

North Carolina Advocates for Justice: Task Force on Racial and Ethnic Bias Executive Summary

The NCAJ Task Force on Racial and Ethnic Bias was formed in response to the ABA's call to action for each state to explore the role that racial bias plays in the operation of its criminal justice system. James E. Williams, Public Defender, North Carolina District 15B, and Henderson Hill, Executive Director of Federal Defenders of Western North Carolina, Inc, have co-chaired a collaborative effort by attorneys, policy makers, community leaders, and legal and political science scholars to study racial bias in North Carolina's criminal justice system. The findings to date are deeply disturbing and may be indicative of a problem that starts early in the process, permeates throughout the system, and continues unchecked.

We began our inquiry by examining data relating to traffic stops, a form of law enforcement to which the public broadly is subjected. The Task Force's Data Analysis Subcommittee, with the valuable contributions of UNC Political Science Professor Frank Baumgartner and research assistant Derek Epp, has completed a preliminary review of data from the North Carolina Department of Justice reporting on each traffic stop made by North Carolina police from January 1, 2000, through June 14, 2011. 13,233,648 unique stops were included in the dataset, which also identified the reason for the stops (seat belt violation, speeding, equipment violation, etc.), the characteristics of the driver and any passengers (age, gender, race and ethnicity), and the type of action taken after the stop (whether a search was conducted, a ticket or warning was issued, an arrest was made, property was confiscated, etc.).

A comparison between the 2010 population percentage for each racial group, for the State overall and for each county individually, and the percentage for various justifications offered for each stop highlight a significant racial disparity for this form of law enforcement. For instance, while African Americans make up 22% of the overall population, 38% of the people pulled over for "vehicle regulatory" issues, 37% of people pulled over for "vehicle equipment" issues, and 33% of the people pulled over for "other vehicle" issues were African American. Once stopped, the data show that African Americans and Hispanics are almost twice as likely to be searched and twice as likely to be arrested than Caucasian drivers.

A twelve-page summary of the traffic stop data is attached. An appendix of supporting charts and more detailed analysis is also available.

Moving off the roads and into the community, racial and ethnic disparate results also appear, starting in the juvenile justice system. In August 2011, the Office of the Juvenile Defender issued its report titled "Addressing Disproportionate Minority Contact (DMC) in Juvenile Delinquency Court" (<http://www.ncids.org/juvenile%20defender/juvdef%20homepage.htm>). This report demonstrates that racial disparity in our justice system starts early with our youth. Data compiled and analyzed from the Governor's Crime Commission Division of the North Carolina Department of Crime Control and Public Safety (GCC) support the conclusion that in 2009-2010, African American youth were almost three times as likely to be referred to juvenile court than Caucasian youth and, once put into the system, over three times as likely to be confined in a secure juvenile correctional facility or transferred to adult court. The collateral consequences of detention for youth are extensive, including disruption of education, family connections, and services and exposure to physical assault and psychological stress. .

The Juvenile Defender's report further discloses that, after four years, less than 15% of the previously incarcerated youth had completed their high school education, leading to less financial stability, higher unemployment, and increased risk of recidivism. In addition, the exposure to violent behavior while detained greatly increases the risk of mental health problems, or increases the severity of mental health problems that may have previously existed. The report outlines defense counsel strategies to identify, avoid, and address the risks and consequences the report identifies -- strategies the report argues are necessary to provide zealous advocacy on behalf of juvenile clients.

Racial disparities are also reflected in the adult correctional system. The Task Force's analysis of June 30, 2011, data, collected from the North Carolina Department of Correction's Research and Planning Division, show that African Americans make up 57% of North Carolina's prison population, but only 22% of the State's population. In Durham County, African Americans are nearly nine times more likely to be incarcerated for criminal conduct than Caucasians, with Edgecombe and Warren Counties close behind with ratios of 7.5 to 1, and Mecklenburg with a ratio of 6.9 to 1.

Additionally, overall, African Americans in North Carolina are two times as likely to be incarcerated for drug crimes, with some individual counties having ratios that are much more extreme. In Wilson County, African Americans are nearly ten times more likely than Caucasians to be incarcerated for drug crimes. In Durham, Mecklenburg, and Pitt Counties, the ratios are nearly nine to one. Other larger counties have disparate ratios that should be of grave concern, including Guilford (5.4:1) and Wake (4.9:1). Smaller counties with disturbing disparate ratios include Edgecombe (13:1); Hertford (8:1), and Stanly (7.5:1). Hispanic ratios in several counties also raise concern, including Randolph (4:1), Durham (3.8:1), and Mecklenburg (3.8:1).

Finally, review of discretionary charging of habitual felon status, which results in enhanced sentencing and can be the last stage in a lifetime of apparent disparate treatment, indicates that African Americans are 2.46 times as likely to be incarcerated as habitual felons than Caucasians, with African Americans representing 70% of all incarcerated habitual felons. Larger counties in which the ratios are particularly noteworthy include Durham (13.2:1), Mecklenburg (10.3:1), Wake (6.9:1), Onslow (5.6:1), and New Hanover (5.5:1). Small counties with notable disparities include Greene (20:1), Montgomery (12:1), Pasquotank (10:1), and Vance (10:1), although these disparities may be skewed because of the counties' relatively small populations.

An analysis of data collected and provided by the State shows major disparities based on race and ethnicity in the administration of justice in North Carolina. We believe the State has an obligation to explain the disparities and, if racial bias is a factor, to take strong action to restore fairness. Therefore, NCAJ and the NCAJ Task Force on Racial and Ethnic Bias call on North Carolina's leaders, including Governor Beverly Perdue, Attorney General Roy Cooper, Chief Justice Sarah Parker, Director of Administrative Office of The Courts John Smith, Secretary of Public Safety Reuben Young, Senate President Pro Tempore Philip Berger, and Speaker of the House Thom Tillis, to partner with them to identify the reasons for disparate treatment within the criminal justice system, and, where necessary, to take effective action to eliminate race-based disparities.