



Mark Hughes, ED, Justice For All: S.281 Testimony (revised)
Senate Government Operations Committee
February 1, 2018

I am Mark Hughes, Executive Director of Justice For All; a Vermont based racial justice organization. JFA is the anchor organization of the Racial Justice Reform Coalition, the 32 Organization Coalition from which Act 54 originated. Collectively, we represent the voices of tens of thousands of Vermonters. I am retired army officer and an ordained minister. I am also the co-chair of the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel. I serve on the Board of Directors of Rights and Democracy and I one of the Tri-chairs of Vermont Poor People's Campaign: A National Call For Moral Revival.

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. **There must be a state agency with sole responsibility for managing a program to address systemic racism in Vermont.** Equally important is our responsibility to ensure that those who would violate Vermonter's civil liberties by the use of racial profiling or use of force be placed on notice – There is a cost associated with violating another Vermonter's civil liberties. We must, for the first time as a State make a bold and historic statement by placing the Human Rights Commission's work as a priority both morally and financially. Finally, we must begin the process of examining our appointment processes and diversity composition of some of the vital governmental commissions that may have been susceptible to contributing to systemic racism.

The originator and sponsor were unable to move through the desired revision process prior to the deadline for Senate bill submission. We therefore respectfully submit the strike all language and ask that it be considered as the intended language of the bill originator and sponsor.

The Equity Commission

This bill is intended to provide a comprehensive legislative approach to address systemic racism in Vermont. **S.281 (as amended) will Implement a permanent Commission to provide systemic racism mitigation to state and educational organizations** including, Race Data Collection, Equity and Diversity Policy and Systemic Racism Awareness Training. Other responsibilities and authority will include advising government and institutions of education on systemic racism **and** advising and consulting executive and legislative branches of assessment of the racial impact of their policy.



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Additional Civil liberty Protections

Vermont Race traffic stop reporting and outside (Sentencing Project) reporting indicates that people of color are INCREASINGLY being 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. S.281 (as amended) mandates uniform standards and practices surrounding Use of Force, De-escalation and Cross-cultural Awareness, including Race data collection, Model Policy and Model Training. It also prohibits of racial profiling by law enforcement. Vermont must ensure that the basic constitutional tenet of equal protection under the law is upheld and must therefor use every tool at its disposal to ensure that it is so. It is troubling to think that we would choose to do otherwise.

Human Rights Commission the Human Rights Commission Enhancements

The HRC was created to address explicit discrimination, one of which is **explicit 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 Commissions 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. All of this is troubling to all of us in light of the consistent walking back of civil liberties at a national level.

It is for these reasons that we strongly urge that the appointment process and demographics of the commission be changed; requirements for informal resolution prior to reasonable grounds of determination be eliminated; **the HRC be charged with taking ALL official alleged misconduct complaints associated with race, and that** separation of roles of investigators and litigators be mandated within the HRC.

Clearly, placing this function within the Secretary of Administration does not provide a sustainable approach to addressing systemic racism. We all know that focus on systemic racism will shift from one administration to the next, making this one of the most unreliable ways to address systemic racism. Further, the Act 54 Report states recommendations to **Identify Vermont agencies, departments, commissions, councils, etc. that are currently engaged in affirmative efforts to**



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address racial disparities; Examine what these entities are doing and what is and is not working well, and Work to replicate what is working throughout state government. These recommendations are tactical in nature and are NOT tooled to address a systemic problem with a programmatic approach. We again express disappointment and regret that the notes from the “Horizontal Group” of the Attorney General and HRC Director meeting on September 28th (submitted) were not incorporated into the final report.

Along with most all of the recommendations offered in other testimony, we agree that the Results-based Accountability approach would add a useful lens from which to measure progress towards addressing systemic racism in Vermont. Where our perspective differs is in that the particular business process that should be measured is that of the Equity Commission itself.

The entire approach of H.492 (Act 54) and S.281 *has everything to do with* the work that our law enforcement has accomplished both in Vermont and at a national level through the work of the DOJ (Community Oriented Policing) surrounding systemic racism. The data collected in this model is **at the decision level, not the outcome level** where no data exists to explain why and how disparities are created. It was only as a result of the grass roots work of the Uncommon Alliance, (an activist/law enforcement collaboration) that this legislation came to fruition. Had we not chosen to endeavor this approach with Act 134 in 2012, our Vermont law enforcement would have never achieved the progress that it enjoys today.

Most disheartening is this excerpt from other testimony. **“The legislature has no intent to give the Systemic Racism Mitigation Oversight and Equity Review Board the operational responsibility, authority, or resources to implement courses of action beyond that of only making recommendations. To do so would impinge on the authority granted to agency/department heads.”** It has been our hope that this statement would not be true because unless and until this does happen, we will never make a serious and genuine effort in addressing systemic racism in Vermont

Finally, we ask that you please understand the vast majority of people of color who have fought for this work for years, as well as a 32 organization coalition, including organizations like Migrant Justice, Vermont ACLU and Rights and Democracy do not care to wait out this “forty-year plan” in addressing systemic racism in Vermont. We’d like it now. We trust that you will do your best to make this a reality.



**I Support
Racial
Justice
Reform in
Vermont**

#racialjusticereformvt

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Thank you for allowing the opportunity to testify on this vitally important issue:
Systemic Racism.

Mark A. Hughes, ED
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