



Racial Justice Reform Coalition Questions and Answers (Q&A) S.281 (amended): Equity Commission (Updated February 2, 2018)

Question - What is the problem?

Answer - Systemic racism disenfranchises and demoralizes people of color across Vermont. For people of color, this imbalance of equity and opportunity creates incarceration at disproportionate rates, lack of equal access to descent and affordable housing and suitable employment and education and the unequal access to suitable healthcare and the unavailability of much needed economic opportunity. The problems presented by systemic racism goes beyond a global system of inequity in the United States. It speaks to the moral condition of our hearts and the future of our children. The problem can best be summarized in the words of the Reverend Dr. Martin Luther King, Jr.:

“Injustice anywhere is a threat to justice everywhere. We are caught in an inescapable network of mutuality, tied in a single garment of destiny. Whatever affects one directly, affects all indirectly.”

Question - Why is S.281 Important now?

Answer – The racial climate in the United States continues to deteriorate. Civil liberty protections at the national level are trending downward. Numerous reports, many recent, continue to indicate a continuation of Vermont’s poor performance in providing of equity, opportunity and equality in areas of housing, employment, education economic development and the criminal justice system. The Vermont Human Rights Commission is neither staffed, nor funded to sufficiently to serve as the gatekeeper of the civil liberties of Vermonters in protected categories.

S.281 prioritizes a revisit of some of the key, original proposals suggested in Act 54 last year. It takes into account the report that Act 54 produced, and other national and local reports and developments. It is important because now it is clearer than ever that there must be a centralized governance authority responsible for overseeing and taking responsibility for this important work.

Question – What is the intent of the “Strike All Amendment” to the bill and why is it important?

Answer – A strike all amendment is a method that legislative council uses to replace the entire content of a bill with new content. The reason for this amendment is that the bill originator and sponsor were unable to move through the desired revision process prior to the deadline for Senate bill submission. The strike all language is the intended language of the bill originator and sponsor.

Question – What does S.281 Seek to Accomplish?



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Answer – This bill is intended to provide a comprehensive legislative approach to address systemic racism in Vermont history. **S.281 Addresses the following:**

- 1) Implement a permanent Commission to provide systemic racism mitigation to state and educational organizations** including
 - a. Race data collection
 - b. Equity and Diversity Policy
 - c. Systemic Racism Awareness Training
 - d. Other responsibilities and authority will include:
 - i. Advising government and institutions of education on systemic racism
 - ii. Advising and consulting executive and legislative branches of assessment of policy racial impact
- 2) Provide additional civil liberty protections**
 - a. Mandate uniform standards and practices surrounding Use of Force, De-escalation and cross-cultural awareness, including
 - i. Race data collection
 - ii. Model Policy
 - iii. Model Training
 - b. Prohibits of racial profiling by law enforcement
- 3) Revise appointment process, composition and operational procedures of the Human Rights Commission (HRC):**
 - a. Change Appointment process and demographics
 - b. Eliminate requirement for informal resolution prior to reasonable grounds determination
 - c. Communicate the HRC as the official entry point for reporting alleged discrimination
 - d. Mandate separation of roles of investigators and litigators

Question - What is the difference between Act 54 and S.281?

Answer – Last year H.492 (which became Act 54) was crafted to create an organization with the authority to manage and oversee of the implementation of racial justice reform across the State, including within the criminal justice system). H.308 established a panel to review and provide recommendations to address systemic racial disparities in statewide systems of criminal and juvenile justice; calls for the Attorney General and HRC Director to provide recommendations in other systems and extends the deadline and provides updates on the Fair and Impartial policing Policy. **In our analysis, H.308 directly addresses five of 20 twenty original intents of H.492. S.281 is seeks to implement the original intentions**



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of last year as well as provide additional civil liberty protections and enhance the Human Rights Commission.

Question - Don't we need to wait for the Panel's recommendations?

Answer – We have the recommendations of the recommendations for addressing systemic racism in housing, education, employment, health services and economic development. There are also numerous other of existing and emerging reports from years of assessing systemic racism in Vermont that contain various perspectives on how it should be addressed. Though this report may be out in front of a couple of suggestions surrounding law enforcement, the legislation is sound and precedence exists.

Question - Why is Use of Force and Racial Profiling a part of this bill?

Answer – Vermont Race traffic stop reporting and outside (Sentencing Project) reporting indicates that people of color are INCREASINGLY being more disproportionately stopped by law enforcement in Vermont. It stands to reason that disproportionate contact with law enforcement naturally leads to use of force being used disproportionately against people of color. Burlington, with a demographic of 3.8 percent African American last year reported 18 percent of their use of force against African Americans. Vermont must ensure that the basic constitutional tenet of equal treatment under the law is upheld and must therefor use every tool at its disposal to ensure that it is so.

Question- Why is it important that the Human Rights Commission (HRC) be changed?

Answer - First, the work addressing systemic racism naturally leads us to ask how it differs from the work of the HRC. The HRC was created to address explicit discrimination, one form of which is racism. Existing and previous directors and legislators acknowledge that the organization has “never been adequately funded”. This lack of funding has rendered the Commission unable to carry out its operational functions with a separation of roles of investigators and litigators. It has also hampered the Commission's ability to conduct sufficient outreach and forced internal processes which seem to prioritize case disposal to enhance throughput. The commission's appointment process and diversity composition are not reflective of an organization that is charged with being the gatekeeper of most ALL of the civil liberties of protected categories of people of Vermont. This is troubling to all of us in light of the consistent walking back of civil liberties at a national level.



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Question - How will this approach provide a solution?

Answer – 1) There will be a centralized authority in managing the Systemic Racism Mitigation Strategy. 2) The approach will be data-driven. 3) Key processes in state government educational organizations will be standardized. 4) The approach used in achieving compliance will be consultative in nature. 5) This approach will provide the transparency required to address systemic racism mitigation.

Question - How will we know if it has been successful?

Answer – High impact / high discretion data points will be monitored in State and Educational organizations. The commission will review and make publicly available collected data; report to the legislature, and establish and maintain a community feedback loop; monitor of HRC, legal aid, ACLU and other NGOs activity.

Question- Why the proposed amendment?

Answer - Our last revisions failed to meet the deadline the Senate had to “check out” the bill. The proposed amendment is equivalent to a completely different bill (strike all) including a **FUNDED Independent Commission**. The bill sponsor and Legislative Council were involved throughout the process.

Question – Why Does the Amendment Seek to Update the HRC?

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Question - Why Can’t the Commission be Placed Under the Human Rights Commission?

Answer – Placing the Equity Commission in HRC will detract from HRC’s mission of protecting civil liberties of ALL protected categories in all constructs and fail to give the Equity Commission the focused attention required. This seems unwise,



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particularly in light of the fact that as a result of our national civil liberties crisis, this is a time when we need the HRC most.

Question - Why Can't the Commission be Placed Under the Secretary of Administration?

Placing the Equity Commission under Secretary of Administration severely impacts the commission's sustainability, makes it beholden to Executive Branch, and limits the commission's impact with the Legislature and Judiciary. Finally, it flies in the face of addressing SYSTEMIC RACISM in State government.

Question – Will using Results-based Accountability (RBA) work to mitigate systemic racism across State Government

Answer - RBA is an important tool in measuring outcomes and ideally should be used across the ENTIRE government, including law enforcement. It should not however be confused with the ability collect race data where decisions are made (at the root of the problem). It is the collection of this high impact /high discretion data that has enabled us to make unprecedented progress with law enforcement in Vermont. The mitigation approach proposed in the amendment put forward by the coalition and the bill sponsor provides this ability. **The Department of Justice has effectively used this process across the United States and our own legislature has successfully used this approach (data collection, policy and training) in addressing systemic racism with law enforcement in Vermont for the past 5 years! It is unclear why this strategy would be abandoned at such a critical time as a decision to roll out a mitigation strategy statewide**