



**TO: Members of the House Committee on Judiciary**  
**FROM: Jay Diaz, Staff Attorney, ACLU-VT**  
**DATE: January 11, 2017**  
**SUBJECT: The ACLU, Vermont's Justice System, and RBA**

## **What is the American Civil Liberties Union of Vermont (ACLU-VT)?**

ACLU-VT is a non-profit advocacy and public education organization dedicated to defending the constitutional and civil rights of Vermonters. In a variety of subject matter areas, we seek to strengthen the liberties enshrined in the United States and Vermont Constitutions through lobbying, litigation, and public education.<sup>i</sup>

## **What are ACLU-VT's goals for Vermont's justice system?**

Despite substantial progress in recent years, Vermont's criminal justice system still features racial disparities, a lack of meaningful police accountability, a lack of useful information, and an unnecessarily overburdened court and prison system. Vermont must further reduce the use and need of incarceration, create transparent and efficient open data systems<sup>ii</sup>, demand equity, and ensure meaningful accountability at all levels.

## **What does the data tell us?**

- **Public Schools:** 15<sup>th</sup> in school referrals to police<sup>iii</sup>; annually, over 10,000 school days lost to suspension/expulsion by Vermont students<sup>iv</sup>
- **Law Enforcement:** Vermont is safest state<sup>v</sup>; car stops and search numbers are different based on race<sup>vi</sup>; several shot by police across Vermont between 2014 and 2016.
- **Judiciary:** felonies & misdemeanors are down<sup>vii</sup>; 97% of felony cases result in pleas (76%) or dismissal (21%)<sup>viii</sup>; 1/3 of misdemeanor cases are dismissed<sup>ix</sup>; equal justice lacking
- **Corrections:** drug treatment works<sup>x</sup>; nearly ¼ held pre-trial for lack of bail<sup>xi</sup>; 1814 prisoners in DOC<sup>xii</sup>; **2008-13: Crime down 13%, prisoners down 4%**<sup>xiii</sup>

## **Where do we go from here?**

To tackle inequality, budget shortfalls, the opiate crisis, and flagging public trust, Vermont must continue working to keep people out of the justice system and hold the system accountable. The legislature should closely examine front-end (e.g. bail reform, reduce drug crimes) and back-end solutions (e.g. compassionate release, parole reform) to reduce the prison population, while also ensuring that the justice system is transparent and accountable to Vermont residents.

## **ACLU-VT's concerns about RBA**

- Data cannot capture the full picture
- Some issues, such as constitutional rights, cannot and should not be empirically valued

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- <sup>i</sup> ACLU-VT's core priorities are 1) criminal and juvenile justice reform, 2) government transparency, 3) protecting privacy, and 4) protecting vulnerable populations. With over 3,000 members throughout Vermont and more than one million members, activists, and supporters nationwide, we aim to ensure that a "more perfect union" is realized for all while saving Vermonters' time, money, and futures.
- <sup>ii</sup> For an example of a state open data portal, please visit <https://data.ct.gov/>. Regarding police, court, and corrections statistics, it offers a wealth of regularly updated data to the public that can be analyzed, studied, and acted upon.
- <sup>iii</sup> Center for Public Integrity Study, 2015 (<https://www.publicintegrity.org/2015/04/10/17074/state-state-look-students-referred-law-enforcement>)
- <sup>iv</sup> Exclusionary Discipline Response, Report from Agency of Education to legislature, January 25, 2016 (<http://legislature.vermont.gov/assets/Legislative-Reports/edu-legislative-report-exclusionary-discipline-response.pdf>)
- <sup>v</sup> *Vermont Ranks No. 1 on Safest States List*, Burlington Free Press, November 14, 2016 (<http://www.burlingtonfreepress.com/story/news/2016/11/14/vt-ranks-no-1-safest-states-list/93799588/>)
- <sup>vi</sup> *Driving in Vermont While Black and Brown*, Seguino and Brooks, January 9, 2017 ([http://www.uvm.edu/giee/pdfs/SeguinoBrooks\\_PoliceRace\\_2017.pdf](http://www.uvm.edu/giee/pdfs/SeguinoBrooks_PoliceRace_2017.pdf))
- <sup>vii</sup> Vermont Judiciary Annual Statistical Report for FY 2015 (<https://www.vermontjudiciary.org/JC/Shared%20Documents/FY15%20Statistical%20Report.pdf>)
- <sup>viii</sup> *Id.*
- <sup>ix</sup> *Id.*
- <sup>x</sup> Report Suggests Prisoners Benefit From Extended Drug Treatment, VTDigger.org, December 5, 2016 (<https://vtdigger.org/2016/12/05/report-suggests-prisoners-benefit-extended-drug-treatment/>) (committee report included in article)
- <sup>xi</sup> Testimony of Lisa Menard, Commissioner of the Department of Corrections, to House Committee on Corrections and Institutions, January 10, 2017.
- <sup>xii</sup> *Id.*
- <sup>xiii</sup> Pew Charitable Trust Study, 2014 (<http://www.pewtrusts.org/en/multimedia/data-visualizations/2014/imprisonment-and-crime>)