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Kristin L. Clouser, Secretary

TO: House Committee on Appropriations
FROM: Office of Racial Equity
DATE: April 27, 2023
RE: Letter of testimony on Draft 3.1 of S.14, An act relating to a report on criminal justice-related investments and trends

Dear Chair Lanpher, and members of the House Committee on Appropriations,

Thank you for the opportunity to provide the Office’s perspective on [Draft 3.1](#) of S.14, An act relating to a report on criminal justice-related investments and trends. The Office specifically wishes to comment on Sec. 2, 28 V.S.A. §126 COORDINATED JUSTICE REFORM ADVISORY COUNCIL. **The Office objects strenuously to the creation of a new criminal justice-related advisory panel, especially one that has no guarantee of seating representatives from communities that have been disproportionately impacted by the criminal justice system.** The Office recommends the Committee instead considers increasing the per-diem compensation and delegating the authority to allocate funding from Justice Reinvestment initiatives to [the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel \(RDAP\)](#).

A key weakness Sec. 2 of S.14 is that there are no explicit requirements for the proposed Council to include representatives from communities of color. People of color in the United States have been deeply affected by the past 50 years of “tough on crime” policies, the “War on Drugs,” and the resulting mass incarceration of people of color in the U.S. The RDAP, in comparison, is composed of nearly equal proportions of State government representatives (nine total) and representatives of communities of color with experience with criminal justice systems reform and equitable use of data (seven total). Some of the current members of the RDAP are experienced practitioners and educators on restorative justice principles. The appointed community representatives of the RDAP regularly conduct research outside of the monthly RDAP meetings for which they receive no per-diem compensation. The Legislature could further promote equitable treatment of the community representatives on the RDAP by increasing their per-diem payments to account for the labor they do outside of meetings. The RDAP has a history of creating [actionable recommendations for justice systems reform](#)¹ in Vermont [in its legislative reports](#)²,

¹ Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel. (2019). *Report of the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel*. <https://legislature.vermont.gov/assets/Legislative-Reports/Report-of-the-Racial-Disparities-in-the-Criminal-and-Juvenile-Justice-System-Advisory-Panel-12.4.19.pdf>

² Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel. (2020). *Report of the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel concerning Section 19, Act 148-an act concerning Justice Reinvestment*. <https://legislature.vermont.gov/Documents/2022/WorkGroups/House%20Corrections%20and%20Institutions/Justice%20Reinvestment/W~Etan%20Nasreddin-Longo~Racial%20Disparities%20Advisory%20Panel%20Final%20Report%20-%20December%201,%202020~1-21-2021.pdf>

including [the report](#)³ that eventually advised the creation of the [Division of Racial Justice Statistics](#) within the Office of Racial Equity and the associated [Racial Justice Statistics Advisory Council](#). The Office recommends increasing the RDAP’s authority to allocate funding for restorative justice programs and increasing the per-diem compensation for community appointees to RDAP rather than creating a new Council comprised primarily of State representatives.

As the Executive Director argued in the Office’s [2023 Annual Report of the Executive Director of Racial Equity](#), the Legislature must be careful to consider how and when to create new equity-related working groups. The proposed Coordinated Justice Reform Council does not represent the principles of equity as thoroughly as it could. The proposed Council concentrates power within existing State entities rather than empowering reformers with lived experience of racial injustice. The table below compares the characteristics of the proposed Council to the existing RDAP:

Comparison of Membership & Funding Structures of the Proposed Coordinated Justice Reform Council versus the Racial Disparities in the Criminal & Juvenile Justice Systems Advisory Panel (RDAP)

Coordinated Justice Reform Advisory Council (S.14, Sec. 2, proposed addition of 28 V.S.A. §168)	Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel (3 V.S.A. §168 (b))
<p>(b) Membership. The Coordinated Justice Reform Advisory Council shall be composed of the following members:</p> <p>(1) the Attorney General or designee;</p> <p>(2) the Chief Superior Judge of the Vermont Superior Court or designee;</p> <p>(3) the Commissioner of Corrections or designee;</p> <p>(4) the Commissioner for Children and Families or designee;</p> <p>(5) the Executive Director of the Vermont Center for Crime Victim Services or designee;</p> <p>(6) the Executive Director of the Vermont Statistical Analysis Center or designee;</p> <p>(7) one current member of the House of Representatives selected from the Committee on Appropriations, the Committee on Corrections and Institutions, or the Committee on Judiciary, appointed by the Speaker of the House; and</p>	<p>b) The Panel shall comprise the following 16 members:</p> <p>(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;</p> <p>(2) the Executive Director of the Vermont Criminal Justice Council or designee;</p> <p>(3) the Attorney General or designee;</p> <p>(4) the Defender General or designee;</p> <p>(5) the Executive Director of the State’s Attorneys and Sheriffs or designee;</p> <p>(6) the Chief Superior Judge or designee;</p> <p>(7) the Commissioner of Corrections or designee;</p>

³ Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel. (2021). *Report of the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel concerning Act 65 – the creation of a data entity to aggregate and analyze data related to systemic racial bias and disparities within the criminal and juvenile justice systems.* <https://legislature.vermont.gov/assets/Legislative-Reports/ACT-65-RDAP-REPORT-FINAL.pdf>

<p>(8) one current member of the Senate selected from the Committee on Appropriations or the Committee on Judiciary, appointed by the Committee on Committees.</p>	<p>(8) the Commissioner of Public Safety or designee;</p> <p>(9) the Commissioner for Children and Families or designee;</p> <p>(10) the Executive Director of Racial Equity or designee; and</p> <p>(11) two members, drawn from diverse backgrounds to represent the interests of communities of color throughout the State, who have had experience working in information technology or data collection systems, appointed by the Executive Director of Racial Equity.</p>
<p>Meetings: no more than 6 per year</p>	<p>Meetings: monthly, with community representatives contributing unpaid labor outside of meetings to conduct research for biennial reports <i>and</i> additional reporting as requested.</p>
<p>Power to direct funding allocations to justice reform efforts:</p> <p>(5) On or before September 1, 2023, and annually thereafter, recommend to the Commissioner of Corrections the appropriate allocation of not more than \$900,000.00 from the Justice Reinvestment line item of the Department of Corrections' budget for the upcoming fiscal year to support community-based programs and services, related data collection and analysis capacity, and other initiatives in accordance with subsection (a) of this section.</p>	<p>Power to direct funding allocations to justice reform efforts:</p> <p>None</p>