



April 5, 2017

The Florida Senate
Committee on Appropriations
404 S. Monroe Street
Tallahassee, FL 32399-1100

**Support and Strengthen Senate Bill 458
Establishing The Criminal Justice Reform Task Force**

Dear Senator:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations committed to promoting and protecting the civil and human rights of all persons in the United States, LatinoJustice PRLDEF, and Florida Council of Churches, we are writing to express our support for Senate Bill 458 (S.B. 458) introduced by Senator Jeff Brandes (R-24) and Senator Darryl Ervin Rouson (D-19) and to offer recommendations for the Senate Appropriations Committee to consider.

The Leadership Conference advocates for reforms to the justice system on the federal, state, and local level, with the goal of eradicating institutional discrimination and incorporating more alternatives to incarceration. S.B. 458 represents a positive step towards that goal. The bill will establish a Criminal Justice Reform Task Force (“the Task Force”) to identify the specific challenges facing Florida’s criminal justice system and develop effective policy solutions to those challenges. We commend the goals of the Task Force, the diverse demographic composition of its membership, and the requirement that its meetings be open to the public. We submit several recommendations to improve S.B. 458, including adding a civil rights attorney or advocate to the Task Force, increasing the participation of formerly incarcerated individuals on the Task Force, enabling public input during Task Force meetings, and strengthening the presence of diverse and bipartisan voices on the Task Force.

About 100,000 people are currently detained within Florida’s prisons, enough to fill more than half of Tallahassee,¹ at a cost to taxpayers of over \$2 billion dollars each year.² The state incarcerates African Americans at a rate that is 15% higher than the national average³ and is significantly higher than their proportion in the overall population.⁴ Because of Florida’s uniquely harsh disenfranchisement law, about one in every ten Floridians who are over 18 are prevented from voting in elections.⁵ In addition, Florida’s application of the death penalty has been one of the most racially discriminatory⁶ and one of the least accurate⁷ in the entire nation, leading to a dangerously over-crowded death row⁸ and recent condemnation from the United States Supreme Court.⁹ The Task Force established through S.B. 458 would explore these problems in depth and generate urgently needed recommendations for improvements to Florida’s justice system. Therefore, we urge you to support and strengthen this important legislation, as explained below.

First, we strongly support the overarching purpose, objectives, and responsibilities of the Task Force created by S.B. 458. The bill calls upon the Task Force to conduct a “comprehensive review” of the entire criminal justice system in Florida within the next year

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and develop recommendations for legislative reform. The bill directs the Task Force to focus on reducing the correctional population specifically by “focusing prison capacity on serious offenses and violent criminals.” Indeed, over half of the entire prison population in Florida – approximately 45,000 people – are currently detained because of a nonviolent offense.¹⁰ In many cases, these individuals pose no threat to society and belong home with their families, developing their careers, advancing their education, and contributing to the economy. Nevertheless, many remain in prison at an exorbitant cost to the taxpayer for far longer than is necessary because of the state’s sentencing laws. By finding reasonable alternatives to incarceration for these individuals, the Task Force will promote public safety while also reducing recidivism, rebuilding communities, and saving Floridians millions of tax dollars each year.

Second, while S.B. 458 requires that many distinguished professionals serve on the 28-member Task Force, several absolutely crucial voices within the criminal justice system are absent. In order to ensure that the membership of the Task Force represents the variety of interests and expertise necessary to producing high-quality recommendations, we urge you to consider the following recommendations:

- **We recommend adding language to S.B. 458 to require that at least one position on the Task Force be filled by a civil rights attorney or advocate.** Currently, there is no representation of the civil rights community on the Task Force. However, the criminal justice system has been the source of some of the most abhorrent civil rights abuses in this country, and the system in Florida continues to suffer from its legacy of discrimination against communities of color. For example, data demonstrates that the death penalty has been imposed far more often in Florida for homicides involving a white victim than for homicides involving a black victim, despite the fact that the number of black homicides is actually greater than the number of white homicides.¹¹ Furthermore, African American Floridians continue to be disproportionately arrested and incarcerated compared to white Floridians.
- **We recommend amending language in S.B. 458 to require that more than one position on the Task Force be filled by formerly incarcerated individuals and that these individuals be selected on a bipartisan basis.** Currently, S.B. 458 allocates only one position on the Task Force for a formerly incarcerated individual. However, one individual alone cannot possibly capture the variety of experiences that different people face within the criminal justice system. Mothers, for example, often experience incarceration differently than single men or women. Furthermore, of any group, the Task Force should be cautious not to under represent those who were formerly incarcerated, as they offer a valuable and wholly unique perspective on the effects and realities of the Florida criminal justice system. In addition, we recommend that these individuals be selected on a bipartisan basis rather than by Republican leadership. A bipartisan selection process, for these positions and others, would ensure that politics plays no role in determining the best ways to improve Florida’s criminal justice system and that the membership of the Task Force represents a variety of perspectives.
- **We recommend amending language in S.B. 458 to require that more members of the Task Force are appointed on a bipartisan basis.** Currently, Republicans in positions of leadership within the state’s executive and legislative branches are given the authority under S.B. 458 to appoint the majority of the Task Force. However, a bipartisan selection process would ensure that politics plays no role in determining the best ways to improve Florida’s criminal justice system and that the membership of the Task Force represents a variety of ideological perspectives, rather than the perspective of one particular party. Indeed, it is common practice at both the federal and state level for the power of appointment to be allocated amongst leadership in *both* parties,

especially as pertains to legislatively-created bodies charged with reviewing and recommending improvements to the entire criminal justice system.¹² Just last year, The Government Efficiency Task Force, a body created by the Constitution of Florida to develop suggestions for improving governmental operations and reducing costs, recommended that a specifically *bipartisan* task force be convened to study Florida's criminal justice system.¹³ We therefore recommend that the language of S.B. 458 be adjusted to enable Democratic leadership to make some appointments to the Task Force, or at the very least, require appointments by Republican leadership to be conducted "in consultation with" or "with the concurrence of" Democratic leadership. The Task Force's ultimate recommendations will carry the full force of legitimacy and reap the full benefit of its diverse composition *only if it is genuinely bipartisan*.

- **We recommend adding language to S.B. 458 to clarify how the Task Force will reflect the diversity of the population of Florida and the diversity of the state's prison population.** While we strongly support the requirement that the Task Force's membership "reflect the racial, gender, geographic, and economic diversity of the state, as well as the diversity and demographics of the state's prison population," it is unclear how this provision will be enforced or what demographic composition, precisely, it requires. We recommend adding language clarifying this requirement and guaranteeing that communities of color are well represented on the Task Force.

Finally, we strongly support the requirement that "[a]ll meetings of the task force must be open to the public, and regularly scheduled meetings must be publicly noticed at least 5 days before the date of the meeting," and recommend that language be added to S.B. 458 clarifying that public *participation*, and not just public *presence*, be welcomed at these meetings. Currently, the language of S.B. 458 makes it unclear whether "open to the public" requires giving the public an opportunity to actively *participate* in the meetings. Because of this ambiguity, we recommend adding language to S.B. 458 specifically requiring the Task Force welcome public input during its meetings. Such input will play a critical role in developing recommendations that work for the community at large and could illuminate issues not anticipated by the members of Task Force.

For the reasons detailed above, we strongly urge you to support and strengthen Senate Bill 458 establishing the Criminal Justice Reform Task Force. Thank you for your consideration of this critical legislation and our recommendations for improving it. If you have any questions, please feel free to contact Sakira Cook at cook@civilrights.org or (202) 263-2894.

Sincerely,

The Leadership Conference on Civil and Human Rights

LatinoJustice PRLDEF

Florida Council of Churches

¹ See "2015 ACS 5-Year Population Estimate: Tallahassee city, Florida." *United States Census Bureau*. https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml. Compare to Nellis, Ashley. "The Color of Justice: Racial and Ethnic Disparity in State Prisons." *The Sentencing Project*. June 14, 2016. Table A. <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

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- ² See “Final Report.” *Florida Government Efficiency Task Force*. June 30, 2016. <http://www.floridataxwatch.org/resources/pdf/2016-GETF-Final-Report.pdf>.
- ³ See Nellis, Ashley. “The Color of Justice: Racial and Ethnic Disparity in State Prisons.” *The Sentencing Project*. June 14, 2016. Table 1. <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.
- ⁴ See Nellis, Ashley. “The Color of Justice: Racial and Ethnic Disparity in State Prisons.” *The Sentencing Project*. June 14, 2016. Table A. <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>. See also “Florida Estimates of Population 2016.” *University of Florida College of Liberal Arts and Sciences Bureau of Economic and Business Research*. Apr. 1, 2016. Pg. 45. <http://edr.state.fl.us/Content/population-demographics/data/PopulationEstimates2016.pdf>.
- ⁵ See Sweeney, Dan and Choi, Ann and Schallom, Rachel and Huriash, Lisa. “Florida among nation's toughest places to have voting rights restored.” *Sun Sentinel*. Jan. 25, 2015. <http://www.sun-sentinel.com/news/florida/sfl-felon-voting-rights-20150121-htmlstory.html>.
- ⁶ See Wagner, Deborah Hardin. “Perspective: Here are just ways to fix Florida's death penalty.” *The Tampa Bay Times*. Jan. 29, 2016. <http://www.tampabay.com/news/perspective/perspective-here-are-just-ways-to-fix-floridas-death-penalty/2263402>.
- ⁷ *Id.*
- ⁸ See “Death Row Inmates by State and Size of Death Row by Year.” *Death Penalty Information Center*. Accessed Apr. 4, 2017. <http://www.deathpenaltyinfo.org/death-row-inmates-state-and-size-death-row-year>.
- ⁹ See, e.g., *Hurst v. Florida*, 136 S. Ct. 616 (2016).
- ¹⁰ See “2015-2016 Agency Statistics: Inmate Population: Type of Offense.” *Florida Department of Corrections*. http://www.dc.state.fl.us/pub/annual/1516/stats/ip_general.html.
- ¹¹ See Wagner, Deborah Hardin. “Perspective: Here are just ways to fix Florida's death penalty.” *The Tampa Bay Times*. Jan. 29, 2016. <http://www.tampabay.com/news/perspective/perspective-here-are-just-ways-to-fix-floridas-death-penalty/2263402>.
- ¹² See, e.g., H.R. 1607 “National Criminal Justice Commission Act of 2017.” *115th Congress*.
- ¹³ See “Final Report.” *Florida Government Efficiency Task Force*. June 30, 2016. <http://www.floridataxwatch.org/resources/pdf/2016-GETF-Final-Report.pdf>.