Goals of this Presentation

- Overview of SCSJ’s model for practicing civil rights reform
- Update on key criminal justice initiatives
- Update on regional and national voting rights issues
About Southern Coalition (SCSJ)

*SCSJ partners with communities of color and economically disadvantaged communities in the south to defend and advance their political, social and economic rights through the combination of legal advocacy, research, organizing and communications.*

- Based in Durham, founded in 2007 by Anita Earls
- 501(c)(3) Non-profit Organization
- Led by people of color
- Community led initiatives (community lawyering model)
- Racial justice lens
- Multidisciplinary – media, organizers, lawyers, and researchers
- Committed to the health and sustainability of staff
Community Lawyering

Using legal advocacy and organizing to help achieve solutions to community identified issues in ways that develop local leadership and institutions that can continue to exert power to effect systemic change.

Why?

• Lawyers don’t always know everything (!)
• Directly affected people know what they need
• To ensure sustainable change. Institutions are resilient – people on the ground need to lead the fight for change, because they’ll need to keep tabs on whether it will change back
Racial Justice

Preserving and extending constitutionally guaranteed rights to people who have been historically denied those rights on the basis of race.

Why?

• The root inequality of all issues we work on is race – it alone shapes the outcomes for our clients in their interactions with powerful institutions
• Confronting racism, implicit bias, and our role in furthering unequal institutions helps us serve our clients and makes us better lawyers

See Organizing Against Racism for the racial equity training we use for all our staff and interns (www.oarnc.org)
Criminal Justice Reform Update
End the mass incarceration and over-criminalization of people of color.
Schools

Disparate Policing

Court System

Incarceration

Collateral Consequences

Financial aid
Community wealth
Housing
Jobs

School discipline policies
Raise the Age
Police presence

Searches
Traffic stops
Police shootings

Arrest vs. citation

Occupational licenses
Voting

Sentencing
Indictment

Access to lawyers
Wrongful convictions

Conditions of confinement

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Conditions of confinement
Youth Justice Project

Ensure equity, fairness, and justice for youth in high-quality education, juvenile, and criminal systems.

The School to Prison Pipeline

The system of policies and practices that push students out of school and into the juvenile and adult criminal systems. Students of color are more likely to be pushed out of school through this pipeline. (For more information: http://bit.ly/2jLah4p)
Raise the Age

• Refers to efforts to raise the age of Juvenile Court Jurisdiction from 16 to 18 years old

• NC is one of only two states that still charge 16- and 17-year-olds as adults, regardless of the severity of the offense (the other is New York)

• Youth in adult courts results in limited access to rehabilitative programming, mentoring, counseling, and education. Evidence-based research shows that the juvenile system, with programs tailored to how children think and learn, is more effective at rehabilitating youth.
Raise the Age – Legislative Update

- Chief Justice’s Commission on the Administration of Law and Justice – focus on Raise the Age
- Proposal to raise juvenile jurisdiction from 15 to 17 for all crime except A-E felonies and traffic violations
- Includes plans for implementation and further funding
- Sheriff’s Conference supports
- DA’s Conference has asked that DAs reserve authority, without judicial review, to prosecute juveniles ages 13-17 for A-E felonies in adult court – Commission did not adopt
Misdemeanor Diversion Programs (MDP)

• Move youth who would otherwise be entering the criminal justice system away from a criminal record while still ensuring consequences for actions

• **Pre-arrest and pre-charge:** Law enforcement refrains from charging the youth and instead refers them to MDP. Youth attend a diversion court session and are assigned to a community diversion program based on assessment of individual needs. If the youth does not complete the program, law enforcement may then move forward with criminal charges

• SCSJ hosted an MDP Conference in Durham in October 2016 to encourage replication of MDPs statewide – over 100 judges, DAs, PDs, government staff, and law enforcement officers attended
Four counties have implemented MDPs:

<table>
<thead>
<tr>
<th>Durham</th>
<th>Orange</th>
<th>Cumberland</th>
<th>Wake Schools</th>
</tr>
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<tbody>
<tr>
<td>16- to 21-yr-olds</td>
<td>16- and 17-year-olds</td>
<td>16- to 18-year-old</td>
<td></td>
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<tr>
<td>(began w/16 to 17 only)</td>
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<td>students</td>
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<tr>
<td>First-time, nonviolent misdemeanors (excludes firearm, sex, traffic offenses). Cannot already have an adult criminal record.</td>
<td></td>
<td>Nonviolent misdemeanors allegedly committed while at school</td>
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<td>90-day program</td>
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<td>6 months</td>
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<td>Effective Jan. 2017, Durham Police Officers are required to refer all eligible youth to MDP. Sheriff’s Officers still have discretion</td>
<td>Law enforcement officers have discretion on whether to refer eligible youth to MDP or charge them as adults</td>
<td>A tool for School Resource Officers. SROs who want to file charges in criminal court must speak with the DA’s office first.</td>
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*Several other jurisdictions have started the process of establishing MDPs and similar diversion programs.*
Racial Equity Report Cards

- Use publically available data to provide a snapshot of the racial disproportionalities that exist in a community’s public education and juvenile justice systems
- Intended to help communities identify racial disproportionalities and disparities in schools and other youth-serving institutions
- Three areas broken down by race: (1) Academic Achievement, (2) School Discipline, and (3) Court Involvement
- **Snapshot:** The statewide report card shows that black students make up 25.8% of the total state school population, but account for 44.7% of in-school suspensions and 44.8% of school-based juvenile complaints

FADE Coalition

• Fostering Alternatives to Drug Enforcement, a coalition of community, religious, and advocacy organizations in Durham

• In 2014, the Durham City Council adopted all five of FADE’s recommendations:

1. Make misdemeanor marijuana enforcement as the department’s lowest law enforcement priority (LLEP)
2. Require written consent for vehicle searches
3. Mandatory periodic audits of individual officer stop data
4. Mandatory reporting of traffic stop and search data, broken down by race, to the City Council
5. Reforms and strengthen the Civilian Police Review Board
Open Data Policing Website

• www.opendatapolicing.org
• Launched in December 2015; now includes North Carolina, Maryland, and Illinois
• Organizes public records into an up-to-date, online, user friendly resource of traffic stop, search, and use-of-force data, broken down by race and ethnicity, for every police department and police officer in North Carolina (about 20 million traffic stops since 2000)
• Someone can go to the website and find their stop, the officer code who stopped them, and demographic data on the people that officer has stopped in the past
Durham PD Case Study

Some of the most dramatic racial search disparities in North Carolina: African Americans are 206% more likely than Whites to be searched when stopped for a seat belt violation
Descriptive and multivariate analysis demonstrated that Durham PD was much more likely to search black motorists, even after controlling for other factors and removing 89 “Bad Apple” officers from the analysis.

**Likelihood of DPD conducting a search on a traffic stop 2010-2012, by race, with 4 controls, and removing ‘bad apples’ to test for individual vs. systemic discrimination**

- **Descriptive Statistics**
- **Holding equal gender, age, time of stop, reason for stop**
  - All Officers
  - Removing 38 Worst Apples
  - Removing 38 Worst and 51 Bad Apples

**Relative Rate Index**

- **Black driver**
- **Hispanic driver**
- **White Non-hispanic driver**

Notes:
1. Worst apples are officer who stops blacks at a rate 10% higher than whites or vice versa, ‘bad apples’ stop one race at a rate of 5% higher than the other.
2. See appendix for complete logit regression output.
Based on this analysis, a black motorist in Durham was still 165% more likely to be searched pursuant to a motor vehicle stop than a white motorist, even after accounting for the reason for the stop, the time of the stop, and the age and gender of the driver. (dataset: 2010-12)

Even if Durham PD removed the top third of officers responsible for generating the largest racial search disparities, a black motorist would still remain 61% more likely to be searched pursuant to a traffic stop than a white motorist.

**Conclusion:** This is a *systemic* and *institutional* problem that requires *policy solutions*.

**Solutions:** Community Organizing and Police Department Reform
Activists Wield Search Data to Challenge and Change Police Policy

After having initially rejected protesters’ demands, the city abruptly changed course and agreed to require the police, beginning last month, to obtain written consent to search vehicles in cases where they do not have probable cause. The consent forms, in English and Spanish, tell drivers they do not have to allow the searches.

“Without the data, nothing would have happened,” said Steve Schewel, a Durham City Council member who had pushed for the change.
Durham PD Case Study cont’d.

Community organizing produced positive results:

• **75% reduction** in consent searches citywide over the last 2 years
• **14% reduction** in searches citywide

Other uses and outcomes of Open Data Policing:

• Greensboro – moratorium on traffic stops for minor equipment infractions
• Carlos Riley, Jr. trial in Durham – use of officer-specific data showing disparate treatment based on race to challenge officer credibility on cross examination
• Orange County – use of officer-specific data in a motion to suppress drugs seized pursuant to a traffic stop and search
Participatory Defense

*project of SpiritHouse, partnering with All of Us or None and SCSJ*

**Problem:** Public Defenders do not have the capacity to research the individual circumstances of every client they represent; the court system’s formality and repetition dehumanizes defendants.

**Goal:** Minimize incarceration and probation time so as to minimize collateral consequences; show that incarceration impacts an entire family and community, not just one person.

**Solution:** A community organizing approach to defense work by working with people who have active cases to help them participate in their own defense by providing resources to assist the lawyer.
Court Mobbing
Family and community come to court hearings to show support for the defendant

Mitigation Packets
Volunteers work with the defendant and families to document that person’s life – letters of support from mentors, pastors, and teachers; pictures of family; copies of degrees and certificates, etc.

Other Support
Includes providing court attire, explaining court procedures and types of plea offers, etc.

• Working on cases in Durham and Wake County
• SCSJ attorneys support defendants on Class 3 Misdemeanor charges
• Model started with De-Bug, an organization based in San Jose, CA
An estimated 65 million people have a record nationwide. ¹
1.6 million North Carolinians have a record. ²

There are over 47,000 collateral consequences to criminal convictions across the country, and over 1000 in NC.³

Over 90% of human resource professionals conduct some sort of criminal background check during the hiring process.⁴

The economic costs of unemployed individuals with felony convictions has been estimated at $57 to $65 billion per year, or approximately half a percent of GDP.⁵
Community Organizing Clinic Model

- Support organizing efforts to ensure that those impacted by the criminal justice system lead the movement for reform
- Represent individuals for free in expunging records, obtaining Certificates of Relief, and applying for occupational licenses
- Individuals must attend one of our events to become a client
- At our clinics, we partner with All of Us or None NC and SpiritHouse to include a community empowerment discussion to engage people with records in organizing efforts
- Have held clinics in Greensboro, Orange, Durham, Wake, and Greenville; filed petitions in 58 counties total

2. See Daryl V. Atkinson and Whitney Fairbanks, Overview of the Collateral Consequences of North Carolina Criminal Convictions, Southern Coalition for Social Justice
Certificates of Relief

• Not an expunction. A court order relieving employers, landlords, and anyone else doing business with a person with a record of liability because of the record
• Can have up to two class G, H, or I felonies in one session of court to seek a Certificate (but cannot have any other convictions, besides traffic)
• Can obtain 1 year after sentence ends – much quicker than an expunction!

School Volunteer Policies

• We’re working to reform school board policies for how criminal records are considered in parent applications to attend field trips and school events with their children
• Refer anyone you know of with this issue to Kathleen Lockwood at kathleen@scsj.org
Ban the Box & Fair Chance Hiring

During the application process, the criminal record check is\textbf{delayed} until \textit{after} the interview process and a conditional offer is made. The employer gives the applicant a chance to explain the record and considers the circumstances of the offense in relation to the job. Employers can withhold a final offer.

- Recognizes that a criminal record carries a stigma – the applicant is assessed on the merits of their skills
- Employers are more likely to hire the applicant, even with a record, because the stigma of the record does not impact perception of his or her skills and qualifications for the job
- Ensures that employer use of criminal records in the hiring process are not overly broad
- Employers still retain discretion over whether to make a final offer after the record check
Ban the Box & Fair Chance Hiring cont’d

• The Ban the Box movement started in 2004 with All of Us or None, a national civil and human rights coalition lead by formerly incarcerated people
• In 2011, the Durham Second Chance Alliance, including SCSJ, successfully advocated for the City of Durham and Durham County to Ban the Box
• In 2015, President Obama issued an executive order banning the box for federal jobs, and the Koch Brothers also banned the box
• In 2016, the Koch Brothers asked their funders to Ban the Box

All NC Jurisdictions: Asheville, Buncombe County, Carrboro, Charlotte, Mecklenburg County, Spring Lake, Cumberland County, Durham, Durham County, Wake County
Ban the Box & Fair Chance Hiring cont’d

In 2011-13, Durham County saw 190 applicants with criminal records. Of those, 96.8% were hired after the record check process.
Since Ban the Box began in 2011, the overall proportion of people with criminal records hired by the City of Durham has increased nearly 7 fold through 2014.
Recent challenges to Ban the Box

Recent studies advocate that Ban the Box increases discrimination, and propose repeal on the conclusion that without the ability to screen for criminal records beforehand, employers assume all people of color have records and refuse to consider their applications at all.

But an increase in race discrimination in employment decisions can’t possibly be a good reason to roll back a policy proven to decrease discrimination!

Race-based discrimination in the hiring process is illegal, and the EEOC has issued guidance that refusing to hire people of color based solely on having a record is discrimination under disparate impact theory. Instead, Ban the Box can and must work in tandem with further policies that ensure fair hiring and enforce anti-discrimination laws.
Voting Rights Update
Learn More

www.southerncoalition.org

- Youth Justice Project – www.youthjusticenc.org
  - Ricky Watson, ricky@scsj.org
  - Peggy Nicholson, peggy@scsj.org
- Open Data Policing – www.opendatapolicing.org
  - Ian Mance, ian@scsj.org
- Clean Slate Project – www.cleanslatenc.org
  - Bethan Eynon, bethan@scsj.org
- Other CJ Initiatives: Dave Hall, dave@scsj.org
- Voting Rights: Alesha Brown, alesha@scsj.org