

To: Rep. Martin LaLonde; Chair of the House Committee on Judiciary
Sen. Nader Hashim, Chair of the Senate Committee on Judiciary

From: Dr. Etan Nasreddin-Longo, Chair
Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel

Copy: Rep. Jill Krowinski, Speaker of the House of Representatives
Sen. Philip Baruth, President Pro Tem. of the Senate
House Committee on Judiciary
Senate Committee on Judiciary

Date: May 2, 2025

As we approach the end of this legislative session, the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel has been notably absent from legislative discussions on bills that potential impact or increase systemic racial disparities – for the RDAP, this legislative session has been, in the apocryphal words of Yogi Berra, "déjà vu all over again." At this late point, the RDAP would like formally to ask for time to testify about this concern next week, beginning Monday, 5 May. This testimony is essential if the RDAP is meant to provide meaningful engagement within Vermont concerning its commitment to racial justice.

This session has seen several bills that create the potential for high-impact, high-discretion decisions and that also have implications for implicit and explicit bias. Sadly and perhaps predictably, the RDAP, despite its request for a more efficient partnership with the Legislature, has not been asked for its unique participation again this session. This is in direct contradiction to the early days of the Panel, but in line with what happened last year. We would have liked to weigh in on **S.12, H.118, S.9, S.87, S.109, H.357, H.361, H.379, and H.382**. These are bills that could have benefited from the discussions that the blended group of the RDAP - made up of community members and governmental actors - is designed to have.

As the Chair raised during testimony in November 2024 before the Joint Judicial Oversight Committee, all of the important questions raised by racially-adjacent legislation brought up in the current cultural climate - a climate that includes a terror of people of color - will *not* be answered nor even investigated, now that the legislation has largely become law (I refer to legislation passed in the last session). Ironically, in his November 2024 testimony, the Chair was referencing the *past* biennium, and perhaps naively thought that the matter would be at least addressed. It wasn't.

By way of background, the 2017 enabling statute of the Panel charged RDAP to look for evidence (mostly data based) of racial inequity in both the criminal and juvenile justice systems. To that end, the RDAP produces biennial reports that are essentially a barometer of inequity in these particular areas. I won't spend too much verbiage on the history of the RDAP, but suffice it to say that after our initial report, the question of data loomed large.

The RDAP was then in fact asked by the Legislature to act as a study group to look at the question of data, and to make proposals for ways in which data pertaining to our mandate could be stored, collected, disseminated, and, frankly, gathered together so that legislative decisions with the potential for creating racial inequities could be made with reference to facts. We spent the summer of 2021 being a study group, then submitted our findings to the Legislature, and were subsequently asked to

focus directly upon a method for doing what our report sought to mark as an indispensable part of the fight against racial inequities in the criminal and juvenile justice systems.

The RDAP then, less than a year later, and with the help of the Crime Research Group, produced yet another report that was the genesis of the Division of Racial Justice Statistics (DRJS), which is now up and running, to our immense joy. The late Senator Sears voiced his opinion, to the Chair but also to others, that the RDAP was indispensable to a Legislature working to ameliorate racial disparities in lawmaking. Perhaps in recognition of this fact, the sunset of the RDAP was repealed in 2021-22.

Because of the DRJS, the Panel has tried to keep up, although imperfectly, with what the Legislature is doing. The Panel was in fact asked to monitor the Legislature's activities in the wake of the creation of the DRJS. It is critical to note that neither the RDAP nor the DRJS can do this monitoring on their own, and that during the time immediately following Justice Reinvestment II, that fact was recognized. It was clear that the RDAP would need to have the participation of the Legislature - or so it was said. Last session would seem to belie that fact. As does this current version. In testimony provided by the Chair of the Panel in November of 2024, it was made plangently clear that the RDAP had not been asked to consider and testify about any of the legislation during the last Biennium that could easily have impacts that include racial inequities. The Chair made the point to Joint Justice that these sudden needs for legislation concerning "crime" have a troubling - and frankly racist - history in the United States. To wit, immigration is always accompanied by frightened perceptions of crime, even when data show that actual crime is not nearly as bad as anecdotes would tell one. When immigrants are nonwhite or are perceived as nonwhite, the hysteria increases, and even the vaunted FBI suddenly cannot be trusted. The Chair made extensive reference to the Irish immigration of the late nineteenth and early twentieth centuries that led to some particularly horrific imaging of the Irish, and a concomitant move to incarcerate them.

The Chair had hoped that this testimony would make clear to the Legislature 1) that the Legislature may have indulged in such racialized thinking without knowing it, and 2) that the RDAP, clearly sidelined throughout the 2023-24 session, was created so that investigations into the potential impacts of such legislation could be made "before the fact," and so not become foci of later regret. In spite of the Panels exhortations, we were again sidelined in the present session. The situation, even with the Panels stated request to improve communications, has not changed.

Thus, in sum, the RDAP would like to formally request time to testify about this letter and issues it raises before either or both of the Judiciary Committees next week, beginning Monday, 5 May. If the Legislature wishes for the RDAP to provide anything more than tinted window-dressing for a state that seems demonstrably confused about its commitment to racial justice, this would seem an important step.

Respectfully,

Dr. Etan Nasreddin-Longo, Chair of the RDAP
and

Members of the Racial Disparities in the Criminal and Juvenile Justice Systems Advisory Panel
(RDAP)

