December 15, 2016

This issue of Race Judicata will focus on the remarkable Dec. 2nd NCAJ seminar, ***Combating Racial Disparities in the Criminal Justice System***,co-chaired by James E. Williams, Public Defender for Judicial District 15B, and Alyson Grine, Assistant Professor of Law at NCCU Law. During this program, local and national leaders offered timely reflections, practical advice, and a call to action to a crowd of over 80 engaged advocates interested in understanding and challenging the racial disparities we observe in our criminal legal system. In this newsletter, we will provide a report of seminar content and highlight a few themes that emerged.

 ***Combating Racial Disparities in the Criminal Justice System*, NCAJ Seminar, Dec. 2, 2016**

**We can chart a course forward by learning from our past.** Seminar co-chair James Williams set a tone for the day by emphasizing the instructive value of learning from our past, noting that it is “very American” for backlashes to follow racially progressive eras. The seminar’s keynote speaker was veteran criminal defense attorney Jeffrey Robinson, who now serves as ACLU Deputy Legal Director and Director of the ACLU Center for Justice. He echoed Williams’s recommendation, providing a powerful and sobering historical account of race in our criminal legal system and sharing encouragement for what he described as challenging times. He posed the question to the crowd: “Do you think we’re the first generation to have to deal with [racial bias in the criminal legal system]?” He described the groundbreaking example set by Charles Hamilton Houston, a civil rights attorney and Dean of Howard Law School who won six cases in front of the US Supreme Court during the Jim Crow era and asked, “Does anyone think [Houston faced] less of a challenge than what we face today?”

**We're more powerful than we think.** Robinson urged advocates in the audience to recognize both their own power and the infinite potential of each client they represent, declaring that “the talent that goes into our prisons is a national security emergency.” In many cases, he reflected, outcomes for clients turn on the courage of the defense attorney. To illustrate this point, Robinson played a clip from the podcast More Perfect in which James Batson (of Batson v. Kentucky fame) [recalled](http://www.wnyc.org/story/object-anyway) his defense attorney telling him that there were no grounds to object to discriminatory peremptory challenges. James Batson refused to accept the removal of all black people from his jury and insisted that his defense attorney “object anyway.” Robinson stressed that advocates need to take a stand even when the possibility of victory seems remote, since “if we're silent this stuff rains down on us and our clients.”
 **Practical tips on challenging bias and reducing harm to clients of criminal conviction.** Another seminar highlight was a panel moderated by seminar co-chair Alyson Grine on reentry and collateral consequences in which panelists offered practical tips for defense attorneys. Dennis Gaddy of the [Community Success Initiative](https://www.communitysuccess.org/) observed that in the reentry context, “if you make it hard to do the right thing, you make it really easy to do the wrong thing.” Panelists suggested that collateral consequences should be thought of as “back-end sentencing” that is largely invisible to court actors, including defense attorneys, but is even more debilitating in some instances than the judge-imposed sentence. Darryl Atkinson, US DOJ Second Chance Fellow and Senior Staff Attorney with the [Southern Coalition for Social Justice](https://www.southerncoalition.org/), urged attorneys to: (1) use the UNC School of Government's [C-CAT](http://ccat.sog.unc.edu/) tool and factor back-end punishment into charge negotiations and into sentencing advocacy; (2) try to get clients expungement-eligible offenses; (3) try to get fees remitted when appropriate; (4) use federal guidelines limiting the use of criminal records in contexts such as housing and employment to help clients navigate around some of the most debilitating consequences of conviction; and (6) look for opportunities to bring the community and social justice movements into their work. Atkinson noted that advocates should always ask themselves “How do I use litigation to enhance the power of communities?” and seek opportunities to achieve a cultural shift, not just a favorable ruling.

**Other seminar highlights.** During a moderated panel, local attorneys Kellie Mannette, Alex Charns, and Ian Mance shared strategies and stories about investigating racial profiling in criminal cases by gathering data through [Open Data Policing](https://opendatapolicing.com/), presenting data persuasively, and partnering with community-based groups concerned about racialized policing. In a dynamic, interactive presentation, Georgetown University Law Center Professor Kristen Henning took a deep dive into the persistent problem of implicit bias and argued that public defenders have “bias blindspot,” believing that others are biased and defenders are not, leaving defenders more susceptible to being influenced by implicit biases. She suggested several strategies for countering the influence of implicit bias, including “counter-stereotypic imaging” (visualizing your client as someone else and asking if your behavior toward them would be different); perspective taking (putting yourself in your client's shoes); and increasing opportunities for contact with clients by getting to know your clients outside of the legal system in their homes, schools, churches, communities, etc.  Several speakers, including attorney Tye Hunter and Assistant Mecklenburg County Public Defender Toussaint Romain, stressed the importance of seeking racial equity in contexts outside of the legal system. ACLU Attorney Raul Pinto addressed the criminalization of immigrant communities by stressing that, while today's rhetoric around immigrants is very negative, it is not new, and it is also false. For example, while there is a perception that immigrants are more likely to be criminals, Harvard Sociology Professor Robert Sampson found that first generation immigrants were largely responsible for the nationwide crime drop in the 1990s, and are on average 45% less likely to commit crime than members of other groups. James Williams concluded the day by encouraging participants to look at challenging times as an opportunity to seek justice, and lifted up activist Grace Lee Boggs' quotation “These are the times that grow men's souls.”

 **Additional updates**

**SOG receives grant to form second NC REN cohort.** The School of Government's Indigent Defense Education Group is pleased to announce that, as a result of the generous support of the Z Smith Reynolds Foundation, we will be creating a second statewide cohort of NC Racial Equity Network (NC REN) attorneys starting in 2017! Through participating in a series of day-long, intensive workshops based on the manual, [Raising Issues of Race in North Carolina Criminal Cases](http://defendermanuals.sog.unc.edu/defender-manual/16), NC REN attorneys will develop strategies for raising issues of race in their cases and form a network of peers that encourages, supports, and challenges each another to address such issues. Be on the lookout for the call for applications in the spring of 2017!

**“Movement for Black Lives” Launches Platform.** The Movement for Black Lives recently released a [Vision for Black Lives: Policy Demands for Black Power, Freedom & Justice](https://policy.m4bl.org/). The website details their policy platform and includes opportunities for individuals and groups to join their campaign.
 **National Association for Public Defense (NAPD) Racial Justice Committee and Webinar.** NAPD recently hosted a webinar with Jeff Adachi, Public Defender of San Francisco and co-chair of the NAPD Racial Justice Committee. Adachi has been lecturing throughout the country on how public defenders and defense attorneys can effectively litigate racial justice issues in court. From the client interview to jury selection, the charging process, plea bargaining, suppression motions, and sentencing, Adachi provides step-by-step instruction on how to raise issues of race. Adachi also assembled a 400 page book, “Litigating Racial Justice,” that includes a selective prosecution motion, bail motions regarding disparate impact on racial minorities, motions for extended voir dire and challenging the jury panel, and sample cross-examinations. The book also includes the NAPD Racial Justice Committee's “Blueprint for Racial Justice,” designed to assist public defender offices throughout the country in organizing themselves to fight for racial justice. The webinar can be viewed [here](https://vimeo.com/192509472/173e4a2989).

For more news on race and criminal justice, please check out the [News and Updates](http://ncids.com/pd-core/?page_id=2) section of PD CORE's website.

 *We would love for you to join our committee! You will find the link to do so on the bottom right portion of the* [*webpage*](http://ncids.com/pd-core/)*. If you have feedback about Race Judicata, we’d love to hear from you; feel free to reply to the original poster.*