federal programs unnecessarily strains police resources, and results in ambiguity between the duties and responsibilities of police and federal immigration agents.
 - ✓ A police policy that explicitly declines the “localization of federal immigration agency” protects valuable Vermont resources. There is no need to divert time and energy to enforcing federal immigration law.
 - ✓ Immigration law is very complex and frequently changing, and the enforcement of it diverts Vermont’s police from their primary public safety and crime fighting duties.

Personal Stories of Biased Policing

Experiencing Discrimination in Vermont

Many people in Vermont experience discrimination by police daily. These people are targeted unfairly because of their ethnicity, race, religion, physical and mental disability, gender, sexual orientation, socioeconomic status, national origin and immigration status. The following are stories of those who were victims of biased policing on the basis of their national origin and immigration status.



A Mr. Y of Latino origin was sitting in the passenger seat of a car when the driver, who was a U.S. Citizen, was pulled over for speeding. The driver gave his license; then Mr. Y (the passenger) was asked for identification. He did not have any, so the officer called Border Patrol.



Jonathan B. from El Salvador and Marin G. from Guatemala, were passengers in a truck on their way to work. The truck was stopped at a DMV checkpoint on Highway 91 in Vermont. The driver had a valid driver's license, but all of the passengers were also asked for valid identification. Jonathan did not have any. Marin had a valid Michigan driver's license. The police then asked for his social security number. When he could not produce one, Border Patrol was called.



Vladimir M. from Kazakhstan was a passenger in a car driving on I-91 North close to the Canadian border. The car was stopped by a Vermont State Police officer. The driver was a U.S. Citizen. Vladimir was asked for his identification, proof of status and reason for being here in the United States. Vladimir had a valid state identification. Border Patrol was called when he couldn't show proof of status.



A Vermont State Police officer pulled over a legal driver for speeding off exit 6 on Route 103. Raul and Abraham were passengers. They were both asked [by the officer] if they were here legally. When the officer asked for identification the passengers could not show any. Border Patrol was called.



Roney from Honduras and Fernando from Mexico were driving from Florida to Vermont. In Whiting, Vermont, at about 3:00 am, coming from Highway 22A, the car battery died, so Roney pulled over to the side of the road. Fernando and his wife walked away to find the nearest place to get help. Roney waited with the car. After a short while, a Vermont State Police officer arrived to see what the problem was. After seeing Roney, the officer asked for identification. He showed his international Honduras license. The officer searched the car and called Border Patrol. Before Border Patrol arrived, Fernando and his wife returned with an American friend to fix the battery. The officer then asked for their identification as well. Fernando showed his Matricula Consular (a state issued identification). Border Patrol arrested both men.



Three young men, two who were U.S. Citizens, and Roberto from Brazil, stopped their car at a gas station to get gas. The one man who was American and under-aged asked his other American friend if he would buy him beer. An off-duty police officer overheard and asked all three of them for identification. This was before the friend had responded agreeing to buy beer. Roberto showed his Brazilian identification, but when he could not show any United States documentation, the officer arrested him to wait for Border Patrol.



Share your story at BFPVermont@googlegroups.com

* Detainees' Interviews conducted by Amanda Holman, Vermont Immigration & Asylum Advocates. All interviews were conducted during the summer of 2009 at the Franklin County Jail in St. Albans, Vermont.

BIAS-FREE POLICING & IMMIGRATION

A Quick Guide to Optional Federal Immigration Programs

287g, Secure Communities and Operation Stonegarden are all federal programs that blur the lines between police officers and immigration agents. These polices undermine public safety and civil rights and channel limited local and state resources to perform the work of federal agencies.

287g

What does it do? “The Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA), effective September 30, 1996, added Section 287(g), performance of immigration officer functions by state officers and employees, to the Immigration and Nationality Act (INA). This authorizes the secretary of the U.S. Department of Homeland Security (DHS) to enter into agreements with state and local law enforcement agencies, permitting designated officers to perform immigration law enforcement functions, pursuant to a Memorandum of Agreement (MOA), provided that the local law enforcement officers receive appropriate training and function under the supervision of sworn U.S. Immigration and Customs Enforcement (ICE) officers.”^[1]

What’s at risk? While ICE is responsible for covering costs associated with officers’ 287g training, local Law Enforcement Agencies must cover their officers’ salary during this time. This is an upfront example of how local departments sacrifice valuable funds as they continue to pay officers though they are not fulfilling duties for which they are employed.

Secure Communities

What does it do? “Secure Communities is a program that allows state and local police to check the fingerprints of an individual they are booking into a jail against Department of Homeland Security (DHS) immigration databases. If there is a “hit” in an immigration database – which can be inaccurate – Immigration and Customs Enforcement (ICE) is automatically notified, even if the person has not been convicted of any criminal act.

What’s at risk? “Even ICE reports indicate that *most* people identified Secure Communities have been arrested for less serious crimes, including traffic violations... Because fingerprints are forwarded during booking, ICE will have your fingerprint data even the charges are dismissed or ruled unlawful.”^[2]

Operation Stonegarden

• **What does it do?** Operation Stonegarden is a federal grant program administered by the Federal Emergency Management Agency (FEMA), a component of the Department of Homeland Security, as part of the State Homeland Security Grant Program. Stonegarden provides funding to state, local, and tribal law enforcement agencies...*‘to jointly secure U.S. borders and territories.’* Funds are to be used for additional law enforcement personnel, overtime pay, and travel and lodging for deployment of state and local personnel to *‘further increase our presence along the borders.’*^[3]

• **What’s at risk?** Operation Stonegarden targets Border States like Vermont. As Sheriff Mike Brasfield of a border town in Washington said, *“The requirements imposed by the Border Patrol to receive the money are not relevant to the sheriff’s office primary mission, and that is to say we have limited personnel resources and we don’t have the time to pursue what would amount to misdemeanor civil workload that is the responsibility of the Border Patrol.”*³

Sources:

[1] US Immigration and Customs Enforcement. (Sept. 2007). “Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act”. Retrieved Oct. 6, 2010 at <http://www.ice.gov/pi/news/factsheets/070906factsheet287gprogoover.htm>

[2] National Immigration Project of the National Lawyers Guild. May 1, 2010). “What is Secure Communities and How it Affects You.” *Uncover the Truth Behind ICE and Police Collaboration: Teach-in Toolkit*; NILC, NIP, NDLON. Retrieved Oct. 1, 2010 at <http://www.nilc.org/immlawpolicy/LocalLaw/uncover-truth-toolkit-2010-05.pdf>

[3] National Immigration Forum. (Feb. 2010). “Operation Stonegarden” Factsheet. Retrieved Oct. 6, 2010 at <http://www.immigrationforum.org/images/uploads/2010/OperationStonegardenFactSheet.pdf>

Words Matter

Do's And Dont's when Speaking About The Issues

*As you advocate for policies that protect us from bias, keep in mind the power of the words you use. Remember that you may be speaking for those who cannot step forward to speak for themselves. How would you like to be recognized if you had no voice? As a criminal? An outsider? An indentured servant? Or as a human being living in a community we share? We must be cautious to use terms that respect individuals rather than stripping them of their humanity and dignity. These are people; they are employees; they are fathers, mothers, sons and daughters; they are our community members. As such, we must **avoid terms and concepts like the following:***

- **Immigration Reform:** This is not an attempt to resolve the debate over immigration, especially in conversations with police who do not determine immigration policy. The main concern here is protecting *everyone's* right to safety and freedom from racial profiling.
 - ❖ **INSTEAD:** Bias-Free Policing and the "Equal Protection Clause" (14th Amendment of US constitution)
- **Illegal:** No one is illegal; their status is simply unauthorized or undocumented by the US government. They are not committing a crime by existing.
 - ❖ **INSTEAD:** Undocumented or Unauthorized
- **Alien:** This term excludes individuals from the whole. When the implication is that a person is "not one of us," we negate our responsibility to respect and care for him or her.
 - ❖ **INSTEAD:** Immigrant or Migrant
- **Homeland Security:** National security is a respectable concern. However, using this term in relation to immigrants falsely ties them to the threat of terrorism -- exacerbated by 9-11 paranoia -- and the illegal drug trade. Immigrants want to participate in and contribute to our communities; not terrorize them.
 - ❖ **INSTEAD:** This is a matter of refuge and/or survival
- **Generalized Nationality:** Undocumented individuals come to the US from all over the world. Speaking in terms that identify one nationality, we perpetuate negative stereotyping that extends even beyond immigrants and into general racism.
 - ❖ **INSTEAD:** Specific nationality or ethnicity (if known) or 'person not born in the US' etc.



* For more information on the power of words, see "The Framing of Immigration" by George Lakoff and Sam Ferguson

SAMPLE LETTER

A Call for Bias-Free Policing Across Vermont

[Date]

Dear *[Police Chief/Sherriff/Decision-Maker]*

In light of Attorney General Bill Sorrell's new Bias-Free Policing model for VT's state and local police, we are interested in meeting with you to further discuss this policy recommendation.

As you know, Vermont communities grow more diverse every year with people from many cultures, ethnicities, sexual orientations, languages and national origins. We hope to work with you in ensuring the enforcement of law remains fair and unbiased, protecting the rights of *everyone* in our communities.

Several police departments in the state of Vermont have already instituted policies designed to address the problem of bias and profiling, including Middlebury, Burlington and the VT State Police. These, now with Attorney General Sorrell's recent Bias-Free Policing policy model, make implementing one in *[Name of Your Town]* even easier.

We are excited by the opportunity to meet with you to learn more about where the *[Name of Department]* currently stands, and how we might move forward in the realization of a bias-free Vermont.

Please contact us at *[One Person's Phone Number and/or Email and/or Mailing Address]*. Thank you for your time and consideration of this critical issue. We look forward to hearing from you soon.

Sincerely,

[Names of 3-4 people who will attend, including one influential person/city councilor/state rep./ etc.]

[Complete Contact Information]

Policy Resources

Here we provide Attorney General Sorrell's BFP policy model, as well as links to other articles and examples of BFP policies in Vermont. The Attorney General's model below includes suggested revisions (in red) from Vermont Immigrant and Asylum Advocates (VIAA). These suggested changes ensure the policy is relevant and just.

★ Please keep in mind, the following model is still not perfect. Middlebury's police policy offers a stronger directive for a course of proper action by the police force.

Vermont Attorney General's Proposed Policy: Bias-Free Policing

**Suggested Revisions Included in Color (VIAA)*



Introduction and Purpose

The purpose of this proposed policy is to provide guidance to law enforcement officers regarding the appropriate use of certain criteria, such as race, sex, or ethnicity in their decision-making. While such criteria are legally relevant in certain circumstances, their misuse may violate the law or substantially impair law enforcement's relationship with the community it serves. Far from hampering energetic and focused law enforcement, bias-free policing creates an environment in which community members work closely with agencies to solve problems together.

A. Bias-Free Policing: General Principles

I. As required by statutes, Chapter I, Article 11 of the Vermont Constitution and Amendment IV of the United States Constitution, all enforcement actions by law enforcement officers, such as investigative detentions, traffic stops, arrests, searches and seizures, etc., must be based on reasonable suspicion, probable cause, or other required standards, such as those applicable to DUI checkpoints and the like.

- a. Law enforcement officers must be able to articulate specific facts, circumstances, and conclusions which support the required standard for enforcement actions.
- b. Law enforcement officers may take into account the reported race, ethnicity or other Personal Criteria of suspects based on credible, reliable, locally-relevant information that links persons of specific description criteria to particular criminal incidents.

II. Except as provided in I.b. above:

- a. Law enforcement officers will not consider race, ethnicity, or other Personal Criteria in establishing either reasonable suspicion or probable cause.
- b. Law enforcement officers will not single out or otherwise treat persons differently because of their race, ethnicity, or other Personal Criteria.

III. "Personal Criteria" may include, but are not limited to, race, ethnicity, immigration status, national origin, color, gender, sexual orientation, gender identity, mental or physical disability, religion, and socio-economic level.

B. Disclosure of Confidential Information

I. General Rule; Concerns About Victim And Witness

- a.** To further a criminal justice system that affords protection to all persons and fosters confidence and respect for our legal system, it is essential that victims report crimes and fully cooperate in investigations; that witnesses come forward and provide testimonial and other evidence; that persons report suspicious activity and other information to reduce crime and disorder; and that help is summoned when needed.
- b.** To that end, law enforcement officers should not disclose Confidential Information regarding members of the community where such disclosure may (a) jeopardize individuals' health, welfare, or safety, or (b) lead crime victims or witnesses not to cooperate with law enforcement efforts.
- c.** In this context, "Confidential Information" may include, but is not limited to, sexual orientation, gender identity, receipt of public assistance, immigration status, national origin, physical or mental condition, status as a victim of domestic violence or sexual assault, or status as a crime witness.

II. Exception; Investigations and Prosecution of Unlawful Activity

- a.** Law enforcement officers may disclose Confidential Information in cases where the information is material to the advancement of:
 - 1.** Investigations or prosecutions of violations of the law; or,
 - 2.** Homeland security and public safety.

Note: Section B-II is unnecessary. Section 8 U.S.C 1373, the federal statute that prohibits state and local governments from preventing their employees from disclosing immigration information, intrudes upon a state's interest in protecting confidential information.

A second circuit court addressed the interplay between section 1373 and confidential information collected by municipalities: "The obtaining of pertinent information, which is essential to the performance of a wide variety of state and local governmental functions, may in some cases be difficult or impossible if some expectation of confidentiality is not preserved. Preserving confidentiality may in turn require that state and local governments regulate the use of such information by their employees. Finally, it is undeniable that Sections 434 and 642 [8 USC § 1373] do interfere with the City's control over confidential information obtained in the course of municipal business and over its employees' use of such information." **The court suggested that 8 U.S.C. 1373 could not survive a constitutional challenge based on that statute's interference with "generalized confidentiality policies that are necessary to the performance of legitimate municipal functions and that include federal immigration status."**

City of New York v. U.S., 179 F.3d 29, 36-37 (2d Cir. 1999).

C. Immigration Status Inquiries: Concerns About Persons Not Suspected of Unlawful Activity

- I.** To effectively serve all communities and to ensure trust and cooperation of all victims and witnesses, law enforcement officers, unless otherwise appropriate (*e.g.*, agencies' investigations of suspected human trafficking or investigations of hate-motivated crimes), should not ask about, or investigate the immigration status **or national origin** of crime victims or witnesses.

Where such inquiries are appropriate, officers should explain the reasons for making them— unless doing so would compromise the investigation or officer safety.

II. Law enforcement officers should ensure that individual immigrants and immigrant communities understand that full victim services are available to victims and witnesses, whether documented or undocumented. Law enforcement officers should communicate that they are there to provide assistance and to ensure safety, and not to cause the removal / deportation of victims or witnesses. **Therefore, law enforcement officers should also communicate that immigration status is considered Confidential Information.**

III. Law enforcement officers will act first and foremost in the public safety interests of our communities and our essential mission to serve and protect when dealing with undocumented foreign nationals who require help from or who make reports to law enforcement officers, giving full priority to public safety and justice concerns.

Commentary Regarding Immigration Status Inquiries and Disclosure

In light of the strong Vermont and federal public policy against the detention and harassment of authorized visitors, immigrants, and citizens who do not have or carry certain identification documents, inquiry into and disclosure of information regarding immigration status should only occur in limited circumstances.

The federal government prioritizes for arrest, detention, prosecution, and removal of those undocumented nationals who pose a danger to national security or a risk to public safety. The highest priority is given to those undocumented nationals engaged in or suspected of terrorism or espionage; convicted of crimes, subject to outstanding criminal warrants; and fugitives.

Federal law does not *require* state and local law enforcement officers to ask about the immigration status **or national origin** of crime victims or witnesses. The U.S. Department of Justice, in public documents, has expressed concern that inquiries about and reports of the immigration status of individuals falling outside the categories defined in the preceding paragraph, could hamper rather than assist the federal government in its enforcement of immigration laws.

This proposed policy limits the circumstances under which an inquiry regarding immigration status will be made. This policy also indicates that disclosure will also only occur under certain limited circumstances. Thus, absent one of the enumerated exceptions, law enforcement officers should not disclose immigration status information to the person's employer, health care providers, or federal immigration authorities.

Law enforcement officers should always seek to identify a person suspected of a **civil or** criminal violation. Officers should inquire into immigration status only when that information is necessary to properly identify such a person. Accurate identification information is important for the appropriate functioning of the justice system.

The above paragraph of this commentary contravenes a non-citizen's Fifth Amendment right to remain silent. In addition, V.R.Cr.P. 3-4 does not require a court to consider immigration status as a factor in making bail determinations.

Non citizens have a Fifth Amendment right not to disclose their citizenship status. *Mathews v. Diaz*, 426 U.S. 67, 77 (1976); *Kastigar v. United States*, 406 U.S. 441, 444 (1972).

The privilege against self-incrimination applies in any proceeding: civil, criminal, administrative, judicial, investigatory, or adjudicatory. *Kastigar*, 406 U.S at 444.

Finally, it is recognized that Vermont law enforcement agencies located near the Canadian border have more frequent contact with federal customs and border authorities (*e.g.*, United States Border Patrol) and may be more likely to encounter the high-risk individuals or activities described above. This proposed policy is not intended either to impair relationships with federal border authorities, compromise officer safety, or hinder local or federal enforcement priorities. Nonetheless, even the most vigorous efforts to ensure public safety must be free of bias that may be unlawful or that may unnecessarily reduce willingness to cooperate with law enforcement efforts. Such sentiments can serve to hinder officers' overall mission.

D. Complains, Violations, and Discipline

I. Accountability is a vital element of policing. Law enforcement officers are better able to achieve the goals of protecting the public safety, enhancing the quality of neighborhood life, and serving community needs if the communities they serve trust them. To fulfill its mission to “protect and serve,” law enforcement agencies must thus implement strategies that improve community trust, including effective accountability procedures.

II. There must be visible and readily accessible complaint redress systems responsive to individual complainants. Complainants are entitled to know the outcome of their complaints, and, consistent with appropriate and applicable statutes and personnel policies, the public is entitled to information about the number and resolution of complaints levied against police departments.

III. Violations of this policy shall result in disciplinary action as set forth in the law enforcement agency's rules and regulations.

IV. Supervisors shall ensure that all law enforcement officers in their command are familiar and in compliance with the content of this policy.

➤ Find Attorney General's Model online at www.atg.state.vt.us or enter:

✓ <http://www.atg.state.vt.us/assets/files/Vermont%20Attorney%20Generals%20Proposed%20Policy%20Bias-Free%20Policing.pdf>

➤ The following articles relate to Attorney General Sorrell's BFP recommendation, or search “Sorrell Bias-Free Policing”:

✓ http://www.dairyherd.com/directories.asp?pgID=675&ed_id=12786

✓ <http://www.burlingtonfreepress.com/article/20101119/NEWS02/101119021/Vermont-AG-proposes-bias-free-policing-policy>

✓ <http://www.wcax.com/Global/story.asp?S=13537027>

Several promising Bias-Free Policing policies have already been passed in local departments: Middlebury, Burlington and the Vermont State Police. However, the Burlington and State police policies are still "incomplete" in that they do not yet address immigration status as an "improper criteria" for establishing reasonable suspicion or probable cause.

- ❖ **Middlebury General Order and Related Materials:** *Middlebury was the first police department in Vermont to adopt a Bias-Free Policing policy. Middlebury Police Chief Thomas Hanley was honored and installed as the new President of the Chiefs of Police in September of 2010.*

*This policy is the **best local example of a directive for a course of proper action for police.** Also, Middlebury's policy recognizes **the Matricula Consular (Mexican ID) as a valid and secure identity document.***

- Middlebury General Order: Undocumented Foreign Nationals, 9-12-07
 - ✓ <http://vtmfsp.org/sites/default/files/Middlebury.pdf>
- Articles relating to the Middlebury Police General Order and Middlebury Police Chief Thomas Hanley:
 - ✓ <http://newneighborsvt.blogspot.com/2010/09/middlebury-police-chief-thomas-hanley.html>
 - ✓ <http://www.7dvt.com/2007/middlebury-police-won-039-t-look-out-illegal-workers>

- ❖ **Burlington Resolution, Policy and Related Materials:** *In 2010, the Burlington City Council passed a resolution in Response to racial profiling practices mandated in Arizona State Law SB 1070, while Burlington City Police department reaffirmed their commitment to bias-free policing with a policy directive.*

- Burlington Resolution: Opposing Arizona State Law SB 1070 and Affirming Burlington as a City of Immigrants
 - ✓ <http://vtmfsp.org/sites/default/files/BurlingtonBiasFreePolicy.pdf>
- Burlington Police Department, Department Directive: Bias Free Policing
 - ✓ <http://vtmfsp.org/sites/default/files/BurlingtonAZResolution.pdf>
- Articles relating to Burlington's opposition to Arizona's SB 1070 and adoption of Bias-Free Policing policy.
 - ✓ <http://www.ci.burlington.vt.us/docs/2160.pdf>

- ❖ **Vermont State Police:**

- Vermont State Police Bias-Free Policing Policy
 - ✓ <http://vtmfsp.org/sites/default/files/VTStatePoliceBiasFreeProcedures.pdf>

Additional Resources

Racial Profiling in Policing and the Prison Justice System: *These reports and tools help provide important background, context and recommended strategies to challenge racial profiling and police bias.*

- “Faces of Racial Profiling” is a brand new resource published by the Rights Working Group in September 2010. Formed in the aftermath of Sept. 11, 2001, the Rights Working Group (RWG) is a national coalition of civil liberties, national security, immigrant rights and human rights organizations committed to restoring due process and human rights protections that have been eroded in the name of national security.
 - ✓ <http://www.rightsworkinggroup.org/faces-of-racial-profiling>
- The Rights Working Group created the following talking points on racial profiling:
 - ✓ <http://www.rightsworkinggroup.org/content/racial-profiling-resources>
- Amnesty International background reports and resources on racial profiling:
 - ✓ <http://www.amnestyusa.org/us-human-rights/racial-profiling/page.do?id=1106650>
 - ✓ http://www.amnestyusa.org/racial_profiling/report/rp_report.pdf
 - ✓ http://www.amnestyusa.org/racial_profiling/index.do
- Uneven Justice: State Rates of Incarceration based on Race and Ethnicity by The Sentencing Project.
 - ✓ <http://www.sentencingproject.org>

Anti-racism Resources: *These resources help local community organizers challenge institutionalized racism.*

- ✓ <http://www.collectiveliberation.org/>
- ✓ <http://www.pisab.org/>
- ✓ <http://www.nccusa.org/bhc/study-circ.html>
- ✓ http://www.nnirr.org/news/news_pub_archive.html
- ✓ <http://www.paulkivel.com/about.php>
- ✓ <http://www.asdic-circle.org/>
- ✓ <http://www.everyday-democracy.org/en/Article.535.aspx>
- ✓ www.everyday-democracy.org/en/Publication.48.aspx
- ✓ <http://www.timwise.org/>

Community Organizing Strategy Tools: *These resources help organizers create thoughtful and winning anti-bias campaigns.*

- ✓ www.scorcher.org/screed/pdf/issuechooser.pdf
- ✓ <http://www.smartmeme.org/section.php?id=86>

Immigration Specific Resources: *These resources provide important background, information, analysis and strategies to better challenge immigrant profiling and detentions.*

- Since 1979, the National Immigration Law Center has been dedicated to defending and advancing the rights of low-income immigrants and their family members. Over the past 30 years, NILC has earned a national reputation as a leading expert on immigration, public benefits, and employment laws affecting immigrants and refugees. Below is a list of valuable resources:
 - ✓ <http://www.nilc.org/immlawpolicy/locallaw/index.htm>

- Guilty by Immigration Status is the second annual report of the Human Rights Immigrant Community Action Network, or HURRICANE, an initiative of the National Network for Immigrant and Refugee Rights. The findings are drawn from 141 stories of human rights abuse reported and documented by HURRICANE members and partners, including 25 interviews offering first-hand testimony from immigrant workers, families, and community members directly affected by immigration enforcement policies and practices in 2008.
 - ✓ <http://www.nnirr.org/resources/docs/GuiltybyImmigrationStatus2008.pdf>
- Getting Ready: National Enforcement Response Plan. A Plan to help communities prepare and plan for immigration enforcement actions by the Catholic Legal Immigration Network.
 - ✓ <http://cliniclegal.org/sites/default/files/CLINICENFORCMENTRESPONSEPLANFINAL.pdf>
- Jailed without Justice. A Report by Amnesty International on the immigration detention system.
 - ✓ <http://www.amnestyusa.org/immigration-detention/immigrant-detention-report/page.do?id=1641033>
- Detention Watch Network campaign: “Dignity Not Detention: Preserving Human Rights and Restoring Justice” to stop the expansion of detention nationally. DWN members will also engage in a complementary national advocacy strategy towards four goals:
 - ✓ http://detentionwatchnetwork.org/DND_resources
- The Rights Working group provides fact sheets, critical information and resources about immigration enforcement programs such as 287g and secure communities:
 - ✓ <http://www.rightsworkinggroup.org/content/immigration-resources>

Vermont Resources on Racial Profiling and Anti-Bias Policing:

- A 48-minute video by Vermont Advisory Committee to the U.S. Commission on Civil Rights Report on Racial Profiling in Vermont. Vermont Statehouse, August 11, 2009.
 - ✓ <http://www.cctv.org/watch-tv/programs/report-racial-profiling-vermont>
- Racial Profiling in Vermont: Briefings before the Vermont Advisory Committee to the US Commission on Civil Rights. 2009.
 - ✓ www.usccr.gov/pubs/VTRacialProfiling.pdf
- Vermont Attorney General’s Recommended Anti-bias policing policy:
 - ✓ <http://www.atg.state.vt.us/>



★ You can share other helpful resources at BFPVermont@googlegroups.com

CONTACTS

Please let us know how we can support your efforts to pass local anti-bias policing policies! Keep us informed about your work!

Action Pack Producers: BiasFreeVT@gmail.com

Vermont American Friends Service Committee, Sally Black and Mandy Park

<http://afsc.org/region/new-england-region>

American Friends Service Committee's work in Vermont is presently focused on migrant farm workers rights. We hold a firm belief in the dignity and worth of every human being and faith in the power of love to overcome violence and injustice, are at the core of our mission as a peace and justice organization.

Vermont Migrant Farmworker Solidarity Project, Brendan O'Neill and Natalia Fajardo

www.vtmigrantworkersolidarity.org

Tel: (802) 825-1609

Email: vtmfsp@gmail.com

The Vermont Migrant Farmworker Solidarity Project promotes dignity, justice and human rights for migrant farmworkers in Vermont and builds bridges of solidarity between communities in Vermont and Mexico.

Action Pack Collaborators:

Vermont Immigration & Asylum Advocates

<http://www.vtimmigrationandasylum.org/>

Tel: (802) 864-3200

Email: jeness@gmavt.net – Michele Jenness

Vermont Immigration and Asylum Advocates (VIAA), formerly Vermont Refugee Assistance (VRA), was founded in 1987 to support refugees fleeing civil wars in Central America. Since then, this grassroots volunteer nonprofit organization has helped thousands of refugees from all over the world. VIAA assists those seeking asylum, who are often detained in Vermont jails, and helps immigrants with legal and other assistance. VIAA also seeks to educate U.S. citizens and to increase their participation in regional, national, and international refugee and immigration issues.

The New Neighbors Victim Outreach Project

www.newneighborsvt.blogspot.com

Tel: (802) 241-1250 ext.112

Email: bwhitchurch@ccvs.state.vt.us – Barbara Whitchurch, Project Director

The New Neighbors Victim Outreach Project is a federally-funded project to inform and empower Vermont's refugee and immigrant populations about their rights as victims of crime and the services available to them. This project seeks to increase their access to those services through public education, linguistically and culturally appropriate information, and building a coordinated response among service providers.

Central Vermont Farm Workers Coalition

Email: CV-FWC@googlegroups.com

The Central Vermont Farmworkers Coalition is a non-profit group, flexibly organized to help overcome the challenges encountered by migrant farmworkers in our community and to address the related concerns of the farmers who employ them.

Vermont Action for Peace

Email: jgainza@vtlink.net – Joseph Gainza

Vermont Action for Peace engages in research, public education, movement building, and advocacy to increase citizen participation in the struggle to establish a more just, environmentally sustainable, kinder and peaceful world.

Action Pack Endorsing Organizations:

Please contact us if you'd like your organization's name, description and contact information here.

ACTION PACK BACKGROUND

On Thursday July 22, 2010, Attorney General William Sorrell released a draft of a Bias-Free Policing (BFP) policy model for Vermont law enforcement. This was one of several recommendations by a 2007 report titled “Racial Profiling in Vermont: Briefings before the VT Advisory Committee to the US Commission on Civil Rights,” which addressed racial profiling and police discrimination in Vermont.

A number of organizations and individuals, including the creators of this Action Pack, were invited to a July 22nd meeting to provide feedback on the Attorney General’s draft policy model. One issue of contention was whether the BFP recommendation would contain explicit reference to police interactions with undocumented immigrants, and if so, what it should say. Since that meeting, immigrant rights advocates have been working to ensure the policy recommendation protects undocumented workers from police-bias and discrimination. The Attorney General’s final model policy is a testament to our success.

The Attorney General’s public recommendation provided us with an opportunity to launch a campaign to organize in resistance to police discrimination. We came together to design a guide to action for those Vermonters eager to promote BFP policies locally and throughout Vermont. While our initial focus was to ensure that undocumented immigrants would be free from police profiling, the course of developing this pack has given us time to reflect on our own identities and roles. As white Vermonters we asked ourselves, “What are our roles and responsibilities in this process? How do we develop trust, true working alliances and genuine solidarity with communities of color in Vermont? How do we build coalitions that work and fight together for the rights of all discriminated people? We bring these unresolved questions to you with humility and hope, as we move forward with the campaign for BFP across Vermont.

Overall, we hope that this Action Pack can energize local community organizing throughout Vermont. As we share this guide, we understand that a policy or law alone doesn’t create change. By building long-lasting, working relationships, we can more deeply challenge systemic inequality, and in so doing, make Vermont a better place to live for everyone.

We thank you for participating in this important change, and invite you to commit to this work for Bias-Free Policing as part of an ongoing process of challenging institutionalized racism and discrimination in Vermont.

Sincerely,

The VT Migrant Farmworker Solidarity Project
American Friends Service Committee of Vermont