ANNUAL REPORT TO HARVARD LAW SCHOOL

ACADEMIC YEAR 2014–2015

AUGUST 14, 2015
A. Summary of Academic Year: 2014-2015

1. Executive Summary

During the academic year 2014–2015, The Charles Hamilton Houston Institute for Race and Justice (CHHIRJ), founded by Jesse Climenko Professor Charles J. Ogletree, Jr. in 2005, continued to offer a diverse array of public forums and to produce and present social science, legal and policy analyses at conferences, public events, and other venues across the country. During this past year, as racial disparities and inequalities related to policing and criminal justice became particularly prominent in public discussions and debates, Institute staff participated in public discussions, wrote and published op eds, moderated forums, and organized compelling public events. Among highlights this year, CHHIRJ:

- Organized and sponsored our first major fundraising gala, celebrating our 10th anniversary, at the Howard Theatre in Washington DC on Thursday, October 9, 2014. This gala was attended by over 200 individuals and netted over $200,000 for the Institute. Sponsors included WilmerHale, Ray McGuire, BET, Arnold and Porter, Major League Baseball, American Express and Macy’s.

- Developed and presented workshops on the role of implicit racial bias in perpetuating racial disparities and inequalities in health care, criminal justice, education and philanthropy to groups of philanthropists, consumer lawyers, legal aid workers, corporate recruiters, American Bar Association committees, and educators. These workshops summarized key research and identified strategies for reducing the effects of implicit bias in institutional settings. We also offered consultations to the District Attorney’s Office in New York and Massachusetts on how to present this information, as well as to gauge the long-term effects of training. We continue to field requests for this presentation from various organizations, and are scheduled to offer a workshop in the fall to regional foundations in New York.
• Continued our multi-year partnership with FrameWorks Institute. This year, CHHIRJ organized and offered, with FrameWorks, a one-day hands-on workshop for 65 advocates of criminal justice reform at George Washington Law School in October. This workshop had been piloted in May 2014 in California for state-level advocates. We also worked with FrameWorks and with the National Coalition to Abolish the Death Penalty to organize and offer one webinar and one in-person workshop on evidence-based messaging around death penalty repeal. The goal of these efforts was to create greater alignment between the communications strategies used by proponents of capital punishment abolition and those promoting broader criminal justice reforms.

• Continued to offer “Houston Labs,” an action; policy initiative aimed at supporting coalitions in Massachusetts working to promote criminal and juvenile justice reforms. We held several meetings this year, including one aimed at addressing the educational needs of students living in high incarceration neighborhoods, one devising legal strategies around charter schools in Boston, and one discussing the events the shooting of Michael Brown in Ferguson, MO last summer, featuring the Mayor, Chief of Police, and local advocates in Ferguson.

• Completed an initiative, entitled “One Nation Indivisible” that identified and described communities and schools working to celebrate racial and ethnic diversity and to include, rather than exclude, newcomers and individuals of color. The stories and case studies produced as a result of this project are being turned into a book, due for publication in early 2016.

• Organized a series of well-attended public events, including the screening of “Anita” followed by a panel discussion that included Jill Abramson, Anita Hill, Charles Ogletree, and Nan Stein. Another forum featured lawyers spearheading challenges to voting restrictions that disproportionately disenfranchise people of color. Another featured a dance troupe examining
capital punishment. CHHIRJ public events attract large audiences that include and extend far beyond Harvard.

- Released a report, written by Harvard Law students, entitled “Independent Lens: Toward Transparency, Accountability and Effectiveness in Police Tactics” that focuses on the viability and implementation of measures aimed at mending the evidently fractured relationships between police officers and communities across the nation. The report argues that body-worn cameras, when appropriately integrated into existing police practices and supported by a detailed regulatory architecture, can be a key tool for revigorating community policing and reducing costs stemming from complaints, litigation and settlements, as well as an important first step in mending relationships between law enforcement and communities nationwide.

- Took an active and prominent role in publicly discussing police treatment of individuals of color, and broader issues of the opportunity gap within communities of color. Houston Institute staff authored several op eds on this topic that were published in the *Boston Globe* during this period, and Professor Ogletree regularly comments on these issues in national media.

- Developed and are preparing to launch the “Houston/Marshall Plan,” which will be anchored in an interactive website geared toward supporting efforts to both dismantle mass incarceration and redirect resources toward building up communities that have been deeply harmed by 40-years of disinvestment. The Houston-Marshall Plan will be the focus of much of the Houston Institute’s activities during the next several years.

2. **Research, Scholarship and Project Activities**

   a. **CHHIRJ Mission Statement**

   The Charles Hamilton Houston Institute for Race and Justice at Harvard Law School (CHHIRJ), honors and continues the unfinished work of Charles Hamilton
Houston, one of the 20th century’s most brilliant legal scholars and litigators. Houston engineered the multi-year legal strategy that led to the unanimous Supreme Court decision, *Brown vs. Board of Education*, on May 17, 1954, repudiating the doctrine of “separate but equal” schools for black and white children. The strategy that Houston and his fellow lawyers used to argue the case had been meticulously developed over many years, largely by a cadre of legal minds assembled at Howard Law School, where Houston served as vice-Dean. Sadly, however, he died in 1950, at the age of 54, before he could witness his tireless efforts coming to fruition.

The Institute marshals the resources of Harvard and beyond to advance Houston’s dreams for a more equitable and just society. It brings together students, faculty, practitioners, civil rights and business leaders, community advocates, litigators, and policymakers in a variety of forums, conferences and meetings. It publishes policy and legal briefs that can be broadly disseminated to non-academic audiences and that draw upon scholarship from many disciplines. Scholarship and analyses that emerge from the Institute are incorporated into Professor Ogletree’s teaching and training. This model ensures that the worlds of research and practice will be continually linked, a strategy that represented a critical part of Houston’s vision for reform.

**b. Projects/Research and Scholarship**

Below are descriptions of the Houston Institute’s major policy/research initiatives during the past year. Most combine research with policy analyses, convenings, and widespread dissemination.

*Advancing Community Justice through the Houston Labs*

This project provides a space where organizations committed to dismantling mass incarceration can communicate, share resources and ideas, learn from other states, and devise policy strategies. Initially, our focus is on Massachusetts, where we are following up on previous work with coalitions that formed in response to the state’s flawed and regressive three strikes legislation (which passed despite the unanimous
objection from legislators of color). During this past year, we offered a series of programs focusing on police practices (see descriptions under “Events”), a brainstorming session on education and incarceration, and several smaller, invitation-only roundtables. In August, we are co-sponsoring, with Families for Justice and Healing, a major national conference on women and incarceration as part of this initiative.

Reframing Criminal Justice and Public Safety Policy—With FrameWorks Institute

Another cornerstone of our work is our commitment to communicate effectively with both community members and policy makers. In an effort to increase public support for fundamental shifts in public safety investments, CHHIRJ joined forces in 2010 with FrameWorks Institute, a communications research firm, to transform the national dialogue around crime, public safety, and community justice. Our goal is to shift public perceptions away from a “tough on crime” orientation that focuses on individual behaviors toward a systemic perspective that will increase support for more progressive and evidence-based policies.

During this past year, we collaborated with FrameWorks to offer one hands-on daylong workshop in Washington DC for approximately 65 criminal justice advocates. This workshop was modeled after one that we successfully piloted in California in May 2014. Our evaluations were almost uniformly positive, as we summarized the research to date and asked advocates to begin to use the recommended “reframes” in op eds and letters to the editor. We also helped to arrange for funding from Annie E. Casey Foundation to FrameWorks for the development of an issue memo exclusively for juvenile justice advocates. This came in response to requests from many of these advocates for recommendations and findings directed specifically for issues involving juveniles, including the school to prison pipeline, transferring of juveniles into adults courts, and use of solitary confinement in juvenile facilities.

We also worked closely during this past year with the National Coalition to Abolish the Death Penalty to design and participate in one webinar and one in-person
workshop for advocates of capital punishment abolition, for civil rights groups and for criminal justice reform organizations to more closely align communication messages, based on the recommendations of FrameWorks. This webinar was co-sponsored by the Sentencing Project in Washington D.C.

Building a Bridge to Somewhere: Connecting the Dots between Implicit Racial Bias, Theory and Practice

A burgeoning field of scholarship suggests that unequal racial outcomes and treatment – the very structures of inequality – particularly in the fields of health care, employment, criminal justice and education, may be partially explained by the implicit, or unconscious, racial biases held by key decision-makers, such as doctors, teachers, judges, police officers, and business leaders. One striking finding of this research is that implicit biases can co-exist, unbeknownst to the holder, alongside far more egalitarian explicit values. Equally important is that we often make decisions and act from these unconscious biases, rather than from our explicit value systems and beliefs.

The positive news is that research also suggests that there may be ways to correct or “unlearn” these unconscious constructs through strategies aimed at making individuals aware of them, and helping them to make decisions based on their conscious values. If examined critically and confronted thoughtfully, our growing knowledge about how implicit bias functions and its role in decision-making may help us to devise effective interventions aimed at reducing its effects, and engage in constructive dialogues about race without resorting to accusations or retreating into defensiveness.

During this past year, through funding from Atlantic Philanthropies, the Institute has focused primarily on: (1) more fully understanding and identifying how implicit bias scholarship can be used to reduce the racial disparities that are so prominent in school discipline data and that contribute to the “school to prison” pipeline; and (2) revising, refining and delivering to diverse audiences a workshop introducing the concept of implicit bias, summarizing key research about its effects, and discussing strategies for reducing its impact. We offered this workshop to philanthropists, to legal
aid defenders, to corporate recruiters, to environmental groups, to consumer lawyers, and to educators. We are working with Strategies for Youth to incorporate some of this presentation into its ongoing training with police officers across the country. SFY is piloting this aspect of the training in Virginia, which has the highest rate of school-based arrests in the country. In October, we are scheduled to present this workshop to a group of over 100 staff of community foundations in New York.

II. Clinical Work: N/A

III. Other Activities

a/b: Conferences/Workshops

CHHIRJ organizes and hosts, frequently in collaboration with partner organizations, workshops and/or conferences that bring diverse organizations and individuals together to consider an issue or topic from a variety of perspectives and areas of expertise. This past year, CHHIRJ:

- Organized, developed and hosted, along with FrameWorks Institute, a hands-on, daylong interactive workshop at George Washington University in October for national and DC-based advocates working to promote criminal justice reform. This workshop was part of a multi-year partnership between FrameWorks and CHHIRJ which has, to date, included six briefings, and five major reports. This workshop was based on a pilot that we offered in California the previous May and was attended by approximately 65 representatives from advocacy organizations.

- Collaborated with the National Coalition to Abolish the Death Penalty and FrameWorks Institute to organize and offer one webinar and one in-person workshop on evidence-based communication strategies and messages.
• Offered eight presentations of the workshop, *Understanding and Reducing Implicit Bias* to environmental grantees of the Island Foundation, Trustees of the Island Foundation, staff of Koya Recruiting, National Consumer Law Center, CFLeads, Collaborative for Educational Services, American Bar Association Task Force on Implicit Bias, and the Martin Luther King Community Forum in Glastonbury, CT.

• Presented and moderated on a panel on the school to prison pipeline sponsored by Action for Boston Community Development (ABCD) in Boston.

• Presented on the Houston/Marshall Plan to a forum sponsored by HLS’s Labor and Worklife.

• Presented on the topic of Community Justice at a forum sponsored by Tufts University on the death penalty.

• Participated in planning and advisory sessions of JALSA civil rights advisory committee meetings, CEPs meetings, the Criminal Justice Working Group of Massachusetts State Senator Pat Jehlen, the Advanced Leadership Institute, FAMM legislative meetings, the ACLU briefing on police, the Racial Equity conference planning, and the Massachusetts Criminal Justice Reform and Re-Entry Conversation.

c. Events

The Houston Institute offers exceptional public events, free and open to all, throughout the year. This has been a defining feature of the Institute since opening our doors in 2005, and has made Harvard Law School the “go to” place for many in the Boston and Cambridge communities. We frequently sponsor these in collaboration with other organizations, often Harvard-based. Below are highlights from this past year:

• **Our Mockingbird**: a one-hour documentary about the enduring impact of Harper Lee’s 1960 novel, *To Kill a Mockingbird*, featuring Charles Ogletree, Congressman John Lewis, and Katie Couric as well as Pulitzer Prize-winning author Diane McWhorter. Woven through *Our Mockingbird* is the story of two
high schools in Birmingham, Alabama, one all-black and one all-white, collaborating on a play adaptation of *To Kill A Mockingbird*. The post-film discussion included the filmmaker, Sandra Jaffe, and Diane McWhorter, author of the Pulitzer Prize-winning *Carry Me Home: Birmingham, Alabama—The Climactic Battle of the Civil Rights Revolution*.

- **The Throwaways**: a personal exploration of the devastating impact of police brutality and mass incarceration on the black community told through the eyes of formerly incarcerated activist filmmaker Ira McKinley. Post-film discussion included Ira McKinley and Bhawin Suchak.

- **Michelle Obama—A Life**: Journalist Peter Slevin discussed his book *Michelle Obama: A Life*, the first comprehensive account of the life and times of Michelle Obama, a woman of achievement and purpose—and the most unlikely first lady in modern American history. Co-sponsored with the Hutchins Center for African and African American Research.

- **The Right to Fight**: This panel explored the often overlooked history of the equal rights struggle within the American armed forces, starting from the American Revolution to today’s military under President Barack Obama, the nation’s first African American Commander-in-Chief. Panelists included: Vera Ingrid Grant, Director, The Cooper Gallery at the Hutchins Center, Harvard University, Howard Manly, Senior Fellow, Charles Hamilton Houston Institute for Race & Justice, Richard Ogletree, U.S. Air Force, MSgt (Ret.) Ernest Washington, Jr., President & General Manager at Vanguard Parking & General Services Corporation and Chad Williams, Associate Professor and Chair, African and Afro-American Studies Department at Brandeis University.

- **Little White Lie**: This was a screening of HLS alum Lacey Schwartz’ story of growing up in a middle class white, Jewish household in NY, and discovering that she is actually half-black. The film depicts her striving to reconcile her newfound African American heritage with her Jewish upbringing, and discovers that in order to define herself, she must first come to terms with her parents’ choices and how much she is willing to let their past affect her future. Post-screening discussion featured Lani Guinier and Lacey Schwartz.
This Little Light of Mine: The Legacy of Fannie Lou Hamer is a documentary that explores the life of an impoverished sharecropper who managed to become a powerhouse in the battle for the right to vote in Mississippi during the Civil Rights Movement. Central to this film is Mrs. Hamer’s testimony during the Democratic National Convention in 1964, when she exposed the savage treatment many in Mississippi faced when fighting for equality. This film not only reveals the life of a remarkable woman, but enforces the importance of civic engagement and gives proof that every voice matters. Post-screening discussion with: Robin N. Hamilton, filmmaker, Lani Guinier, Rahsaan Hall, Deputy Director, and Kathy Reddick, Former President of the Cambridge

Other public events sponsored by CHHIRJ during the 2014–2015 academic year included:

- Screening and Discussion: Hate Crimes in the Heartland: March 10
- Dying While Black and Brown: A Dance Performance about Capital Punishment, March 6
- Saving St. Louis, Film Screening and Discussion, January 17
- Addressing a Clear and Simple Wrong: Voter Suppression, December 9
- Fergusson Reality Check: A Talk on the Greater Boston Community and Police Relations: October 18
- Anita: Film Screening and Discussion, September 24
- Soft Vengeance: Albie Sachs and the New South Africa: September 12

d. Research Assistants/Interns:

Every summer, the Houston Institute selects several interns, both undergraduate and law students, to work on research projects. Often these interns come through the Charles Hamilton Houston Institute at Amherst College. During the summer of 2014, interns worked on the following projects:

- Identifying and examining strategies for reducing the effects of implicit bias in school settings;
• Outreach to communities and schools featured in One Nation Indivisible
• Identifying strategies for incorporating community justice into Richmond, VA
• Cataloguing issues, concerns, and complaints regarding the use of solitary confinement in a prison in Indiana

3. Contributions to the HLS Teaching Program

In keeping with Houston’s tradition, Professor Ogletree integrates findings and research highlighted and produced as part of Institute initiatives into his course offerings and clinical supervision. This past year, these included:

Fall 2014: Trial Advocacy Workshop

The workshop is a required component of ITA: Prosecution Perspectives and ITA: Criminal Justice. Students are required to spend twenty-five to twenty-eight hours per week in classroom sessions structured as follows:

1. Students meet in sections of twenty-four for two hours a day, five days a week, with a teaching team consisting of a team leader, one or two teaching fellows or practicing attorneys, and a practicing judge. These sessions will involve short role-playing assignments for students in various aspects of trial advocacy, evaluations of performances, and occasional demonstrations by members of the teaching team.

2. Students in each section meet for about two hours per day in groups of eight to twelve with one member of the teaching team to engage in intensive role-playing exercises. Part of the learning experience in this setting will involve student evaluation and critique of the performance of others.

3. Students meet about three to five hours each week in sections of twenty-four or in larger groups for lectures and demonstrations by experienced practitioners and judges.

4. Students have opportunities, individually or in groups, for detailed review or critique of videotapes of their own and each other's performances. One or more
members of the teaching team will be available at scheduled hours to participate in this review.

5. Students participate in two full trials as members of a team of students trying the case. Classroom time will include two to four hours of pretrial conferences and five to eight hours of trial performance and critique for each trial. Students will also be expected to serve as witnesses in two additional trials.

Spring 2015:

Policing and Minority Groups (with Philip Heymann): This reading group explored police culture and operating procedures in light of applicable law; minority community attitudes toward the police; and the broader electoral politics of law enforcement.

Revitalizing America’s Cities: This course examined the major challenges that cities face in the 21st century, challenges ranging from home rule to education alternatives to employment to health care, as well as ways of revitalizing the 21st century city. The course explored the relationship between cities and to some extent, counties and rural areas, and their relationship to state, federal, and international authorities.

Understanding Mandela: This course examined the 95 year history of the accomplishments, challenges, and achievements of former President of South Africa, Nelson Mandela, focusing on the issues that Mandela encountered as a youth in South Africa, his activity as a young man, his marital relationships, his political involvement, and his ultimate decision to run for and be elected as the first democratically elected president of the Republic of South Africa who happened to be an African native.

4. Participation of HLS Students in Program Activities:

The Houston Institute engages HLS students as research assistants, and in the planning and executions of conferences and forums. Students are also invited to, and welcome at, all Institute public events. This past year, Chike Croslin, Justin Dews, Jaimie McFarlin Fan Li, Mihal Rose Ansik, Fatima Bokhari, and Obinna Nwachukwu of the Harvard Black Law School Association wrote a paper that the

6. **Participation of HLS Faculty in Program Activities**

   CHHIRJ is pleased to feature the work of HLS faculty in its public forums and conferences. During this past year, CHHIRJ collaborated on public events and programs with the following faculty members:

   - Lani Guinier
   - Nancy Gertner
   - Dean Martha Minow
   - Kenneth Mack
   - Randall Kennedy
   - Philip Heymann
   - Ronald Sullivan
   - Carol Steiker
   - Jon Hanson

   The Institute also co-sponsored events with the Harvard Law School International Legal Studies Program, the Harvard Law School Project on Disability, the Human Rights Program, HLS Criminal Justice Institute; HLS Criminal Justice Program of Study, Research and Advocacy; HLS Capital Punishment Clinic; BLSA; and the Prison Legal Assistance Project.

6. **Other Contributions to the HLS Community**

   As previously described, CHHIRJ offers a wide array of exciting, provocative, and informative public events, free and open to the public. The HLS community takes full advantage of these and attendance is high among students, in particular.

7. **Law Reform and Advocacy**
Like its namesake, Charles Hamilton Houston, CHHIRJ is committed to using the law as a tool to create a more equitable and just society. Advocacy for educational and criminal justice reforms that will improve life opportunities for children, families and communities of color in this country, and reduce discrimination and bias within these systems, is a key focus of Institute activities. We both provide research and policy support for other legal organizations, such as the NAACP-LDF and ACLU, and help devise new legal theories and arguments for litigation and legislative activities.

Several examples of CHHIRJ’s efforts in regards to law reform and advocacy are provided below:

a. The Institute has received multi-year support from Atlantic Philanthropies to measure and reduce the effects of implicit bias on disciplinary decisions made by teachers, administrators and school resource officers. We have made presentations to educators, lawyers, court officials, philanthropists and health care professionals and discussed strategies for reducing the harmful effects of implicit bias in their decision-making and actions.

b. The Institute continued to support MyGideon, an online resource it has developed to provide legal support and assistance to indigent defense attorneys. MyGideon is now housed and managed by the National Association of Public Defenders and used by thousands of public defenders across the country. It is accessible online at: http://www.mygideon.org/.

c. The Institute continues to work closely with National Coalition to Abolish the Death Penalty to engage civil rights leaders and activists in capital punishment repeal efforts, and to more closely align the broader criminal justice reform and opportunity agendas with capital punishment abolition efforts.

d. The Institute continued its multi-year partnership with FrameWorks Institute to help criminal justice reform advocates devise more effective and coordinated communication strategies.
8. **Connections to the Profession**

- We are part of a national coalition working to abolish the death penalty, and regularly participate in strategy sessions.
- We have made presentations to a variety of organizations on the role of implicit bias in perpetuating racial disparities in the criminal, juvenile and criminal justice arenas, and are developing interventions that can be applied to reduce decision-makers’ levels of implicit bias, as judged by the IAT, and thus help to reducing disparities.
- We are spearheading a national effort to develop evidence-based communication strategies aimed at advancing public support for key reforms in criminal justice. The research is closely examining the ways in which racial disparities and inequalities can be discussed in these contexts so as to increase support for these reforms.

9. **Collaboration with Other Schools and Departments at Harvard University**

The Institute makes a strong effort to include faculty members of other schools and departments at Harvard University in its public programs, and to participate and/or present at other Harvard-sponsored events. Whenever possible, we co-sponsor events with other departments and centers at Harvard as well. This year, our partners included: the Advanced Leadership Initiative, the Prison Studies Program, the Hutchins Center, Harvard Black Law Student Association, Harvard Law American Constitution Society, Prison Legal Assistance Project, Harvard Human Rights Program, Harvard Civil Rights-Civil Liberties Law Review, Harvard Human Rights Journal, and Harvard Law and Policy Review, the Harvard Kennedy School Program in Criminal Justice and Policy Management, the Kennedy School Malcolm Weiner Center for Social Policy, Harvard Memorial Church, and the Harvard Law School Criminal Justice Program of Study.

**Additional Information**

1. **Staffing.** Please provide a list of all full and part-time staff and visiting fellows/scholars who participated in program activities in the past year. If this