



Rights & Democracy – Testimony on S.281, An act relating to the mitigation of systemic racism  
Vermont House Government Operations Committee  
April 5, 2018

Rights and Democracy is a member of the Racial Justice Reform Coalition and is committed to considering, on the one hand, the disparate impacts of particular social and economic issues on the basis of race, but on the other hand also to supporting the efforts of our coalition partners to advance reform initiatives that more directly address the root causes of racial inequality in Vermont. In particular, S.281 is designed to address the root causes of racial inequality. S.281 would create the infrastructure needed to implement the recommendations of the advisory panels convened as a result of Act 54. Rather than review the findings or recommendations of those studies, I will use my time to discuss the reasons why this infrastructure needs to be developed and why the panel's recommendations need to be implemented under the authority of the, Systemic Racism Mitigation Oversight and Equity Review Board (as originally titled in an earlier draft of S.281).

Racial injustice in the United States is far more often an effect of structural, systemic racism rather than personal, consciously-held racial prejudice. In a state such as Vermont, where overall there is a culture of fairness, a love for equality and freedom, and a distaste for racial prejudice, many white folks may feel alarmed and confused by evidence that Vermont is not that much different than any other place in the post-slavery and post-Civil Rights Era United States. How can white folks respond to the diverse, identifiable harms that are done to people of color in Vermont when those white folks are not racially prejudiced? Or at least not consciously so? Why is structural racism so persistent? What can we do about it?

Studies of implicit bias<sup>1</sup>, which is also known as implicit social cognition, help to reveal to the involuntary attitudes or stereotypes that affect our understanding, actions, and decisions. Implicit bias can be positive. For example, you may love children and so smile when you see a child. But implicit bias can also be negative, especially where negative stereotypes influence our response to those who are unlike us. This is especially a threat within relatively homogenous societies where there is not a high a level of integration among historically distinct social or cultural groups. I was lucky to grow up in a place where people of color were the majority of my peers, and where I

formed my attitudes toward and beliefs about people of color based on living side by side with my friends, witnessing the good and trustworthy testimony of my peers regarding the subtle but devastating presence of implicit racial bias and structural racism, even within our own “melting pot” community. This kind of awareness is far less likely to happen organically for the average Vermonter. The Board instituted by S.281 will enable progress towards racial equity by combatting implicit racial bias and structural racism.

The \*lack\* of awareness of implicit racial bias and systemic racism is part of what it has meant to be a white person in the United States. Similarly, it has been the burden of non-whites to know that white people see them differently than they see themselves. As early as the 19th century, African-American social commentators were aware that white people did not know about black experience—that is, white Americans did not assume nor understand that black experience was fundamentally different than their own. The fact is that stereotypes move in to fill the void when we do not have concrete knowledge about the experiences of those who come from historically distinct groups. Humans are creatures who form opinions about things so that we can make decisions about how to act. As such, there is no such thing as neutrality when it comes to race in the United States. Either one is aware of what race means in the lived experience of people of color, or one is not, and if not then implicit bias arises, implicit bias that is structured by prejudicial stereotypes as well as false beliefs that things are not as bad as they really are. In fact, these false beliefs may often seem reasonable. As a white person, I do not personally experience the sharp end of systemic racism. In fact, the world seems to welcome my presence and reward my hard work and my talents. For the most part, I feel respected and protected within my community. Further, I do not consciously harbor racial prejudice myself and so cannot imagine that I am doing anything wrong. However, this lack of awareness of the experience of people of color creates two harmful barriers toward systemic change, especially in places where whites are the majority demographic group.

Among scholars of social injustice, the term “epistemic injustice” has become increasingly common. Epistemic injustice refers to the power imbalances that exist among different social groups when it comes to \*knowing\*. It occurs when implicit bias structures one social group’s ability to hear and believe members of other social groups when they speak about their experience. These are the two barriers: hearing and believing. In the context of race relations in the United States, the inability to *hear and be heard by* another person is what scholars call “testimonial

injustice,” that is, “when the hearer gives a deflated level of credibility to a speaker’s word.” We have all likely experienced a time when someone spoke over us, or thought so little of us that the meaning of our words seemed to not register in the least. Likewise, the inability to *believe and be believed by* another person is called “hermeneutic injustice,” that is, when another person’s knowledge about the world as they experience it is discounted. It creates a situation in which members of the oppressed group are not given the space to effectively *create knowledge* about their own experience and then have it regarded as having equal status.

This creates a conundrum: we want to address systemic racism, but white folks in Vermont are likely highly unaware of the lived experiences of people of color in their communities. This means that white folks are more likely to be skeptical of the testimony and knowledge claims that people of color make. This does not mean that we should walk up to the nearest person of color and ask them to educate us on their lived experience. That might be something that a person of color would want to do, but it might not. Rather, we must systematically address ignorance and its negative consequences by creating educational and training programs and data gathering infrastructure, as well as opening seats of decision making power to people of color. Only by combating implicit bias and sidestepping involuntarily prejudiced decision making processes of well-intended white folks will we be able to address systemic racism. It is precisely this that a permanent Board would provide infrastructure around.

Rights and Democracy urges the Committee to pass S.281, but to first consider adding to this bill provisions that are found in H.868. In particular, H.868 would allow criminal prosecution for racially biased policing (again see Greenwald and Hamilton Krieger, cited below). While Rights and Democracy does not support an increase in our prison population, we do support the reconstruction of our society such that racial bias is responded to with appropriate societal consequences, especially for those invested with the duty to protect and serve the public. Further, while testimony of the Attorney General’s Office has challenged the recommended composition of the Board, we recommend that the Committee consider (with the aid of Legislative Council) amending S.281 with language such as can be found in Act 54, for example, that the Board be comprised of members “drawn from diverse backgrounds to represent the interests of the communities of color throughout the State, who have had experience working to implement racial justice reform.”

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<sup>i</sup> For an overview of implicit bias, see Anthony G. Greenwald and Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 Cal. L. Rev. 945 (2006). Available at: <http://scholarship.law.berkeley.edu/californialawreview/vol94/iss4/1>