

Vermont Migrant Farmworker Solidarity Project

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Honorable Peter Shumlin, Governor
State of Vermont
109 State Street, Pavilion
Montpelier, VT 05609
RE: Bias-Free-Policing

October 14, 2011

Dear Governor Shumlin,

We have reviewed the current Vermont State Police “Rules & Regulations Operational Policies and Procedures”, Section V, Chapter 6, Work Rules, Article VI – Bias Free Policing Procedures. These procedures have the stated purpose of

Reaffirm[ing] the Vermont State Police commitment to unbiased policing, to clarify[ing] the circumstances in which members can consider race, ethnicity, gender or other potentially improper criteria when making law enforcement decisions, and . . . reinforc[ing] procedures that serve to assure the public that we are providing service and enforcing laws in an equitable and impartial way.

While we appreciate the work that the Vermont State Police do to protect Vermonters, recent events have made it very clear that there is still confusion regarding these policies and procedures. We submit the following suggestions for improvement and clarification of these very important policies.

We ask you to review our proposal and offer our assistance in whatever way possible to ensure that future interactions between all community members and the Vermont State Police reflect fair, equitable and respectful values.

Respectfully,

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Vermont State Police Bias-Free Policing Changes Suggested by Vermont Migrant Farmworker Solidarity Project

<u>Existing Policy</u>	<u>Suggested Changes</u>
<p>3.0 PROCEDURE 3.1 Policing Impartially (1) Definitions</p>	<p>3.0 PROCEDURE 3.1 Policing Impartially (1) Definitions</p>
<p>(A) Bias-Based Policing – Conduct by law enforcement members motivated solely by an individual’s race, ethnicity, gender, age, perceived or known mental illness, sexual orientation, religion, disability, socioeconomic level or other potentially improper criteria.</p>	<p>(A) Bias-Based Policing – Conduct by law enforcement members motivated solely by an individual’s race, ethnicity, gender, age, perceived or known mental illness, sexual orientation, religion, disability, socioeconomic level, citizenship, national origin, immigration status or other potentially improper criteria.</p>
<p>Throughout the policy, we suggest that the phrase: race, ethnicity, gender, age, perceived or known mental illness, sexual orientation, religion, disability, socioeconomic level or other potentially improper criteria.</p> <p>be replaced with the phrase: race, ethnicity, gender, age, perceived or known mental illness, sexual orientation, religion, disability, socioeconomic level, citizenship, national origin, immigration status or other potentially improper criteria.</p>	
<p>3.0 PROCEDURE 3.1 Policing Impartially (1) Definitions</p>	<p>3.0 PROCEDURE 3.1 Policing Impartially (1) Definitions</p>
<p>(3) The member will contact the shift supervisor and provide the circumstances of the call. The shift supervisor will contact the caller and explain that we do not respond to calls for service that are based solely on a person's race, ethnicity, gender, age, perceived or known mental illness, sexual orientation, religion, disability, socioeconomic level, or other potentially improper criteria.</p>	<p>(3) The member will contact the shift supervisor and provide the circumstances of the call. The shift supervisor will contact the caller and explain that we do not respond to calls for service that are based solely on a person's race, ethnicity, gender, age, perceived or known mental illness, sexual orientation, religion, disability, socioeconomic level, or other potentially improper criteria. In the case of a call for service that is based upon citizenship or national origin, the shift supervisor will explain that Vermont law enforcement officers do not possess the legal authority to enforce immigration law.</p>
<p>(4) Investigative detentions, traffic stops, arrests, searches and property seizures by members will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Members must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic</p>	<p>(4) Investigative detentions, traffic stops, arrests, searches and property seizures by members will be based on a standard of reasonable suspicion or probable cause in accordance with Article Eleven of the Vermont Constitution and the Fourth Amendment to the United States Constitution. Members must be able to articulate specific facts and circumstances that support reasonable suspicion</p>

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stops, arrests, nonconsensual searches and property seizures.	or probable cause for investigative detentions, traffic stops, arrests, nonconsensual searches and property seizures.
	<p>(C) question any person about their immigration status, or contact immigration officials to obtain such information;</p> <p>(D) detain a person for any period of time longer than is necessary to complete an investigation and to take any appropriate enforcement action against the person at the scene, such as issuing a traffic citation; or</p> <p>(E) detain a person for the purpose of having the person questioned by, or transferred to the custody of, federal immigration officials unless:</p> <p style="padding-left: 40px;">(1) the Department has entered into a written agreement with the United States or any of its agencies providing that all costs incurred by the Department and/or any other Vermont agency in complying with the detainer and/or hold shall be reimbursed, and</p> <p style="padding-left: 40px;">(2) the detainer and/or hold contains a copy of an outstanding removal order entered against the person or a criminal arrest warrant issued for the person upon which the hold or detainer request is based.</p> <p>In such a case when a person is detained on the basis of a federal hold or detainer request, the person shall not be held in excess of 48 hours, excluding Saturdays, Sundays, and holidays.</p>
	(7) No provision of Vermont or federal law requires motor vehicle passengers to carry or display identification when not operating the vehicle, and as such, a person’s inability to produce identification when not operating a motor vehicle does not pose a reason to detain the person or create a basis to believe that the person has committed, is committing, or is about to commit, a crime.
3.0 PROCEDURE 3.2 Preventing Perceptions of Biased Policing	3.0 PROCEDURE 3.2 Preventing Perceptions of Biased Policing
	We suggest that the references to “citizen” be changed to “person”
3.0 PROCEDURE 3.4 Supervision and Accountability	3.0 PROCEDURE 3.4 Supervision and Accountability
	(5) No later than March 1 st of each year, the Department shall report to the public the number of times over the course of the preceding calendar year that its members:

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	<p>(a) contacted immigration authorities to determine a person's immigration status, (b) detained a person pursuant to a detainer or legal hold placed on the person by immigration officials, or (c) released a person to the custody of immigration officials.</p> <p>Such a report shall be posted on the Department's website.</p>
Footnote to be added at the end of section 3.0	Policies that limit state and local police enforcement of immigration law are in complete compliance with the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.