

Progress Report

MINNESOTA SUPREME COURT RACE BIAS TASK FORCE: IMPLEMENTATION OF 1993 REPORT RECOMMENDATIONS

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I. BACKGROUND

The Minnesota Supreme Court Task Force on Racial Bias in the Courts (“Race Bias Task Force”) released its report on June 10, 1993. On the same day, by court order, the Implementation Committee on Multicultural Diversity and Racial Fairness in the Courts (“Implementation Committee”) was established to put the report recommendations into action. The Supreme Court also established local implementation committees to assist in these efforts.

This report provides both a summary of recent activities of the Implementation Committee and a brief history of its achievements since 1993. The Implementation Committee has made significant progress towards its mandate to implement the Race Bias Task Force recommendations and to monitor effectiveness of approved reform measures.

II. RECENT ACTIVITIES

A. RACE DATA COLLECTION

One of the key findings of the Race Bias Task Force was that the justice system needed to begin keeping systematic records of participation in the court system by race. Without accurate data, there is no way to ensure that people of all races are treated fairly by the courts and their criminal justice partners.

Over the past year, the Implementation Committee has overseen the creation of a statewide court race data collection project. The committee decided that the data should be self-reported, rather than observed by court staff, to provide the most reliable and objective data possible. In addition, the committee decided to follow U.S. Census race and ethnicity categories that permit multiple race designations. According to a State Justice Institute report¹, Minnesota’s collection method is the first of its kind in the country.

Every court in Minnesota currently collects self-reported race data at the first court appearance in traffic, criminal, and juvenile cases². Although no one is required to provide race data, the refusal rate is less than five percent (5%) statewide. After the race data information is entered into the case management system, any paper forms are then destroyed. Currently, race data is not available on the court public access terminals,

¹ Jon B. Gould, *Collecting and Using Racial and Ethnic Data in the Courts: A Blueprint for the New Mexico Judiciary*, State Justice Institute at 19 (November 2001).

² Appendix A provides a sample of the race data form used in traffic, criminal and delinquency cases. Appendix B provides the form used in child protection cases, where there can be multiple children on the petition.

but there is discussion about whether this data will be available when the courts move to a web-based information system later this year.

It is important to note that Hennepin County (the most populous county in the state) does not have criminal defendants complete a race data form, but rather asks the defendant to provide the race data through oral inquiry on the record. At the first appearance, the court clerk reads the following statement to the defendant:

To ensure that all people are treated fairly in the courts, the Minnesota Supreme Court has ordered that we collect data on race and ethnicity.

- a. What race or races do you consider yourself?
- b. Do you consider yourself Hispanic?

Hennepin County departed from the standard practice using the paper forms because it was determined that there was not adequate staff time to enter all of necessary race data forms because of their large volume of cases. By asking for the defendant to present the information orally, the court clerk is able to enter the information directly into the computer rather than using staff time later to enter the paper forms.

The data collected in 2002 will provide the first yearlong, systematic look at issues of race in the courts. Because the forms are collected at the first court appearance, the Implementation Committee will be able to request an analysis of race in all stages of the criminal and juvenile process, including bail, diversion, verdicts, and sentencing. The Implementation Committee has also encouraged law enforcement to collect race data in order to have a complete picture starting at the first point of contact with the criminal justice system. The goal is to understand where and how bias enters into decisions made in the criminal justice system, and to work to address those problems so that everyone is treated fairly.

B. TRAINING

Training has been a cornerstone of the Implementation Committee's efforts. In the past year, the Implementation Committee members have made sure that training on diversity issues continues to be of importance for all judicial system stakeholders.

The judicial branch has instituted a policy that new employees receive cultural sensitivity training as part of their required orientation. These orientations are held several times each year and are attended by judicial branch employees from all over the state. In addition, the annual statewide state judges' conference in December 2001 included a

presentation by Karen McCord entitled “Cultural Competency for Trial Court Judges.”³ Her presentation was well received.

The Implementation Committee has also worked to make sure prosecutors and public defenders receive training. The statewide trial school has provided training on the issue of how race influences plea negotiations since 1995. This training continues to be provided.

C. COURT INTERPRETER PROGRAM

When the Race Bias Task Force report was released in 1993, there were no standards or procedures for working with a court interpreter. In response, the Implementation Committee requested and received funds from the 1994 Legislature to establish the Court Interpreter Advisory Committee. The Court Interpreter Advisory Committee created the Best Practices Manual on Interpreters in the Minnesota State Court System, which provides comprehensive information on the role of the court interpreter, when an interpreter must be appointed, the Code of Professional Responsibility for Interpreters and other information.

Implementing another Race Bias Task Force recommendation, the Court Interpreter Program has administered certification tests for Russian, Spanish and Hmong interpreter candidates. The court rules for interpreters require that a certified interpreter be appointed if one is available. For interpreters that have not passed the rigorous certification exam, and for those whose language does not have a certification exam available, the Court Interpreter Program offers a comprehensive orientation so the interpreters understand what is expected of them in the courtroom setting. Minnesota was one of the founding members of the national Consortium for State Court Interpreter Certification.

The State Court Administrator’s Office has a unit devoted to court interpreter issues. With several full-time staff, the Court Interpreter Program works to ensure that people with limited English proficiency have equal access to justice in Minnesota courts.

With continued support from members of the Implementation Committee, the Court Interpreter Program continues to grow and expand interpreter services. The 2001 Legislature provided a large increase in funding for the program. Every district now has a court interpreter liaison to improve communication and services. A new project is underway to create a

³ This presentation provided an introduction to cultural competency, discussion of the ramifications of perceived bias in the courts and helpful materials on a variety of issues surrounding culture and the courts. Ms. McCord's presentation was very interactive, and engaged the participants in a useful dialogue and several exercises concerning issues associated with cultural competency. Ms. McCord is the head of McCord & Associates, and can be reached at P.O. Box 702, Suisun City, CA 94585.

complaint process in cases of unprofessional conduct by a court interpreter.

III. ACHIEVEMENTS

In addition to the work done on race data collection, training and the court interpreter program, there have been several other areas of achievement in the years since the Implementation Committee was created.

A. JURIES

All judicial districts in Minnesota now monitor the racial composition of their jury pools. Hennepin County (the most populous county in the state) has created a policy that guarantees minority representation on grand juries. In addition, the State Court Administrator's Office has provided a detailed examination of the representativeness and inclusiveness of petit jury pools.

Other improvements to the jury system include measures to decrease the hardship of jury service. The juror per diem was increased from \$15 to \$30. The legislature has also provided funds for reimbursing jurors' daycare costs for those who are not normally daycare users.

B. BOARD OF LAW EXAMINERS

The Implementation Committee has worked with the Board of Law Examiners to identify the causes of racially disproportionate bar passage rates and to promote solutions. The Board of Law Examiners makes sure that questions are reviewed for racial bias, and works to ensure that at least 25% of the graders are people of color.

In addition, the Board of Law Examiners has greatly increased its outreach and education efforts. The Board has a very detailed brochure on how the exam is graded, which is available on its website. The Executive Director goes to every law school several times each year to discuss the exam. She has spoken to the Minority Bar Summit on this issue and hosts the Bar Admissions Advisory Council, a forum for the public to express issues and concerns.

D. POLICE COMMUNITY RELATIONS

The Implementation Committee worked with the Legislature to require the development of a model policy regarding the professional conduct of police officers. The Board of Peace Officers Standards and Training (POST) released a model policy in March 1996. Highlights from the model policy include:

- Peace officers shall refrain from any conduct in an official capacity that detracts from the public's faith in the integrity of the criminal justice system.
- Peace officers shall perform their duties and apply the law impartially and without prejudice or discrimination.
- Peace officers shall not, whether on or off duty, exhibit any conduct that discredits themselves or their department or otherwise impairs their ability or that of other officers or their department to provide law enforcement services to the community.

E. LOCAL IMPLEMENTATION COMMITTEES

The local implementation committees regularly sponsor programming to increase awareness of diversity issues and improve the relationship between the courts and communities of color. For example, the Sixth District committee is currently conducting workshops at a neighborhood community center to increase understanding of the criminal and juvenile court process. Another example is the First District's "Cultural Celebration", which includes theater, cultural exhibits and speakers.

In addition, the local committees have created programs to improve the ability of limited English speakers to navigate the court system. The Fourth District secured grant money to start the Multicultural Services Center. Employees of the program are located in the court building to provide liaisons who speak Spanish and Somali.

Overall, these groups ensure that diversity issues are discussed on a local level. The local implementation committees provide resources, problem solve, and assist the Implementation Committee in improving the court system for all people, regardless of race or ethnicity.

IV. CONCLUSION

The Implementation Committee continues to work toward fulfilling the vision embodied in the Race Bias Task Force Report. In the upcoming year, the Implementation Committee is working to accomplish the following:

- **Employment** – The Employment Workgroup aims to gather employment statistics by race for judges, law clerks, prosecutors, public defenders, the top 25 Minnesota law firms, child protection workers and parole officers. These statistics will be updated annually to determine progress in hiring and retaining people of color.

Another goal is to pool the resources of the judicial branch, prosecutors and public defenders so that these agencies can be represented at more Minority Career Fairs around the country. For example, a representative from one agency could attend the career fair with materials and applications from all of the agencies. This way Minnesota legal careers would be promoted to people of color around the country.

- **Administration** – The Administration Workgroup aims to promote an informal grievance policy for people who feel they have been discriminated against in the courts.

Another goal is to create and distribute a flyer to every courthouse in the state that notifies people of their right to an interpreter and provides cards for them to give to court staff letting them know what language the person speaks.

- **Children of Color in Out of Home Placement** – The Minnesota Department of Human Services recently released a report detailing the state's highly disparate proportion of children of color in out of home placement. This workgroup is examining ways to work with the Department of Human Services to reduce this disparity.

APPENDIX A

TRAFFIC, CRIMINAL AND DELINQUENCY RACE DATA FORM

Name _____

Case/File number _____

RACE CENSUS FORM

The Minnesota Courts are collecting information on all people who appear in criminal, traffic and juvenile cases. Collecting this information will help the Court ensure that everyone is treated fairly and equally, regardless of his/her race or ethnicity.

Please answer **both** questions 1 and 2 below.

1. What is your race?

Mark an **X** by one or more races to indicate what race you consider yourself to be.

_____ (I). American Indian or Alaska Native

_____ (A). Asian

_____ (B). Black or African American

_____ (H). Native Hawaiian or Other Pacific Islander

_____ (W). White

_____ (O). Other: _____

2. Are you Hispanic or Latino?

Mark the "NO" box if not Hispanic or Latino

_____ (N). **NO**, Not Hispanic or Latino

_____ (Y). **YES**, Hispanic or Latino

Have you answered **both** questions?

For definitions see the back of this form.

Definitions:

Race Categories: *

American Indian or Alaska Native: A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

Asian: A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Hmong, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American: A person having origins in any of the black racial groups of Africa, for example Somalia. Terms such as “Haitian” can be used in addition to “Black or African American.”

Native Hawaiian or Other Pacific Islander: A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White: A person having origins in any of the original peoples of Europe, the Middle East, North Africa, or Mexico.

Ethnicity: *

Hispanic or Latino: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term, “Spanish origin,” can be used in addition to “Hispanic or Latino.”

* The United States Census Bureau has established these Race and Ethnicity categories

APPENDIX B

CHILD PROTECTION RACE DATA FORM

Name _____

Case/File Number _____

RACE CENSUS FORM
CHIPS/TPR CASES

The Minnesota Courts are collecting information on all people who appear in criminal, traffic and juvenile cases. Collecting this information will help the Court ensure that everyone is treated fairly, regardless of his/her race or ethnicity.

Please answer **both** questions 1 and 2 below regarding **each** child in this manner.

<p>1. What is the race of the child?</p> <p style="text-align: center;">Indicate all races you consider your child to be.</p> <p>(I) American Indian or Alaska Native (A) Asian (B) Black or African American (H) Native Hawaiian or Other Pacific Islander (W) White (O) Other: _____</p>	<p>2. Is the child Hispanic or Latino?</p> <p style="text-align: center;">Mark the correct response regarding Hispanic or Latino</p> <p>(N) NO, Not Hispanic or Latino (Y) YES, Hispanic or Latino</p>
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Child's Name List each child.	Race Circle response(s)	Hispanic
1.	I A B H W O*	Y / N
2.	I A B H W O*	Y / N
3.	I A B H W O*	Y / N
4.	I A B H W O*	Y / N
5.	I A B H W O*	Y / N
6.	I A B H W O*	Y / N

*Other: _____

Have you answered **both** questions for each child?
For definitions see the back of this form.

The information that you provide here will be compiled in a summarized form that will not identify you by name. Identifying information may, however, be subject to disclosure as required by the rules of public access to records of the judicial branch, or other laws or court rules.

Definitions:

Race Categories: *

American Indian or Alaska Native: A person having origins in any of the original peoples of North and South America (including Central America), and who maintains tribal affiliation or community attachment.

Asian: A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Hmong, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.

Black or African American: A person having origins in any of the black racial groups of Africa, for example Somalia. Terms such as “Haitian” can be used in addition to “Black or African American.”

Native Hawaiian or Other Pacific Islander: A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

White: A person having origins in any of the original peoples of Europe, the Middle East, North Africa, or Mexico.

Ethnicity: *

Hispanic or Latino: A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin, regardless of race. The term, “Spanish origin,” can be used in addition to “Hispanic or Latino.”

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