

Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel

6 – 8 PM on Tuesday, Mar 12th, 2024

Location: Zoom Meetings

- ORCA Media recording of the live meeting:

- <https://www.orcamedia.net/show/march-12-2024-rdap>
- <https://youtu.be/tX9Fk7k5ZkA?si=zoHVZyUK6IKHmVXk>

- Introductions

1. Etan Nasreddin-Longo – Chair of the Racial Disparities Advisory Panel
2. Grant Taylor – Minute taker for the panel
3. Erin Jacobsen – Codirector of the Community Justice Division at the Attorney General’s Office
4. Reverend Mark Hughes – Executive Director of the Vermont Racial Justice Alliance
5. Tyler Allen – Adolescent Services Director with the Department for Children and Families
6. Rebecca Turner – Head of the Public Division at the Office of the Defender General
7. Tim Lueders-Dumont – The Department of State’s Attorneys and Sheriffs
8. Jennifer Firpo – Training Coordinator with Vermont Police Academy and the Designee for the Vermont Criminal Justice Council
9. Jacq Rose – Health Equity Director at Department of Corrections
10. Laura Carter – Data Analyst in the Division of Racial Justice Statistics within the Office of Racial Equity
11. Shela Linton – Executive Director of the ROOT Social Justice Center
12. Derek Miodownik – Community and Restorative Justice Executive with the Department of Corrections
13. Dan Bennet – Vermont State Police, Deputy Director of Fair and Impartial Policing
14. Tiffany North-Reid – Data Manager in the Division of Racial Justice Statistics within the Office of Racial Equity
15. Isaac Owusu – Director of Community Engagement and Support with Vermont Racial Justice Alliance
16. ORCA media
17. Jennifer Poehlmann – Executive Director for the Vermont Center for Crime Victim Services
18. Chris Louras – concerned citizen from Rutland.

- Announcements

Etan: Judge Mary Morrissey, Jessica Brown, and Xusana Davis will not be at tonight’s meeting.

- Approval of last month’s minutes

Tim: On the 4th vote he voted “No”, and it was recorded as a “Yes”. With that changed he would be in favor of approving the minutes.

Tyler: Second the approval of the minutes with the changes mentioned.

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Minutes are approved.

- Discussion about blanket abstentions

Etan: He is concerned about blanket abstentions by 3 large governmental organizations during the vote. What that does is turn this Panel into some silent governmental actors and community members. That led him to write a letter, from himself – the chair of the Panel. It will go to all the commissioners and the Attorney General because he thinks it addresses some of the root issues that are relevant to the future of this Panel and its functioning.

13 March 2024

To:

John Campbell - Executive Director, Department of State's Attorneys and Sheriffs

Charity Clark - Attorney General, The State of Vermont

Xusana Davis - Executive Director, Office of Racial Equity, The State of Vermont

Nicholas Deml - Commissioner, Department of Corrections, The State of Vermont

Jennifer Morrison - Commissioner, Department of Public Safety, The State of Vermont

Heather Simons - Executive Director, Vermont Police Academy, The State of Vermont

Matthew Valerio - Defender General, The State of Vermont

Chris Winters - Commissioner, Department for Children and Families, The State of Vermont

Hon. Thomas A. Zonay, Chief Superior Court Judge

From: Dr. Etan Nasreddin-Longo, Chair, Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel (sarnnidde@gmail.com)

Dear Attorney General, Chief Superior Judge, Commissioners, Defender General, and Executive Directors:

Firstly, it is critical that everyone understands that I am speaking structurally, and am manifestly not speaking of individuals. The issue at hand is systemic. It thus involves all of us, and not as individuals, but rather as players in an ugly epic drama that has been going on for a millennium or so.

Recently, as you know, the RDAP completed its statutorily required report on racial disparities in the adult criminal and juvenile justice systems. This report was primarily approached by way of three subcommittees which met and - during our open, warned meetings - conveyed their work to the

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entire body for discussion and contemplation. The process was arduous and imperfect, and yet resulted in an exhaustive (doubtless some truly hopeful people will say "exhausting") document.

When the RDAP last met, our primary order of business was to vote on the individual questions raised in the report. This is not an unusual process for this body. At the end of the voting, what struck me very unpleasantly was the fact that two governmental organs, and one which abstained from voting on fully a discrete third of the report - all frankly hugely influential governmental organs - approached the voting with a blanket abstention. I will be plangently clear - abstention is not the problem: a blanket abstention in which a given, supposedly involved agency takes no position on a vast section of or anything in a report is. Three governmental organs did precisely this. In effect, at the moment when participation mattered the most, these three bodies with tremendous power decided not to participate. I publicly noted this at the meeting, and not with pleasure.

The true beauty of the RDAP is the interaction of community members - actual thought-leaders in their communities - with people who not only participate in, but are literally constitutive of state government. The point is to attack racial disparities. Discussion is the tool by which this task is approached, and it is vital to understand that discussion is a dialectical activity. The word "dialectical" refers to the fact that all who speak with one another may in fact be moved by one another, and perhaps even moved to adopt an unfamiliar position on a given matter that they did not originally profess. This happens to me all the time - when I get into my fascist mode, one member of the Panel in particular brings me back from the brink, and reminds me of my humanity. If those discussions do not take place, then I submit that there is simply no point in having the RDAP at all. The Panel becomes little more than a checked box that says that the state wants people to believe that it is working on racial equity. People of Color are used to seeing that ultimately meaningless checked box, and further to seeing that that simple acknowledgement does not equal hard and uncomfortable work.

But blanket abstentions rather deny the idea that discussion in all of its dialectical glory happened at RDAP meetings at all. In the final analysis - which is the report itself - these total disengagements suggest that three major governmental organs simply have a limited amount or indeed nothing to say: a rather depressing conclusion after roughly a year and a half of hard work. I do understand that everyone (please continue to think structurally) - even those who presented a blanket abstention - operated not out of malice, but rather out of an understanding of some notion of a standard operating procedure (SOP) that has worked for them over the years. The issue is this - systemic racism always lies in the interstices of "standard operating procedure," and the use of that procedure can (and did) have unintended consequences that simply reinforce certain elements of racism that we are clearly trying to eradicate.

The community members on the RDAP all took positions. Not on every question, but certainly on most. Several governmental bodies did the same. And, as I've noted, other major players in the state simply said - officially - nothing, and they did so with what must surely have seemed good reason. But here are the unintended consequences of that act - I can only speak for myself, but as a Person of Color who serves on the RDAP not merely as chair but also as a community member, the blanket abstentions made me feel a bit like a performing monkey, like tinted window-dressing

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who helped to check that all-important box that says, "We in Vermont are doing our equity work!" I am frankly not at all certain of how - or if - the blanket abstentions affect the usefulness of our work. I am also utterly unclear about what makes this document any different from what any citizen might say to their legislators with the hope that some legislation might result. Once again, this utterly delegitimizes the work of the RDAP in light of how it is constituted.

I would submit that we're not doing our collective equity work if important parts of state government simply decide to take themselves out of the equation, and even more importantly out of the discussion. It does structurally turn the community members on the Panel into little more than privileged performers with opinions. Sadly, this has happened all too often with many different kinds of government over the decades, and People of Color are well aware of this. It doesn't feel good. It hurts. One can easily feel used to support standard operating procedure, and thus - in many cases - racial erasure itself. This is staggeringly at direct odds with the stated goal of the RDAP.

I do not know what the solution to this thorny problem is. I do know that SOP cannot reliably be used to attack systemic racial problems. I hope that my letter can point to the need to have some conversations - dialectical, possibly thought-changing - that can produce a far better result than what we got with this newest report. Those proposed conversations are, in my view, essential to the future relevance and functioning of the RDAP, and in that spirit I write, hoping that we all can move our organizational practice into a more descriptive and participatory space. We won't immediately abolish racial bias, but at least then we'll have a better chance of doing so collaboratively, as a group.

Respectfully,

Dr. Etan Nasreddin-Longo

Chair of the Panel

15 minutes

Shela: She thanks the Chair!

Etan: Part of his job as Chair is to protect this Panel. If something seems off, he is obliged, because he was voted in as Chair, to take care of it. The letter will be sent out tomorrow morning. Notice, he doesn't name names, he's talking about a structure.

Tim: He thanks the Chair for sharing that. He thinks it was written with respect and poise.

Tyler: He thanks the Chair; it was very well written. There was a great deal of elegance and poise there.

Erin: She thanks the Chair for writing that, it takes courage, and she appreciates that. She thinks about who silence favors; if silence is comfortable that person is probably privileged. If silence makes you uncomfortable, then you're probably not privileged. Wants to apologize for the role she played in the Attorney General's office abstaining on the Community Oversight of Policing

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recommendations. She did not effectively communicate with the Attorney General about some of the content of those recommendations. Some of the reasons that her office abstained were due to a lack of time to review the recommendations. She thinks she felt comfortable with the abstentions because she felt like they weren't undermining the recommendations. That's untrue, it's a regrettable thing she thought, and she apologizes. She hopes to talk about solutions at some point. She has some ideas that could make it easier for government engagement. Thinks this letter is part of the solution also.

Shela: She is delighted to have Etan as Chair for the Panel, and thanks him for keeping it real. She would like to continue the conversation. She has some concerns around timing and around delegation. She feels as though she herself as a community member, as someone who sat on subcommittees, who also helped write the report, who has done all the work for very little pay, has very little time. She doesn't get paid to be here. She doesn't get a proxy. There should be a year long commitment for proxies, because sometimes she forgets who represents who. That should be mentioned to the Panel members who are not community members.

Etan: This discussion is at the top of the agenda for the next meeting.

Derek: He is still metabolizing that beautiful and necessary piece of work. He recognizes the emotional labor that it takes to produce something like that. He is thankful the Chair is willing to double down on that unassailable sense of dignity that is intrinsic. His group participated in blanket abstentions. He really appreciated Erin's thoughts because it made him reflect on – Is there more he could have done in his role as a designee for the Department of Corrections? To have them understand that these were recommendations of strategies in topical focal areas that inter report. Is there more we can do as a Panel to differentiate the role of designees to the Panel relative to institutions when they show up in the body politic? He believes the answer is yes.

Rebecca: She wants to share her gratitude toward Etan for writing the letter as the Chair of the Panel because it impacted the very essence of what we about. She thanks Erin for taking personal responsibility. She was heavily involved with one subcommittee and partially involved with another. What is the role of this Panel? We have submitted a report, we are in the process of self-reflection, which she thinks is critical. That leads to a larger question though – there are lots of bills right now, she is raising the issue of racial disparities for them, time and again it doesn't work. This Panel meets every month but to what end? How can we be most effective? How did you put it Etan?

30 minutes

Etan: How to get a functional pipeline between the legislature and the Panel.

Rebecca: She is feeling generally frustrated. There are astoundingly scary bills being introduced and rushed. Nearing the end of voting on one side without input from community members. These bills will have racial impact.

Reverend Hughes: He appreciates the Chair of the Panel a lot, wants to echo what Rebecca and others have said. He respectfully takes some of the comments and attitudes of the state appointees as being largely perfunctory. He is grateful for the work it took to move forward with Act

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54 in 2017 to establish this very Panel. We did that. We should think about restructuring the enabling statute to give this Panel the power to do what it was originally commissioned to do.

Etan: They may not have wanted this Panel in the beginning, but now they want the Panel to do even more.

Reverend Hughes: There is a massacre going on in the judiciary in the House and Senate right now. They are currently walking back a lot of the criminal justice reform. Making knee jerk reactions isn't going to work. What if we were able to let everything cool off after this session, bring in some independent third party, and do a global scope analysis of what these changes are doing? Cause we all know this is a system, and everything that happens upstream affects downstream. There will be policy changes and when they touch the lives of the people, it will be irrevocable. That's black and brown and marginalized communities, it's serious business. There are people on this Panel who sit in those committees and testify to that work. If we can refocus our racial lens on prevention and mental health and do that through an equity lens, maybe we can avoid creating a destabilization that's going to impact people's lives for generations to come. When these bills grow up to become laws it will create havoc, and that falls on this Panel. This Panel was intended to head stuff off like that.

Chris: He has 30 years of public service in Vermont, at both the local and state level. This Panel accomplishes a lot in comparison to other groups, by far. This Panel has been the most impactful and most productive council, board, commission, committee, division, alderman, city council, etc. that he has ever witnessed. He has learned a lot just watching the Chair over the last three years, he was thinking he couldn't learn anything more from public service and this guy showed him how to lead a group.

45 minutes

Etan: It's growing pains, and we'll move through it. We were supposed to get these bills before it got to this point. That needs to improve.

- Legislature to Panel pipeline

Rebecca: She would like to focus on two bills specifically because she has seen the Chair's name attached to them on behalf of the Panel. H655 related to a substantial overhaul of our expungement and ceiling laws, overhaul meaning elimination. And H176 is related to secondary enforcement of motor vehicle violations. This is being introduced to House judiciary for the first time this session. The goal is to deprioritize certain traffic law enforcement by way of trying to make it a secondary enforcement only after another violation. There's also H534 related to creating enhanced penalties for retail theft. In the Senate judiciary there are also bills being proposed to fundamentally change and broaden the scope of crimes, and specifically the drug code. They are suggesting changes to the definition of "knowingly" in Title 18, misdemeanor to felony, possession to trafficking, wherever the work knowingly is required, it now can be proven without someone actually knowing. The Panel has four sections in S58 that are significant also. The same issues this Panel and community

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members expressed would have racial impact in a bad way are happening again without anyone from Senate judiciary asking for input. For the record, Senate judiciary has not asked the Defender General's office for their input on the substantial changes to the drug code. Three or four years ago Raise the Age of juvenile jurisdiction was passed, to increase the jurisdiction of family courts up to the age of 20. It's been delayed since then, and there is another proposal to delay it further. We know who that impacts most, what nineteen-year-olds are not going to benefit from that yet again. This Panel isn't structured to give real time substantive input on these bills. There was another draft of H655 this morning which people needed to pivot and testify on. It's extraordinarily taxing for people who do this as a day job.

Etan: He is uncomfortable with the testimony he is supposed to give tomorrow. Would it be most useful to refer to previous testimony from Panel members.

Tim: He works with a committee of people elected to be state's attorneys, and sometimes bills that are 60 pages long go through 8 different drafts. Since January first he's looked at over 2,500 pages of bills. There's no substitute for careful reading. This Panel has no full-time staff. If he had to lift voices on the Panel, it would be the community members.

Etan: Is this something we should call Representative LaLonde about? Because it's not working and that was one of the founding ideas for the Panel.

1 hour

Erin: She thinks the legislature needs to provide the Panel with resources. People should get paid more, and there should be a hired researcher or something. The Panel should also have a Legislative subcommittee, because a lot of stuff happens outside of the session. If you can stay engaged and have conversations with committee chairs then you can pay attention to what's coming, so that we have time to plan. She would like the Panel to have the ability to work as a Panel outside of the session ahead of the session. That's a necessity to be affective January through May.

Rebecca: She thinks the Chair has an opportunity this week to share with the committee what the frustration is here. Should we say this "We are glad you invited us, we're glad you thought of the Panel, we're glad you're concerned about the racial equity impact of this bill. We believe you should conduct a racial equity impact assessment of this bill. We don't have time to provide this within the timeframe."

Etan: He thinks that's a good idea, and that way it's on the record.

Rebecca: She thinks the Chair should be careful relying on past Panel members' testimony because they are probably not the community members of the Panel.

Reverend Hughes: He thinks the most impactful thing for the Panel to do is to write a letter that conveys shared concerns. We agree that the laws are coming out at a fast rate. Many of them are harmful to marginalized communities. We don't know the collective impact of them all together. It would be a public statement.

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Erin: This is just crossover; the session is not over. It's an important time, some bills could die right now. The bills that go forward still have plenty of time. She agrees with inviting Legislators in to discuss the pipeline.

Etan: Sears, Baruth, LaLonde, and Christie.

Rebecca: Invite everyone from the committees, see who shows up. Maybe the Chair could write a draft and send it around for feedback?

Etan: Sure, that's fine, it doesn't have to be long. It's just an invitation with a description of our issue. Reverend Hughes has added to the chat to invite Republican Norris.

Tim: Recommends inviting Chair and Vice-Chair from each committee. That way they can figure out if they will have a quorum showing up. They may want to avoid a quorum.

Etan: Is there a problem with drafting a letter and emailing it to everyone? Does that break open meeting laws?

1 hour 15 minutes

Erin: We can't wordsmith collectively on a document outside of a warned meeting. She thinks we must make it clear in this meeting what we will be writing about. Then the letter can be sent to the group, and if anyone has concerns, they can make them clear.

Etan: He will be writing about the Panel's difficulty getting each bill in a timely manner so that we can be effective. We would like to discuss with you ways to improve that pipeline or indeed create it.

Rebecca: Let's add that we as a Panel believe there should be a racial equity impact assessment on all bills. Let's also add a line that says the committees wait until they receive a racial equity impact assessment on these bills.

Reverend Hughes: Language we sent out in a mass mailer this afternoon was "There should be an implementation delay on criminal justice reform rollbacks to allow for an outside impact assessment review to enable us to understand the totality of the collective policy changes. This will also allow for a racial equity review of state investments in systems of prevention, mental health, and other social support."

Rebecca: She likes that language. She supports including that in the letter.

Shela: She agrees as a Panel member.

Etan: He's writing a letter to four people, Chair and Vice Chair of both House and Senate judiciaries. It will talk about what we are supposed to do as a Panel, how it's not happening, we need a better pipeline, would you please come and talk to us, and that all bills need a racial equity impact assessment.

1 hour 30 minutes

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Tim: He has been a member of the Panel since October of 2022, he has learned a lot, everyone should have his contact information. Please reach out with questions pertaining to State's Attorneys. Thank you everyone!

Reverend Hughes: We have offered testimony on PR4 that seeks to create a new article for equal protection. We found consensus with the Human Rights commission, the Office of Racial Equity, the American Civil Liberties Union, as well as Professor Teachout. It's important that the language be refined to ensure that we memorialize the intent of the constitutional amendment to ensure that the foundation supports a clear path to an option for evolving state jurisprudence on equal protection in Vermont. He would like the Attorney General, the Superior Court, the State's Attorneys, and the Defender General's office to all chime in on this matter.

Shela: She would like to add the Vermont Department for Children and Families initiative to build a 27-bed youth facility to next month's agenda.

Tyler: He is happy to bring that to the discussion next month.

- Announcements continued

Etan: Wichie Artu and Tsing Ren want to resign from the group. They were both appointed by the Office of Racial Equity.

Reverend Hughes: Are we doing exit interviews with them?

Etan: Does someone have time to do them?

Shela: Do we have a process for that?

Etan: We would need a list of questions to ask.

Tyler: Can we add exit interviews to next month's agenda also?

Etan: Yes, that's a good idea. Thanks for everyone's help with writing the letter. It is easy to write on behalf of this body, and that's all you. We will meet again in April.

Adjournment