

Racial Over-representation in the Criminal Justice System (ROCS)

Task Force Work Day January 22, 2001

NOTICE: THE PUBLIC IS INVITED TO ATTEND ALL ROCS TASK FORCE MEETINGS

Next Meeting: Thursday, Feb. 22, 7-9 p.m., Bethel AME Church, 5828 NE 8th

Task Force Members Attending: Daniel Binns, Woodrow Broadnax, Hongsa Chanthavong, Elyse Clawson, Jim Ellis, Bill Feyerherm, Bernie Giusto, Art Hendricks, Jim Hennings, Y'Beth Iglesias, Mark Kroeker, Ray Mathis, Dan Noelle, Kris Olson, Tawna Sanchez, Mike Schrunk, Pedro Sosa, Ronita Sutton, Kay Toran, Michael Ware, Ronald Williams.

Task Force Members Absent: Tiffany Brandreth, Serena Cruz, Roy Jay, Donna Johnson, Jackie Mercer, Oscar Sweeten-Lopez.

Others Attending: Larry Anderson, Philip Archambault, Lynnae Berg, Jane Braatten, Felton Campbell, John Connors, Beckie Lee, Eric Green, Estrella Gutierrez, Christi Hildebran, Vera Katz, Liliana McNair Scott.

Support Persons Attending: Joe Hertzberg, Christine Kirk, Peter Ozanne, Suzanne Riles.

Meeting commenced at 8:30 am.

Statement of Mission from Mayor Vera Katz

Mayor Katz thanked the members of the Public Safety Coordinating Council for sponsoring the work of the ROCS Task Force. She stated that the Task Force is about to address a serious problem that exists throughout the United States, and that this group should be proud that, unlike many others, we are taking action. Mayor Katz explained that the Task Force will consider over-representation throughout the criminal justice system, not just at any one point. Where the Task Force identifies that over-representation exists, it will need to consider why. Finally, when the Task Force judges that over-representation at any point is unfair, it will be its job to consider how to reduce unfair over-representation. Mayor Katz thanked the attendees for their commitment to help improve the fairness of our local justice system.

Introduction to the Day

After members and guests briefly introduced themselves, facilitator Joe Hertzberg explained that the purpose today is to listen and ask questions, to learn about the system, and to get to know each other. He encouraged everyone to "level the playing field" by using first names with each other, rather than honorifics such as "Judge," "Chief," or "Reverend." He explained that there will be opportunities at future meetings to hear from members of the public, but not today.

Task Force members divided into pairs to discuss their personal cultural backgrounds and experiences with crime and punishment. The pairs then combined into small groups and continued

their discussions at four tables. Following these discussions, each table introduced its members, highlighting their unique strengths and perspectives.

Ground Rules

Joe introduced preliminary ground rules developed by the co-chairs and staff:

- First names only.
- Speak so others listen: concisely, clearly, without rhetoric.
- Listen so others speak: respectfully, openly, actively.
- Boldly seek new solutions rather than relying on old ones.
- Assume that others are motivated by good will.
- Recognize that it is harder for some members to be totally open.

Members spoke about ground rules in their small groups and then in the full group. Themes:

- It is important to be honest with one another. We must speak with passion as well as civility. Take risks.
- Everyone's voice must be heard. Each person has unique and important experience and knowledge. We need to hear from people of color, not just "bald white guys." Everyone is an expert in some areas and ignorant in others. Listen with a "beginner's mind" and be careful not to give anyone the "idiot treatment."
- Respect different cultural values and recognize that a spectrum of views exists within each ethnic group.
- All issues should be on the table.
- Distribute the "I Want More" form at every meeting.
- Don't shoot the messengers when they bring bad news.
- Don't defend the turf of what already is; really engage in dialogue about change.
- Meetings must be very public, very open, very accessible. Use all means to keep people coming. Give frequent and widespread public notice, using community media. Hold meetings at convenient times and places. Provide opportunities for citizens to speak at every meeting. Facilitate cable access. Publish summary minutes. When members hear rumors, invite people to attend meetings.
- Everyone shares responsibility for fair treatment in the justice system.
- This Task Force can make a difference. We must acknowledge and address suspicions that this Task Force is a tool of the system and cannot be trusted.
- Address comments and questions to co-chairs Mike Schrunk or Ronald Williams.

Reasons for Over-representation

Joe introduced some possible reasons developed by the co-chairs and staff.

- **Prejudice:** People in the system are biased against minorities.
- **Employment Practices:** Minorities are under-represented among personnel at criminal justice agencies.
- **Policies and Procedures:** Discrimination is a by-product of policies and procedures.
- **Community Demand:** Communities demand action, and minorities are more often crime victims.
- **Who Commits Crimes?** Minorities commit disproportionately more crimes.

These statements were intended to provoke spirited discussion. Members were asked to privately indicate their feeling of how important each reason is in over-representation. Then each small group

discussed all five reasons. Following are some of the themes of these discussions. These do not necessarily represent areas of agreement. **It is clear that reasons for over-representation are complex and cross into all of these areas.**

Prejudice:

A few people in the system are deeply biased and should be rooted out, but most prejudice is due to ignorance and unfamiliarity. Prejudice is expressed in police selection of missions in black communities, judges' biases about a person's appearance, and other cultural assumptions by justice officials. Prejudices are reinforced by the media. People of color have poor defense services available. Use of discretion by police officers can express prejudice. Any professional develops expertise about their work. Education and training are essential.

Employment Practices:

Because so few people working in the system are minorities, there is a gap in cultural experiences and understanding. The system offers few minority role models. When minority members are involved in making policies, things can change.

Policies and Procedures:

The justice system does a better job with serious crimes than minor crimes. In minor crime, policies often go after the poor and over-representation results from the choice of policy initiatives. Policies concerning low-level drug use and crimes have been especially pertinent. This group may have its most immediate and greatest impact by addressing policies and procedures.

Community Demand:

Drug-free and prostitution-free zones have been driven by community demand to do something to keep neighborhoods and retail areas friendly for families and customers. Community demands are difficult to gauge and can change frequently. Some people think that the black community has adopted a "war" against the system because it doesn't serve them.

Who Commits Crimes?

People living with poverty, despair, and limited alternatives commit more crimes, and these conditions are more prevalent among minorities. Economic problems motivate some minority members to get more involved in drugs, which provide immediate gratification and the feeling of power. Insurance coverage and treatment options for troubled minorities may be unavailable, so the justice system gets used as a last resort for providing some kind of help. Financial help is needed to help people escape. Culturally competent treatment options for drug crimes offer a chance to change for the better. Perhaps ethnic and racial groups all commit the same level of crime, but get caught at different rates. People of color are characterized as criminal and arrested more often. This is reinforced by the media. The system is less effective with African Americans when they start down the path to crime; interventions are less successful. Poor people have fewer ways to handle conflicts, while in wealthier neighborhoods other ways exist to solve problems.

We would like to see statistical evidence regarding the reasons for over-representation, and we want to hear the personal stories behind the statistics.

Panel Discussion on Sentencing

Participants: Daniel Binns (former defendant), John Connors (public defender), Jim Ellis (judge), Mike Schrunk (prosecutor), Ronita Sutton (survivor).

Mike Schrunk explained that most cases, 95% or so, plead guilty in order to get a lesser sentence, so the plea offer from the DA's office is very important. Written guidelines are given to the defense attorneys and to the judges to provide a structure for what happens in court. More serious crimes are assigned to experienced assistant DA's. The office tries to treat similar cases similarly, although this is difficult because no two events are exactly the same. The decision about what crime to charge is just as important as the plea offer. He stated that victims are disproportionately minority too.

John Connors began by saying that first and foremost, public defenders try to be good attorneys, doing their job as best they can. They try to encourage the defendant to respect the law, in part by serving as the person who will stick up for them. The role of counselor is at the center of this. Public defenders look for treatment options to help people, and then present information to the judge about why this defendant should get a break. Metropolitan Public Defenders works on policies too, such as helping to develop the drug court and community court. In the years since sentencing guidelines and Measure 11 have been implemented, cases move so quickly through the justice system that it is hard for defendants to get treated as individual people. Defenders want justice to be fair and even-handed, and guidelines help.

Jim Ellis explained that there are 37 judges in this county. Felonies are punishable by 1 year or more in state prison, misdemeanors by not more than 1 year in county jail. Measure 11 is superimposed on sentencing guidelines. Parole was abolished in 1989 and replaced by post-prison supervision. Relatively few cases involve any doubt about who committed the crime. Questions instead center around the mental state of the defendant and the exact nature and seriousness of the act. There are very few pre-sentence investigations anymore. The most commonly committed crime is driving under the influence of intoxicants (DUI): There were 20,000-25,000 DUIs charged last year in Oregon, and only about 10,000 state prison beds. Drug cases are a major part of the court caseload. Multnomah County has a drug court to handle as many drug cases as possible, and we will soon start sending even more drug cases to drug court. The drug court mandates treatment with a judge supervising progress. Due to a lack of treatment options, cases involving people with mental health problems pose a particularly large and important challenge. Jim said that changing policies and procedures is where this Task Force can make the most difference.

Daniel Binns recalled that he chose a jury trial because he did not understand the consequences of this choice. He got 41 months for an offense that he discovered others got less time for. He wondered why there was such a difference in time served for similar offenses. He said that he was raised well as a child, but got into trouble because he was too wild. But he got beat up by the police while he was in handcuffs, and that's not right. Policies and procedures should improve.

Ronita Sutton's son was shot and killed at the age of 19 due to mistaken identity. He was not involved with gangs and had been doing very well in school. She expressed anger to hear talk about treating people leniently who have been doing wrong. People shouldn't do wrong no matter what color they are. The penalty for murder isn't as bad as being murdered. Her son is gone for good and has lost everything he had, including his life, just 3 weeks before he would have entered college. Ronita said that she grew up poor and doesn't view poverty as a good excuse for violating the law, because she has obeyed the law.

A Local Success Story: Multnomah County Juvenile Detention

During lunch, Bill Feyerherm described a successful local effort between 1992 and 1997 to reduce over-representation of minorities in juvenile detention. Not only did over-representation fall, but the percentages of juveniles detained in all ethnic groups fell steeply as well. This should encourage the Task Force that it is possible to make a difference in over-representation.

Panel Discussion on Arrest

Participants: Larry Anderson (Portland police officer), Woody Broadnax (former offender), Bernie Giusto (Gresham police chief), Estrella Gutierrez (formerly gang-associated), Ronald Williams (pastor).

Larry Anderson explained that officers feel that they take the fall for over-representation. He was glad to hear from the victim representative earlier. This is the kind of situation that police have to deal with continually. In some situations, there is a mandate to arrest, as in a complaint call to 911 or in serving warrants, but in self-initiated arrests, the officer must decide. He doesn't believe that the taxpayers pay him to be a robot. He tries to anticipate trouble and stop it, not only to be reactive. He knows when someone is carrying drugs. Police often learn things about when and where crimes occur, and who is involved. Should they just ignore all this? Officers are worried, and do want to know: what are they doing wrong? In 20 years, he has arrested the wrong person only when witnesses identified the wrong person.

The question is, when is racial profiling appropriate? He knows from his own experience that in the US we are conditioned to fear African American males. Plus, African American males are involved in a lot of crime. He worries that the zeal to end unfair over-representation could stop some good police work. Officers need more multi-cultural training and often don't understand other racial groups. They are influenced by the media and by FBI posters that show blacks as criminals.

Larry said that officers need to feel community support, mutual respect, and trust. There has been an increasing reluctance by people to help police with their investigations, and that's a problem.

Bernie Giusto pointed out that officers are enforcing what the people have told them are the laws. There is a difference between serious crimes and drug-related and other lower level crimes, where the community demands enforcement activity. He noted that sometimes law enforcement culture leads officers to make bad decisions.

Woody Broadnax recalled that things changed about 1984 when gangs came to Portland. Law enforcement activity increased, and police cracked down unfairly on innocent black people, including his grandmother, and on others guilty only of petty crimes. An angry arrestee loses his ability to communicate well with an officer. Woody got beat up while in custody, which led to a note in his file saying that he was violent. When someone is designated a "career criminal" or "dangerous person," that changes the way those people are treated by the police in the future. Both parties need to act with civility, both suspect and officer.

Estrella Gutierrez recalled a situation when she, her brother, and a friend went to a restaurant and got searched by the police for no reason. She thinks it may have to do with the fact that they had gang-related tattoos, although she was not involved in the gang any longer at that time, and there is no law against tattoos. Her brother's neck was injured by the police in the search. Another time, her sister (who also has tattoos) was involved in an accident, and her car was searched despite her refusal to give permission. Because one of these incidents occurred in Gresham, Bernie asked if he could follow up with Estrella later, so that he could get an explanation from his officers. She agreed.

Ronald Williams told of being arrested as a college student. As a result of volunteering as a driver at an AME church convention, his license was erroneously suspended without his knowledge. Months later, he was followed home by police and stopped. Officers refused to hear his explanation or answer his questions. They forced him to sit in the back seat of the patrol car for an extended time, despite his requests to be allowed to stand outside due to claustrophobia. Officers shouted at him and treated him disrespectfully. His car was towed away and he was taken to jail for several hours. Ronald also stated that he believes racial profiling does occur, and that racism is a big part of the reason why there is over-representation of minorities in the justice system.

Others: **Art Hendricks** suggested comparing police policies in 2001 with 1984 to see if they have improved. **Y'Beth Iglesias** suggested finding ways to help the police “catch” kids—including minorities—doing good things. (Larry said he would love to do this, but he doesn't have the time unless priorities change.) **Michael Ware** expressed appreciation for the dialogue, especially a black police officer talking about his love for his profession and showing integrity. **Eric Green** described the negative impact on bystanders when officers treat someone harshly, whether or not that person has done what the officers charge.

Outreach

In small groups, members brainstormed ideas for reaching out to the community to stimulate public involvement and generate real dialogue. Ideas included:

- We should actively publicize Task Force work and meetings, utilizing community media and community organizations to announce upcoming meetings and report results.
- The Task Force must meet in convenient locations. Most meetings should be close-in Northeast; occasionally we should meet in east county.
- An open mike at Task Force meetings may not result in the most valuable information. While we want to encourage people to share their stories, it may be better to pose specific questions and invite input. We should also distribute comment forms at every meeting.
- The Task Force should go to existing community groups to explain what we are doing and invite their comments.
- It is important to get truly representative input, as well as to invite input from anyone who is motivated. Perhaps we should conduct focus groups in the community.
- We should make a special point of reaching out to crime victims.
- We should make a special point of reaching out to police officers, both to get their points of view and to make sure they have accurate information about this process

Final comments

Most comments focused on the value of today's dialogue. This is the first step in a long process, and we are prepared for hard work over the long haul. Task Force members are interested in action, and our success will be measured by results. We have a lot to learn from one another, and it is important to address language barriers to understanding.

Meeting adjourned at 3:45 pm.

Please direct questions, comments, and concerns to the co-chairs:

Mike Schrunk: 503-988-3162 / da@co.multnomah.or.us

Ronald Williams: 503-288-5429 / ameprophet@aol.com