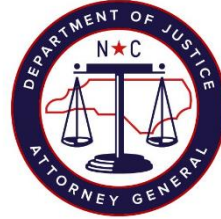
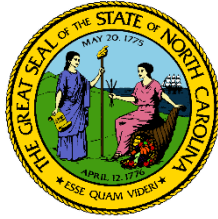


North



Carolina Task Force for Racial Equity in Criminal Justice

Working Group #4

Meeting #2

Date: 11 August 2020

Time: 8:00 AM EST

Chairperson: Henderson Hill

Members In Attendance: Hill, Henderson; Stein, Josh; Dyer, Karen; Pollard, Mary; Earls, Anita; Restucha-Klem; Mercedes; Cooper, Ameshia; Locklear Clark, Brooke; McGhee, Jasmine; Robinson, Michael; Hawkins, Mike; Spolar, Ellen; Thornburg, Alan; Benison, Malia

Members Not In Attendance:

MEETING MINUTES

I. Welcome & Review of Agenda

Hill

II. Review of Assignments

Restucha-Klem:

- Reviewing the items discussed from the previous meeting (see PPT slides 3-5)
- Discussing some questions not placed in the idea bank (see PPT slide 6)
- Opens the floor for people to give thoughts on "low hanging fruit": (see PPT slide 7)
 - Pollard: need for more diverse jury pools – suggests we should propose something that includes Rule 37 or even proposed legislation to do so
 - Thornburg: states the need for a jury without implicit bias; removing jurors with no judgment if they show any spectrum of bias – suggests a uniform process into how Judge's ask the question of whether jurors have any experiences that would give them cause to be concerned of their bias
 - Hill: agrees that this should move forward, discusses process of what's necessary to push forward

- Justice Earls: There is no statutory mandate that orders courts must confer with bar associations, other federal judges, etc., to enact rules but these processes may bring more support to our final recommendation
- AG Stein: reminder that Governor Cooper wants us to not only identify issues, but also lay the groundwork for practical implementation. Agrees on Rule 37 moving forward with research, data recovery, etc.
- Hawkins: need to be clear on what Rule 37 is truly designed to fix when making our recommendation
- Hill: Important part of this process is education on how the courts operate, and how we can reduce racial disparities in citizen participation as jurors. Some of the hard issue spotting work has been achieved through litigation and General Rule 37 provides a good model for North Carolina

III. Discuss Recommendations for Upcoming Task Force Meeting

Robinson: wants to confirm that members agree with the list of “low hanging fruit” (see PPT slide 7) – are these the most immediately actionable, without a long, legislative process to enact?

- Hill: This question may be better for the next meeting – working group should determine through data/research teams which would be most aligned with community concerns and avenues to move forward.
- AG Stein: some of the items listed on “low hanging fruit” seem to be getting to the same larger question
 - Data Question - how many people are excluded from juries because they don’t have a driver’s licenses and/or had their licenses revoked **
- Thornburg: confirms that there will be a conference amongst the Judges later this month, will ask them for recommendations that could be provided for the task force. It would be helpful to have very specific language on jury selection drafted by School of Government because uniformity will be necessary with 100+ judges.
 - Pollard: offers recommendations of persons at School of Government who could draft the language that Thornburg is requesting – echoes the need to have something solidified by the Task Force before reaching out to Judges more formally
- Hawkins: what is the goal of August 27th meeting of the entire Task Force?
 - AG Stein: clarifying “low hanging fruit” and offering recommendations; no pressure to provide a solid recommendation by then, but coming to the table with ideas, working plans, etc.
 - Justice Earls: reminds working group that the entire Task Force is a shareholder in each recommendation that comes from each working group

IV. Research Questions

Restucha-Klem: review of research questions composed from previous meeting (see PPT slide 9)

- Discussion on punishment due to fines and fees in the court system

- Brooke Locklear: review of “installment” fee. In her experience, most persons who are fined are expected to pay day-of, but cannot and are assess an “installment” fee in addition to their fine.
- Hill: need data to support our propositions
- McGhee: SSL/ASL/herself can regroup after the meeting and work with members to present more refined data/research questions
- Dyer: asks the group if there are any additional items that we should prioritize?
 - Pollard: states again that unsure of what low hanging fruit is; states again that jury selection is good to move forward with but notes it will be disappointing if that is the only recommendation the working group develops
 - Hill: many issues that are more controversial should be placed on a track that will lead us up to a recommendation to put before the Governor.

V. **Data Questions**

Restucha-Klem: review of data questions composed from previous meeting (see PPT slides 10-11)

- Thornburg: look at what other jurisdictions (outside of NC) are doing for treating their sentencing disparities, including the efficacy of mental health court options?
- Hill: ideas can be worked on simultaneously. creating a memo that describes second look act that is digestible by the general public

VI. **Recap Meetings and Assignments**

Dyer: are there any more suggestions and priorities for immediate action at the next meeting?

- No response from group members
- Dyer encourages members to think of what organized priorities they can bring that we can work on

VII. **Next Steps**

Hill: charge working members with filtering their questions for data and research teams so that we can achieve the most accurate and precise questions. Not necessarily calling for more ideas to add to the bank, but over the next week we should be drill down and further process the several very important issues we have identified.

DATA TEAM REQUESTS/QUESTIONS

1. Data on how many people are excluded from juries because they don't have a driver's licenses and/or had their driver's licenses revoked
2. Data questions related to Second Look Act:
 - a. Habitual felon and violent habitual felon: Are these statuses sought disproportionately against Black people? In order to determine this, we would need to be able to figure out for any given prosecutorial district how many people were eligible to be indicted as habitual felons and how many people were actually indicted. Also, the data would not fully answer the question of bias absent some ability to analyze what the underlying offenses look like.
 - b. Consecutive v. concurrent sentences: I'm not sure how the research question would be presented here, but how do we know how judges are exercising their discretion and the extent of any racial disparities? You'd have to look at people with similar convictions and prior record levels?

- c. Life and de facto life sentences (define as 40 years or more? 50 years?): Can we look at the racial breakdown of people with LWOP sentences for felony murder and for p&d murder, as well as the racial breakdown for people convicted of second-degree murder; can we look at breakdown by race for people who entered plea bargains v. people who were convicted at trial.
3. How much of the court's budget is made up by "user fees" on criminal defendants? And what amount of those fees are charged against indigents?
4. What is the annual recoupment of "civil forfeiture" actions and what amounts are distributed to the various law enforcement agencies?

RESEARCH QUESTIONS

1. Model jury instructions and benchbook script from School of Government that addresses implicit biases in jury selection
2. What role do fines and fees play in a court's budget? How much do these monies account for overall?
3. A memo on the racial disparities in extreme sentences and the proposed second look process
Written in plain English and accessible for the general public.
4. How many portraits adorn the courtroom in the Supreme Court? Of the justices so honored who:
 - a. were slave owners
 - b. served on the court before the civil war?
 - c. served in confederate army?
 - d. served post-WWII, and
 - e. is there a court rule/policy regarding the curating o this collection or is that the responsibility of a private historical society?