



**ANNUAL REPORT TO HARVARD LAW SCHOOL**

**ACADEMIC YEAR 2016-2017**

**AUGUST 16, 2017**

## A. Summary of Academic Year: 2016-2017

### 1. Executive Summary

During the academic year 2016-2017, 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. This year, the Institute has undergone several staff transitions. Susan Eaton, Research Director, left to assume a position at Brandeis University. Ernest Owens, staff assistant, left to pursue opportunities in North Carolina, and Johanna Wald, Director of Strategic Planning, transitioned to 60% FTE. Harvard Law School Professor Tomiko Brown-Nagin was appointed to replace Professor Charles J. Ogletree as Faculty Advisor to the Institute, beginning July 1, 2017. Professor Brown-Nagin is a noted legal scholar on issues related to race and education, and will bring her own expertise, interests, and professional networks to the work of the Houston Institute. With these changes, the Institute is, essentially, pushing the “reset” button, with the goal of building upon our decade-long focus on race and justice, the strong networks of advocates, scholars and others that we have developed, our strong track record of public programming, while simultaneously benefiting from the fresh vision, expertise and perspective provided by Professor Brown-Nagin.

During this past year, the Houston Institute consolidated its activities into two complementary projects: The Houston/Marshall Plan for Community Justice ([www.houstonmarshallplan.org](http://www.houstonmarshallplan.org)) and the Fair Punishment Project ([www.fairpunishment.org](http://www.fairpunishment.org)). *The Fair Punishment Project* (with the Criminal Justice Institute) seeks to highlight efforts aimed at dismantling mass incarceration, and ending excessive and harsh punishments that disproportionately harm individuals of color within our justice system, with an emphasis on ending the death penalty and Juvenile Life Without Parole. The *Houston/Marshall Plan for Community Justice* highlights the exciting and promising programs that are being launched across the country to rebuild communities devastated by the War on Drugs, hyper-policing, and over criminalization. Initially, we are focusing on housing, education, job creation, public health, transportation,

infrastructure, economic security, and safety and healing, but plan to expand beyond these topic areas over time.

In addition, the Houston Institute continues to develop and present workshops on the role of implicit racial bias in perpetuating racial disparities and inequalities in health care, the justice system, education and philanthropy to groups of philanthropists, consumer lawyers, legal aid workers, corporate recruiters, American Bar Association committees, and educators. These workshops summarize key research and identify strategies for reducing the effects of implicit bias in institutional settings. During this past year, staff presented the workshop for faculty of the School of Education in Ashland, Ohio, for teachers, administrators, and community members in Omaha, Nebraska, and at an American Bar Conference on Intellectual Property in Washington DC.

The Institute also conducted a research project focused on more fully understanding the incentives and culture of prosecutors as a way to aid reform efforts geared around changing the role of the prosecutor. This project involved interviewing 13 former and current prosecutors about why they entered the field, the incentive structures governing promotions, reasons for leaving, and advice for reform-minded prosecutors. On June 16, the Institute organized, with the ACLU of Massachusetts, a conference entitled “Redefining the Role of the Prosecutor within the Community” that was attended by approximately 120 audience members. The conference featured panelists of former prosecutors, of those working to reform the field and offer technical assistance to District Attorneys, and a panel of community advocates/activists who are working to engage communities in oversight of District Attorney offices. In addition, noted economist and lawyer John Pfaff, professor of law at Fordham University, delivered a keynote address on his research concerning the role of prosecutorial decision-making in increasing the prison population so dramatically over the past 40 years. Professor Pfaff is the author of a new, well-received book, entitled *Locked In, the True Causes of Mass Incarceration*. The conference also featured a presentation by Justice Measures, a new organization that is mining and posting a wide array of data on justice outcomes at the county level. This data offers a powerful new tool for community groups and others interested in measuring District Attorneys’ Offices

outcomes on a variety of measures in the future. It is likely that, in the future, the Institute will continue to partner with the ACLU of Massachusetts to host and organize public forums aimed at helping the public more fully understand the role of the District Attorney and the impact of decisions and actions on communities.

Finally, the Houston Institute has been working this year with representatives of the Harvard Law School Class of '91 to create and fund an annual lecture series on Race and Inclusion entitled the *Charles J. Ogletree, Jr. Lecture on Race and Inclusion*. In addition to honoring Professor Ogletree's lifelong commitment to issues of race and justice, the series also recognizes the service and vision of Cassandra Butts, HLS Class of '91, who was spearheading the effort to launch this program when she unexpectedly and tragically passed away in May 2016. *The Charles J. Ogletree Jr. Lecture* will take place each year at Harvard Law School. It will feature a prominent speaker on a topic related to race, justice and inclusion, selected by the Lecture Committee. The event will include an invitation-only reception, an evening lecture open to the public, followed by a private dinner for major donors and other invited guests. We plan to launch this series with a nationally recognized speaker in the spring of 2018. Fundraising for the series is beginning this summer.

## 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. It seeks to serve as a laboratory where new ideas and models can be presented and created. 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, reports and other written products and widespread dissemination.

*The Fair Punishment Project* ([www.fairpunishment.org](http://www.fairpunishment.org) with the Criminal Justice Institute) seeks to highlight efforts aimed at dismantling mass incarceration, and ending excessive and harsh punishments that disproportionately harm individuals of color within our justice system, with a focus on ending the death penalty and Juvenile Life Without Parole. It is based on the premise that, too often in the U.S. justice system, sentences are too severe for the weight of the crime, or are handed down to individuals who suffer from crippling impairments that diminish their culpability. The Fair Punishment Project illuminates excessive punishments and the systemic problems that create them. The Project issues reports, writes blog posts, and highlights key reform developments.

*The Houston/Marshall Plan for Community Justice* (<http://charleshamiltonhouston.org/project/houston-marshall-plan/>) begins with our acknowledgement of the war-like devastation that has been inflicted upon poor communities of color in our nation's cities. This devastation is the result of policies and practices of disinvestment that cut across otherwise separate domains – including

transportation, housing, education, recreation, public safety, job creation, and health care – that have created an impenetrable web of disadvantage. One of the most debilitating consequences has been the dilution of a sense of membership – the cornerstone of citizenship – such that persons most directly affected by these policies have had no voice in their shape or implementation.

*The Houston/Marshall Plan* proceeds from a simple premise: These voices must be raised, heard, and at the center of our efforts to rebuild. In practical terms, this means that programs and interventions must be locally conceived, and grounded in the wealth of knowledge, experience and determination that exist within communities across the country. It is time to invest these assets in our future. This website is designed to serve as a bank for new ideas, programs, policies, and public advocacy; a bank into which we can all deposit and from which we can all withdraw, and one which we hope will enrich us all. The Houston Institute’s approach to this work is loosely modeled after the original Marshall Plan, and also inspired by the work and insights of Charles Hamilton Houston.

- II. Clinical Work: At present, the Houston Institute does not offer a student clinic. However, Professor Brown-Nagin plans to explore the possibility of creating a clinic that will train HLS students to represent public school students facing suspensions and expulsions at school hearings and in court in the future.
- III. Other Activities

#### *Conferences/Workshops/Events*

The Houston Institute offers exceptional public events, free and open to all, throughout the year. It also occasionally organizes invitation-only meetings as part of larger initiatives. 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 on issues related to race and justice for many in the Boston and Cambridge communities. We frequently sponsor these in collaboration with other organizations, often Harvard-based. Below are highlights of our public events from this past year:

September 11: Massachusetts and the Carceral State Conference. In an effort to strengthen and support the efforts of advocates working across Massachusetts to advance important criminal justice reforms, the Houston Institute joined forces with the Criminal Justice Policy Coalition, and the Coalition for Effective Public Safety to organize a two-day event. During the first day, community-based organizations heard from advocates from both Massachusetts and other states who have led successful reform initiatives, about effective public communication strategies, and from individuals who experienced the “carceral state” from a variety of perspectives. The second day was open to the public, and included workshops on social media, building alliances, activism through art, and book and organizational tables. The conference drew several hundred audience members.

September 10: Running in Stillness: Performed by Danza Orgánica, a Boston-based contemporary dance theater company, *Running in Stillness* is a dance theater suite based on the impact of mass incarceration on women and our community. This event was free and open to the public.

September 19: The Black Prince of Florence: A talk by author Catherine Fletcher, The story of Alessandro de’ Medici’s rise and fall is the stuff of legend and myth. The natural son of Lorenzo II (or possibly Pope Clement VII) by a black servant or slave, he became Duke of Florence at the age of 19. Historian Dr. Catherine Fletcher of Swansea University in the UK told the tale of his spectacular rise and fall in the first complete account on the subject. With an introduction by Mario Valdes, a former researcher with the PBS series *Frontline*, responsible for the most comprehensive website on Alessandro’s ethnic origins and their sociopolitical implications. This event was co-sponsored by the Hutchins Center for African & African American Research

October 27: A Community Discussion of Massachusetts State Ballot Question 2, Raising the State Cap on charter schools. Co-sponsored by Boston University School of Education.

November 9: Education and Transformative Justice. A community conversation exploring the connections of under-resourced schools, trauma, and mass incarceration. This event was part of the Transformative Justice Series, co-sponsored with the Prison Studies Program and the Harvard Divinity School, and featured a presentation by CHHIRJ Executive Director, David Harris.

January 12: Richard Sobel: *Citizenship as Foundation of Rights.* This book talk, by author Richard Sobel, explored the nature and meaning of American citizenship and the rights flowing from citizenship in the context of current debates around politics, including immigration. It focused on three key citizenship rights – the right to vote, the right to employment, and the right to travel in the US. It explains why those rights are fundamental and how national identification systems and ID requirements to vote, work and travel undermine the fundamental citizen rights.

March 10: Academics Against Fascism. This was a brown bag talk with Dr. Philip Rice, co-convener of Academics Against Fascism. Dr. Rice is the Vice Chair of emergency medicine at North Shore Medical Center, a Lecturer at Harvard Medical School, and a researcher on resuscitation, trauma, and social policy impacts on the health of the population.

April 6: From the Ground Up: The Progressive Path to Political Leadership  
This daylong event, co-sponsored with Civic Engagement Fund, brought together fundraisers, community organizers, faith leaders, political professionals, lawyers, elected officials, and HLS students (Jeohn Favors, Advisor, The Arena) to discuss the path forward for the progressive political movement. Following a keynote address from Rashaad Robinson of the Color of Changes, members of progressive organizations from across the country shared ideas, spoke about their missions, and addressed how they are converting the energy of community activism into effective political action. Topics included: *The Path Forward: Reflecting and Rebuilding*, *Community Activism: Mobilization and Technology*, and *People Make it Happen: Issue Organizing & Leadership Development*. The conference included a special recorded message from

Congresswoman Pramila Jayapal, then recently elected representative from Washington whose pathway to Congress began as an immigration activist.

#### June 16: Redefining the Role of the Prosecutor within the Community

This daylong conference was co-sponsored with the ACLU. Prosecutors are key actors within our current justice system and possess an enormous amount of discretion about who is charged, for what, and the severity of the sentence received. Yet, we know surprisingly little about how these decisions are made, why, and the pressures and incentives that inform prosecutorial actions and cultures. Grassroots organizations, justice reform advocates and scholars have begun to take a closer look at the impact of prosecutorial decisions in building historic rates of incarceration, and are defining a more expansive set of metrics for measuring their performance. In the morning, panels focused on new models for prosecution and on experiences and insights of former prosecutors. During the afternoon, there were brief presentations from economist John Pfaff about his research regarding the impact of prosecutorial decisions on incarceration rates, and from Measures for Justice on new ways to measure “justice outcomes” within a community. The afternoon panel featured individuals who were creating and implementing models for community engagement and oversight.

#### *c. Research Assistants/Interns:*

Every summer, the Houston Institute selects several interns to work on research projects. The Institute also occasionally has student interns working during the academic year. Often these interns come through the Charles Hamilton Houston Institute at Amherst College. During the summer of 2016, the Institute hosted two interns: James Davis from the University of North Carolina and Madeline Ruoff from Amherst College. James worked primarily on developing infographics for the website and on organizing several community justice events in Boston and Virginia. Madeline researched models of community-based political action and implicit bias training programs for lawyers and educators. During the January interim, Sydney Perkins explored community engagement in the campaigns of reform-minded District

Attorneys and the platforms they ran on. Kelly Hernandez, and Hannah Lichtenstein of Swarthmore College provided content for the website.

3. Contributions to the HLS Teaching Program

During previous years, the Houston Institute integrates its work into the curriculum of Professor Ogletree, both in his Trial Advocacy Course and in his seminars. For example, issues related to implicit bias, the death penalty, and mass incarceration have been woven into this coursework. In addition, two years ago, the CHHIRJ Managing Director, David Harris, co-taught a seminar with HLS faculty member, Philip Heymann entitled *Policing and Community Groups*. However, during the 2016-2017 academic year, Professor Ogletree was on sabbatical and medical leave, and therefore did not teach any classes. We expect in the future, now that Professor Brown-Nagin has become the Faculty Advisor for the Houston Institute, the Institute's projects and activities will be integrated into the curriculum of the classes she teaches.

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.

1. 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:

- Nancy Gertner
- Kenneth Mack
- Ronald Sullivan
- 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. During this academic year, Executive Director David Harris offered his annual presentation to the Harvard Trade Union Program, made a presentation to the Transformative Justice Program at the Harvard Graduate School of Education, and made a presentation to the Religions and the Practice of Peace Colloquium at the Divinity School, as well as offering Morning Prayers at Memorial Church. He also organized the reception for the new cohort of Advanced Leadership Initiative fellows. We also organized a panel discussion on Community Justice for HLS' Black Alumni Weekend.

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 collaborated with several other Massachusetts-based organizations (the Coalition for Effective Public Safety, the National Lawyers' Guild, the Criminal Justice Policy Coalition) to organize a two-day conference for community-based organizations working in the state to promote criminal justice reforms. The conference was held September 10-11, 2016.

- b. The Institute collaborated with the ACLU to organize a daylong conference on prosecutorial reform, entitled “Redefining the Role of the Prosecutor within the Community” in June 2016.
- c. Institute staff conducted a research project on prosecutorial culture and incentives. To date, we have interviewed over a dozen current and former prosecutors. Our goal is to learn about the incentives that guide prosecutorial decisions, in an effort to identify ways in which community groups can provide oversight aimed at bringing about important reforms to District Attorney offices, and to changing the metrics used to measure performance.
- d. Executive Director David Harris gave presentations on justice reform to the BU BLSA Conference, Roxbury Community College, the Religions and Practice of Peace at HDS, the Black Ministerial Alliance, the MIT Department of Urban Studies.

#### 8. Connections to the Profession

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. This past year, we presented this workshop to lawyers involved in Intellectual Property issues, to community groups, to juvenile justice and defense attorneys.

Our research regarding prosecutorial reform is connected to a broader movement aimed at redefining the role of the prosecutor within the community. The publications and media products that result from this project will be disseminated to advocates and to several organizations that have developed in recent years to promote a redefined vision for prosecutors. These include the Fair and Just Prosecution, directed by Miriam Krinsky, the Color of Change, and the Institute for Innovation in Prosecution, at John Jay University.

#### 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: Islamic Legal Studies Program at HLS; the Criminal Justice Institute, Phillips Brooks House Association, the Graduate School of Education, the Prison Studies Program, the Hutchins Center, Harvard Black Law Student Association, Prison Legal Assistance Project, Harvard Human Rights Program, 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 staffing level is expected to change in any material way in the coming year, please indicate the nature and magnitude of the change.

David Harris, Managing Director

Johanna Wald, Director of Strategic Planning

Kelly Garvin, Staff Assistant

Ernest Owens, Staff Assistant

During the upcoming year, Johanna Wald will be working a 60% schedule.

Ernest Owens left his position on June 30.

2. Payments to Harvard Personnel and Related Parties: If, in the past year, your program made payments to any Harvard faculty member and staff or to relatives of or entities controlled by Harvard faculty or staff, please indicate the amount, recipient, and purpose of such payments. Ordinary payroll expenses for staff need not be included; however, you should indicate which, if any, staff are relatives of Harvard faculty or staff.

None.

3. Other Arrangements: Please describe your understanding of any arrangements between the program and the Law School with potential financial implications: e.g., agreements regarding availability or cost of space rentals, commitments with regard to support from the restricted budget or other accounts, commitments related to the teaching programs, etc. NONE
- a. Fiscal Oversight: Please indicate which person in the program is responsible for monitoring compliance with Law School and University guidelines regarding the receipt of outside grants, use of university name, conflicts of interest, and outside activities and confirm that this person has determined that the program has been in compliance with these requirements during the past academic year. David Harris, Managing Director. To our knowledge, we are in compliance with these requirements.