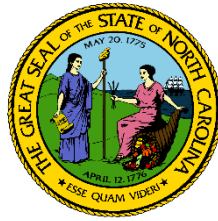


North



Carolina Task Force for Racial Equity in Criminal Justice

Working Group #3

Court-Based Interventions to End Discriminatory Criminalization

Meeting Minutes #1

Date: 5 August 2020

Time: 4:01 PM

Chairperson: Representative Marcia Morey

Members In Attendance: Marcia Morey; Josh Stein; Anita Earls; Ronnie Smith; Mujtaba Muhammed; Tarrah Callahan; James Woodall, Jr.;

Staff and guests in attendance: Natalia Botella; Aschante Pretty; Jasmine McGhee; Ellen Spolar; Michael Robeson; Karen Dyer; Jean-Paul Jacquet; John Rubin

Members Not In Attendance: none.

<https://www.youtube.com/watch?v=AaoJ4uYk2wM>

MEETING MINUTES

I. Welcome

Co-Chair Anita Earls opened the meeting thanking the group for their time and mentioned two things to set the stage;

- The public cares to see what this task force does as evidenced by the significant media and public interest in this work.
- Recognition of the difficulty of the task ahead but that we are at moment in history where we can make a difference.

Co-Chair Josh Stein recognized the broad scope of issues to be considered and encouraged the group to be persistent in making progress. Co-Chair Josh Stein encourages the group to take the time to get information from

experts and get data as they wrestle with these issues. If there are issues where the group agrees early on, go ahead and make the recommendations on a rolling basis to the task force group.

II. Setting of Group Norms

Michael Robinson: Michael asked each working group member to share what they need in order to share their perspective and work productively within the group.

- Representative Marcia Morey: Started by saying she thinks this is a phenomenal group and everyone has real expertise in this area with the court system. Members come from different perspectives and having a group of 5 will ensure that each voice is heard.
- Ronnie Smith: Wants the group to know exactly what the expectations are when they come into these meetings. Do research on their own in order to have meaningful conversations. Be prepared to be productive and to provide whatever information possibly to be actively part of this group.
- James Woodall, Jr.: Thinks good facilitators are important in order to allow everyone to be heard and to keep the group moving in the right direction.
- Mujtaba Muhammed: Looking forward to sharing ideas and thoughts so they can actually bring a lot of these things to fruition. As leaders in their community, they have to be comfortable with being uncomfortable at times in order to get the jobs done.
- Tarrah Callahan: Make recommendations that have broad bipartisan support and have cross sector support. The group needs to be able to disagree and to make sure their perspectives are heard. They are all there for a reason. They should be able to have uncomfortable conversations that are necessary to achieve a common goal.

III. Review Meeting Goal(s)

Representative Marcia Morey: Objective is to review the meeting goals and the issues that have been presented to the group. There are five good broad ranging systemic issues she hopes they will address.

- **Pretrial Release and Bail**
- **Charging Decisions by Prosecutors**
- **Juvenile Justice system issues/school to prison pipeline**
- **Racial Equity training for court system personnel including Judges, DA's and Public Defenders**
- **Decriminalization or lessening of criminal penalties**

All of these broad issues have sub issues that they want to address. The first issue that could be good consensus is the Racial Equity training. John Rubin from the School of Government will talk a little about it.

Representative Marcia is open to feedback and would like input on how members would like meetings to go and what presenters would be helpful.

She has gone through the public comment section and there were about 48 speakers. Representative Morey wants the public comments to always be in front of the group. Some of the comments are within these categories:

- **Marijuana legalization**
- **Pretrial and review of mandatory minimums.**
- **Online adjudications and the internet “You Plea.”**
- **Collateral consequences especially at the beginning of misdemeanor charges or adjudications.**
- **Pay attention to issues facing Hispanic and Latino people.**
- **Stronger Public Defender system.**

In whatever way they can do it, she wants the group to stay very alert to how the public is voicing their concerns so they can address some of these issues.

IV. Working Group Introductions & Opening Brainstorm Session

Karen Dyer: name 1 to 3 things that you want to be accomplished through this working group

- Ronnie Smith:
 - (1) Very much concerned with the Juvenile Justice System issues and the school to prison pipeline.
- Representative Marcia Morey:
 - (1) Bail and Pretrial, including ensuring that people are not being held because of poverty and they have access to Counsel before bail hearing and access to a prompt hearing.
 - (2) Juvenile Justice Issues. She worked on Governor Hunt’s task force to change our laws to keep kids out of the system.
 - (4) How do we look at city ordinances and to make sure people are not criminalized because of solicitation for ohms or what we call begging or hitchhiking. There are hundreds of city ordinances all over the state that they need to look at. Do we really need to criminalize people for violating the city ordinances?
- Jim Woodall:
 - (1) Looking at Charging Decisions and Decriminalizing things. There are so many people who have contact with the justice system and the contacts over fairly minor offenses. He thinks that there are other ways to deal with those. They are not the things that grab headlines but they are what contributes to filling up courtrooms every day.
 - (2) Racial Equity Training. He has done racial equity training and thinks its eye opening. In addition to prosecutors, judges, defense lawyers, and public defenders need it too because their roles are very critical.
 - (3) Ensure voices of victims are heard and valued.
- Tarah Callahan:
 - (1) Decriminalizing and really being thoughtful about what we make illegal is going to make such a difference in terms of just the initial contact with police. If police are not

approaching people for nonviolent crimes then these incidences will hopefully be reduced just by the very nature of what is illegal and what they are actually approaching people for.

Karen Dyer: Mujtaba Muhammed had to step away but will be rejoining after dealing with a Constituent.

- Natalia Botella:
(1) Charging decisions and the role of the prosecutor are key. Want the task force to also consider how victims of color are treated by the criminal justice system.

V. Explanation of Sharepoint Page

Ellen Spolar: brief introduction on how to use Sharepoint

VI. John Rubin, Albert Coates Professor of Public Law and Government at UNC School of Government

Representative Marcia Morey: Introduces Professor John Rubin who will speak on Racial Equity Training.

John Rubin: Has been at the School of Government for 30 years as an educator in criminal law. He feels education is important in the area of Racial Equity for you to be able to sustain the forward movement that you hope to have. He has a broader idea of what Racial Equity education means than people may typically have.

John runs an education program, Public Defense Education at UNC School of Government, that is designed to take defenders through the various stages of their career and covers various practice areas. It's an intergraded curriculum to address those needs of different practice areas and different stages. The program also has online recorded sections from their in-person program.

In 2012, they begin receiving feedback from the defenders that they serve, that they want more education regarding the issues of race in the criminal justice system. They began hosting sessions but found that once a year, one hour per program did not have the impact that was needed. They received a grant from Z Smith Reynolds to study all the ways that race can work its way into the criminal justice system.

They have several reference manuals that they have created over the years. One in particular is Raising Issues of Race in North Carolina Criminal Cases. They rolled this out in 2012 and did training on topics in the manual to make people aware of it and to help people understand and implement the information. They found that it was not enough to have an impact on every day practice. They went back to Z Smith Reynolds and launched the North Carolina Racial Equity Network. This is a training program and a network for defenders. Through an application process, 50 defenders, 50 defense attorneys, public defenders and assigned counsel signed up for a two-year program of trainings every three months, six to seven trainings over the course of two years. They repeated the program in 2017 to 2019 and 60 more defenders became part of the network. Their idea was to create leaders in the defense community around the state who are committed to advancing racial equity in the criminal justice system and could convey what they learn to others in the criminal justice system.

He is not suggesting that everybody has to go through a two-year training program with several trainings each year but that kind of intensive training maybe a good idea for leaders within different parts of the criminal justice system. There is plenty more that can be done that is not as intensive.

John has a framework for Racial Equity Education, a pyramid of different components.

- (1) *Law and Practice* is at the top of the pyramid. That part of the pyramid talks more than just the training on the law itself, training on issues around race and the law. It's important for people to understand how they actually put that law into practice; as a Judge, a Prosecutor and a Law Enforcement Officers in a way that promotes racial equity. They have done jury selection trainings for Defense Lawyers which includes how to raise issues around race-based challenges to juries that are discriminatory. The basic law is a three-step analysis for addressing race based challenges. There is a practical side of how a Judge assess challenges. There is an exercise of discretion, there's an understanding of why the challenge is being made and why it may be improper. There is going to be a need for addressing the discretion that is involved in making bail decisions along with charging decisions. They have done a lot of training over the years on what charges may be appropriate for what crime. There's that piece on how Prosecutors and Law Enforcement Officers should exercise that discretion to charge.
- (2) *Leadership and Management* component is a foundation of all the work that is done in the Courts and the Criminal Justice system. What can leaders of organizations do to promote racial equity? What kind of training do they need to have the tools to lead their organizations to promote equity, to have difficult conversations they need to have to help them partner with others of the community groups and leaders. To help establish coalitions and collaborations with other parts of the Courts and Criminal Justice system. Having conversations particularly around difficult issues is something that you will have to learn how to do, part of it is practice and part of it is skills. Management is different than leadership. It involves more of the day to day running of the operation, hiring a diverse work force addressing discrimination in the work place having more difficult conversations.
- (3) *Administrative Systems* deals with procedural changes. For example Data Collection. To do an analysis of data to disseminate that, there is going to need to be education on how to do that consistently and reliably. The juror pools are underrepresented, why are they underrepresented, how do we collect the data that is consistently and reliably to ensure there is not disproportionately representation of jurors.
- (4) *Diversity, Equity, and Inclusion* including issues like implicit bias, cultural awareness and privilege and entitlement.

VII. Discussion

John Rubin: How do we get started on this? The school and John are trying to launch a Racial Equity Education Project which he will direct and will build on what they have done with the Defense Base Racial Equity Network. They are going to begin by offering education on the different areas of the pyramid.

General recommendation of the group is a robust commitment to education in all of the areas of the pyramid with Diversity, Equity and Inclusion being a very important part and to work on if time permits, developing a plan for how to execute that commitment beginning with conversations with people who we are serving, people in the system, people who are served by the system and members of the community.

Michael Robinson: Questions for John

- Jim Woodall: Racial Equity training is something he suggested in the survey. He has done the training and thinks it is very valuable. Jim's idea is similar to what John describes in his Racial Equity Network for Defenders is something that Prosecutors, Judges and Public Defenders because they are all employed by the State Criminal Justice System are required to do robust training that goes on continuously as long as they are in their positions.
- Representative Marcia Morey: A few years ago she went to the Greensboro Racial Equity Institute. It was a two day very comprehensive and intensive training that changed her life. What would he recommend for required Racial Equity training for Magistrates, Defense Attorneys, Judges and all the Court Actors?
 - John: All Court Actors have Diversity, Equity, and Inclusion training. Really getting at the biases and raising your awareness. He suggest they go to a training like she did in Greensboro. Translate that to what people do day to day in the system. How may the biases creep into discretionary decisions that they make, which is where biases can affect the outcome. Decisions about pretrial release, charging, jury selection, stops by police is where he thinks additional education is going to be necessary. Information can be integrated into regular training for people on the courts group in the Criminal Justice system. There can be stand-alone training opportunities for people that deal with specific issues.
- Tarrah Callahan: She is aware of a group of folks in the state that are working on developing a video to be shown to jurors that explains implicit bias. They have requested to Chief Justice Beasley to mandate that the video be shown before trials. Would he agree that this is helpful and see that as part of these recommendations?
 - John: Absolutely.
- Mujtaba Mohammed: People need constant learning and growing that is why the State Bar requires lawyers to do continual legal education. What is his thoughts about having consistent periodic Race Equity training for these type of people especially stakeholders in our court system?

John: He thinks it make since and agrees this requires ongoing work.
- Representative Marcia Morey: Add one other point is we have to teach it and be consistent and keep in in front of our eyes but also hear it from those who have been affected by racial bias. Hear how it impacts families and individuals and hear the real stories.

John: Thinks it is important to include the communities that the Courts and the Criminal Justice system serve. They should be part of developing change including the education that they provide.

- Co-Chair Anita Earls: Curious if John is aware of any studies that show the impact of the training? How do we monitor the results of the recommendations of this kind of training? Is there any way to measure that as a result there is less than an impact on black people in the Criminal Justice system in North Carolina because of that?

John: That is a very good questions and he would like to look into that for her.

- Natalia Botella: Are these trainings most effective as a one size fits all or have you given thought to how to tailor the trainings to different groups? The messages might be very different based on an individual's background.

John: Whenever you design training, you have to start with communication with people who you are going to train. Have to sit down with people and do a needs assessment to find out who they are actually trying to serve.

- Co-Chair Josh Stein: Requested that John give a brief description of what they are doing with the Justice Academy. Who that audience is for and what the curriculum is?

John: A three week program on leadership. The School of Government is involved in a week of it. Jeff Welty has been working on policing philosophy that is going to touch on what should we police, what is appropriately left to other services to help address.

- Michael Robinson: Asked a clarifying question for the group. Does each cohort do one week or is it three weeks with the School of Government?

John: He is not sure of what changes they have made as a result of pandemic.

- Jasmine McGhee: We will follow up with Trevor Allen the Director of the Justice Academy to get the information back to the group.

- Co-Chair Josh Stein: May be good for someone on the taskforce to do what John recommended and reach out to community colleges to see if they have a standard curriculum and for whom and what does it entail?

John: Is happy to help with that.

- Michael Robinson: Sounds like folks seem to be enthusiastic and supportive of some sort of Racial Equity Training involving all members of the Criminal Justice system. What does folks feel they need to gather more information on and need to learn more about in order to feel confident in moving forward with the recommendation?

- Representative Marcia Morey: Ask the task force members if they have any objections to putting forth a consensus issue that we do endorse Racial Equity Training for both the Court system personnel which includes the Judges, Public Defenders, District Attorneys, Juvenile Justice system and Court Staff including Clerks?

- Mujtaba Mohammed: Recommend including Probation Officers with DPS in that as well.

- All members support the consensus.

- Representative Marcia Morey: Work Group #3 is endorsing and recommending a mandatory robust Racial Equity Training for all Court Officials including the Judges, DA's, Public Defenders, Juvenile Justice System, Probation, Court Staff, and also Jury Education.

- Jim Woodall: Definitely want to include Magistrates.

- Representative Marcia Morey: And Magistrates. Yes thank you. All agree say or raise your hand and say Aye.

- Everyone said Aye

VIII. Next Steps

- *Representative Marcia Morey*: Suggest at the next meeting addressing prosecutors' charging decisions and over-criminalization. If there is time, begin talking about bail and pretrial.
- Jim Woodall will lead the group in the discussion of prosecutors' charging decisions.
- *Justice Earls*: In regard to the Bail and Pretrial Issues, referenced a group that has made detailed recommendations on these issues, and can be circulated to the group.

Next meeting: Wednesday, August 19, 2020 at 4:00 PM