

July 13, 2020

Sent Via Email

Mayor Smith and St. Albans City Council
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Julie Kalish
President

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Mayor Smith and Esteemed Members of the St. Albans City Council:

Since earlier this year, the ACLU of Vermont has been in discussion with the St. Albans Police Department and city manager on issues of police reform. The ACLU of Vermont writes to communicate our appreciation for the work done and inform you of changes that must still occur, at a minimum, to prevent needless harm to St. Albans community members.

In February, we reviewed several proposed changes to SAPD policies. Below are three substantive comments on those proposals:

1. Response to Resistance: Since reviewing the updated use of force policy in February, we have not heard of any additional changes. At the time we recommended the inclusion of “de-escalation” requirements with specific directions or definitions to help officers determine when and how to de-escalate. Although de-escalation may be SAPD practice, and although it does not ensure unnecessary use of force will not be applied, we would be encouraged if the SAPD policy formally included a section on de-escalation. We also recommend that the use of force standard be changed to one of “necessary force” after de-escalation has been attempted, where at all feasible, and limits or bans on lethal force in specific situations, such as against moving vehicles. Many other departments across the country have such policies. We can provide examples upon request.
2. ECWs/Tasers: We are glad to see that the Taser policy has changed to ensure that Tasers are only used when an officer faces active aggression. However, in describing the reporting requirements, the policy should note that troopers are legally required to complete the Act 180 form for each instance. It can be found here: <https://vcjtc.vermont.gov/sites/vcjtc/files/files/forms/CEW-Form.pdf>.

3. Detainee Policies and Procedures: We believe it is inhumane to handcuff a person in a holding cell to a fixed object in the cell unless there is a demonstrated safety need to do so. In addition, detained individuals are protected by the 14th Amendment from punishment. SAPD policy should clarify the rights of detainees in this regard to prevent unlawful uses of force or other punitive measures in St. Albans holding cells.

In addition, the ACLU of Vermont has a 10-point plan for police transformation in Vermont. The plan is enclosed with this letter. Below are some of the plan's recommendations, with additional detail, that St. Albans can and should adopt:

1. Prioritize divesting from policing and investing in community services. Such actions include providing community resources to non-police organizations to be first responders re: mental health, homelessness, addiction, noise complaints, resident disagreements, environmental concerns, parking enforcement, and other petty issues. Police should only be directly involved where serious threats of violence require the engagement of public employees with weapons. Many pilot programs and approaches exist in Vermont and around the country;
2. Pass an ordinance preventing the municipality from asserting a defense of qualified immunity in civil cases against its officers;
3. Remove police from schools because the presence of "school resource officers" (SROs) disproportionately harms students of color, students with disabilities, and low-income students;
4. Ban use of military-grade equipment and techniques such as no-knock raids;
5. Ensure meaningful accountability through the appointment of an independent commission with ultimate control over police discipline decisions and policy, at least regarding use of force;
6. Ensure accountability for police in collective bargaining agreements and prevent them from contracting away meaningful accountability;
7. Increase transparency for police misconduct by 1) ending confidentiality for officer disciplinary records, 2) require regular incident and race data collection, analysis, and publication across a range of policing issues such as use of force and stops, 3) adopt body camera policies in line with ACLU model policy;
8. Ban consent seizures and searches.

Regarding training, we look forward to an update on when in-person de-escalation training will commence. After our February meeting, two trainings were scheduled, but I believe the in-person training was postponed due to Covid-19. In addition, we also believe regular training on the rights and procedures regarding detainees is warranted.

Finally, at our meeting in February, we discussed sharing data on use of force incidents from the last two years. We look forward to that data being made available to us and the broader public.

We look forward to further engagement with St. Albans and are happy to answer questions regarding our recommendations.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay Diaz", with a horizontal line drawn through it.

Jay Diaz
Senior Staff Attorney