

Richmond Selectboard
Resolution In Support of Fair and Impartial Policing Policy

WHEREAS, the Richmond Selectboard seeks to support and pursue the vision of the United States Declaration of Independence, which founded our Nation on the principles that all men are created equal, with certain unalienable Rights, among these Life, Liberty and the pursuit of Happiness.

WHEREAS, the Richmond Selectboard seeks to support and pursue the vision of the Vermont Constitution, which founded our State on the principles that all persons are born equally free and independent, with certain natural, inherent, and unalienable rights, amongst which are the enjoying and defending of life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.

WHEREAS, the Richmond Selectboard seeks to set Town standards of policy and behavior that pursue and adhere to the aforementioned vision first established for our nation and our state at the times of their founding.

WHEREAS, policies are important statements of who we are as a community and can drive action, and as a result, residents of the Town of Richmond, with the support of Richmond Racial Equity and input from Vermont migrant farm workers, have asked the Selectboard to review and support a new Fair and Impartial Policing Policy to promote a culture of inclusiveness and equity for all who live in and visit Richmond.

WHEREAS, 24 V.S.A. § 1236 states that the Town manager has charge, control, and supervision of the police department, including authority to appoint and remove officers and fix their salaries.

WHEREAS, 24 V.S.A. § 143-503(c)(2) states that the Richmond town manager has the authority to direct and supervise the administration of all departments, offices, and agencies of the Town except as otherwise provided by charter or State statute.

WHEREAS, 24 V.S.A. § 1931(b) requires that directives regarding police officer duties in the line of service are under the control and management of the Police Chief and not within the scope of Town personnel rules, which are under the control and authority of the Selectboard.

WHEREAS, 20 V.S.A. § 2366(a)(1) states that every State, county, and municipal law enforcement agency shall adopt a fair and impartial policing policy that includes each component of the Vermont Criminal Justice Training Council's model fair and impartial policing policy, that such agencies may include additional restrictions on communication and involvement with federal immigration authorities or communications regarding citizenship or immigration status, and that such agencies may not adopt a policy that allows for greater communication or involvement with federal immigration authorities than permitted under the model policy.

NOW, THEREFORE, BE IT RESOLVED that the Selectboard of the Town of Richmond supports and recommends the adoption of the following Fair and Impartial Policing Policy by the Richmond Police Department, and furthermore recommends that other police agencies in the State of Vermont also adopt the following Fair and Impartial Policing Policy.

Fair and Impartial Policing Policy of the Richmond Police Department

PURPOSE

The purpose of this policy is to require that all employees of the Richmond Police Department conduct policing in a fair and impartial manner, to clarify the circumstances in which officers can consider personal characteristics, or immigration status, when making law enforcement decisions and to reinforce processes and procedures that enable us to provide services and enforce laws in an equitable and impartial way. The Richmond Police Department is required to adopt each component of the Vermont Criminal Justice Training Council's model fair and impartial policing policy, Richmond Police may adopt additional components. Nothing in the Richmond Police Department Fair and Impartial Policing policy is intended to violate federal law.

INTRODUCTION

Employees are prohibited from engaging in biased policing. This means no member of Richmond Police Department shall take actions based on any personal characteristics, or immigration status, except as described below, in the services our employees provide to the community in connection with our law enforcement activities.

Because partnership with Vermont residents is the most effective way to ensure public safety, maintaining the public's trust is a primary concern. To secure this trust, personal characteristics, or immigration status, should have no bearing on an individual's treatment in the Richmond Police Department's custody. Enforcement of civil immigration law is a federal responsibility and agencies should not engage in such enforcement except as otherwise outlined in this policy.

Vermont residents are more likely to engage with law enforcement and other officials by reporting emergencies, crimes, and acting as witnesses; to participate in economic activity; and to be engaged in civic life if they can be assured they will not be singled out for scrutiny on the basis of their personal characteristics or immigration status.

To achieve these objectives the Richmond Police Department will implement a combination of best practices including but not limited to: hiring, in-service training, policy development, supervision, reporting and investigative processes, appropriate discipline, and community outreach/partnerships.

POLICY

I. Definitions

"Biased Policing" conduct by law enforcement officers motivated by an individual's actual or perceived or self-identified personal characteristics.

"Personal characteristics": May include but is not limited to actual or perceived identity, race, ethnicity, national origin, color, gender, sexual orientation, gender identity, marital status, mental or physical disability, age, religion and socio-economic status.

"Immigration status": Generally refers to the legal rights, if any, of a non-citizen to enter or remain in this country. Examples include, without limitation, "lawful permanent resident," "temporary worker," "refugee," and "undocumented."

“Reasonable suspicion”: Suspicion, for which an officer can articulate factual reasons, does not need to rise to the level of probable cause.

“Probable cause”: Facts or circumstances that would lead a reasonable person to believe that a crime has been committed, or is being committed, or is about to occur.

“Member” or “employee”: any employee employed by the Richmond Police Department, regardless of their assigned tasks or duties.

“Federal immigration authorities”: federal agencies, departments, or employees or contractors thereof, tasked with enforcement of immigration law and border entry, including without limitation, the Department of Homeland Security (DHS), Immigration Control and Enforcement (ICE), and U.S. Customs and Border Patrol (CBP).

II. Policing Impartially

A. As required by law, all enforcement actions by law enforcement officers, such as investigation, detentions, traffic stops, arrests, searches and seizures, etc. must be based on reasonable suspicion, probable cause or relevant exigent circumstances, supported by articulable facts, circumstances, and conclusions that support the given action.

B. Richmond Police Department members may take into account reported race, ethnicity or other personal characteristics of persons based on credible, reliable, locally relevant, temporally specific information that links a person of specific description to particular criminal incidents and is combined with other identifying information.

C. Under federal and state law, law enforcement agencies are required to provide qualified interpretation services, either in person or telephonically, to any person in need of it. Richmond Police Department members shall not contact federal immigration authorities for interpretation services, unless a clear emergency requires it and qualified interpretation services are not available through any other means. Unless one of the exceptions included in Section VIII applies, the Richmond Police Department members shall not ask about the immigration status of the person for whom interpretation is sought.

III. Community Relations

To cultivate and foster transparency and trust with all communities each Richmond Police Department member shall do the following when conducting pedestrian and vehicle stops or otherwise interacting with members of the public unless circumstances indicate it would be unsafe to do so:

- a) Be courteous and professional;
- b) Introduce him/herself to person (providing name and agency affiliation), and state the reason for the stop as soon as practicable unless providing this information will compromise officer or public safety, or a criminal investigation;
- c) Ensure that a detention is no longer than necessary to take appropriate action for the known or suspected offense and the Richmond Police Department member conveys the purpose of the reasonable delays;
- d) Provide Richmond Police Department member’s name verbally when requested. Richmond Police Department members may also provide the information in writing or on a business card;

- e) In addition to the above, officers should answer relevant questions the person may have if doing so will not compromise safety and/or the investigation.

IV. Responding to Bias-Based Reports or Reports Regarding Bias from the Community

- A. If any Richmond Police Department member receives a call for service that appears to be based solely on an individual's perceived personal characteristics or immigration status, the Richmond Police Department member will attempt to ascertain if there are other circumstances or facts that would constitute reasonable suspicion or probable cause. If the complainant can offer no further information, the complainant will be advised that the shift supervisor will be in contact at the first opportunity.
- B. The shift supervisor should attempt to familiarize the caller with the Richmond Police Department's Fair and Impartial Policing policy. If the caller is concerned about the person's perceived immigration status, the caller should be referred to federal authorities.
- C. At the conclusion of the call, the shift supervisor will document the contact using The Richmond Police Department's incident report system.
- D. If a Richmond Police Department member receives a report of a potentially biased or hate-motivated incident, the Richmond Police Department shall either dispatch an officer to evaluate the complaint or refer the caller to the officer in charge.

V. Training

- A. The Richmond Police Department will ensure that, at a minimum, all members and employees are compliant with Town and Vermont Criminal Justice Training Council and legislative requirements regarding fair and impartial policing training.
- B. Additional trainings may include but not be limited to instruction on anti-bias, power and privilege, non-English speaking communities, undocumented communities, and victim/witness services.

VI. Accountability and Compliance

- A. The process for making a complaint shall be readily available to the public. Reasonable efforts should be made to accommodate language barriers.
- B. All Richmond Police Department members are required to promptly report allegations, complaints or knowledge of biased policing or suspected violations of this policy to their supervisor and the department's internal investigation function. Where appropriate, employees are required to intervene at the time the biased policing incident occurs.
- C. State law requires all Vermont law enforcement agencies to conduct valid investigations of alleged biased law enforcement, even if the named member or employee resigns. Effective 7-1-2018, the Richmond Police Department is required to report to the Criminal Justice Training Council instances in which officers have willfully engaged in biased law enforcement or substantially deviated from policies prohibiting such enforcement. The regulating authority may, in turn, impose sanctions up to revocation of

officers' certification.¹

D. Violations of the policy shall result in appropriate disciplinary action as set forth in the Richmond Police Department's rules and regulations. Supervisors shall ensure that all employees in their command are familiar and in compliance with the content of this policy. Supervisors will be alert for and respond to indications of potential biased policing.

VII. Establishing Identity

A. Richmond Police Department members may make attempts to identify any person they detain, arrest, or who come into the custody of the Richmond Police Department.

B. Acceptable forms of identification, which must include a photograph of the individual, include, but are not limited to; driver's licenses from any U.S. state or foreign country, government-issued IDs by a U.S. jurisdiction, foreign passports, and consular ID cards. All identification is subject to reasonable scrutiny and follow-up for authentication consistent with the provisions of this policy.

C. An individual shall not be stopped or detained solely for the purpose of establishing his or her identity. However, if the individual has already been stopped for a lawful purpose, he or she may be subject to objectively reasonable additional detention in order to establish identity (e.g., inquiry into identity during the course of a lawful traffic stop).

D. In exercising their discretion to use federal resources to establish an individual's identity, Richmond Police Department members should remain mindful that (1) their enforcement duties do not include civil immigration enforcement and (2) The Richmond Police Department stands by its mission to serve all Vermonters, including immigrant communities, and to ensure trust and cooperation of all victims/witnesses. Contact with federal authorities made to determine an individual's identity is restricted to the purpose of determining his or her identity.

Due Process, Immigration and Citizenship Matters

VIII. Federal Civil Immigration Law: Stops, Detention, Arrests and Administrative Warrants/Detainers

Richmond Police Department members do not have authority to enforce federal civil immigration law. The Constitution's Fourth Amendment and the Vermont Constitution's Article 11 right against unreasonable search and seizure apply equally to all individuals residing in and traveling through Vermont.

A. Richmond Police Department members will not inquire of a person about that person's immigration status unless it is necessary to the ongoing investigation of a criminal offense which must be based on reasonable suspicion, probable cause or relevant exigent circumstances, supported by articulable facts, circumstances, and conclusions. Agency members shall not use individual personal characteristics to ask about or investigate immigration status.

B. Richmond Police Department members shall not facilitate the detention of undocumented individuals or individuals suspected of being undocumented by federal

¹ VT Act 56 (2016), codified in 20 V.S.A. § 2402(2) (biased enforcement as Category B unprofessional conduct), § 2403 (duty to report to Council), § 2404 (duty to investigate) and § 2406 (Council-issued sanctions).

immigration authorities for suspected civil immigration violations. See Section XI below.

C. Richmond Police Department members shall not initiate or prolong stops for the purpose of enforcing civil immigration matters, such as suspicion of undocumented status, nor shall they prolong stops for the purpose of allowing federal immigration authorities to conduct such investigation.

D. Richmond Police Department members shall not arrest or detain any individual based on an immigration "administrative warrant" or "immigration detainer." These documents have not been issued or reviewed by a neutral magistrate and do not have the authority of a judicial warrant. In addition, these documents do not meet the probable cause requirements of the Fourth Amendment and Article 11 of the Vermont Constitution.

E. Richmond Police Department members shall not hold for, or transfer people to, federal immigration agents unless the federal agents provide a judicial warrant for arrest. An immigration detainer is not a warrant and is not reviewed by a judge, and therefore is not a lawful basis to arrest or detain anyone. Valid criminal warrants of arrest, regardless of crime, shall not be confused with immigration detainers. This provision does not affect the proper handling of arrests and detentions associated with judicially-issued criminal arrest warrants.

F. Personal characteristics and/or immigration status, including the existence of a civil immigration detainer, shall not affect the detainee's ability to participate in pre-charge or police-initiated pre-court processes such as referral to diversion or a Community Justice Center. Furthermore, personal characteristics and/or immigration status shall not be used as criteria for citation, arrest, or continued custody under Rule 3 of the Vermont Rules of Criminal Procedure.

IX. Federal Criminal Law: Border Crossings

Richmond Police Department employees shall not make warrantless arrests or detain individuals on suspicion of "unlawful entry," unless the suspect is apprehended in the process of entering the United States without inspection.

X. Victim and Witness Interaction

The cooperation of immigrant communities is essential to prevent and solve crimes and maintain the safety and security of all residents. The following provisions are intended to support crime victims/witnesses and enhance trust between the police and community.

A. Richmond Police Department members shall not ask about or investigate immigration status of crime victims/witnesses, except as allowed in subsections (b) and (c) below. Federal law does not require law enforcement officers to ask about the immigration status of crime victims/witnesses.

B. To effectively serve immigrant communities and to ensure trust and cooperation of all victims/witnesses, Richmond Police Department members will not ask about, or investigate, immigration status of crime victims/witnesses unless information regarding immigration status is an essential element of the crime (such as human trafficking).

C. If a victim/witness is also a suspect, Richmond Police Department members should follow the provisions in Section VII related to stops, detention and arrest and Section VIII (a) related to ongoing criminal investigations.

D. Richmond Police Department members will ensure that individual immigrants and immigrant communities understand that full victim services are available to documented and undocumented victims/witnesses. Richmond Police Department members should communicate that they are there to provide assistance and to ensure safety, and not to deport victims/witnesses. Richmond Police Department employees shall not share information about crime victims/witnesses with federal immigration authorities, unless it is with the individual's consent or immigration status is an essential element of the crime (such as human trafficking).

E. Richmond Police Department members may, in appropriate situations, advise an individual that if they are undocumented they may be eligible for a temporary visa².

XI. Collaboration with Federal Immigration Officers

A. No information about an individual shall be shared with federal immigration authorities unless necessary to an ongoing investigation of a felony, for which there are reasonable facts to support it, and the investigation is unrelated to the enforcement of federal civil immigration law. Such information includes but is not limited to the individual's custody status, release date/time, court dates, whereabouts, residence, employment, identification numbers, appearance, telephone number, and familial relations.

B. Sweeps intended solely to locate and detain undocumented immigrants without reasonable suspicion or probable cause of a crime shall not be conducted unless acting in partnership with a federal agency as part of a formal agreement entered into by the governor.

C. Richmond Police Department members are not permitted to accept requests by ICE or other agencies to support or assist in operations that are primarily for civil immigration enforcement.

D. Unless ICE or Customs and Border Patrol (CBP) agents have a judicially-issued criminal warrant, or Richmond Police Department members have a legitimate law enforcement purpose exclusive of the enforcement of civil immigration laws, Richmond Police Department members shall not grant ICE or CBP agents access to individuals in Richmond Police Department's custody.

² For example, an individual might qualify for a US, or T visa if they are a victim or material witness to certain serious offences.

Dated at Richmond, Vermont this 19th day of January, 2021, effective upon passage.

David Sander: _____
Signature

Bard Hill: _____
Signature

Roger Brown: _____
Signature

Katie Mather: _____
Signature

Christine Werneke: _____
Signature

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