

**LAW ENFORCEMENT MANAGEMENT  
WORK GROUP**

**RECOMMENDATIONS FOR  
RECRUITMENT AND RETENTION**

- ❖ Where we are:
  - ❖ Completed discussion regarding Recruitment and Retention
  - ❖ Finalizing recommendations for the full Task Force
  
- ❖ Where we are going:
  - ❖ 9/10 Meeting – Substantive discussion regarding Training
  - ❖ 9/17 Meeting – Substantive discussion regarding Accountability and Culture (Part I)
  - ❖ 10/1 Meeting – Substantive discussion regarding Accountability and Culture (Part II)
  - ❖ 10/22 Meeting – discuss initial recommendations for all AOR
  - ❖ 11/12 Meeting – finalize language for all recommendations

Initial Draft Recommendations  
for  
Recruitment and Retention

I. Recommend a “Best Practices in Recruitment and Retention” document specific to North Carolina to include **at least** the following ideas:

A. Make recommendations that are tailored to ensure they can be implemented by agencies big and small.

i. Consider state-wide programs to assist smaller agencies in recruiting

B. Agencies should conduct a job task analysis for their agency and develop standardized knowledge, skills, and abilities for the job.

i. Consider the following traits for validation in this process:

- Integrity
- Human diversity skills
- Service orientation
- Team compatibility
- Oral communication skill
- Written communication skill
- Motivation
- Decision-making
- Human relations skill
- Self-control
- Planning and Organizing skill
- Performance driven

I. Recommend a “Best Practices in Recruitment and Retention” document specific to North Carolina to include **at least** the following ideas (continued):

C. Agencies should seek to hire individuals with strong emotional intelligence.

i. Focus on these four domains:

- Self-awareness
- Self-management
- Social awareness
- Relationship management

I. Recommend a “Best Practices in Recruitment and Retention” document specific to North Carolina to include **at least** the following ideas (continued):

D. Agencies should carefully consider who is doing the recruiting.

- i. Ensure adequate training for the recruiters, those conducting hiring panels, and those conducting background checks.
  - a. Work with Justice Academy to create training
  - b. Work with Standards Commissions to determine whether it would be appropriate to include these training requirements in the North Carolina Administrative Code
  - c. Consider making this training a requirement for state accreditation
- ii. Consider whether agencies should designate specific personnel for tasks related to hiring.
  - a. Ensure that these people are representative of the community that they serve so that they will recruit a diverse group of officers/deputies.
- iii. Ensure that hiring practices require the following, **at a minimum**:
  - a. Comprehensive personal history statement (Different than Commissions? Specific to agency?)
  - b. Psychological exam
    - i. 2-part: in person interview and testing
    - ii. Ensure that both Commissions make this part of their code provisions
    - iii. Consider whether we want to repeat this periodically (3 years? 5 years? Before promotion?)

- I. Recommend a “Best Practices in Recruitment and Retention” document specific to North Carolina to include **at least** the following ideas (continued):
  - E. Reduce barriers to entry by re-considering minor criminal pasts and minor past drug usage
  - F. Agencies should seek to establish “grow your own” programs for recruiting
    - i. Examples include Police Explorers program, FBI Honors program
  - G. Agencies should conduct targeted recruiting
    - i. Don’t just set up a booth at a job fair, go to professionals at high schools and colleges and ask for people with specific types of qualities
  - H. Consider adopting the CALEA standard for diversity in recruiting specifically for North Carolina
  - I. Agencies should implement an early warning system to identify problem officers and work towards remedies
  - J. Agencies should prioritize having a diverse command staff

## II. Recommend expansion of the CJ Fellows program to all 100 counties.

- A. Support budget to ensure that all counties are covered and administrative expenses are addressed

## III. Recommend collection of certain data to ensure that we are prioritizing diverse recruitment

### A. Collected by the Commissions

- i. Demographic data of those entering BLET
- ii. Demographic data of those graduating BLET

### B. Collected by agencies

- i. Demographic data of all employees



IV. Recommend that the Criminal Justice Education and Training Standards Commission and the Sheriffs' Standards Commission work together to ensure consistency between the two codes.

- A. Particularly the minimum standards for justice officers (12 NCAC 09B .0101 and 12 NCAC 10B .0301) and code provisions related to training and data collection requirements.
- B. Consider revising to prevent barriers to entry such as minor past drug use

V. Recommend support for creation of state accreditation program already underway by the Standards Commissions.

- A. Recommend funding for administrator and technology and administrative needs

## Working Group 2 Progress Report

Working Group 2 is examining policing policy and practices. The Group has been assigned six specific topics:

1. Use of force
2. Investigations
3. Community policing
4. Pre-arrest diversion and other alternatives to arrest
5. Appropriate use of school resource officers (SROs)
6. Reimagining public safety, reinvesting in communities

The Group has met three times. The first meeting was an opportunity for members to identify their top passions and priorities, and included a generative discussion of reimagining public safety. The second meeting addressed two topics: (a) the use of force, and (b) law enforcement's role in addressing mental illness, substance abuse, and homelessness. The third meeting was a deep dive into the role of school resource officers. The meetings have featured five excellent speakers and have provided members the opportunity for discussion.

The Group has not formally voted on any specific recommendations. However, based on members' comments during meetings and responses to a survey of the Group, several proposals have strong initial support and appear to be likely directions for the Group. Among those proposals are the following:

### Use of Force

- Requiring law enforcement agencies to collect uniform data on uses of force and submit the data to a state or federal repository
- Encouraging or requiring agencies to conduct "sentinel event reviews" when deadly force is used
- Encouraging or requiring officers to issue a warning, when feasible, before using deadly force

Note there are still many issues under discussion related to use of force, including what the standards for use of force should be, for example, when people are only a danger to themselves, as well as what a sentinel event review should look like, who should conduct it, where it should be based and the like.

### Reinventing Public Safety<sup>1</sup>

- Requiring officers to have Crisis Intervention Team training
- Supporting communities that want to develop alternative strategies for addressing calls involving mental health, substance abuse, and homelessness, including co-responder models and models that do not involve law enforcement at all (e.g. CAHOOTS and STAR)

---

<sup>1</sup> Note that this is a very broad topic area. The Group has only looked at one portion of the topic so far, i.e., law enforcement's role in responding to mental health, substance abuse, and homelessness. The Group will examine other facets of this topic area in future meetings.

### School Resource Officers

- Support the continued development of/mandate for School Justice Partnerships
- Collect and publish online uniform data on school discipline and school-based juvenile court referrals, including information about SRO involvement and information by age, race, and school (within the confines of confidentiality requirements)
- Enhance training for SROs, generally in line with recommendations expected to be forthcoming from the Task Force on School Safety
- Enhance training for school personnel about the proper role of SROs
- Support efforts to address behavior issues before they rise to the level of SRO involvement, including by adding school counselors, social workers, and/or psychologists

Likewise, there are still issues under discussion within our working group related to the role of SROs within schools, racial equity training for school staff, and better processes to reduce the school to prison pipeline, such as progressive discipline before juvenile court referrals, which is also an issue that Working Group #3 is considering.

As noted above, these are tentative possible directions for the Group. The Group welcomes feedback from the Task Force about these ideas. Going forward, the Group will refine its recommendations in these areas and will explore the remaining topic areas that have been assigned to the Group.

## Task Force Recommendation on Updating AOC Tally Report with Racial Data

- 1. Problem Statement:** The Administrative Office of the Courts (AOC) publishes an annual “Tally” report, which lists all criminal and infraction charges across the state by offense code. However, these reports do not include demographic or racial data. The lack of racial data in these reports does not allow for stakeholders and the public to understand and study the role of race in the criminal justice system.
- 2. Value-Oriented Future State:** Transparent criminal justice system with readily available data on race to drive evidenced-based decision making.
- 3. Solution:** Request the Administrative Office of the Courts to update the 2019 Tally Report with racial data and to provide that information in subsequent Tally reports.
- 4. Issue Area:** Court-Based Interventions to End Discriminatory Criminalization, criminal trials.
- 5. Implementation Strategy:** Change in AOC policy and allocation of AOC staff time to implement.

## Task Force Recommendation on Mandatory, Robust Racial Equity Training

- 1. Problem Statement:** Racialized outcomes in the criminal justice system, lack of awareness amongst court actors of their own biases and the role of systemic racism in yielding disparate outcomes.
- 1. Value-Oriented Future State:** Criminal justice system free from racially disparate outcomes.
- 2. Solution:** The Task Force recommends that all court personnel be required to undergo continuing, robust racial equity as a matter of state employment. Training topics should include structural racism, implicit bias, and cultural awareness. Training programs should allow for periodic updates or refreshers.

Personnel to include:

- Judges, including appellate judges
  - Public defenders
  - District Attorneys
  - Juvenile justice system staff
  - Court staff including clerks and magistrates
  - Probation Officers
- 4. Issue Area:** Court-Based Interventions to End Discriminatory Criminalization, criminal trials
  - 5. Implementation Strategy:** Add as a requirement for state employment in court system. Allocate funding to develop and scale effective training programs.

## For discussion

1. Recommend that the Conference of District Attorneys follow all ABA standards in the prosecution of criminal offenses and develop mandatory training using principles contained in the State of Washington's comprehensive rule RCW 13.40.077.
2. All persons held in jail on misdemeanor charges, after the initial appearance, shall have a first appearance before a district court judge within 48 hours or at the next scheduled session of district court. The required misdemeanor first appearance must be scheduled at a time that allows for counsel to meet with clients and to receive and review individuals' criminal history prior to the proceeding.
3. All persons who remain in custody after the initial appearance shall be represented by counsel at the first appearance. This representation shall be provided at the state's expense unless the person opts for representation by privately retained counsel. Arrangements must be made for counsel to meet with clients prior to the first appearance and the District Attorney's office must provide counsel with individuals' criminal history record in advance of the first appearance.
4. Legislation providing a sunset provision for all local ordinance crimes and establishing strict guidelines limiting the ability of local governments to create new ordinance crimes, particularly those that criminalize poverty and homelessness.
5. Direct law enforcement to issue citations in lieu of arrest whenever possible for highest-charged misdemeanor incidents.
6. Encourage law enforcement and prosecutors to use diversion practices in lieu of criminal charges whenever possible. Diversion programs should be of no cost to those who are indigent.

7. Study and make recommendation regarding reclassifying class three misdemeanors and misdemeanor traffic offenses that do not adversely impact safety as non-criminal infractions. (Examples are: expired registration, window tinting, no liability insurance, first time NOL, non-DWI DWLR.) The Task Force will consider staff research on overcriminalization as it develops this recommendation.

*Solutions for Discussion:*

1. Racial Equity in Juries
2. Increase Funding for Governor's Clemency Office



# RACIAL EQUITY IN JURIES

## Problem Statement

Exclusion and underrepresentation of African Americans specifically, and communities of color more generally, dates back to the shameful history of enslavement and the response to Reconstruction. Continuing covert practices designed to underrepresent or exclude “people of color from juries has seriously undermined the credibility and reliability of the criminal justice system, and there is an urgent need to eliminate this practice.” [\*Illegal Racial Discrimination in Jury Selection\*](#) (*Equal Justice Initiative, 2010*) The US Supreme Court held in 1880 that the Equal Protection Clause prohibits race-based exclusion from jury service. Yet, this prohibition was not enforced, and even today, enforcement remains elusive. ([\*MSU Study\*](#), [\*WFU Jury Sunshine Project\*](#), [\*Pollitt and Warren, Thirty Years of Disappointment, Kotch & Mosteller\*](#))

When the jury formation process is perceived as unfair, it undermines the democratic check on state's power and the defendant's right to a fair trial, resulting in a loss of public trust in the prosecutorial function that may chill the future participation of marginalized groups.

# RACIAL EQUITY IN JURIES

## **Value-Oriented Future State**

Diverse juries that reflect the community ensure every sector of society participates in the administration of criminal justice. Implementation of recommendations will ensure jury pools reflect their communities, strengthen the Batson standard, prevent bias from influencing jury decision-making, and collect juror data to monitor racial disparities in North Carolina's jury system.

*Working Group #4*

## RACIAL EQUITY IN JURIES – Overarching Recommendations

**RECOMMENDATION #1 - Fair Cross Section Guarantee**

**RECOMMENDATION #2 - Reviving Batson's Promise**

**RECOMMENDATION #3 - Addressing Juror Bias**

**RECOMMENDATION #4 - Better Jury Data**

# RACIAL EQUITY IN JURIES – #1 Fair Cross Section Guarantee

## **RECOMMENDATION #1 - Fair Cross Section Guarantee**

### **RECOMMENDATION #1.1 - Expand jury pool sources**

- Amend N.C.G.S. 9.2 to require use of sources other than licensed drivers and/or registered voters for jury pools, including those holding state identification cards, receiving public assistance, applying for unemployment, newly naturalized citizens, and/or income tax filers.
- Encourage county jury commissions to use sources other than licensed drivers and/or registered voters for jury pools, including those holding state identification cards, receiving public assistance, applying for unemployment, telephone directories, utility customer lists, newly naturalized citizens, and income tax filers.

# RACIAL EQUITY IN JURIES – #1 Fair Cross Section Guarantee

## **RECOMMENDATION #1 - Fair Cross Section Guarantee**

**RECOMMENDATION #1.2** - Update jury pool lists more frequently and correct addresses to reduce undeliverable summonses

- Amend N.C.G.S. § 9-2(b) require master jury pool lists be prepared at least annually, rather than every two years.
- Encourage county jury commissions to prepare master jury pool lists at least annually, rather than every two years.
- Encourage senior regular resident superior court judges to request master jury pool lists be prepared annually, rather than every two years, as granted the authority under N.C.G.S. § 9-2(a)

# RACIAL EQUITY IN JURIES – #1 Fair Cross Section Guarantee

## **RECOMMENDATION #1 - Fair Cross Section Guarantee**

**RECOMMENDATION #1.3** - Include race data on jury lists to monitor compliance with Fair Cross Section guarantee

- Amend N.C.G.S. 20-43.4(b) to require that the list provided to county jury commissions by the DMV Commissioner include race data

# RACIAL EQUITY IN JURIES – #1 Fair Cross Section Guarantee

## **RECOMMENDATION #1 - Fair Cross Section Guarantee**

**RECOMMENDATION #1.4** - Ensure transparency at every stage of the juror formation process – including those in which a private software company is involved

- Amend N.C.G.S. § 9-2(k) to explicitly require that counties utilizing softwares to maintain jury lists have immediate access to raw data regarding list maintenance for analysis by clerks of court, jury commissions and the public
- Amend N.C.G.S. 20-43.4(c) to require that, with the exception of personal-identifying information, jury list be a public record

*Working Group #4*

# RACIAL EQUITY IN JURIES – #1 Fair Cross Section Guarantee

## DISCUSSION



## RACIAL EQUITY IN JURIES – #2 Reviving Batson's Promise

### **RECOMMENDATION #2 - Reviving Batson's Promise**

**RECOMMENDATION #2.1** - Expand Batson's protection by focusing on outcomes over intent, similar to [WA General Rule 37](#), by: adopting objective observer standard, abolishing prima facie case, disallowing strikes where race could be a factor, Reconsidering Commonly Accepted "Race Neutral" Justifications, see also [CA AB3070](#), Disallowing Demeanor-Based Strikes

- NC Supreme Court enact general rule regarding jury selection similar to Washington State

## RACIAL EQUITY IN JURIES – #2 Reviving Batson's Promise

### **RECOMMENDATION #2 - Reviving Batson's Promise**

**RECOMMENDATION #2.2** - Enable more effective appellate review of Batson challenges by requiring consistent self-identification of race and gender and complete recordation of jury selection

- NC Supreme Court rule requiring self-identification of race during jury voir dire and complete recordation of jury selection

## RACIAL EQUITY IN JURIES – #2 Reviving Batson's Promise

### **RECOMMENDATION #2 - Reviving Batson's Promise**

**RECOMMENDATION #2.3** - Mandatory racial equity and implicit bias training and use of implicit bias desk cards for prosecutors and defense attorneys

- State Bar rule requiring mandatory 1.0 CLE every 3 years for practicing attorneys re: implicit bias

*Working Group #4*

RACIAL EQUITY IN JURIES – #2 Reviving Batson's Promise

# DISCUSSION

# RACIAL EQUITY IN JURIES – #3 Addressing Juror Bias

## **RECOMMENDATION #3 - Addressing Juror Bias**

**RECOMMENDATION #3.1** - Juror Education and Instruction on Implicit Bias by using jury videos, pattern jury instructions, and a juror pledge

- Encourage clerks of court to show jury video re: implicit bias
- Publish Pattern Jury Instructions re: implicit bias
- Encourage use of Juror Pledge

# RACIAL EQUITY IN JURIES – #3 Addressing Juror Bias

## **RECOMMENDATION #3 - Addressing Juror Bias**

### **RECOMMENDATION #3.2 - Legal education on exploring bias during voir dire**

- State Bar rule requiring mandatory 1.0 CLE every 3 years for practicing attorneys re: implicit bias

## RACIAL EQUITY IN JURIES – #3 Addressing Juror Bias

### **RECOMMENDATION #3 - Addressing Juror Bias**

**RECOMMENDATION #3.3** - Legal and judicial education on proper and improper references to race at trial

- State Bar rule requiring mandatory 1.0 CLE every 3 years for practicing attorneys re: implicit bias

*Working Group #4*

## RACIAL EQUITY IN JURIES – #3 Addressing Juror Bias

# DISCUSSION



## RACIAL EQUITY IN JURIES – #4 Better Jury Data

### **RECOMMENDATION #4 - Better Jury Data**

**RECOMMENDATION #4.1** – Develop mandatory and transparent jury data collection effort regarding people receiving summons, reporting for jury duty, excused or deferred, challenged for cause, peremptorily struck, and seated on a jury

Enact statute mandating collection of jury data to be available as public record, with the exception of personal identifying information

*Working Group #4*

## RACIAL EQUITY IN JURIES – #4 Better Jury Data

### **RECOMMENDATION #4 - Better Jury Data**

**RECOMMENDATION #4.2** – Establish a state commission on the jury system, with an eye towards comprehensive reforms. The body would look at issues of: data collection; jury list formation and removals; race, bias, and equity; peremptory strikes; and accessibility of juror pool software

*Working Group #4*

RACIAL EQUITY IN JURIES – #3 Addressing Juror Bias

# DISCUSSION

# INCREASE FUNDING FOR GOVERNOR'S CLEMENCY OFFICE

## **Problem Statement**

The growth of prisons and the expansion of the criminal code and police agencies are all direct legacies of the shameful period of enslavement and the response to Reconstruction. So too, are today's prison population and the extraordinary number of citizens with disabling criminal convictions and continuing obligations to probation or parole supervision. Most immediately, there is a need to respond to the coronavirus pandemic's disproportionate effect on communities of color, particularly as it relates to people in prison because they live in the most congregate environments, where every aspect of their living conditions is controlled. Despite making up only 37.4% of the statewide population, people of color make up 59.7% of the current prison population.<sup>[1](#)</sup> If prison populations are threatened, people of color are threatened.

Likewise, OPUS data shows the class of parole-eligible individuals who were convicted and sentenced to "life" in the 1970s and 1980s is disproportionately Black. "Life with parole" was repealed in 1994, however, of the people serving life with parole sentences who were charged as children, a startling 79% are people of color.<sup>[2](#)</sup>

# INCREASE FUNDING FOR GOVERNOR'S CLEMENCY OFFICE

## **Value-Oriented Future State**

The demographics of the state's incarcerated population should be representative of the demographics of the community. People who are currently incarcerated have a meaningful opportunity for an individual review of their sentence to determine if they would be eligible for parole.

# INCREASE FUNDING FOR GOVERNOR'S CLEMENCY OFFICE

## **Recommendation #1**

Immediately add personnel to revamp the operations of the Governor's Clemency Office to work with DPS and the Parole Commission in order to give emergency attention to applications for clemency and commutation in two areas:

1. incarcerated persons at high risk of COVID-19 complications, including pregnant women, and
2. parole-eligible incarcerated persons who would have been released years ago if they had been sentenced under the Structured Sentencing Act.

*Working Group #4*

# INCREASE FUNDING FOR GOVERNOR'S CLEMENCY OFFICE

## **Recommendation #2**

Implement a rebuttable presumption of immediate release for parole-eligible incarcerated persons who would have been released had they been prosecuted under Structured Sentencing.

*Working Group #4*

# INCREASE FUNDING FOR GOVERNOR'S CLEMENCY OFFICE

## DISCUSSION