



Milwaukee Community Justice Council

Working collaboratively to ensure a fair, efficient, and effective justice system that enhances public safety and quality of life in our community.

TO: Milwaukee Community Justice Council Executive Committee

FROM: Nathan Holton, Community Justice Council Director

DATE: December 17, 2014

SUBJECT: Cincinnati's Collaborative Agreement: A Potential Model for Addressing Racial Issues in the Criminal Justice System in Milwaukee

As requested, this memo provides a cursory overview of a potential model for how Milwaukee can meaningfully and successfully address the issue of race in the criminal justice system. It focuses on the experience of Cincinnati, Ohio, where racial tensions led to riots in 2001 and where a subsequent effort to repair community relations proved successful. Below is a brief view of Cincinnati's experience, the applicability of that experience to present day Milwaukee, and suggestions for moving forward.

Cincinnati's Experience

Cincinnati is a Midwestern American city with demographics¹ that are similar to Milwaukee. In 2001, a series of incidents between the Cincinnati Police Department and African-American residents increased tension in the community.² Arising out of the incidents and tension was a lawsuit alleging racial discrimination on the part of the department that was brought forth by the local chapter of the ACLU and the Cincinnati Black United Front, an African-American community group. A few weeks after the lawsuit, a CPD police officer shot and killed an unarmed African-American male.³ Riots ensued. Ultimately, over 600

¹ The City of Cincinnati is a minority-majority city with a 30% poverty rate. U.S Census Bureau, State & County QuickFacts, Cincinnati (city), Ohio, available at: <http://quickfacts.census.gov/qfd/states/39/3915000.html>. Like Milwaukee, the Cincinnati metro area is considered one of the most segregated major metro areas in the country. See John R. Logan and Brian Stults. 2011. "The Persistence of Segregation in the Metropolis: New Findings from the 2010 Census" Census Brief prepared for Project US2010, available at: <http://www.s4.brown.edu/us2010>.

² "Suit claims 30 years of bias by city police," Cincinnati Enquirer, March 15, 2001, available at: http://enquirer.com/editions/2001/03/15/loc_suit_claims_30_years.html.

³ "Cincinnati still healing from its riots, and has lessons to share with Ferguson," Washington Post, September 5, 2014, available at: http://www.washingtonpost.com/politics/cincinnati-still-healing-from-its-riots-and-has-lessons-to-share-with-ferguson/2014/09/05/2ff8b944-34a1-11e4-9e92-0899b306bbee_story.html.

people were arrested during the riots, which created over \$13 million dollars in direct costs and scarred a city.⁴

In the aftermath of the riots, the lawsuit plaintiffs, the City of Cincinnati, and the Fraternal Order of Police entered into a collaborative agreement⁵ that sought to “resolve social conflict, to improve community-police relationships, to reduce crime and disorder, and to fully resolve all of the pending claims of all individuals and organizations named in the underlying litigation, to implement the consensus goals identified by the community through the collaborative process, and to foster an atmosphere through the community of mutual respect and trust among community members including the police.”

After extensive outreach to a variety of community stakeholders and with over 3,500 persons participating in the process, a completed agreement outlined, in detail, a focus on community policing. This includes the use of evidence-based practices, improved IT to respond to problems and evaluate effectiveness, and the creation of an independent “Citizen Complaint Authority,” similar to the Fire & Police Commission, that be “perceived as fair and impartial, and not a vehicle for any individuals or groups to promote their own agendas.”

The agreement specifies that it is “outcome oriented, putting great emphasis on objective measures of police-citizen relations and police effectiveness. Only through comprehensive measurement can we determine if progress is being made and whether the means for reaching mutually agreeable solutions to these goals are working.”

An evaluation protocol was laid out to include periodic probability samples of citizens with police encounters, members of the Cincinnati Police Department, officers and citizens involved in the citizen complaint process, and the general public to assess progress. Additionally, the agreement specifies data to be collected by the Cincinnati Police Department, with public dissemination of all results.

In the agreement, parties agree to select a “Monitor” with law enforcement experience who will review and report on the parties’ implementation of, and assist with the parties’ compliance with the agreement. The agreement also calls for the appointment of a “Conciliator” to determine whether parties are in compliance and to order compliance through court mechanisms if they are not. The agreement lasted for five years with a stated cost of \$5 million.

The City of Cincinnati contracted with the RAND Corporation to do the analysis work.⁶ In analyzing five years worth of efforts, RAND researchers concluded that “police-community relations in Cincinnati

⁴ “Riot costs add up: The price in lost business, battered image and human pain is incalculable. But the damage in dollars in one measure,” Cincinnati Enquirer, October 7, 2001, available at:

http://www.enquirer.com/editions/2001/10/07/loc_1riot_costs_add_up.html.

⁵ In Re Cincinnati Policing, Case No. C-1-99-317, U.S District court Southern District of Ohio, Western Division, available at: <http://www.cincinnati-oh.gov/police/linkservid/27A205F1-69E9-4446-BC18BD146CB73DF2/showMeta/0/>.

⁶ City of Cincinnati, Collaborative Agreement Home Page, available at: <http://www.cincinnati-oh.gov/police/permits-auctions-references/collaborative-agreement/>.

have improved in a number of ways.” Black residents reported improvements in perceived police professionalism and a reduction in the perception of racial profiling. Previously observed racial differences in search rates and durations of traffic stops between stops of black drivers and similarly situated white drivers disappeared. There was also improvement in the communication of CPD officers during traffic stops.⁷

Individuals involved in the collaborative process in Cincinnati are proud of their work.⁸ The local ACLU called the Collaborative Agreement “one of the most innovative plans ever devised to improve police-community relations.”⁹ Individuals involved with the agreement traveled to Ferguson during times of unrest to provide advice on how to calm tensions between the community and the police.¹⁰

Applicability to Milwaukee

In many important respects, 2014 Milwaukee is well ahead of 2001 Cincinnati. Many elements of the Collaborative Agreement already exist in Milwaukee. For example, the agreement focused quite a lot on the creation of an agency that is very similar to the Milwaukee Fire & Police Commission. The Milwaukee Police Department has cameras and computers in squad cars, trains officers in CIT, and engages in community policing efforts. The collaborative behind the agreement, in its makeup and mission, also bears some similarity to the updated Police-Community Relations Entity effort being led by U.S Attorney James Santelle.

Nonetheless, Milwaukee’s criminal justice system has racial issues. In confronting these issues, there are at least two characteristics of Cincinnati’s experience that make it a compelling example for Milwaukee. First, Cincinnati managed to bring the city, the community, and the police union together on a shared agreement that led to concrete improvements. That community members, over a decade later, highlight the positive impact of the effort and take it upon themselves to share their experience with Ferguson is evidence that a genuine partnership and shared ownership can lead to real community buy-in and sustainable results. Secondly, Cincinnati’s Collaborative Agreement specified in extensive detail an impressive strategy to hold the stakeholders accountable in a measureable and transparent way. A legitimate, collaborative, and

⁷ “Police-Community Relations in Cincinnati,” Rand Corporation, 2009, available at: <http://www.cincinnati-oh.gov/police/linkservid/63419796-3B7B-4330-AAB78FBCB9F927A9/showMeta/0/>.

⁸ Rev. Damon Lynch III, the former president of the organization that brought the lawsuit against CPD and led calls for a boycott of downtown Cincinnati after the riots, said that the reforms led to the officers clearly being a lot better. See “2001 riots led to top-down change for Cincinnati police,” USA Today, April 3, 2011, available at: http://usatoday30.usatoday.com/news/nation/2011-04-03-cincinnati-riots-anniversary_N.htm.

⁹ American Civil Liberties Union of Ohio, “The Cincinnati Collaborative Agreement,” February 5, 2013, available at: <http://www.acluohio.org/issue-information/the-cincinnati-collaborative-agreement>.

¹⁰ “We’ve Been Here Before. A Solution Exists. Ferguson can learn a lot from the Cincinnati race riots of 2001,” The New Republic, August 18, 2014, available at: <http://www.newrepublic.com/article/119133/cincinnati-2001-race-riots-reveal-solutions-fergusons-unrest>.

transparent way of assessing progress in the criminal justice system is essential to earning the trust and partnership of a cynical community.

Although Cincinnati's Collaborative Agreement focused on its police department, Milwaukee's entire criminal justice system can learn from the process by which Cincinnati sought to heal its racial wounds after the riots. Given Wisconsin's status as the state with the highest level of black male incarceration,¹¹ Milwaukee County's disproportionate share of the state's black population,¹² and the fact that this implicates the entire system, Milwaukee should take advantage of the opportunity to advance the cause of racial justice by widening the scope of an effort well beyond policing to include the entirety of Milwaukee's criminal justice system.

Suggestions Moving Forward

Milwaukee should seek to learn more about the Cincinnati process with the goal of implementing a similar strategy tailored to Milwaukee's present situation that can bring the criminal justice system and community together in a meaningful way that objectively holds the system accountable and creates an environment where real progress can occur. There exists an opportunity to turn a potentially destructive and divisive situation in Milwaukee into a productive and collaborative effort that builds Milwaukee up. Below are a few ideas for the Executive Committee to consider as a starting point:

- Engage in meaningful community interaction by holding meetings, conducting surveys, and holding focus groups of community members and system members alike to build the partnership and to acquire input as to how to improve community/system relations and the state of the criminal justice system. Use Cincinnati as a model.
- Generate specific, bold, and attainable goals (e.g. A Wisconsin Black male incarceration rate no higher than the national average by 2020) for system improvement and publicize those goals.
- Measure, regularly report, and where necessary seek to improve upon any existing racial disparities between *similarly situated* African-Americans, Latinos, other minority groups, and whites at every major decision point (e.g. traffic stops, arrest, bail, charge, plea, sentence, release etc.). Contract with an independent and capable organization, using Cincinnati's experience as a model. The MacArthur Foundation, given their stated interest in criminal justice and race issues and their past visit to Milwaukee to get a view of our system, may be a potential partner in an effort like this.
- Examine the level of diversity present at all levels of the criminal justice system workforce in Milwaukee and create a plan for improving diversity levels where needed such that the system mirrors the community it serves.

¹¹ "Wisconsin's Mass Incarceration of African American Males: Workforce Challenges for 2013," Employment and Training Institute, University of Wisconsin-Milwaukee, 2013, available at: <http://www4.uwm.edu/eti/2013/BlackImprisonment.pdf>.

¹² Approximately 70% of Wisconsin's black residents reside in Milwaukee. See U.S Census Bureau, State & County QuickFacts, Milwaukee County, Wisconsin, available at: <http://quickfacts.census.gov/qfd/states/55/55079.html>.

- Conduct regular surveys to examine the views of citizens, individuals who've had system involvement, and system members themselves to gauge community/system relations and progress, again using Cincinnati as a model.
- Measure outcomes of various system and community programs in a rigorous and transparent way to determine which programs are the most effective. Educate the public on outcome measurement and evidence-based programs. Hold programs to a meaningful standard.
- Establish an effort to identify some of the core causes of crime in the community. Present those causes and their links to criminal activity (e.g. association between being raised in a single parent household and the increased likelihood of future criminal activity) and make a concerted effort to address those core causes. Be willing to lead an honest public dialogue about these issues. Use the analysis and discussion of the core causes of crime to expand the focus of this effort beyond the justice system and to other governmental systems as well as the community generally.
- Actively work to reduce the gulf that exists between the community and the criminal justice system. Establish a productive way to include more genuine community involvement in the Community Justice Council on an ongoing basis.
- Create a public education campaign to inform the public of successful and ongoing efforts to improve the criminal justice system (e.g. programming at the HOC, Universal Screening, Early Interventions, etc.)
- Expand on the discussions that focus on the intersection of criminal justice, public health, and community development, along with the existing community policing and prosecution efforts, to consider a geographically-focused cross-jurisdictional effort that is focused on reducing crime and increasing health and wealth. An effective program that has the appropriate geographic focus can be all but guaranteed to positively impact racial disparities in the justice system.
- Advocate for policy changes and budgetary investments at the state level that support the improvement of the criminal justice system and related systems in Milwaukee.
- Establish a Milwaukee Community Justice Council Racial Justice Committee made up of system representatives and community members and charge the group with overseeing these efforts. Maintain openness and transparency throughout the process.