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Helping courts address diversity, equity, and inclusion

AS THE CHALLENGES OF ADJUSTING TO THE COVID PANDEMIC EASE WITHIN STATE COURTS, PERSISTENT CONCERNS REGARDING THE FAIRNESS AND EQUITY OF THESE SAME COURTS REMAIN. Efforts to address these longer-term issues often have focused on judicial decision-making and legal issues. But diversity, equity, and inclusion (DEI) concerns also include how the courts, including judicial officers and court employees, interact with and treat the public.

Many states have recently moved to hire local or state-level staff dedicated to improving DEI in the courts through newly developed policies and practices. In 2020, the NCSC created the role of director of racial justice, equity, and inclusion, the position I now hold, to lead efforts in support of a racial equity vision adopted by resolution in July 2020 by the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA). The resolution called on state courts to intensify “efforts to combat racial prejudice within

the justice system, both explicit and implicit, and to recommit ourselves to examine what systemic change is needed to make equality under the law an enduring reality for all, so that the justice we provide not only is fair to all but also is recognized by all to be fair.”¹

In working to assist courts in carrying out this charge, I have heard four key questions:

1. What is the race and gender composition of state court leadership, including both judges and administrators? Does it matter?

Public trust and confidence in the courts may improve when court users see that judges and staff reflect the communities in which they serve.² While courts typically do not control judicial selection, they do decide who serves in judicial leadership and administrative positions held by nonjudges. In particular, on the administrative side, courts can work toward increasing diversity and inclusion in staffing by training court personnel on best practices pertaining to DEI in the workplace.

The court also has the ability to name or appoint quasi-judges (magistrates, referees, pro tem, commissioners, judicial hearing officers, etc.). Because these quasi-judges are often able to render decisions and orders, they may be indistinguishable from judges to the general public. For this reason, diversity among these individuals can have a significant impact on the perception of the courts as being diverse and inclusive.

2. How can existing DEI resources from outside the courts support new and ongoing efforts and inform policy and practice inside the courts?

Although courts occupy a unique position in government as an independent branch, they function as agencies in terms of management and operations. As such, lessons learned and research conducted on DEI from the public and private sectors may be beneficial and offer resources that match the needs of the varying structures of state courts. DEI efforts in states with centralized human resources functions, policies, and practices may look different than those DEI efforts produced in highly decentralized states with locally controlled, operated, and funded courts. Entities such as the Society for Human Resource Management, local chambers of commerce, and institutions of higher education can offer examples of how similarly situated entities have worked to address these issues.

3. Court personnel tirelessly work to be viewed as neutral arbiters of justice. Community members may not always feel the courts achieve this goal.

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How can DEI efforts improve public perception of the courts?

A 2018 national survey conducted by the National Center for State Courts found that only 28 percent of African American respondents and 38 percent of Hispanic respondents agreed that judges in their state reflect the values of their communities and understand the challenges facing the people who appear in their courtrooms. By contrast, 68 percent of African American respondents and 61 percent of Hispanic respondents agreed that judges do not understand the challenges facing people who appear in their courtrooms and need to do a better job of getting out into the community and listening to people.³

Outreach efforts by judges and courts as institutions can start with something as simple as a statement. In summer 2020, almost half of the states' courts of last resort or chief justices issued statements on racial justice, acknowledging shortcomings in this area or indicating they would seek ways to

address these issues.⁴ Civic education and other opportunities for judges to interact directly with the public can also help improve public understanding of and trust in the courts. For example, the NCSC's Community Engagement Project explored several programs that aimed to improve public trust in the courts within minority and economically disadvantaged communities; efforts included public meetings, surveys, and trainings that involved judges, students, and members of the general public.⁵

These efforts should not be viewed as the sole domain of judges; while not every interaction with a court involves a judge, it almost always involves interaction with court staff. Court administrators can and should engage in efforts to address equity concerns. Organizations such as the National Association for Court Management and others have identified DEI as an organizational priority in their mission to train and develop the next generation of court leaders.

4. What are state courts doing to address these issues?

Courts across the country are taking steps to gain a better understanding of race and to identify and address inequities impacting racial justice. In response to the CCJ/COSCA 2020 resolution, the NCSC created the Blueprint for Racial Justice⁶ to bring courts together to problem-solve, share best practices and lessons learned, and develop an array of resources that can help courts start or continue efforts to improve racial equity. Guided by ►

a steering committee, more than 150 judicial branch leaders, court executives, and NCSC experts are developing tools to improve racial equity to ensure all court users, litigants, and community members are heard and respected by the justice system. Projects to date:

- In April 2022, the Blueprint’s Systemic Change Working Group released “Systemic Change Guiding Principles”⁷ that outline seven principles to assist courts with examining the root causes of disparities and seeking reforms at the system level. These principles (listed at right) can be used to evaluate potential areas to address, propose policy reforms, or conduct analyses on proposed rule changes or legislation.
- In May 2022, State Court Organization,⁸ a component of the NCSC’s Court Statistics Project, published a compilation of judicial demographic information on gender, race, and ethnicity for states and jurisdictions that collect and report such data.
- Additionally, the Blueprint for Racial Justice is creating opportunities for conversations designed to enhance awareness of racial justice issues among court personnel, including a Watch, Read, Listen project⁹ that introduces literary works

such as *So You Want to Talk About Race* by Ijeoma Oluo to explore individuals’ perspectives, experiences, and ideas about race.

- Since last year, the Blueprint for Racial Justice has hosted webinars¹⁰ on topics ranging from guidance for creating your own racial justice blueprint and initiating courageous conversations about race to systemic racial justice issues related to pretrial release and financial sanctions. A series focusing on juries began in May 2022.

Resources developed through the Blueprint for Racial Justice are available in NCSC’s online Racial Justice Resource Center at www.ncsc.org/information-and-resources/improving-access-to-justice/racial-justice/resources.¹¹ Ongoing and future work includes a racial justice organizational assessment toolkit for courts, resources on topics such as data collection strategies and judicial mentorship, and an internship portal. Financial support from NCSC and the State Justice Institute has made this work possible.

– **EDWIN BELL** is director of racial justice, equity, and inclusion at the National Center for State Courts. To learn more about the Blueprint for Racial Justice, contact him at ebell@ncsc.org or project director Jennifer Elek at jelek@ncsc.org.

SYSTEMIC CHANGE GUIDING PRINCIPLES

Systemic change should be:

- * truly systemic
- * transparent
- * intentional, purposeful, and dynamic
- * sustainable
- * stakeholder and community inclusive
- * tailored to the community
- * informed by data and evaluated

Editor’s Note: This article includes a change from the printed version. It has been corrected to say that the Blueprint for Racial Justice is creating opportunities for conversations to enhance awareness of racial justice issues – not the Court Statistics Project.

¹ *Resolution 1 in Support of Racial Equality and Justice for All*, Conference of Chief Justices and Conference of State Court Administrators (2020), https://ccj.ncsc.org/_data/assets/pdf_file/0029/42869/07302020-Racial-Equality-and-Justice-for-All.pdf (last visited July 11, 2022).

² See GBA Strategies, *2017 State of The State Courts Survey Analysis (2017)*, NAT’L CTR. FOR STATE CTS., https://www.ncsc.org/_data/assets/pdf_file/0012/16131/sosc-2017-survey-analysis.pdf (last visited Aug. 29, 2022); Danielle Root et al., *Building a More Inclusive Federal Judiciary*, CTR. FOR AM. PROGRESS (Oct. 3, 2019), <https://www.americanprogress.org/article/building-inclusive-federal-judiciary/> (last visited July 11, 2022).

³ *The State of State Courts: A 2018 NCSC Public Opin-*

ion Survey, NAT’L CTR. FOR STATE CTS. (2018), <https://perma.cc/S3P3-2LEQ> (last visited Aug. 29, 2022).

⁴ *State court statements on racial justice*, NAT’L CTR. FOR STATE CTS. (2020), <https://perma.cc/Z7B4-38Q5> (last visited Aug. 29, 2022).

⁵ *Community Engagement in the State Courts*, NAT’L CTR. FOR STATE CTS., <https://www.ncsc.org/information-and-resources/improving-access-to-justice/racial-justice/resources/community-engagement-initiative> (last visited July 11, 2022).

⁶ *Blueprint for Racial Justice*, NAT’L CTR. FOR STATE CTS. (2022), <https://perma.cc/X8C9-YDAW> (last visited June 11, 2022).

⁷ *Systemic Change Guiding Principles (2022)*, NAT’L CTR. FOR STATE CTS., [https://www.ncsc.org/_data/assets/pdf_file/0029/76574/Systemic-](https://www.ncsc.org/_data/assets/pdf_file/0029/76574/Systemic-Change-Guiding-Principles.pdf)

Change-Guiding-Principles.pdf (last visited June 11, 2022).

⁸ *State Court Organization – National Judge Demographics*, NAT’L CTR. FOR STATE CTS. (2022), <https://perma.cc/DL9G-VPLL?view-mode=server-side&type=image> (last visited June 11, 2022).

⁹ *Watch, Read, Listen*, NAT’L CTR. FOR STATE CTS. (2022), <https://perma.cc/RHA6-EUZZ> (last visited June 11, 2022).

¹⁰ *Webinars*, NAT’L CTR. FOR STATE CTS. (2022), <https://perma.cc/C2Z3-H4JQ> (last visited June 11, 2022).

¹¹ *Resource Center*, NAT’L CTR. FOR STATE CTS. (2022), <https://perma.cc/93UA-PWFQ> (last visited June 6, 2022).