CFLJ COMMENTARY

The APD Racial Bias Audit --- Proceed with Extreme Caution!

“The government are very keen on amassing statistics. They collect them, add them, raise them to the nth power, take the cube root and prepare wonderful diagrams. But you must never forget that every one of these figures comes in the first instance from the village watchman, who just puts down what he damn pleases.”

--- Sir Josiah Stamp, 1929

On June 2, 2020, Kimani Addison was arrested by the Albany Police Department while using his cellphone camera to record the arrest of another man in the South End. Addison, a Black man, was charged with inciting a riot after the police claimed he screamed, “That’s why we need to revolt like last night.” The Times Union reviewed three videos of the incident and in none of them was Addison heard saying that phrase.

Addison says that in the course of his arrest he was punched in the head, kneeled in the neck, and tased when he was on the ground. After reviewing a video of the incident, Mayor Kathy Sheehan said: “The video footage does not appear to depict efforts by police to de-escalate a situation, nor does it depict the sensitivity I expect from all city employees in this moment and every day.” The City announced the charges against Addison would be dropped.

Why would the police claim Addison was inciting a riot? Could it possibly be because “stopping a riot” is one of the ten enumerated “lawful objectives” of use of force in Section I.A.I.a. of the APD’s policy, “Use of Force – Less Lethal Weapons, General Order No:1.3.00?” Could an officer facing departmental charges of excessive force claim that he was “stopping a riot” and be exonerated by the APD Office of Professional Standards?

What does this incident have to do with a racial bias audit? APD statistics will reflect that a Black man was arrested for inciting a riot because that’s what the “village watchman” wrote down on June 2, 2020 --- even though “inciting a riot” never happened.

We must be wary when reviewing statistics whose source is the very subject of the audit.

With that caveat in mind, the Center applauds the fact that the City has hired an outside firm, CNA, to conduct a racial bias audit of the Albany Police Department. Chief City Auditor Dorcey Applyrs said that in order for the city to make the right decisions about its police department, it needed to understand the extent of any racial basis in the department.

Auditors will be looking at data related to traffic stops, use of force and other department interactions with the public over a five-year period. Additionally, CNA will interview the Mayor, Police Chief, Common Council Members, Citizen Police Review Board Chair, ACPAC Chair, Dr. Alice Green (CFLJ), the NAACP President, NYS Office of Court Administration members, and additional community stakeholders.

CNA was chosen from among seven organizations that submitted proposals. A panel of five reviewers, including the Center for Law and Justice, rated the proposals according to a 100-point rubric prepared by the City Auditor’s Office. The Center shared in the panel’s consensus that CNA is the most appropriate choice to conduct the audit.
Accepting the Chief City Auditor’s invitation to serve on the review panel, the Center participated in the process with the understanding that the purpose of the audit is not to prove or disprove racist *intent* on the part of any individuals or organizations, but to identify areas in need of improvement in terms of disproportionate racial *impact*.

The Center wanted this distinction made clear because police personnel have often characterized allegations of systemic racism as accusations of personal, deliberate, calculated racist behaviors. Their response to the allegations goes something like this: because there is no evidence of racist *intent* in our department, *systemic racism* could not possibly exist here.

Systemic racism is best measured not by *intent*, but by *impact*. The Request for Proposals put out by the City acknowledged as much, and CNA’s proposal is certainly focused on disproportionate impact on minorities. The Center, however, is concerned that two circumstances may hinder the production of a thorough audit: the short time frame for the study, and the lack of an Advisory Committee to guide CNA’s work.

The short, two-month time frame may hamper a comprehensive collection and analysis of data. Even with a willing and cooperative subject, an audit takes time and several back-and-forth exchanges to specify exactly which data elements are needed from which sources, and in what formats. More than one of the proposals submitted in response to the City’s RFP noted that this sort of study usually takes at least six months.

Exacerbating the time limitation is the lack of an Advisory Committee comprised of Albany stakeholders to guide CNA’s work. During the proposal review process the Center noted the importance of an Advisory Committee, as suggested in one of the stronger proposals. This Committee could further delineate to CNA the specific questions to be answered within the specified time frame, to assist them in meeting the City’s deadlines. The Center was disappointed when the Chief City Auditor indicated it was not likely that an Advisory Committee would be formed.

The short time frame and numerous areas of inquiry may not allow for sufficient data analysis, producing inconclusive results. The Center is concerned that anything short of slam-dunk, statistically significant findings might be seized upon by “systemic racism deniers” who may use the audit findings to declare the APD to be racism-free.

And we all know that’s just not true --- right, Albany?

**Next Friday’s Commentary: The Albany Police Department Culture**

“*Policy makers and law enforcement organizations can create policies and set rules and guidelines, but if policies conflict with institutional culture these policies will not become part of the institutional fabric and may not effectively guide individual behavior.*”

---New York State Police Reform and Reinvention Collaborative Workbook