

**North Carolina Task Force for Racial Equity in Criminal Justice-**

**Working Group #4**

**Meeting #5**

Date: 8 September 2020

Time: 8:05 AM EST

Chairperson: Henderson Hill

Members In Attendance: Hill, Henderson; Stein, Josh; Dyer, Karen; Pollard, Mary; Earls, Anita; Restucha-Klem; Mercedes; Cooper, Ameshia; Locklear Clark, Brooke; McGhee, Jasmine; Robinson, Michael; Hawkins, Mike; Spolar, Ellen; Thornburg, Alan; Benison, Malia

Members Not In Attendance:  
  
[Meeting Livestream Recording](https://www.youtube.com/watch?v=ka35igFBCoc)

**MEETING MINUTES**

1. **Welcome, Meeting Outcomes, & Motion to Approve 9.1 Minutes**

*Hill*: Hawkin moves to approve 9.1 minutes, Pollard seconds.

* Introduction of the presenters
* Walk through of the agenda: today’s particular focus addresses the role of ‘harm’ in the criminal justice system.

1. **Presentation: Harm, Race, and the Criminal Justice System** (*see* materials [here)](https://justice365.sharepoint.com/:b:/r/sites/TaskForceMemberSharePoint/Working%20Groups/Working%20Group%20%234/Resources/Extreme%20Sentencing/Harm,%20Race%20%26%20the%20Justice%20System-%20NC%20Taskforce%20Working%20Group%20%234.pdf?csf=1&web=1&e=arDwSr)

*Corbett*: Provides her personal background story of her experiences as a young woman with domestic violence. Touched on how the domestic violence had a domino effect on her ability to maintain jobs and later run ins with the law.

* In her late teenage years, Corbett was charged with 5-7 years for possession, 5-7 years for sale, and 5-7 years for delivery of drug trafficking for MDA. Corbett was brought into the trafficking by way of her then boyfriend. She was not even aware of the drugs she was “involved” in or charged with.
* Was sentenced to 17 years with no prior criminal background. Emphasizes the sentencing disparities she realized when her co-defendants did not receive a similar sentencing. She also realized the disparities once entering prison and meeting others with similar charges.
* Her son reached the age of 10 by the time Corbett was able to exit prison. Corbett spoke on the realities of learning to parent and grow with her son again.

*Hill*: we would like to discuss how forms of harm, similar to the experiences of Corbett, can be addressed in our work of proposals.

*James***:** emphasizes the ways in which victims and harm can be at the forefront of our recommendations.

* There needs to be more discussion on how both offender *and* victims can end up in the criminal justice system. The two are not exclusive.
* Trauma plays a large role in who enters the criminal justice system, and how they enter the criminal justice system.
  + Racial trauma: race-based stressors that effect Black people and POCs (i.e. continuously watching videos online of black people being murdered by police)
  + Historical trauma: generational trauma of historical harm such as slavery, lynching, convict leasing, destruction of peoples and land, spectacle of black death (i.e. Wilmington NC race riots)
* The larger role of “dehumanization” of black people in the criminal justice system
  + 2014 study showed that black boys were ranked as less innocent than white or Latino boys
  + Black girls are ~3 times more likely than their white counterparts to be criminalized
  + Adultification of black children and teenagers
* Support of victims who are imprisoned is often disproportionate as well
  + Studies show that federal programs to support female incarcerated victims have ~70% of their resources going towards white women.
* Extreme sentencing is largely rooted in dehumanization, and there is no consideration of addressing trauma of victims
  + Unaddressed trauma is perpetuated both in and out of the prison system
    - This lack of support evolves into anger, threats of retaliation, and a cyclical cycle
* There needs to be a holistic approach to sentencing – a *trauma-informed approach*
  + Safety
  + Trustworthiness and transparency
  + Peer support
  + Collaboration and mutuality
  + Empowerment, voice and choice
  + Cultural, historical, and gender issues

1. **Facilitated Discussion**

*Robinson*: opens the floor to discuss the presentations of both Corbett and James.

*Hawkins*: wants to know if Corbett’s case an outlier or does this happen often

*Pollard*: highlights James discussion on the adultification of black children. Corbett’s case is not an outlier, because this is a theme in sentencing of young black persons.

*Thornburg*: reiterates that there was no accountability taken into the sentencing. Speaks on mandatory sentencing for specific trafficking crimes. These in and of itself need to have greater conversation and reform.

*Hill*: we also need to discuss the discretion of law enforcement. Every other person involved in Corbett’s case was more culpable than herself, yet she was charged and sentenced for nearly two decades. The co-defendants were able to resolve their criminal issues within 30 months due to the benefit they received from the disproportionate discretion used.

*Hawkins*: why was Corbett’s sentencing affirmed on appeal? Is there no ability to use discretion in the appellate level to review these sentencing disparities?

*Locklear Clark*: There really is no discretion because of the mandatory sentencing, even if the individual does not have a prior criminal background.

*Pollard*: if there are mandatory sentencing guidelines, do judges at least have discretion in whether they run consecutively?

*Hill*: In Corbett’s case, the DA did not ask for consecutive sentencing, so the judge used his own discretion in consecutively sentencing Corbett to 17 years. Corbett was a 19-year-old mother of an 8 month old with no previous convictions. The system can only do this if it denies the humanity of the mother and the child – its that very denial/ the white supremacy narrative—that nundergirds the justice system—it’s a feature of the system, Look to the numbers of Ben Finholt (presentation [here](https://justice365.sharepoint.com/:p:/r/sites/TaskForceMemberSharePoint/Working%20Groups/Working%20Group%20%234/Resources/Extreme%20Sentencing/Extreme%20Sentencing.pptx?d=wfc5eddcd7f57454381b076832ede86de&csf=1&web=1&e=Bdjh17)); the sentencing disparities are continuous.

*James*: how is the WG going to address policy, legislation, and processes that occur in sentencing?

* + *Pollard*: judges are not allowed to talk to politicians about their work. Hopes that judges on the task force are able to gain a voice in this.
  + *Thornburg*: reiterates the importance of recognizing the complexity of both offenders and victims.

*Robinson*: when we look at discretion vs. mandatory sentencing for judges, what does the court need to loosen this pressure?

* *Locklear Clark*: allowing discretion point blank seems to be the only way to address the issue, specifically with drug trafficking offense
* *Thornburg*: we need to be careful with discussions on discretion, because mandatory sentencing sometimes counters harmful discretion of judges
* *Pollard*: laws did not consider pill trafficking when drafted. Legislation did not anticipate the development of pills in drug trafficking, so we end up with sentencing that equates an adequate amount of heroin to a small handful of pills.

1. **Update: Status Check of Offline Refinements of Pending Recommendations**

*Hill*: are the offline platforms working? What are members comfort with the recommendations put forward? Emphasizes to members to use the working documents sent out by Restucha-Klem and Spolar. Still developing refinements and discussions around fines and fees. There are different conversations for court fees versus fines.

*Thornburg*: not entirely clear on the clemency recommendation. Would like to spend more airtime on the topic.

*Pollard*: the revision in the working document should address some of these clarity issues. If there are still questions after reviewing this, then we can have a further conversation about the substance

*Locklear Clark*: update on felons disenfranchisement. There was a three-judge court decision permitting persons on felony probation to vote if the only barrier to final discharge of supervision is outstaning court costs, fines and fees..

*Hill:* continue working offline and we will circle back next week.

**ASSIGNED DATA TEAM REQUESTS/QUESTIONS**

CRIMINAL TRIALS

1. Data on how many people are excluded from juries because they don’t have a driver’s licenses and/or had their driver’s licenses revoked – Assigned to Emily Coward

FINES & FEES

1. In the most recent period for which this data has been captured, what percentage of license suspensions are the result of Failure to Appear and Failure to Pay suspensions? Assigned to Will Crozier and Margaret Gressens
2. Data on persons who receive jail/prison time versus fines -- preferably broken down by NC racial/ethnic demographics – Assigned to Frank, Margaret, Michelle and Beb
3. Racial demographics of persons who are jailed and/or re-jailed solely due to a failure to pay fees and other monies – Assigned to Michelle Hall to provide write up on jail data needed to
4. Revenue generated by “installment fee” and percentage of convictions where imposed – Assigned to Emily Mehta
5. How much of the court’s budget is made up by “user fees” on criminal defendants?  And what amount of those fees are charged against indigents? – Assigned to Emily Mehta
6. What is the annual recoupment of “civil forfeiture” actions and what amounts are distributed to the various law enforcement agencies? – Assigned to Frank and Mercedes

SENTENCING DISPARITIES/DEATH PENALTY

1. Identify any racial disparities in the number of prisoners serving extreme sentences: sentences of LWOP; traditional life sentences; virtual life sentences (guarantee that the prisoner will die in prison) – Assigned to Ben Finholt and Michelle Hall
2. How have NC attitudes on the death penalty changed over the last twenty years? Assigned to Margaret Gressens
3. Data questions related to Second Look Act – Assigned to Ben Finholt and Michelle Hall
   1. Habitual felon and violent habitual felon: Are these statuses sought disproportionately against Black people? In order to determine this, we would need to be able to figure out for any given prosecutorial district how many people were eligible to be indicted as habitual felons and how many people were actually indicted. Also, the data would not fully answer the question of bias absent some ability to analyze what the underlying offenses look like.
   2. Consecutive v. concurrent sentences: I’m not sure how the research question would be presented here, but how do we know how judges are exercising their discretion and the extent of any racial disparities? You’d have to look at people with similar convictions and prior record levels?
   3. Life and de facto life sentences (define as 40 years or more? 50 years?): Can we look at the racial breakdown of people with LWOP sentences for felony murder and for p&d murder, as well as the racial breakdown for people convicted of second-degree murder; can we look at breakdown by race for people who entered plea bargains v. people who were convicted at trial.

**ASSIGNED RESEARCH QUESTIONS**

1. How many portraits adorn the courtroom in the Supreme Court? Of the justices so honored who: (a) were slave owners, (b) served on the court before the civil war, (c), served in confederate army, (d) served post-WWII, and (e) is there a court rule/policy regarding the curating o this collection or is that the responsibility of a private historical society? – Assigned to UNC Law Student Trey Ellis