

Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel
6 – 8 PM on Tuesday, August 13th, 2024
Location: Zoom Meetings

- ORCA Media recording of the live meeting:

- o <https://www.orcamedia.net/show/august-13-2024-rdap>
- o <https://youtu.be/VTXXsyYMOwQ?si=V88rLU92j7pEHE1T>

- Introductions

1. Dr. Etan Nasreddin-Longo – Chair of the Racial Disparities Advisory Panel
2. Elizabeth Morris – Juvenile Justice Coordinator at the Department for Children and Families
3. Dale Manning – Nulhegan Band of the Coosuk, Abenaki Nation
4. Tyler Allen – Adolescent Services Director with the Department for Children and Families
5. Rebecca Turner – Head of the Public Division at the Office of the Defender General
6. Tiffany North-Reid – Data Manager with the Division of Racial Justice Statistics
7. Julio Thompson – Assistant Attorney General and Civil Rights Unit Co-Director
8. Superior Judge Mary Morrissey – Judiciary Representative on the Panel
9. Laura Carter – Data Analyst in the Division of Racial Justice Statistics
10. Dan Bennet – Vermont State Police, Deputy Director of Fair and Impartial Policing
11. Derek Miodownik – Community and Restorative Justice Executive with the Department of Corrections
12. Xusana Davis – Executive Director of Racial Equity for Vermont
13. Jennifer Firpo – Vermont Criminal Justice Training Council
14. Representative Angela Arsenault – Serves on House Judiciary
15. Shela Linton – Executive Director of the ROOT Social Justice Center
16. Lauren Higbee – Deputy Advocate with the Office of the Child, Youth and Family Advocate
17. ORCA Media

- Announcements/Revised Agenda

Etan: Marshall Pahl is not available this evening. Representative Lalonde will be speaking at 7:15. Chief Stevens has stepped down and Dale Manning is stepping in. Jessica Brown won't be attending the meeting tonight.

Shela: The ROOT Social Justice Center is having a BIPOC back to school hair clinic. It is free to anyone who identifies as BIPOC. They are prioritizing the youth in that, after a very successful clinic last year. It served dozens of youths across the state, helping them positively express their culture. Also, coming up in September they will be having a community sporting event. The ROOT Social Justice center has a new program called ARC, Asylum Seeker Refugee Immigrant Community Program.

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Julio: As a reminder, effective July 1st of this year Vermont state law prohibits employers from discriminating against employees of job applicants based on their hair styles.

- Approval of Minutes

Shela: Motion to approve the meeting minutes from June 11th.

Motion was seconded.

Motion passed.

Abstentions: Superior Judge Morrissey, Tyler Allen, Jenn Firpo, Xusana Davis

15 minutes

- Continuation of the discussion of the proposed facility in Vergennes

Etan: We'll table this issue until next month. We were going to listen to another point of view on this and we don't have that tonight.

Shela: She is frustrated that she brought up this discussion months ago and showed up specifically to hear this discussion tonight.

Tyler: Acknowledges this conversation started a few months ago, we talked about the rest stop and the facility in Vergennes. The next step was to have Marshall Pahl come in and speak. We wanted to bring in the opinion of the Defender General's office. Also, there is a Facility Planning Stakeholders Working Group. There are 5 working groups he's hoping to pull together, the first being about the physical needs of the structure. The second working group has to do with due process and entry into the program, the legal process where someone can be placed in a secure facility. The third working group is about the programming, educational opportunities, therapeutic components, recreational curriculum. The fourth working group has to do with oversight, the requirements of maintaining licensing, what public reports and data come out of this. The fifth working group is youth engagement strategies and different ideas of how we bring in young people's voices. Please reach out to him if interested.

Etan: How will these working groups be meeting?

Tyler: They will meet online. They are informal working groups. They are designed to come up with specific tasks and recommendations. Anything coming out of those groups will be presented to the Facility Planning Stakeholders Working Group.

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Shela: So, we're talking about 2 separate ideas here, one being a "rest stop" and the other being a "secure facility". Is that correct? What about the voice of those who argue against these facilities altogether?

Tyler: Yes, that is correct. When we originally talked about it there were 2 ideas on the table. One about the rest stop, what that means, what that practice is, how that's happening. The other was around the development of secure facilities. The rest stop is a practice that has been in place now for a year or two, a practice born out of necessity and supported by no one. We discussed the rest stop in greater detail in this Panel a couple months ago. We had less time to get into secure facilities. For clarity, the rest stop is access to 1 bedroom that the Department for Children and Families has, and the practice is referred to as alternative setting. It is specifically for a young person that has no placement option. It's a place that can be staffed with family services workers around the clock. While they don't want this to be a practice, it is a reality of the situation. The Department for Children and Families is under the belief that a secure facility is required for the state of Vermont. Making a determination of how big that is, what is done in that facility, and how it's overseen are critically important because Vermont has some dark history around this.

30 minutes

While they recognize the need for a facility like that, they want to make sure it's done thoughtfully while engaging the voice of this Panel and the Facility Planning Stakeholders Working Group. There needs to be representation of the community they're supporting around this; it needs to be youth focused. He supports a working group to coordinate against these facilities. He believes there are consequences for young people who go into these facilities. His concern is that they will be served by the adult system for lack of appropriate juvenile justice system response.

Shela: Did you say there is a law in Vermont requiring these facilities?

Tyler: There is no law that a juvenile needs to be held securely in our state. There is no law requiring these facilities.

Shela: Then she is interested in revisioning and reimagining what can be because if we never give those opportunities then we never know. We need to put that on equal footing as those other groups. Another thing she thought she heard was fear, and the fear of what could be if we don't have something like this. When we operate from a stance of fear then it's hard to make the right decisions. She wants to offer a new way of looking at things.

Tyler: Currently Vermont is the only state in the country that doesn't have a secure facility for youths. Woodside was closed for thoughtful purposes but having no secure facility was never part of the plan. There are young people not getting the care they need for lack of a facility. It's not a fear of what could be but a fear of what currently is continuing onward. He agrees with Shela that this conversation needs to be reimagined. Most of their engagement is in community engagement,

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community level placements, in providing support for families, expanding foster care, prevention service, and restorative justice programming. The secure facility is a very small part of the service array.

Lauren: She is attending the meeting after a call with University of Vermont Medical Center and was shocked to hear was the psychiatrist and social worker are saying the solution is to deinstitutionalize the services for adolescents. If there are ways to hold the alternatives to detention settings in equal footing, she thinks that's where the discussion needs to go. Woodside was not closed thoughtfully, as a person who was in Woodside and wrote those regulatory reports and investigations, Woodside was closed because of egregious harm to children and that's when Vermont's narrative needs to say. As a Vermont without a current secure facility, she recognizes that other states that have secure facilities for youths are under thousands of lawsuits.

Etan: So, what we need is the establishment of another working group to focus on the counter proposal to a secure facility.

Lauren: Alternatives to Youth Incarceration, that's what the sentencing project calls it.

Tyler: Balance and restorative justice is the Department for Children and Families contracts that oversee practices that are more of a diversionary and restorative approach. It's a community-based approach to doing this where individuals can remain in their home. They are trying to ground their program in therapeutic modality.

45 minutes

Elizabeth: She has disparity data when it comes to youths who are served which is crucial when having this conversation. Particularly when we're talking about a secure facility and what happens to youth if there isn't a secure facility. Right now, we have juveniles who are charged as adults, and they are going into an adult facility. Racial disparities can be seen in that data, it's a small number but those lives are incredibly important to talk about.

- Discussion about legislation regarding equity impact assessments

Etan: The legislative session before last this Panel was asked about many different things and testifying with frequency, which was great because they were able to do what the enabling statute asks them to do. It is concerning that last session was quite different. There were many bills that came up that enshrined in legislation high discretion moments at which bias can make an entrance into the proceedings. The Panel was asked to testify 1 time in front of house judiciary, and he was unable to complete the testimony because the Panel hadn't discussed it yet. They hadn't discussed

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it because they were not allotted enough time. So, the Panel decided that equity impact assessments needed to be enshrined into legislation.

Representative Arsenault: She met with a colleague earlier that day and mentioned she was attending this meeting to talk about the potential for this type of legislation and with full support her colleague asked, “How brief can it be?” Everything that she was aware of transpiring last session seemed to hinge on time due to the short session, and there’s pressure to accomplish things before crossover. So, often there isn’t time for this Panel to meet before we are pushing bills through. Her hope is that legislation would build into the process this very important step and make it a lot harder to say there wasn’t enough time to do a proper equity impact assessment. If it’s part of the process, then the schedule can be changed to accommodate it.

Etan: He believes the time has come to say that this is built in now and there are no more excuses. Why is equity so terrifying? Both the BIPOC community and this Panel have been saying for a long time “not about us without us”. He has had real trouble thinking about continuing as a member of this Panel let alone as its chair. The reports which this Panel has given to the legislature in 2019 and again this past February have been largely overlooked. Having this in legislation would prevent this from happening.

Representative Arsenault: Putting this into legislation seems like a natural evolution of the statute that created this Panel. It isn’t quite doing enough to create this Panel and charge it with providing recommendations without fully committing to using the information that comes back. She would really like to see a bill come together that makes sense to this Panel and that they can feel certain will be implemented.

1 hour

Rebecca: She has made it clear to this Panel her personal experience from last session and how fast things move. Also, how much input from racial disparities impacting the bills was lacking and incomplete. Personally, she knows what it takes to vet these bills and come back with something useful for the committee from the Defender General’s perspective. This Panel isn’t structured to give thoughtful timely responses to proposed bills. She hopes that any bill that gets written will help provide some of that fundamental structure. Today’s Panel is reflective of our overall problems, we have two community member vacancies that are still not filled, and they operate on a 2 hour once a month total volunteer basis. The compensation to community members on this Panel is lacking.

Julio: I was asked to fill in on this Panel as the Attorney General’s representative after Erin Jacobsen left to go work in the city of Burlington. The Attorney General was planning on hiring someone who was going to work on a lot of policy related initiatives. Requiring a racial equity impact assessment for legislation is not a new idea, some states have been doing it for years already. New Jersey requires an assessment with any law that relates to criminal justice. If our legislature decides to take up the issue they would not be starting from scratch.

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Etan: He asks Julio to please collect the impact assessments that he knows of and send them along for distribution.

Representative Arsenault: She agrees that any prior legislation would be valuable to look at.

Etan: Do we need to take a vote to move forward supporting legislation that requires a policy impact assessment accompany a bill?

Shela: She wants to hear from anyone about why they wouldn't support that legislation. It's way overdue, it's about their values.

Xusana: She very strongly supports making this mandatory. They have tried to work with the legislature on that kind of thing. There are a lot of reasons put up why that wouldn't work. She knows the probing equity questions have existed, and they are brought up in committees. Though it is often more conversational and doesn't go through the analytical rigor that might be required for deep intricate policies. She thinks this Panel should support this kind of legislation. Other jurisdictions approach them for use of their equity assessment tool. The Office of Racial Equity is very close to completing an update of their tool and will share it with this Panel when it's done.

Shela: So, we have this Policy Impact Assessment Tool. What does it do?

Xusana: It is a questionnaire that forces us to ask ourselves questions that will surface whether there will be disparities in the proposal. Questions like is there regional equity, are there public facing materials, if so, are they going to be translated, if not why not, could this present a racial disparity, will it present another disparity for another group, what performance measures are being used, was there community input when developing the proposal, that kind of thing.

1 hour 15 minutes

Shela: So, you're updating this tool and creating a webinar about how to use the tool. So not only the use of the tool should be required but also the webinar to assist in its use. A tool is only as good as one knows how to use it.

Etan: He is withdrawing the thing about the vote, but he wants to disseminate information about current impact assessment laws to the Panel members.

Representative Arsenault: She would like to work with the Panel to craft this legislation. She likes the idea of supporting a yearly legislative training, she can think of 3 or 4 that legislators already take part in.

Derek: He is interested in learning whether these laws in other states have been weaponized against the BIPOC community.

Etan: He will be sending out information regarding this legislation in other states.

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- Discussion with Representative LaLonde

Etan: He would like the Panel to have an opportunity to look at those bills that the Representative has recognized may have an impact on equity. Unfortunately, there were several times this session where they just couldn't do it because of how everything is constituted. We need to have better communication, so we have time to consider these things and meet as a panel and get testimony where it needs to go. On the other hand, it is a citizen legislature that doesn't meet full time so there's not a lot of time to work with. On the other hand, he believes this is essential, something that everyone wanted the session before last.

Representative LaLonde: He can present some ideas, but are they going to systemically fix the issue? A couple members of the committee are meeting with various stakeholders, the courts, states attorneys, defenders, the ACLU, victim's advocates, the Network, and others; so they can have bill drafting requests in as soon as the legislative council begins working on those bills. He talks to people working in the field to decide their priorities going into the session. One thing that is a priority that carries over from last year is juvenile justice and how it pertains to cases moving from family court to criminal court. They would like to see all cases started in the family court with the possibility of moving to criminal court. He also recognizes this Panel's recommendation to increase the delinquency age to 12 which could be part of that.

Etan: He wants to know what he can do to help Representative Lalonde in communicating with the Panel.

Representative Lalonde: He has noticed great success with the Division of Racial Justice Statistics, this Panel was critical in getting that over the finish line.

1 hour 30 minutes

They must do better getting impacted communities to testify on the bills. He's open to hearing from others how they can do better.

Etan: He likes the idea of a timeframe so the Panel can be in better sync with the legislature. Something like a 2-year thing where they can start in year one and take it into year two. Will they talk about every little thing or the overarching issues that frame a session? Last session he questioned whether the work the Panel was doing mattered. He didn't hear from the senate judiciary even one time during the session.

Xusana: She appreciates what the representative is saying, but she thinks the treatment of people was poor. That treatment discourages participation. She has heard from members of the legislature that they themselves and any witnesses they tried to bring in were dismissed, invited to a hearing to

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testify and then be told you must wait around and then be told you won't be able to testify at all. That makes them leery of the situations even if they are looped in at the right time.

Representative LaLonde: Certainly let the chair of the committee know if something like that is happening. He doesn't think it happens in the Judiciary committee but he might be missing something. They have really taken the input from the Office of Racial Equity to heart.

Xusana: One thing they have talked about internally is that there isn't a clear protocol for that. The legislature as of very recently has a human resources division but they don't handle that. Often times when there is misconduct people are referred to the speaker or the pro tem which has its own eyebrow raising aspects to it. She appreciates that the Representative stands up against this sort of treatment and wishes all the chairs were like that.

Etan: Last legislative session both Director Davis and he were giving testimony around the division of racial justice statistics. It was a real rush to get things done and the Panel pulled it off. It's hard to have conversations about equity assessment posters disappearing off walls in the statehouse and not see a broader pattern that's written back on race relations in the Unity States for hundreds of years.

1 hour 45 minutes

Representative LaLonde: Public safety really drove them last session. Education, housing, and climate will be big drivers this session. He's hoping the Judiciary committee can get started in September so bills can be ready in January.

Rebecca: If guidance is needed all that needs to be done is to look at the reports this Panel has sent to the legislature. There are recommendations in there that will easily guide legislative efforts. A total of 4 reports have been sent.

Representative LaLonde: The racial justice analysis probably isn't in the Judiciary committee's jurisdiction, they probably need to talk to Government operations. As for the recommendation to collect data that may be a recommendation to the rules committee.

Judge Morrissey: The legislative time is defined, and we all know what that is, and we know it's hard to get people here in the summer. Maybe it's a good idea to front load a couple more meetings during the legislative session and take some time off in the summer.

Shela: She wishes the response from the legislators to Etan and Xusana's experience testifying was different. She expects a much more fervent response to promote change in the systems.

Representative LaLonde: Back when this happened he talked to Etan about it. It didn't happen in the House and Senators don't listen to House members. He apologizes for not speaking up but he has spoken to Etan about it before.

Shela: It doesn't matter where you sit, this is a human thing.

Xusana: The Office of Racial Equity has a number of open positions right now. One of them is for a second analyst in the division of racial justice statistics, there are over 150 applicants. The session

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before last the legislature asked the Panel to do a report on cannabis control and the social development fund. The Panel was immersed in the biennial report. There will be a meeting on Wednesday the 21st at 3pm.

Etan: Next meeting is the 10th of September.