

Race and the Criminal Justice System Task Force  
Second Meeting  
Room C-1, Seattle University School of Law  
December 2, 2010

## Meeting Notes

### Agenda

#### Summary

- I. Brief introductions and summary of first meeting (10 minutes)
- II. Progress report + articulation of next steps (10 minutes)
- III. Formalizing participation of organizations (15 minutes)
- IV. March 2 meeting with Washington Supreme Court (10 minutes)
- V. Set next meeting, adjourn general meeting, and convene working groups (45 minutes)

#### Detail

- I. Brief introductions and summary of first meeting (10 minutes)

Meeting convened by Judge Steven González, Chair of ATJ Board and by Robert Chang, Director of the Korematsu Center for Law and Equality, Seattle University School of Law

Attendees introduced themselves and their institutional affiliations. Attendees, in order on the sign-in sheet, included the following: Van Chu, Office of the Honorable Judge Steven C. González; Bryan Olsen, Office of the Honorable Mary I. Yu; Theresa Wea, Center for Children and Youth Justice; Eric Holte, Defender Initiative, Korematsu Center, Seattle University School of Law (SU Law); the Honorable Don Horowitz; Patricia Lally, Latina/Latino Bar Association of Washington; Fé Lopez, Latina/Latino Bar Association of Washington and SU Law; Dean Kellye Testy, University of Washington School of Law (UW Law); Damon Shadid, Middle Eastern Legal Association of Washington (MELAW); Whitney Knox, SU Law; Diana Singleton, Access to Justice Institute, SU Law; Jim Bamberger, Office of Civil Legal Aid; Professor Jackie McMurtrie, UW Law and Washington State Bar Association (WSBA) Committee on Public Defense; Associate Dean Paul Holland, SU Law; Sandy Restropo, SU Law; Tisha Pagilalauan, Filipino Lawyers of Washington; Ken Schubert III, Garvey Schubert Barer and Korematsu Center; Professor Mary Fan, UW Law; Jamila Taylor, Loren Miller Bar Association (LMBA); Chach Duarte White, WSBA; Monto Morton, Minority and Justice Commission; Dirk Marler, Administrator of the Courts; Andy Sachs, QLaw; Anita Khandelwal, The Defender Association (TDA), Racial Disparity Project; Lisa Dugaard, TDA, Racial Disparity Project; Keith Talbot, Asian Bar Association of Washington; Kathrine Price, Human Rights Network, SU Law; Tracy Flood, WSBA Board of Governors

Attendees by teleconference included: Professor Jason Gillmer, Gonzaga University School of Law; Dr. Carl McCurley, Washington State Center for Court Research; Shanthi Raghu, Korematsu Center, SU Law

Technical difficulties prevented Abigail Daquiz and Lisa Apsay of FLOW from participating by teleconference.

Illness and other or last minute obligations prevented the following from attending: Taki Flevaris, Korematsu Center; Jessica Skelton, Washington Women Lawyers; Sheriff Sue Rahr, Washington Association of Sheriffs and Police Chiefs; Sahar Fathi, MELAW; and Molly Powell, Mother Attorneys Mentoring Association of Seattle; Aravind Swaminathan and Ketu Shaw of the South Asian Bar Association of Washington; and Myra Downing, Gender and Justice Commission.

After attendees introduced themselves and their affiliations, Judge González opened the meeting by summarizing the first meeting, noting that the impetus for forming the task force was reported comments by Justices Sanders and Johnson on (1) poverty and the justice system and (2) Blacks in the prison system. He reiterated that the goal of this group is to not be silent in the face of these remarks and specifically to address the question of race and the criminal justice system at all levels. We will engage in a fact-based inquiry from which we will make recommendations and develop plans for implementation.

Judge Gonzalez then updated the group on the ATJ Board's meeting on Dec. 1, 2010, with the Justices where he reported to them about our first meeting and the work of the Race and the Criminal Justice System Task Force. He reported that the Chief Justice requested that we continue to coordinate our efforts and make a joint presentation of our analysis of the existing research with recommendations for appropriate changes at all levels of the justice system. Many of the justices expressed their support for this effort. The Supreme Court agreed to our proposed half-day meeting in Olympia with them to take place on March 2, 2011. Originally scheduled for the morning, it is now likely to be in the afternoon. Venue is being negotiated in order to accommodate a large group.

## II. Progress report + articulation of next steps (10 minutes)

Professor Chang presented the breakdown of the working groups and the powerpoint of how different organizations fit in with the task force. Powerpoint will be distributed as well as posted on the website:

<http://www.law.seattleu.edu/centers-and-institutes/center-for-civil-rights-and-critical-justice/race-and-criminal-justice-task-force/task-force-1/>

### **Scope and mission of task force**

There was a discussion about the underlying premise of the task force as well as a discussion about its scope. The premise was articulated as looking at the racial disparities that exist within

the criminal justice system, to examine what produces these disparities, and where the findings support them, articulate recommendations and plans for implementation that address these disparities.

It was noted that we need to pay attention not just to intentional discrimination but also to the operation of unconscious racism and implicit bias. It was noted that the Research Working Group was tasked with collecting the research on implicit bias and that, if demonstrated, would be an important aspect for the group working on recommendations and implementation and for the education working group.

It was also raised whether we'd be addressing the juvenile justice system, which extends far beyond the judicial system and involves education, social services, and beyond. It was noted that folks from the juvenile justice system had been consulted and they were considering their involvement, which depended on the scope of the task force.

One participant emphasized that it was imperative not to take "everything" on, focus on criminal justice system. There are too many issues that could clutter the focus.

It was noted that this could be a sequencing issue, that the focus of this group is the criminal justice system but the coalition and the work model and recommendations will likely be useful and applicable to the many aspects of the civil justice system.

One participant noted that task force should create a strategy that separates research and advocacy; the result is more credible when these are separated.

Another participant added that the problem did not lie with the research and findings, much of which already exists. The heart of the matter lies with what is done after the data is collected and presented. Too much of a focus on research is based on the premise that knowledge will change outcomes. But experience shows that knowledge won't necessarily prompt action. Real attention must be paid to the strategies about presentation of the knowledge and strategies with regard to implementation.

## **Participation**

The proposal from the agenda on participation was presented.

### **Agenda Item III: Participation**

**Premise:** Success with this project will be enhanced by having organizations be formally affiliated with the task force.

Toward this end, we've worked to ask groups if we can list them as having attended the first meeting. We'd like to work toward formalizing participation. Broad participation provides legitimacy to the effort off this task force, which is not the official body that has any official

power. Its power stems from broad participation and the strength of its findings and recommendations. Participation also provides a place at the table for discussions at the general meetings as well as on working groups.

### **What would formal affiliation look like?**

**Proposal:** We would ask groups if they would agree to being listed as a participant of the task force.

**What would this mean:** An organizational or institutional participant would agree to participate actively in the dialogue and to participate in at least one working group. An organizational or institutional participant would agree that the organization's name can be included in Task Force materials, including on the Task Force web site.

By agreeing to be a participant, an organization or institution would not be endorsing in advance the findings, recommendations, or implementation plans of the Task Force. Participants will be given the opportunity to review and endorse each report that includes findings, recommendations, or implementation plans. The Task Force endeavors to seek consensus for each report but anticipates that in certain circumstances, participants will be unable based on their institutional limitations or unwilling to endorse a particular report. As the Task Force is not an official body, this model of participation is deemed to be a pragmatic choice for moving forward.

### **Open meetings. Meetings would be open. Agenda and meeting notes are public documents.**

Question: attendees at each meeting public? Should we include in our public documents a list of attendees/organizations?

**Resolved.** It was agreed to move forward with this model of participation. Attendees were asked to have their respective organizations address this issue and to decide whether their organizations would agree to formally participate. It was also agreed that our meetings are open and the documents such as the agenda, meeting notes, and attendees of meetings would be made public and available on the task force website.

### **Other participant/participation issues.**

It was expressed that some folks who wanted to participate were not able to attend the meetings in person.

The working groups were encouraged to take utilize this human capital resource by doing much of the work through individual assignment of tasks and to use teleconferencing and e-mail and document sharing as a way to do this work without necessarily having to get together frequently for physical meetings.

Question was raised whether individuals, not affiliated with particular organizations, could participate. It was resolved that individuals are welcome to participate.

Question was raised about making sure to involve policy-making bodies such as the legislature. People were encouraged to think about and make concrete suggestions about individuals and organizations that we should involve.

It was emphasized and agreed that we need to bring in the Department of Corrections.

In addition, the need to remember this is a state-wide issue was raised. It was agreed that we are committed to this but that we would need guidance to ensure this.

**V. Set next meeting, adjourn general meeting, and convene working groups (45 minutes)**

**\*\*\*The next meetings are January 20 and February 17 from 7:30 to 9:00 a.m., in Sullivan Hall.**

Attendees broke into work groups for approximately 20 minutes.

**Working Groups**

Assessment: too many working groups, with some having overlapping functions.

Solution: Combine original working group 2 (plan dialogue among interested participants) with working group 7 (community outreach) and relabel as Working Group 2: Community Engagement.

Combine original working group 4 (develop preliminary recommendations) with working group 6 (refine recommendations for structural reform) into new Working Group 4:

Recommendations and Implementation

**Please note that the working groups are under formation. People may shift. People will be added. Some may drop out of a particular working group.**

Revised working groups	Tasks	People
1. Oversight	<ol style="list-style-type: none"> <li>1. General oversight</li> <li>2. Resource development</li> <li>3. Develop metrics for assessing progress</li> <li>4. Work with Group 3: Research to write up at appropriate times progress reports</li> <li>5. Export model to other states</li> </ol>	Judge González (ATJ Board) Robert Chang (Korematsu/SU Law) Jason Gillmer (GU Law) Chach Duarte White (WSBA) Tracy Flood (WSBA) Andy Sachs (QLaw)
2. Community engagement	<ol style="list-style-type: none"> <li>1. Engage in community outreach efforts to ensure that we are listening to interested/affected communities</li> <li>2. Plan dialogue among the interested parties involved in the criminal justice system</li> <li>3. Specifically, this will include public events that might be planned at each of the 3 law schools</li> </ol>	Jamila Taylor (LMBA) Fé Lopez (LBAW/SU Law) Diana Singleton (SU Law ATJI) Lisa Apsay (FLOW) The Honorable Don Horowitz Damon Shadid (MELAW) Eric Holte (Defender Initiative, SU Law)

		Sandy Restropo (SU Law) Andy Sachs (QLaw)
3. Research	<p>General: Develop informational resources and preliminary findings</p> <ol style="list-style-type: none"> <li>1. Pull together the research and findings that exist that is specific to WA; where this doesn't exist, pull together national stats (could include state specific if demographics and other social conditions justify comparison) <b>mid-December</b></li> <li>2. Assess the research, including identifying strengths and weaknesses <b>mid-January</b></li> <li>3. Develop abstracts and executive summaries (if they don't already exist) <b>end of January</b></li> <li>4. Identify areas where further work is necessary or beneficial; interface with working group 1 to assess feasibility of follow up research, and follow through <b>time uncertain</b></li> <li>5. Make this work accessible to the public—the three law schools, web presence? <b>End of January</b></li> <li>6. Develop in a publishable form the findings, and working with Group 4, the recommendations and implementation plan. Work to get all 3 law school's law reviews to co-publish this material. In order to emphasize collective work that went into this, rather than individual authors, publish as the work product of Working Groups 3 and 4. <b>Submission spring/summer 2011</b></li> </ol>	Taki Flevaris (Korematsu) Carl McCurley (WSSCR) Katherine Beckett (UW) Dean Kellye Testy (UW Law)
4. Recommendations and Implementation	<ol style="list-style-type: none"> <li>1. Develop recommendations that flow from Working Group 3's work product <b>mid-February</b></li> <li>2. Refine recommendations for structural reform targeted at institutional actors within system <b>preliminary mid-Feb; refined, late spring 2011</b></li> <li>3. Develop implementation plan <b>summer 2011</b></li> <li>4. Interface with Working Group 1: Oversight to assess progress</li> </ol>	Judge Mary Yu Lisa Daugaard (TDA) Mark Larson (King C. Pros.) Anita Khandelwal (TDA) Keith Talbot (ABAW) Tisha Pagalilauan (FLOW) Nicole Gaines (LMBA) Monto Morton (Minority & Justice Commission) Dirk Marler (AOC) Lam Nguyen-Bull (VABAW) Jim Bamberger (OCLA) Tracy Flood (WSBA BOG) Kathrine Price (SU Law) Chach Duarte White (WSBA) Theresa Wea (CCYJ)
5. Education	General: develop educational programming for	Jason Gillmer (GU Law)

	the following: 1. Bench 2. Bar 3. Law enforcement 4. Public 5. Law schools 6. Colleges 7. High schools and below	Mary Fan (UW Law) Abigail Daquiz (FLOW) Whitney Knox (SU Law)
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Meeting was adjourned.