

May 24, 2021

SENT VIA EMAIL TO:

Bennington Select Board
Bennington, VT

Re: The Proposed Task Force Will Not Lead to Meaningful Police Oversight or Meaningful Change in Bennington Policing



PO Box 277
Montpelier, VT 05601
(802) 223-6304
acluvt.org

William Boyd
President

James Lyall
Executive Director

Chair Jenkins and the Esteemed Members of the Bennington Select Board:

Thank you for inviting us to comment on the proposed task force. The Rutland Area NAACP and American Civil Liberties Union of Vermont (ACLU-VT) write with great concern for the future of public safety in Bennington. The community has a clear choice: to create a meaningful police accountability mechanism to ensure its policing procedures and practices accord with civil liberties and civil rights (at a minimum), or to continue supporting the biased, divisive, and harmful policing actions that have plagued the town for many years. As described in detail below, the proposed task force is deeply flawed, including the lack of meaningful charge or stakeholder inclusion. For these reasons, among others, we oppose the proposal as crafted. After reviewing the current proposal, our organizations question the commitment of Bennington's current leadership to establishing a genuine system of police accountability.

The Proposed Task Force is Unnecessary and Squanders Valuable Time

While we recognize the value of gathering input from a variety of sources, the Select Board cannot delegate its responsibility to create a police accountability board to a group of volunteers and police officers. In addition, the Select Board has already examined police oversight models and acted as an interim oversight body for the last year. Creating a volunteer task force to reexamine the issues yet again is unnecessary.

Community member concerns and public findings related to Bennington police tactics have repeatedly described racially-biased and willfully harmful practices. Racial disparities in Bennington traffic stop data continue unabated. The Select Board has heard from townspeople advocating for civilian control and police oversight models on numerous occasions. Ample information on how to create a meaningful oversight body is readily available from the National Organization for Civilian Oversight of Law Enforcement NACOLE, among other organizations.

Further delay in establishing actual civilian oversight, as envisioned in the proposed task force timeline, is unacceptable. It has already been over a year

since the International Association of Chiefs of Police (IACP) recommended the creation of a civilian oversight board. Leaving that recommendation unfulfilled for another year evinces a troubling lack of urgency to address the serious civil liberties and civil rights violations committed by Bennington’s police department.

The proposed task force is already an outgrowth of the Select Board’s “community policing” workgroup. The Select Board should survey the multitude of available oversight models and move swiftly to create a community control of policing board with meaningful oversight authority.¹

The Proposed Task Force Lacks a Meaningful Charge

As proposed, the Task Force is charged with developing recommendations for the name, scope, structure, membership, and responsibilities of a future community board—providing four general areas of consideration: police training recommendations, reviewing complaints, developing and reviewing some Bennington police policies, and analyzing police data. The proposal’s introduction frames the responsibilities of the eventual community board as “likely” including the same four generic responsibilities. The proposed task force charge is far too open-ended to ensure that genuine police oversight or control will result. As detailed in the attached ACLU-VT recommendations, oversight requires a community board to have, at a minimum, subpoena power, independence, funding, diverse membership, transparency, and policymaking authority. None of these are required by or even discussed in the current proposal.

The Proposed Task Force Process is Unduly Onerous and Fails to Include Those Most Impacted by the Police Department’s Harmful Tactics

IACP’s report states that:

“Some community members, particularly members of diverse populations, feel that if they make a complaint to the police—even in cases where they’re the victim of crime—(sic) they are told by the responding officer and the department that they will become the target of the criminal investigation. Interviews with community members and focus groups suggest that this perception seems to be most prevalent among people who are economically marginalized, LGTQIA+, or members of racial or ethnic minority groups, and those who experience mental illness or are homeless.”

The requirement that each task force member receive 7.5 hours of “criminal justice training,” before doing any actual task force work, will make it difficult for the most impacted, such as the economically marginalized and homeless, to participate. While

¹ Enclosed you will find the ACLU of Vermont’s review of necessary oversight powers, as well as a detailed memorandum from the City Attorney of Burlington, which recently conducted a similar survey of oversight models. As you may know, NACOLE also has numerous public documents assessing oversight models and evidence related to accountability outcomes.

ability to attend volunteer meetings varies widely, an inclusive process must attempt to allow a diverse cross-section of the most impacted Benningtonians the opportunity to contribute. By requiring “criminal justice training” of dubious value,² more members of the community interested in doing the task force’s work and who are most impacted by harmful Bennington police tactics will be less likely to join. The proposal does not include any mention of provided-for childcare, transportation support, expected duration or dates of meetings, or a general time commitment expectation, again making it less likely that a diverse cross-section of residents will participate.

Furthermore, as envisioned, the task force includes 13 vague categories of people. At the outset, the inclusion of anyone with law enforcement experience on a task force meant to create a police accountability board is likely to create a conflict of interest that will weaken accountability proposals.

Most importantly, the explicit inclusion of **one** BIPOC community member on the board is tokenism at its worst. It is well-known that the Select Board is engaging in this process because of a multitude of complaints and ongoing concerns about racially-biased policing in Bennington, in addition to the IACP’s recognition that a diverse group of marginalized Benningtonians feel that they cannot trust their police. To provide one seat out of thirteen to a Black, or Indigenous, or other Person of Color (BIPOC) insults the efforts of Black residents who have attempted, for years, to create a meaningful accountability mechanism. Any task force or board must include the local NAACP, multiple Black Bennington residents, and delegates of other racial justice groups and advocates, among other most impacted Benningtonians such as the unhoused and economically marginalized. Without a membership that includes the most impacted, the task force will lack legitimacy and will not contribute to the movement for badly needed oversight and accountability in Bennington.

Conclusion

Thank you for the opportunity to comment on the task force proposal. We hope the Select Board will reconsider its course and move swiftly to propose a meaningful accountability board with the necessary powers. Please do not hesitate to contact us with any questions via email at jdiaz@acluvt.org and president@naacprutland.org.

Sincerely,

Mia Schultz
President

² We question the value and appropriateness of having training on the criminal justice system’s “goals, agencies and institutions” and training on the Bennington Police Department’s practices provided by the Bennington Police Department. Including a training by the Bennington Police Department privileges police perspectives and the proposal does not include similar trainings on the need for and variety of civilian oversight models, the history of racial disparities in Bennington policing, legal standards of constitutional policing, etc.

Rutland Area NAACP

Jay Diaz, Esq.
Senior Staff Attorney
ACLU-VT

Enclosures