Nov. 11, 2020

Dear Civil Rights Committee,

At our first meeting I was one of the people tasked with trying to raise "critical questions" that could influence our work. I felt daunted by the task, but I've tried to keep at it. Here I'm emphasizing some areas the committee could highlight. It is by no means an exhaustive list. I've tried to anchor these ideas to the committee's stated purpose to: "….identify and review policies in town government, services and municipal departments that contribute to systemic and structural racism, making recommendations for policies to promote greater equity and inclusion."

With that in mind, I emphasized specific policy areas that could be addressed by the town. I've also tried to think of tailoring our work to our audience, which is first of all the Town Council, and ultimately the town itself. Here are a few questions we might consider:

Are there particular housing policies that have kept Cape Elizabeth predominately white and wealthier (for Maine), and are there changes in policy that could increase access and create a town that is more racially and economically diverse?

There is ample evidence that white families in America have been able to accumulate wealth through homes, while People of Color have been far less able to do so for reasons related to structural racism. Nationally, the practice of redlining; housing covenants that allow only white owners' and an emphasis on single-family zoning have perpetuated profound inequities. It seems it would be important to understand ways these forces have shaped Cape Elizabeth, and potential steps to providing redress. Here are some useful links:

https://www.americanprogress.org/issues/race/reports/2019/08/07/472617/systemic-inequality-displacement-exclusion-segregation/

https://www.realtor.com/news/trends/racial-covenants-systemic-racism/

https://www.mainepublic.org/post/why-maine-so-white-and-what-it-means-ask-question#:~:text=McMahon%20says%20a%20number%20of,from%20wooden%20construction%20to%20steel.

How do we monitor potential racial disparities in policing in Cape Elizabeth, such as differential arrest rates, inequities in charges, or implicit and explicit bias by officers? In raising this question, I want to add that in my experience, Chief Paul Fenton has been highly engaged and responsive to questions around race and policing. However, we may not always have him as chief, and I think our committee could explore several areas:

A) Does Cape Elizabeth track policing actions by race, such as traffic stops, arrests, citations etc.?

We are all aware of the way nationally there are profound disparities in arrests, charging and sentencing. This is documented powerfully in Michelle Alexander's book, "*The New Jim Crow: Mass Incarceration in the Age of Colorblindness*." More recently I looked into Minnesota prior to the George Floyd killing. In a lengthy 2018 report by the Minnesota Advisory Committee to the U.S. Commission on Civil Rights, these were the kinds of disparities found in Minneapolis:

"In Minneapolis, black youth are arrested for low level offenses at a rate nearly six times that of white youth, and blacks in general are 8.7 times more likely to be arrested for low-level offenses than whites.26 Native Americans are arrested for low-level offenses at similarly high rates, with Native American youth 7.7 times as likely to be arrested for low-level offenses as white youth. 27 Some have argued that these disparities are at least partially the result of implicit bias and racial profiling on the part of Minneapolis police officers.28 During the afternoon hours – when police officers are best able to identify an individual's race before stopping their vehicle– black drivers in Minneapolis are over 9 times more likely to be arrested for a traffic violation than white drivers. 29 Conversely, during the late evening and early morning hours – when visibility is limited – black drivers are only twice as likely to be arrested for a traffic violation as white drivers." https://www.usccr.gov/pubs/2018/03-22-MN-Civil-Rights.pdf (P. 9.)

B) Would the use of body cameras by police officers in Cape Elizabeth contribute to greater safety and improved oversight? Here is an excellent link—item #10 addresses body cameras: https://sparq.stanford.edu/products/sparq-insights-race-and-policing

C) What kind of training is provided to our officers around implicit and explicit bias? In raising this question, I realize there are limitations to these trainings. The same report from Minnesota, for example, noted: "In Minnesota, there have been calls from both law enforcement personnel and members of the community to expand police training on how to identify and respond to instances of implicit bias. However, as it is currently practiced, implicit bias training has not been shown to be effective at combatting implicit biases in the long-term and may not be effective at all for officers who are not receptive to it" https://www.usccr.gov/pubs/2018/03-22-MN-Civil-Rights.pdf (p. 57). It seems important to explore in some depth the kinds of training and hiring practices that contribute to consciousness of bias, racial sensitivity and safer policing. This focus seems especially important given the experiences of other communities that have tried to make changes and run into institutional backlash: https://www.washingtonpost.com/national/police-chiefs-and-mayors-push-for-reform-then-they-run-into-veteran-officers-unions-and-how-culture-is-created/2020/06/28/7d2ff812-b2ef-11ea-8f56-63f38c990077_story.html

(At the end of this piece I put in an appendix that included the findings from the Minnesota Advisory Committee in case some are relevant for our purposes)

What role could Cape Elizabeth play in highlighting and addressing significant health disparities in the area based on race and ethnicity?

https://www.pressherald.com/2020/06/21/maine-has-nations-worst-covid-19-racial-disparity/

What training and education could Cape Elizabeth offer that would reflect an ongoing commitment to racial equity, and how do we evaluate what programs would be most impactful?

The Racial Equity Alliance has a useful description of the profound impacts of implicit bias:

"Researchers responded to fictitious resumes for help-wanted ads in Boston and Chicago newspapers, assigning each resume to either a very "African American-sounding" name or a very "white-sounding" name. Resumes with ostensibly white names garnered 50 percent more callbacks than the African American-sounding names, which occurred across occupations and industries (Bertrand and Mullainathan, 2003). Further, for the names deemed white, a higher-quality resume elicited 30 percent more callbacks whereas for African Americans, it elicited a far smaller increase. In a similar study, teachers are more likely to label a student with multiple disciplinary incidents a troublemaker if the student has an African American-sounding name, without knowing the student, and only seeing the name on the record (Okonofua and Eberhardt, 2015). In an analysis of over 600 capital cases in Philadelphia between 1979 and 1999 involving an African American defendant, researchers found that the more stereotypically "Black" a defendant is perceived to be, the more likely that person is to be sentenced to death, but only if the victim is white (Eberhardt, 2006)."
https://www.racialequityalliance.org/wp-content/uploads/2015/02/GARE-Resource_Guide.pdf

 (pp. 15-16).

In terms of the effectiveness of intervention programs intended to promote anti-racism, here are a few references I've begun to explore:

This research report from the Equality and Human Rights Commission (UK) evaluates the effectiveness of unconscious bias training. Due to my tech limitations I wasn't able to upload the entire report as a link. However, it can be accessed if you go to this page: https://www.equalityhumanrights.com/en/our-research/list-all-our-research-reports and select "Research report 113: Unconscious bias training: an assessment of the evidence for effectiveness"

This piece examines the way privilege and power are embedded in systems of evaluation, and how anti-racism programs might be approached with this consideration in mind: https://www.racialequitytools.org/resourcefiles/Sec-3-ch-9.pdf

This critique from Harvard is titled, "Why Doesn't Diversity Training Work?": https://scholar.harvard.edu/files/dobbin/files/an2018.pdf

This article from the New York Times immerses the reader in a particular training experience, which may be relevant as we consider the sort of experiences we may want to offer: https://www.nytimes.com/2020/07/15/magazine/white-fragility-robin-diangelo.html

How will incidents of harm be addressed? What processes can Cape Elizabeth make available when there are incidents of bias/harm

As in any community, Cape Elizabeth is impacted by incidents of racism that cause significant harm. Some of these incidents will be handled by schools (which I realize is not this committee's area). However, when incidents occur in the wider community, I think it would be important to consider processes that are available to people who are harmed in these ways. One source we might explore is the work of Fania E. Davis in Oakland, California. She authored "The Little Book of Race and Restorative Justice: Black Lives, Healing and US Social Transformation". A glimpse of her work is available at: https://medium.com/bioneers/fania-davis-trailblazing-restorative-justice-approach-bda874a6d4af. I also have a friend, Fred Van Liew, a former prosecutor who trains extensively in Restorative Justice. He sent me a description of some of his restorative work in Iowa involving two white teenagers who were arrested for desecrating a synagogue:

file:///C:/Users/Jim/Downloads/ATONEMENT%20(1).pdf

Appendix

Here are the findings from the 2018 report by the Minnesota Advisory Committee to the U.S. Commission on Civil Rights—I think it could be useful to us as we consider policing in Cape Elizabeth:

a. Findings

1. Improving interactions between law enforcement and communities of color requires building trust on both sides of the police-civilian divide.

1.1 Many people of color experience historical trauma stemming from the racist legacy of slave patrols and Jim Crow era policing practices. When unaddressed, this trauma can serve as an impediment to the development of trusting relationships between communities of color and law enforcement.

1.2 Current police practices contribute to the lack of trust between people of color and the police. People of color often report feeling that the police instinctively regard them as criminals and are not concerned about their protection. This lack of trust is mirrored by law enforcement personnel, many of whom are fearful and distrustful of the communities they are assigned to protect.

1.3 Procedural justice is essential for establishing trusting relationships between communities of color and law enforcement. Research suggests that people are more likely to regard an outcome as just when it is arrived at transparently and in a manner that respects the dignity of everyone involved.

1.4 Many police officers harbor implicit biases against people of color. These biases lead to a disproportionate number of interactions between people of color and police, which in turn creates an "us versus them" mentality that erodes trust between communities of color and law enforcement. 334 45 C.F.R. § 703.2 Civil Rights and Policing Practices in Minnesota 50

1.5 Police officers in Minnesota increasingly do not live in the communities they are assigned to protect. Several panelists expressed concern that, without a vested interest in the community, police officers are more likely to view the areas where they work as "war zones."

1.6 Despite efforts to increase diversity, people of color, and blacks in particular, remain underrepresented in many Minnesota police departments.

1.7 Federal laws allowing local law enforcement to cooperate with federal immigration officers have led many immigrants and those living in immigrant communities to avoid interacting with local police out of fear that they will be deported or subjected to immigration proceedings.

2. Collecting and maintaining thorough and accurate data on police department practices – including hiring practices, officer demographics, and interactions between police and citizens – increases transparency and helps foster trusting relationships between communities of color and law enforcement.

2.1 Although some police departments in Minnesota have begun to make improvements in data collection, the variability in how departments collect and distribute data makes it difficult to accurately assess and compare policing practices across the state.

2.2 To be effective, police department policies on use of force must be clear, consistent, and based on reliable data. These policies should be reflective of community values and geared toward deescalating potentially violent situations, particularly those involving mass protests or individuals who may be suffering from mental illness.

2.3 Perceived and actual internal accountability is imperative to building trust between the community and law enforcement, yet many police officers remain unwilling to report misconduct committed by their fellow officers. Even when misconduct is reported, arbitration proceedings and police union contracts often make it difficult to terminate or discipline officers who violate department policies. 2.4 Civilian oversight of law enforcement can serve to both increase trust between communities and law enforcement, as well as to formalize accountability. However, in Minnesota the scope of civilian oversight is limited by a Minnesota state law prohibiting civilian review boards from making factual findings regarding complaints against officers or from imposing disciplinary measures. These restrictions have prompted many civilian review board members to complain that they are unable to effectively address instances of police misconduct.

3. New technology has drastically changed policing practices, but there is considerable debate among law enforcement and the community about whether these changes have been positive or negative.

3.1 Research on use of body-warn cameras (BWCs) by police suggests that they can significantly reduce both officer use of force and complaints against officers. In Minnesota, however, only a small percentage of police departments employ BWCs. Of those that do, the lack of standards governing their use has raised concerns among members of the community that police are using BWCs primarily for surveillance purposes, rather than as a measure to ensure officer accountability.

3.2 Although social media can be an effective tool for police to communicate with the community and receive feedback regarding department policies and practices, there is concern among the law enforcement community that social media is actually impairing relationships between the police and the community. The "Ferguson Effect", named after the 2014 shooting of an unarmed black teenager in Ferguson, Missouri, refers to what many police officers perceive to be social media's tendency to spread misinformation and place undue scrutiny on interactions between civilians and police. FBI research indicates that Ferguson Effect may be causing officers to police less aggressively than they normally would out of fear of attracting negative media attention.

4. Community policing practices can assist officers in proactively identifying and addressing public safety challenges before the need for criminal enforcement arises, thereby reducing instances of tense and potentially violent encounters between law enforcement and the community.

4.1 In recent years, police departments in Minnesota have implemented a number of community policing practices aimed at promoting positive relationships between the community and law enforcement. Despite these efforts, many Minnesota residents indicate that they would like to see an even greater focus placed on community policing.

4.2 Community policing can serve as an effective alternative to "broken windows" or "hot spot" policing. By singling out low income, primarily minority neighborhoods for increased enforcement of low level offenses, broken windows and hot spot policing often erode trust between law enforcement and communities of color.

4.3 Community policing requires collaborative partnerships between law enforcement and community organizations in order to be most effective. These partnerships should be tailored to meet the specific needs of the community being served, with a focus on addressing the complex causal factors – such as chemical dependency and homelessness – that directly and indirectly lead to criminal activity. Civil Rights and Policing Practices in Minnesota 52

4.4 Even with effective community policing programs, many of the societal factors that lead to crime are beyond the scope of what police are able to address. Issues regarding poverty, disparities in quality of education and lack of job opportunities cannot be remedied without the assistance of the community as a whole.

5. As the role of police officers in society continues to expand, it is more important than ever they receive extensive, consistent training in skills ranging from crisis intervention to cultural sensitivity.

5.1 In Minnesota, there have been calls from both law enforcement personnel and members of the community to expand police training on how to identify and respond to instances of implicit bias. However, as it is currently practiced, implicit bias training has not been shown to be effective at combatting implicit biases in the long-term and may not be effective at all for officers who are not receptive to it.

5.2 Minnesota is currently the only state in which colleges and universities educate and train police officers rather than police academies. In order to become a licensed Minnesota police officer, an individual must earn at least a two-year degree from an accredited college or university. These programs can be prohibitively expensive, and there is no guarantee that they will lead to a job. As a result, many low income and minority individuals are financially unable to pursue careers in law enforcement.

5.3 Many undergraduate criminal justice and criminology programs in Minnesota do not adequately prepare officers for the day-to-day realities of policing. These programs often have standards significantly lower than those established by the Academy of Criminal Justice Sciences, and some are almost entirely online, meaning that many graduates will enter the police force without ever having set foot in the community they have been assigned to protect.

6. The mental and physical health of police officers is an often overlooked factor in developing positive relationships between law enforcement and the community. Although police officers are

2.4 times more likely to die from suicide than from homicide, many officers are reluctant to seek psychological assistance due to the stigma associated with mental illness within police culture. This reluctance is particularly troubling given that research indicates that officers who suffer from untreated emotional trauma are more likely to engage in use of force. https://www.usccr.gov/pubs/2018/03-22-MN-Civil-Rights.pdf (pp. 49-52).