



**VT Human Rights Commission**  
14-16 Baldwin Street  
Montpelier, VT 05633-6301  
<http://hrc.vermont.gov>

[phone] 802-828-2480  
[fax] 802-828-2481  
[tdd] 877-294-9200  
[toll free] 1-800-416-2010

**Karen L. Richards**  
**Executive Director**  
[direct line] 802-828-2482  
Fax 802 828-2481  
[karen.richards@vermont.gov](mailto:karen.richards@vermont.gov)

March 21, 2017

The Honorable Maxine Grad, Chair  
House Judiciary Committee  
Vermont General Assembly  
115 State St.  
Montpelier, VT

RE: H.492 Racial Justice Oversight Board and Fair & Impartial Policing

Dear Chair Grad and Members of the Committee:

Thank you for the opportunity to discuss this bill. In a previous memo submitted to the Committee on or about February 23, 2017, I provided the committee with information on fair and impartial policing. (I have attached another copy of the memo hereto). The sections of H. 492 related fair and impartial policing address the concerns raised in my prior memo on this subject. This letter will concentrate on the provisions of H. 492 that are related to the Racial Justice Oversight Board. The Human Rights Commission supports the creation of this board. There are significant racial disparities in the criminal justice system nationally and in Vermont.

Vermont studies related to fair and impartial policing have identified disparities in police stops of Black and Brown drivers including that such drivers are stopped at rates much higher than their rates in the driving population, that they receive tickets rather than warnings more frequently and that their vehicles are subject to more frequent searches that turn up less contraband than searches of white drivers.<sup>1</sup> Vermont also has the highest incarceration rate of people of color in the country. Despite being 1.1% of the population, Black/African-Americans are incarcerated in Vermont's prison/jail system at a rate of one in fourteen (1:14).<sup>2</sup>

These statistics are indications of a problem within our criminal justice system that is not solely related to who is initially arrested by police. Prosecutors make the key decisions about who to charge and the number of charges to levy, public defenders assist their clients in making decisions about whether to take a plea or go to trial and judges

<sup>1</sup> Seguino and Brooks, *Driving While Black and Brown in Vermont* (January 9, 2017).

<sup>2</sup> Nellis, Ashley, *The Color of Justice: Racial and Ethnic Disparity in State Prisons* (June 14, 2016).

sentence individuals based on recommendations from the Department of Corrections. Explicit or unconscious bias can affect the process at any one point or at multiple points in the system.

Studies on unconscious or implicit bias have documented bias in many arenas within the criminal justice system including:

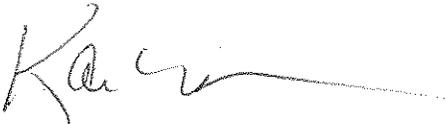
- Police stops as referenced above
- Selection and retention of judges
- Jury selection
- Prosecutorial charging
- Plea bargaining
- Sentencing
- Bail
- Imposition of the death penalty
- Outcomes in employment discrimination cases vs. other civil litigation

It is impossible to completely eliminate bias as it is a natural part of being human and our criminal justice system is run by human beings. That said, we must do everything within our power to ensure that our criminal justice system is as free from bias as possible. Justice requires no less.

The benefit of a Racial Justice Oversight Board is that it has both the membership and the ability to do a comprehensive review of the system and look for solutions that address the issues across the spectrum. Only by examining the system as a whole can we hope to address the root issues driving the disparities and provide education to the actors within the system to address their own biases and the effect of those biases on individuals of color.

Our prosecutors and our judges are predominately white and predominantly male. Our criminal justice system through caselaw interpretation espouses a theory of "colorblind" justice. Nothing could be further from the truth, as the above-referenced studies demonstrate. We are neither colorblind nor are we "post-racial." Race discrimination is alive and well in every aspect of our society nationally and in Vermont. Only with a concentrated, focused effort can we begin to dismantle the bias and the institutionalized racism that keeps a significant and growing segment of the Vermont population from full and equal participation in the American dream. This bill, while not a total solution to the problem, is a step in the right direction and I encourage the Committee to pass it.

Sincerely,



Karen L. Richards  
Executive Director