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Representative Maxine Grad
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House Committee on Judiciary
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Testimony for House Committee on Judiciary related to H.546: An Act Relating to Racial Justice Statistics
2/1/2022

Chair Grad and members of the committee, we appreciate the opportunity provided by the House Committee of Judiciary to submit public testimony on [H.546: An Act Relating to Racial Justice Statistics](#).

My name is Erika Rickard; I direct a project at The Pew Charitable Trusts focused on modernizing our nation's civil legal system. My team works to support efforts to deliver more efficient, equitable, and open civil courts. Our [extensive research](#) has documented the important role state courts can play in addressing racial disparities and we applaud the committee's innovative efforts to address the lack of high quality and publicly available data on racial justice through this bill. We further urge the committee to consider our research findings that support expanding the scope of the bill to include data on civil legal case types, such as eviction and debt collection lawsuits, in addition to the juvenile and criminal ones currently contemplated.

A modern civil court is open to engaging with court users, researchers, policymakers, state bar associations, vendors, and other stakeholders to improve transparency, data, and knowledge about the civil legal system. Courts can do this through standardizing and disaggregating their data by key case types, allowing them to understand what is happening in their courtrooms and enabling comparisons between jurisdictions. By combining and examining case and identity marker data, courts can continually work to improve court operations and the court user experience.

While strides have been made nationally and in Vermont to improve the transparency and quality of juvenile and criminal justice data, civil justice data remains overlooked. Debt collection and eviction lawsuits, the most common civil case types nationally, have grown exponentially over the past 30 years, [transforming the business of state courts](#) and threatening serious economic and social instability to the thousands of families facing them in Vermont. Many of these cases are resolved by default judgment, rather than through a traditional adversarial process where a judge decides a case's outcome based on facts and arguments presented for lawyers on both sides. And

yet these issues largely fly under the radar due to lack of data. Texas is currently the only state that publicly reports statewide data on filings and outcomes of debt collection lawsuits. Others, including Vermont, commonly aggregate general civil or small claims cases into a single category, which prevents policymakers and the public from knowing the scale of eviction or debt collection cases in the state.

The lack of detailed and publicly available data on civil cases acts to obscure the impact courts and the legal system have on some of their most frequent users. In 2019 in Vermont, courts received over 19,000 civil and probate case filings, over 3,000 more than the number of criminal cases filed.¹ Research in other jurisdictions has shown that debt collection and eviction lawsuits, and even administrative probate problems such as “[tangled titles](#),” disproportionately affect communities of color. [Researchers on debt collection lawsuits](#) for example, found that majority-Black neighborhoods were twice as likely to have a default judgment issued against them compared to majority-White ones, even when controlling for income. [The Eviction Lab has found that](#) Black renters experience the highest average rates of eviction filing and judgment in cities across the country, almost double the rates that White renters experience.² These disparities can serve to further [exacerbate the racial wealth gap](#) and inhibit racial justice efforts.

Improved quality and access to civil court data in Vermont by its inclusion in the Division of Racial Justice Statistics would bolster the Division’s ability to fulfill its stated purpose and “work toward the amelioration of racial disparities across various systems of State government.” For [eviction](#) and [debt collection](#) in particular, case filing and docket data, when linked to demographic data, can reveal existing disparities within judicial outcomes, and guide decisionmakers on where to target resources like eviction diversion programs, rental assistance funds, legal aid and self-help materials, community outreach, and financial education. This data can also be a critical tool for courts, prosecutors, and local governments when enforcing or developing reforms for housing and consumer related policies and processes that impact racial justice and due process in these civil case types.

Demographic data is particularly challenging for courts to collect and maintain, especially in debt collection and eviction cases that flood dockets but are plagued with low defendant participation rates, which inhibits courts from collecting demographic information from defendants themselves as they might in criminal cases. Varying court technology and case management infrastructures across a state, as well as individual court practice, have been key barriers to the uniform collection of statewide civil court data that includes meaningful details on outcomes and party information. For example, a recent study in Michigan found that the name of

¹Civil and probate cases filed totaled 19,747, exceeding the 15,763 criminal cases filed according to [annual reports from the Vermont Judiciary](#).

² The Eviction Lab has found that Black renters experience the highest average rates of eviction filing (6.2%) and judgment (3.4%) in cities across the country, almost double the rates that White renters experience (3.4% filing rate and 2% judgment rate).

a top debt buyer plaintiff was spelled over 424 different ways in statewide docket data.³ Investment and involvement of the Division of Racial Justice Statistics in Vermont’s civil court data could provide the uniformity, technology, and incentives needed to eliminate some of these barriers.

H.546 has commendably identified justice technology as a critical part of efforts to improve racial justice data and reduce disparities in Vermont’s legal system. Our [recent research](#) has found that courts’ adoption of technology, such as e-filing and remote hearings, during pandemic was unprecedented in both scale and pace, allowing state courts to remain open during the global public health emergency. However, we also found that such technology can disproportionately benefit businesses and people with legal representation and make courts more difficult to navigate for those without due to other systemic racial disparities in areas such as [broadband access](#). H.546’s provisions for a justice technology strategic plan and inventory will be a critical tool for policymakers to assess whether these assets are having an equitable impact, regardless of identity or legal representation status.

Once again, we appreciate the opportunity to submit testimony and offer our continued assistance to further explore any of the recommendations covered in this analysis.

Sincerely,

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³ Based on un-published Pew-funded research conducted by January Advisors using data from Michigan’s State Court Administrative Office.