SUCCESSFUL STRATEGIES TO REDUCE RACIAL & ETHNIC DISPARITIES IN THE JUSTICE SYSTEM

April 14, 2017
Our Work

- The Burns Institute works to eliminate racial and ethnic disparity in the justice system by building a community-centered response to justice system involvement for people of color.

Our Expertise

- Facilitate community and system stakeholders through a data-driven process aimed at creating community-based alternatives to secure detention.
- Experience in consulting with over 100 jurisdictions nationwide to reduce racial and ethnic disparities in the justice system.
1. Increase understanding of the structural nature of racial and ethnic disparities in the justice system.

2. Increase understanding of how to apply a data-driven and community-centered approach to reducing disparities in the local justice system.

3. Increase understanding of how to implement meaningful community engagement strategies in the local reform effort.
WHAT ARE “RACIAL AND ETHNIC DISPARITIES?”

1. **Over-representation of people of color in the justice system**
   - A comparison of percentages or rates of involvement for people of color vs. white people

2. **Disparate treatment of people of color**
   - Different treatment for similar behavior

3. **Unnecessary entry into the justice system and/or deeper penetration into the justice system**
   - System involvement for socio-economic factors (i.e. inability to pay bail)
RACIAL AND ETHNIC DISPARITIES IN THE JUSTICE SYSTEM TODAY

There are 2.4 million individuals incarcerated in the US today.

60% of all incarcerated individuals are people of color.

75% of people in state prison for drug conviction are people of color although Black and White people use drugs at roughly the same rate.

A HISTORICAL OVERVIEW OF RACIAL AND ETHNIC DISPARITIES IN THE U.S.
CRIME AND PUNISHMENT
PRE-EUROPEAN FORMS OF DISCIPLINE

- Discipline typically doled out by family including tribal members
- Corporal punishment rarely used
- Focus on healing and community building
- Story-telling was commonly used as a means to teach lessons
- “A single hand cannot nurse a child”- African Proverb

“…that we might say they are their little idols.”- Mission San Gabriel

“KILL THE INDIAN, SAVE THE MAN”
20th Century Ideas: Slavery Was Wrong, Immoral, and Evil
POST ABOLITION: CONVICT LEASING SYSTEM, BLACK CODES AND JIM CROW
60 YEARS OF SEPARATE BUT “EQUAL”

1896 – Plessy v. Ferguson

1954 – Brown v. Board of Ed.
FOREIGNERS IN THEIR OWN LAND
CRIMINALIZATION OF THE “OTHER”

Mexican Repatriation (1930s)

Zoot Suit Riot (1943)

“YELLOW PERIL” AND CHINESE EXCLUSION ACT

- 61 years of racial discrimination against the Chinese
  - 1882 - Chinese Exclusion Act; the only U.S. law ever to prevent immigration and naturalization on the basis of race
  - 1943 – Magnuson Act; Chinese immigration to the United States once again permitted
In 1988 President Ronald Reagan signed into law the Civil Liberties Act of 1988, which apologized for the internment on behalf of the U.S. government and authorized a payment of $20,000 (equivalent to $41,000 in 2016) to each camp survivor. The legislation admitted that government actions were based on "race prejudice, war hysteria, and a failure of political leadership".

- World War II: September 1, 1939 – September 2, 1945
- Japanese Internment: February 19, 1942 – March 20, 1946
1934: NEW DEAL AND REDLINING

1934 – Home Owners Loan Corp “redlining” map of Chicago

2010 – Census data map of Chicago
WAR ON DRUGS

Change in Number of Arrests of Black Americans in the United States between 2011 and 1980, by Category of Crime

620,791

346,268

-70,231

-2,631

Possession of drug paraphernalia and other crimes
Drug Abuse Violations
All property crimes
All violent crimes

Source: Author's analysis of FBI Uniform Crime Reporting data

U.S. State and Federal Prison Population, 1925-2014

Nixon launches War on Drugs

Source: Bureau of Justice Statistics Prisoners Series.
U.S. INCARCERATION RATES BY RACE AND EDUCATION

Incarceration rates skyrocket in recent decades
% institutionalized, by race, age, education and year

- Black men with no high school diploma
- White men with no high school diploma
- All black men
- All white men

AGE

20-24

AGE

25-29

AGE

30-34

AGE

35-39

AGE

40-44

AGE

45-49

% institutionalized

35%

28%

21%

14%

7%

0%
RACIAL DISPARITIES ACROSS SECTORS

- People of color experience higher rates of unemployment and have less wealth.

- People of color generally fare worse at all levels of educational attainment than their White peers.

- People of color have a shorter life expectancy.

Source: Race for Results 2016; CDC Health Disparities and Inequalities Report—United States, 2013
FOCUS ON JUSTICE SYSTEM POLICY/PRACTICE

DRIVERS OF INCARCERATION

Out of Your Control
- Poverty
- Racism

In Your Control
- Differential Enforcement
- Differential Processing
- Bail Policies
- Family Dynamics
- Bench Warrants/Probation Violations

Doors of Detention
FUNDAMENTALS OF REDUCING RACIAL AND ETHNIC DISPARITIES
Local Jurisdictions’ Role in Reducing R.E.D.

1. Identify local disparities and barriers to equity
2. Dig deeper into the data and engage community in order to identify the reasons for disparities
3. Strategically use resources to develop local interventions that reduce R.E.D. and promote equity
4. Routinely measure results and adjust interventions as necessary
Building & Sustaining Collaborative Structures

- **Authority**
  - Collaborative must have the sufficient authority to implement the policy/practice/programmatic changes

- **Composition**
  - Involvement of Supervisors/Line Staff
  - Community Involvement

- **Structure**
  - Ensure oversight and direction
  - Institute a process for decision-making
  - Clear communication strategy between sub-committees

- **Leadership and Coordination**
  - Good leadership (political will & ownership vs. box checking)
  - Effective management (coordination)
DEFINING SUCCESS

- Why is it important to define success?
- What is success in your jurisdiction?
  - Engaging community partners
  - Number of meetings
  - Reducing detention rate of people of color
  - Reducing numbers of people of color in jail
  - Reducing the inappropriate booking into jail of people of color
  - Limiting justice system involvement for people of color
DEFINING THE ‘IT’

Does your local collaborative seek to...

- Address implicit bias
- Eliminate conscious/intentional discrimination (‘racism’)
- Improve justice system policies and practices to create better outcomes for people of color
- Create a justice system that is “rare, fair, and beneficial”
- Improve communication between social service agencies
- Eliminate unnecessary use of pre-trial incarceration for people of color
CULTURE OF POLITENESS

- Avoids uncomfortable discussions
- Asserts privilege to express concern without taking real action
- Maintains the Status Quo of Inappropriate Detention, Disparate Racial Treatment, and Disproportionality
USING DATA TO REDUCE RACIAL AND ETHNIC DISPARITIES
1. **Identify Disparities**  
   - Identify whether and to what extent racial and ethnic disparities exist

2. **Identify, Analyze and Strategize around a “Target Population”**  
   - Identify target population to focus the work  
   - “Dig deeper” into target population to learn more about policy, practice, and/or procedure and other factors contributing to disparities.  
   - Strategize  
   - Pilot or adopt policy change

3. **Measure Progress**  
   - Monitor Effectiveness of Policy Change  
   - Document changes in disparities
Spokane County Population Trends 1990-2014 (18+ years)

Spokane County Population Trends for Black, Latino, API & Native American Adults
STEP 1: IDENTIFY DISPARITIES
ARE PEOPLE OF COLOR MORE LIKELY TO BE DETAINED?

Rates of Confinement per 10,000 in the population
(snapshot in 2010 v. 2014)

How to Read:
- In Spokane County in 2010:
  - For every 1,000 White adults in the population 15 were detained
  - For every 1,000 Black adults 92 were detained
  - For every 1,000 Latino adults 33 were detained
- In Spokane County in 2014:
  - For every 1,000 White adults in the population 18 were detained
  - For every 1,000 Black adults 130 were detained
  - For every 1,000 Latino adults 30 were detained

Disparity Gap in Jail Population Rates (2010-2014)
(per 10,000 adults in Population)

How to Read:
- In Spokane County in 2010 for every 1 White adult detained
  - 6.1 Black adults were detained
  - 2.2 Latino adults were detained
  - 4.5 Native American adults were detained
- In Spokane County in 2014 for every 1 White adult detained
  - 7.1 Black adults were detained
  - 1.7 Latino adults were detained
  - 6.2 Native American adults were detained
STEP 1: IDENTIFY DISPARITIES
ARE PEOPLE OF COLOR MORE LIKELY TO BE DETAINED?

Rates of Confinement per 10,000 in the population:
Pre-Trial
(snapshot in 2010 v. 2014)

How to Read:
• In Spokane County in 2010:
  • For every 1,000 White adults in the population 8 were detained pre-trial
  • For every 1,000 Black adults 54 were detained pre-trial
  • For every 1,000 Latino adults 8 were detained pre-trial
• In Spokane County in 2014:
  • For every 1,000 White adults in the population 9 were detained pre-trial
  • For every 1,000 Black adults 62 were detained pre-trial
  • For every 1,000 Latino adults 13 were detained pre-trial

Disparity Gap in Jail Population Rates: Pre-Trial (2010-2014)
(per 10,000 adults in Population)

How to Read:
• In Spokane County in 2010 for every 1 White adult detained pre-trial
  • 7 Black adults were detained pre-trial
  • 1 Latino adults were detained pre-trial
  • 3.6 Native American adults were detained pre-trial
• In Spokane County in 2014 for every 1 White adult detained pre-trial
  • 6.7 Black adults were detained pre-trial
  • 1.4 Latino adults were detained pre-trial
  • 6.1 Native American adults were detained pre-trial
STEP 2: IDENTIFY TARGET POPULATIONS

What is a “target population”?

- Arrest or pretrial detention for lower level offenses and technical violations; overrides for which alternatives exist or can be developed
- Once identified, the stakeholder group must determine what alternatives or services will ensure community safety and achieve better outcomes
- Way to focus your efforts

Examples of Target Population:

- People of Color in Jail who:
  - Were assessed as “low” or “moderate” risk on a pretrial risk tool
  - May have scored high on a risk tool but are detained for low level offenses or “quality of life citations”
  - Were unable to post money bail
## Top 10 Offenses Represent Almost Half of Total Bookings to Jail

<table>
<thead>
<tr>
<th>Offense Description</th>
<th>White</th>
<th>Black</th>
<th>Latino/Hispanic</th>
<th>Asian, Pacific Islander</th>
<th>Native American</th>
</tr>
</thead>
<tbody>
<tr>
<td>GM 46.61.502G - VEH(DWUIL/DRUG)</td>
<td>1,302</td>
<td>118</td>
<td>55</td>
<td>44</td>
<td></td>
</tr>
<tr>
<td>HO 0043030 - HOLD- COMMUNITY CUSTODY</td>
<td>978</td>
<td>111</td>
<td>55</td>
<td>113</td>
<td></td>
</tr>
<tr>
<td>GM M-10.11.010DV - CITY ASSAULT-DV</td>
<td>886</td>
<td>153</td>
<td>54</td>
<td>52</td>
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</tr>
<tr>
<td>FC 69.50.4013(1) - CNTL SUB(POSS-FEL)</td>
<td>938</td>
<td>89</td>
<td>89</td>
<td>63</td>
<td></td>
</tr>
<tr>
<td>MIS 46.20.342(1)(C) - OP W/LIC SUSP 3D(FINAN RESP)</td>
<td>693</td>
<td>66</td>
<td>62</td>
<td>44</td>
<td></td>
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<tr>
<td>HO 0043005 - HOLD- U.S.MARSHALL</td>
<td>426</td>
<td>74</td>
<td>221</td>
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<tr>
<td>HO 0043015 - IN TRANSIT-OTHER AGENCY</td>
<td>557</td>
<td>48</td>
<td>64</td>
<td>55</td>
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<tr>
<td>GM M-10.05.100 - THEFT-CITY</td>
<td>614</td>
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<td>64</td>
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<td></td>
</tr>
<tr>
<td>GM 9A.36.041DV - ASSAULT-4D (DOMESTIC VIOLENCE)</td>
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<td>42</td>
<td>39</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GM 9A.56.050(1)(A)CO - THEFT-3D(OBTAIN/EXERT CONTROL)</td>
<td>418</td>
<td>21</td>
<td>53</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Top 10 Offenses - All

<table>
<thead>
<tr>
<th>Offense Description</th>
<th>White</th>
<th>Black</th>
<th>Latino/Hispanic</th>
<th>Asian, Pacific Islander</th>
<th>Native American</th>
<th>Other/Unknown</th>
<th>Total</th>
<th>% of all Bookings</th>
<th>% of all Bookings - POC</th>
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<tbody>
<tr>
<td>GM 46.61.502G - VEH(DWUIL/DRUG)</td>
<td>1302</td>
<td>118</td>
<td>55</td>
<td>37</td>
<td>44</td>
<td>3</td>
<td>1559</td>
<td>8%</td>
<td>7%</td>
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<tr>
<td>HO 0043030 - HOLD - COMMUNITY CUSTODY</td>
<td>978</td>
<td>111</td>
<td>55</td>
<td>7</td>
<td>113</td>
<td>2</td>
<td>1266</td>
<td>7%</td>
<td>7%</td>
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<tr>
<td>GM M-10.11.010DV - CITY ASSAULT-DV</td>
<td>886</td>
<td>153</td>
<td>54</td>
<td>27</td>
<td>52</td>
<td>2</td>
<td>1174</td>
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<td>89</td>
<td>39</td>
<td>8</td>
<td>63</td>
<td>1</td>
<td>1138</td>
<td>6%</td>
<td>5%</td>
</tr>
<tr>
<td>MIS 46.20.342(1)(C) - OP W/LIC SUSP 3D(FINAN RESP)</td>
<td>693</td>
<td>66</td>
<td>26</td>
<td>8</td>
<td>40</td>
<td>2</td>
<td>835</td>
<td>4%</td>
<td>4%</td>
</tr>
<tr>
<td>HO 0043005 - HOLD - U.S.MARSHALL</td>
<td>426</td>
<td>74</td>
<td>221</td>
<td>9</td>
<td>75</td>
<td></td>
<td>805</td>
<td>4%</td>
<td>10%</td>
</tr>
<tr>
<td>HO 0043015 - IN TRANSIT-OTHER AGENCY</td>
<td>557</td>
<td>48</td>
<td>64</td>
<td>2</td>
<td>55</td>
<td>2</td>
<td>728</td>
<td>4%</td>
<td>4%</td>
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<td>725</td>
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<td>3%</td>
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<td>GM 9A.36.041DV - ASSAULT-4D (DOMESTIC VIOLENCE)</td>
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<td>29</td>
<td>11</td>
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<td>679</td>
<td>4%</td>
<td>3%</td>
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<tr>
<td>GM 9A.56.050(1)(A)CO - THEFT-3D(OBTAIN/EXERT CONTROL)</td>
<td>418</td>
<td>21</td>
<td>15</td>
<td>1</td>
<td>33</td>
<td></td>
<td>488</td>
<td>3%</td>
<td>2%</td>
</tr>
</tbody>
</table>

| Total - Top 10                                                                     | 7388  | 756   | 565             | 113                    | 560            | 15           | 9397  | 49%              | 52%                      |
| Total                                                                              | 15465 | 1621  | 915             | 253                    | 1086           | 24           | 19364 |                 |                          |
Average Length of Stay (ALOS) in Jail was 17 days while Median Length (MLOS) was 1 day for the total population. Black adults had the longest ALOS at 25 days and Latino/Hispanic adults had the longest MLOS at 3 days.

### Average Length of Stay (ALOS) vs. Median Length (MLOS) by Ethnicity

<table>
<thead>
<tr>
<th>Ethnicity</th>
<th>Average (ALOS)</th>
<th>Median (MLOS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>White</td>
<td>16</td>
<td>1</td>
</tr>
<tr>
<td>Black</td>
<td>25</td>
<td>2</td>
</tr>
<tr>
<td>Latino/Hispanic</td>
<td>16</td>
<td>3</td>
</tr>
<tr>
<td>Asian, Pacific Islander</td>
<td>10</td>
<td>1</td>
</tr>
<tr>
<td>Native American</td>
<td>21</td>
<td>2</td>
</tr>
<tr>
<td>Other/Unknown</td>
<td>8</td>
<td></td>
</tr>
</tbody>
</table>

Total number of individuals released/used to calculate LOS:

- White: 15493
- Black: 1637
- Latino/Hispanic: 900
- Asian, Pacific Islander: 245
- Native American: 1095
- Other/Unknown: 24

Total: 19394
Top 10 Residence Zip Codes of People Booked to Jail Comprise 47% of All Bookings
(9,224 of 19,477)
<table>
<thead>
<tr>
<th>Zip Code</th>
<th>White</th>
<th>Black</th>
<th>Latino/Hispanic</th>
<th>Asian, Pacific Islander</th>
<th>Native American</th>
<th>Other/Unknown</th>
<th>Total</th>
<th>% of Total (w/o NULL)</th>
<th>% of Total (w/o NULL) - POC</th>
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<tbody>
<tr>
<td>99207</td>
<td>1221</td>
<td>181</td>
<td>67</td>
<td>22</td>
<td>120</td>
<td>5</td>
<td>1616</td>
<td>11%</td>
<td>15%</td>
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<td>99201</td>
<td>1156</td>
<td>154</td>
<td>71</td>
<td>24</td>
<td>105</td>
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<td>1511</td>
<td>11%</td>
<td>13%</td>
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<tr>
<td>99205</td>
<td>1143</td>
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<td>35</td>
<td>13</td>
<td>59</td>
<td>3</td>
<td>1348</td>
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<td>8%</td>
</tr>
<tr>
<td>99202</td>
<td>818</td>
<td>169</td>
<td>31</td>
<td>9</td>
<td>52</td>
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<td>1080</td>
<td>8%</td>
<td>10%</td>
</tr>
<tr>
<td>99208</td>
<td>762</td>
<td>91</td>
<td>24</td>
<td>22</td>
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<td>99206</td>
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<td>56</td>
<td>17</td>
<td>16</td>
<td>21</td>
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<td>899</td>
<td>6%</td>
<td>4%</td>
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<td>99216</td>
<td>502</td>
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<td>13</td>
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<td>558</td>
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<td>2%</td>
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<td>99212</td>
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<td>29</td>
<td>1</td>
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<td></td>
<td>512</td>
<td>4%</td>
<td>3%</td>
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<tr>
<td>99217</td>
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<td>5</td>
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<td>399</td>
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<td>3%</td>
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<td>99223</td>
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<td>5</td>
<td></td>
<td>357</td>
<td>3%</td>
<td>2%</td>
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<tr>
<td><strong>Top 10 Total</strong></td>
<td>7453</td>
<td>862</td>
<td>306</td>
<td>129</td>
<td>464</td>
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<td>9224</td>
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<tr>
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<td>490</td>
<td>359</td>
<td>77</td>
<td>307</td>
<td>8</td>
<td>5344</td>
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<tr>
<td><strong>Total</strong></td>
<td>15550</td>
<td>1633</td>
<td>919</td>
<td>253</td>
<td>1098</td>
<td>24</td>
<td>19477</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total (w/o NULL)</strong></td>
<td>11447</td>
<td>1143</td>
<td>560</td>
<td>176</td>
<td>791</td>
<td>16</td>
<td>14133</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Peeling Back the Onion...

1. **What** more do we need to know about this target population to reduce system involvement and jail utilization for people of color?

2. **Why** is answering this question key to reducing disparities?

3. **How** will we answer this question? (Data Source)

Where will you find answers?

- Regularly Reported Data
- Jail Utilization Studies
- Case Management System Query
- Other Research & Analysis
  - Case File Review
  - Prospective Data Collection
  - Interviews or Focus Groups
  - Surveys (Online, Phone, Hard Copy)
COMMUNITY ENGAGEMENT
Historical Importance of Community Involvement

- Probation was started in Boston by Shoemaker John Augustus who bailed out individuals from jail.

- John Augustus represents the historical role of community members providing cutting edge leadership within justice reform movements of the past.
Why Involve the Community?

**Sense of Urgency**
- Community sees justice system-involved individuals as their own, and thus, are the stakeholders who push the hardest for reform.

**Critical Insight**
- Community members, particularly from the areas contributing to incarceration, bring intimate knowledge and important insight regarding the impact of system-involvement.

**Necessary Resources**
- Community members offer potential resources or conduit to resources within communities most impacted by system involvement. Often, these resources can be tapped as community based alternatives to formal system involvement.
Who is “Community?”

Community members are diverse but should have connections to the system and to the appropriate neighborhoods:

- Established Leaders
- Service Providers
- Community Organizations
- Spiritual and Traditional Leaders
- Business people, artists, athletes
- Families affected by the justice system
WHAT IS COMMUNITY ENGAGEMENT?

A **process** by which **individuals*** representing a particular constituency (i.e. residential, gender, cultural, social, spiritual, etc.) are **meaningfully engaged** in local/state efforts to reform the justice system.

*These individuals must be somehow impacted by the justice system and/or target population.*
What are the Responsibilities of System Stakeholders in Engaging Community?

- Logistical Considerations
- Transparency
- Power sharing
- Open to criticism
- Education
  - i.e. Criminal Justice 101
BRINGING COMMUNITY STAKEHOLDERS IN EARLY ALLOWS FOR...

- Shared ownership of the process
- Community input into purpose and goals of the disparities reduction work
- Community members to serve as ambassadors of the reform effort (establish broader community buy-in)
- Learning at the same pace (community isn’t forced to play catch-up)
- Earlier identification of community resources that could be useful in the disparities reduction work
COMMUNITY ENGAGEMENT STRATEGIES

Data Collection
- Utilize qualitative methods of data collection
  - Focus groups/Interviews/Surveys
  - Community-based Participatory Research

Formal Partnership with Community Based Organization
- Serve as a formal partner maintain community-based alternatives to formal system involvement

Increase/Maintain Community Awareness
- Inform/Engage broader community of the local reform
  - Community Forums

Community Stakeholders
- Equitable membership/participation at the decision-making table
  - Serve an advisory function (i.e. advisory councils)
Implications for Missing Stakeholders

- **If traditional justice system stakeholders are missing:**
  - Lack of buy in and consensus on disparity reduction strategies
  - Inability to change policies and practices
  - Possibility of subversion

- **If non-traditional/community stakeholders are missing:**
  - Lack of urgency
  - Little or no system accountability to larger community
  - Inability to incorporate voice, insight, un-tapped resources
  - Minimizes opportunity for sustainability
Laying the Foundation

- **Trust & Respect:**
  - Relationships are the bedrock of community engagement. System and community stakeholders need trust and respect to deal with these tough and often emotional issues.

- **Patience:**
  - Tension between system and community stakeholders is often a sign of movement towards addressing deep-rooted systemic issues.

- **Selflessness:**
  - We must leave our egos at the door before entering this space.
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