

Report of the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel

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Preamble

While the Advisory Panel on Racial Disparity in the Criminal and Juvenile Justice Systems (henceforth “the Panel” or the “RDAP”) feels that some progress has occurred in the area of the reduction of racial disparity since its 2019 report, there is of course much left to do. Many, those who both apprehend and appreciate Euro-American history, will correctly find this to be an understatement. This statement should *not* be a cause for exasperation - indeed exasperation is precisely the wrong response, because continuous action is required to combat racial discrimination and white supremacy as a whole. Again, we use this last term - and others - very carefully, as it can provoke in some people a “knee-jerk” response that leads them - at worst - to pointless feelings of guilt and rage, and at best to discomfort. To quote from the opening of the RDAP's 2019 report:

To speak of race - and furthermore of racial disparities - is to evoke discomfort for all, not simply for Caucasians, but also for People of Color. “Race” is a construct that divides us, and the impacts of institutional racism and racial bias are real, painful, and lead to disparate outcomes for People of Color in the criminal and juvenile justice systems - injustices antithetical to the mores of the State of Vermont. Racial minorities are oftentimes in the position of defending themselves against the practice not only of intentional racism, but also of biases that are so embedded in our common ways of being that many people - both Caucasians and People of Color - are absolutely unaware of the exercise of these selfsame biases. This entire process leads to rifts and tensions at best, and to physical violence at the worst. To dismantle a problem, one must be willing to name it, despite the discomfort it raises. Sadly, the terms that best describe not only the state of the country (including the state of the state) tend to alienate Caucasians who believe themselves to be possessed of the best of intentions in regard to racial justice. Despite their good intentions, their interventions may confirm their bias and cause more harm. The Advisory Panel on Racial Disparity in the Criminal and Juvenile Justice System (henceforth “the Panel”) uses these terms manifestly *not* to provoke needlessly, but rather to characterize the truest nature of the problem that *all* Vermonters face, and those awful terms are “white supremacy” and “white privilege”. These are terms that in their fullest essence describe not merely simple costuming and the burning of crosses, but rather a system of unequal human interaction that causes great and real pain to Vermonters. We call upon all persons of good will to do their best to rise above feelings of discomfort, alienation, and pain to address white supremacy and white privilege and their effects.

The mandate of the RDAP, briefly, is to look for instances of racial disparity in the Criminal and Juvenile Justice systems, and to point out these instances to the State Legislature. The Panel did this in 2019, and does so again now, as is required by our enabling statute. We begin with an overlook of the recommendations made then that need either to be 1) addressed or 2) energized. The Panel has long committed to preserving its work-product, and so some repetition of the 2019 report will be necessary. In addition to this précis, there are three broad areas, not previously part of an RDAP report, that make an appearance here. They concern recommendations regarding 1) the needs of the Juvenile Justice system, 2) the Community Safety Reports that have been written in a somewhat scattershot fashion throughout the state, and 3) so-called “Second Look” legislation. This last

represents a far deeper dive into the subject than was given in the 2019 report. The RDAP felt that its work in this area was wanting in that document, and made a concerted effort to cover Juvenile Justice in the present one. These areas of concern were approached in detail by three subcommittees which then presented their work to the entire Panel for a series of fulsome discussions in open, warned meetings.

The 2019 report was singular in that there was tremendous agreement about the recommendations contained therein. There were, however, some issues in which consensus could not be reached. Those issues were noted in a section entitled "Non-Consensus Reports." The present report contains perhaps a bit more disagreement, and those disagreements are noted both in appendices, and also within the body of the report proper, as was dictated by the flow of the entire document. It must be noted that these disagreements must not, in the opinion of much of the Panel, preclude discussion simply because people of good conscience cannot always agree. Indeed, the RDAP partially sees its role as bringing forth important - indeed vital - discussions, always with the aim of eliminating to the greatest possible extent racial disparities in the adult criminal and juvenile justice systems. We aim - always - to inspire the Legislature to wrangle, as it always does, with some difficult and uncomfortable topics that, in the opinion of the Panel, need to be addressed in the interests of racial equality. Without taking a vote, it is easy to note that the RDAP is unanimous in its feeling that racial bias and disparity must be eliminated - however, the details of this process of elimination are sometimes in respectful and possibly uneasy contention. The Panel hopes that its struggles can help the Legislature to move through a similar productive process.

Recommendations

I. Recommendations from the Juvenile Justice System Subcommittee

The RDAP Juvenile Justice Subcommittee members conducted a review of related racial equity juvenile justice work across the state, and based on that have prepared recommendations on issues we anticipate may be coming up in the legislative session, many of which are stemming from the Council for Equitable Youth Justice, Vermont's State Advisory Group for the federal [Juvenile Justice and Delinquency Prevention Act](#). There are three juvenile justice related recommendations for the legislature.

1. Raising the Minimum Age of Juvenile Court Jurisdiction in Vermont:

RDAP recommends that the minimum age of juvenile court jurisdiction increase from 10 to at least 12 years and that any decision to raise minimum age of jurisdiction be data and science driven.

Currently, [33 V.S.A. § 5102](#) outlines that the minimum age of juvenile court jurisdiction in Vermont is 10 years old (except, for an individual who is alleged to have committed murder, see [33 V.S.A. §-5102\(2\)\(C\)\(i\)](#)) Last session [H.142](#): An act relating to juvenile delinquency and criminal proceedings involving children was introduced. This bill proposes to increase the minimum age at which a child may be subject to juvenile delinquency proceedings from 10 to 12. This would mean that 10- and 11- year-olds are not subject to delinquency proceedings.

While about half the country does not have any minimum age for juvenile court jurisdiction, many of our neighboring states have a higher minimum age. For example, New York and Massachusetts both have a minimum age of 12, and New Hampshire goes even further with a minimum age of 13 (with carve-outs) ([Appendix B](#)).

Based on the limited data that we do have, there is a trend connecting racial disparities and disparate outcomes for youth of color to raising the age of minimum jurisdiction from 10 to 12. While we know that this may have a limited impact on youth who have cases filed with the Vermont Judiciary, given both the small numbers of youth with court cases filed, and the number of justice involved youth who are involved with DCF ([Appendix A](#) & [Appendix C](#)), the implication of this jurisdiction change would have a broader reach. The U.S. Department of Justice's Office of Juvenile Justice and Delinquency prevention defines arrest as anytime "law enforcement agencies apprehend, stop, or otherwise contact them and suspect them of having committed a delinquent act." We know that youth who are "arrested," and not referred to juvenile court are still impacted by that law enforcement encounter, even if charges are not filed by the State's Attorney. Raising the age of minimum juvenile court jurisdiction would change the immediate response from arresting very young youth to replacing it with responding to youth with other services.

RDAP recommends that the minimum age of juvenile court jurisdiction increase from 10 to at least 12 years and that any decision to raise minimum age of jurisdiction be data and science driven.

It is important to note that there are many more youth who are suffering from racial disparities in our state who would not be impacted by this change. This would not have an impact on youth ages 12 – 18. Alternatives to the traditional juvenile justice system are already required by the

Legislature as set forth in [33 V.S.A. § 5225](#). RDAP recommends that the Legislature further analyze youth justice data for 12 and 13-year-old youth, recognizing that these emerging adolescents are particularly vulnerable to significant harm in the juvenile and criminal court systems. It is hard to fully understand the extent of disparities without accurate data from the Vermont Judiciary, the Department of State's Attorneys and Sheriffs, the Department of Children and Families or law enforcement.

2. Race and Ethnicity data in the Vermont Judiciary Database:

RDAP recommends that at a minimum there be a statutory requirement that that race/ethnicity data following arrests and citations be uniformly filled out on the Judiciary's Form 101.

For years, more than 20% of the judiciary race/ethnicity data is marked as "unknown," "not reported," or recorded as blank. In FFY2023, this was the case for 22.69 percent of the court case filings for youth <19, according to the Vermont Judiciary's Database (Odyssey). This lack of race and ethnicity data in the Vermont judiciary's database is not new. In 2020, The Council for Equitable Youth Justice (formerly the Children and Family Council for Prevention Programs) sent a letter to the Judiciary's Vermont Family Rules Committee asking for them to address this issue ([Appendix D](#)). In that letter, they state "In FY2020 (State's fiscal year 7/1/19 – 6/30/20), there were 905 juvenile delinquency cases filed in the Family Division. In 16% (147) of the cases, race or ethnicity was "not reported" by law enforcement. In 3% (25), race/ethnicity was reported as "not known." They requested that the Family Rules Committee consider how [Rule 1\(b\)\(1\)](#) might be further strengthened. For example, "could the Rule require that race/ethnicity data be included on the petition and that failure to include this information could result in a rejection of the petition? If a petition is rejected, the petition could simply be re-filed with race/ethnicity information added." The Family Rules Committee has not instituted this rule, and Vermont has only seen an increase in the lack of data.

Currently, the Judiciary receives their juvenile race data from the court Form 101. The law enforcement officer records the race of the youth on Form 101, which is then filed with the State's Attorney Office, and then subsequently filed with the Court. There are discrepancies in how or if law enforcement officers enter the race and ethnicity information in Form 101. We recommend that at a minimum there be a statutory requirement that that race/ethnicity data following arrests and citations be uniformly filled out on Form 101.

Outside of this concrete recommendation, there are other data points that are important for future review; diversion data, DCF placement data, Balanced and Restorative Justice data, and data identified in our 2019¹ and 2020 Reports².

¹ [2019-12-04 Report of the RDAP](#) at 5-6 (recommending the collection of "data that captures the high-impact, high-discretion decision points that occur during the judicial processes within the State's Attorneys' Offices, the Office of the Attorney General, the Office of the Defender General, and the Judiciary; the administrative processes within the Department of Children and Families and the Department of Corrections; charging, bail and pre-trial release, plea bargaining, sentencing, and the usage of alternative justice options such as diversion").

² [2020-12-01 Report of the RDAP](#) concerning Section 19, Act 148 at 4-9 (identifying "high-impact and high-discretion making points" in the criminal and juvenile justice systems and providing prioritized lists of data to be collected).

3. Use best practices for gathering race/ethnicity data in incidents of arrest with youth:

RDAP recommends that both Law Enforcement perception and Court perception of the youth is gathered.

Our recommendation is that law enforcement perception of the race/ethnicity of youth and self-identification of the youth if their case is filed with the judiciary. The preferred practice would be for the law enforcement to identify their own perception of the youth who they are arresting and indicate it on Form 101, and not ask the youth directly at the time of arrest. It could be harmful for law enforcement to ask youth how they identify when they are enduring a traumatic experience. Law enforcement officers are asked to respond to situations of heightened tension or known conflict. If the youth's case is filed with the judiciary, they should be asked how they self-identify at that time. Failing to obtain self-identification data results in a colorblind approach which ignores the realities of systemic racism.

The Family Services Division of the Department of Children and Families is moving forward with gathering both perception and self-identification data points for the child welfare population. Soon, FSD's Centralized Intake and Emergency Services will be gathering race data from the reporter when they call the hotline to report an incident of child abuse or neglect. Reporters may be law enforcement officers, school officials, other mandated reporters, or a member of the public. If the report results in an open case, the Family Service Worker will discuss with the youth and family how they identify. This will result in gathering two data points, both perception of the reporter and self-identification from the youth and family.

In addition, training for law enforcement officers on gathering race and ethnicity information is crucial. The public should know that we are tracking race and ethnicity information to address systemic disparities³.

³ [2021-11-15 Report of the RDAP](#) at 2-3, 5-8 (see our best practices discussion on the ethics of data collection and centering racial equity and community voices).

II. Recommendations from the Community Safety Reports Subcommittee

Introduction

About The Report

This report was written as a stand-alone document co-authored by Wichie Artu - Executive Director of Vital Partnerships, Shela Linton - Executive Director of the Root Social Justice Center, and Qing (Tsing) Ren - Evaluation and Program Analyst at Shelburne Farms. It includes recommendations from the Community Safety Review group (CSR) - a subcommittee of the Racial Disparities in Criminal & Juvenile Justice Systems Advisory Group (RDAP). These recommendations are meant to highlight known successes of community-initiated reviews of systems of safety in Vermont. In this report, systems of community safety not only include policing, but programs, policies, and structures that aim to promote the condition of protecting people from mental/physical danger, risk, or injury.

Reasons for Research

Despite the years of protests and recordings of police killing people of color, no massive political mobilization has formed to address the disparities in community safety until the killing of George Floyd in May 2020. Vermont, not isolated from national politics, also saw a large surge in public pressure for systemic change. The following towns held demonstrations with over 2% and up to 11% of its population in May and June 2020 in support of Black Lives Matter and/or in solidarity with the eight minutes and forty-five seconds George Floyd struggled for his life:

- Bellows Falls
- Brattleboro
- Burlington
- Essex Junction
- Middlebury
- Rutland

Some of these demonstrations resulted in arrests of protestors. It was important for the VT legislature and RDAP that CSR be created to explore how Vermonters envisioned that change.

Methodology

Several official Vermont reports were reviewed. These included:

- Community Safety Review Process
(December 2020)
authorized by the Town of Brattleboro
- A Functional and Operational Assessment of the Burlington Police Department
(September 2021)
authorized by the City of Burlington
- School Resource Office Task Force
(March 2022)
authorized by the Windham Southeast Supervisory District

Additionally, RDAP invited Tyeastia Green - facilitator of the report in the City of Burlington, and Shea Witzo and Emily Megas-Russell - facilitators of the report in the Town of Brattleboro, to share their top recommendations based on their experience with their communities.

Constraints

The CSR group contended with several limitations. There were only three subcommittee members. And, in addition to the members being community representatives who volunteer their time outside of official meetings to create this report, there was a limited time to complete all the duties. Additionally, recruitment was difficult. Furthermore, it is important to recognize the controversial perception and misunderstanding regarding the phrase “alternatives to policing” and the “defund the police” movement. We encourage those who read the report to recognize the role of RDAP as the panel that explores how to reduce racial disparities in our justice systems. And while we do not endorse controversial topics, it is important to recognize that exploration requires open-minded creativity. This report was written with as much community-centered insight as possible with an attempt to avoid the political polarization that comes with modern political movements.

Insights

Effectiveness of Policing

Quantity of Police Officers vs. “Effective” Policing

One item in common was the “ineffectiveness” of policing. In one example, the ratio of police officers per capita in Burlington (22.6 per 10k residents) is considerably high compared to a large city like Minneapolis (13.8 per 10k residents). This brings into question the need for such a high number of sworn police officers. Notably, the ratio in Burlington is lower than the average ratio in New England (~25 per 10k residents), but higher compared to cities of the same size in the nation (FBI 2019 - range from 25 to 11 per 10k residents). Furthermore, it is important to note that VT is in the top 5 of states with the least violent crime rates in the country (FBI 2020).

While the origin of modern-day policing in the United States can be traced back to Slave Patrolling in the 1700s ([NAACP.org](https://www.naacp.org)), today’s purpose for law enforcement is to enforce civil and criminal laws, keep the peace, provide security, serve civil/criminal process, and make arrests (VT Criminal Justice Council 2023). In contrast, “community safety” is primarily focused on preventing crimes from taking place (Oxford). These definitions and its history must provide context to measuring the effectiveness and success of modern-day policing.

Burden of Mental Health

Another item in common is the burden of mental health responses coupled with policing. Individuals with mental health and substance use disorders are incarcerated 3 to 12 times higher than the general U.S. population (Cornell 2017). And, while patient intake has grown over the past few decades, funding and services have significantly decreased since the 1980s. Coupling policing with mental health is detrimental to the community and those that require emergency mental health services. Both police departments and community members have expressed through these reports the need and desire to separate the function of emergency mental health service from policing responsibilities. Again, it is important to contextualize the job of policing in our

communities. Should we expect enforcing laws and/or making arrests to be the reaction to mental health emergencies?

Police vs. Resources in Schools

A third item in common among the reports is the statistical ineffectiveness of School Resource Officers (SRO). Nationwide, there are states with 2-3 times as many police officers in schools than social workers; and some with more police officers than nurses. In Vermont, 4 out of 5 noted school districts that reviewed their SRO program decided to remove it all together with the 5th deciding to shift its program towards a liaison-type of relationship. Brattleboro Union High School has since also removed their SRO. Importantly, minority students are expelled in schools 2 to 3 times more often than their peers (VT Legal Aid 2015).

Consider the following:

- Modern-day policing was originally founded on establishing a system of terror to squash slave uprisings.
- The definitive purpose of modern Vermont police is to enforce, secure, and arrest.
- Vermont proportionately pulls over and incarcerates more Black people than White people.
- What does safety (and justice) actually look like for our youth from racial/ethnic minorities in our school systems, and after they graduate?

Effectiveness of Trainings

The final common item that was identified was not the quantity of training, but what was in the training, and who received them. In particular, it was noted that those who are not willing to do the work of acknowledging specific internalized and systemic prejudice in decision-making and action-taking, the training would not be effective. Furthermore, there was discussion around what law enforcement are trained in versus what people of color (and other marginalized communities) know. This included but was not limited to the origins of policing in America and historical policies that exacerbated criminalization of already marginalized people.

Final Recommendations

Effectiveness of Trainings

We recommend any law enforcement training include:

- Readiness Assessment
Who is ready to receive training that contextualizes racism in themselves and in the industry?
- Origins of Policing in America
Provide a view of the founding of policing in different areas of the country and its change in function through time.

Criminalization

Include the many policies that have criminalized people of color (and intersecting identities) which contextualizes the use of policing over time in America. Below are a few examples...

- The Census was created in the late 1700s in tandem with the Electoral College to count the amount of slaves (counted as 3/5th of a person) because each slave provided Electorates - i.e. voting power for its state. This incentivized “Slave Patrols”.
- The 13th amendment bans slavery EXCEPT when convicted of a crime.
- Sodomy was illegal until the 70s (which implicitly bans same-sex intercourse).
- The first immigration law was created in the late 1800s explicitly banning people from China (Chinese Exclusion Act).
- The Bureau of Narcotics was founded by Harry Anslinger - most known for his yellow journalism related to associating drugs with madness and his explicit prejudice against people of color.

Cultural Competence

Norms and behaviors show up differently in different cultures. Law enforcement should be familiar with cultures of different ethnic groups in Vermont and how they may intersect with policing.

Public Oversight

In Burlington’s report, there was a recommendation for a Citizen Review Board. It was noted that in Brattleboro, there was a Citizen Review Board. But not only did it not have any “teeth”, it also included police staff.

We recommend the legislature create a model policy for Citizen Review Boards that includes:

Independence

All board members must be free of relational and financial conflicts of interest with law enforcement.

Authority

A board should be able to review internal and external investigations and hold law enforcement leaders accountable.

Reallocation of Responsibilities

In line with the insight that the defined responsibility of law enforcement is to enforce laws, investigate crimes, and make arrests, we recommend legislation that implements the following:

- **Decoupling mental health**
Addressing mental health should be explicitly separated from law enforcement practice. Instead, solutions for emergency mental health services should be explored. Local and external organizations are already exploring and attempting to implement them. Exploration of these solutions coupled with political and financial commitment to these alternatives should be considered.
- **Eliminate SROs**
Eliminating SROs is not new to the VT legislature. Bills during the 2021-2022 session were introduced ([H.453](#), [S.63](#)). The VT legislature should explicitly incentivize schools that replace their SRO programs with student social services such as nurses, counselors, clubs, emotional/mental health education, etc.
- **Limit officer quantity based on population**
In a state with one of the lowest crime rates in the country, there may not be a need to have a quantity of law enforcement officers higher than the national average. The VT legislature should set a guideline to limit the amount of law enforcement officers in each regional scope per its relative population in relation to the national average. Furthermore, public perception must be addressed. A public relations campaign should be considered to help the public understand that more police officers does not cause less crime. Instead, a combination of effective policing, and an effective and funded system of social services are the key to lower crime rates (ACLU 2021).
- **Reinvest in Human Services/Community Centered Responses**
The savings earned by limiting law enforcement officer quantity should be reinvested in community-centered response initiatives and human services. Addressing criminality and especially the disparities that already exist must be a multi-pronged effort.
- **Decoupling traffic stops**
Vermont Statutes currently restrict traffic enforcement activity to law enforcement; traffic laws are still laws that would require enforcing. However, the reports identify traffic stops as a negative interaction between police and the community that exacerbates disparities and furthers the divide in the community-law enforcement relationship - especially with people of color. The legislature should make an exception to towns seeking to explore alternative ways to enforce traffic laws. In example, the Town of Brattleboro has made a commitment to “considering operational alternatives if they become legal in Vermont”.

Conclusion

In the words of comedian Brian Simpson, “cops should carry around little prizes...and every now and then they pull you over because you’ve been kicking [butt]. That way you see them sirens and there’s hope”.

This report provides ways to give hope to those who experience marginalization from our justice system in regards to community safety. In a system centered around punishment, we must open our minds and consider the possibility of incentivizing opportunity for our community to have their needs to be supported, instead of criminalizing them for not having the support they need to grow.

We encourage the legislature to take decisive action on these recommendations. We share with you words spoken to us by many individuals in communities of color we are in relationship with that hope for the VT government to make a difference: “less talking, more doing”.

III. Recommendations from the Second Look Subcommittee

RDAP supports second look legislation that allows for review and reconsideration of an original sentence because this serves as a critical check to correct the cumulative effect of discretionary decision-making in the criminal justice system resulting in racial disparities. The Second Look Subcommittee was formed after RDAP members determined that it was critical that policies addressing racial disparities in Vermont's criminal and juvenile justice systems should also reach people who are already convicted and sentenced.

At the direction of RDAP, the Subcommittee focused on policies that addressed these issues through sentence reconsideration laws. While Vermont has a sentence reconsideration statute, title [13 V.S.A. § 7042](#), it is extremely limited and only grants the criminal court the authority to reconsider and reduce a sentence within 90 days of the sentencing order becoming final. The Second Look Subcommittee consulted with other sources to learn more about how these types of laws (also known as second look) were structured.

Meeting at least once a month from March to December 2023, the Subcommittee studied Congress's First Step Act, which provided revision to [18 U.S.C. § 3582\(c\)](#); California's second law legislation, codified at Penal Code Sec. [1170\(d\)](#), [1172.1](#); the District of Columbia's second look legislation codified at D.C. Official Code sec. [24 403.03](#); Illinois's second look legislation, codified at [725 ILCS 5/122-9](#); and Louisiana's second look law, codified at R.S. [§ 15:574.4](#). The Subcommittee also considered pending second look legislation in Vermont, [S.155](#), and model legislation from the National Association of Criminal Defense Lawyers. Additionally, on November 3, 2023, the Center for Justice Reform at the Vermont Law and Graduate School held the Second Look Legislation Conference, convening sentence reconsideration experts from Washington D.C., New York City, Boston, and Pennsylvania to share their experience and knowledge of the impact of lengthy incarcerative sentences, second look laws, relevant data and science, and the integration of restorative justice principles through the second look process.

After reviewing these various sources, the Subcommittee determined that it did not have the capacity or resources to draft its own proposed second look legislation. The Subcommittee, however, determined that any second look legislation in Vermont must establish a procedural mechanism for courts to review and reconsider a previously imposed sentence after certain criteria are met, a structure that roughly tracks how other second look laws around the country function. The Subcommittee determined that any second look law should require a court to consider the impact of racial disparities when reviewing an application for sentence reconsideration.

Consistent with recommendations made in previous reports that addressing racial disparities requires checking discretionary decision-making points throughout the criminal justice system, RDAP supports the enactment of second look legislation in Vermont that gives courts the authority to review and reduce a sentence to correct the cumulative effect of racial disparities. Specifically, when the Legislature considers the relevant criteria and specific procedural mechanisms for second look legislation in Vermont, RDAP recommends the following:

1. Remain focused on addressing and correcting racial disparities.
2. Be guided by science and data relating to recidivism, racial disparities, the age of the person when the crime was committed, the age of the person at time of sentence review, and any other relevant factor supported by science and data.
3. Commit to sentence reconsideration laws that apply to all persons sentenced to imprisonment without carveout offenses or age limitations and that do not perpetuate racial disparities.
4. Integrate restorative justice principles that are inclusive of reentry supports for both offenders and victims.

Two general objections to the proposals of the Second Look subcommittee must be noted. They come from 1) the Office of the Attorney General and 2) The Department of State's Attorney's and Sheriffs. The Attorney General's comments are below - those from the Department of State's Attorney's and Sheriff's are contained within the section labelled "[Non-Consensus Report](#)."

The Attorney General's Office supports updating existing laws and improving current systems pertaining to release from incarceration. In lieu of second-look legislation, the Attorney General's Office supports Parole Board reform to modernize the Board and increase fairness, consistency, professionalism, and transparency. Such reform would provide greater alignment with the principles of Justice Reinvestment and has the potential to impact a greater number of people who are incarcerated.

The Attorney General's Office concurs with the second look subcommittee's recommendation that any sentence reconsideration should consider racial disparities, be guided by science and data, and include restorative approaches for people who have committed offenses as well as for victims.

Audit of the 2019 Report

Below are major recommendations taken from the 2019 RDAP report that still need to be, in the opinion of the Panel, approached. While the Panel notes that some changes have taken place, it is of the opinion that re-stating the recommendations will lead to their fuller consideration now, in 2024.

RDAP Recommendations, [December 4, 2019](#) report (p. 4-5):

- Ensure that Vermont statutes track existing federal requirements with respect to due process for those with limited English proficiency. For example, expand the rights established in 1 V.S.A. §§ [337](#), [338](#) for Deaf and Hard of Hearing individuals to those who have limited English proficiency and require use of competent language interpreters as needed. Amend the scope of these statutes to include juvenile delinquency proceedings.
- Support the use of objective and simple screening tools by first responders, including 911 operators, to assess the need for mental health or substance abuse treatment and the involvement of behavioral health experts.
- Support the development and implementation of training designed to educate the public on their individual rights under federal, state, local laws and community traditions. The training should be focused on the people most affected by racial disparities and include training on where to report racially disparaging experiences.
- Implement and expand training for officers promoted into supervisory and managerial positions to ensure that people occupying those key law enforcement roles will hold all officers accountable on issues of race, racial disparities, cultural competency, and data collection. Continue and enforce high standards of training for all law enforcement officers to ensure cultural competency and education about issues related to race, racial disparities, cultural competency, race relations, and data collection.
- Expand and support the use of community policing approaches to law enforcement. Community policing encompasses a variety of philosophical and practical approaches to law enforcement, though at its core, it aims to bridge gaps between police and diverse communities in order to build trust and mutual understanding. The community policing model helps to break down barriers between law enforcement and the communities they serve, resulting in improved information exchanges, more transparency, and less susceptibility for implicit biases to influence decision-making.
- The Panel did not adequately discuss associated penalties. The Panel will discuss this issue and present proposals in the future.

RDAP Non-consensus Recommendations, [December 4, 2019](#) report (p. 9-10):

- Establish a separate and independent judicial program that permits the criminal or family courts to divert eligible cases out of the court system pre-conviction. [ODG, AGO, judiciary supports; SAS disagrees.]
- Clarify that when considering the totality of the circumstances in assessing the lawfulness of a search and seizure, racial bias may be a relevant factor in this analysis, consistent with federal and state law. See, *Zullo v. State*, 2019 VT 1, 84. [ODG supports; SAS, AGO, judiciary disagree.]
- Expand the list of offenses that qualify for Diversion. All alleged offenders, regardless of criminal history, are presently eligible for Diversion under the Tamarack Program, unless an individual is accused of a listed felony (this list is found at: [13 V.S.A. § 5301](#)). Common Justice, an alternative-to-incarceration and victim service program in New York City at www.commonjustice.org.
 - “Case by case” certain offenses which may appear inappropriate for post-charge diversion may well be served by this type of programming. Please see [13 V.S.A. § 7601](#) for definition of a qualifying crime.
- Establish community-level boards made up of local law enforcement, DCF, the State’s Attorney’s Office, and public defenders, as well as community members, to review and respond to racial justice issues.

Prosecutorial Practices and Policies

Justice Reinvestment II Working Group Recommendations, November 17, 2021:

- Develop internal guidance to increase consistency in charging and plea-bargaining decisions within state’s attorneys’ offices.
- Ninety-nine percent of cases in Vermont are resolved through the plea- bargaining process.
- State’s attorneys should explore the use of internal guidance to increase consistency in charging and plea-bargaining decisions. Guidance should focus on when and what to charge, particularly for drug-related cases, as well as provide a framework for guiding discretion during the plea-bargaining process.
- To monitor implementation of internal guidance, offices should regularly collect and examine charging and plea-bargaining data as well as consider establishing a process for internal review prior to charging.

Non-consensus Report

The State's Attorneys and Sheriff's Office

RDAP Second Look Subcommittee, SAS Response, December 20, 2023

JOHN F. CAMPBELL,
ESQ.
EXECUTIVE
DIRECTOR

PHONE: (802) 828-2891



STATE OF VERMONT
OFFICE OF THE EXECUTIVE DIRECTOR
DEPARTMENT OF STATE'S ATTORNEYS & SHERIFFS

110 State Street
Montpelier, VT
05633-6401

FAX: (802) 828-2881

DATE: December 20, 2023
FROM: Department of State's Attorneys and Sheriffs ("SAS"), Executive Committee of State's Attorneys and SAS Office of the Executive Director
RE: Second Look, SAS Response

In response to recommendations concerning "Second Look" submitted¹ to the Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel ("RDAP"), please see below for a list of questions and concerns gathered over time,² including from prior RDAP member, Evan Meenan, from members of the Executive Committee of State's Attorneys, and from Jennifer Poehlmann, Executive Director of the Center for Crime Victim Services ("CCVS").

The SAS Executive Director's Office ("EDO") and the SAS Executive Committee ("EC") have questions and concerns that remain in place after review of the Second Look recommendations that have been circulated.³ Further, the SAS EC informed the SAS representative to the RDAP that they are not in support of Second Look legislation.⁴ While the opinions amongst individual State's Attorneys may vary, the SAS EC and SAS EDO are not in support⁵ of Second Look recommendations submitted to the RDAP or Second Look legislation.

It was noted⁶ that time constraints prevented full contemplation of SAS concerns and questions, noted below in *italics*. We appreciate that a majority of the RDAP may submit Second Look recommendations, in some form, to the legislature. That said, if legislation is to be considered by lawmakers SAS would recommend contemplation and analysis of the SAS concerns and questions. Likewise, SAS believes that further discussion should occur with [victims of crime in Vermont](#).⁷

The SAS EDO and SAS EC request that the questions and concerns listed below, and this memorandum, be included in the RDAP report on Second Look.

[SAS Fundamental Questions and Concerns Regarding Second Look Recommendations/Legislation]

- A. *Will the Vermont Department of Corrections ("DOC") or the Vermont Judiciary present Vermont-specific data?⁸ Were DOC or the Vermont Judiciary invited to present data? An examination of Vermont's data is essential in*

¹ At the December 19, 2023, RDAP meeting.

² Including during discussions of Second Look at the Vermont Sentencing Commission.

³ Including those circulated to the RDAP on December 19, 2023.

⁴ Including a bill, S.155, introduced during the 2023 legislative session. SAS EC and SAS EDO are not in support of Second Look legislation, at this time, and at present, until questions and concerns have been addressed.

⁵ Again, SAS EC and SAS EDO are not in support of Second Look legislation, at this time, and at present, until questions and concerns have been addressed.

⁶ At the December 19, 2023, RDAP meeting.

⁷ And with SAS Victim Advocates.

⁸ For example, for those serving extended terms of incarceration, what are the offenses for which individuals are serving terms of incarceration?

better understanding any conclusions drawn concerning the population of incarcerated persons, and victims, who may be impacted by Second Look legislation.⁹

- B. Further, data and perspective from Vermont victims of crime is crucial as this would be a population that would be impacted by any form of Second Look legislation. To what extent will Vermont victims of crime be involved if Second Look were to become law? Will victims be able to object to a second look? What roles will victims have in second look proceedings?
- C. Given that victims must, by law, be involved in existing sentencing proceedings – how can we ensure that we will be able to involve victims 10-20 years after the conviction?
- D. The Vermont Crime Research Group (“CRG”) produced a report (linked below) that discusses disparities in crime victimization. Given the disparities in victimization noted by CRG in Vermont, there is concern that second look legislation could have a racially disparate impact on victims: https://crgvt.org/client_media/files/reports/Criminal_Justice_System_Response_Black_Victims_forDistribution2022.pdf.
- E. How will the State measure whether any second look legislation is implemented in a way that will not exacerbate existing or create new demographic-based disparities? (see e.g., CRG report on victimization disparities).¹⁰
- F. Which offenses should be eligible to receive a second look? Likewise, which types of sentences, e.g., probation, incarcerative, furlough, should be eligible for a second look? What length of sentence should be eligible for a second look?
- G. How many times should someone be eligible to request a second look? How many times may a sentence be reduced through a second look?
- H. On what grounds should a court be permitted to reduce a sentence during a second look? Is there any overlap between those grounds and the arguments that may be made during a sentence reconsideration hearing, motion for new trial, or a petition for post-conviction relief (“PCR”)?
- I. May the court conditionally reduce a sentence such that some or all of it may be reimposed if a defendant commits a new offense within a specified period of time?
- J. What should be the burden of proof during a second look proceeding and who should bear that burden?
- K. Are decisions in second look proceedings appealable?
- L. Should the prosecuting office that prosecuted the case be the respondent to any request for a second look, i.e., should the AGO be able to be the respondent in an SAO case and vice versa?
- M. Should someone be eligible for a sentence reduction during a second look if they have not fully paid restitution or if they have failed to complete or engage with any required or offered programming?
- N. How would expungement and sealing impact a second look disposition?
- O. Should juvenile cases be eligible given that juvenile’s age-out of Family Court jurisdiction, given that juvenile cases are confidential, and juvenile cases are sealed upon successful completion of the case?
- P. What is the anticipated number of second look requests that might be filed and what resources do the judiciary, defender general’s office, attorney general’s office, and state’s attorneys need in order to adequately participate in those requests? How will second look needs be funded?
- Q. What is the impact on staffing: will we need more judges/defense attorneys/prosecutors/victim advocates?
- R. What upstream or existing avenues for a relief should be exhausted or reviewed prior to turning to a second look remedy? (Appellate pathways, Parole, Clemency, etc.). Existing Vermont appellate and review pathways:
 - a. Direct appeal;
 - b. Motion for new trial;
 - c. Motion to reconsider sentence;
 - d. PCR;¹¹
 - e. Habeas corpus;
 - f. Corum nobis;
 - g. Expungement and Sealing;
 - h. Certificate of restoration of rights;
 - i. Parole and/or Clemency

⁹ It should be noted that conversations concerning Second Look have often focused on those serving longer terms of incarceration (10 year, 15 years, or longer).

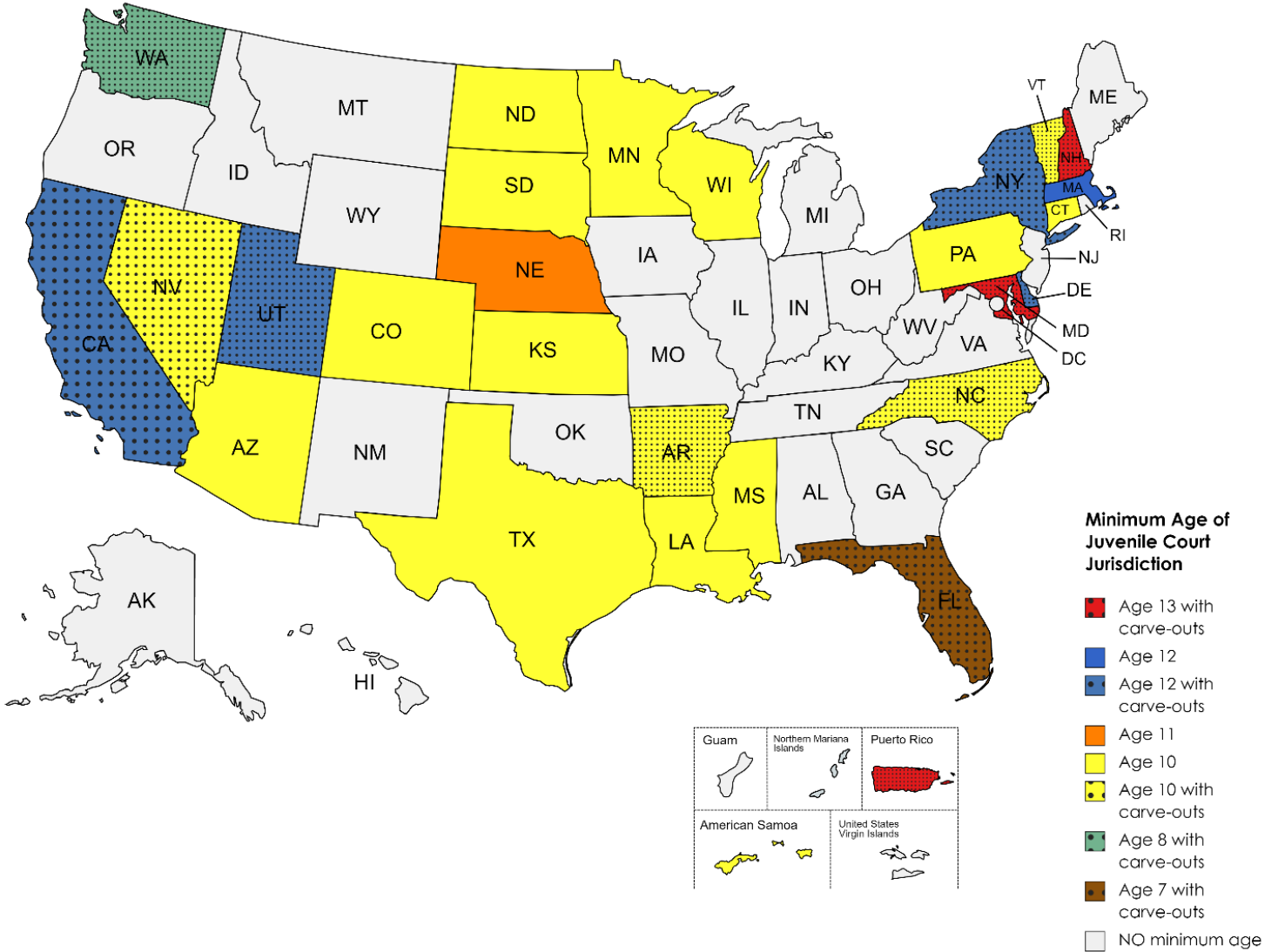
¹⁰ https://crgvt.org/client_media/files/reports/Criminal_Justice_System_Response_Black_Victims_forDistribution2022.pdf.

¹¹ Right now, there is no statute of limitations for Vermont PCR relief.

Appendix B

Map of U.S. State Laws on Minimum Age Limits

National Juvenile Justice Network, Updated June 2023



Created with mapchart.net

Appendix C

Juvenile Delinquency and Criminal Cases Filed

State Fiscal year 2023; Vermont Judiciary Database (Odyssey)

| | White | Black | Asian | Unavailable /Blank | Total |
|--------------------|--------------|--------------|--------------|-------------------------------|--------------|
| 10 years old | 1 | 0 | 0 | 0 | 1 |
| 11 years old | 5 | 5 | 0 | 1 | 11 |
| 12 years old | 20 | 0 | 3 | 8 | 31 |
| Total | 26 | 5 | 3 | 9 | 43 |

Appendix D

Letter from the (now) Council for Equitable Youth Justice to the Family Rules Committee

December 17th, 2020

Hon. Michael Kainen, Chair
Vermont Family Rules Committee
Vermont Supreme Court
111 State Street
Montpelier VT 05602

Re: V.R.F.P 1(b)(1) Contents of Juvenile Petition

Dear Judge Kainen,

The requirements for what must be filed with the Court when a juvenile delinquency case is initiated are set out in V.R.F.P 1(b)(1) which reads as follows:

(b) Petition; Submission of Jurisdictional Facts; Scheduling.

(1)Petition. A proceeding under this rule shall be commenced by a petition as provided under Chapter 52 of Title 33 of the Vermont Statutes Annotated. The petition shall be supplemented by facts regarding the race and ethnicity of the subject child contained in Form 101, Law Enforcement Juvenile Data Sheet, prepared by law enforcement.

The last sentence of the Rule was added in 2013 when the Family Rules Committee became aware through testimony from the Children and Family Council on Prevention Programs (CFCPP) that race and ethnicity data was not reported in 40% of juvenile cases and that the failure to report race/ethnicity data could jeopardize up to 20% of the formula grant that Vermont receives from OJJDP. 34 U.S.C. § 11133(a)(15) requires states and territories to identify and analyze data on race and ethnicity at decision points in the state juvenile justice system to determine which points create racial and ethnic disparities among youth who come into contact with the juvenile justice system. Vermont must report on the data yearly to OJJDP.

In FY2020 (State's fiscal year 7/1/19 – 6/30/20), there were 905 juvenile delinquency cases filed in the Family Division. In 16% (147) of the cases, race or ethnicity was "not reported" by law enforcement. In 3% (25), race/ethnicity was reported as "not known." See Spreadsheet of Race/Ethnicity Data Reporting broken down by county for FY 2020.

Evaluating whether there is disproportionate minority contact in juvenile cases requires an assessment based on 100% of the cases filed or as close thereto as possible. While 19% of cases with unreported/unknown race and ethnicity data is an improvement over reporting prior to the 2013 rule change, it is not sufficient to be able to make a fair determination as to whether there is disparate treatment by law enforcement when it comes to juveniles who are charged with committing a delinquent act.

We request that the Family Rules Committee consider how Rule 1(b)(1) might be further strengthened. For example, could the Rule require that race/ethnicity data be included on the petition and that failure to include this information could result in a rejection of the petition? If a petition is rejected, the petition could simply be re-filed with race/ethnicity information added.

We would be happy to discuss this issue further with the Committee and appreciate your consideration.

Sincerely,



Kreig Pinkham
State Advisory Group Chair
Children & Family Council for Prevention Programs



Michael Loner
Ethnic & Racial Disparities Committee Chair
Children & Family Council for Prevention Programs

Appendix E

Re: Racial Disparities in Vermont Incarceration Rates

People incarcerated in Vermont, per 100,000 state residents in each race or ethnicity category⁴:

- White = 187
- Black = 1,622
- Hispanic = 0
- American Indian or Alaska Native = 2,170
- Asian = No data (estimate was either not calculable based on public data or was based on fewer than 25 people)
- Native Hawaiian or Pacific Islander = No data (estimate was either not calculable based on public data or was based on fewer than 25 people)

Comparing Vermont's Resident and Incarcerated Populations⁵:

- White (non-Hispanic):
 - Residents = 92%
 - Prison Population = 86%
- Black (non-Hispanic):
 - Residents = 1.2%
 - Prison Population = 10%
- Hispanic:
 - Residents = 2%
 - Prison Population = 0%
- American Indian or Alaska Native (non-Hispanic):
 - Residents = 0.2%
 - Prison Population = 2%
- Asian (non-Hispanic):
 - Residents = 2%
 - Prison Population = 0.6%

VT DOC Jail Population as of 2/15/2024⁶:

- Female Population = 109
- Male Population (in-state) = 1107
- Male Population (out-of-state) = 126

VT DOC Incarcerated Population by Race as of 1/31/24⁷:

- White = 82.8% (1094)
- BIPOC & Other = 16.8% (222)
- Unknown = (6)

⁴ and ³ Data is from 2021. For sourcing details and dataset, including race definitions and categories, see: www.prisonpolicy.org/data/race_bystate_2021.xlsx

⁶ and ⁵ <https://doc.vermont.gov/research-and-data/population-data>

Appendix F

RDAP Votes

Juvenile Justice

Juvenile Justice Vote page 1 of 4

| Juvenile Justice - Full Recommendation/Vote | Topic: | Jessica Brown | Geoffrey Jones | Shela Linton | Dr. Etan Nasreddin-Longo |
|--|---|---------------|----------------|--------------|--------------------------|
| RDAP recommends that the minimum age of juvenile court jurisdiction increase from 10 to at least 12 years and that any decision to raise minimum age of jurisdiction be data and science driven. | Raising the Minimum Age of Juvenile Court Jurisdiction in Vermont | Yes | Yes | Yes | Yes |
| RDAP recommends that at a minimum there be a statutory requirement that that race/ethnicity data following arrests and citations be uniformly filled out on the Judiciary's Form 101 | Race and Ethnicity Data in the Judiciary's Database | Yes | Yes | Yes | Yes |
| RDAP recommends that both Law Enforcement perception and Court perception of the youth is gathered OR | Discern established and emerging best practices for gathering the race/ethnicity data OR | | | | Yes |
| RDAP recommends that Law Enforcement perception and self-identification of the youth is gathered at a later time. | Discern established and emerging best practices for gathering the race/ethnicity data | Yes | Yes | Yes | |
| RDAP recommends that only Law Enforcement perception of youth is gathered at this time. | Discern established and emerging best practices for gathering the race/ethnicity data | | | | |

| Juvenile Justice - Full Recommendation/Vote | Topic: | Chief Don Stevens | Wichie Artu | Qing Ren | Tyler Allen, DCF |
|--|---|--|-------------|----------|------------------|
| RDAP recommends that the minimum age of juvenile court jurisdiction increase from 10 to at least 12 years and that any decision to raise minimum age of jurisdiction be data and science driven. | Raising the Minimum Age of Juvenile Court Jurisdiction in Vermont | Yes, not sure about cases of murder, but yes | | | Yes |
| RDAP recommends that at a minimum there be a statutory requirement that that race/ethnicity data following arrests and citations be uniformly filled out on the Judiciary's Form 101 | Race and Ethnicity Data in the Judiciary's Database | Yes | | | Yes |
| RDAP recommends that both Law Enforcement perception and Court perception of the youth is gathered OR | Discern established and emerging best practices for gathering the race/ethnicity data OR | | | | |
| RDAP recommends that Law Enforcement perception and self-identification of the youth is gathered at a later time. | Discern established and emerging best practices for gathering the race/ethnicity data | Yes, identification is important | | | Yes |
| RDAP recommends that only Law Enforcement perception of youth is gathered at this time. | Discern established and emerging best practices for gathering the race/ethnicity data | | | | |

| Juvenile Justice - Full Recommendation/Vote | Topic: | Xusana Davis, ED of RE | Jennifer Firpo, Criminal Justice Council | Erin Jacobsen, AGO's Office | Daniel Bennett, VSP |
|--|---|------------------------|--|-----------------------------|---------------------|
| RDAP recommends that the minimum age of juvenile court jurisdiction increase from 10 to at least 12 years and that any decision to raise minimum age of jurisdiction be data and science driven. | Raising the Minimum Age of Juvenile Court Jurisdiction in Vermont | Yes | Yes | Yes | Yes |
| RDAP recommends that at a minimum there be a statutory requirement that that race/ethnicity data following arrests and citations be uniformly filled out on the Judiciary's Form 101 | Race and Ethnicity Data in the Judiciary's Database | Yes | Yes | Yes | Yes |
| RDAP recommends that both Law Enforcement perception and Court perception of the youth is gathered OR | Discern established and emerging best practices for gathering the race/ethnicity data OR | | Yes | | Yes |
| RDAP recommends that Law Enforcement perception and self-identification of the youth is gathered at a later time. | Discern established and emerging best practices for gathering the race/ethnicity data | Yes | | Yes | |
| RDAP recommends that only Law Enforcement perception of youth is gathered at this time. | Discern established and emerging best practices for gathering the race/ethnicity data | | | | |

| Juvenile Justice - Full Recommendation/Vote | Topic: | Timothy Leuders-Dumont, DSAS | Derek Miodownik, DOC | Judge Mary Morrissey, Judiciary | Rebecca Turner, ODG |
|--|---|---|-----------------------------|--|----------------------------|
| RDAP recommends that the minimum age of juvenile court jurisdiction increase from 10 to at least 12 years and that any decision to raise minimum age of jurisdiction be data and science driven. | Raising the Minimum Age of Juvenile Court Jurisdiction in Vermont | Yes, point of this is to engage services, and ensuring that we have the ability to provide services | Abstain | Abstain | Yes |
| RDAP recommends that at a minimum there be a statutory requirement that that race/ethnicity data following arrests and citations be uniformly filled out on the Judiciary's Form 101 | Race and Ethnicity Data in the Judiciary's Database | Yes | Abstain | Abstain | Yes |
| RDAP recommends that both Law Enforcement perception and Court perception of the youth is gathered OR | Discern established and emerging best practices for gathering the race/ethnicity data OR | No | Abstain | Abstain | Yes |
| RDAP recommends that Law Enforcement perception and self-identification of the youth is gathered at a later time. | Discern established and emerging best practices for gathering the race/ethnicity data | Yes | Abstain | Abstain | |
| RDAP recommends that only Law Enforcement perception of youth is gathered at this time. | Discern established and emerging best practices for gathering the race/ethnicity data | | Abstain | Abstain | |

Community Safety

| Community Safety - Full Recommendation/Vote | Topic: | Jessica Brown | Geoffrey Jones | Shela Linton | Dr. Etan Nasreddin-Longo | Chief Don Stevens |
|--|---|---------------|----------------|--------------|--------------------------|-------------------------------------|
| Training should include a readiness Assessment. Who is ready to receive training that contextualizes racism in themselves and in the industry? | Law Enforcement Training | Yes | Abstain | Yes | No | No, training should be for everyone |
| Training should include the origins of policing in America. Provide a view of the founding of policing in different areas of the country and its change in function through time. | Law Enforcement Training | Yes | Yes | Yes | Yes | Abstain |
| Training should include an overview of the many policies that have criminalized people of color (and intersecting identities) which contextualizes the use of policing over time in America | Law Enforcement Training | Yes | Yes | Yes | Yes | Abstain |
| Training should include cultural competency. Norms and behaviors show up differently in different cultures. Law enforcement should be familiar with cultures of different ethnic groups in Vermont and how they may intersect with policing. | Law Enforcement Training | Yes | Abstain | Yes | Abstain | Yes |
| Citizens Review Board should have independence. All board members must be free of relational and financial conflicts of interest with law enforcement. | Model Policy for Citizens Review Boards | Yes | No | Yes | Yes | Abstain |
| Citizens Review Boards should have authority. A board should be able to review internal and external investigations and hold law enforcement leaders accountable. | Model Policy for Citizens Review Boards | Yes | Yes | Yes | Yes | Abstain |
| Decoupling mental health. Addressing mental health should be explicitly separated from law enforcement practice. Instead, solutions for emergency mental health services should be explored; Local and external organizations are already exploring and attempting to implement them. Exploration of these solutions coupled with political and financial commitment to these alternatives should be considered. | Reallocation of Responsibilities | Yes | Yes | Yes | Yes | Abstain |
| Eliminate SROs. Eliminating SROs is not new to the VT legislature. Bills during the 2021-2022 session were introduced (h.453, s.63). The VT legislature should explicitly incentivize schools that replace their SRO programs with student social services such as nurses, counselors, clubs, emotional/mental health education, etc. | Reallocation of Responsibilities | Yes | Abstain | Yes | Yes | Yes |

| Community Safety - Full Recommendation/Vote | Topic: | Wichie Artu | Qing Ren | Tyler Allen, DCF | Xusana Davis, ED of RE | Jennifer Firpo, Criminal Justice Council | Erin Jacobsen, AGO's Office |
|--|---|-------------|----------|---------------------|------------------------------|--|--------------------------------------|
| Training should include a readiness Assessment. Who is ready to receive training that contextualizes racism in themselves and in the industry? | Law Enforcement Training | | | Abstain | No | Abstain | Abstain |
| Training should include the origins of policing in America. Provide a view of the founding of policing in different areas of the country and its change in function through time. | Law Enforcement Training | | | Abstain | Yes | Yes | Abstain |
| Training should include an overview of the many policies that have criminalized people of color (and intersecting identities) which contextualizes the use of policing over time in America | Law Enforcement Training | | | Abstain | Yes | Yes | Abstain |
| Training should include cultural competency. Norms and behaviors show up differently in different cultures. Law enforcement should be familiar with cultures of different ethnic groups in Vermont and how they may intersect with policing. | Law Enforcement Training | | | Abstain | Yes | Yes | Abstain |
| Citizens Review Board should have independence. All board members must be free of relational and financial conflicts of interest with law enforcement. | Model Policy for Citizens Review Boards | | | Abstain | Yes | Abstain | Abstain |
| Citizens Review Boards should have authority. A board should be able to review internal and external investigations and hold law enforcement leaders accountable. | Model Policy for Citizens Review Boards | | | Abstain | Yes | Abstain | Abstain |
| Decoupling mental health. Addressing mental health should be explicitly separated from law enforcement practice. Instead, solutions for emergency mental health services should be explored; Local and external organizations are already exploring and attempting to implement them. Exploration of these solutions coupled with political and financial commitment to these alternatives should be considered. | Reallocation of Responsibilities | | | Abstain | Yes | Yes | Abstain |
| Eliminate SROs. Eliminating SROs is not new to the VT legislature. Bills during the 2021-2022 session were introduced (h.453, s.63). The VT legislature should explicitly incentivize schools that replace their SRO programs with student social services such as nurses, counselors, clubs, emotional/mental health education, etc. | Reallocation of Responsibilities | | | Abstain | Yes | Abstain | Abstain |

| Community Safety - Full Recommendation/Vote | Topic: | Daniel Bennett, VSP | Timothy Leuders-Dumont, DSAS | Derek Miodownik, DOC | Judge Mary Morrissey, Judiciary | Rebecca Turner, ODG |
|--|---|---------------------|------------------------------|----------------------|---------------------------------|---------------------|
| Training should include a readiness Assessment. Who is ready to receive training that contextualizes racism in themselves and in the industry? | Law Enforcement Training | No | Abstain | Abstain | Abstain | Yes |
| Training should include the origins of policing in America. Provide a view of the founding of policing in different areas of the country and its change in function through time. | Law Enforcement Training | No | Yes | Abstain | Abstain | Yes |
| Training should include an overview of the many policies that have criminalized people of color (and intersecting identities) which contextualizes the use of policing over time in America | Law Enforcement Training | Yes | Yes | Abstain | Abstain | Yes |
| Training should include cultural competency. Norms and behaviors show up differently in different cultures. Law enforcement should be familiar with cultures of different ethnic groups in Vermont and how they may intersect with policing. | Law Enforcement Training | Abstain | Yes | Abstain | Abstain | Yes |
| Citizens Review Board should have independence. All board members must be free of relational and financial conflicts of interest with law enforcement. | Model Policy for Citizens Review Boards | Abstain | Yes | Abstain | Abstain | Yes |
| Citizens Review Boards should have authority. A board should be able to review internal and external investigations and hold law enforcement leaders accountable. | Model Policy for Citizens Review Boards | Abstain | Yes | Abstain | Abstain | Yes |
| Decoupling mental health. Addressing mental health should be explicitly separated from law enforcement practice. Instead, solutions for emergency mental health services should be explored; Local and external organizations are already exploring and attempting to implement them. Exploration of these solutions coupled with political and financial commitment to these alternatives should be considered. | Reallocation of Responsibilities | Abstain | Abstain | Abstain | Abstain | Yes |
| Eliminate SROs. Eliminating SROs is not new to the VT legislature. Bills during the 2021-2022 session were introduced (h.453, s.63). The VT legislature should explicitly incentivize schools that replace their SRO programs with student social services such as nurses, counselors, clubs, emotional/mental health education, etc. | Reallocation of Responsibilities | No | Abstain | Abstain | Abstain | Yes |

| Community Safety - Full Recommendation/Vote | Topic: | Jessica Brown | Geoffrey Jones | Shela Linton | Dr. Etan Nasreddin-Longo | Chief Don Stevens |
|---|----------------------------------|---------------|----------------|--------------|---|--|
| Limit officer quantity based on population. In a state with one of the lowest crime rates in the country, there may not be a need to have a quantity of law enforcement officers higher than the national average. The VT legislature should set a guideline to limit the amount of law enforcement officers in each regional scope per its relative population in relation to the national average. | Reallocation of Responsibilities | Yes | Yes | Yes | No, operational issues that may impact officer number | No, up to the community |
| Reinvest in Human Services/Community Centered Responses. The savings earned by limiting law enforcement officer quantity should be reinvested in community-centered response initiatives and human services. Addressing criminality and especially the disparities that already exist must be a multi-pronged effort. | Reallocation of Responsibilities | Yes | Abstain | Yes | Abstain | Abstain |
| Decoupling traffic stops. Vermont Statutes currently restrict traffic enforcement activity to law enforcement; traffic laws are still laws that would require enforcing. However, the reports identify traffic stops as a negative interaction between police and the community that exacerbates disparities and furthers the divide in the community-law enforcement relationship - especially with people of color. The legislature should make an exception to towns seeking to explore alternative ways to enforce traffic laws. In example, the Town of Brattleboro has made a commitment to "considering operational alternatives if they become legal in Vermont". | Reallocation of Responsibilities | Yes | Yes | Yes | Yes | Abstain, traffic tickets shouldn't go to PD budget |

| Community Safety - Full Recommendation/Vote | Topic: | Wichie Artu | Qing Ren | Tyler Allen, DCF | Xusana Davis, ED of RE | Jennifer Firpo, Criminal Justice Council | Erin Jacobsen, AGO's Office |
|---|----------------------------------|-------------|----------|---------------------|----------------------------------|--|--------------------------------------|
| Limit officer quantity based on population. In a state with one of the lowest crime rates in the country, there may not be a need to have a quantity of law enforcement officers higher than the national average. The VT legislature should set a guideline to limit the amount of law enforcement officers in each regional scope per its relative population in relation to the national average. | Reallocation of Responsibilities | | | Abstain | No, its quality and not quantity | No | Abstain |
| Reinvest in Human Services/Community Centered Responses. The savings earned by limiting law enforcement officer quantity should be reinvested in community-centered response initiatives and human services. Addressing criminality and especially the disparities that already exist must be a multi-pronged effort. | Reallocation of Responsibilities | | | Abstain | Yes | Abstain | Abstain |
| Decoupling traffic stops. Vermont Statutes currently restrict traffic enforcement activity to law enforcement; traffic laws are still laws that would require enforcing. However, the reports identify traffic stops as a negative interaction between police and the community that exacerbates disparities and furthers the divide in the community-law enforcement relationship - especially with people of color. The legislature should make an exception to towns seeking to explore alternative ways to enforce traffic laws. In example, the Town of Brattleboro has made a commitment to "considering operational alternatives if they become legal in Vermont". | Reallocation of Responsibilities | | | Abstain | Yes | Abstain | Abstain |

| Community Safety - Full Recommendation/Vote | Topic: | Daniel Bennett, VSP | Timothy Leuders-Dumont, DSAS | Derek Miodownik, DOC | Judge Mary Morrissey, Judiciary | Rebecca Turner, ODG |
|---|----------------------------------|---------------------|------------------------------|----------------------|---------------------------------|---------------------|
| Limit officer quantity based on population. In a state with one of the lowest crime rates in the country, there may not be a need to have a quantity of law enforcement officers higher than the national average. The VT legislature should set a guideline to limit the amount of law enforcement officers in each regional scope per its relative population in relation to the national average. | Reallocation of Responsibilities | No | No | Abstain | Abstain | Yes |
| Reinvest in Human Services/Community Centered Responses. The savings earned by limiting law enforcement officer quantity should be reinvested in community-centered response initiatives and human services. Addressing criminality and especially the disparities that already exist must be a multi-pronged effort. | Reallocation of Responsibilities | Abstain | Yes | Abstain | Abstain | Yes |
| Decoupling traffic stops. Vermont Statutes currently restrict traffic enforcement activity to law enforcement; traffic laws are still laws that would require enforcing. However, the reports identify traffic stops as a negative interaction between police and the community that exacerbates disparities and furthers the divide in the community-law enforcement relationship - especially with people of color. The legislature should make an exception to towns seeking to explore alternative ways to enforce traffic laws. In example, the Town of Brattleboro has made a commitment to “considering operational alternatives if they become legal in Vermont”. | Reallocation of Responsibilities | Abstain | No | Abstain | Abstain | Yes |

Second Look

| Second Look - Full Recommendation/Vote: | Topic: | Geoffrey Jones | Shela Linton | Dr. Etan Nasreddin-Longo | Chief Don Stevens |
|---|-------------------------|-----------------------|---------------------|---------------------------------|---|
| RDAP Supports Second Look Legislation | Second Look Legislation | | | | |
| Second look legislation should remain focused on addressing and correcting racial disparities. | Second Look Legislation | Yes | Yes | Yes | Yes |
| Second look legislation should be guided by science and data relating to recidivism, racial disparities, the age of the person when the crime was committed, the age of the person at time of sentence review, and any other relevant factor supported by science and data. | Second Look Legislation | Yes | Yes | Yes | Yes |
| Second look legislation should commit to sentence reconsideration laws that apply to all persons sentenced to imprisonment without carveout offenses or age limitations and that do not perpetuate racial disparities. | Second Look Legislation | Yes | Yes | Yes | No, there could be exceptions to any rule. |
| Second look legislation should integrate restorative justice principles that are inclusive of reentry supports for both offenders and victims. | Second Look Legislation | Abstain | Yes | Yes | Yes, caveat that as long as it doesn't cost harm to victim. |

| Second Look - Full Recommendation/Vote: | Topic: | Wichie Artu | Qing Ren | Tyler Allen, DCF | Jessica Brown | Xusana Davis, ED of RE |
|---|-------------------------|-------------|----------|------------------|---------------|------------------------|
| RDAP Supports Second Look Legislation | Second Look Legislation | | | | | |
| Second look legislation should remain focused on addressing and correcting racial disparities. | Second Look Legislation | | | Abstain | Yes | Yes |
| Second look legislation should be guided by science and data relating to recidivism, racial disparities, the age of the person when the crime was committed, the age of the person at time of sentence review, and any other relevant factor supported by science and data. | Second Look Legislation | | | Abstain | Yes | Yes, Cautiously. |
| Second look legislation should commit to sentence reconsideration laws that apply to all persons sentenced to imprisonment without carveout offenses or age limitations and that do not perpetuate racial disparities. | Second Look Legislation | | | Abstain | Yes | Yes |
| Second look legislation should integrate restorative justice principles that are inclusive of reentry supports for both offenders and victims. | Second Look Legislation | | | Abstain | Yes | Yes |

| Second Look - Full Recommendation/Vote: | Topic: | Jennifer Firpo, Criminal Justice Council | Erin Jacobsen, AGO's Office | Daniel Bennett, VSP | Timothy Leuders-Dumont, DSAS |
|---|-------------------------|--|-----------------------------|---------------------|------------------------------|
| RDAP Supports Second Look Legislation | Second Look Legislation | | No | | No |
| Second look legislation should remain focused on addressing and correcting racial disparities. | Second Look Legislation | Yes | Yes | Yes | No |
| Second look legislation should be guided by science and data relating to recidivism, racial disparities, the age of the person when the crime was committed, the age of the person at time of sentence review, and any other relevant factor supported by science and data. | Second Look Legislation | Yes | Yes | Yes | No |
| Second look legislation should commit to sentence reconsideration laws that apply to all persons sentenced to imprisonment without carveout offenses or age limitations and that do not perpetuate racial disparities. | Second Look Legislation | Yes | No | Yes | No |
| Second look legislation should integrate restorative justice principles that are inclusive of reentry supports for both offenders and victims. | Second Look Legislation | Yes | Yes | Yes | No |

| Second Look - Full Recommendation/Vote: | Topic: | Derek Miodownik, DOC | Judge Mary Morrissey, Judiciary | Rebecca Turner, ODG |
|---|-------------------------|-----------------------------|--|----------------------------|
| RDAP Supports Second Look Legislation | Second Look Legislation | | Abstain | |
| Second look legislation should remain focused on addressing and correcting racial disparities. | Second Look Legislation | Abstain | Abstain | Yes |
| Second look legislation should be guided by science and data relating to recidivism, racial disparities, the age of the person when the crime was committed, the age of the person at time of sentence review, and any other relevant factor supported by science and data. | Second Look Legislation | Abstain | Abstain | Yes |
| Second look legislation should commit to sentence reconsideration laws that apply to all persons sentenced to imprisonment without carveout offenses or age limitations and that do not perpetuate racial disparities. | Second Look Legislation | Abstain | Abstain | Yes |
| Second look legislation should integrate restorative justice principles that are inclusive of reentry supports for both offenders and victims. | Second Look Legislation | Abstain | Abstain | Yes |