

Progress Report

Implementation Committee on Multicultural Diversity and Racial Fairness in the Courts

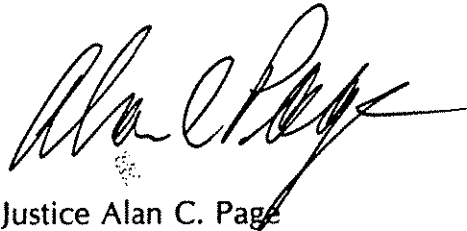
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A MESSAGE FROM JUSTICE ALAN C. PAGE

Chairing the Implementation Committee on Multicultural Diversity and Racial Fairness in the Courts over the last year has been a very rewarding experience. I am pleased to report that with the support of the Minnesota Supreme Court, the Judicial System, the Legislature, and the dedicated men and women throughout the system and in the public we serve, important progress has been made during the first year of the Implementation Committee. Our work, however, is far from complete.

Over the next year, I challenge each and every person to do his or her part in moving this great institution closer to the goal of fairness and justice for all. The Implementation Committee will continue its efforts with the partnerships we have formed to make the entire justice system fair in all its dealings.

A handwritten signature in black ink, appearing to read "Alan C. Page", with a stylized flourish at the end.

Justice Alan C. Page

INTRODUCTION

On June 10, 1993, the Minnesota Supreme Court Task Force on Racial Bias in the Courts released its report to the State's judiciary and to the public with a commitment to make the Report a blueprint for the systematic reform of the practices that have been found to impede the dispensation of justice to people of color in the state of Minnesota.

On the same day, by Court Order, the Implementation Committee on Multicultural Diversity and Racial Fairness in the Courts was established and charged with the responsibility of:

- ▶ Implementing the Race Bias Task Force recommendations and monitoring implementation efforts on an on-going basis;
- ▶ Working with the Supreme Court Office of Continuing Education, the Board of Continuing Legal Education, and the National Consortium of Task Forces and Commissioners on Racial and Ethnic Bias in the Courts to develop judicial and legal education programs on racial equality and cultural diversity;
- ▶ Working with the Office of the State Court Administration to establish a statistical data base appropriate for monitoring areas of Task Force concerns and performing studies in furtherance of the committee's charge;
- ▶ Evaluating the effectiveness of approved reform measures which have been implemented to assure racial and ethnic fairness in our court processes; and
- ▶ Submitting a yearly written report to the Chief Justice and the Supreme Court regarding the work and recommendations of the committee.

Dissemination of Task Force Findings and Recommendations

The Task Force adopted a two-pronged approach to the release and dissemination of the report. Acting in teams of 2-3, members visited each of the six greater Minnesota judicial districts to give a presentation on the Task Force findings and recommendations. A joint meeting of the four metropolitan districts was held for the same purpose.

To make the communities of color and the general public aware of the task force findings and recommendations, the report was released in a formal way to the community press and to the mass media. Two news conferences, one for the community newspapers and one for the mass media, were hosted by the entire Task Force in the Supreme Court courtroom at the Minnesota Judicial Center. The release of the report was covered extensively and positively by the mass media, both print and broadcast. The Associated Press story was distributed to print and broadcast media statewide. Coverage by the community newspapers was not universal, but it was very positive.

To date, the Task Force Report has been distributed to over 2,000 individuals and organizations throughout the United States. Individual copies were given to all judges, court administrators, county attorneys, district public defenders, legal services providers, probation offices, and victim services providers' offices. In addition, other state race bias task forces, numerous interest groups, educational institutions, governmental agencies and members of the public have requested copies of the report.

The report was reprinted in the Hamline Law Review, Volume 16, No. 3 (1993), with a distribution of over 1,200 copies to attorneys and law schools throughout the United States.

Implementation Committee Activities

The Implementation Committee, chaired by Justice Alan C. Page, met for the first time in July, 1993, and continues to meet on a monthly basis. The initial deliberations of the committee included an analysis and prioritization of the Race Bias Task Force Recommendations. The recommendations were prioritized into categories that could be implemented immediately and categories that would be long term implementations. The committee then established subcommittees to oversee implementation of the recommendations. The subcommittees and areas of concentration include:

Administration - This subcommittee works with representatives of the judicial system, prosecution, public defense, law enforcement and corrections to implement procedural changes relating to Task Force recommendations.

Training - This subcommittee develops and implements cultural-diversity, and race-specific training programs for all persons connected with the judicial system, which includes judges, attorneys, law enforcement personnel, and all court employees.

Employment - This subcommittee promotes policies and procedures governing the hiring, promotion, and the retention of persons of color throughout the court system.

Legislation & Rules - This subcommittee drafts and pursues legislative enactments and procedural rule changes of appropriate recommendations.

Data Analysis & Collection - This subcommittee tracks the implementations of the Task Force recommendations and evaluates progress over time in assuring racial and ethnic fairness in Minnesota courts. The task includes the development of data collection systems, where necessary, to evaluate racial attitudes and behavior in the court system. The subcommittee is also responsible for assisting the other subcommittees with data collection needs.

Progress to Date

The summary that follows outlines what has been accomplished to date towards achieving the court's goal of providing fair and equal treatment to all Minnesotans:

ADMINISTRATION

- ▶ At the encouragement of the administration subcommittee, the Board of Law Examiners has reviewed the recommendations of the Race Bias Task Force. In response to a Task Force recommendation the Board of Law Examiners recently published a brochure which explains the character and fitness portion of the bar admission process. The Board is planning another brochure for public distribution in 1995 that will describe the bar exam grading process. In addition, the Board is consulting with the minority bar associations on ways to increase the numbers of minority persons participating in the grading process.

- ▶ The Supreme Court is phasing in a requirement that juror summons and qualification forms be written in plain English and that other forms used in the judicial system be translated into such additional languages as needed. The Conference of Chief Judges is considering how to ensure that translated forms are needed and accurate.
- ▶ The administration subcommittee, in conjunction with the minority bar associations, and the Minnesota State Bar Association, is working on methods to increase the number of attorneys providing pro bono services in civil matters. At the encouragement of Justice Page, all legal organizations have been solicited to strengthen their commitment to motivating their members to either donate time or money for this effort. The subcommittee will keep monitoring the progress of this recommendation.

TRAINING

- ▶ The Race Bias Task Force recommended that clear education and training policies be established for prosecutors and public defenders on the issue of race influencing plea negotiations. The training subcommittee has obtained the agreement of the Bemidji Trial School to institute, as part of its regular course curriculum beginning in 1995, training on the issue of race influencing plea negotiations. The subcommittee is currently working on additional ways to provide training to all prosecutors and public defenders.
- ▶ The Race Bias Report also recommended that court personnel receive education and training in the provisions of the Indian Child Welfare Act (ICWA). Such a program was developed and conducted for the judges of the Tenth Judicial District. The Training Subcommittee is working with the other judicial districts to encourage similar training throughout the state. Moreover, Implementation Committee members have secured the agreement of a major CLE provider to conduct a full-day program for lawyers and judges next fall.
- ▶ The training subcommittee, along with the administration subcommittee, proposed to the Conference of Chief Judges a resolution that all judges receive cultural-diversity training by March 1995. The resolution was considered and passed at

the March 1994 meeting of the Conference of Chief Judges and is now in the process of implementation.

- ▶ In the first year, all 10 judicial districts received specific training on handling Batson challenges to jurors. This training was provided in conjunction with regularly scheduled bench meetings.

EMPLOYMENT

- ▶ A major undertaking of the employment subcommittee is to improve the diversity in criminal justice agencies. Currently, the employment subcommittee is planning a one-day, statewide seminar to be held in October, 1994, for court-related agencies to focus on minority recruitment and retention techniques. The object of the employment conference is to improve the recruitment, hiring, retention, and promotion of diverse staff in courts and criminal justice agencies. The seminar will also train and motivate employers to hire more people of color and to educate them about equal employment opportunity and affirmative action. The conference will include chief and assistant chief judges, court administrators, probation office directors, public defenders, county and city attorneys, county personnel officers, sheriffs, guardian ad litem program administrators, tribal attorneys and tribal court officials.
- ▶ Additionally, the employment subcommittee is working to increase the number of minority judges appointed to the bench. To this end, the subcommittee, along with the minority bar associations, is planning a CLE conference for early 1995 on pursuing judicial careers for attorneys of color. The program is modeled after a similar conference held in the State of Washington. The objective of the conference is to help attorneys of color chart a path to the judiciary. This path would include understanding the rewards and risks of a judicial career, understanding the election and appointment process, and building and reflecting on qualifications for the judiciary.

LEGISLATION AND RULES

A. Legislation

In 1994, the Implementation Committee successfully sought legislation which would implement several recommendations of the Race Bias Task Force.

- ▶ \$100,000 was appropriated to fund the establishment of a statewide judicial interpreter certification program for court interpreters. This program will train and test court interpreters to ensure they are qualified to work in a court setting.
- ▶ At the Committee's request, legislation was passed that mandated that all county attorneys and city attorneys receive training on prosecuting bias-motivated crimes.
- ▶ The Race Bias Task Force Report recommended that measures be adopted to decrease hardships on potential jurors. To help reduce these hardships on potential jurors, the Legislature appropriated funds to increase juror per diem from \$15.00 a day to \$30.00 a day. This was a follow-up to the 1993 legislature which provided funds for juror day care reimbursement. Both initiatives were undertaken in an effort to achieve greater representativeness on juries.
- ▶ Implementing another Task Force recommendation, the legislature mandated that the criminal and juvenile information policy group, as one of its many tasks, would determine how to collect data on race and ethnicity in the criminal justice information systems. The group consists of the chair of the Sentencing Guidelines Commission, the Commissioner of Corrections, the Commissioner of Public Safety, and the State Court Administrator.

B. Rules

- ▶ The Supreme Court Advisory Committee on Rules of Criminal Procedure considered all Task Force recommendations which relate to the Rules of Criminal Procedure and proposed amendments to the rules to the Supreme Court. Among the revisions are new procedures in proposed Rule 26.02, subd. 6(a), for determining objections to preemptory challenges under Batson v. Kentucky, 476 U.S. 79, 109 S. Ct. 1712 (1986). Also there are extensive amendments concerning the provision of interpreter services for persons handicapped in

communications. The Advisory Committee also recommended that the introductory statement to the Criminal Forms be amended by adding a comment that all judicial forms and documents be drafted in easily translatable English, and be translated by approved legal translators into such additional languages as the State Court Administrator approves. The amendments were effective July 1, 1994.

- ▶ The Supreme Court authorized Hennepin and Ramsey Counties to adopt new jury selection procedures that will guarantee minority representation on the grand jury equal to the percentage of the minority adult population of each judicial district as measured by the 1990 census. The judicial districts must report back to the Supreme Court in two years on the impact of the new procedures.

DATA ANALYSIS AND COLLECTION

- ▶ The subcommittee is holding a series of focus group sessions, throughout the month of June, with various organizations of color to help identify problems that may be barriers to jury participation by minorities. Part of the group discussion will center on identifying possible solutions rectifying identified problems.
- ▶ The subcommittee secured the agreement of the Minnesota Sentencing Guidelines Commission to more routinely provide in-depth analysis on sentencing practices by race of the defendant.
- ▶ At the request of the data analysis subcommittee, the state court administrator's office has undertaken a detailed examination of the representativeness and inclusiveness of the jury pool.

Local Implementation Team Activities

In June of 1993, local implementation teams were established in all judicial districts to assist in the implementation efforts. The local implementation teams took part in a two-day session where they received general cultural diversity training and began developing an action plan for their individual district. The local implementation teams were encouraged to identify areas of concern within their own districts.

Several significant accomplishments of the local implementation teams over the last year include:

- ▶ Each district has developed and implemented a cultural diversity training plan for all of their district court personnel.
- ▶ All of the judicial districts have reviewed bail evaluations/supervision policies and procedures in their respective districts and are developing new pretrial release tools based on articulated objective factors for each district.
- ▶ All judicial districts have been looking for ways to increase diversity within their work force. Several tools have been shared within the districts. These include developing affirmative action plans for various agencies and departments, creating recruitment lists for advertising in communities of color, and networking with communities of color to help make contacts in these communities.
- ▶ The Second Judicial District received funding from the county to establish bilingual information telephone lines in the juvenile, family, criminal and civil courts. The lines would contain information messages and would address many of the most commonly asked questions. The information will be available in English, Hmong and Spanish.
- ▶ The Sixth Judicial District has under taken a public information and education effort to improve the public's understanding and general awareness of jury duty. Public service announcements, voter registration drives, and information booths are a few of the activities being developed by the district to help people understand their role for jury service.

CONCLUSION

The Implementation Committee on Multicultural Diversity and Racial Fairness in the Courts has made progress in fulfilling its mandate to implement the Race Bias Task Force recommendations. The committee recognizes however, that there is considerable work to be done. During the second year, the committee will be evaluating the effectiveness of its efforts thus far and continuing its partnership with judges, lawyers, law enforcement, legislators and policy makers to move forward in its effort to ensure that the Minnesota state court system is racially fair.