

Summary of the Convening of National Organizations and Foundations for the National Judicial Task Force to Examine State Courts' Response to Mental Illness

April 30, 2021

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Introduction

The National Judicial Task Force to Examine State Courts' Response to Mental Illness (Task Force) convened two additional meetings after the three meetings with national organizations held in October 2020. The two most recent meetings occurred on April 28, 2021, and April 30, 2021. Like the initial meetings in October, these meetings were designed to share the work of the Task Force with key national organizations and leaders, learn about areas of focus and current initiatives from participants, and identify potential opportunities for collaboration and partnerships to reduce the overrepresentation of people with mental illnesses in the justice system. These convenings were also intended to allow the Task Force and others to avoid duplication of efforts and to leverage limited resources.

Each participating organization was asked to

- Briefly describe major initiatives and
- List reports or studies of interest and/or websites.

The participating organizations and links to their responses for the April 30, 2021 meeting are in Appendix A.

Participants and Key Themes from the April 30, 2021 Meeting

The organizations participating in the April 30 meeting included:

- Black Psychiatrists of America
- California Judicial Council
- National Association of Black Psychologists
- National Association of Black Social Workers, Inc
- National Judicial Task Force-Psychiatrists

The agenda, which contains those participating and their affiliations, can be found in Appendix B.

Several themes emerged from the discussions. These included:

- Pervasive impact of racism that contributes to the overrepresentation of Black and Brown people in the justice system;
- Reliance by the judicial system on psychological tests that have not been validated for use with persons of color;
- The impact of having a small number of mental health professionals of color;
- The importance of infusing cultural values into community systems;
- An emphasis on educating judges and other participants in the justice system.

Each is discussed in more detail below.

Pervasive Impact of Racism Contributing to Overrepresentation of People of Color in the Justice System

Participants described the various ways in which racism continues to influence decision making, from initial police contact through the passage through the justice system and contributes to the overrepresentation of people of color throughout the justice system. One participant characterized this as the continuing myth of Black inferiority and white superiority. The continuing power of these attitudes had more specific effects, including assumptions that defendants of color were likely to represent a threat to the community and the criminalization of poverty, which resulted as an example in denial of bond when it otherwise would be warranted.

Reliance by the Judicial System on Psychological Tests Not Validated for Use with Persons of Color

One of the most striking developments in risk assessment over the last two decades has been the increasing reliance by psychologists (and in some cases, other mental health professionals) on psychological tests that “score” a person’s potential risk to third parties. There are many examples of such tests, some with more of an evidence base than others, but they have the effect of appearing to provide an actuarially sound basis for concluding whether someone presents a risk. However, as participants noted, in most cases, these tests have not been validated with persons of color. Therefore, judges and other decision makers may make assumptions about the validity of such tests in individual situations that are unwarranted given the evidence.

The Impact of Having a Small Number of Mental Health Professionals of Color

According to one participant, of all psychologists, only about 20% identify as people of color and only 4% identify as Black. Other participants identified a critical shortage of clinicians, particularly those representing communities that are overrepresented in the justice system. This compounds issues such as the reliance on tests that may not be validated for certain communities (noted above) and exacerbates issues of access noted in other convenings of the Task Force. These issues extend to children and adolescents who find themselves in the juvenile justice system; for a report cited in the discussions see <https://national-psych-alliance.com/products/color-of-justice/> which discusses the impact on

In an effort to magnify the impact of the limited number of professionals participants described the creation of alliances at both an organization level across professional boundaries and at the community level.

The Importance of Infusing Cultural Values into Community Systems

Participants noted that the lack of “fit” between cultural values and services has a significant impact on access to appropriate care for many persons of color, including those involved with the justice system. Some of these efforts have focused on family; a link that was cited on this issue can be found at <https://ibw21.org/initiatives/black-family-summit/>. Another example noted was the work of the California Judicial Council, which works with courts on issues involving persons with mental illness, including the intersection between race and mental health and mental illness.

An Emphasis on Education of Judges and Other Participants in the Justice System

Another theme that emerged from the discussions was the relative lack of knowledge among judges of the issues identified during the meeting. Several specific types of education were raised; these included providing clear information to judges about the use and validity of actuarial risk assessment instruments, and best practices for care, in general and as they apply to communities of color. This theme of education emerged in each of the convenings of the Task Force.

Opportunities

The April 30th meeting raised issues of race, social justice and equity that have been alluded to in other meetings but not from the perspective of discussants who live with those issues professionally and at community, state and professional organizational levels. The discussion and themes that emerged suggest several opportunities going forward, while identifying specific opportunities and priorities are best left to additional in-depth discussions.

There is an opportunity to introduce the impact of race, social determinants of health, and equity to a judicial audience

The murders of George Floyd and others through the last two years have placed issues of race and policing specifically and the justice system more generally into public discourse. There is an opportunity to explore placement of these issues in judicial education forums like the one provided by the Task Force. These issues likely to be exacerbated by the disproportionate impact of COVID-19 on the mental health of persons/communities of color. Mental health symptoms frequently present in behaviors that result in police response, putting the person unless diverted on the path into the justice system. The presentation of strategies to minimize the disproportionate impact of race and related issues could give judges tools they are unaware of in making their decisions. A discussion of the disproportionate impact of COVID-19 can be found at <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/race-ethnicity.html>

There is an opportunity to provide judges with concrete information regarding the use of actuarial tools

In many cases, sentencing depends on assessing the person's risk to third parties. In general, validated actuarial tools perform better at identifying risk than clinical judgment uninformed by such tools (a discussion of this issue by one of the leading scholars in the United States can be found at https://law.vanderbilt.edu/academics/academic-programs/criminal-justice-program/Primer_on_Risk_Assessment.pdf)

However, when such tools are used in the absence of validation for the communities affected by their use, as noted in the April 30 discussion, then the appearance but not necessarily the reality of empirically informed judgments can be created. Given this, one suggestion made at the April 30 meeting that warrants further discussion and action is the provision of educational materials on actuarial instruments and their use and potential misuse to judges and other participants in the legal system that rely on them.

There is an opportunity to invite participation at local stakeholder discussions convened by judges from professional organizations such as those represented in the April 30 meeting

The participants in the April 30 meeting emphasized work in local communities with multiple partners and stakeholders in an effort to bring information and inform the culture in those communities. Formally and intentionally inviting those perspectives when judges convene local stakeholder groups could potentially add a dimension to discussions of access to care, how decisions to divert or not get made, and other issues that individually and in the aggregate contribute to the overrepresentation of persons of color in the justice system.

Summary

The April 30 convening of the Task Force, like those that preceded it, introduced important voices and perspectives to the work of the Task Force. What was unique about this particular discussion was the introduction of issues such as race that are central to the experience of those presenting them. Those issues were alluded to in other discussions, but not presented as issues at the core of the majority of persons who find themselves in the justice system. Bringing these perspectives to bear as central rather than peripheral issues can have a critical impact on the role judges play as convenors.

Appendix A: Submitted Papers and Links by Participants

Black Psychiatrists of America

California Judicial Council

National Association of Black Psychologists

[National Association of Black Social Workers, Inc.](#)

National Judicial Task Force

Appendix B: April 30 Agenda and Participants

National Convening Agenda

April 30, 2021

3:30 pm – 5:00 pm ET

- 3:30 pm I. Welcome and Introductions by Justice Christopher Goff, Indiana and Judge Steven Leifman, Miami Dade County, Florida

After introductions, Justice Goff and Judge Leifman will describe the purpose of this convening and background and activities of the National Judicial Task Force of the State Courts' Response to Mental Illness including *The Future is Now: Decriminalization of Mental Illness* which describes work completed through the National Initiative to Improve the Justice System Response to Mental Illness and the Behavioral Health and the Courts Website which includes information and products of the Task Force at www.ncsc.org/behavioralhealth .

We will also acknowledge the Meadows Mental Health Policy Institute which has agreed to provide the necessary expertise to catalogue and categorize the activities and plans described, make any recommendations relating to a possible shared vision and partnerships and articulate a possible path forward to improve outcomes for those with mental illnesses who may interact with the justice system and the state courts.

The national organizations and individuals participating today include:

Black Psychiatrists of America – Dr. Benjamin Roy, M.D. www.BlackPsychiatrists.org
benroymd@gmail.com and President-Elect Dr. Cynthia Turner-Graham
forsoundmind@gmail.com

California Judicial Council – Dr. Michael Roosevelt michael.roosevelt@jud.ca.gov; Deanna Adams Deanna.adams@Jud.ca.gov

National Association of Black Psychologists – Dr. Theopia Jackson, President
president@abpsi.org

National Association of Black Social Workers, Inc. – Melissa Smith Haley, National President,
president@nabsw.org; Dr. Zakiya Newland, President Nassau/Suffolk ABSW Chapter
Drlznewland@aol.com; Dr. Renata Hedrington-Jones, NABSW Vice-President vp@nabsw.org

National Judicial Task Force- Psychiatrists – Dr. Sarah Vinson drvinson@loriopsychgroup.com ;
 Dr. Ken Rogers Kenneth.rogers@scdmh.org

Patrisse Cullors patrisse@blacklivesmatter.com was invited but had a conflict.

3:40 pm II. Conversation with National Organizations and Foundations

Justice Goff and Judge Leifman will invite each of the organizations to provide a brief report (no more than five minutes) of initiatives, priorities and opportunities for collaboration followed by a conversation and an exchange of ideas and potential partnerships.

4:40 pm. III. Closing Remarks and Next Steps

5:00 pm. IV. Adjournment