

Agendum – Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel

6 – 8 PM, Tuesday 26 February 2019

Aldrich Public Library, 6 Washington Street, Barre, VT

MINUTES

Welcome – Introductions

Present: David Scherr, Geoffrey Jones, Rebecca Turner, Jessica Brown, Etan Nasreddin-Longo, Ingrid Jonas, Brian Grearson, Heather Simons, Richard Gauthier, James Pepper

Guests: Bor Yang, Chloe White, Karen Ganette, Robin Joy, Rubin Jennings

Approval of Minutes – 11 December 2018 meeting

Panel approves minutes. Rebecca moves, Ingrid seconds, motion passes.

Announcements

Etan states he was asked to testify on the bias incidents bill in the Senate. He notes that he felt that he wanted to consult with the group but was not given the opportunity, he regrets not having been able to. He stated that he thought that the panel may have an oversight role, but after further discussion with Ingrid Jonas felt that may not have been the right position. He hopes and plans in the future to bring the panel in to legislative discussions to the extent possible.

Discussion of Crime Research Group’s Current and Future Research with Robin Joy, JD PhD, Director of Research, Crime Research Group, Inc.

Robin Joy presents as follows:

Introduction regarding the state statistical analysis center (SAC). VT is the only state where the SAC is a nonprofit, allowing it to speak truth to government.

SAC provides many services with respect to criminal justice data. They have done a lot of research projects. They also provide data on a day-to-day level to criminal justice practitioners (prosecution and defense) about sentencing averages. (The “going rate” for various crimes).

Doing a new project on opiate use disorder and effect on crime rate. Data currently insufficient to fully illustrate the connection.

Traffic stop race data collection has not worked well, they have tried a couple of studies and they have not had solid results. It has hard to build a comparison group—the overall picture of drivers on the road.

SAC has done extensive work on figuring out how best to get at whether bias is informing the actions on traffic stops. One idea is the “veil of darkness” analysis. This takes advantage of daylight savings time—the shift from dark to light stops. Did the composition of the stops change when officers could see who they were pulling over?

There are extensive difficulties in analyzing these issues. Some of them include assuming rationality (or trying to understand how people behave in ways that are not “rational” responses). Rationality itself is a social construct and one that depends on subjective experience.

There are many challenges around methodology as well—comparable studies elsewhere have many differences in terms of populations, geography, police agencies, etc.

One of the greatest perpetrators of white supremacy is the criminal justice system. Look at the issues of all the cities under consent decrees where there was a finding that there was unequal treatment. Look at “quality of life” crimes where people were being prosecuted for cultural practices or for poverty—loud parties, broken windows. Those actions affect people who lived elsewhere and come to Vermont as well.

Data may not be the answer because it is enormously difficult to measure human behavior. We cannot measure everything about the world.

So, what to do? Robin: ask for more transparency. We need transparency, we need to be able to access the information. It is very hard to get the info out of the system.

Geoffrey Jones: Question: so what does work? If data won’t work what will work?

Robin: Perhaps the veil of darkness? There is some measurement that could be useful.

Rebecca Turner: I have more optimism on the power and use of data: public defenders in San Francisco has been able to show disparities using studies.

Robin: I do have concerns about the numbers in VT—they are small and they may amount to anecdote.

Discussion of bullet points leading to Panel’s final report

Presentation from Rebecca: (incorporate Rebecca’s list by reference).

We as a group have never mapped out exactly what the decision points are throughout the VT criminal justice system. I have provided a list of decision points throughout the system. See attachment to minutes.

What are factors that should inform evidence of guilt? Are nerves evidence of guilt or evidence of nerves?

Zullo has opened up a new world of legal inquiry. Subjective racial animus?

Jessica Borwn: the universe of interactions that include contact but no ticket or arrest is important and probably undermeasured and undercounted.

David: the data may not be capable of capturing reality. But that doesn't mean it doesn't tell us something useful. We should still find data and expand the capturing of data. It has already made assessments that have spurred positive change: the traffic stop data and the incarceration rate data both drove important conversations—including the creation of this panel.

Bor Yang: I agree, and it is important to state that VT is not unique. We have no reason to believe that disparities that are measured elsewhere are not present here. It's not productive to say that this is not worthwhile.

Jessica: don't think Robin was saying that we don't have issues, to the contrary, but just a question about data validity in VT. How do we get from our present understanding to a better one.

Rebecca: One important piece of data information: jury pool data. Data shows that race of potential jurors is incredibly important to trial outcomes. We do not collect that data, we should. A small clear place for recommendation.

NEXT STEP: We will review bullet points and find areas of agreement at the next meeting. Hopefully find one thing we could do quickly. This will assist in drafting a recommendations document and formulating a plan for action going forward.

Public Commentary – Meeting is opened to the public. Those wishing to speak will be limited to five-minute periods.

Next Meeting – Time and place. To be determined, David will let the panel know.