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Examining Justice at RWU Law

A panel of top authorities participated in a thought-provoking early-semester forum, “Examining Justice: Ferguson, Staten Island and Beyond.”



A panel of top Rhode Island authorities participated Wednesday in a fascinating, thought-provoking and often emotional early-semester forum titled “Examining Justice: Ferguson, Staten Island and Beyond.”

The event drew a large audience of RWU Law students, faculty and staff, as panelists discussed the recent events in Ferguson and New York. In both cases, an unarmed African American man died at the hands of a white police officer, and a grand jury declined to bring that officer to trial.

However, as the *Washington Post* recently pointed out, the political conversations that ensued have been very different. The shooting of 18-year-old Michael Brown in Ferguson, Mo., “became an inkblot test illuminating the nation’s deeply rooted political and racial divides.” On the other hand, the fatal use of a banned chokehold on 43-year-old family man Eric Garner in New York City brought “wide condemnation crossing racial, partisan and ideological lines.”

The Roger Williams panel took an educational approach to the controversy, with the moderation of Professor Andrew Horwitz, Assistant Dean of Experiential Education, and Director of Clinical Programs and the Criminal Defense Clinic at RWU Law. Panelists were:

- David Cooper, Cooper Law Associates
- Gerald J. Coyne, Deputy Attorney General, State of Rhode Island
- Niki Kuckes, Professor, RWU Law
- Mary S. McElroy, Rhode Island Public Defender
- Steven Paré, Commissioner of Public Safety, City of Providence
- James Vincent, President, NAACP – Providence

Kuckes opened with an explanation of exactly what a grand jury is and how it is supposed to function, noting that the use of grand juries in both of these cases was “anomalous.” Coyne agreed that many aspects of those cases were “very, very unusual.”

Paré offered an overview of Providence police procedure in cooperation with the Attorney General's office, concluding there is a "lot of oversight" that would help overcome the risk of such an incident occurring in Rhode Island.

Defense lawyer Cooper asserted that a prosecutor can get an indictment from a grand jury whenever they wish, and that an indictment was clearly not wanted in these cases. Public defender McElroy noted that the prosecutor conducted the procedures like one-sided trials complete with witnesses and opening and closing statements, but no opportunity for cross-examination or other defense.

Vincent noted the role of television and video in creating public outrage – people clearly saw that something wrong had happened, and then the lack of response to that wrongdoing. He said the grand jury verdicts had damaged public trust in the system, and that "no credible explanation" was offered for the many anomalies of procedure in either case. There was, therefore, he concluded, "a reasonable expectation that the community might be a little upset in both cases."

Paré agreed that poor relationships between the police and the community exacerbated both situations. "It all goes back to [police] training," he said, adding that no police officer ever wants to use deadly force except as a last resort.

McElroy drew applause from the audience when she responded that the suspects in these cases were accused of jaywalking and selling loose cigarettes, respectively, and that poor and minority communities displayed "a fairly accurate sense of being over-policed." McElroy added, "That is where we have to start the conversation."

In a lively Q & A session following the forum, an audience member asked why the police had immediately resorted to deadly force instead of simply disabling the suspects in these cases. Paré replied that such subtleties are easier to discuss in theory than to act upon in the heat of the moment during a life-and-death exchange that develops quickly and lasts only seconds.

A 1L asked why the police are usually "the first to introduce violence," asserting that the assumption of "black criminality is what's at the root of this problem." McElroy agreed that law enforcement often focuses on "the low-hanging fruit, without looking at collateral consequences." Vincent added that "institutional racism" and "social justice issues" lay at the core of the problem.

Coyne noted that the discussion "defies simple answers" and requires "a dialog that is multifaceted," as well as continued efforts at increasing the presence of minorities as "role models" in police departments. Peter F. Neronha, United States Attorney for the District of Rhode Island, who attended the

event, noted that cases of police deadly force were inherently complex matters and never amenable to “one size fits all” solutions.

Horwitz closed the event at the close of its allotted 90 minutes, but many panelists and audience members remained to discuss the issues further.