Task Force Meeting 10/9/20 Minutes

Date: 9 October 2020

Time: 10:00 AM EST

A video recording of this meeting may be found on the NCAGO YouTube channel.

A meeting of the North Carolina Task Force for Racial Equity in Criminal Justice convened at 10:00 am on 9 October 2020. The meeting was opened by Co-Chair Anita Earls. Present during the meeting were:

**Co-Chairs:**

Anita S. Earls

Josh Stein

**Task Force Members:**

Alan Thornburg

Angelica R. Wind

Billy Gartin

Brooke Locklear Clark

Cerelyn J. Davis

Deborah Dicks-Maxwell

Erik A. Hooks

Henderson Hill

James Clemmons

James D. Gailliard

James Raeford Woodall, Jr.

John W. Letteney

Kerwin Pittman

Marcia H. Morey

Mary Sheehan Pollard

Michael Hawkins

Mitch Colvin

Mujtaba A. Mohammed

Ronnie Smith

Talley Wells

Tarrah Callahan

John Ingram

**Facilitators:**

Karen Dyer

Michael Robinson

**Staff Members:**

Amalia (Mercedes) Restucha-Klem

Ellen Spolar

Greg Sabin

Jasmine McGhee

Leslie Cooley Dismukes-Dismukes

Malia Benison

Natalia Botella

Welcome

Co-Chair Earls opens by thanking the working group members for their work. Earls also acknowledges the commentary, recommendations, and stories shared by public. She encourages the public to participate in the upcoming public hearing scheduled for October 16.

At today’s meeting, members will be voting on a number of recommendations via Zoom’s polling feature. These will then be posted online for the public to review and submit any feedback as desired.

Co-Chair Stein greets the working groups and thanks them for the work they have done thus far on the recommendations.

Approval of Minutes

Earls informs task force of one amendment which states Ingram was absent at last meeting with advance notice due to family illness. Motioned and seconded, with full approval by TREC.

Working Group 1

Colvin begins discussing the progress report of Working Group 1. The Working Group has completed recommendations for (1) recruitment and retention and (2) training. Colvin then addressed a list of other topics that the Working Group will be discussing.

Colvin reviews the proposed recommendations for presentation.

*Previews Recruitment and Retention recommendations*

Rec 1: “Best practices” document

Rec 2: Amend NC Gen Stat §17C-20(5) to make every county eligible for CJ Fellows Program with adequate funding

Rec 3: Collect demographic data for those entering BLET

Rec 4: Coordinate with two Commissions to ensure consistency with TREC recommendations and other codes

Rec 5: Support NCLEA

Rec 6: Create diversity task force in agencies with more than 25 employees.

*Previews Training recommendations*

Recommendation 1: TREC continue relation with Justice Academy

Recommendation 2: TREC work with Joint In-Service Training Committee

Rec 3: All agencies to ensure culture prioritizes emotional intelligence and mental health

Rec 4: Study physical and mental wellness of officers

Rec 5: Training programs to guard against unintended outcomes

Cooley Dismukes, substantive staff lead, addresses in detail the concerns and feedback received by TREC members. Cooley Dismukes notes that overall all the recommendations received overwhelming support.

Recruitment and Retention recommendations received feedback in a number of areas:

* Rec. 1 is amended to include consideration of officers unable to live in the communities in which they serve.
* Feedback on rec. 2 included statements that such data has already been collected. Working Group confirms that this is not the case. It is not mandatory and data gathering is largely inconsistent. No amendments were therefore made.
* Rec. 4 feedback included thoughts that this is the Commission’s jurisdiction, not TREC’s.
* Rec. 5 feedback included concerns about the feasibility of mandatory requirements for departments which all vary in size and thus resources.
* Rec. 6 feedback states a diversity task force is not well defined or needed. Cooley Dismukes notes that the implementation strategy outlines how it assess such areas of concern and also explicitly defines the task force.

Training recommendations received feedback in a number of areas:.

* Rec. 3 feedback included difficulties in measuring culture. Cooley Dismukes references the implementation strategies as defined.
* Rec. 4 feedback asks who will under take such a study. Cooley Dismukes again references the implementation strategies which defines this.
* Rec. 5 feedback included a need for specificity on funding matters. Cooley Dismukes again references the implementation strategies which defines this.

Karen Dyer, facilitator, opens the floor to discussion of the aforementioned recommendations.

Henderson Hill thanks Working Group 1 for their work. Hill speaks to the Black community’s concern of police department’s “warrior mentality.” Hill states that there is value in explicitly naming this concern and the overmilitarized approach to community. Hill recommends the language in training recommendations to be more explicit in naming this goal because it is otherwise very vague.

Colvin speaks to some of Hill’s concerns. There was more explicit language in the recommendation previously, but due to disagreements and other discussions, that language was removed. Colvin encourages Ingram or Davis to speak on this.

Davis states that she believes the “warrior mentality” or militarization language is not useful. Davis feels as though we should not focus too much on the actual language of the recommendation rather than what it actually produces in quality. Davis suggests that we should remove the word “warrior” entirely from the conversations and recommendations. Believes there is misunderstanding as to what the terminology means and does not feel necessary to address it within the recommendation.

Ingram agrees with Davis. Ingram believes that the “warrior” mindset is taken out of context regardless of what the term means to communities of color who state otherwise. Ingram thinks the term means to be a protector. Ingram then states that he feels the recommendation as it stands is the appropriate approach. Ingram feels as though there is a demonization of the term “warrior” and that we should focus on “guardian” mentalities.

Colvin states that the Working Group felt as though stating “servant” or “guardian” was a more positive focus than stating “warrior.”

Hill responds by first noting that he fully appreciates the complex nature of an officer’s duties, particularly as it relates to training, protecting, and both engaging and disengaging. Hill’s concern remains: if we don’t explicitly name the good and the bad, we will see what we've seen before in that there will be even more emphasis on the negative. Hill finds that the “warrior” mentality cuts both ways and for the black community, it is largely negative and this is something the recommendation should explicitly acknowledge.

Kerwin Pittman asks who in particular will be conducting research on studying officer’s mental and physical wellbeing pursuant to rec. 4 under *training*. Further, Pittman asks who will be making resulting recommendations for officers who are found as a result of the study to have mental or physical concerns?

Colvin responds by stating the Working Group did not get into the weeds on whether the police departments themselves would be responsible for this, or if an outside source would conduct it. Working Group wanted to hear from TREC members on how to expand this portion of the recommendation.

Cooley Dismukes states that outside agencies, and other folks who are trained to understand such physical and mental health studies, should be one of the considerations on persons responsible for conducting and addressing this issue area.

Karen Dyer asks if the Working Group feels as though the recommendations haven’t gone far enough.

Hill states they have done very well, but could have gone somewhat further. Concludes by stating he hopes these recommendations encompass all departments, perspectives, etc. In his own view, this would look like including more explicit language.

Tarrah Callahan mentions that there is a need for the agency to control the use of force culture. There should be reality-based trainings for very stressful situations so that officers learn the importance and practice of deescalating.

Discussion concludes. Earls gives the members procedural instructions for voting. Letteney requests continue discussion. Earls discontinues polling momentarily.

Letteney mentions that the diversity task force recommendation (rec. 6 of *recruitment and retention*) should be placed with the accreditation program. He does not feel that it rises to the level of legislation.

Earls clarifies if Letteney is recommending an amendment or removal/transfer?

Letteney states he feels this recommendation should be removed to a different area that is not included as legislation.

Colvin asks for input from Working Group members.

Davis states it could work within the accreditation program but also can work here as legislation.

Stein agrees that it should be presented as a recommendation for agencies and not as a recommendation for legislation.

Ingram agrees that it should not be legislation.

Erik Hooks reiterates to the members that this is but a recommendation to move forward with legislation, not legislation itself.

Hill states that although it fits into the accreditation program, it is problematic to remove it as a recommendation for legislation. The point of this task force is to change our laws so that they reflect our commitment to community and diversity. Serious objection to removing it as a legislative recommendation.

Colvin and Gartin agree with Hill.

Gartin would like to know what is the concern of making legislation out of a diversity task force?

Letteney states that there is a better chance to accomplish the goals if done by agencies themselves exclusively. Letteney’s reason is that department sizes vary.

Colvin states that there isn’t an issue of implementing legislation and agency requirement.

Letteney feels as though this creates duplicity, which is under the assumption that the recommendation is made as legislation.

Dicks-Maxwell states the recommendation needs to remain as a recommendation to legislation and not just as an agency.

Earls reopens the poll after concluding discussion and TREC approves all recommendations presented.

Working Group 2

Secretary Hooks begins the presentation for Working Group 2’s recommendations. Hooks covers all the topics completed by Working Group 2 including, use of force (partial), school resource officers, pre-arrest diversion, and reinventing public safety/reinvesting in communities (partial). Hooks then outlines all upcoming topics and meetings to address all other issue areas.

*Previews Use of Force recommendations*

Rec. 1: data collection on use of force

Rec. 2: “suicide by cop”, amendments to Gen Stat 15A-401(d)(2) to prohibit use of force against mentally unstable persons with threat only to themselves.

Rec. 3: agencies to require alerts before use of weapon/pointing of weapon

Rec. 4: ban hog-tying subjects

Rec. 5: all officers to have first aid kits and required to contact EMS and/or to render medical assistance to anyone who complains of injury

Rec. 6: early intervention system to officers identified as using excessive force

*Previews SROs recommendations*

Rec. 1: trainings for schools and SROs to cover the proper roles of each employee

Rec. 2: data collection of exclusionary discipline in schools and school-based referrals to juvenile courts. Data should cover by school, by district, and by inclusive demographics

Rec. 3: alternatives for addressing behavioral health – devote greater resources to nurses, counselors, psychologists, and social workers

Rec. 4: more SJPs with greater MOUs

Rec. 5: inclusive processes for selecting and overseeing SROs

Rec. 6: support Task Force on Safer Schools State Action Plan

Rec. 7: funding for all school personnel to complete mental health, first aid, and cultural competence/diversity/inclusion, and developmental disability training

*Previews Reimagining Public Safety recommendations*

Rec. 1: communities to adopt strategies for calling other services for mental health and disability concerns. Emphasize police are not best suited for all types of calls.

Rec. 2: crisis intervention training as part of curriculum for Basic Law Enforcement training

*Previews Prearrest Diversion recommendations*

Rec. 1: local government to establish pre-arrest diversion programs supported by funding from the state.

Michael Robinson opens the floor for discussion on the aforementioned presented recommendations.

Jeff Welty states: (1) the recommendations on the screen have been made available on the SharePoint; and (2) In the straw poll process, every recommendation passed with overwhelming support.

Pittman would like to add a provision to the “hog-tie” recommendation that extends to transporting, and when subjects are held on the ground for a substantial amount of time. In reference to the CAHOOTS and STARS programming, Pittman believes there should be an emphasis on funding for both programs.

Letteney raises a question regarding early warnings. Would like to know if the mandate of terminating officers based on complaints alone been taken out of the recommendation. Hooks responds that the language has been modified. Jeff Wetly then reads the modified language to the group.

Ingram would like to know if there has been consideration with DPI Instruction providing the training to SROs and whether it would be conducted through the Justice Academy. Sergeant Hooks responds in the affirmative to each concern. Ingram is concerned that the wording of Rec. 1 is not clear.

Hill raises two concerns. Hill states that, in his experience, when the community discusses use of force, handcuffing is a part of that definition. Hill raises the question of whether use of force should be a mandated data point, so that managers have an objective basis for their officers conduct. Hill’s second question concerns the timing aspect of transitioning away from the use of SROs in school, and at what level of education should we being to transition away from SRO officers.

Talley Wells agrees with Hill on the comments about SRO officers. Wells adds to that comment by saying that we should consider having accessible data for suspension rates compared to juvenile detention rates. This allows us to objectively see the correlation between the two and provides a foundation for assessing what each student needs with respect to school discipline.

Jasmine McGhee acknowledges that the changes proffered by Pittman have been recognized and will be an edit that will take a place after the vote.

Gartin believes that the “and or” language is in there for the subjective decision-making of police officers to call ambulance to the scene, which is what makes the language problematic. Pittman agrees with the clarification made by Gartin.

 Earls believes that we should vote on the language as it is written, and if changes are made, the Task Force can vote on the new language at a different time.

Earls opens up voting and TREC approves all recommendations presented.

Working Group 3

Representative Marcia Morey starts by stating that the mission of WG 3 is “to make meaningful systemic changes in court procedures to achieve racial equity.”

Rec. 1: Legislation providing a sunset provision for all local ordinance crimes that criminalize poverty of behavior in public places.

Feedback for the recommendation: The WG added an emergency powers exception and narrowed the scope of the provision.

Rec. 2: Encourage law enforcement to issue citations in lieu of arrest whenever possible for misdemeanors. For Class III misdemeanors and violations local ordinances , the process shall be the issuances of citations. Magistrates are encouraged to issue summons in lieu of arrest whenever possible, including for any civilian initiated change

Feedback for the recommendation: Changed language to “encourage”; Data reporting and monitoring included in evaluation section

Rec. 3: Encourage law enforcement and prosecutors to work together to create diversion programs and expand access where appropriate.

Feedback on the recommendation: Changed emphasis to underscore that diversion is not a law enforcement responsibility, and prosecutors play a central role.

Rec. 4: Juvenile Justice Recommendations

Raising the minimum age of juvenile court jurisdiction to 12 years of age; School administrator or social worker must also sign school-based petitions

Karen Dyer, Facilitator, opens up the floor for discussion

Sec. Hooks states that DPS is supportive of raising the minimum age of juvenile jurisdiction. He also raises the need to further research issue of fingerprinting when issuing citations vs arrests and implications if no fingerprints are collected.

Colvin would like some clarification on the sunset provision.

Morey responds that they want to look at all the local ordinances dealing primarily with behaviors. Jim Woodall then explains the purposes for the sunset provision is to have local governments look over the ordinances and determine which ones are relevant and needed for public safety.

Colvin responds that his concern is that if all ordinances have an “expiration date” that it would create issues in local government.

Thornburg would like to know if there was any input from league of municipalities or other stakeholders.

Earls asks if Morey would like the Task Force to hold a provisional vote on the recommendation now or wait for further consultation. Morey requests to proceed with the vote.

Earls opens up the vote for all of WG 3’s recommendation.

TREC votes to approve the recommendations

Working Group 4

Hill begins by turning over the presentation of the PowerPoint to Mercedes Restucha-Klem. Hill is also very thankful for his working group and the feedback WG 4 has received for the Task Force. Mercedes then begins by outlining the topics being discussed today, as well as the topics to working group will be discussing in the coming weeks.

*Racial Equity in Juries*

Rec. 1: Fair Cross Section Guarantee

Rec. 1.1: Expand jury list sources to ensure that more eligible individuals are included in the pool

Rec. 1.2: Update jury pool lists more frequently and correct addresses to reduce undeliverable summonses

Rec. 1.3: Include race data on jury lists

Rec. 1.4: Ensure transparency at every stage of the juror formation process

Rec. 1.5: Increase juror pay and consider childcare for jurors at the courthouse

Rec. 2: Revising Batson’s Promise

Rec. 3: Addressing Juror Bias

Rec. 3.1: Juror Education and Instruction on Implicit Bias by using jury videos, pattern jury instructions, and a juror pledge

Rec. 3.2: Legal education on exploring bias during voir dire

Rec. 3.3: Legal and judicial education on proper and improper references to race at trial

Rec. 4: Better Jury Data

Rec. 4.1: Develop mandatory and transparent jury data collection effort regarding the full process from receiving summons to being seated on a jury.

Rec. 4.2: Establish a state commission on the jury system, with an eye towards comprehensive reforms.

Michael Robinson, Facilitator, opens up the floor for discussion on these recommendations.

Sec. Hooks begins with thanking WG 4 for their thoughtful work on this subject matter. Hooks then asks for clarification about disallowing demeanor-based challenges.

Hill responds that it may be helpful to identify some of the pretextual behaviors and implicit racial biases that state representatives or lawyers use to exclude citizens of color from participating as a juror.

Pittman thanks and commends the group for their hard work on this area because it is important that the racial inequities in jury selection are addressed.

Earls opens up voting for part one of the Racial Equity in Juries Recommendations.

TREC votes to approve part one of the Racial Equity in Juries Recommendations.

Earls has to depart due to prior engagement; Stein takes over for Earls.

*Increase Funding for Governor’s Clemency Office and Parole Commission*

Rec. 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 application for clemency and commutation in two areas:

(1) Incarcerated person at high-risk of COVID 19 complications; and

(2) Parole-eligible persons who would have been released years ago if they served their minimum sentence under the Structured Sentencing Act.

Rec. 2: Add at least one additional appoint Parole Commissioner and add sufficient staff to engage in a meaningful and thorough review in each case.

Rec. 3: Require implicit bias and racial equity training for Commissioners and all staff.

Rec. 4: Implement a rebuttal presumption of immediate release for parole-eligible incarcerated persons who would have been released had they been prosecuted under Structured Sentencing.

Rec. 5: Require the Parole Commission to provide advance notice and opportunity to present evidence for parole-eligible individual’s parole hearing.

Hill notes that this recommendation is one that may have some overlap with WG 3 and 4, and that those two WGs should work together on some of the aspects of this recommendation.

Stein also makes note that the Task Force reached out to the Parole Commission for their input on this recommendation. Once that feedback is provided, it will be given consideration by the WG 4 in their revisions of this recommendation.

Stein opens up voting for the Increase *Funding for Governor’s Clemency Office and Parole Commission* Recommendations.

TREC votes to provisionally approve the Increase *Funding for Governor’s Clemency Office and Parole Commission* Recommendations.

Conclusion

Stein commends everyone and is grateful for the meeting today, considering it to be a very productive meeting. Stein adjourns the meeting, thanking everyone once again for their great work on the Task Force.

End of Meeting: 1:16 p.m. EST