

Racial Disparities in the Criminal and Juvenile Justice System Advisory Panel

6 – 8 PM on Tuesday, May 9th, 2023

Location: Zoom Meetings

ORCA Media recording of the live meeting:

- <https://www.orcamedia.net/show/may-9-2023-rdap>
- <https://youtu.be/9Ei4ygpKoOs>

Introductions

1. Etan Nasreddin-Longo – Chair of the Racial Disparities Advisory Panel
2. Erin Jacobsen – Codirector of the Community Justice Division at the Attorney General’s Office
3. Chris Louras – Research Associate with Crime Research Group
4. Elise Ameigh – KidSafe Collaborative
5. Derek Miodownik – Community and Restorative Justice Executive with Department of Corrections
6. Rebecca Turner – Head of the Public Division at the Office of the Defender General
7. Tiffany North-Reid – Data Manager with the Division of Racial Justice Statistics
8. Reverend Mark Hughes – Executive Director of the Vermont Racial Justice Alliance
9. Tyler Allen – Adolescent Services Director, Vermont Department for Children and Families
10. Jessica Brown – Assistant Professor at the Vermont Law and Graduate School
11. Xusana Davis – Executive Director of Racial Equity for Vermont
12. Geoffrey Jones – Former Vermont State Police Trooper
13. Shela Linton – Executive Director of the ROOT Social Justice Center
14. Jennifer Poehlmann – Executive Director for the Vermont Center for Crime Victim Services
15. Qing (Tsing) Ren – Evaluation and Program Analyst at Shelburne Farms
16. Wichie Artu – Health Equity and Data Systems Consultant
17. Grant Taylor – Minute taker for the Panel
18. Superior Judge Mary Morrissey – Judiciary Representative on the Panel
19. Matthew Bernstein – Vermont Child Youth and Family Advocate
20. Julio Thompson – Assistant Attorney General Director of the Civil Rights Unit
21. ORCA Media

Announcements

Etan: Tiffany is here in her role finally. A few folks will be missing the meeting.

Xusana: Data Visualization of Structural Racism and Place. Calls for multisectoral and interdisciplinary approaches. From the Robert Wood Johnson Foundation.

Wichie: Community Safety Review subcommittee has met and will have a plan by the end of the month.

Approval of Minutes from last month

Erin: Move to approve the minutes from the April 11th meeting.

Seconded.

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Motion carried and minutes approved.

Etan: On to the state of Department for Children and Families requests of this Panel. Document is in SharePoint. Let's go through reviews.

15 minutes

Tyler: These are recommendations and summary findings, all the activities in the realm of juvenile justice, these are the things that have been going on in the realm of racial equity work. Looking for feedback, any shared data points. Are there recommendations we should be focusing on? Are there any concerns around the activities identified? Are there particular data points that we need to strategize around?

Rebecca: Saw there were recommendations and findings related to concerns about reporting to getting law enforcement involved. References to Crime Research Group's Recidivism Report. Significant damage youth suffer from being thrown into the adult system. Interested in hearing about the Department for Children and Families tracking of race data. Also, recently became aware that a project has been initiated not quite a year old, focused on children in need of service. Removing racial points from affidavits. That could be a suggestion that we pursue to directly address the discretionary biases that creep in at the prosecutorial stage.

Tyler: Data mapping ancient, several complications that come up with the Department for Children and Families. Two systems are used to store data, the primary one is from 1979-1982. Every year the legislature awards a little money to develop the Comprehensive Child Welfare Informational System. A multiyear system build. Vermont is behind in tracking child demographic data. If a law enforcement officer does not identify the race of a youth at the starting point that proceeds down the line as an N/A, which is problematic. Data is valuable when it's consistent.

Erin: Regarding diversion and pretrial services; there was a Crime Research Group report about disparate access to diversion and pretrial services. People of color are referred less often than white participants. The diversion program is working on its data collection. Having the data is important but the other part of this is in the decision making by prosecutors, who's going where. Making sure that we are tracking who has access to alternative programs, and who doesn't. Connecting that to Vermont's Juvenile Justice State advisory group funded the Burlington Community Justice Center to do statewide training on the benefits of precharge restorative justice programming for youth. How we design those alternative programs from the get-go.

Tyler: That State advisory group hasn't met yet. As they begin to meet, he will ask that group if that's something he can share back to this Panel.

30 minutes

Etan: Reiterates what Rebecca said. Based on a study about black and brown youths charged as adults were more likely to die of a gunshot. It shows the resonances of those high discretionary and high impact moments have even further impacts.

Rebecca: Is getting a request to share the Crime Research Group study that she referred to earlier.

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Christopher: Is in the process of sharing the Crime Research Group reports.

Erin: Will add the reports to the Panel's SharePoint folder.

Rebecca: We've done data on this Panel, wants to see the next step. How is discretion exercised? Wants to see the Panel go to the next level.

Tyler: Could be value in mapping where discretionary points are. The higher the impact is, the more it compounds. It would be good to see if it's an even increase, or if there is a particular point where the disparity emerges. That could bring focus to what work needs to be done from an intervention standpoint to minimize that entire curve.

Xusana: Looking at these discretionary points can reveal what systems are at play. That's when you start to see non-criminal justice systems. May need to look beyond the criminal and juvenile justice system to find racial disparities. Topics like housing insecurity, food insecurity, educational disparities, discipline in schools, are some of the decision points that feed into what we're exploring.

Rebecca: Talking about charting out the various discretionary decision points in the delinquency system. People on this panel for a long time will remember we mapped this out.

Etan: We did do that, it was at the Law school, and Jessica wrote it on the black board. Xusana remembers it too.

Jessica: That was a long time ago.

Xusana: It was around August or September of 2019.

Rebecca: May have notes from that meeting. Appreciates Xusana's point that we know what we did not do. It was the point of initial contact, and Shela pointed out that it was school systems. Thinking beyond law enforcement for initial contact. Who is reporting the kids to law enforcement?

Etan: Remembers this because Shela was talking about guidance counselors.

Shela: Brought this up at the last meeting, mandated reporting. Is curious about the entire conglomerate of mandated reporters, people running organizations that are housing youth, to the counselors. There's overreporting that disproportionately affects youth of color. Also, has a reaction to the scrubbing of cases referred to earlier with children in need of service. Isn't trying to create equalness, is trying to create equity. We can't deny their culture or race even when others would. Proceed accordingly based on who they are. For this panel to actively suggest to participate in it is something completely different.

Rebecca: What they're focused on removing from a defender's perspective.

45 minutes

Has seen police affidavits loaded with racial language. Activities get criminalized. Some prosecutors' offices around the country are trying to do some self-reflection internally to address those biases.

Mary: What did you do after finding the decision points? It may be worth doing it again.

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Etan: It morphed into high discretionary and high impact points being put out to the legislature.

Mary: Did anyone follow up on those points?

Etan: Not likely.

Tiffany: Would like to see the mapping of those discretionary points. It could lend to understanding it better and where to target efforts. Has the potential for analyses looking at which one of those decision points has a stronger impact.

Mark: Focus on high impact high discretion decision points. We want significant data.

Wichie: Who gets to say where those impacts are? How were those decided?

Rebecca: Dig up the history of discretionary decision points at next meeting, or for next meeting. Recalls trying to prioritize where they should focus their efforts. Focused a lot on the beginning, the initial contact with law enforcement.

Etan: We picked the top 5 discretionary decision points, relying on personal experience.

Shela: It's been 5+ years of bringing up the same thing. Appreciates that we are talking about it now.

Rebecca: We are just getting started. We haven't even got to charging and pretrial yet.

Elise: Her organization, KidSafe Collaborative, produced the current mandated reporter training. The Department for Children and Families may be creating a new one. Use data before new training is designed.

Shela: Will it be new curriculum? Or somebody new who leads it? Or both?

Elise: KidSafe Collaborative isn't going to be part of the creation process this time around. Mostly it is going to be the Department for Children and Families.

1 hour

Shela: Would like to know more.

Tyler: The Department for Children and Families is responsible for a lot. Will find out more about mandated reporter training redesign for next month.

Erin: It will be illuminating to have this information shared next month. When we identify those decision-making points that we might want to try to do something about, how can we do that? Who has the authority to decide? Who has the authority to limit the discretion? We can't assume that the best approach will be the legislature. The legislature may not have constitutional authority to tell prosecutors what to do. That's another layer we'll have to think about once we identify those decision-making points.

Shela: I want to know everything there is to know. Those high discretion points can be the start of the focus. What type of training? What type of policies? What type of change avenues do we have? Maybe we can get someone on the call to answer these questions.

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Tyler: Vermont is unique in that juvenile justice is managed in the same agency that child welfare is managed in. When talking about mandated reporting we're talking about cases that have been opened for the purposes of child welfare. Mandated reporting is a discretionary point. All mandated reports are addressed by the Department for Children and Families in a uniform way.

Shela: Are you referring to people who are actual registered mandated reporters versus somebody who's just making a mandated report?

Tyler: A report can come through by anybody if there's concern of abuse or neglect. Mandated reporters are certain people that if they see something they are required to report it.

Shela: Whether someone is a mandated reporter legally or not, it's about the outcome of the report. When we're talking about disproportionately youth of color entering the system, what happens to them after?

Wichie: Duality of reporting, it can be good to know that information, but it increases labor costs and bureaucracy.

Erin: Identify high impact critical decision-making points, then what our recommendations are that could affect those in a positive way. It's complicated who has the authority to decide.

Wichie: We are technically a legislative advisory group, so we are advising the legislature. Can we still make recommendations to other branches?

Etan: I don't see why not.

Wichie: Things don't happen in silos. Things that are out of our scope will be within someone else's.

Etan: We must talk about housing, and other parameters. It's about the criminal justice system. We were struggling to find information from schools. It was a relief that our purview is just the criminal justice system.

1 hour 15 minutes

Mark: We're further along than we've ever been. The juvenile justice system is very messy. The criminal justice system is not linear, the juvenile justice system is less linear.

Wichie: Whenever he has something messy, he goes back to start. If it wasn't messy, what would we want it to look like? What do we envision?

Etan: This conversation was initially to give Tyler enough to work on. Has that been accomplished?

Tyler: We are considering the Department for Children and Families as a whole. He sees two sides. Juvenile justice and child welfare. In juvenile justice it's a little easier to agree on a common truth that we want to see less youth involved in juvenile justice. With the Department for Children and Families it's different because it's a huge range between preventative services to families reaching out for support services.

Etan: Regarding this discussion, what should go on the agenda for the next meeting?

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Tyler: Dust off the discretionary points table that was created.

Rebecca: Juvenile justice subcommittee needs to meet before next month's meeting.

Erin: What is the mission of the office of the child youth and family advocate? Do they have a charge to be thinking about disparities in the child welfare system? Wouldn't want to duplicate efforts.

Etan: We don't need the data to know that something's not working here. Next is the update on the few bills we're involved in.

Erin: S.4 and S.14. S.14 an act relating to a report on criminal justice related investments and trends.

Etan did testify on that bill when it was in the senate judiciary.

1 hour 30 minutes

Justice reinvestment funds from Department of Corrections savings. Started out as a small bill and evolved into a much bigger bill. The first part is what the senate passed out. Crime Research Group must look at the entirety of the system. How are we spending our money and is it working? Lots of data analysis and reporting. The second part is from the house. Concerns about who gets the \$900,000. S.14 has passed the senate and the house, but the senate hasn't accepted the amendments from the house yet.

Derek: That \$900,000 isn't going to be a perennial investment. Variable amount from year to year.

Erin: Maybe there needs to be an independent agency. S.4 we discussed last month. An act relating to reducing crimes of violence associated with juveniles and dangerous weapons. Some Panel members provided testimony. Changed the tide on S.4. S.4 no longer adds offenses to the Big 12. This bill has not passed the house and the senate.

Rebecca: Congratulations to the Panel for creating that change.

Erin: What will the senate think of the changes now?

Tyler: Kudos to the Panel for providing feedback.

Jennifer: Should burglary of an occupied dwelling remain a part of the Big 12? Neither the house nor the senate reached out to the panel for S.4.

Etan: Conversations with the house and senate judiciary have begun. Would like the subcommittees to draft paragraphs, because we need to start thinking about a written report.

Mark: Credible messengers next month. Supporting impacted youth.

Etan: Next meeting is 13th of June.

Shela: Move to adjourn the meeting.

Tyler: Seconded.

Motion passed.