



Justice For All Testimony to Vermont Senate Judiciary Committee - 7 April, 2017 9:10 AM Statehouse

Recognizing the chair and members of the committee who are charged with heavy responsibility of being the gatekeepers of the legislative framework that keeps everyone in Vermont safe, thank you for an opportunity to appear before the committees today.

My name is Mark Hughes and I created S.116. I am an Iowa native and have been in residence in Vermont for over 8 years. I am a retired army officer, a father and a grandfather. I am an ordained minister in the Baptist faith. I am the Vermont Democratic Party Affirmative Action Chair and the Cabot Town Chair as well as a member of the Platform Committee. I am the cofounder and Executive Director of Justice for All, A racial justice organization with a mission to pursue racial justice within Vermont's criminal justice system through advocacy, education, and relationship-building.

Justice for All is a member of the State Police Fair and Impartial Policing Committee; we served on the panel that created the Fair and Impartial Policing Policy and participated in the negotiations with VCJTC for its approval and adoption, and we served on the Law Enforcement Professional Regulation Committee this past summer which resulted in what is now H.22.

I ask for the latitude of the Chair in that we may need to make last minute modifications or changes to those who may testify. We have worked hard to be responsive to the rapid and unpredictable pace of the Committee. Many stakeholders across that state have had to very little time to prepare to testify due to their vulnerable positions. They can't afford to



take the time required to be a part of this process. Many can't afford to take a an day, let alone an hour off from work to engage in this important discussion. Literally hundreds of people have however reached out to members of this committee from across the state to express the importance of racial justice reform in Vermont. Our petitions record thousands more who are in support of this bill. Many of the dozens of coalition member organizations are represented in this room.

Over the course of the past couple of years we have built relationships with countless elected officials and members of the law enforcement community. We have also conducted dozens of community activities designed to educate and build bridges across these communities and into the law enforcement local leadership apparatuses. During this time and leading up to the introduction of this bill I have been in consultation with the Attorney General, Various police chiefs, the state police union representative and the executive director of the Criminal Justice Training Council concerning the Racial Justice Reform Board.

Our work over this time has lead us to understand that Vermont struggles with racial institutionalized racism, evidenced by disparities and the problem has worsened over the past several years. Though it is beyond the scope of the mission of Justice For All, it has become clear to us that the disparities created by this systemic racism also exists in other systems (housing, employment, education, health services, economic development). JFA participated in the Criminal Justice Reform Coalition over the past two years in an attempt to put forward legislative solutions and though competing priorities overshadowed our agenda, we learned a lot.



It is important to note that my personal contributions to the VDP Platform resulting in the adoption of key elements that serve foundationally to undergird components of S.116, the Racial Justice Reform Bill. Some of those principles include:

- Will work to amend Article 1 of the Vermont Constitution to clarify that slavery in any form is absolutely prohibited.
- Seeks the passage of laws and regulations that ensure equality regardless of race, color, religion, creed, national origin, sex, sexual orientation, gender identity, criminal history, ancestry, place of birth, age, physical or mental condition, military service, or economic status.
- Supports civilian oversight of law enforcement with a community reporting apparatus, independent investigative, and prosecutorial and decertification powers to reinforce trust and legitimacy in communities of color and increase overall public safety.
- Calls for an adequately funded state racial justice oversight board to implement effective transparency and accountability.
- Seeks a Racial Impact Assessment integrated into the legislative process.
- Seeks anti-bias policies and mandatory training for all justice system personnel



This year we have returned with a coalition of 30 organizations, The Racial Justice Reform Coalition. The members of the racial justice reform coalition are ...

Background

The Vermont Civil Rights Advisory Committee to the Civil Rights Commission filed a report “Racial Harassment in Vermont Public Schools” citing racial harassment in our schools in 1999. Their progress report, filed in 2003 showed no progress. They filed a Briefing report “Racial Profiling in Vermont”, based upon briefings from 2008. Recommendations from this report included policy, training, body cams, community partnerships, illegalizing racial profiling and the “commissioning of an oversight commission”.

The data collection was initiated by the Uncommon Alliance, a diverse group of Burlington are community members, law enforcement and local and state officials led to Act 134 in 2012; “Racial Disparities in the Criminal Justice System” here in Vermont.

This legislation focused on racism from an institutional perspective.. It addressed sentencing, policy, data collection, training, the complaints process and sought to establish a broader look at other justice system workers.

The sentencing report that this bill called for, due in December 2012 emerged in October 2015. No further action has been taken surrounding disparities in sentencing and incarceration. This is unfortunate in that these Twenty thousand dollars was the only appropriations toward racial justice in Vermont history.



Instead of taking a systems approach in 2012 Act 134 “encouraged” the remainder of the criminal justice system to adhere to their respective rules of ethics.

The LEAB responded to the 2012 recommendation for a unified complaint process for reporting misconduct came back with a response indicating that they did not have enough time. No further action has been taken.

Completion of statewide training and the introduction of In-service training on Implicit-bias is still a couple years out.

There are ongoing challenges with the Fair and Impartial Policing Policy.

The data collection process lacks transparency and has yet to be adequately funded and little or no attention has been given to the remainder of the criminal justice system to address the racial disparities.

Last year reports from Dr. Stephanie Sequino of UVM, Dr. Jack McDevett of North Eastern University and Ashley Nellis (The Color of Justice) of the Sentencing Project further support this fact while suggesting that the problem in Vermont has worsened over the past five years.

The reason for this bill is clearly there is a need for centralized monitoring and oversight to provide transparency and accountability into and of the criminal justice system as data collection, policy, training and oversight.

Much progress has been made with addressing racial disparities in the law enforcement system and advancements can be made with funding and oversight. I respectfully implore the committee to return to the focus of addressing racial disparities across the entire criminal justice system. Further,



we must acknowledge the work that must be done to address institutionalized racism in employment, education, housing, health services and the political process.

Neither racial justice reform nor the concept of it beginning in the criminal justice system is new in Vermont. Act 134 in 2012; **“Racial Disparities in the Criminal Justice System”** was a bill that focused on racism from an institutional (implicit) perspective. It addressed sentencing, policy, data collection, training, the complaints process and other justice system workers. Unfortunately, the approach was walked back over the last five years to focus primarily on law enforcement.

Today one in 14 African American males are incarcerated in Vermont (leading the nation). We all know that African Americans continue to be stopped and searched at disproportionate rates across the state. We learned this year that over 15% of the use of force cases reported by Burlington involve African Americans (3.8% population). We learned during these proceedings that black youth have been on average 340% more likely to go to Woodside over the past four years! Further, we have learned last year from reports from Dr. Stephanie Sequino of UVM, Dr. Jack McDevett of North Eastern University and Ashley Nellis (The Color of Justice) of the Sentencing project further support this fact while suggesting that the problem in Vermont has worsened over the past five years.

Through work with the State Police, it seems that we have discovered hope in this data driven approach in addressing racial disparities in the criminal justice system. It was with that hope that that the Racial Justice Oversight Board would be used as an apparatus by the legislature and responsibilities would include; providing advise on addressing



institutionalized racism to the legislature; monitoring (with legislative authority) the ongoing progress of law enforcement rollout of policy, training, data collection and oversight, and; monitoring and advising on the rollout of these processes across the remainder of the criminal justice system. The longer-term goals of this board have always been envisioned as providing recommendations on the implementation of these strategies across employment, housing, education and health services.

Understanding now the history of racial justice reform in Vermont, it is my hope that the committee would see more clearly our (and coalition members) concern with decoupling the Fair and Impartial Policing component from H.492. Also, the fact that the revised bill turns the focus from the criminal justice system to an initial focus on these other systems as well creates an unwieldy and overly ambitious approach. (as expressed by the ACLU Vermont). It is also important to note that the inclusion of language that would seek to require community members of color to be “experts” could potentially create a counterproductive outcome by severely limiting the otherwise pool of qualified candidates. Finally, the removal of most all of the language that would enable the legislature to realize transparency (through the implementation of this board) into this law enforcement processes is severely diminished by the removal of language that addresses:

- 1) Use of Force
- 2) Data Collection
- 3) Monitoring of Training
- 4) Recommendations for Civilian Oversight
- 5) Monitoring for Compliance – 20 V.S.A. § 2366



All this being said, the historical significance of this bill cannot be understated. All of Vermont must acknowledge that the time for racial justice reform is now. People of color in Vermont are being arrested, serving as targets of use of force and incarcerated disproportionately on a daily basis and it is destroying lives and families EVERY DAY. The impact of stigma and trauma that the criminal justice system places on our people is life long and spans generations.

Article 5 of the Vermont Constitution states that “the people of this state by their legal representatives have the sole, inherent, and exclusive right of governing and regulating the internal police of the same.” Article 7 of the Vermont Constitution states that “government is, or ought to be, instituted for the common benefit, protection, and security of the people, nation, or community, and not for the particular emolument or advantage of any single person, family, or set of persons, who are a part only of that community; and that the community hath an indubitable, unalienable, and indefeasible right, to reform or alter government, in such manner as shall be, by that community, judged most conducive to the public weal” Clearly the approach was walked back to focus on law enforcement with At 193, 2014 and Act 147, 2016

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In closing I would like to enter for the record a statement from the research coordinator of Justice For All.

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I am writing to express my support for H.492 (S.116). I am a resident of Woodbury, Vermont and a professor at a college in



Vermont. Higher education should be a conduit that brings young talented people into the state and I have been continually impressed by the impact that my institution has had historically on the culture and community of central Vermont. Alums from past decades are entrepreneurs, public servants, and community leaders throughout the region. As our student body becomes increasingly diverse, however, I have become aware that students of color, coming to rural Vermont from elsewhere in the country do not feel safe leaving campus. They are fearful of a state that sees itself as uniquely and distinctly progressive and does not acknowledge or address its racism and biases. They fear being targeted because of the color of their skin and the recent traffic stop data that analyzed by Stephanie Seguino and Nancy Brooks confirms that *their fears are warranted*.

Implicit bias makes this state unwelcoming and dangerous for people of color who are more likely to be pulled over, more likely to be searched, and more likely to be arrested. One result of this (alongside the racial disparities in incarceration rates) is that the state does not become more diverse and the implicit biases in institutions, public service, and communities goes unchecked. The Vermont legislature has known about this for a long time and has made efforts to address it:

In 2008, the Vermont Advisory Committee to the US Commission on Civil Rights recommended the collection of traffic stop data, and the development and implementation of bias-free policing policies and training, as well as police-community partnerships. Act 134 in 2012 put these recommendations into law and Act 193 (2014) and Act 147 (2016) implemented them through Vermont Criminal Justice Training Council and the development of a model Fair and Impartial Policing policy. It is clear, however, from the data



being collected as a result of these earlier acts, that the existing legislation is insufficient to effectively redress racial bias in the state.

H.492 (S.116) adds an essential component by constituting a Racial Justice Oversight Board, tasked with analyzing and reviewing data pertaining to race and

Otto Muller, PhD

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“...Thanks to the cosponsors for bringing such an important bill...this bill is badly needed...”