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## Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel Report (Act 54) 2 March, 2018

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# Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel Report (Act 54) February 13, 2018

*“The Panel is charged with continually reviewing the data collected pursuant to 20 V.S.A. § 2366 to measure State progress toward a fair and impartial system of law enforcement”.*



## Executive Overview

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### The Charge

3 V.S.A. § 168 established the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel in the Office of the Attorney General. The Panel is comprised of 13 members: (1) five members, drawn from diverse backgrounds to represent the interests of communities of color throughout the State, who have had experience working to implement racial justice reform, appointed by the Attorney General; (2) the Executive Director of the Vermont Criminal Justice Training Council or designee; (3) the Attorney General or designee; (4) the Defender General or designee; (5) the Executive Director of the State’s Attorneys and Sheriffs or designee; (6) the Chief Superior Judge or designee; (7) the Commissioner of Corrections or designee; (8) the

Commissioner of Public Safety or designee; and (9) the Commissioner for Children and Families or designee.

The Panel “shall review and provide recommendations to address systemic racial disparities in statewide systems of criminal and juvenile justice, including: (1) continually reviewing the data collected pursuant to 20 V.S.A. § 2366 to measure State progress toward a fair and impartial system of law enforcement; (2) providing recommendations to the Criminal Justice Training Council and the Vermont Bar Association, based on the latest social science research and best practices in law enforcement and criminal and juvenile justice, on data collection and model trainings and policies for law enforcement, judges, correctional officers, and attorneys, including prosecutors and public defenders, to recognize and address implicit bias; (3) providing recommendations to the Criminal Justice Training Council, based on the latest social science research and best practices in law enforcement, on data collection and a model training and policy on de-escalation and the use of force in the criminal and juvenile justice system; (4) educating and engaging with communities, businesses, educational institutions, State and local governments, and the general public about the nature and scope of racial discrimination in the criminal and juvenile justice system; (5) monitoring progress on the recommendations from the 2016 report of the Attorney General’s Working Group on Law Enforcement Community Interactions; and (6) on or before January 15, 2018, and biennially thereafter, reporting to the General Assembly, and providing as a part of that report recommendations to address systemic implicit bias in Vermont’s criminal and juvenile justice system, including: (A) how to institute a public complaint process to address perceived implicit bias across all systems of State government; (B) whether and how to prohibit racial profiling, including implementing any associated penalties; and (C) whether to expand law enforcement race data collection practices to include data on non-traffic stops by law enforcement.”

The charge of the panel unfortunately misses the mark in many ways. The most detrimental way in which the charge misses the mark is naming and framing the challenges to be addressed as being that of “racial disparities.” The legislation establishing this panel resulted from a request for a Racial Justice Oversight Board, requested to address systemic racism (H.492, 2017). Consistent with the approach taken with Act 134 in 2012 (Racial Disparities in the Criminal Justice System), the issue was named and framed around an outcome, which is disparities, as opposed to systemic racism, the root of the problem. It is important to highlight the difference between the work of addressing racial disparities and dismantling systemic racism.

### **Systemic Racism**

Systemic racism is the root cause of the disparate treatment and outcomes for people of color in the state of Vermont’s criminal and juvenile system. Without a plan to address this age-old problem that is woven into American culture and institutions, progress is delayed, compromised, and misguided. People of color across Vermont have participated in groups, discussions, study groups and the like on this issue for decades and seen little or no real progress. There is an overwhelming body of data, reports, testimonies and destroyed lives that chronicle the reality that our state is systematically abusing black and brown people and has had no real intention of changing. Systemic Racism is evident in the panel in its make up. This enormous charge rests on the work of volunteers. People of color have completed most all of the **work** of the panel including this report and supporting research as well as community outreach and education. The lack of understanding and **persistent denial** that exists surrounding this issue is also evidenced in the charge “how to institute a public complaint process to address *perceived implicit bias* across all systems of State government.” Referring to this issue as perceived implicit bias diminishes the reality that people of color suffer daily and are victims in every aspect of even the slightest contact with the criminal and juvenile justice systems. The phrase

‘perceived implicit bias’ implies that the issue rests on perception. The disproportionate number of people of color incarcerated in our prison system both in state and out of state is not a matter of perception. It is an historical fact that has been true for many years.

## The Process and Scope

The *Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel* has held six meetings in as many months. Rules of engagement were disseminated in the Panel, which adopted generally agreed upon “Guiding Principles”. The Panel developed subcommittees on Public Complaint Process, Racial Profiling and Data Collection. The Committees each had a series of meetings and reported back to the Chair. The Panel then reviewed and discussed the draft report, prior to its final release. Upon completion of discussions and collection of data, the Chair and the Vice Chair, with concurrence of the Attorney General, created the report.

A number of members of the Panel expressed “process” concerns regarding the method chosen by the Chair to produce this report. The Chair and Vice Chair have also been accused of seeking to release a report in the interest of “advancing their own personal agendas”. We will not dignify this age-old tactic of attacking the character of good people when a system of oppression feels as though it is threatened. This report is being submitted by the Chair and Vice Chair to ensure that a report on addressing the systemic racism in the criminal justice system is not meeting the agendas of those who are a part of the system, once again.

## Recommendations

### Legislative Recommendations

The following recommendations are in response to the scope and the charge of the Panel as directed by 3 V.S.A. § 168 (f)(4), (5), and (6).

- 1. Clarify Human Rights Commission responsibility and reallocate resources towards explicit bias training.**
- 2. Mandate that the VCJTC report progress of the AG Working Group report to the Attorney General.**
- 3. Designate the Human Rights Commission as the primary agency responsible for fielding reports of alleged explicit bias.**
- 4. Allocate resources to use the Community Justice Center Network as satellite locations for a facilitated complaint process.**
- 5. Classify racial profiling as a criminal offense under Chapter 13 of the Vermont Statutes.**
- 6. Revise 20 V.S.A. 2366 by adding a requirement to collect use of force data.**

#### Additional Legislative Recommendations

Additional legislative recommendations are provided in response to the scope and the charge of the Panel as invited by 3 V.S.A. § 168 (f) 6):

1. Mandate appropriations for the development and deployment of a centralized data management platform which:
  - a. Enables the management of statewide race data collection.
  - b. Provides user-friendly viewing of collected data.
  - c. Serves as a tool to enable supervision and support individual accountability.
2. Assign the management of the data platform to an agency that has systemic racism mitigation responsibility.
3. Mandate (in conjunction with stakeholders) Race Data Collection, Model Fairness and Diversity Policy and Systemic Racism Awareness Training for:
  - a. States Attorneys Offices
  - b. Judges
  - c. Juvenile Justice (DCF)
  - d. Corrections



- e. Community Justice Center Network (CJNVT), Crime Victim Services and other Justice System contractors
4. Create an independent and funded Equity Commission to mitigate systemic racism in Vermont, immediately.

#### Vermont Criminal Justice Training Council and Bar Association Recommendations

The Panel, as directed by 3 V.S.A. § 168 (f) 2), recommends that the Vermont Criminal Justice Training Council and the Vermont Bar Association create (in conjunction with stakeholders) develop:

1. Infrastructure to provide querying and trending analysis capability of LE collected data.
2. Model Fairness and Diversity Policy and Systemic Racism Awareness Training for:
  - a. States Attorneys Offices
  - b. Judges
  - c. Juvenile Justice (DCF)
  - d. Corrections
  - e. Community Justice Center Network, Crime Victim Services, and other justice system contractors.

#### Vermont Criminal Justice Training Council Recommendations

The Panel as directed by 3 V.S.A. § 168 (f) 3), recommends that the Vermont Criminal Justice Training Council Create (in conjunction with stakeholders):

1. Create the framework that will support the collection of use of force data in conjunction with existing race data collection processes.
2. Make as a priority the creation of Model Appropriate Use of Force, De-escalation and Cross-cultural Awareness Policy.
3. Create and adopt model training academy, one-time block and in service Appropriate Use of Force training.

4. Insure adequate resources, tools and mandatory wellness maintenance check ups.

There is language in H.828 and S.281, which are currently under consideration by the House and Senate, respectively, that adequately addresses the root cause of racial disparities as systemic racism and, if adopted, could affect change and make progress toward producing racial equity in our state and its various systems, including the criminal justice system.

## Race Data Collection

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The Panel was charged with “continually reviewing the data collected pursuant to 20 V.S.A. § 2366 to measure State progress toward a fair and impartial system of law”

***“Race data collection has served as the linchpin to gaining a foothold on proving establishing a baseline and measuring our progress on mitigating systemic racism.”***

The history leading up to race data collection in Vermont is fraught with challenges of pushback and denial from law enforcement up to and including the then-Attorney General. It also chronicles generations of suffering of people of color across Vermont. The Uncommon Alliance, led by a community of color and joined by advocates and law enforcement, made historic progress in 2005 - 2010 by forging a unified front which resulted in voluntary data collection by law enforcement agencies in Burlington, South Burlington, UVM and Winooski.

In 2012, Vermont finally enacted language into 20 V.S.A. § 2366, in which “State, local, county, and municipal law enforcement agencies that employ one or more certified law enforcement officers are encouraged to work with the Vermont association of chiefs of police to extend the collection of roadside-stop

race data uniformly throughout state law enforcement agencies, with the goal of obtaining uniform roadside-stop race data for analysis.” Over the last five years, race data collection, has been addressed three additional times legislatively and has evolved to a place where all 79 agencies are currently collecting race data. This has resulted in a elevated level of attention to the issue of racial profiling (covered later in this report) and for the first time has provided us with not only a benchmark, but also a method of measuring progress in addressing systemic racism in the criminal justice system, specifically with law enforcement.

Numerous race data reports have been released over the last number of years, all indicating racial disparities. In 2016, the data indicated that problem was worsening. Consistent with the work being done nationally Vermont is moving forward with the additional mitigation strategies through the deployment Fair and Impartial Policing Policy (linked to subsection of 20 V.S.A. § 2366) and Implicit Bias Training (20 V.S.A. § 2358) across all law enforcement agencies.

### Observation

The current race collection mandate in 20 V.S.A. § 2366 does not require law enforcement to release control of the data to a third party that has a primary interest in systemic racism mitigation. It also leaves the selection of any vendor to the discretion of the Council. Finally, the statute does not clearly state that **the data must be user-friendly**. The data currently reside on the Crime Research Group’s website in dozens of non-uniform spreadsheets. It is very difficult for a user to navigate or make use of these data. Manipulating the data requires a skilled Excel user and even then comparison of one agency to another proves exponentially more challenging. In short, the data are not user friendly. Finally, of particularly concern is how the state will move forward with trend analysis when the next tranche of data is released. Race data collection has served as the linchpin to gaining a foothold on proving and establishing a

baseline and measuring our progress on mitigating systemic racism. Addressing these challenges will complete the groundwork for the incorporation of race data from other components of the criminal justice system. Specific recommendations on data collection process improvement are beyond the scope of this charge and will be addressed in the “Additional Recommendations” section of this report.

- **This Panel was unable to measure State “progress toward a fair and impartial system of law enforcement” due to the format of the data.**

## Recommendations to Vermont Criminal and Justice Training Council and Bar Association

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The Panel is charged with “providing recommendations to the Criminal Justice Training Council and the Vermont Bar Association, based on the latest social science research and best practices in law enforcement and criminal and juvenile justice, on data collection and model trainings and policies for law enforcement, judges, correctional officers, and attorneys, including prosecutors, public defenders, to recognize and address implicit bias.”

***“Though we have yet to see significant improvement, we have discovered the processes needed to measure our progress in addressing systemic racism”***

The Panel has engaged in a number of discussions and exercises surrounding the systemic racism mitigation strategies common in all components of the criminal and juvenile justice system. Some of our work involved beginning the process of identifying high impact/high discretion decision points within the systems’ respective daily operations. Our discussions included specific examples of decision points within the various components of the criminal and juvenile justice systems. We discussed the progress made by law enforcement. Vermont

law enforcement has made significant progress in the use of data collection, policy and training in addressing systemic racism. This work has been most effective in the Vermont State Police. Though we have yet to see significant improvement, we have discovered the processes needed to measure our progress in addressing systemic racism. This approach has proven well in communities, schools and law enforcement agencies across the nation, usually implemented in the form of consent decrees from the Department of Justice. In discussions the group developed a consensus on our understanding of the importance of ensuring that this work be carried forward in future years if there is any hope of us addressing systemic racism in any sustainable manner.

The Panel as directed by 3 V.S.A. § 168 (f) 2), recommends that the Vermont Criminal Justice Training Council and Bar Association Create (in conjunction with stakeholders) develop:

- 1. Infrastructure to provide querying and trending analysis capability of LE collected data.**
- 2. Model Fairness and Diversity Policy and Systemic Racism Awareness Training for:**
  - a. States Attorneys Offices**
  - b. Judges**
  - c. Juvenile Justice (DCF)**
  - d. Corrections**
  - e. Community Justice Center Network, Crime Victim Services and other contractors**

## Recommendations to the Vermont Criminal Justice Training Council

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The Panel is charged with ”providing recommendations to the Criminal Justice Training Council, based on the latest social science research and best practices in law enforcement, on data collection and a model training and policy on de-escalation and the use of force in the criminal and juvenile justice system.”

***“Burlington law enforcement released a report last year indicating that about 18 percent of its use of force was directed against African Americans, although African Americans represent 3.8 percent of the general population.”***

Vermont has modeled a largely successful law enforcement data collection strategy from some of the methods and practices of the Department of Justice. It comes to us as no surprise that statistical analysis supports the fact that the probability of use of force is directly proportional to the frequency and duration of contact with law enforcement. Burlington law enforcement released a report last year indicating that about 18 percent of its use of force was directed against African Americans, although African Americans represent 3.8 percent of the general population.<sup>1</sup> With dozens of bodies interred, countless victims damaged for life, and a recent shooting of a civilian by a law enforcement officer footsteps from the Capitol, it is time that we urgently address law enforcement use of force. The Panel as directed by 3 V.S.A. § 168 (f) 3), recommends that the Vermont Criminal Justice Training Council Create (in conjunction with stakeholders):

- 1. Create a framework that will support the collection of use of force data in conjunction with the existing race data collection processes.**

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<sup>1</sup> BPD Use of Force and Response to Resistance Analysis Report  
<http://justiceforallvt.org/wp-content/uploads/2018/01/Burlington-UOF-1.25.17-1.pdf>

2. **Prioritize the creation of Model Appropriate Use of Force, De-escalation and Cross-cultural Awareness Policy.**
3. **Create and adopt model Academy, Block and In-service Appropriate Use of Force, De-escalation and Cross Cultural Awareness Training.**

Educating and engaging with communities, businesses, educational institutions, State and local governments, and the general public

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The Panel is charged with “educating and engaging with communities, businesses, educational institutions, State and local governments, and the general public about the nature and scope of racial discrimination in the criminal and juvenile justice system.”

**“Detracting from discussions on matters of civil liberties serves as the vehicle of its perpetuation.”**

Various panel members who identify as people of color have spent countless hours educating and engaging in communities, businesses, educational institutions, State and local government, and the public about the about the scope of discrimination as well as **systemic racism**. They have logged countless hours serving on panels and participating in other community events to communicate the gravity and urgency of addressing racism. They have been hardly if at all compensated to do so, yet another indicator of systemic racism.

The Human Rights Commission must be the entity responsible for educating and engaging with communities, businesses, educational institutions, State and local governments, and the general public about the nature and scope of racial discrimination in the criminal and juvenile justice system. Through discussion with the Executive Director of the Human Rights Commission, we understand

that up to 30 percent of their training time is spent on implicit bias. This time would be better invested in; explaining civil liberties and the impacts of the of their loss; providing best practices on processes to reduce the chances of violations and ensuring the consequences of such are understood. Freeing up this time can also ensure the HRC has the resources to invest in communicating violation indicators and complaint processes to the general public in partnership with CJNVT. Education is one of the most important aspects of ensuring the civil liberties of every protected category in Vermont. Detracting from discussions on matters of civil liberties serves as the vehicle of its perpetuation. The following recommendations are provided:

- **Legislatively clarify Human Rights Commission responsibility to reallocate resources towards explicit bias training.**
- **Appropriate funding to create education and outreach partnerships in local communities through Community Justice Centers.**

## 2016 report of the Attorney General’s Working Group

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The Panel is charged with “monitoring progress on the recommendations from the 2016 report of the Attorney General’s Working Group on Law Enforcement Community Interactions”:

- **Legislatively mandate that the VCJTC report the AG Working Group Report progress to the Attorney General.**



## General Assembly Report – Recommendations to Address Systemic Implicit Bias in Vermont’s Criminal and Juvenile Justice System

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The Panel is charged to report to the General Assembly “on or before January 15, 2018, and biennially thereafter...as a part of that report recommendations to address systemic implicit bias in Vermont’s criminal and juvenile justice system.”

*“It is because of the data collection efforts of law enforcement that there is today one component of the criminal justice system where we are gaining the ability to measure our performance in addressing systemic racism.”*

### Public Complaint Process

The Panel was charged to provide recommendations to the General Assembly on “how to institute a public complaint process to address perceived implicit bias across all systems of State government.”

We wish to provide clarification on the charge in that implicit bias is pervasive throughout all aspects of society and any perception of said bias would certainly be understandable, given the reality of its existence. We will therefore provide recommendations on a complaint process surrounding **perceived explicit racial bias** in the criminal justice system.

Our deliberations revealed that all components of the criminal justice system currently have processes in place for the reporting of forms of alleged explicit bias. This discovery leads us to understand the importance of viewing this from the perspective of the citizen. It being true that all components of the criminal justice system have their respective reporting systems, anyone challenged with negotiating (only) this system may need to be aware of and capable of navigating at least five separate reporting apparatuses. The Law Enforcement

Advisory Board, charged with the task of bringing back a similar recommendation in 2012 (Act 134), responded that they did not have enough time to complete this task. Although we will continue to study this very important issue, at this time it we provide the following recommendations:

- 1. Legislatively designate the Human Rights Commission as the primary agency responsible for fielding reports of alleged explicit bias.**
- 2. Allocate resources to use the Community Justice Center Network as satellite locations for a facilitated complaint process and resource navigation services.**
- 3. Create and employ an aggressive complaint and reporting process awareness program.**

### Racial Profiling

The Panel was charged to provide a recommendation to the General Assembly “whether and how to prohibit racial profiling, including implementing any associated penalties.”

The Panel convened a committee for the specific purpose of addressing this charge and considered the argument that racial profiling was already illegal in Vermont. The committee, with the input from the ACLU, the Assistant Attorney General, and a private Attorney (former Human Rights Commission Executive Director) deliberated this assertion. The Panel concluded that public roadways are included in the category of public accommodation, based upon “Vermont, Department of Public Safety vs. Vermont Human Rights Commission, 2010” decision. Therefore the Human Rights Commission has jurisdictional authority to address alleged discriminatory practices by law enforcement on public roadways (9 V.S.A. § 4553). This is clearly less than ideal. In discussions surrounding the option of amending 9 V.S.A. §4501(1) to include the words “public road”, concern has been expressed by third party organizations that addressing 9 V.S.A. §4501 may result in unintended consequences , adversely

impacting individuals living with disabilities. This is therefore an issue that must be cautiously addressed, as we consider options to better address racial profiling with civil law.

The committee weighed the option and challenges associated with implementing and enforcing racial profiling criminal law. There was a thorough discussion on the “bar being much higher” in a criminal case. Extenuating circumstances such as law enforcement emerging internal affairs, professional regulation considerations, contracts and union factors, and the absence of independent prosecutors were discussed amongst the committee. Thirty other states have laws against racial profiling at this time. The Committee considered language in some of the states as well as language reflected in the Equity Commission legislation emerging in the Vermont House and the proposed amendment to the Equity Commission bill in the Senate version. There were different positions in the committee on classification and punishment. An overwhelming majority of the committee voted that racial profiling should be illegal.

The Panel offers the following recommendation:

- **Classify racial profiling as a criminal offense under Chapter 13 of the Vermont Statutes.**

### **Law Enforcement Race Data Collection Practices**

The Panel was charged to provide a recommendation to the General Assembly on “whether to expand law enforcement race data collection practices to include data on non-traffic stops by law enforcement.”

The Panel convened a committee for the specific purpose of addressing this charge. Current data collection requirements include the “age, gender, and race

of the driver; the reason for the stop; the type of search conducted, if any; the evidence located, if any; and the outcome of the stop, including whether a written warning was issued; citation for a civil violation was issued; a citation or arrest for a misdemeanor or a felony occurred; or no subsequent action was taken.”

Vermont law enforcement has been collecting roadside stop race data for the past ten years (voluntarily the first 4 years). Over this period, the objective has shifted from proving the existence of racial disparities to measuring our progress towards racial parity. It is because of the data collection efforts of law enforcement that there is today one component of the criminal justice system where we are gaining the ability to measure our performance in addressing systemic racism. **The approach taken with data collection has for the first time enabled us to measure racial disparities by examining aggregated race data on “key decisions” being made at the root of the system.**

Committee deliberations on data collection confirmed general contentment with efforts currently underway. The committee agreed, however, to recommend the incorporation of use of force data into the existing model. As discussed in recommendations to the Criminal Justice Training Council, use of force is a real and present concern, particularly in light of the fact that we already know that African Americans are being stopped at disparate rates and that Burlington Police Department is reporting use of force at nearly 5 times the rate of the represented demographic. Other committee recommendations on data platform management assignment can be found in the “Additional Recommendations” section of this report. Committee recommendations on data collection of other criminal and juvenile justice system components can be found in other sections of this report. The Panel recommends the following:

- **Revise 20 V.S.A. 2366 by adding a requirement to collect use of force data.**

## Additional Recommendations

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### Data Collection

Numerous observations arose during the course of panel and committee discussions, some rising to a level of recommendation. The following additional recommendations surfaced in the Data Committee

- **Mandate appropriations for the development and deployment of a centralized data management platform which:**
  - **Supports the management of Statewide race data collection**
  - **Provides user friendly access**
- **Assign the management of the data platform to an agency that has systemic racism mitigation responsibility**

### Common Systemic Racism Mitigation Recommendations

- **Legislatively mandate (in conjunction with stakeholders) Race Data Collection, Model Fairness and Diversity Policy, Systemic Racism Awareness Training and Agency report cards and supervision models for:**
  - **States Attorneys Offices**
  - **Judges**
  - **Juvenile Justice (DCF)**
  - **Corrections**
  - **Community Justice Center Network, Crime Victim Services and other justice system contractors**

### Equity Commission for Mitigation of Systemic Racism

- **Legislatively create an independent and funded Equity Commission to mitigate systemic racism in Vermont.**

## Conclusion

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The Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel is a small step in the right direction in addressing systemic racism in the Vermont criminal and juvenile justice systems, but unless there is political will and intestinal fortitude to act on this report, we will have once again done nothing to address systemic racism in Vermont.

The first recommendation of the Vermont Advisory Committee to the United States Commission on Civil Rights on racial profiling was made in 2008. Countless other reports include two from the Advisory Commission to the United States Commission on Civil Rights Racial Discrimination in Schools (1999 and 2003)<sup>2</sup>; the Vermont Legislature and the Vermont Commission on Human Rights Race and Sentencing Report<sup>3</sup>; three reports from Dr. Stephanie Seguino of UVM on racial disparities in race traffic stop data (2010-2016);<sup>4</sup> two reports from from Dr. Jack McDevitt of Northeastern University on racial

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<sup>2</sup> Racial Harassment in Public Schools, Vermont Advisory Committee to the United States Commission on Civil Rights  
<https://www.law.umaryland.edu/marshall/usccr/documents/cr12r1112.pdf> Racial Harassment in Vermont Public Schools – A Progress Report, Vermont Advisory Committee to the United States Commission on Civil Rights  
<http://www.usccr.gov/pubs/sac/vt1003/vt1003.pdf>

<sup>3</sup> Vermont Legislature and The Vermont Commission on Human Rights Race and Sentencing Report

<http://justiceforallvt.org/wp-content/uploads/2015/08/Race-Sent-Rpt-2015.pdf>

<sup>4</sup>Racial Disparities in Policing? An Assessment of 2009-10 Traffic Stop Data in Chittenden County, Vermont, <http://justiceforallvt.org/wp-content/uploads/2016/06/Racial-Disparity-policing-Report.pdf> ;Have the Burlington Police Made Progress in Reducing Racial Disparities in Traffic Policing : A Comparison of 2009-10 and 2011-12 <http://justiceforallvt.org/wp-content/uploads/2016/06/HAVE-THE-BURLINGTON-POLICE-MADE-PROGRESS-IN-REDUCING-RACIAL-DISPARITIES-IN-TRAFFIC-POLICING.pdf>

disparities in race traffic stop data (2010 and 2016); A Legal Aid report on Racial Disparities in Schools Suspensions;<sup>5</sup> a Legal Aid report on housing discrimination in 2015;<sup>6</sup> a report from the Sentencing Project calling out Vermont as having one of the worst criminal justice system “racial disparities” records in the nation;<sup>7</sup> the Attorney General the Human Rights Commission Task Force Act 54 report,<sup>8</sup> and others. At the national level, the current administration continues to roll back the civil liberties of protected categories across the nation,<sup>9</sup> underscoring the importance of strengthening protections here in Vermont.

We reject the assertions that since the various agencies within the criminal justice system were unable to comport this report to their organizational and strategic agendas that this report is in any way less legitimate. In fact, we believe that it is because of this that this report offers some of the most significant and meaningful recommendations that can be provided to address a criminal justice system that is failing people of color in Vermont.

The “volunteer” panel of people of color appointed by the Attorney General has collectively spent hundreds of hours researching, engaging in discussions,

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<sup>5</sup> Kicked Out: Unfair and Unequal Student Discipline in Vermont Schools, <http://hrc.vermont.gov/sites/hrc/files/publications/Kicked-Out.pdf>

<sup>6</sup> Vermont Legal Aid Housing Discrimination Law Project, <http://www.vtlegalaid.org/sites/default/files/Rental%20Discrimination%20Report%202014.pdf>

<sup>7</sup> The Color of Justice: Racial and Ethnic Disparities in State Prisons, <http://www.sentencingproject.org/wp-content/uploads/2016/06/The-Color-of-Justice-Racial-and-Ethnic-Disparity-in-State-Prisons.pdf>

<sup>8</sup> Attorney General Human Rights Task Force Act 54 report <http://hrc.vermont.gov/sites/hrc/files/publications/2017-12-15%20%20Report%20and%20Recommendations%20Act%2054%20Final.pdf>

<sup>9</sup> Trump administration quietly rolls back civil rights efforts across federal government <https://www.pbs.org/newshour/politics/trump-administration-quietly-rolls-back-civil-rights-efforts-across-federal-government>; <https://www.nbcnews.com/politics/white-house/here-s-full-list-donald-trump-s-executive-orders-n720796>

meeting and formulating recommendations to address systemic racism in the criminal justice system. Many of the “so called” Panel members have never attended a meeting. Not one. In truth, the scope of the work defined in the charge and assigned to the Panel is impossible to accomplish without dedicated, compensated staff. The makeup of the Panel and the lack of appropriate resources to carry out the charge is by itself an example of systemic racism.

As always, there is a challenging task ahead. Many on this Panel who have been involved in this work for some time have no explanation for their grandchildren as to why we have not made the desperately needed progress in addressing systemic racism in Vermont. We ask that you address this report with the same sense of urgency, commitment, and moral determination as that committed to opioid crisis. This is a serious time and a time to use white privilege to protect black and brown bodies in this State. The only way to do so is to take action and to do so now. We owe it to our posterity to ensure that ALL of our children have a future that is rooted in equity and opportunity.

## Vermont Constitution

“...Article 5. [Internal police] That the people of this state by their legal representatives, have the sole, inherent, and exclusive right of governing and regulating the internal police of the same.

Article 6. [Officers servants of the people] That all power being originally inherent in and co[n]sequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them.

Article 7. [Government for the people; they may change it] That government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of



that community; and that the community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal...”

Christine Kemp-Longmore,  
Mark A. Hughes, Vic Chair  
Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel