

May 21, 2026

Chief Matthew Cohen
Richmond Police Department
203 Bridge St.
Richmond, VT 05477

RE: Richmond PD Fairness in Policing Policy

Dear Chief Cohen:

As Associate General Counsel for the VCJC, I was asked to review the Richmond Police Department's Fairness in Policing Policy, to determine whether it was in compliance with the present statewide policy. While I am still awaiting a response from Assistant Attorney General Julio Thompson regarding his review of your FIP policy (see 20 V.S.A. § 2366(b) ("The Criminal Justice Council, in consultation with the Office of the Attorney General, shall review the policies of law enforcement agencies and constables required to adopt a policy pursuant to subsection (a) of this section, to ensure those policies comply with subdivision (a)(1) of this section.")), I want to give you my preliminary conclusions.

As I reviewed your policy side-by-side with the statewide policy I noted the following things:

1. Page 2, PURPOSE section, last sentence in that section reads, "Nothing in the Richmond Police Department Fair and Impartial Policing policy is intended to violate federal law." There is no corresponding language in the model policy.

This is not a compliance issue, as the clarifying language does not conflict with the model policy.

2. Page 4, Section II(c). This section in the Richmond policy appears to combine language from both Section II(c) and II(d) of the Model Policy into one subsection, and omits the exception language in subsection II(d) of the Model Policy.

This section in the Richmond FIP Policy specifically omits the following exception language from Model Policy Section II(d), "except that criminal liability for offenses where one's citizenship, or immigration status, is an essential element is a factor that may be considered in a Rule 3 determination." Richmond's policy also omits subsections 1 and 2 of the Model Rule Section II(d) which serve to more fully explain this subsection.

The omission of the exception and subsection 1 giving an example of how the exception to the prohibition in Section II(d) would work is not a compliance issue. See 20 V.S.A. §2366(a)(1) ("Such agencies and constables may include additional restrictions on agency members' communication and involvement with federal immigration authorities or communications regarding citizenship or immigration status."); see also Model Policy p. 2, PURPOSE ("[Agency] may adopt additional components.").



Likewise, the omission of subsection 2 under Model Policy Section II(d) is not a compliance issue, as it is a restatement of policy protocols better described in Section V.

3. Page 6, Section V(b), Richmond's policy omits the following language from the Model Policy, "...unless such actions are (1) necessary to ensure public safety or officer safety (imminent risk of physical injury to subject, officer, or third party) or (2) integral to the investigation of criminal offenses unrelated to immigration law."

While removing these exceptions are not a compliance issue (See 20 V.S.A. §2366(a)(1)), their omission can limit the flexibility of Richmond police officers to take lawful enforcement action consistent with Vermont law and the model policy. I would encourage you to reconsider the omission of these exceptions in your policy.

4. Page 6 Section V. The entirety of Section V(c) of the model policy is omitted from Richmond's FIP policy.

This is a compliance issue. Section V(c) of the model policy reads as follows:

- c. The following do not on their own establish reasonable suspicion of a criminal offense and are not sufficient to warrant an investigation:
 1. Personal characteristics, including Limited English Proficiency
 2. Citizenship or Immigration status,
 3. Presence in the United States without authorization or formal documentation, and
 4. Proximity to the border.

These elements in combination with others may contribute to reasonable suspicion. As noted in Section II(b), personal characteristics may be taken into account only where there is 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.

The omission of this language is a serious issue and places Richmond's FIP Policy out of compliance with the statewide model policy. This language provides important guidance to officers about what information, on its own, fails to establish reasonable suspicion that could lead to officers making unlawful stops based on improper criteria.

Based on the numbering scheme of Richmond's FIP policy, it is my belief that this was mistakenly omitted, rather than deliberately omitted from the policy. The fact that Richmond's Section V goes from subsection (b) to (d) leads me to this hypothesis. However, whether inadvertent or deliberate, the omission of Section V(c) places Richmond's policy out of compliance. That language, or substantially similar language, needs to be included in Richmond's policy.

5. Page 7, Section V(d), Richmond's policy omits the following note, "As explained in Section VI. below, federal immigration law permits a narrow category of voluntary communications with federal immigration authorities — *i.e.*, those regarding citizenship or immigration status."

This is not a compliance issue, as the note is explanatory rather than a required directive. Richmond's policy merely loses the context the note provides.

6. Page 7, Section VI(a), Richmond's policy omits the identification and explanation of two federal statutes, 8 U.S.C. §§ 1373 and 1644.

This is a compliance issue. While the model policy does not explicitly permit police officers to communicate with federal immigration authorities, the language regarding federal law correctly indicates that officers may voluntarily communicate with immigration authorities even if their agency's policy discourages such communication. This language is deemed necessary to ensure compliance with both those two federal statutes and Vermont state law. See 20 V.S.A. § 2366(f) ("Nothing in this section is intended to prohibit or impede any public agency from complying with the lawful requirements of 8 U.S.C. §§ 1373 and 1644. To the extent any State or local law enforcement policy or practice conflicts with the lawful requirements of 8 U.S.C. §§ 1373 and 1644, that policy or practice is, to the extent of the conflict, abolished.").

The failure to include this language could leave Richmond officers with an incorrect understanding of their rights under federal and state law. Moreover, the omitted language gives guidance to officers as to what types of information can and cannot be shared with federal immigration authorities. Its omission could cause officers to share information that should not be shared. At best, Richmond's policy is misleading as it provides guidance on this important communication issue.

The omission of the language surrounding 8 U.S.C. §§ 1373 and 1644 in Section VI(a) from the model policy places Richmond's policy out of compliance. That language, or substantially similar language, needs to be included in Richmond's policy to be compliant.

7. Page 7, Section VI(c), Richmond's policy omits subsections 1. and 2. which provide guidance on how officers should interact with federal immigration authorities in regard to individuals in police custody. Richmond's policy also omits a comment regarding focusing on state and local law enforcement instead of civil immigration maintains community confidence in the police department.

This is a compliance issue. By omitting subsection 1. In Section VI(c), Richmond's policy puts officers at risk of liability under 18 U.S.C. § 111 – Assaulting, resisting, or impeding certain officers or employees, which prohibits anyone from opposing, impeding, or interfering with a federal officer. Without the balancing explanation contained in subsection 1., officers might mistakenly believe that the language of the Richmond policy, namely, "Richmond Police Department members who have an individual in their custody shall not grant or otherwise facilitate immigration authorities' access to the individual" would require those officers to impede or otherwise obstruct federal immigration officials from interacting with individuals.

Subsection 2 is critical as it provides significant guidance as to how to interact directly with immigration officials seeking access to individuals in police custody, emphasizing that while they are not interfering, they are prioritizing their criminal law enforcement function over any federal civil action the immigration official chooses to take.

While I believe the Comment that follows subsection 3. contains useful guidance for officers, the comment is explanatory and not directory, so its omission does not impact Richmond's policy. However, the omission of subsections c.1. and c.2. from Section VI. from the model policy places Richmond's policy out of compliance. That language, or substantially similar language, needs to be included in Richmond's policy to be compliant.

8. Page 9, Section VI(d)(7) in Richmond's policy modifies the language from the model policy to be more restrictive as to when Richmond officers may share any information with federal immigration authorities.

The model policy permits officers to share information about individuals under the following exceptions:

- a. Public safety or officer safety (articulable risk or physical injury to subject, officer, or third party), and state and local authorities are unable to provide urgent assistance in time; or
- b. Law enforcement needs that are not related to the enforcement of federal civil immigration law (e.g., individual may be a human trafficking victim, a crime victim, or witness entitled to a T, U, or S visas).

See Model Policy Section VI(d)(7), p. 10. In Richmond's policy, these exceptions are more restrictive, entirely omitting the first exception regarding public safety or officer safety, and dividing the second exception into two separate exceptions, to wit: investigation of a felony unrelated to civil immigration enforcement, and with the individual's consent to obtain a U, S, or T visa.

While the omission of the public/officer safety exception is concerning from operational standpoint, this modification is not a compliance issue. As stated previously, law enforcement agencies are expressly permitted to include additional restrictions on communication with federal immigration authorities (See 20 V.S.A. §2366(a)(1)). Therefore, these modifications of model policy language are acceptable under the law.

Conclusion

In conclusion, it is my preliminary assessment that the Richmond Fairness in Policing Policy is **not compliant** with the statewide model FIP policy. Per 20 V.S.A. §2366(b), the Council is ready and willing to work with your department to bring your FIP policy into compliance. We look forward to discussing this matter further. If you have any questions about any of the analysis or observations listed above, please do not hesitate to contact me.

I would like to hear back to you no later than June 26, 2026, regarding this matter, so we can resolve this without further delay. In the meantime, until the Richmond Fairness in Policing Policy is brought within compliance of the statewide model policy, Richmond Police are deemed to have adopted and must follow the Council's model policy. See 20 V.S.A. §2366(b).

I also wanted to bring to your attention that your website contains a copy of the outdated FIP policy at the following address:

<https://www.richmondvt.gov/fileadmin/files/Archive/2014/03/Richmond-Police-Policy-on-Fair-and-unbiased-Policing.pdf>

I would recommend removing this from your website to avoid confusion from anyone who is looking for your current FIP policy.

Thank you for your prompt attention to this matter. I look forward to hearing from you soon.

Sincerely,



Christopher E. Perkett, Esq.
Associate General Counsel