ANNUAL REPORT TO THE HARVARD LAW SCHOOL

ACADEMIC YEAR 2008—2009

AUGUST 2009
A. Summary of Academic Year: 2007-2008

1. Executive Summary

The Charles Hamilton Houston Institute for Race and Justice (CHHIRJ) completed an exciting and productive year, during which it:

- Raised over $1.3 million from individuals, foundations and law firms
- Sponsored and organized over 25 public events—listed in the next section
- Hosted a national summit on school integration and a national conference entitled “Pathways to Participation” that featured former Supreme Court Justice Sandra Day O’Connor
- Submitted written and oral testimony on criminal justice reform to several Congressional and Senate Committees and to the Maryland Commission on Capital Punishment
- Produced and disseminated to a national audience several policy briefs that summarize current research, discuss policy and practice implications, and provide recommendations for how research can inform policy and practice on social determinants of health, affects of exposure to violence, and “Acting White.”
- Established and strengthened partnerships with, among others, the NAACP-LDF, the ACLU, the Lawyers’ Committee for Civil Rights, the National Coalition to Abolish the Death Penalty, the Kirwan Institute for the Study of Race and Ethnicity at Ohio State, the Chief Justice Earl Warren Institute on Race, Ethnicity and Diversity at the University of California Law School at Berkeley, Teachers College, Columbia University, Center for Law and Education and the law firms of Bingham McCutchen, Sullivan & Cromwell, and Choate Hall & Stewart,
- Established and strengthened partnerships with a host of Harvard-based institutes and centers, including the Center for the Developing Child, the Weiner Center, the Multidisciplinary Program in Inequality and Social Policy, both at the Kennedy School, the School of Public Health, and the Advanced Leadership Initiative of the Business School.

As the Institute moves into its fourth full year, it is preparing to launch a new initiative, entitled “The Inclusion Project” that will incorporate much of its existing work into a broader
framework. We are currently planning a high level meeting which will take place at the White Oaks Conference Center in Georgia on October 20-22 to unveil this initiative. Its long-term goal is to create, in concert with a host of other organizations, a blueprint for revamping education and social service delivery systems— including a re-conceived notion of public safety— in this country. This is, we fully recognize, a complex task that will require the articulation of a long-term vision, the identification of very practical and concrete benchmarks, the creation of a public relations/framing strategy that can be widely adopted, and the coordination of agendas and language among groups not used to reaching out to one another. We see an extraordinary opening to create both more efficient—and more inclusive—social service and educational delivery systems worthy of the multi-racial society we have become.

2. Research, Scholarship and Project Activities

a. Overview of 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. Participants present new scholarship, debate legal and policy strategies, and craft new solutions that can be widely adopted. Scholarship that emerges from the Institute is incorporated into the teaching and training of the next generation of legal scholars and advocates. This model ensures that the worlds of research and practice will be continually linked, a strategy that represented such a critical part of Houston’s vision for reform.
b. Public Events and Forums

Some of the major public events sponsored or co-sponsored by CHHIRJ between July 1, 2008 and June 30, 2009 are listed below. More information about each is available on our website. All Houston Institute events are free and open to the public.

Redirecting the School-to-Prison Pipeline: Building Futures, Not Prisons, Part II: Addressing School Discipline Issues
Thursday, June 11, 2009, 3:30 PM
Suffolk University Law School
120 Tremont St., Boston, MA

The Meaning of the Fourth of July for the Negro: Reading Frederick Douglass in the Era of Barack Obama
Tuesday, June 02, 2009, 12:00 PM
State House
Boston, MA

55 Years After Hernandez v. Texas
Tuesday, May 05, 2009, 6:00 PM
Ames Courtroom, Austin Hall, Harvard Law School
1515 Massachusetts Ave, Cambridge, MA 02138

Poverty, Justice, and Jobs Think Tank
Thursday, April 30, 2009 - Saturday, May 02, 2009
Harvard Law School

20th Anniversary of Sheff v. O'Neill: Panel Discussion & Reception
Monday, April 27, 2009, 5:00 PM
William F. Starr Hall, University of Connecticut Law School

Immigration Detention and Human Rights
Thursday, April 23, 2009, 6:30 PM
Langdell Hall North, Harvard Law School
1545 Massachusetts Ave, Cambridge, MA 02138

Tim Wise: "Between Barack and a Hard Place: Racism and White Denial in the Age of Obama"
Tuesday, December 09, 2008, 6:00 PM
Ames Courtroom, Austin Hall, Harvard Law School
1515 Massachusetts Ave, Cambridge, MA

Traces of the Trade: Film Screening & Panel Discussion
Monday, December 08, 2008, 6:00 PM
The Cathedral Church of St. Paul
138 Tremont St, Boston, MA 02111
Visions of Race in America in the Films of Ken Burns
Wednesday, October 29, 2008, 4:00 PM - Book Signing to Follow
Ames Courtroom, Austin Hall, Harvard Law School
1515 Massachusetts Ave, Cambridge, MA 02138

Revolution '67: Film Screening & Discussion
Thursday, October 02, 2008, 5:30 PM
Ropes Gray Room, Pound Hall, Harvard Law School
1563 Massachusetts Ave, Cambridge, MA 02138

Charting New Pathways to Participation & Membership
Friday, October 17, 2008 - Saturday, October 18, 2008
Sponsored by Bingham McCutchen LLP
Ames Courtroom, Austin Hall, Harvard Law School
1515 Massachusetts Ave, Cambridge, MA 02138

Race, Gender, Age and Religion in the 2008 Election
Wednesday, August 06, 2008, 1:00 PM
Martha's Vineyard Performing Arts Center, Martha's Vineyard Regional High School
Edgartown-Vineyard Haven Rd, Oak Bluffs, MA

The Pipeline Crisis: Closing the Achievement Gap for Young, Black Men
Friday, July 11, 2008, 1:30 PM
Pier Sixty, Chelsea Piers
23rd St & West Side Hwy, New York, NY

c. Description of CHHIRJ Major Initiatives:

As stated earlier in this document, we plan to link all of our ongoing work into a broader initiative which we are calling “The Inclusion Project.” The work aspires to bring our public language, public policies, professional practice and social programs in line with the values of equal life chances and inclusivity that we believe will lead to an equitable, multi-racial society. The Inclusion Project streamlines our work at CHHIRJ and highlights the connections between the fields of education/youth policy, public health, and public safety/criminal justice. Through this initiative, CHHIRJ will bring along even more allies to systematically identify and realize our common goals.

Within the Inclusion Project, we are folding existing activities into two initiatives: “Bridging the Opportunity Gap” and “Pathways to Public Safety & Social Justice.” Generally, the work of our Institute takes four forms.

1. Written work -- such as widely disseminated reports/briefs/papers/newspaper editorials and magazine articles, scholarly articles, book chapters. We also contribute to public policy
discussions and debates related to racial and economic justice by writing “open letters,” newspaper editorials and reports, congressional testimony, and fact sheets geared toward a variety of audiences.

2. **Presentations** -- such as public hearing testimony on Capitol Hill or in state-level legislative and community hearings, Powerpoint presentations to a variety of audiences, including community organizations, professional organizations, advocates and organizers, lectures and panel discussions at academic conferences.

3. **Convenings/Coalition Building/Community Education** - These project-based, goal oriented sessions bring together people who don’t usually have the opportunity to share information. We organize interactive conferences and convenings that encourage scholars, practitioners, advocates, educators, legislators, and others to share their experiences and perspectives in order to devise new solutions to issues related to racial inequality. These convenings often result in the release of a written product, such as a widely disseminated working paper, policy brief, or recommendations to Congress.

4. **Public Events** – These are free and open to the public, including and beyond Harvard. They are intended to provoke and inspire robust conversations and to challenge dominant thinking. They often feature a panel discussion or a single speaker, and provide ample opportunities for audience engagement.

**DESCRIPTIONS OF INITIATIVES:**

Pathways to Public Safety & Social Justice –

*This project* illuminates the economic interconnections between educational failure, incarceration, the death penalty and the tangle of social forces that create, sustain and exacerbate unequal opportunities for people who live in neighborhoods of concentrated disadvantage.

These neighborhoods, often disproportionately made up of families of color, are starved for resources that would improve public safety and help young people and families. Yet, as a society we continue to lavish public funds on the least effective, most expensive and harmful
interventions and punishments. For example, public leaders in Seattle recently announced school closings, yet will continue to build an expensive new prison. Federal legislation has been introduced that will dramatically expand prosecutions of non-violent children with marginal gang affiliations even as Congress simultaneously reduced support for dropout prevention programs. Budget shortfalls in California erode basic services, while state leaders continue to pursue capital prosecutions that cost taxpayers more than $250 million per execution.

This project poses a central question: Are we as a society actually making these choices, or, if given more complete information and a clearer picture of the alternatives, would we choose differently? We will identify and highlight the tradeoffs in safety and quality of life that are made when public funding is directed toward harsh punishment—disproportionately focused on the poor and communities of color—over policies, services, programs, and practices that research shows actually create safer communities and prevent crime. We will consider what we could accomplish if we lived up to our aspiration to be an inclusive democratic nation. Might communities of color organize around this growing body of knowledge and become a powerful force for redirecting public investments toward inclusive policies that promote opportunity and access?

Under this project, we:

- Examine the tradeoffs that states make when they pursue highly selective capital prosecutions instead of investing in strategies and programs that will improve the safety of entire communities hardest hit by crime and violence
- Promote alternatives to “zero tolerance” and other exclusionary school policies that push students out of school and into the criminal justice system
- Identify innovative and creative “re-entry” programs aimed at integrating formerly incarcerated individuals back into their communities and families
- Consider how mothers can stay connected to their children during and after incarceration

1. **Bridging the Opportunity Gap**

A long-standing and growing body of research demonstrates that racial and economic segregation is actively harmful to children’s short and long term academic performance. Racial diversity, meanwhile, is positively associated with higher school achievement, lower drop out rates
and a host of other positive outcomes. We host convenings, build coalitions, get involved in local efforts to create diversity and disseminate our accessible written products that are useful to advocates, litigators, organizers, educators and elected leaders. We also identify and advance policies, practice and programs that connect children in high-poverty neighborhoods of color to the opportunities and experiences middle class children take for granted. These include access to healthy food and physical and mental health care, physical safety, practiced interaction in work and higher education settings, summer recreation, after school, and preschool experiences. Research strongly suggests that some of the most effective ways to improve children’s chances in school is to improve the social and economic conditions in which they live. Through convenings and public presentations, we connect with advocates and experts in public health, child development and psychology to identify and advance promising solutions. We produce policy briefs with recommendations for practitioners committed to helping children reach their full potential as students and members of a democratic society.

2. Contributions to the HLS Teaching Program

A key part of the mission of CHHIRJ is to incorporate new scholarship, and legal and policy analyses that are produced as a result of Institute activities into the teaching and training of the next generation of legal scholars and advocates. This model ensures that the worlds of research and practice will be continually linked, a strategy that represented a central component of Houston’s vision for reform.

In the spring of 2009, Professor Ogletree offered a course entitled: “Race and Justice Jurisprudence of Charles Hamilton Houston.” The seminar examined the impact of Houston's race and justice jurisprudence during the first half of the 20th Century, and its current impact on policies, including affirmative action and racial justice.

3. Participation of HLS Students in Program Activities

The Institute engages HLS students as research assistants, and in the planning and implementation of its conferences and forums. Students are also invited to, and welcome at, all Institute public events. Below is a sample of some CHHIRJ projects pursued by HLS students:
• researched and wrote a brief summarizing social determinants of health literature and their implications for litigators/educators

• drafted and researched a brief reviewing and summarizing new research on effects of trauma on children and adults living in communities of concentrated disadvantage, and the implications of these for educators, others, judges, etc.

• conducted research on the Charter School Project and collected and organized school data for local schools from the MA Department of Elementary and Secondary Education website and from the Department of Educations Office for Civil Rights (see attached for example of the data). She also started conducting a literature search to find information related to school discipline in charter schools in general – local and national.

• helped organize the School to Prison Pipeline event that took place on Dec. 2nd of last year; assisted with the logistical details and corresponding with event participants and helped to coordinate some of the school to prison pipeline working group meetings - content, agendas, organizing information, etc

• Conducted legal research on major cases concerning the role and impact of police in schools that was used to inform a law review article;

• Volunteered to staff CHHIRJ’s major conferences, including the Pathways to Participation held in October, 2008.

4. 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, ACLU, and others, 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 submitted written and oral testimony to the Senate Judiciary Committee on Senator Jim Webb of Virginia’s proposed legislation to create a bipartisan commission that will recommend reforms to the criminal justice system. (June 2009)
b. The Institute submitted written testimony to the Maryland Commission on Capital Punishment comparing resources used to maintain the death penalty in the state to investments made to prevent crime and improve public safety in communities hardest hit by crime and violence.
c. The Institute prepared and submitted written testimony summarizing research on the disparity between crack and powder cocaine sentences for the Senate Judiciary Committee.
d. The Institute produced a fact sheet comparing the resources used for capital prosecutions in Los Angeles to investments made in education, gang prevention, substance abuse treatment and other measures that have been proven to improve public safety and reduce crime.
e. The Institute produced three policy briefs that summarize key research and make policy recommendations on topics that include social determinants of health, effects of exposure to violence on children’s ability to succeed in school, and on the phenomenon known as “acting white” for children of color.
f. The Institute produced and widely disseminated a policy brief on the likely effects of exacerbating racial and economic isolation of the proposed plan by the Boston Superintendent to redistrict certain school neighborhoods.
g. The Institute issued a policy brief on the need to make racial integration a key element of charter school expansion.
h. The Institute created a powerpoint that has been presented at a host of public and invitation-only forums on the benefits of maintaining racially diverse schools.
i. The Institute has organized a series of community meetings that focus on solutions to the school to prison pipeline in the Boston area.
j. Institute staff members have written op eds on issues related to Supreme Court cases, the 2008 election, school desegregation, and criminal justice reform that have been published in the Boston Globe, the Bay State Banner, Education Week, the Nation, and other publications.
k. The Institute regularly writes and submits amicus briefs on issues ranging from voting rights to death penalty appeals.
5. **Connections to the Profession**

We are working closely with legal organizations, such as the ACLU, NAACP-LDF, and the Lawyers’ Committee for Civil Rights, to revise legal strategies for addressing racial isolation in schools in light of the Supreme Court’s June ruling on this issue. We are collaborating with the Boston Law Firm, Choate Hall & Stewart and the Center for Law and Education to create a pro bono panel of lawyers who are representing low-income students facing suspension and expulsion from school. We are also working with Massachusetts Appleseed USA, the Youth Advocacy Project, Community Change, and Suffolk Law School Juvenile Justice Center on research and public advocacy regarding the school to prison pipeline in Massachusetts. We are working with lawyers involved in death penalty appeals and death penalty reform in several states, most recently Georgia, Maryland, California, and Ohio. We are partnering with Bingham, McCutcheon to put on a series of public forums in Martha’s Vineyard and Boston. We have been involved in efforts to reform CORI laws in Massachusetts, and to address witness protection efforts with a group of district attorneys. The Institute has already contributed to efforts to revise laws affecting the death penalty, and to advocate on behalf of individuals on death row. Our work on the achievement gap, prison re-entry and the school to prison pipeline involve policy and legal analyses, with a goal toward informing public and legal debates on these issues.

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

This year, we worked with the following Harvard-based centers and Institutes: The Center on the Developing Child, the Achievement Gap Initiative, the Trauma and Learning Policy Center at the Law School, the Berkman Center on Internet and Society, the Criminal Justice Initiative, the Harvard Graduate School of Education, the Kennedy School, the School of Public Health, the Business School, and the Program in Criminal Justice Policy and Management. Individual faculty with whom we collaborate with include David Williams at the School of Public Health, David Thomas at the Business School, Bruce Western in the Sociology Department, Chris Stone at the Kennedy School, Jack Shonkoff of the Center on the Developing Child, Rosabeth Kantor of the Business School, and Delores Acevedo-Garcia of the School of Public Health. We have “part of” external grants from the Kellogg Foundation with
the School of Public Health, and from the Elfen Foundation with the Weiner Center at the Kennedy School.

B. Plans for Academic Year: 2009–2010

1. Research and Scholarship

One of CHHJRJ’s chief objectives is to provide a bridge between scholars and researchers, litigators, and lawyers working in policy and community arenas. Accordingly, during the upcoming academic year, CHHJRJ plans to:

a. Work collaboratively with Amy Stuart Wells and Teachers College at Columbia University to create a website entitled “Rich Schools” that will identify and highlight schools that are deliberately and consciously using racial diversity to enrich school curriculum and overall school environment.

b. Collaborate with Bruce Western of the Sociology Department and Kennedy School to organize a series of community events that will bring scholars and practitioners together to discuss best practices in prisoner re-entry and other forms of criminal justice reform.

c. Release a report and host a convening on the role of school resource officers in schools, and to develop reforms aimed at curbing potential abuses and maximizing benefits derived from the presence of police in schools;

d. In collaboration with Eric Liu of the Guiding Lights Foundation in Seattle, host a two-day convening on innovative responses to the “opportunity gap” as experienced in Seattle.

e. Organize a summit on housing and education addressing interesting new programs that combine neighborhood and plan and host a summit, scheduled for January 2009, examining inter-district desegregation plans as a promising avenue for maintaining racially diverse schools.

f. Develop and widely disseminate a database and report—for use by educators, legislators, lawyers, school reform advocates, district attorneys, school resource officers, and others—describing programs and interventions that show promise, or
have demonstrated success in, stemming the school to prison pipeline by successfully engaging at-risk youths in school.

g. Write and widely disseminate a document that identifies and describes targeted strategies, promising programs and proven interventions aimed at improving opportunities and life chances for black males in three broad areas: (1) education; (2) employment; and (3) health care access and treatment.

2. Contributions to HLS Teaching Program

Please see the previous description of Professor Ogletree’s spring seminar.

3. Participation of HLS Students in Program Activities

In the upcoming year, CHHIRJ plans, as it did this year, to engage HLS students both as research assistants and to help plan and organize public forums and events.

4. Law Reform and Advocacy

CHHIRJ is committed to realizing Charles Hamilton Houston’s vision of using the law as a tool to combat racial discrimination and injustice. Earlier in this report we have detailed specific plans in this area for the upcoming year. In addition, during the upcoming year, we will organize three state-level forums that compare resources used to invest in the death penalty with investments made in programs that actually prevent crime and increase public safety. Prior to each summit, we will release a report containing this information.

5. Connections to the Profession

All CHHIRJ initiatives and activities involve lawyers, legal analysis, and legal training. We work collaboratively to advance specific legal and policy reforms, and to help develop new legal and policy responses to issues central to our mission. The specific issues that we are targeting, and our methods for addressing these, have already been detailed earlier in this report.
6. Collaboration with Other Schools and Departments at Harvard University

These have been described previously. During this upcoming year, we expect to continue to work with these and other Harvard-based organizations, centers and institutions.