

Assessment of the Bennington Police Department Policy and Procedures

Prepared for the Town of Bennington, Vermont

Bennington Police Department Assessment

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Acknowledgments

We thank the town officials and the rank-and-file officers who have cooperated with this study and provided us with insights into the operation of the police department. We found many Bennington police officers and other Town employees to be dedicated public servants who strive each day to lawfully perform their duties with respect for all members of the Bennington community. The importance of their often-selfless work cannot be overstated.

We also appreciate the members of the Bennington community who met with us to share their experiences. It became clear during our many conversations with Bennington residents from throughout the town that many residents genuinely embrace the Bennington Police Department and want to be a more inclusive and united community.

Bennington Police Department Assessment

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Contents

Executive Summary.....	i
Summary of Key Findings	ii
Introduction	1
Primary Data Sources and Methodology	1
Study Phases.....	3
How to Use This Report.....	4
Section I: Policing Environment Report	5
Town of Bennington Overview and Service Population Demographics.....	5
Bennington Police Department Overview.....	6
Crime in Bennington.....	7
Key Themes and Findings	8
Recommendations.....	13
Section II: Assessment of the Community-Police Relationship and Community Policing Initiatives.....	15
Key Themes and Findings	16
Recommendations.....	22
Section III: Trust, Legitimacy, and Procedural Justice	25
Community Policing Efforts as an Element of Procedural Justice.....	26
Role Ambiguity Is Impeding the Mission of the Department and Interactions with the Community .	28
Focus on Guardian Mentality to Establish a Culture of Procedural Justice	29
BPD Should Engage in More Strategic and Operational Partnerships to Manage Critical Public Safety Problems.....	30
Recommendations.....	33
Section IV: Policy Review.....	35
Gaps in Existing Policy	37
Key Finding	40
Recommendations.....	41
Conclusion.....	43
Attachment A: Action Plan.....	45

List of Tables

Table 1. Uniform Crime Reporting, Known Offenses for 2014-2018..... 7
Table 2. Perceptions of Trust and Procedural Justice (n=375) 27

List of Figures

Figure 1. Violent Crime 2014-2018 7
Figure 2. Serious Crimes Against Property 2014-2018 8
Figure 3. Degree of Ease for Community Members to Provide Input to BPD 18
Figure 4. Extent to Which BPD Regularly Communicates with Community Members..... 20
Figure 5. Extent to Which BPD Develops Relationships with the Community 31

Executive Summary

Building trust between law enforcement agencies and the communities they serve is an essential component in community-police relations. When people view those charged with enforcing the law as legitimate, they are more likely to obey the law. Legitimacy does not simply stem from statutory authority; instead, it is conferred upon those who are viewed as acting in procedurally just ways. For law enforcement, part of that is carrying out their responsibilities according to established policies and procedures that not only reflect their community values—but are also free from bias, implicit or otherwise.

In September 2019, the Town of Bennington contracted with the International Association of Chiefs of Police (IACP) and its partner, the Lawyers' Committee for Civil Rights Under Law, to review the policies and procedures of the Bennington, Vermont, Police Department (BPD). Throughout this assessment, the IACP team collected a variety of data, including interviews with town officials, approximately half of BPD's sworn officers, and members of the Bennington community. The team collectively spent approximately 30 days onsite in Bennington. During this time, the project team participated in ride-alongs with on-duty officers and reviewed police records, policies, and other electronic materials provided by the department. Finally, two surveys were administered. The first survey was administered to the Bennington community and was widely advertised by the town, including through print and electronic media via the local newspaper. A separate workforce survey was sent to the Bennington Police Department.

While the team did review data on stops, searches, citations, and arrests, it was not within the scope of this assessment to engage in significant workload analytic strategies to identify efficiency improvements in terms of operations or budget. The singular focus for this study was to determine whether there was evidence of policies, procedures, or operational practices within the police department that created opportunities for unfair, discriminatory, or biased policing activities. As in all IACP's studies, the team sought to engage the local community, conducting in-person and telephone interviews of individuals who reside in Bennington or who have had interactions with the police department. The project team also contacted several community groups and advocacy organizations and met with each group that responded. The IACP is mindful of the sensitive nature of this assessment. As a matter of respect of confidentiality and privacy toward those community members who met with members of the team, including individual officers, only aggregate or redacted information will be referred to throughout this report with the exception of elected or appointed leaders in the community or Bennington Police Department.

Summary of Key Findings

Based on data collected throughout the process, Bennington's law enforcement practices appear to be shaped by a tactical enforcement approach. Similar enforcement-based approaches have created challenges for law enforcement agencies and can contribute to a pattern of fear of retaliation for certain segments of the community. Whether this is factual or misperception, this practice can lead to due process concerns and create unnecessary fear of harm to members of the community. Bennington was unable to provide full and detailed data, policies, and vision and mission statements that clearly address bias-free practices; economic or past criminal record(s); and gender, sexual preferences, or racial disparities, which suggests that data collection, analysis, and dissemination processes need to be examined.

Over time, Bennington's police practices have sown deep mistrust between parts of the community and the department, undermining the agency's law enforcement legitimacy. This report identifies 25 recommendations designed to reduce harms or perceptions caused by the Bennington Police Department's law enforcement practices and bring about a better understanding of police actions that are supported by evidence-based practices. The findings and recommendations have been organized around four key themes:

- The Policing Environment
- Community-Police Relationships
- Trust, Legitimacy, and Procedural Justice
- Policy

It is important to understand and recognize that the details concerning implementation may require modification or revision in order to meet departmental needs. Any proposed implementation suggestions are one possible method for accomplishing the stated goal, and, understandably, the Bennington Police Department may need or choose to take a different approach for a variety of reasons. A suggested action plan has been included in [Attachment A](#) with suggested steps, time frames, and outcomes and measurements for the Bennington Police Department and the Town of Bennington.

Introduction

In September 2019, the Town of Bennington, Vermont, contracted with the International Association of Chiefs of Police (IACP) to conduct a systematic evaluation of the Bennington Police Department's (BPD) operational policies and practices. More specifically, this study focused on doing the following:

- Positioning BPD to sustain a safe and secure community
- Evaluating police services dedicated to integrity, responsiveness, accountability, justice, and public trust
- Sustaining creative and constructive partnerships that build trust within the community, criminal justice system, town and county agencies, school districts, safety-relevant public and private sector interests, and advocacy organizations
- Employing contemporary policy and program strategies and innovations
- Maximizing return and value-added on investments
- Sustaining a safe and rewarding work environment for members of the department

In order to evaluate BPD's success in meeting these goals and positioning them for future success, the IACP team conducted an audit of operational policies and practices to

- determine how BPD compares to professional leading practices in contemporary policing;
- identify whether, if any, systemic racial bias is contained within department policies and practices;
- provide insight into the department's policies and practices as they relate to responding to bias-motivated incidents and possible hate crimes; and
- develop an action plan and recommendations for BPD as they move into the future and continue to serve the people of Bennington, Vermont.

Primary Data Sources and Methodology

A critical component of this assessment of the Bennington Police Department was to determine the current state of community-police relations, particularly concerning systemic racial bias, and offer recommendations to improve community-police relations in Bennington. In order to acquire a broad view of how the Bennington Police Department interacts with the community and engages in contemporary community policing strategies, a series of interviews with police

command staff, line-level police officers, and civilian support of the agency were conducted. Two public community listening sessions and several individual one-on-one meetings with key community stakeholders who included business owners, members of the Bennington Chamber of Commerce, and residents of Bennington (including oversampling of racially and ethnically diverse populations) were conducted. Four additional focus groups were convened with residents, business owners, and visitors to Bennington with particular attention paid to those areas and jurisdictions that border Bennington as those are the populations of people most likely to have contact with the department.

An email address was also created for individuals to share their input if they were uncomfortable speaking in a public setting, or to request and schedule one-on-one meetings with members of the team.

To be as fully inclusive and thorough as possible, the project team engaged in a series of interviews and focus groups with individuals invited from the following groups:

- Chief of police
- Police commanders
- Line-level officers
- Residents
- Members of civic and nonprofit organizations
- Various local organizations that provide social service support to the community

The goal of the interviews and focus groups was to better understand the degree of effectiveness in which the Bennington Police Department engages with the community, incorporates the principles of community policing, and manages implicit and explicit bias in policing. These interviews followed a script and protocol. However, to the extent possible, particularly concerning private citizens and line-level employees, personally identifiable information has been redacted in this report to protect the privacy and confidentiality of participants.

A survey was widely distributed to the Bennington community that resulted in responses from 404 participants—approximately three percent of the overall Bennington community. The typical respondent was a white, non-Hispanic female, who identifies as Christian, Catholic, or non-religious and is between the ages of 45 and 54 years.

Finally, the project team also analyzed publicly available data such as traffic and stop data available through the Crime Research Group to supplement or corroborate information provided by the Bennington Police Department.

Data Coding and Analysis

All data, information from focus groups and individual interviews, were subjected to a process to fracture and reassemble the data using a thematic analysis procedure in order to remove, to the extent possible, the risk of researcher bias or predetermined conclusions given the public nature of the concerns surrounding this assessment. By using a deductive coding procedure, followed by thematic analysis of the coded data, the risk of bias was significantly reduced while still allowing the meaning and significance of perceptions of key stakeholder groups to be expressed.

Study Phases

The study was conducted in four broad phases. Phase I was devoted to collecting information about the operations, procedures, culture, and climate of the Bennington Police Department. Documentation that was gathered and reviewed included but was not limited to policy statements, rules and regulations, and other written documents related to organizational and government structure, the policing environment in Bennington, budget documents, staffing documentation, and community policing and community engagement.

Phase II concentrated on analysis and evaluation of data, distribution, collection, and analysis of data from a community survey, development of recommendations, and preparation of several drafts of our report. Evaluation involved comparison of police policies, procedures, and operations, with particular attention given to issues associated with bias-based policing and contemporary professional police standards. These standards were a composite of policies and practices identified by the IACP as the profession's leading practices including, but not limited to, model policies, case studies, and academic research. This phase also entailed the collection of supplementary data and clarification and corroboration of information previously obtained.

Phase III entailed the generation of preliminary findings. Reactions, comments, and suggestions that emerged were considered and, where appropriate, incorporated during Phase IV of the study: preparation of this final report.

How to Use This Report

Within this report, there are various tables and figures that validate and substantiate the observations of the team and the associated recommendations. Additionally, an icon has been inserted to readily identify recommendations.

 Indicates a recommendation

Section I: Policing Environment Report

Examining the policing environment is an essential prerequisite to informed judgement regarding policing culture, practice, policy, and operations. The geography, service population, economic conditions, workload, and resources in the Town of Bennington are salient factors that define and condition the policing requirements and can affect policy and operations. These factors are examined in this section.

Town of Bennington Overview and Service Population Demographics

The Town of Bennington is 36 square miles and located in southwestern Vermont bordered by New York State to the west. The population from the 2010 census data was approximately 15,764 with a population per square mile of 373.1. Of that population, 50.6 percent possess a high school education and 38.9 percent hold a bachelor's degree or higher.¹ Slightly over half (51.9 percent) of the population are women. Nearly 92.4 percent of the community are white, followed by Asian (1.6 percent), and other populations include, African American (1.3 percent), Native American (0.2 percent), Native Hawaiian or Pacific Islander (0.1 percent), who constitute the balance of the population. Approximately 3 percent of the community identify as Hispanic. Approximately 90 percent of residents are 16 years of age and older. The median age in Bennington is 42.8 years.²

The economic base of the town is rooted in health care and education. The Town of Bennington has invested in a robust strategy to attract and support small business development. The poverty rate reported in 2010 census was 16.2 percent, though poverty varies widely based on other demographic features such as race, ethnicity, and education. More current information indicates the poverty rate may be above the 20 percent mark,³ running counter to recent national trends. In 2018 the official poverty rate was 11.8 percent, down 0.5 percentage points from 2017 when the national average was 12.3 percent and down almost 3 percent from 14.8 in 2014. The unemployment rate is relatively high compared to the State of Vermont with Bennington

¹ Statistical Atlas, "Educational Attainment in the Town of Bennington, Bennington County, Vermont," <https://statisticalatlas.com/county-subdivision/Vermont/Bennington-County/Town-of-Bennington/Educational-Attainment>

² U.S. Census, "QuickFacts: Bennington Town, Bennington County, Vermont," <https://www.census.gov/quickfacts/fact/table/benningtontownbenningtoncountyvermont/INC110217>.

³ Data USA, "Bennington, VT," <https://datausa.io/profile/geo/bennington-vt>.

unemployment sitting at approximately 2.2 percent as compared to unemployment for the state at approximately 1.1 percent.⁴

There are approximately 6,200 households, 60.8 percent of which are owner occupied, and over 85 percent of residents have maintained their residence for one year or more. The average income is about \$47,000 a year and there are about 1,475 businesses in Bennington.⁵ The school system in Bennington includes three elementary grade schools, the middle school, and the high school. The schools operate a free and reduced lunch program, and school statistics indicate it serves about 88 percent of the school population.⁶ In addition to public school and primary education, the town is also home to Bennington College, a small private liberal arts college with an undergraduate enrollment of approximately 735 students. The economic situation in Bennington presents challenges for the community, and there are many initiatives underway to support business development and housing throughout the town. These challenges also impact the BPD.

The middle school and high school are unified schools serving surrounding communities, daily bringing additional people into the community. Also, Bennington is the center of government activity for Bennington County with all state courts, state office building/services, and central probation and parole office located in town. The regional medical center is also located in town with the corresponding medical providers located in the nearby hospital. Mental health services are provided by a nonprofit organization throughout the county, one of which is located adjacent to the hospital campus. These services drive and add challenges to BPD calls for services.

Bennington Police Department Overview

The Bennington Police Department is the largest police presence in Bennington County. BPD operates a 24/7 policing agency and consists of 26 sworn and 10 non-sworn members. The leadership of the agency consists of a chief of police, a lieutenant, and four sergeants.

⁴ U.S. Census, "QuickFacts," <https://www.census.gov/quickfacts/fact/table/benningtontownbenningtoncountyvermont/INC110217>.

⁵ U.S. Census, "QuickFacts."

⁶ Vermont Agency of Education, Child Nutrition Programs, *Annual Statistical Report: Percent of Students Eligible for Free and Reduced Price School Meals, School Year 2018-2019* (2019), 19, <https://education.vermont.gov/sites/aoe/files/documents/edu-nutrition-2019-free-reduced-eligibility-report.pdf>.

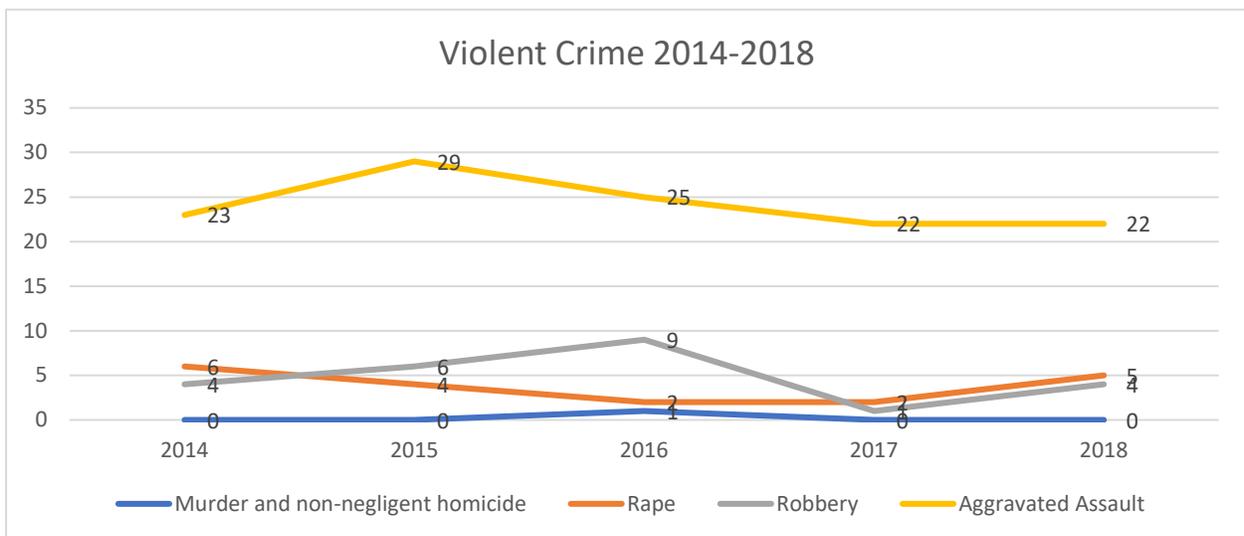
Crime in Bennington

Bennington is, by and large, a vibrant and peaceful town. Serious crime, Part I for Uniform Crime Report (UCR) reporting purposes, statistics indicate that between 2014 and 2018 there was an overall increase of approximately 20 percent in larceny-theft, and a significant decrease in burglaries by about 25 percent, but most other serious known crimes remained relatively level. Larceny-theft dominates the profile numerically, accounting for 84 percent of property crimes in 2018 and 79 percent of serious crime overall for the same period of time.⁷

Table 1. Uniform Crime Reporting, Known Offenses for 2014-2018

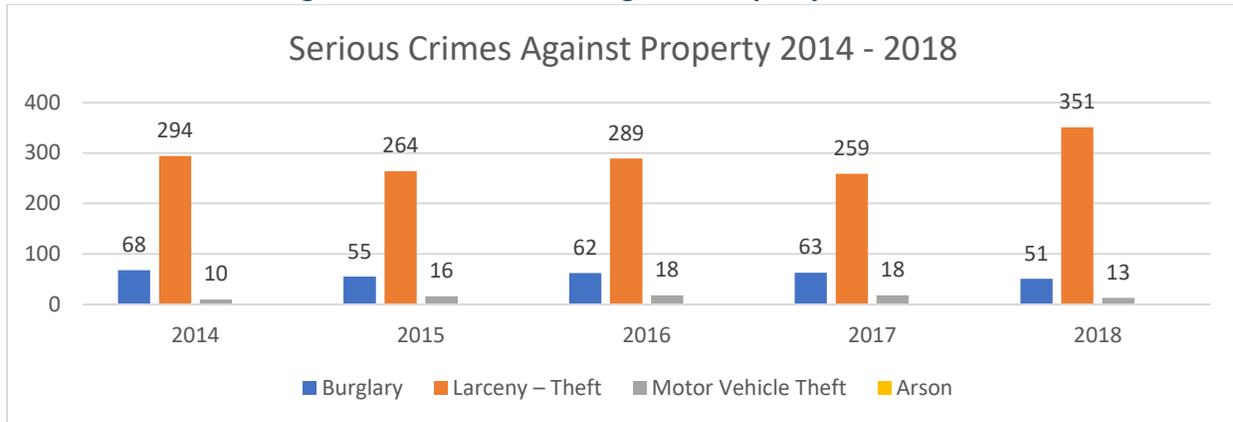
Category	Offense Type	2014	2015	2016	2017	2018
Violent Crimes Against Persons	Murder and non-negligent homicide	0	0	1	0	0
	Rape	6	4	2	2	5
	Robbery	4	6	9	1	4
	Aggravated Assault	23	29	25	22	22
Serious Crimes Against Property	Burglary	68	55	62	63	51
	Larceny – Theft	294	264	289	259	351
	Motor Vehicle Theft	10	16	18	18	13
	Arson	1	1	0	0	0

Figure 1. Violent Crime 2014-2018



⁷ See *Crime in the United States 2018*, <https://ucr.fbi.gov/crime-in-the-u.s>.

Figure 2. Serious Crimes Against Property 2014-2018



Key Themes and Findings

The project team reviewed information related to traffic stops (“stop data”) provided by the Bennington Police Department and supplemented by data from the Crime Research Group (CRG). In accordance with Sec. 26. 20 V.S.A. § 2366, they are responsible for collecting and maintaining stop and race data from all state, local, county, and municipal law enforcement agencies in Vermont. These data are freely accessible to the public.⁸

Bennington Police Department’s prioritization of traffic enforcement may be attributed to a significant drop in accidents, including fatal crashes over the last five years. Traffic enforcement priorities focus on distracted driving and speeding. The project team also observed that it did not seem that there were sufficient data collected, beyond that required by the state, to support the development of data-driven strategies to better focus resources and efforts. To that end, while a significant amount of data exists related to traffic enforcement including tickets, accident reporting, and activity logs, these data are not used as the basis for analysis for purposes of tactical or strategic planning.

There is evidence that traffic enforcement, overwhelmingly, is most likely the way that members of the Bennington community and surrounding areas interact with the police department. In 2017, there were 6,720 traffic stops for a town with an estimated adult population of 12,773, meaning there was nearly one (1) traffic stop for every two (2) adult residents (0.53 stops for every adult). For 2018 and 2019, the number of traffic stops decreased slightly. In 2018 there

⁸ In 2019, CRG released a detail analysis of Bennington Police Department stops. See: Robin Joy. “An Analysis of Bennington Police Department Traffic Stops for Calendar Year 2016 Data” Crime Research Group. (2019). http://www.crgvt.org/uploads/5/2/2/2/52222091/an_analysis_of_2016_traffic_stops_-_bennington_police_department_2019.pdf

were 6,437 traffic stops (0.50 stops for every adult) and in 2019 there were 5,721 traffic stops (0.45 stops for every adult) conducted. Interviews with residents, community members, and members of the police department support that this is an accurate estimate. The Select Board offered information to the Assessment team that it is estimated that approximately one-third of traffic stops that are initiated by BPD results in contact with drivers who reside outside the jurisdictional boundaries of the town. However, without a method in place to analyze the location, prioritization, and tactical engagement of traffic enforcement teams, there are missed opportunities to engage in fair and impartial policing that may result in an inefficient use of resources.

In internal interviews and focus groups it was clear that the Bennington Police Department leadership places a heavy emphasis on traffic enforcement. It was also clear that traffic stops are seen as a strategy to locate criminal activity and reduce crashes. Both are well-established practices of policing. A review of crash data provided shows a reduction in crashes over the past few years. This approach of enforcement has long been accepted as a measure of effectiveness by the department. However, recent studies and experiences show there is a downside to such an approach—including the creation of opportunities for the perception of bias or unjust practices related to enforcement.

While the structure of the operating procedures regarding traffic stops limits officer discretion, and likely has the effect of virtually eliminating any difference related to race regarding the likelihood of motorists receiving a ticket, the same assertive stance toward traffic enforcement may be counter-intuitive regarding promoting perceptions of equity and fairness in the community. There are many other variables that impact officer discretion, including size of the department, complexity of the organization, and the racial and ethnic diversity among officers in comparison to the community the agency serves, and all impact how discretion is managed.⁹ Social factors such as socio-economic status, poverty, unemployment, and racial composition of the community, and driver propensity toward risky behaviors also impact the use of discretion.¹⁰ Therefore, while it is likely that the tight policies around traffic stops and ticketing account for the lack of variation in odds ratios between Black and white traffic stops, there is little policy to

⁹ Jeffrey S. Nowacki and Tyrell Spencer, "Police Discretion, Organizational Characteristics, and Traffic Stops: An Analysis of Racial Disparity in Illinois," *International Journal of Police Science & Management* 21, no. 1 (March 2019): 4-16.; See also George Higgins, Shaun Gabbidon, and Gennaro Vito, "Exploring the Influence of Race Relations and Public Safety Concerns on Public Support for Racial Profiling during Traffic Stops," *International Journal of Police Science & Management* 12, no.1 (2010): 12-22.

¹⁰ Rob Tillyer and Robin Engel, "Racial differences in speeding patterns. Exploring the differential offending hypothesis." *Journal of Criminal Justice* 40 (4) (2012): 285-295.

impact the officer decision to initiate the stop in the first place. While the data currently shows no significant differences in Bennington in the ratio of stops by race, across the United States, evidence suggests that non-white drivers are more likely to be stopped.¹¹ Developing policy and training centered around officer discretion and traffic stops, as well as periodic review of the efficacy of the policy and training, will assist the Department in continuing to mitigate the risk of racial disparity in traffic stops.

Traffic enforcement is clearly a priority for the Bennington Police Department, and it is, in the project team's estimation, the most comprehensive policy on record in terms of operating procedures. However, it is also the project team's belief that the policy is too prescriptive and limits the reasonable and appropriate use of officer discretion once the stop is initiated, unintentionally creating a negative impact on community-police relationships. It should be emphasized, however, that as BPD supports the appropriate and responsible use of discretion, that they provide sufficient training to officers to manage discretion, particularly around traffic enforcement.

In interviews with external stakeholders, there were many stories about negative encounters on traffic stops. This is not unexpected as a traffic stop, by the nature of the encounter, is a negative event. In fact, on a national level, in many cases of use of force—the events started with a traffic stop. This is where the concept of procedural justice is most important. The emphasis on traffic enforcement displaces resources and organizational focus such that other aspects of policing are deprioritized within BPD. Further, employees perceive that their value to the department is largely connected to ticket writing, which may lead to a negative effect on trust within the department as well as with interactions with the community. An apparent focus on traffic stops by BPD is a source of fear for many community members who feel and understand that routine traffic stops have historically been used as methods of intimidation toward racial minorities. A common theme among the project team's interactions with community groups is that certain groups within the community are more likely to feel profiled by police based on race or socio-economic demographics. This is an area that requires clear strategy that should be guided by data and not simply by measuring the number of stops and tickets issued.

Data-Driven Approaches to Law Enforcement

Beyond considering data-driven approaches to traffic enforcement as a mechanism to reduce crime, data should also be used in developing actionable strategies to use for management (such as deployment or staffing decisions), for crime reduction and prevention strategies, and for

¹¹ Nowacki and Spencer, "Police Discretion, Organizational Characteristics, and Traffic Stops."

addressing quality-of-life issues. Employing a data-driven approach allows for information sharing across units, focusing attention on strategic and operational goals, enhancing problem-solving, opening up internal and external communication channels, and tracking and measuring results.

An intelligence-led policing (ILP) approach leverages data already in a police agency's system such as traffic stops, criminal records, arrests, and domestic incidents and focuses on key criminal activities and locations of activities. Moreover, it is a collaborative enterprise that includes community policing and problem-solving.¹²

ILP can also be applied to other approaches, such as "hot spot" policing, or the practice of focusing attention on small geographic areas or places where crime tends to concentrate. This may be an effective tool for BPD to consider.

When done properly, hot spot policing utilizes resources and feedback from the community, engages in a scientific method to identify hot spots (such as GIS technologies), and relies on the knowledge of individual officers who are familiar with their town and understand intuitively where crime occurs. However, before engaging in hot spot policing, or similar techniques, BPD must be very attentive to risks associated with procedural justice.

When hot spot policing is improperly implemented and executed, there is a risk of violations of procedural justice because the positioning of hot spots appears haphazard, discriminatory, and can further alienate certain populations. One of the advantages of properly implemented hot spot policing is that decisions are made based on evidence subjected to a systematic process that includes spatial analysis and incorporates the concerns and feedback of the community. With this in mind, this report recommends that BPD consider strategies such as hot spot policing. However, BPD should also proceed with caution as the overall recommendation of this report is to improve procedural justice within the department and not damage it.

CompStat is a method many law enforcement agencies, including BPD, use to varying degrees reduce crime and achieve other departmental goals. While perhaps the most recognized aspect of CompStat is regularly occurring meetings where command staff—and at times officers—discuss crime problems and strategies, it is actually a method to manage performance that includes four generally recognized core components:

¹² Marilyn Peterson, *Intelligence-Led Policing: The New Intelligence Architecture* (U.S. Department of Justice, Office of Justice Programs, September 2005), <https://www.ncjrs.gov/pdffiles1/bja/210681.pdf>.

Bennington Police Department Assessment

1. Timely and accurate information or intelligence
2. Rapid deployment of resources
3. Effective tactics
4. Relentless follow-up¹³

Moreover, it is flexible and can be tailored to an agency's capacity and evolve as an agency's needs change.

¹³ Police Executive Research Forum, *Compstat: Its Origins, Evolution, and Future in Law Enforcement Agencies* (Washington, D.C.: Bureau of Justice Assistance, 2013), <https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/PERF-Compstat.pdf>.

RECOMMENDATIONS

-  **Recommendation 1:** Develop a method to more accurately track and analyze data and develop analytic strategies to support the department's robust traffic enforcement efforts with a focus on strategic placement of traffic enforcement efforts and enforcement priorities.
-  **Recommendation 2:** Develop policies and procedures that support the use of analytics and data-driven procedures to engage in traffic enforcement, crime prevention, and to address other quality of life issues.
-  **Recommendation 3:** Enhance and hone the use of regular departmental CompStat meetings to reinforce focused law enforcement, prevention, outreach, building partnerships, problem-solving, communication and sharing intelligence, and tracking results.
-  **Recommendation 4:** Invest resources in specific training to support officers in recognizing and managing implicit bias.
-  **Recommendation 5:** Create policy related to traffic enforcement that supports officer discretion and provide training to officers to manage discretion during traffic stops.

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Section II: Assessment of the Community-Police Relationship and Community Policing Initiatives

“Community policing combines a focus on intervention and prevention through problem-solving with building collaborative partnerships between law enforcement agencies and schools, services, and other stakeholders. In this way, community policing not only improves public safety but also enhances social connectivity and economic strength, which increases community resilience to crime.”

—21st Century Policing Task Force Final Report¹⁴

This section of the report focuses on the community side of the community-police relationship. The project team is grateful for the candid and honest information from community members including the members of the Bennington Police Department. In general, the project team found that while the department has implemented some community policing strategies, for the most part, the operational and organizational focus lies with traffic enforcement and reactive policing strategies. As a result, BPD is missing important opportunities to move toward policing strategies that embrace community engagement and community policing. It is important to draw a distinction between community programs and community policing. Community policing is a philosophy, approach, and ideal that is completely integrated into the organization as a matter of both culture and procedure. True community policing efforts encompass far more than the occasional program. Although the BPD engages in many important community programs, often with the Bennington Police Association, there are more opportunities to incorporate the community as part of their mission, values, goals, policies, and strategies.

Some members of the community feel disengaged from the Bennington Police Department and this has resulted in some members of the community experiencing fear, a sense of disconnectedness, and in some cases, contempt for the department. However, the project team observed a willingness of the community to reengage and to collaborate with BPD in community policing as a guiding principle and philosophy, and it appears BPD, in many ways, also has the will and ability to move toward contemporary policing for this century.

¹⁴ Final Report of the President’s Task Force on 21st Century Policing. Washington, DC: Office of Community Oriented Policing Services; Published 2015; pg 41

Key Themes and Findings

A number of key themes emerged as the team examined the community side of the community-police relationship. Most of these findings focused on a pervasive sense of disenfranchisement or a lack of connectedness to the Bennington Police Department by some parts of the community.

Some Community Members Fear Retaliation by Bennington Police Department

A common concern encountered through both focus groups and individual interviews is that a proportion of the Bennington community is reluctant to make complaints about crimes, file reports, or request assistance. This fear is predicated on the belief that if they do, they will eventually be retaliated against by the department. This phenomenon appears to be dependent upon membership of the group of the person making the complaint. Some community members expressed concerns that the “in-group” receive responsive service, but those who are not members of the perceived “in-group” feel their complaints are ignored or that they will suffer retaliation by the department. Some community members consistently stated that the response from BPD was slower, if received at all, if the community member was a person of color, of lower economic status, or had a mental illness. On several occasions, individuals described a dual policing structure—one with civility and dignity for those viewed favorably by the department, and another for everyone else in the community. In several interviews, people indicated that they or others were afraid to call for services from BPD for fear of harassment or targeting despite needing assistance.

One of the characteristics of the “in-group” as perceived by the community is anyone who has financial and economic advantage, though no evidence was found that this economic advantage was used to barter for favors from the police department. A good way to characterize this perception is that some community members believe that there is an informal system of classifying which complainants and victims are seen as being deserving and entitled to law enforcement response, and which are not. Many community members in the focus group forums expressed concerns that this sense of ostracization has the effect of increasing fear of crime. It was believed that a member of the “out-group” might be victimized and reporting it to the police, means a significant risk of victimization again by the criminal justice system. As a result, there is a significant lack of trust from some of the community, particularly from people who suffer economic and financial hardship, are homeless, or are members of diverse populations including racial and ethnic groups that are a significantly smaller population in the town.

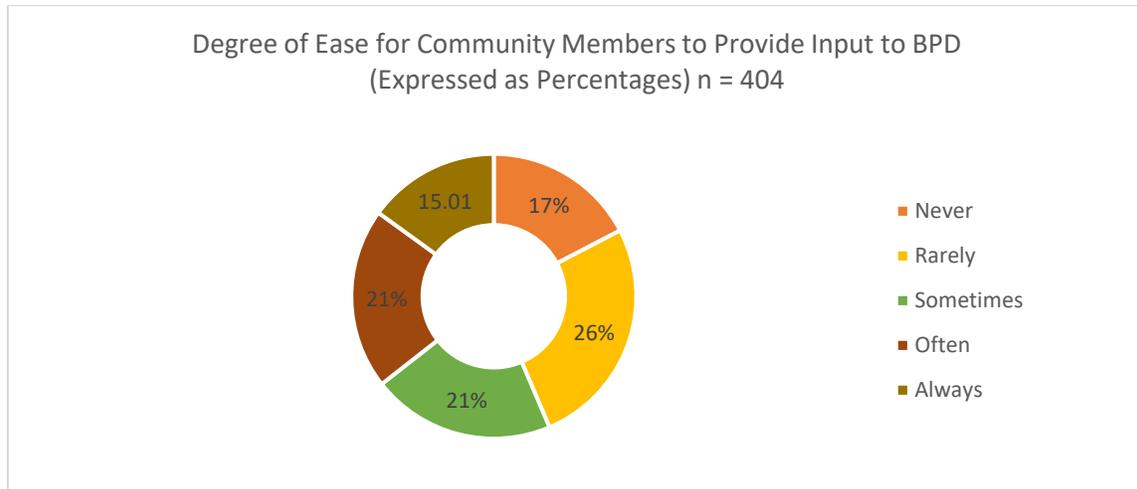
Some community members, particularly members of diverse populations, feel that if they make a complaint to the police—even in cases where they’re a victim of a crime—perceive that they are told by the responding officer and the department that they will become the target of the criminal investigation. Interviews with community members and focus groups suggest that this perception seems to be most prevalent among people who are economically marginalized, LGBTQIA+, or members of racial or ethnic minority groups, and those who experience mental illness or are homeless. Based results from the survey, interviews, and discussions during the community forums, this perception exists across diverse populations and is not solely associated with a person’s race or ethnicity.

Interacting with or Providing Feedback to the Bennington Police Department

During interviews and focus groups, some community members expressed frustration over there being no well-publicized process by which they can share and raise issues with BPD. Community members across sectors indicated that they were unaware of how to lodge a complaint and expressed a fear of retaliation for raising concerns to the department.

In the community survey, the question was asked, “To what extent does the Bennington Police Department make it easy for community members to provide input (e.g., comments, suggestions, concerns)?” This is a distinctly different issue from community members feeling that they cannot report a crime or ask for public safety assistance when they need it. This question speaks to the lines of communication that exist between the police department and the community it serves. Nearly 65 percent of respondents to this question reported that they either never, rarely, or only sometimes find it easy to provide input and feedback to the police department.

Figure 3. Degree of Ease for Community Members to Provide Input to BPD



When concerns of racial bias had been raised, community members reported that BPD leadership denied any racial bias and instead claimed the department is the one being targeted. Denials of racial bias are sources of frustration and doubt for diverse community members and were viewed as open demonstrations of a lack of desire by the police department to engage with the diverse members of community in good faith.

Furthermore, focus group data and interviews with community members indicated that the heightened fear of retaliation prevents some members of the community from engaging in the present review process. Some people expressed fear in sending emails to the independently managed inbox, completing the survey, and meeting with the team both individually and in the public community forums for fear that they would be targeted by BPD. This presented a limitation to the ability to gather information and offer the most robust leading practices and recommendations for the issues identified in the review process.

Building Greater Collaboration and Prosocial Engagement with Bennington Police Department

The assessment team’s interactions with community members through focus groups indicated that while there are, without question, issues of trust that need to be overcome, many community members also seek opportunities to more directly engage with the police department in positive and pro-social ways, but are not clear about what those mechanisms are or where those opportunities are available. Most interactions between BPD and the public are a result of a traffic stop or through several community engagement programs such as the “Copsicle” program, which are generally well received by the community, but with some caveats.

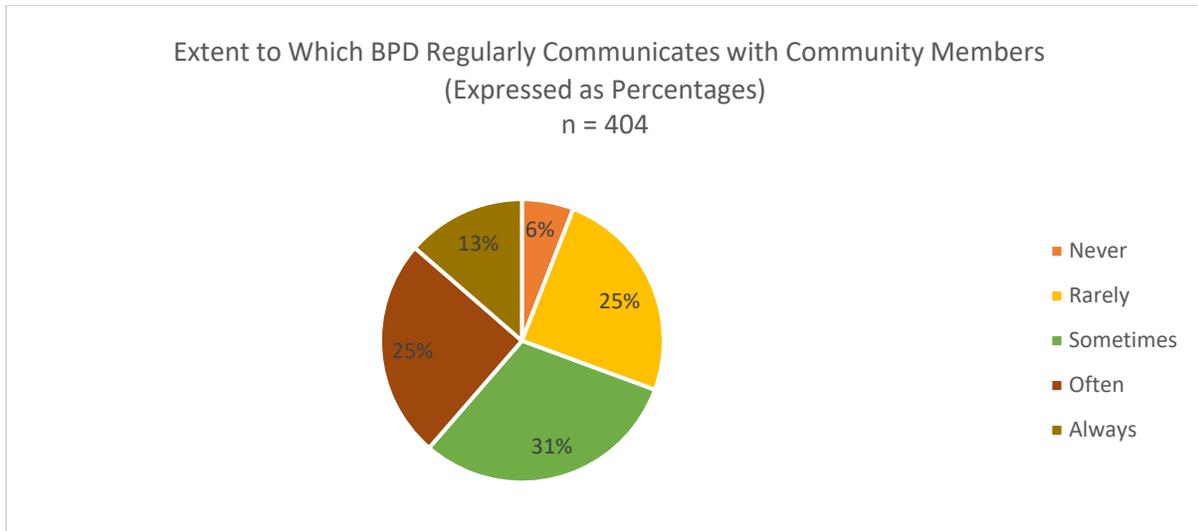
Some community members and stakeholders view these efforts as public relations opportunities for the department rather than events intentionally designed to create a more inclusive community. In several interviews, some community members stated that it is difficult to get BPD to participate in events planned by other organizations. They were also unfamiliar with a broader long-term plan for how the department plans to engage with community members to build trust and legitimacy. While many interviewed expressed appreciation for the increase in programming, some also perceive an increase around the time of this assessment and felt it was intended to improve the reputation of the department instead of developing meaningful relationships with all parts of the Bennington community.

The survey results indicated that the community seeks other opportunities to interact with the police department in supportive and positive ways. During the review of community outreach, limited opportunities were found for community members to engage in positive and purposeful interactions that support the goals of both the community and the police department. The project team found few opportunities for volunteerism, and even communication with the department is complicated and largely limited to reporting a crime.

Despite these challenges, risk, and to a certain degree, fear of reporting, many community members indicated a desire for improved and strengthened community-police relations. Many stated that everyone should feel safe interacting with BPD, but not all experience that and are often not met with the same level of openness. Despite those sentiments, people in every interview felt that their participation was necessary for creating meaningful long-lasting change in BPD and throughout the Bennington community.

This sentiment was also discovered in the survey results. Many community members seek a greater presence of BPD at community meetings in their neighborhoods. Nearly half (49.3 percent) of survey respondents reported that they would like to see representation from the police department more frequently, which suggests that a significant portion of the community that participated in the survey is willing to proactively and collaboratively engage with the department.

Figure 4. Extent to Which BPD Regularly Communicates with Community Members



This desire of the Bennington community to have BPD participate in community meetings is reflective of the policing by consent community policing model. A tenet of community policing and police legitimacy is policing by consent; wherein, police are servants of the communities they serve, not just actors of the state. If the community is to view a police agency as legitimate, then the police agency must strike a balance between enforcement measures and maintaining the peace.¹⁵ In other words, law enforcement needs to balance the operational and strategic priorities of the specific agency with an understanding of the concerns and public safety priorities of the community. Police retain authority as public safety professionals, but the community gets a major voice—and the interaction is one way to educate both sides and more clearly define expectations.

The BPD webpage does provide ways for community members to contact the police, including a “contact page” that provides a way to electronically transmit a message to the police department. However, little instruction is provided regarding what uses of this form are appropriate, or a timeframe for when the community member can expect a reply or follow-up. There is no clear link or process to submit a complaint about use of force, discourtesy, or any other events that may result in an Internal Affairs investigation. Community members are not provided with key information, nor are they given expectations about how their concerns and issues will be handled. Community responses to the survey indicated a disconnect between communication efforts by BPD and whether those efforts reach the intended audience. There are

¹⁵ See Kenneth Oxford, “Policing by Consent,” chapter 9 in *Scarman and After: Essays Reflecting on Lord Scarman’s Report, the Riots and Their Aftermath*, ed. John Benyon (Oxford, UK: Pergamon Press, 1984).

limited opportunities for community members to interact with the department through various social media platforms.

RECOMMENDATIONS

-  **Recommendation 6:** Create volunteer opportunities to engage the community into the working operations of the police department. Some of these opportunities may include assistance with record keeping, reception areas, and other reasonably low-risk engagement opportunities. As a long-term goal, BPD may consider volunteer opportunities that require greater skill and training such as victim assistance advocacy.
-  **Recommendation 7:** Consider adopting a community policing model such as policing by consent wherein BPD would meet with the community regularly to discuss crime and quality-of-life concerns. This would provide BPD with a mechanism to share reported offense data and for the Bennington community to share their fears, perceptions, and public safety priorities. Together, BPD and the community could identify mutual goals and objectives for police action in the upcoming year, and BPD could provide quarterly report outs on status.
-  **Recommendation 8:** As a first step toward incorporating the community into the Bennington Police Department, consider establishing a community advisory board that provides community input on policy to the department. This advisory board should include representation from diverse populations of the Bennington community.
-  **Recommendation 9:** Create a position for a dedicated community liaison whose responsibilities are to meet with key community stakeholders and develop community-police programming catered to the specific and unique needs of the Town of Bennington.
-  **Recommendation 10:** Develop strategies to move toward compliance with Vermont statute 20 V.S.A. §2401, Act 56, that includes a provision for civilian review as part of an effective internal affairs program. As with the community advisory board, the civilian review and oversight board should include representation from diverse populations of the Bennington community.
-  **Recommendation 11:** Develop policies and engage in enhanced use of social media to communicate directly with community members in real time regarding critical incidents, traffic closures, natural disasters, evacuations, and other matters of public safety.

 **Recommendation 12:** Collaborate with social services providers, government agencies, school administrators, and others to create a long-term, interdisciplinary strategic plan to address public safety concerns.

 **Recommendation 13:** Redesign the benningtonpolice.com webpage to make it more appealing to community members. In doing this, be particularly attentive to the tactical image and the effects this may have on community relations. The redesign of the webpage should include instructions for internal affairs (IA) complaints, including timelines for expected response.

 **Recommendation 14:** Create an easily visible and accessible system to file IA complaints with the BPD to an ombudsperson that includes but is not limited to the following:

- Clear and accessible instructions on how to file a complaint with BPD
- General timeframes for providing written follow-up to complaints
- Written acknowledgement of receipt of the complaint with a general overview for the review process
- Written follow-up through the course of the review
- Final adjudication or determination provided to the complainant in writing
- Translation and interpretation services for individuals who are limited in English proficiency and assistance for the hearing impaired so that participation in the IA process is accessible

This should also include a tracking mechanism so that, at minimum, the following occur:

1. All complaints are entered.
2. Classification is made as to whether IA or supervisory is designated for follow-up.
3. Disposition is tracked.

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Section III: Trust, Legitimacy, and Procedural Justice

“Building trust and legitimacy on both sides of the police/citizen divide is the foundational principle underlying the nature of relations between law enforcement and the communities they serve”

—The President’s Task Force on 21st Century Policing¹⁶

Part III of this report focuses on the police side of the community-police relationship with an eye toward procedural justice. It is long held and has been well researched that communities who feel they have trust and see their police department as legitimate will be more likely to obey the law and foster better public safety in their community. It is imperative that law enforcement understand and promote the concept of trust and legitimacy both inside the police department and in the community. This is accomplished primarily through the concept of procedural justice.

Procedural justice occurs when the public believes that those who possess the policing authority do so in a procedurally just manner. This is accomplished with four basic principles:

- Treating people with dignity and respect
- Giving individuals “voice” during encounters
- Being neutral and transparent in decision-making
- Conveying trustworthy motives¹⁷

The project team heard the reoccurring theme in interviews and focus groups of a dividing line with who receives services and who does not. As stated by one participant in a focus group “If you are good citizen you are in, and, if you are a bad citizen, you are out.” The basis of those types of statements is less important than the perception they create in the community among similarly situated groups of residents and impinge on how that group of residents view the legitimacy of Bennington Police Department. It should be noted that in some interviews, individuals felt like they had trust and saw the BPD as a legitimate authority. However, interview participants from the community also expressed concerns that to many, it was clear that there is a divide in social status regarding who felt trust with and from the BPD and who did not.

¹⁶ President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing* (Washington, DC: Office of Community Oriented Policing Services, 2015), 1, https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

¹⁷ *Final Report of the President’s Task Force on 21st Century Policing*, 10.

As discussed in the previous section, some community feedback indicated that there are some members of the community who fear coming forward to either make a complaint or enter into a conversation about how they were treated in a given situation. Almost unanimously, when asked if individuals knew how to make complaints about actions of officers or what the procedure was to process complaints, the answer was that they did not know. This indicated to the project team that there are some opportunities for BPD to engage in practices that promote transparency and accountability with the community.

Community Policing Efforts as an Element of Procedural Justice

When community members perceive they have no recourse or collaborative role in crime prevention or engagement with the police department, the perception of the community is that the police department's legitimacy is damaged. During ride-alongs with officers and in internal focus groups, the project team identified confusion and a lack of clarity regarding the complaint process and the IA process of BPD. Understandings of the policy conflicted with BPD's stated policy, as well as state law governing internal affairs matters in police agencies (Act 56).¹⁸ This lack of clarity and understanding both internally and externally is a serious issue that needs to be addressed.

Trust and legitimacy are not only critical components of policing the community, but they are also an important piece to internal operations of the Department. In internal interviews and focus groups, members of the Department felt supported and valued by the leadership of both the BPD and the town government. The project team views it as a positive characteristic that the officers and civilian staff feel supported and valued by police leadership and the town. This suggests that there is a foundation for policy development and implementation of procedural justice initiatives that support a responsible and appropriate use of discretion by officers.

Generally speaking, the officers and non-sworn staff were unfamiliar with the mission statement or the guiding principles and values of the organization. Some members knew a mission statement existed—but could not locate it or summarize the mission of the BPD. This lack of understanding of the mission has a direct effect on trust and legitimacy in how BPD interacts with and engages in the community, as well as on how officers and staff engage in their day-to-day jobs. This lack of agreed upon mission and values creates an opportunity for a subculture to guide the organization rather than the policies and operating procedures.

¹⁸ 20 V.S.A. §2401, Act 56. The Vermont Criminal Justice Training Council (VCJTC) has published an Act 56 Reference Guide, available at <https://vcjtc.vermont.gov/content/act-56-reference-guide>.

Bennington Police Department Assessment

It also leaves community members misunderstanding the value system in the BPD and what their mission is. This leads to the inability for the community and town to hold the department accountable. In order to have accountability, the community needs to understand the stated values and BPD’s role and mission. In addition to the concerns and issues raised during interviews and focus groups, the same concerns became evident in community responses to the survey. Table 2 below describes community responses regarding perceptions of BPD’s management of procedural justice.

Table 2. Perceptions of Trust and Procedural Justice (n=375)

	Not at All	A Little	Somewhat	A Lot	To a Great Extent
To what extent do officers with the Bennington Police Department treat people fairly?	16%	14.4%	20.8%	26.7%	22.1%
To what extent do officers with the Bennington Police Department show concern for community members?	13.4%	18.9%	18.4%	24.0%	25.33%
To what extent are officers with the Bennington Police Department respectful?	13.3%	16.5%	18.9%	25.6%	25.6%
I have a positive perception of the Bennington Police Department.	22.4%	11.2%	17.1%	18.1%	31.2%
To what extent are officers of the Bennington Police Department responsive to concerns of the community?	13.9%	18.9%	22.4%	20.5%	24.3%
To what extent do you trust the Bennington Police Department?	24.8%	13.3%	11.7%	20.0%	30.1%
I feel I have been discriminated against by the Bennington Police Department.	69.9%	9.9%	7.5%	5.6%	7.2%

Of those who participated in the community survey, responses to these questions indicate that many respondents have positive perceptions about BPD, but not overwhelmingly so. Some community responses to questions suggest that there is room for improvement, particularly regarding the areas of trust, perceptions of discrimination and fair treatment, and overall perception of the agency. Slightly under one-third (30.4 percent) of survey participants believe that officers do not treat people fairly (“Not at all” and “A little”), with 20.8 percent of

respondents holding neither a negative nor a positive belief, and 48.8 percent having a positive perception. Similarly, 33.6 percent of survey respondents have a more negative perception of the department and 49.3 percent have a more positive perception of the department. Of the survey respondents, 38.1 percent reported that to some extent, they do not trust the Bennington Police Department. Interestingly, though, one-fifth of respondents feel they have been at least somewhat discriminated against by the department. Still, these responses indicate problems and practices associated with deficiencies in procedural justice. This is problematic because, in general, as citizens and community members perceive disparities in procedural justice, a corresponding impact is decreased perceptions of legitimacy. When community perceptions of legitimacy are damaged, communities perceive the department as less than fully legitimate and members tend to not comply or be slow to comply to lawful orders. Failure to follow instructions given by an officer and hesitancy for the public to participate in crime prevention and crime solving are challenges to the police. There are also important, potential implications related to citizen and officer safety that cannot be overlooked.¹⁹

Role Ambiguity Is Impeding the Mission of the Department and Interactions with the Community

As mentioned in previous sections of this report, the Bennington Police Department has taken some preliminary steps in establishing a culture of trust and legitimacy with the community through outreach and programs such as Coffee with a Cop, Bicycle Rodeo and Helmet Giveaway, Back-Pack Program, New Experience Camp, the Creme with a Cop, and Copsicle Programs, among several others that have been well received by the community. These efforts are consistent with and follow recommendations to build trust and legitimacy in the *President's Task Force on 21st Century Policing*. These programs are a positive step and should continue to be part of a larger community policing strategy that integrates all members of the community.

As important as these efforts are, the impression among officers and civilian staff is similar to the community perspective that many of these efforts could be developed further, becoming part of the values and mission of the Bennington Police Department. During interviews, individuals pointed to an interview with police leadership about the Copsicle Program as “great PR.” That approach singularly does not enhance public trust and may actually erode public trust because the efforts are seen as gimmicky and ineffective and contribute to the perception of a strained relationships between residents and BPD. Interviews revealed these efforts have not been

¹⁹ Tri Keah S. Henry and Travis Franklin, “Police Legitimacy in the Context of Street Stops: The Effects of Race, Class, and Procedural Justice,” *Criminal Justice Policy Review* 30, no. 3 (April 2019): 406–427.

effective in terms of building relationships with the community, nor do they instill community trust. Further, many of the sworn and civilian employees are aware of this situation, yet, because of role ambiguity, they are not sure how to suggest change or improve the situation.

Interviews with sworn and civilian employees indicated that while most members of BPD understand what their position title is, they are less certain about their responsibility or role and how their efforts contribute to the overall mission and well-being of the organization and community. Most employees do not know what the mission or values of the Bennington Police Department are, nor do they understand how their positions and jobs contribute to those roles. Very few sworn or civilian staff could identify whether there were performance objectives related to their roles, either individually or as an organizational subunit.

Focus on Guardian Mentality to Establish a Culture of Procedural Justice

As noted throughout this report, many community members, and to a lesser extent, officers and staff expressed an environment that is characterized by a lack of trust in the department, including concerns about whether these relationships could be improved under current leadership. Another area that is important to building trust and legitimacy is how the community is actually policed. A heavy emphasis to enforcement serves a legitimate purpose; however, police leadership needs to be sensitive to the collateral effects of various policing strategies. BPD's success in crash reduction and generally reduced crime rates throughout the town should be applauded, but at the same time, the department should be cognizant that these outcomes are not justification for damaged relationships with the community. There needs to be a balance.

In the *President's Task Force on 21st Century Policing*, one of the more potent messages is that policing operates in a constant flux between the police serving as guardians versus warriors. This conversation is important for the safety and wellness of police officers. The danger officers face is real, and there is an appropriate time to be a warrior. Most residents understand that need and are supportive of officers needing training, equipment, supplies, resources, and policies that protect them.

The review found clear and sufficient evidence that BPD and the Town of Bennington effectively creates an environment where officers get what they need to be safe in terms of tactical and technical training, resources, and equipment. Many examples exist of where individual officers have expressed an interest in enhanced training or opportunities to work on particular community policing projects, the Department has supported these interests and worked to provide professional development opportunities for officers.

However, most of the functions of a police officer revert to the origins of policing—being a guardian. Currently, the daily interaction with residents tends to lean more toward a warrior mentality when, in most instances and interactions, a more nuanced guardian mentality and approach would be equally effective in meeting organizational goals. At the same time, the guardian mentality approach encourages trust building, cooperation, and collaboration with the community.

The project team observed a heavy emphasis on warrior thinking, which is important to keep the officers and the community safe but recommends a more balanced approach. The team found few instances where BPD leadership and officers embraced the principles of community policing, which include building mechanisms, policies, and operational procedures that are founded in the principles of leveraging trust relationships with the community to help the organization achieve goals, prevent crime, and promote a shared sense of public safety. An example of the warrior mentality that is pervasive throughout the organization can be found on the BPD website that emphasizes a warrior appearance, rather than that of a community partner responsible for safety that embraces guardianship and community engagement for all residents, visitors, businesses, and diverse populations within the town.

BPD Should Engage in More Strategic and Operational Partnerships to Manage Critical Public Safety Problems

Observations and data suggest that there are opportunities for the Bennington Police Department to build stronger collaborations or formal partnership with key stakeholders who also have an interest in the operational and strategic management of key public safety concerns. Areas where collaboration and development of strategy to deal with pressing issues in the community could be strengthened and formalized include concerns about mental health and the opiate crisis that is prevalent in many U.S. cities. While there are several available partners that could provide operational support to BPD, a lack of formal participation and engagement with these organizations and groups who are trying to address the same issues that were identified by the community as being key priorities and concerns for the department was apparent.

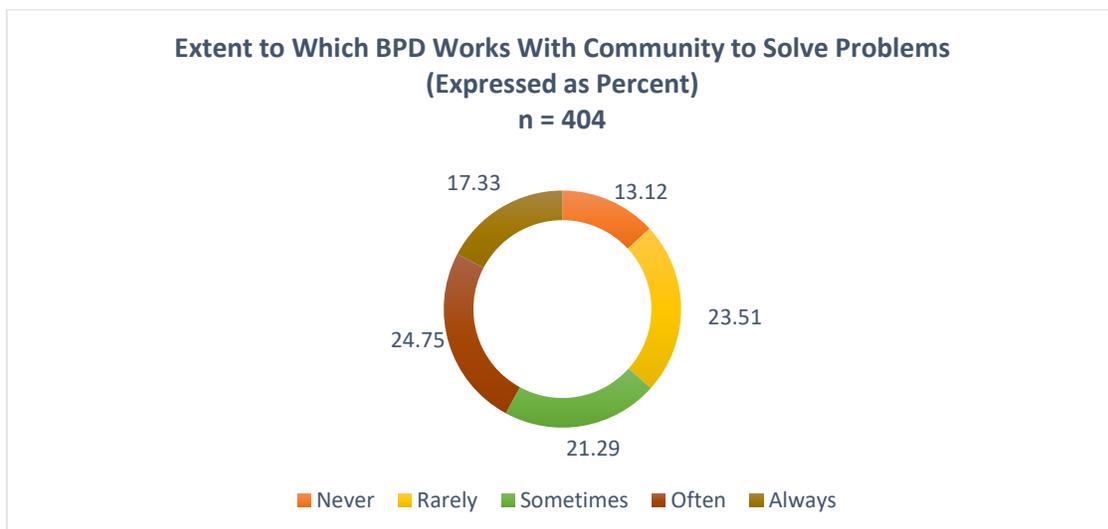
Several nonprofit or non-governmental organizations, institutions, state agencies, and task forces were part of the interviews. The BPD has established formal partnerships with many of these agencies and the core relationship remains positive. However, they indicated that there were missed opportunities for stronger engagement in regular communications, meetings, strategic planning sessions, public meetings, or other opportunities to create a community-wide strategy.

In those cases where the relationship is less formal, interview participants generally noted that individual officers are responsive, that BPD responds when needed, and that officers are respectful and cognizant of the needs of the partner organization and the clients they may serve. Some organizations indicated that they would welcome more formal relationships with BPD that would support enhanced training for officers and strategic program development in order to better support at risk populations in Bennington. This has created a gap where partner organizations have formed strong, cohesive relationships with individual officers, but there are some missed opportunities to engage with the Department and agency leadership through successful formal partnerships.

Participation and leadership in creating strategies to address the underlying root causes of public safety concerns are at the core of community policing. This lack of leadership and participation erodes trust and leaves key stakeholders and community members without the participation of one of the most important organizations to impact change, the BPD.

Responses to the community survey revealed a similar trend. When asked, “To what extent does the Bennington Police Department work together with community members to solve problems?” approximately one-third of respondents, 36.6 percent, indicated that BPD rarely or never works with the community, though 42.1 percent perceive that BPD often or always works with the community. The team interprets this to indicate that while BPD’s initial efforts to build trust and engagement with the community has been well received, there is an opportunity to build on this initial foundation and engage in contemporary community policing strategies that more fully integrate the community into the goal setting of the agency.

Figure 5. Extent to Which BPD Develops Relationships with the Community



Bennington Police Department Assessment

Results from the community survey indicate a disconnect between the operational priorities of the department, which focus on traffic enforcement and crash reduction, with the community's public safety priorities. Community survey responses indicated that countering illegal narcotics (most likely a result of the opiate crisis the region is currently experiencing), engagement with schools, and enforcement of quality-of-life crimes are priority areas.

RECOMMENDATIONS

-  **Recommendation 15:** Immediately develop a new mission statement, vision statement, and shared values statement. Create these documents by engaging both internal and external stakeholders. These statements should be known by every member of the department and posted in locations that are visible to members on a daily basis. The statements should be prominently displayed on the BPD webpage. It is recommended that BPD leadership collaborate with members of the business community, civic organizations, and members of diverse communities within Bennington to develop statements reflective of shared values.
-  **Recommendation 16:** Adopt the practice of procedural justice by creating policy, training to the newly developed policy, and executing the policy in everyday interactions.
-  **Recommendation 17:** Revisit the policy on traffic enforcement to balance the need for safe roadways with trust building and procedural justice.
-  **Recommendation 18:** Secure procedural justice by reengaging with key stakeholder groups and forming strategic partnerships with service organizations in a way that is attentive to the crime prevention and crime control priorities of the community.
-  **Recommendation 19:** Continue to build on the good work of community policing programming with an eye toward using those opportunities to engage the public in the development of service models that raises the level of safety in the community, while identifying root causes of disorder.
-  **Recommendation 20:** The webpage of the BPD should be redesigned to present an image of an agency that is engaged with the community.

Bennington Police Department Assessment

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Section IV: Policy Review

The existing policies of the BPD were received and reviewed. The existing policies appear neutral but the lack of policy in other areas may lead to bias in implementation of the current policies. Furthermore, additional areas of policy that are not currently part of BPD policies could add value to the BPD, increase accountability, and build trust and legitimacy in the community.

It is important that BPD's policy reflect the values of the organization as well as the community. The danger in enacting policy in a police department without taking input from the community is that the policy could have a disparate impact on certain parts of the community, often those parts of the community that are the most disenfranchised.

There are other existing key BPD policies that speak directly to the issues of bias, trust, and accountability. A review of these key policies is listed with observations about improvements, though this presentation is intended to be representative, not all inclusive, of the policies of the Bennington Police Department.

Use of Force (Response to Resistance)

One of the most important areas of policy is the use of force (BPD Response to Resistance). This is an area that also lends itself to systematic abuse in organizations. The BPD has a good policy, practice, and process to report and track use of force. The policy meets current leading practices and is supported by an internal review process that has accountability built in. The process ends with final review of use of force by the chief. The team did not encounter evidence, anecdotal or otherwise, of excessive use of force at BPD; however, there is room for improvement. There should be clear and concise language in the policy that addresses the importance of de-escalation practices. The guiding principle of the policy should be to protect, value, respect, and preserve human life, of both the officer and the citizens served.²⁰ The BPD can build further trust in the community by publicly listing the policy and use of force statistics (without identifying data).

Fair and Impartial Policing

BPD has adopted the model policy developed by the Vermont Criminal Justice Training Council (VCJTC). That policy was developed through a laborious process that involved many statewide stakeholders who represent all facets effected by the policy. The policy meets the standard set

²⁰ *National Consensus Policy and Discussion Paper on the Use of Force* (October 2017), <https://www.theiacp.org/resources/document/national-consensus-discussion-paper-on-use-of-force-and-consensus-policy>. The *National Consensus Policy and Discussion Paper on Use of Force* is a collaborative effort among 11 of the most significant law enforcement leadership and labor organizations in the United States and reflects the best thinking of all consensus organizations.

forth by VCJTC and can be effective in delivering fair and impartial policing to the Bennington community. The policy is only as effective as it is trained to and practiced, and it would appear from training records and interviews that personnel have received appropriate training on the policy. It is critical that supervisors and leadership keep this policy in mind when reviewing video of police-citizen encounters, citizen complaints, daily interactions of members of BPD, and refining or developing policy.

Internal Investigations

BPD has adopted the model policy developed by VCJTC as result of legislation passed by the Vermont legislature known as Act 56. Act 56 mandates very clear expectations of police agencies in receiving, investigating, and adjudicating complaints made against police officers. BPD, in adopting the model policy, has addressed all of the legislative concerns, except the piece on citizen oversight or review. The project team also noted some issues in the application of the policy. In interviews and focus groups with citizens, not one person knew a policy existed or how to make complaint. In fact, in some cases the citizens who had grievances were directed to the Town Manager's office. In interviews with officers, not a single officer knew or understood the policy—including that there is a standard form to give to a complainant. The review team is aware of at least one complaint made during an onsite visit that did not follow the policy and did not meet the requirements of Act 56.²¹ These are serious deficiencies that are having adverse effects on trust and legitimacy. There is a clear sense among a significant number of the citizens interviewed that voicing concerns about members of BPD will not be effective. The administration of the internal investigations process needs to be addressed immediately.

Domestic Violence Protocol

The BPD Domestic Violence Protocol is eight years old and should be reviewed and updated; since 2011 when the policy was written, there have been advancements in research and investigative techniques. Domestic violence is an area where bias can present and have an adverse effect on victims and family members. In reviewing BPD policy against current profession leading practices and model policies, several areas were identified in need of revision. Specifically, identification of strangulation, intimate partner violence to include LGBTQIA+ relationships, informed trauma care in dealing with children, and lethality risk assessment. There is one point of conflict between this policy and the Internal Investigations policy. In the current domestic violence policy, it states that someone has a grievance about or issue with how a domestic violence investigation was

²¹ VCJTC, *supra* note 8

conducted requires a written complaint—this is in direct conflict with the Internal Investigation policy which does not require a written complaint be submitted.

Traffic Enforcement Policy

The BPD places a heavy emphasis traffic enforcement program, and it is apparent from internal interviews that one of the top priorities is traffic enforcement. This is also evident by the comprehensive and detailed policy on it. One theme from external interviews with the community was negative encounters as the result of traffic stops. In some cases, individuals of color voiced concerns about the circumstances for traffic stops. Experience and research have demonstrated that such enforcement techniques often have a negative impact on community members and their trust of the police. This is not a suggestion that the efforts of BPD to reduce crashes has not worked—the data demonstrate they do. The suggestion is that the policy be revisited to determine what the negative side effects are. This is an opportunity to involve the community in the conversation and to become more transparent by posting traffic stop data on the BPD webpage.

Press Policy

The BPD policy on the release of information to the media was last updated in 1989. Although the BPD appears to release information to the media, there are many social media platforms to release information. As the *President's Task Force on 21st Century Policing* suggested, the process of engaging technology and current social media formats is critical to educating the community about the mission and work of the BPD. The audience for such releases of information is no longer the media who use to serve as the intermediary to the community. As an example, when BPD does their annual Protect and Serve fundraiser the event can be sent to the community via social media in real time versus waiting for the media to cover the story. This policy should be updated in order to build a closer relationship with the community, and there should be a strategy on how better to leverage social media to bring BPD closer to the community.

Gaps in Existing Policy

During the policy review and in interviews with BPD officers and leaders, a number of important areas that are not addressed through policy or operating procedures were identified. In part, the team believe this occurs because in most cases, the policies have not been updated in several years, and in some cases more than a decade. In recent years, leading practices among similarly situated agencies have resulted in policies around issues that in many ways stem from nationwide implementation of community policing.

Further, there are several areas of policy development that affect fair and bias-free policing, procedural justice (both internally and externally), and other important 21st century approaches to policing. These policies also help guide the agency in avoiding bias and though this is not necessarily an all-inclusive list, it does represent key policy development areas essential to police operations.

Hate Crime Reporting/Investigation

The BPD does not have a policy on the identification and investigation of hate crimes. The issue of hate crimes is not solely associated with race, but the actual or perceived race, color, religion, national origin, ethnicity, gender, gender identity, disability, or sexual orientation of any person. The reporting of crimes against those in protected classes requires an understanding of who is covered by hate crimes, how to approach investigative techniques, and report hate crimes. In interviews in the community, there were cases of individuals who are covered under the definition of hate crime that felt their cases did not receive proper attention. It is important to listen and address those concerns; doing so goes to the underlying trust of the community – hate crimes not only affect the targeted victim, but also have far-reaching effects on large segments of the communities in which they take place. They provide fuel to the underlying prejudices and fears that trigger these crimes in the first place, thus continuing the cycle of hatred, prejudice, and bias.²² This is another opportunity for the BPD to engage the community in developing policy.

Response to Victims of Crime (Informed Trauma)

No policy currently exists addressing victim services and the associated trauma resulting from victimization. During interviews with BPD personnel, two major challenges faced by BPD and the town were identified: response to mental health and the opiate crisis. The secondary effect of these issues is now showing up in the school system, emergency room, and other institutions – many times driven by underlying trauma. The affected population is often the most vulnerable and have the most contact with the police, opening up exposure to disparate treatment. It would be wise to address these challenges in policy and practice that recognize and address the needs and rights of crime victims during each contact; support, provide access to resources, and assist victims as they continue to interact with the criminal justice system; and act as a liaison to appropriate victim assistance and service agencies. Moreover, the policy should be developed using a community policing model involving other stakeholders in the community who support crime victims and should also address Vermont’s statutory requirements in supporting victims of crimes.

²² IACP Law Enforcement Policy Center, *Investigation of Hate Crimes*, Concepts and Issues Paper (September 2016), <https://www.theiacp.org/sites/default/files/2018-08/HateCrimesPaper2016v2.pdf>.

Responding to Those Experiencing a Mental Health Crisis

In both internal and external interviews and focus groups, it is clear that the issue of mental health is one of the top challenges in the Town of Bennington. In interviews with officers and outside organizations that support individuals with mental health needs a lack of a coordinated approach to responding to individuals in crisis was identified, and no policy exists on how to respond to those in crisis. Individuals who are unable to obtain effective mental health treatment through often limited available resources are likely to behave in ways that bring them into contact with law enforcement and find themselves trapped in a cycle of arrest and short jail stays. As more effective approaches involve redirecting societal resources from containment to treatment of persons in crisis whose behaviors are seen as atypical or aberrant, BPD should develop a shared policy with those who work in the community on mental health issues.

Code of Conduct

Law enforcement officers confront many difficult decisions that may involve conflicting notions of what is right and wrong and what is expected from them. The accepted practice in setting standards and expectations for employees of a police department is a detailed code of conduct. In most cases, the proper location for the code of conduct is in policies, procedures, and general orders. The stated conduct is the baseline for behavior of the employees and the basis of discipline when an employee violates the code of conduct. BPD does not have a code of conduct in its policies. There is a section in the negotiated labor contract (Article IV Employee Conduct) that defines four areas of conduct; however, those four sections do not cover leading practices. A more extensive code of conduct should be added to BPD's policies. While a policy outlining acceptable and unacceptable conduct for employees is necessary, not every situation can or will be covered explicitly. A code of conduct, combined with clearly articulated mission, goals, and values will reflect the general underlying principle that will guide the use of discretion in incidents where no specific rule applies.

Harassment/Personal Relationships in the Workplace

There is no existing BPD policy that addresses sexual harassment and/or personnel relationships in the workplace. There is a policy in the Town of Bennington Personnel Manual, and it is assumed that the policy covers members of BPD, but the policy is outdated (enacted 1996). There is no policy that addresses personnel relationships in the BPD to include fraternization and nepotism. Although there was no feedback from interviews on sexual harassment, there was some concern about personnel relationships. The lack of policy affects internal trust and should be addressed. Sexual harassment is a high-risk area and there should be current policies to protect employees from harassment and the town from liability.

Policy on Managing Demonstrations and Special Events

During interviews, it became apparent that, as in many communities in Vermont, there are social changes occurring. As an example, a very strong movement of the LGBTQIA+ community held their first ever PRIDE parade. All reports from interviews indicated that the leadership of the BPD was supportive. At the same time, there are elements of individuals who challenge the rights of individuals in the LGBTQIA+ community. As Bennington becomes increasingly more diverse over time and various communities sponsor more public events, it is important for the Town of Bennington and the BPD to consider developing policy and operating procedures that help manage safety and other considerations for future events. This presents another opportunity for the BPD to work in conjunction with community members most affected by those concerns.

Key Finding

The process of keeping policy current is challenging for all police agencies, it is particularly more challenging in agencies the size of BPD. There are policies and general orders that BPD has that are outdated. It is suggested that BPD pursue support in updating policy through outside opportunities such as grant support, graduate-level intern opportunities, or assistance from IACP.

To reemphasize, the review team found no policies that would encourage systemic bias in the organization. What was found is the lack of policies that would strengthen opportunities to support members of the community who are most at risk for disparate treatment.

The IACP Law Enforcement Policy Center²³ has documents addressing the aforementioned topics, and they will be provided to the Bennington Police Department to assist in updating existing policies and developing missing policies. Policy Center documents include model policies, concepts and issues papers, and other considerations documents—the latter two documents provide background research and supplemental information for agencies to consider when tailoring the model policies to their own department.

²³ Model policies and concepts and issues papers are developed through a rigorous process. The documents are drafted by a working group of subject matter experts representing a variety of viewpoints and expertise specific to the topic. They are then reviewed by the Policy Center Advisory Group (PCAG), a standing body that reviews all IACP Law Enforcement Policy Center documents. The PCAG comprises representatives from various sized agencies; international viewpoints; academia; and human and civil rights, legal, CALEA, and general subject matter experts.

RECOMMENDATIONS

-  **Recommendation 21:** The Bennington Police Department should seek support to update policies by requesting assistance from CRI-TAC (free technical assistance) housed at IACP.
-  **Recommendation 22:** The lack of understanding internally and externally of the internal investigation process should be addressed immediately.
-  **Recommendation 23:** The link for making complaints and compliments should be prominently displayed on the BPD and Town of Bennington webpages.
-  **Recommendation 24:** A code of conduct should be developed and implemented as soon as possible.
-  **Recommendation 25:** An aggressive time frame should be set to address policy update and development.

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Conclusion

There is enormous potential for the Bennington Police Department to be successful and that with work and dedication, they can earn the trust of the entire community they serve. At the same time, current and future leadership of BPD may need some guidance as they strategically and deliberately move toward 21st century policing. There are ways for BPD to develop operational strategies that encompass essential elements of community policing and procedural justice, be attentive to the needs of the community in decision-making, and value the professional experiences of officers.

Most important, BPD should avoid further separating vulnerable elements of the community from the police. BPD can engage in decision-making that is attentive to procedural justice, is transparent and fair to the community, and avoids further disenfranchisement of members of the Bennington community that make this part of Vermont a unique and special place to call home.

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Attachment A: Action Plan

Suggested actions, steps, and outcomes/measurements have been developed to assist the Department, Town, and community achieve their mutual goals. As the process moves forward, it is also recommended that timelines be created and responsibility for implementation assigned to the appropriate individuals, committees, or groups. It should be noted that development and implementation of action plans, timelines, and oversight are generally contingent upon a number of factors, including but not limited to budgets, local and state regulations and laws, and the overall priorities of the community.

Action	Steps	Outcome / Measurement
Internal Investigations	<ul style="list-style-type: none"> ▪ Review Policy ▪ Post on BPD Webpage ▪ Post on Town Webpage ▪ Meet Civilian Review Standard ▪ Engage Community Groups on Process ▪ Train Internally on Process ▪ Align Internal Procedures ▪ Create Reporting Process to Civilian Oversight 	<ul style="list-style-type: none"> ▪ Build Trust and Legitimacy ▪ Increase Accountability ▪ Conform to Act 56
Build Mission Statement/Values	<ul style="list-style-type: none"> ▪ Create Internal Committee ▪ Engage Stakeholders ▪ Appoint Stakeholders to Committee ▪ Identify Community-Based Facilitator ▪ Create New Mission Statement/Values ▪ Present to members of BPD and Community 	<ul style="list-style-type: none"> ▪ Build Trust and Legitimacy ▪ Engage Community Members ▪ Give Direction to BPD
Create a Code of Conduct	<ul style="list-style-type: none"> ▪ Create as Code of Conduct as Part of General Orders/Policy ▪ Make Code of Conduct Visible to the Public ▪ Review Model Policy Available from IACP 	<ul style="list-style-type: none"> ▪ Create Accountability ▪ Create a Shared Statement of Conduct ▪ Build Trust in Community
Engage Critical Stakeholders	<ul style="list-style-type: none"> ▪ Create a Standing Working Group of Key Stakeholders ▪ Reengage with Standing Working Groups in the Community (Opiate Working Group, etc.) 	<ul style="list-style-type: none"> ▪ Start of Strategic Community Policing Plan ▪ Community Problem-Solving Process

Bennington Police Department Assessment

Action	Steps	Outcome / Measurement
Start Systematic Review of Policy	<ul style="list-style-type: none"> ▪ Review Recommendation in Report ▪ Seek Assistance in Policy Review ▪ Create a Systematic Process to Keep Current ▪ Focus on Aligning Policy with new Code of Conduct and Fair/Impartial Policing 	<ul style="list-style-type: none"> ▪ Align Best Practices ▪ Determine Accountability ▪ Address Areas of Potential Bias ▪ Embed Community Policing ▪ Embed Fair and Impartial Practices
Create Five-Year Strategic Plan	<ul style="list-style-type: none"> ▪ Seek Support to Create Approach ▪ Involve Internal/External Individuals ▪ Use Report and SWOT Analysis as Foundation ▪ Build a Community Policing Strategy 	<ul style="list-style-type: none"> ▪ Create a Clear Path for BPD ▪ Engage Stakeholders in Shaping the Future of BPD ▪ Identify Outcomes That Measure Community Safety
Recruitment and Retention	<ul style="list-style-type: none"> ▪ Review All Job Descriptions and Update ▪ Include in Job Descriptions Skills Needed for 21st Century Policing Model ▪ Create Advertisement That Reflects Current Needs ▪ Set Goals of Hiring More Inclusive Members 	<ul style="list-style-type: none"> ▪ Diversify Workforce ▪ Align Skill Sets to 21st Century Model