



UNITED NATIONS ASSOCIATION
of the United States of America
A PROGRAM OF THE UNITED NATIONS FOUNDATION
Southern New York State Division

Race, Criminal Justice and Human Rights: What We Can Do

August 17, 2016

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A. INTRODUCTION

The UNA-USA Southern New York State Division¹ held its third consultation on Race, Criminal Justice and Human Rights on August 17, 2016. The event was held in the office of the UN Foundation in New York City. The 38 participants included clergy members, police officers and consultants, legislative staff, university faculty members and other educators, attorneys, staff of agencies assisting prisoners or those released from prison, experts in human trafficking and violence against women, public health specialists, Human Rights specialists, NGO representatives, UNA-USA chapter and Division leaders and Alpha Kappa Alpha Sorority members, and included several people who were formerly incarcerated. (See Annex 1.)

Ruth Hassell-Thompson, former NYS Senator and now Special Advisor to Governor Cuomo for Policy and Community Affairs at Homes and Community Relations, joined in planning this program and gave remarks on the importance of our work together. Jeanne Betsock Stillman,

¹ UNA-USA is a membership organization dedicated to inform, inspire, and mobilize the American people to support the ideals and vital work of the United Nations. We do this by interacting with the UN and its programs and their implications for our country. In our Division we have chapters from the Mid-Hudson Valley to New York City and Long Island.

organizer of the event, described interactions in 2016 between several United Nations entities and the U.S. related to race, criminal justice and human rights. Also important to the framing of the discussion was the **Report of the President's Task Force on Community Policing (2015)**². Troy Wolfe, UNA Education Director, introduced the small group discussions, which led lead back to presentations in plenary. Next steps would be to spread widely the final report through the networks of participants and to send it to Ms. Hassell-Thompson with the aim that key ideas might be included in the Governor's State of the State address and budget.

B. SETTING THE STAGE FOR ACTION – RUTH HASSELL-THOMPSON

After introductions of all the participants, Ms. Hassell-Thompson offered remarks on several topics she thought important for our meeting:

- Children aging out of foster care need special attention as they are at great risk of making bad choices that will lead to imprisonment.
- We need to change the conversation from seeing at-risk youth as perpetrators rather than as resources for the community.
- Domestic violence is a cause of women in prison as well as a societal concern. A large percentage of women in prison have histories of physical or sexual abuse before being incarcerated.
- Society including the justice system still see those trafficked as perpetrators, not as victims. Some laws have been changed but many others still should be changed.
- The purpose of our meeting should be an action plan that should include careful articulation of the needs and remedies and action steps.
- She said, we are a powerful group of people with good networks. We need to connect with each other and listen to each other's histories. Our aim is to find how we use our networks to go forward from this meeting.
- The purpose of our meeting should be an action plan that includes a careful articulation of the needs, remedies, and action steps to be taken; to connect with each other and listen to each other's histories; and to refine how we use our networks to "alter the world as we walk through it".

Ms. Hassell-Thompson concluded by stating " to find peace, there must be justice. All people want is an opportunity to achieve, no matter who they are, but she reminded us that peace is not merely the absence of violence, it is a presence of Justice, therefore, there is no peace without justice.

C. THE UNA-USA, THE UNITED NATIONS, AND RACE, CRIMINAL JUSTICE & HUMAN RIGHTS IN THE USA

The UNA Southern New York State Division has addressed for the third year the nationwide problem of race, the criminal justice system and human rights.

² http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf

In addition to a report by UNA-USA (national) to the United Nations Human Rights Council in 2014 on several topics³ our Division felt the very important issue of race and criminal justice deserved attention. Since 2014 we have been examining this in relation to our country's international treaty obligations, especially the International Convention on the Elimination of All Forms of Racial Discrimination, or ICERD. We have written reports to the U.S. State Department and the ICERD Committee on our findings, which are available at <http://www.unasny.org/white-papers-and-reports.html>

Our first consultation took place in July 2014, two days before Eric Garner was killed. Since then the deaths of black men and some women at the hands of police have been publicized with press, video and bodycam coverage, calling this to the attention of the country and internationally. Attention has also broadened to include racial and ethnic implicit bias that begins with schoolchildren and goes on from there.

In August 2015 we held a second consultation, with a focus on what could be done at the national, state and local levels in the areas of women and children; school to prison pipeline; and sentencing, prison and post-incarceration.

Now in 2016 three UN bodies have commented on the race and justice situation in the U.S. These included visits to the U.S. and statements by the (1) **UN Human Rights Council Working Group of Experts on People of African Descent**, and (2) **UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association**, and (3) a letter from the **Committee for the Elimination of All Forms of Racial Discrimination (CERD)**.⁴ All spoke to the positive elements in U.S. policy and actions and many recommendations for change.

In January the **Working Group** traveled to Washington, D.C., Baltimore, Jackson, Mississippi, Chicago and New York City. They enumerated some areas to be commended, many areas of concern and quite a few recommendations on the subjects of conditions of those released from prison, the school-to-prison pipeline, de facto residential segregation and its consequences, access to quality and affordable health care, reporting of excessive use of force by police, and even the unavailability of grocery stores. The Working Group's recommendations are intended to assist the U.S. Government in its efforts to combat all forms of racism, racial discrimination, Afrophobia, Xenophobia and related intolerance.

In May the **CERD Committee** wrote to the U.S. Government, based on reports submitted to it in 2015, that despite a number of investigations launched into cases involving excessive use of force by the police, the Committee:

- (a) regretted that such information is inadequate, in particular with regard to excessive use of force by Customs and Border Protection officials and

³ Policies related to women and girls, human trafficking, the LGBT community, and the status of unsigned treaties relating to women, to children, to Law of the Sea and to persons with disabilities.

⁴ These documents are available in the Resources section of the Division's website: www.unasny.org

- (b) regretted the low number of criminal indictments against police officers despite the high number of fatal police shootings of members of ethnic minorities in recent years.

The CERD Committee reiterated its recommendation that the U.S. provide detailed information concerning investigations undertaken into allegations of excessive use of force by law enforcement officials against members of ethnic minorities as well as their outcomes. The Committee also requested “further information on the police reform agreements concluded between the Department of Justice and the cities of Ferguson and Cleveland, and their outcomes.” For information see:

http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_FUL_USA_23994_E.pdf

In July the **Working Group of Experts on People of African Descent** issued a statement condemning the deaths of Philando Castile in Minnesota and Alton Sterling in Louisiana at the hands of police, and the killing of five police officers in Dallas. The strongly worded statement noted that “the root of the problem [killing by police] lies in the lack of accountability for perpetrators of such killings despite the evidence.”⁵ The Working Group indicated it would present a comprehensive report of its findings and recommendations to the UN Human Rights Council in September 2016.

Also in July, the **United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, (Mr. Maina Kiai)**, produced a Statement at the conclusion of his visit to the United States.⁶ He had covered 10 cities and observed protests at the political conventions in Cleveland and Philadelphia and visited cities rocked by the police killings of black men in Baton Rouge, Baltimore, and Ferguson.

The Special Rapporteur emphasized that the focus of his mission was not race or discrimination, but enjoyment of the rights to freedom of peaceful assembly and of association. However racism, and the exclusion, persecution and marginalization that come with it, affect the enabling environment for the exercise of association and assembly rights. He therefore commented on the Black Lives Matter movement, the so-called War on Drugs, the federal three-strikes law, police role in relation to protest assemblies and other matters. A link is available in the Resources paper in Annex 2.

D. CONCERNS AND RECOMMENDATIONS

1. School to Prison Pipeline

Facilitators: Divine Pryor and Troy Wolfe; Rapporteur: Heidi West; Participants: Lynda Bagley, Mary Seward Downes, Barbara Felton, George Garland, Gail Gray, Lisa Hofflich, Corinne Whitaker, Anna Wolonciej

⁵ <http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20248&LangID=E>

⁶ <http://freeassembly.net/news/usa-statement/>

Discussions in this group focused on four main areas – student achievements, information sharing, educational support, and de-facto segregation. These factors contribute all too often to what is known as the School to Prison Pipeline, with students banished from school, wallowing in limbo, and ending up in jail. Problems in these areas have disproportionate effect on the situation of young African-Americans, males in particular, and other minority students. The group highlighted the individual, societal and economic benefits of stemming the flow of that pipeline, and emphasized that schooling costs less than prison time.

a. Student Achievements - Creation and Perpetuation of Gaps

Concerns:

- Heavy representation of minorities in Special Education, English as Second Language and related programs. These showed the students at a disadvantage from the beginning.
- Racial disparities in enrollment in and opportunities for AP/Honors programs.
- Use of suspension and expulsion in relation to misbehavior, leading to criminalization of school “violations” and the labeling of students that comes with this practice.
- Lack of or inadequate implementation of diversity education, human rights education, and sexuality education. Existence of the New York “Dignity for all Students Act” shows that even when present, such programs are not fully implemented across the board.

Recommendations:

- Essential from the outset is to hold school and district leadership accountable. This requires institutional support and participation from families and community.
- Stress the importance of “restorative justice,” rather than “zero tolerance” policies, and ensure appropriate teacher and staff training and a safe environment for all.
- Ensure the availability of and connection to advocates/mentors/supporters for parents, and make use of use model programs and best practices to implement new programs.
- Ensure connections to diverse advocacy groups and institutions outside of school, such as community groups, faith, non-profits, social services, etc.
- Start intervention services young, starting in elementary schools and even in pre-school.
- Change the conversation to address the false notion of an inherent achievement gap.

b. Information sharing – Inadequate provision, dissemination, and linkage

Concerns:

- Insufficient attention is given to demographic, economic, social, cultural, school-based and other data, and, when available, the data are often not linked to service providers and shared systematically.
- When data are not adequately disseminated and made available to the various constituencies, then lawyers, policy makers, practitioners, teachers, and social service professionals cannot properly litigate, advocate or support students.
- Quantitative data alone can dehumanize, and do not answer the question of “why.”

Recommendations:

- Use data more effectively as the basis for elementary school and school preparatory assessments, as early intervention is key to disrupting the school to prison pipeline.
- Ensure systematic mechanisms for sharing data with lawyers and advocates to bridge the information gaps among the justice system, schools, and services.
- Create networks to link the existing groups and individuals involved in research and data preparation and management.
- Data sharing should go beyond institutions but should be shared with parents AND students to empower them.
- Analyze the data to impact social and emotional learning.
- Collect, analyze and disseminate qualitative as well as quantitative data.
- Use both qualitative and quantitative data, from both community and classrooms, for evaluating students.
- Use information from school administration and counselor evaluations, in addition to that from teachers.

c. Educational support - Institutions, professionals and the public

Concerns:

- Nationally there are teacher and resource shortages, in relation to public schools and especially those schools with significant proportions of minority students.
- There are issues of teacher certification, training and the updated learning needed to support better performance.
- School support personnel often are not adequately prepared to assist and empower the students in their charge.
- Teacher evaluations and counselor and school leadership evaluations are often not appropriately linked with student and community data and therefore do not represent the full situation.
- Persons in the community who could be role models are insufficiently linked to students.

Recommendations:

- Examine critically who is being recruited and attracted to the teaching profession, how teachers are trained and evaluated, and apply this analysis also to guidance counselors and other staff, including teacher aides.
- Hold school leadership accountable, which requires action from school districts, and cities, counties and states, as well as from families and community organizations.
- Have institutional links to services and advocates who can support parents, role models from the community to support the students, and empower role models and advocates.
- Evaluation of teachers should be revised and also include counselors and leadership. This should be connected to the qualitative and quantitative data on the broader picture, not just the classroom.

- Data and evaluations should also be used to limit “caseloads” similar to the limits set for other public service providers.

d. De-facto School Segregation – An institutional constraint

Concerns:

- School segregation persists, despite legislation, bussing, and other actions. Communities are often left out of solution.
- This issue is tied to residential de-facto segregation by income level and by city vs suburbs, and cannot be addressed in isolation from issues of gentrification.

Recommendations:

- Create community schools, increase community roles in implementing programs.
- Conduct community education and support/empower the community to implement actions based on data and knowledge of what is best for their residents.
- Hold federal and state government, unions, corporations, and community leadership accountable for fostering improvements.

2. Community Policing

Facilitator: Zelma Henriques; Rapporteur: Peter De Bartolo; Participants: Carl Barchus, Jennifer Carpenter, Asha Castleberry, Yuhanna Edwards, Eugene Pursoo, Gerard Savage, David Stillman, Jeanne Betsock Stillman, Bryana Valverde-DeBartolo, Bianca VanHeydoorn, Ed Welch

This group dealt with several interrelated criminal justice matters, including community and police relations in the context of recent shootings and protests, unequal enforcement, broader institutional issues and economic and related issues. They gave particular attention to police recruiting and to professional monitoring. They set these into the framework of the Report of the President’s Task Force on 21st Century Policing (May 2015), and to the Universal Declaration of Human Rights and other treaties including in particular the International Convention on the Elimination of All Forms of Racial Discrimination.

The report on 21st century policing was seen as important but inadequately known and applied. It includes 59 recommendations for police departments, including paying greater attention to trust, legitimacy, oversight, technology, community, and training, as well as officer wellness and safety.

Participants emphasized that community policing is not a unit but a philosophy that includes all stakeholders. Those in charge of policing need also to recognize ownership by and collaborate with communities and local leaders. (“Protect and serve”, not “command and control.”)

Bearing in mind that the meeting was convened under the aegis of the UN Association of the USA, participants noted that many Americans are not aware how much behaviors and injustice

in this country impact people and governments in the rest of the world. Human rights issues in the USA are actually global issues and criminal justice injustices are actually some of the most important human rights issues in the USA.

a. Community and police relations

Concerns:

- Problems often arise in how communities view police and how police view communities. Trust is lacking.
- Police often may see their role as “warriors”, and not recognize the need for the roles of “guardians,” “protectors” and “facilitators.”
- Perceptual misalignments lead to problems of expectations and management.

Recommendations:

- Police need to recognize the need to collaborate with communities, understand the local population/public, embed community values in policing and work with communities to co-produce public safety.
- Police officers and departments need to be more representative of the communities they serve.
- Recognize that US criminal justice issues are human rights issues, acknowledge that problems exist, and inform and involve the public in steps to overcome the systemic nature of the issues
- Provide opportunities for police interacting with community in positive ways.
- Invite to the table people/communities impacted by the police - bring everyone into the conversation. Those who are most impacted by policing need to be a bigger part of the conversations for reform.
- The guidance and obligations under the Report on 21st Century Policing, the Universal Declaration of Human Rights, and other related treaties should be made known broadly and applied and implemented at the local level.

b. Institutional issues

Concerns:

- Many people in the USA seem to have become callous and numb to incidents of racial discrimination, and fail to see the validity of the rising wave of protests. Thus for example the phrase “Black lives matter” is seen to be in conflict with “Police lives matter” and “All lives matter.”
- It was emphasized that all forms of discrimination are attempts to dehumanize people. The United States is no stranger to such activities, dating back to slavery of Africans and genocide/containment of Native Americans.
- Generations of immigrants have felt discrimination in one form or another, but that against African-Americans has been a constant.

Recommendations:

- Need for a cultural/institutional shift.
- Progress in the other categories under discussion could be helpful in achieving this.

c. Unequal enforcement

Concerns:

- The breadth and pervasiveness of implicit bias in police departments and beyond in the judicial system.
- The need to review and consider changing leadership in police departments so as to foster essential reforms.
- Situations are often socially constructed by politicians and the media. Thus “A 17-year-old boy lying dead in the street isn't seen as a 'boy' who deserves dignity, because he is brown. Instead, he could be a 'criminal' and a 'threat'.”
- “The spirit of the law seems to change based on GPS coordinates” said a participant, meaning that neighborhoods of residence are often predictors of police attitudes and actions.

Recommendations:

- Recognition of unequal application of law is the first step, but new rules of engagement and updated guidelines need to be set down throughout the criminal justice system. The Report of the President’s Task Force on 21st Century Policing is very relevant here.
- Conversations on reform need to include changing the way that chiefs and commissioners operate at the departmental level, and focus especially on departments involved in systematic injustices/human rights violations.
- Appoint/empower special judicial commissions to evaluate the constitutionality of current policies and practices, and mandate changes, as necessary.

d. Economics and related issues

Concerns:

- Participants said in heavily-policed communities young people often have to choose between 'hunted' (criminal) or 'hunter' (join the police force). This can have far-reaching implications for the individual and the community. It reflects the lack of other opportunities and options.
- Economic injustices translate into racial injustices. Without long-term economic development structural problems persist, including a lack of opportunities and support for youth in urban communities.
- Many urban communities are destroying themselves with crime, because they have been set up to fail for generations.

Recommendations:

- Long-term solutions must include economic opportunities and support for youth.

- More education and economic development are needed to address the underlying causes of crime. The problem often is not so much crime itself, as crime is often the symptom of deeper socio-economic issues.

e. Police recruiting

Concerns

- Shortcomings in how police officers are recruited, the criteria/ standards/ testing used, who is recruited, and the motivations of those who join.
- Selection of officers based on skills and technical criteria is insufficient if character and understanding of communities and social issues are not also emphasized.

Recommendations:

- Review and update police testing criteria. Not only implement more regular screenings for police officers in order to identify psychological disorders, but also evaluate whether officers have good understandings of social dynamics, interpersonal skills, and community issues.
- Promote continuing education for police, and re-certification, as for teachers, and emphasize their being well-informed about the social systems and communities in which they operate.

f. Professional monitoring

Concerns:

- Many of the people running police departments will still be the same for the next 10 or more years, thus change may be incremental at best.
- Election or appointment of top police officials means policing is political matter.
- The mentality governing the application of law enforcement hasn't changed much over the years, even as the rest of society has evolved considerably.

Recommendations:

- Society must undergo a paradigm shift in the way it thinks about crime and policing. This is not too broad to be realistic. The news coverage of police shootings and coverage of the murder of police have brought sharpened attention to issues of how police officers do their jobs, and what can make this better.
- Implement more automatic accountability mechanisms -- body cameras, dashboard cameras, and ready release of such information to the public.
- Explore further the role of judges and courts and how they can be a corrective force to right the wrongs of law enforcement officers when these occur.
- Ensure responsible authorities review policing guidelines and policies within the context of equal protection under the law.

- Dismiss police officers who have proven themselves as unfit, make performance standards widely known and applied within the departments, and do so in a manner that brings collaboration, not hostility from police unions.
- Undertake complete and comprehensive reviews of those in charge of police departments, to evaluate what institutional cultures and values are being imparted to younger officers.
- Regularly review officer wellness. Give attention to the long-term psychological well-being and mental health of police officers, so they continue to be part of solutions, not part of problems.
- Take special care when working with and assessing military veterans who now serve as police officers. All officers need to understand that civilian policing is very different from warfare.
- Establish independent special prosecutors in cases of police officers involved in crimes against the public.
- Always be sure that professional monitoring is grounded in the limits of the rule of law and human rights.

3. Housing in Relation to Aging out of Foster Care and Human Trafficking

Facilitator: Soffijah Elijah; Rapporteur: James Anthony Wolff; Participants: Marcia Brewster, Troy DeCohen, Donna Drayton, Ruth Hassell-Thompson, Steven McCain, Juanita Bing-Newton, Desiree Brown, Danielle Sennett, Peg Shannon, Brenda L. Smith, Margarett Tropnas

Housing and related support are important to preventing entry or re-entry into the criminal justice system for several categories of people who come in contact with police, social workers and the courts. Discussion group participants gave attention to the need for lodging, stability and re-integration, whether for released prisoners, domestic abuse survivors, foster care “graduates” or trafficked persons. They addressed knowledge of and access to services, treatment by the judicial system, access to public housing and requirements for rental subsidies.

The participants saw racism, sexism and implicit bias as basic features to the discussion. This naturally pertains to the human rights context of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). They saw advocacy and interagency and community cooperation as needed for achieving individual and societal justice.

The group focused on two categories of people deserving particular emphasis, and which have strong potential for interlinkage, namely youth aging out of foster care and victims of trafficking. Members of those categories tend to start out as children at risk who become vulnerable young adults.

The group greatly benefited from the participation of Ruth Hassell-Thompson, who offered perspectives from her long experience in the New York State Senate and now her work on housing and community affairs for Governor Cuomo.

a. Aging out of Foster Care

Aging out of foster care at age 18 presents many problems for both youth and society. In particular, these young adults become a significant part of the pipeline into the criminal justice system, especially if they are unemployed. In addition, people who take in foster children may not adequately teach them roles and responsibilities. When this happens children enter adulthood unprepared for adult life.

Research results collected by the Center for Family Representation provide useful data.⁷ For example, there are currently more than 400,000 children living in the foster care system in the United States, including nearly 13,000 in New York City. More than 24,000 children age out of the foster care system annually, including more than 1,200 in New York City. African-Americans represent 29% of the children in foster care, but only 14% of the U.S. child population. Children who spend time in foster care are later in life more likely to experience teen pregnancy, homelessness, incarceration, mental health issues, and less likely to complete their education or find employment. Male former foster youth are more than four times more likely to be arrested than the general population, and females are 10 times more likely. In New York State, it costs an average of \$29,000 per year to keep one child in the foster care system. However for every \$6 spent on children in foster care, just \$1 is available to fund services for families that will prevent foster care placements.

Concerns:

- Meeting participants expressed great concern for children at risk beyond foster care, saying “Young people get an exit package from the system, but where will they live? “
- Minority children are a disproportionate proportion of those in foster care. Discussants explored some of the pre-supposing elements that make that a fact.
- Children in shelters and in foster care are greatly challenged, and development of natural family relationships is difficult.
- Children may well be traumatized by removal, foster care and the likelihood of being shunted from one foster home to another.
- These at-risk individuals often are not informed and supported with respect to their rights, or transitioning from foster care. Many do not understand the basic agencies or their purposes.
- NY Family Court Act 1028, concerning removal of children from their home or legal guardian, gives considerable discretion to the Administration for Children’s Services (ACS) and Family Court. This can be quite problematic.
- There may be reasons for child removal, but parents losing custody of their children and losing parental rights destroy the whole family network.

⁷ <https://www.cfrny.org/news-blog/foster-care-facts/>

- High case-loads among social workers mean stress and insufficient focus for them, and shortage of attention and support for those who need it.
- The ACS lacks enough resources for its work, including budgets, in-service training and preparation for post-foster care transitions.
- The nuanced distinctions among foster parent and secondary parental and grandparent issues need more attention.
- Is it better to bring a child to foster care as opposed to a secondary parental figure? This goes back to matters of policy and reform and the issues of due process.
- The courts have an important role, but there is need for review and revision of the policy and procedural materials that are to guide them.
- The post-foster care "let go" period correlates with future issues, which often do not work out well. Preventing young adult problems, rather than seeking to cure them, is more cost-effective in the long run, and more in keeping with justice and human rights.

Recommendations:

- Legislative initiatives are needed to slow down the pipeline to criminal behavior and the justice system. Research has shown the need for this. An important feature in crime prevention pertains to housing.
- Discussants welcomed that NY State Government is looking at how to provide housing for those who age out of foster care. The steps include holding roundtables with different populations including community members from around the state to seek their advice on programs and legislation.
- Advocacy is important, on behalf of youth coming out of foster care and to help toward progressive legislation and action.
- More attention is needed to the latitude for judgment by social workers, their training and retraining, and the breadth and scope of functions of the Administration for Child Services (ACS).
- More attention is needed to possibilities of intervention services as opposed to removal, and the related intake and triage discussions.
- Transitional advisory services are needed for each child before they age out. This should start earlier, and continue to perhaps age 22 or 26. They should not just be dropped at age 18. This will require significant legislative action. (Many insurance companies provide child dependency coverage up to age 26, and research provides solid arguments on the subject.)
- In the area of foster care trauma and multi-foster care situations, a program is needed that specially identifies and flags problem issues.
- Support should be given for grandparents who raise children, such as is now being done in a new program in Queens.
- Inter-agency activities are emerging and deserve support. This includes those who work with the mentally ill, healthcare industry, and educators, as all are impacted. Policies and budgets need to reflect all the services.
- Arrangements for stabilized housing programs need emphasis, and help with rent support for young adults.

- Kinship foster parents should get higher stipends than at present, because they provide familial stability.
- More partners should come to the table for housing with work-force training. Follow the experiences of a pilot transitional housing complex in White Plains, NY, with living quarters and a first floor work force training institute.
- Family Court judges and related professionals need to be involved, obtain refreshers and updating, and contribute ideas for advancement in this field.

b. Human Trafficking

Human trafficking relates not only to other countries but throughout the USA. New York State has fourth largest number of trafficking victims in the country. Children who age out of foster care are a prime source for human trafficking. They are vulnerable to recruitment or to falling in with predators, while seeking ways to secure housing and support themselves.

According to the US Department of Justice, about 40 percent of confirmed sex trafficking victims are African-American, and 24 percent Hispanic.⁸ The UN adopted in 2000 the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime.”⁹ The USA is not a signatory but the document provides useful guidance.

Human trafficking may be sex trafficking or labor trafficking, and in New York State it is mostly the former. According to general information on the website of the NY State Office of Children and Family Services, 80 percent of identified victims are female; over 50 percent are children; the average age of initial victimization is 13 years old; and it is estimated that nationally 100,000 to 300,000 U.S. citizen children are currently involved in sex trafficking. Further: “Although all children are vulnerable, previously identified cases suggest that the following populations are at a higher risk of being trafficked: Runaway and homeless youth; Children within the foster care system; Children with histories of abuse; Children with histories of substance abuse; Children with disabilities; Youth in the juvenile justice system; LGBTQ youth; Refugees, immigrants, and non-English-speaking persons.”¹⁰

The New York State Safe Harbour for Exploited Children Act (2008), was a pivotal moment in protecting and securing services for sexually exploited youth (initially age 15 and under, now also 16 and 17). Prior to the Act’s passage, sexually exploited youth involved in illegal activities did not receive the protection of the Family Court and were instead prosecuted criminally. Furthermore, once incarcerated, sexually exploited youth had no access to services that could address their specific social and emotional needs, and thus often they would return to a life on the streets once released. The passage of the Act guaranteed that sexually

⁸ <http://www.bjs.gov/content/pub/pdf/cshti0810.pdf>

⁹ http://www.unicef.org/protection/convention_20traff_eng.pdf

¹⁰ <http://ocfs.ny.gov/main/humantraff/>

exploited youth would be treated as child victims and be offered services (including temporary and long-term housing) that could pave the way for better outcomes.¹¹

As of September 2013 NY State established the Human Trafficking Intervention Initiative, aimed, with certain conditions, to be available to provide mandated services to trafficking victims--covering close to 95 percent of those charged with prostitution and trafficking-related offenses in the State.¹²

Concerns:

- The slow pace of enlightened treatment of sex trafficked persons, including establishment of the age of protection at only 15 years and recent extension of that to those only under 18 years.
- The slow pace of adoption of proposals which would expand upon the Safe Harbour Act in the counties containing the State's main urban areas (Buffalo, Rochester, Syracuse and Yonkers).
- The continuation in many quarters of the short-sighted idea that trafficking victims are not victims, but criminals, addicts, delinquents, incorrigible and profit-driven.
- Inadequate attention to race and minorities in the general coverage and in the statistics on human trafficking in NY and the USA.
- Problems in how the court system deals with victims of trafficking. As court systems are currently set up they still tend to consider victims as criminal defendants. Victimizers, pimps and clients are given less attention.
- Housing and the various types of services appropriate to the situation remain under-budgeted and inadequate.

Recommendations:

- Greater identification and education regarding the domestic trafficking issues.
- Raise the age of criminal responsibility.
- Greater awareness of and linkage to questions of aging out of foster care, including the importance of transitional time to help reduce the risk of being trafficked.
- Analyze and compare current state laws, providing recommendations for reform.
- More attention to better ways of dealing with children in the criminal justice system.
- Greater funding, and buy-in from politicians.
- Recognize the importance of advocacy and what roles civic groups can play.

E. BROAD RECOMMENDATIONS

- Emphasize the importance of human rights as a factor in relation to the criminal justice system and entry or re-entry into that.

¹¹ Ibid.

¹² <http://www.courtinnovation.org/research/announcement-new-yorks-human-trafficking-intervention-initiative>

- Promote and strengthen wrap-around services and additional support networks, including non-profit and religious institutions, and bring more partners to the table with respect to housing reform.
- Encourage alliances of families for community support, justice potential and workforce development.
- Increase flexibility and redeployment of social workers so they can focus on certain families from the beginning of relations.
- Promote case-cap reform for social workers and help redefine the role of such workers for a long term focus.
- Create partner/buddy jobs that the State pays for to help people navigate the system.
- Take the information we already know something about, learn more about it and articulate ways to reach just conclusions.
- Press for and engage in better collection of information, disaggregation of data, and sharing of findings.
- Examine the characteristics and traits that make for an effective judge, participate in judicial in-service training, with special attention to matters of implicit bias.
- Look at justice differently so as to bring about peace, and start with the court system and the police. While the trust factor is lacking and needs to be rebuilt, also bear in mind that many law enforcement personnel really want to do a good job. Their initial training and in-service training are very important to shaping their performance.
- The conversation about justice has to go beyond what the law says and question who is affected, what are the underlying causes for marginalization, and how to bring different perspectives together.
- Color and ethnicity must be in the conversation.
- Seek to reform and strengthen policy at the county and state legislature levels. Target teachers, lawyers and legislators.
- Promote awareness of and actions in keeping with the relevant international human rights instruments, and the work conducted by the UN and its representatives on matters of human rights in relation to the USA.
- Promote awareness of and actions in keeping with relevant portions of the report of the President's Task Force on 21st century policing.
- Further advance social justice through identifying and engaging people for roundtables on community support needs and actions.
- Contribute to framing an Omnibus bill for the attention of the Governor, including in his State of the State message. Part of the question is how to budget and obtain approvals for the desired programs.
- Build partnerships with UNA-USA and others at the recent meeting, including for collaboration on advocacy and legislative campaigns, and for pilot projects at nearby local sites where several organizations can work together.

ANNEX 1 – Participants

Lynda Bagley, President, Alpha Kappa Alpha, Inc., Zeta Nu Omega Chapter; National Board Member, National Council of Negro Women

Carl Barchus, Director of Public Safety, Times Square Alliance

Juanita Bing-Newton, Dean, New York Judicial Institute, Pace University

Marcia M. Brewster, President, UNA Westchester Chapter; Board member, UNA Southern NYS Division; Senior Consultant at Nautilus International Development Consulting, Inc.

Desiree Brown, Student, Oregon State University

Jennifer Carpenter, Sergeant, Mount Vernon, New York Police Department

Asha Castleberry, Adjunct Professor- Political Science, Fordham University; Adjunct Fellow, The American Security Project; Captain, U.S. Army Reserve

Peter DeBartolo, Director of Administration, Levermore Global Scholars, Adelphi University; UN Representative, Adelphi University; Board Member, UNA Southern NYS Division

Rev. Troy DeCohen, Senior Pastor, Vernon Heights Congregational Church, Mt. Vernon; Chief Officer for Community Relations and Family Services at HELPUSA Inc.

Mary Seward Downes, Learning Specialist, Bedford Central School District; Board Member, UNA Westchester Chapter; Fundraising Chair, Alpha Kappa Alpha Sorority, Inc., Chi Omega Chapter

Donna Drayton, Former Executive Assistant, Senator Ruth Hassell-Thompson

Soffiyah Elijah, Esq., Independent Consultant human rights and justice; past- Executive Director, Correctional Association of New York

J. Yuhanna Edwards, Councilman, City of Mount Vernon; Board Member, UNA Westchester Chapter

Rev. Que English, Senior Pastor, Bronx Christian Fellowship

Barbara Felton, Member, UNA Queens Chapter

George A. Garland, DBA, President, UNA Southern NYS Division; formerly Executive Director, Membership, UNA-USA

Gail Gray, Esq., Private practice; formerly Professor, CUNY School of Law, Long Island City

Ruth Hassell-Thompson, DHL, Special Advisor to Governor Cuomo for Policy and Community Affairs at Homes and Community Relations; formerly NY State Senator, District 36 and Chair, Crime Victims, Crime and Corrections Committee

Prof. Zelma Henriques, Professor, John Jay College of Justice, CUNY; Board members, Osborne Association

Lisa Hofflich, Community Liaison for NYS Assembly members Amy Paulin and Sandy Galef; President, Westchester NOW

Steven McCain, Summer intern, office of Special Advisor Hassell-Thompson; Senior, Hunter College

Amb. Eugene Pursoo, Director of the Office of International Education at Medgar Evers College, CUNY

Divine Pryor, Executive Director, NULeadership on Urban Solutions

Gerard Savage, Esq., formerly Deputy Chief of Staff and Committee Counsel, New York Senate

Danielle Sennett, Esq., Senior Director of Policy, Danielle Rothenberg Center for Public Policy, The Fortune Society

Margaret M. (Peg) Shannon, Nurse Educator and Administrator; VP, Advocacy, UNA Southern NYS Division

Brenda L. Smith, EdD, UN Representative, World Federation of Methodist and Uniting Church Women; Board Member, UNA Westchester Chapter

David Stillman, PhD, Executive Director, Public-Private Alliance Foundation; Board Member, UNA Southern NYS Division

Jeanne Betsock Stillman, VP Chapter Development and Past President, UNA Southern NYS Division; President, Strategies for Development, Inc.

Margarette Tropnas, Program Director, Domestic Violence Shelter, Program Director at Urban Resource Institute President, UNA Brooklyn Chapter

Bryana Valverde-DeBartolo, writer; graduate student Hofstra College

Bianca VanHeydoorn, Program Analyst, Vera Institute of Justice

Edward J. Welch, Professor, John Jay College, CUNY; President and CEO, Risk360

Heidi West, International Program Director specializing in Migration, Health and Human Rights, and Peacebuilding, CMMB, Global Environmental Health LAB

Corinne Whitaker, PhD, Independent Consultant and Technical Adviser, Gender

Troy Wolfe, Director, Education Programs, UNA-USA

James Anthony Wolff, JD, co-Founder, Deep Space Industries, Board Member, UNA Southern NY State Division

Anna Wolonciej, JD, Associate at Aaronson Rappaport Feinstein & Deutsch, LLP; Member, UNANYC

ANNEX 2 – Resources



Race, Criminal Justice and Human Rights: What We Can Do

August 17, 2016

Resources

UNA-USA Papers

<http://www.unasny.org/white-papers-and-reports.html> - UNA-USA and UNA-SNY reports to the United Nations for the Universal Periodic Review, the Committee for the Elimination of All Forms of Racial Discrimination, a press release “AMERICAN CRIMINAL JUSTICE SYSTEM NEEDS MORE THAN BODY CAMERAS” and a letter to Senator Ruth Hassell-Thompson on results of our August 5, 2015 Consultation on Race and the American Criminal Justice System.

UN Sustainable Development Goals (Global Goals)

<https://sustainabledevelopment.un.org/?menu=1300> These goals and their targets are listed at this site. Their timeframe goes until 2030 and they follow on the Millennium Development goals that covered the period 2001 – 2015.



UN African Diaspora Working Group paper

<http://bit.ly/2atvBo4UNDiaspora1> A Statement by the UN Working Group on the African Diaspora on justice in the U.S. The Working Group identified what it considered positive changes and also made recommendations.

Letter to the U.S. Government from the CERD Committee

http://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_FUL_USA_23994_E.pdf 24 May 2016 - Letter from the Chair of the CERD Committee to U.S. Ambassador Ms. Pamela K. Hamamoto, Permanent Representative of United States of America to the United Nations Office, Geneva on the follow-up report submitted by the Government of the United States of America, on U.S. responses to the Committee.

The Committee reiterated its recommendation that the U.S. provide detailed information concerning investigations undertaken into allegations of excessive use of force by law enforcement officials against members of ethnic minorities as well as their outcomes. The Committee also wants “further information on the police reform agreements concluded between the Department of Justice and the cities of Ferguson and Cleveland, and their outcomes.”

The CERD committee has requested that the U.S. provide comments and responses on actions taken on these issues be included in its 10th to 12th periodic reports to be submitted in a single document on 20 November 2017.

UN Special Rapporteur on Rights to Freedom of Peaceful Assembly and of Association

<http://freeassembly.net/news/usa-statement/> - 27 July 2016 - Statement By The United Nations Special Rapporteur On The Rights To Freedom Of Peaceful Assembly And Of Association At The Conclusion Of His Visit To The United States Of America. In 17 days he covered 10 cities and observed protests at the political conventions in Cleveland and Philadelphia and visited cities rocked by the police killings of Black men, including Baton Rouge, Baltimore, and Ferguson. After providing an historical perspective on the above rights in the USA he detailed many areas that needed improvement. These are detailed in the Statement.

UN African Diaspora Working Group

<http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20248&LangID=E> - 8 July 2016 – Statement by the UN Working Group on the African Diaspora that strongly condemned the new police killings of two African-American men. It also condemned the attacks on police officers in Dallas and called for the perpetrators to be held accountable.

The Working Group has repeatedly expressed its concern to the United States Government about police killings of African Americans and called for justice. It is convinced that the root of the problem lies in the lack of accountability for perpetrators of such killings despite evidence.” See its Final Report:

http://www.ushrnetwork.org/sites/ushrnetwork.org/files/unwgepad_us_visit_final_report_9_15_16.pdf

Report of the President’s Task Force on Community Policing

http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf - 2015 - The report includes 59 recommendations for police departments, including paying greater attention to trust, legitimacy, oversight, technology, community, and training, as well as officer wellness and safety.