



# Equal Justice in the New York State Courts

2020 – 2021

## Year In Review

Chief Judge Janet DiFiore



NEW YORK STATE UNIFIED COURT SYSTEM

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# FOREWORD

Like millions of our fellow Americans, I was deeply shaken by the killing of George Floyd at the hands of the Minneapolis police on May 25, 2020. As I contemplated an appropriate response in my capacity as Chief Judge and leader of the branch of government charged with providing equal justice under law, I felt strongly that simply making a public statement of condemnation would be inadequate and that the moment called for meaningful and concrete action. Ironically, before I could even announce a response, our court family was again shaken, this time by a vile and racist Facebook posting made by one of our Court Officer employees. This development confirmed my decision: it was time to move forcefully to take ownership of our obligation to confront and eliminate any and all forms of racism and bias in the New York State Courts.

On June 9, 2020, I announced that Jeh Johnson, a nationally respected lawyer and former United States Secretary of Homeland Security, had agreed to my request to lead a thorough, independent, no-holds-barred “Equal Justice Review” of the New York State Unified Court System’s policies and practices as they relate to issues of racism, bias and disparate treatment. I asked Secretary Johnson to evaluate everything we do, from how we investigate claims of discrimination to how we train and educate our judges and court staff on bias issues, to how we go about appointing and promoting judicial and nonjudicial officers and employees.

Secretary Johnson and his team conducted a rigorous four-month study of our court system, interviewing hundreds of individuals and organizations about their experiences in the New York State courts. In October 2020, Secretary Johnson issued a timely and comprehensive “Report on Equal Justice in the Courts,” which commended New York’s judges and court professionals for their dedication and commitment to equal justice. The Equal Justice Report also identified various problems in need of our attention and reform, including the treatment of litigants of color in our under-resourced and overburdened high-volume courts; frequent instances of racial intolerance within our court family; and the need to strengthen and reaffirm our commitment to diversity and meaningful inclusion within our judicial and nonjudicial ranks.

Chief Administrative Judge Lawrence Marks and I fully embraced Secretary Johnson’s findings and determined to do better – much better – to address the shortcomings identified in the report. The Equal Justice Report contained an excellent set of practical recommendations to guide our reform efforts, and we have pledged to faithfully implement all of them, starting with the first and most important recommendation: our commitment on behalf of the entire New York State Unified Court System to a policy of “zero tolerance” for racial bias and discrimination. During the 2021 State of Our Judiciary Address that I delivered to our partners in government and all New Yorkers, I expressed my “solemn, unshakeable commitment to achieve a policy of zero tolerance for racial bias and discrimination ... for as long as I have the privilege of serving as Chief Judge.”

Recognizing that our commitment to equal justice will be measured not by the eloquence of our words but by our actions and ability to get things done, we appointed and empowered Hon. Edwina Mendelson, Deputy Chief Administrative Judge For Justice Initiatives, to lead our day-to-day efforts to implement the Equal Justice recommendations. Chief Administrative Judge Marks and Judge Mendelson convened an Implementation Committee of judicial leaders and managers which met with judges, court staff and representatives of fraternal organizations, affinity groups, bar associations and stakeholders to develop a detailed and effective strategic plan to guide our institutional efforts to implement short- and long-term equal justice reform.

As this “Year in Review Report” surely demonstrates, an enormous amount of progress has already been accomplished to begin the transformation of our court system into a model of fairness, equity and inclusion in everything we do. In just one year, under Judge Mendelson’s day-to-day leadership, and with the benefit of the input and active participation of our court family, we have pursued implementation in a thorough, thoughtful, open and transparent manner, including:

- Adopting policy changes to specifically support our zero tolerance policy;
- Creating and supporting initiatives to expand access to justice and court services in courts that serve low-income communities and people of color;
- Mandating comprehensive education and training to address critical issues such as implicit bias; and
- Initiatives to strengthen existing court-based institutions and enable them to better carry out their respective missions of combating bias and discrimination and promoting equity and inclusion.

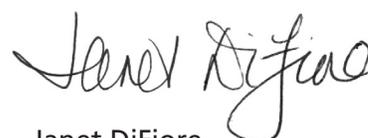
In addition to the dozens of statewide initiatives and reforms described in this Report, I am proud of the efforts that are underway at the local court level to change our institutional culture from the bottom up. Our Administrative Judges, Supervising Judges and Court Managers have led the way in their respective jurisdictions, engaging judges and court staff in the work that needs to be done to make good on our obligation to treat everyone we work with, and everyone who appears before us, with the utmost fairness and equity.

Over the last year, we have made it our highest institutional priority to fully implement Secretary Johnson’s Equal Justice recommendations, and our judges and staff across the state and at every level of our court system have rededicated themselves to combatting racism and bias and maintaining public trust and confidence in our ability to ensure equal justice for all.

I am grateful to Judge Mendelson for her strong leadership of our Equal Justice in the Courts Initiative, and for preparing this Year in Review Report to mark our progress and catalogue the work that has been done. Importantly, that work cannot and will not cease when the Equal Justice recommendations are all implemented. Our commitment to equal justice must be an ongoing, open-ended process in which we continuously strive to achieve the highest standards of fairness, equality and meaningful inclusion within our court system.

I want to acknowledge and thank our Independent Monitor, Hon. Carmen Beauchamp Ciparick (retired Senior Associate Judge of the Court of Appeals), for carefully reviewing and evaluating our ongoing efforts and future plans. She will make certain that we follow through faithfully on our Equal Justice commitments. And I want to thank Alphonso David for his valued past service in this capacity.

Finally, I want to express my heartfelt thanks and appreciation to the judges and professional staff of the New York State Unified Court System. The courts, above all institutions, have a solemn obligation to ensure that every person who appears before us, and every colleague we work with, is treated with equal justice, dignity and respect. As demonstrated in this Report, our judges and staff have answered the call to equal justice and are leading by example.



Janet DiFiore  
Chief Judge of the Court of Appeals and  
the State of New York

# INTRODUCTION

*“The death of George Floyd, and the issues it has brought into harsh focus, are a painful reminder of the repeated injustices and institutional racism that have long undermined the values and unity of our nation. The court system’s commitment to these values is especially vital. Their preservation is a cornerstone of the rule of law, the subject of sacred oaths taken by all judges and lawyers, and the daily endeavors of the thousands of court employees around the State who work tirelessly to advance the cause of justice.”*

– Chief Judge Janet DiFiore, June 9, 2020

In June 2020, amid a global pandemic, our nation was confronted once again with the painful impact and long-standing consequences of racism, bias, and inequality. The horrific and internationally broadcast murder of George Floyd highlighted the urgency of addressing these structural inequalities, as they continue to pervade our most fundamental institutions. The courts are no exception. Within our own walls — among our own court family — virulently racist words and images were posted on Facebook during 2020. Unfortunately, this was not an isolated incident. There have been other equally troubling racially charged events within our courts.

Recognizing the weight of this historic moment and the opportunity it presented, Chief Judge Janet DiFiore commissioned former presidential cabinet member Jeh Johnson to assist the courts in addressing issues of institutional racism by reviewing the New York State Unified Court System’s (“UCS”) policies, practices, rules and programs as they relate to issues of racial or other bias. Secretary Johnson and his team performed a rigorous and independent assessment of our court system. They conducted 96 interviews with 289 individuals, including current and former judges and court staff from nearly every type of court, public and private law practitioners, bar, judicial and civic associations, and other community stakeholders. Secretary Johnson’s team also reviewed numerous submissions from the public, assessed past reports and ongoing work addressing racial bias in the courts, and examined UCS policies and practices on hiring, promotion, workplace conduct and bias training.

The Special Adviser’s Report on Equal Justice in the Courts (“Special Adviser’s Report”) was issued on October 1, 2020. The good news, according to the Special Adviser’s Report, was the intense pride and dedication court employees feel for their work. The report acknowledged that judges and staff alike, throughout the state, all work hard to get it right and make it better. The “bad news,” however, was that multiple interviewees from all perspectives described an “under-resourced, over-burdened” New York State court system, the “dehumanizing effect” the system has on litigants, and the “disparate impact all this has on people of color.” Equally striking, “over and over” again, Johnson’s team heard about the “dehumanizing” and “demeaning cattle-call culture” in our highest-volume courts. “The sad picture that emerged is in effect, a second-class system of justice for people of color in New York State.”<sup>1</sup>

Moreover, as noted in the Special Adviser’s Report, these issues are not new. A 1991 report written by the Minorities Commission (now known as the Franklin H. Williams Judicial Commission [Williams Commission]) declared that “there are two justice systems at work in the courts of New York State, one for Whites, and a very different one for minorities and the poor.” Thirty years later, with the objective of setting clear and achievable goals, the Special Adviser’s Report set forth thirteen “specific, practical and workable” recommendations centered on operational issues within the court’s power to implement “administratively and unilaterally.”<sup>2</sup>

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1. Special Adviser’s Report at pp. 2-3, 54.

2. [Special Adviser’s Report](#) p. 3-4

In the past year, the court system has absorbed both the gravity and breadth of the Special Adviser's Report. Court leaders at the highest levels have embraced the urgency of addressing not only the Special Adviser's practical recommendations, but also his observations of a "second-class" justice system for people of color. Immediately following the report's publication, Chief Judge DiFiore and Chief Administrative Judge (CAJ) Lawrence Marks appointed Edwina G. Mendelson, Deputy Chief Administrative Judge (DCAJ) For Justice Initiatives, to lead UCS's implementation efforts. Together, CAJ Marks and DCAJ Mendelson established an Implementation Committee comprised of court administrative leaders and judges. Judge Mendelson, who also leads the court's Office for Justice Initiatives, has since participated in convenings with UCS leadership, bar associations, institutional providers, fraternal organizations, and other affinity groups and stakeholders, to develop a strategic plan for implementing the Special Adviser's recommendations.

Addressing these critical issues has been a significant undertaking for a branch of government with thousands of judges and employees who perform a vast array of different functions. During the past year, UCS has developed a number of policy and programmatic initiatives that include:

- Amendment of Section 17.3 of the Rules of the Chief Judge to require that all state-paid<sup>3</sup> judges receive regular anti-bias trainings;
- Mandatory bias education and training for all UCS non-judicial personnel;
- Mandatory bias education and training for Town and Village judges and non-judicial personnel;
- A suite of publicly available technological tools, with demographic data for the judiciary, for the UCS work force, and for defendants in criminal matters;
- Expanded diversity initiatives, including the development of extensive educational materials on interviewing, civil service examinations and the hiring process, and revamped interview process – all available on the UCS public website;
- Appointment of an ombudsperson for bias matters and widely publicized and clarified complaint procedures for bias matters;
- Establishment of an annual Diversity Summit to promote diversity in the court system and to address matters of concern to the court community expressly related to issues of equity and inclusion;
- Participation in Town Hall meetings sponsored by the Williams Commission to address matters of concern to the court community expressly related to issues of racial bias;
- Creation of local Equal Justice Committees in each of New York's thirteen judicial districts;
- Development of a new juror orientation video, *Jury Service and Fairness*, to educate potential jurors and grand jurors about the dangers of implicit bias; and
- Implementation of new policies and protocols expressly designed for court officers and other uniformed personnel, such as specialized implicit bias training, the requirement of nametags, and a designated Community Affairs Officer to be assigned in every courthouse.

While this annual report reflects our initial accomplishments, understanding and addressing racial bias is – and must be understood as – a continuous process. There is no "one and done" solution, there is no quick fix. This process, in which every member of the UCS community has been invited to participate, will continue to guide the courts' responses to the recommendations in the Special Adviser's Report. To improve the court experience for people of color, including court users, the UCS workforce, our judges and stakeholders, UCS is — at every level — thoroughly evaluating court institutions and procedures. With the Special Adviser's Report as our starting point, we strive to operate a justice system that is equally accessible and meaningful for all.

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3. "State-paid judges" are judges paid directly by the Office of Court Administration. Town and Village judges are paid independently by their local governments.

# 1. UCS POLICY INITIATIVES: IMPLEMENTING ZERO TOLERANCE

## LEADING FROM THE TOP: THE COURTS' COMMITMENT TO EQUAL JUSTICE

During his review, the Special Adviser consistently heard from judges, attorneys, public safety officers and other non-judicial personnel that “change needs to come from the top”. The report also highlighted that the court system had not articulated a “race and equity agenda” in any of its public reports or pronouncements and had not set explicit standards or goals related to diversity and inclusion. Noting the successful culture shift arising from the development of institutional sexual harassment policies with a “zero tolerance” approach, the Special Adviser’s report recommended that the Office of Court Administration (OCA) adopt a “zero tolerance” policy for racial bias, “along with an expression that the duty to uphold this policy extends to all those working within the New York state court system – from judges, interpreters to court officers.”<sup>4</sup>

Chief Judge DiFiore has fully embraced a zero tolerance policy for bias and discrimination and has done so in the strongest terms:

*In order to function as intended, our justice system depends on the public’s trust and confidence in our ability to carry out our mission of fair and equal justice for all. And equally important, the people who make up our court system, and those who represent and lead our system, must inspire that very same confidence. As judges and court professionals, we have a solemn obligation to identify and eliminate racial bias from our courts.*

*Secretary Johnson has advanced an excellent set of practical recommendations ... And the first and most important of his recommendations –that we make “a commitment from the top” to embrace a policy of zero tolerance for racial discrimination – is one that I fully embrace on behalf of our entire court leadership team across the state. We will honor that commitment, and we will honor our commitment to implement all of the recommendations laid out in the Special Adviser’s Report, from improving the way we train, educate, and sensitize judges and court staff on issues of implicit bias, to strengthening the enforcement of our discrimination policies to implementing clear policies and guidelines addressing social media. There can be no higher priority for us as an institution than ensuring that every person is treated with equal justice, dignity and respect.*<sup>5</sup>

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4. [Special Adviser’s Report](#), p.79-80.

5. *Weekly Address of the Chief Judge*, October 19, 2020. See also *Weekly Addresses of the Chief Judge*, December 21, 2020, December 28, 2020, January 4, 2021, January 18, 2021; March 1, 2021, March 29, 2021, May 23, 2021, May 17, 2021, June 7, 2021, August 9, 2021, and February 8, 2021.

## A NEW MISSION STATEMENT

Court system leadership has undertaken a series of accompanying policy initiatives intended to implement the zero tolerance policy in specific ways. In a May 2021 press release, UCS publicly announced its new mission statement, broadly affirming a commitment to transparency and a responsibility to promote a diverse and bias free court system.

*The mission of the Unified Court System (UCS) is to deliver equal justice under the law and to achieve the just, fair and timely resolution of all matters that come before our courts.*

*In the service of our mission, the UCS is committed to operating with integrity and transparency, and to ensuring that all who enter or serve in our courts are treated with respect, dignity and professionalism. We affirm our responsibility to promote a court system free from any and all forms of bias and discrimination and to promote a judiciary and workforce that reflect the rich diversity of New York State.<sup>6</sup>*

## SOCIAL MEDIA

The Special Adviser reported that “[s]ocial media posts are a growing source of racial bias complaints among court employees.”<sup>7</sup> In light of several past and more recent offensive social media posts, OCA has, in accordance with the Special Adviser’s recommendation, developed a policy that provides clear guidance and limits on the use of social media as well as other forms of written and oral communications. On February 3, 2021, Chief Judge DiFiore and Chief Administrative Judge Marks issued an Anti-Discrimination and Anti-Harassment Policy. The new policy expressly confirms that certain social media postings may subject court employees to disciplinary action:

All UCS personnel are hereby reminded that engaging in conduct that is threatening, harassing, demeaning, bullying, or disparaging on the basis of race, color, national origin, religion, sex, sexual orientation, age, marital status, disability, genetic status, gender identity or expression, or domestic violence status, whether in person, online or through any other verbal, written or electronic means, is a violation of UCS policies and Rules. Such discriminatory, harassing, threatening or disparaging communications or materials include, but are not limited to, epithets, slurs, negative stereotyping, demeaning jokes, and vulgar, profane, insulting, or offensive language or content showing hostility or aversion toward an individual or group on the basis of the above.<sup>8</sup>

## FULL DISCIPLINARY HEARINGS REQUIRED FOR SUBSTANTIATED CLAIMS OF DISCRIMINATION

UCS has also focused on enforcement of its anti-discrimination policy during the past year. The Office of the Inspector General investigates complaints of bias made against UCS employees. When the Inspector General substantiates a claim — or finds that the complaint

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6. <https://www.nycourts.gov/whatsnew/mission.shtml>

7. [Special Adviser’s Report](#), p.84.

8. See [Appendix A](#).

has merit — the claim is generally referred to either the Deputy Chief Administrative Judge for NYC Courts or to the Deputy Chief Administrative Judge for Courts Outside NYC to determine what, if any, disciplinary action is appropriate.

Pursuant to a new UCS policy, penalties in substantiated claims will now be determined after consultation with the Deputy Chief Administrative Judge for Justice Initiatives and the Director of the court system’s Office of Diversity and Inclusion. This policy arose from an incident in which a bias claim was resolved with stipulated penalties – an agreed upon stipulation, rather than a determination after a hearing. Given the gravity of such behavior, a full and complete examination of claims of discriminatory behavior is now required.

## **ANTI-RETALIATION POLICY**

While OCA’s existing anti-retaliation policy clearly states that retaliation is prohibited, the Special Adviser found that OCA’s definition of retaliation was “narrow, difficult to understand” and “only provide[d] a few examples of very formal, work-related retaliation.” Similar to the Equal Employment Opportunity Commission’s (EEOC’s) Enforcement Guidance on Retaliation and Related Issues, the Special Adviser’s Report recommends that OCA should more broadly define retaliation, and “provide specific examples of both informal and formal, as well as work related and non-work related forms of retaliation.” The report also suggested that the policy clearly identify a confidential path to lodging a complaint and steps to be taken to protect complainants who do so.<sup>9</sup>

In the coming months, OCA plans to clarify its existing anti-retaliation policy in order to alleviate any concerns of retribution.

## **LOCAL EQUAL JUSTICE COMMITTEES**

Among the statewide initiatives undertaken to address the issues highlighted in the Special Adviser’s Report is the development of local equal justice committees. On March 3, 2021, DCAJ Mendelson led a statewide meeting to discuss the implementation of the Special Adviser’s Report at a local level, at which each of the Deputy Chief Administrative Judges presented and participated. With all 13 Judicial Districts represented, the meeting was attended by all Administrative Judges, Supervising Judges, District Executives, Chief Clerks, and UCS Executive Office court managers.

DCAJ Mendelson charged court leaders in each Judicial District with establishing local Equal Justice Committees to review existing procedures within their local courts, to solicit input and provide feedback from judges, court staff and stakeholders, and generate creative local programs to advance the courts’ equal justice initiative within their jurisdictions. Local Equal Justice Committees are now active in every district. In New York City, some committees are citywide while others operate within specific courts. See [Appendix B](#) for a few highlights of local equal justice work around the state.

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9. [Special Adviser’s Report](#), p.87

# DIVERSITY IN UCS COMMITTEES AND COMMISSIONS

UCS Committees and Commissions play a pivotal role in shaping legislation, UCS policies and procedures, and rules that affect judges, employees, courts users, governmental and non-governmental agencies, and other branches of government. During interviews, judges commented to the Special Adviser that it appeared task forces, committees and commissions often “include a recurring cast of non-diverse individuals.”<sup>10</sup>

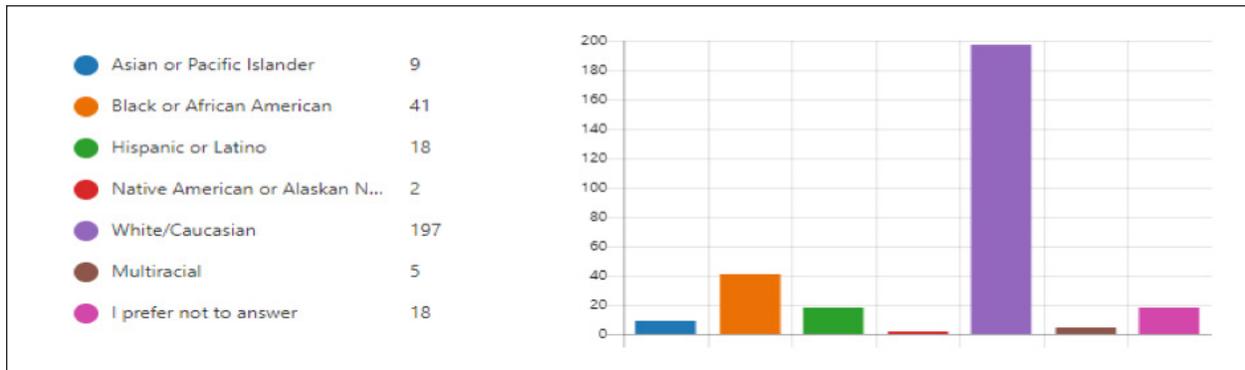
Currently, there are more than 50 UCS Committees and Commissions with approximately 900 members. Membership criteria are prescribed by statute, the Rules of the Chief Judge, and on occasion, by Executive Order. Qualifications can include admission to the Bar expertise in a specific area.

UCS has undertaken a policy initiative to promote diversity and inclusivity within its Committees and Commissions. As a first step, in Spring 2021, UCS developed a survey to ascertain the demographics of each Committee and Commission. UCS sent the survey to approximately 70 chairs, co-chairs and counsel requesting that they distribute the eight-question survey to their membership. Among other questions, the survey asked members to self-report their race, ethnicity, gender/gender identity, sexual orientation and disability/accessibility needs, and further asked members to identify each UCS Committee and Commission on which they serve. The survey will be distributed bi-annually to monitor and ensure progress.

A total of 282 responses were received, representing 32 Committees. The results are as follows:

## RACE AND ETHNICITY

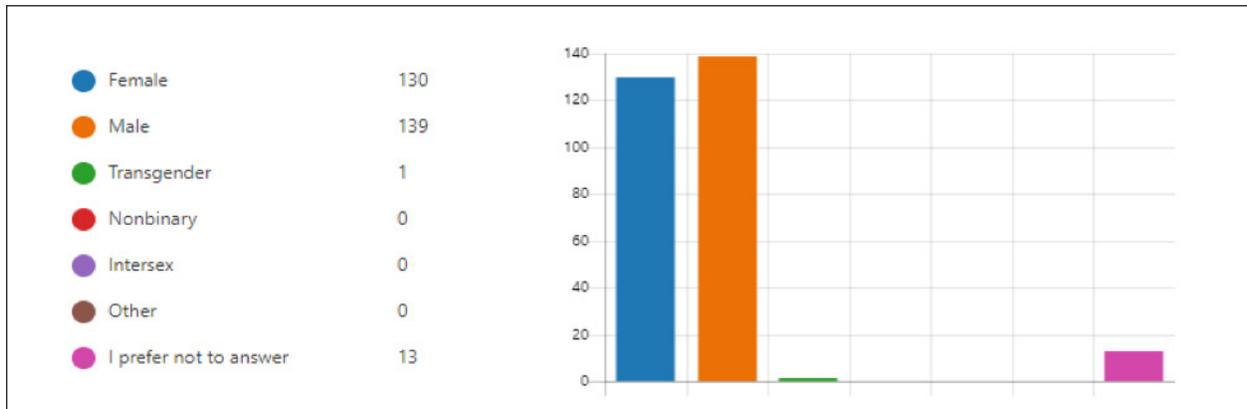
- 9 - Asian or Pacific Islander
- 41 - Black or African American
- 18 - Latino, Latinx or Hispanic
- 197 - White or Caucasian
- 5 - Multiracial
- 18 - Preferred not to answer



10. [Special Adviser’s Report](#), p. 70.

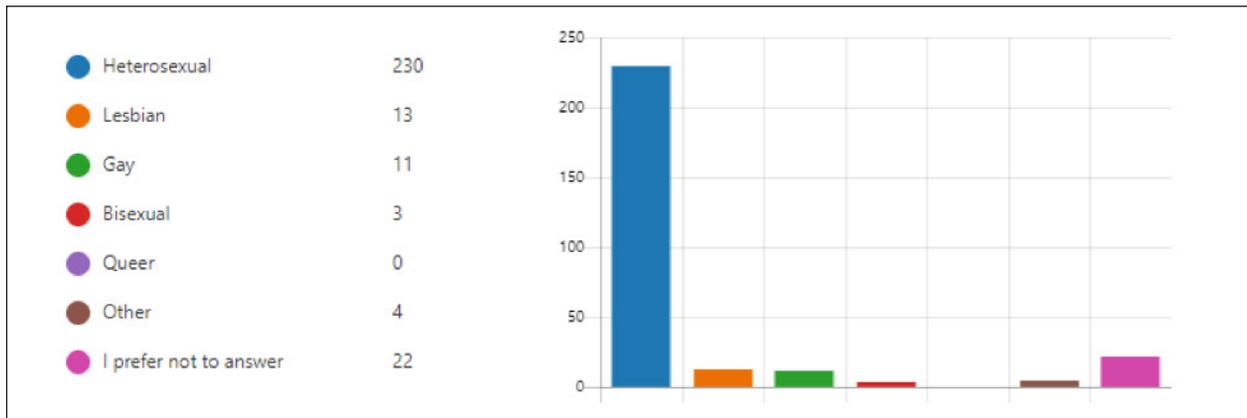
**GENDER/GENDER IDENTITY**

- 130 - Female
- 139 - Male
- 1 - Transgender
- 0 - Nonbinary
- 0 - Intersex
- 0 - Other
- 13 - Preferred not to answer
- 1 - Transgender
- 13 - Preferred not to answer



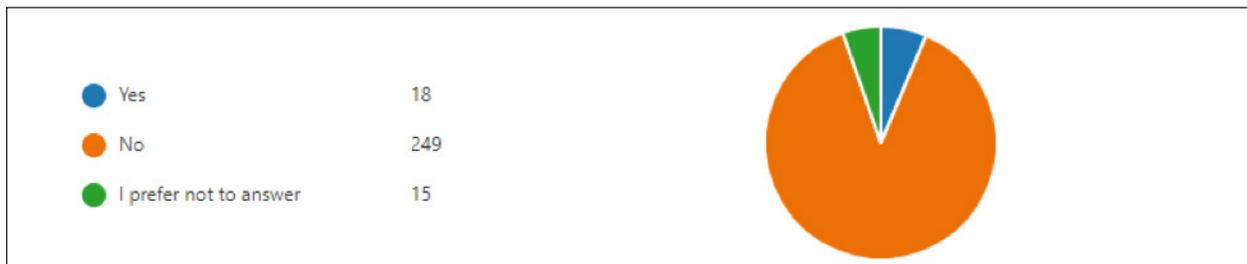
**SEXUAL ORIENTATION**

- 230 - Heterosexual
- 13 - Lesbian
- 11 - Gay
- 3 - Bisexual
- 0 - Queer
- 4 - Other
- 22 - Preferred not to answer
- 3 - Bisexual
- 4 - Other (4)
- 22 - Preferred not to answer



**DISABILITY/ACCESSIBILITY NEEDS**

- 88% did not identify as a person with disabilities or with accessibility needs
- 6% did identify as a person with disabilities or with accessibility needs
- 5% Preferred not to answer



Women represent approximately 50% of the responding committee membership; however, proactive recruitment is required to ensure that people of color, members of the LGBTQ community and those with disabilities are well represented within UCS Committees and Commissions. To improve professional diversity and to incorporate community-based insights into UCS policy and legislative development processes, UCS will also work to appoint appropriate lay members when membership criteria do not require that the member be an attorney.

UCS's next steps include:

- Expanding the list of jurists, attorneys and other professionals available to serve on Committees and Commissions by developing a streamlined process for membership consideration;
- Broadly advertising membership opportunities that includes a complete committee description and criteria for the appointment;
- Establishing a databank for collecting resumes of interested candidates;
- Introducing Commissions and Committees to the UCS Equal Justice in the Courts Initiative, and UCS's new disparate impact policy;<sup>11</sup>
- Providing training by experts on implicit bias and racial equity.

### **A MODEL FOR DIVERSITY AND BIAS EDUCATION: THE ADR ADVISORY COMMITTEE**

In early 2018, Chief Judge DiFiore appointed the Statewide Advisory Committee on Alternative Dispute Resolution to support and guide the implementation of [Presumptive ADR](#), a system-wide initiative in which appropriate civil cases are referred to mediation or some other form of [alternative dispute resolution](#) (ADR) as the first step in the case proceeding in court. This expert group of judges, lawyers, ADR practitioners and academics are charged with examining the services currently accessible within the court system and making recommendations for improvement and expansion.

In June 2021, with the express goal of improving diversity among its members, the ADR Advisory Committee expanded its numbers to include five new members, all of whom represent the rich racial diversity of New York State. Additionally, in July 2021, the Committee approved Proposed Mediator Standards of Conduct. These standards require mediators to avoid any conduct that appears to be biased and to be aware of, learn about, and manage their own implicit biases. The Statewide ADR Advisory Committee and ADR Office also developed and approved a best practices document to promote recruitment of diverse neutrals to court rosters.<sup>12</sup>

Staff support for the ADR Advisory Committee is provided by the Office of Alternative Dispute Resolution (ADR Office). Led by Statewide ADR Coordinator Lisa Courtney under the direction of Daniel Weitz and the UCS Division of Court and Professional Services, the ADR Office promotes diversity in the court system in a number of ways:

- The ADR Office consults with ADR Coordinators, Administrative Judges, and the Office for Diversity and Inclusion to propose names of diverse judges and non-judicial court staff to serve as co-panelists for OCA-sponsored ADR training programs and for ADR outreach programs. The ADR Office works with bar associations and dispute resolution organizations to promote and publicize directories of neutrals from underrepresented communities, and develop and publicize directories of speakers and ADR presenters from underrepresented communities.

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11. See [Section 2](#).

12. See "Best Practices for Recruiting and Retaining Diverse Neutrals", developed by the ADR Office and approved by the Statewide ADR Advisory Committee, for distribution to ADR Coordinators and court staff.

- The ADR Office works with ADR Counsel and coordinators for the Deputy Chief Administrative Judges for courts inside and outside NYC to encourage the active recruitment of diverse mediators, mentors, and trainers for training courses approved under [Part 146](#) of the Rules of the Chief Administrative Judge.
- The ADR Office works with affinity bar association representatives to fund initial and additional mediation training programs to recruit diverse mediators to serve on trial court rosters.
- The ADR Office includes a diversity statement on the [landing page](#) of its universal application for prospective mediators.
- The ADR Office in the [statewide mediator application](#) invites prospective mediators to identify themselves to local ADR coordinators as members of traditionally underrepresented communities.
- The ADR Office’s [mediation training curriculum guidelines](#) require Part 146-approved mediation trainers to teach mediators to examine their own attitudes, explicit and implicit biases, and provide mediators with skills to respond sensitively to different values, cultural norms and biases, consistent with the underlying purposes and values of mediation.
- The ADR Office requires financial scholarship transparency in all of its Part 146-approved mediation training courses and apprenticeships/mentorships programs and asks prospective training and apprenticeship providers to ensure that diverse prospective mediators can find affordable mediation training opportunities.

## REVIEW OF ALL LEGISLATIVE AND REGULATORY PROPOSALS FOR DISPARATE IMPACT

Disparate impact, often referred to as unintentional discrimination, occurs when policies, practices, rules or other systems — that may appear to be neutral on their face — result in a disproportionate impact on a particular group. Disparate impact analysis refers to a process that assists organizations, institutions and government entities with determining whether their regulations, policies or practices, though seemingly neutral, adversely affect one group of people more than another.

The Special Adviser, noting precedence for this process among government agencies, adopted the recommendation of the National Center for State Courts and recommended that UCS task one of its existing institutions for addressing bias - the Williams Commission, the IG for Bias Matters, or the Office of Diversity and Inclusion – with the standing responsibility to review legislation, proposed constitutional amendments, regulations and rules changes pertaining to the state judiciary for any potential disparate impact or bias on people of color.<sup>13</sup>

In consultation with the Equal Justice Implementation Committee, CAJ Marks appointed UCS Legislative Counsel to conduct a review of UCS’ legislative agenda, rules, policies and other key legislative and regulatory proposals for potential bias and disparate impact. Legislative Counsel will be assisted by standing UCS advisory committees, the Williams Commission, the Office of Diversity and Inclusion and the Office for Justice Initiatives. These entities will also contribute relevant suggestions for preparation and inclusion in the judiciary’s annual legislative agenda.

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13. [Special Adviser’s Report](#), pp. 10, 90.

## 2. RACIAL JUSTICE IS AN ACCESS TO JUSTICE ISSUE

*“The access to justice crisis is, in so many vital respects, a racial and equal justice crisis affecting the legitimacy of our system”*

Chief Judge Janet DiFiore, Annual Civil Legal Services Hearing, Court of Appeals, Albany, NY, September 13, 2021

In his report, the Special Adviser declared that the “#1 complaint” he and his team heard from multiple interviewees concerned the crowded “under-resourced, over-burdened” court system and its “dehumanizing” effects, particularly on people of color.<sup>14</sup> In New York City, housing, family, and criminal courts continue to see higher volumes of cases and – as the report correctly asserts – the backlog of cases due to limited court operations during the current COVID-19 pandemic will no doubt make case management even more challenging.

To eliminate this “second-class system of justice” in our courts — a consistent theme in the Special Adviser’s Report — UCS will continue to advocate for increased funding for:

- Infrastructure repair and development;
- Technology enhancements for UCS operational systems, courtrooms, jury rooms and other public areas; and
- Increased 18-B counsel rates for attorneys serving in criminal and family courts to ensure availability and quality legal representation for vastly under-served litigants of color.<sup>15</sup>

### VIRTUAL ACCESS AND BRIDGING THE DIGITAL DIVIDE

For many represented and unrepresented court users, virtual court proceedings and virtual court services have proven to be an effective means of safely providing court access, while reducing public density in our courthouses. The Chief Judge is committed to identifying opportunities that will enable our courts to appropriately expand virtual services, including virtual hearings and trials.

While virtual services and proceedings can enhance access for some court users, lack of access to required devices, lack of familiarity with current technology, and lack of sufficient broadband services continue to plague low-income communities, many of which are communities of color. These conditions can further exacerbate existing inequalities.

UCS will continue to explore ways to provide virtual access for all those who may benefit from it. Current advances include the 9th JD’s Faith-Based Court Access Program, led by Judge Kathie Davidson, Dean of the New York State Judicial Institute and former Administrative Judge of the 9<sup>th</sup> JD. The Faith-based program provides unrepresented litigants with safe, technologically equipped spaces in houses of worship and community locations where they can receive remote legal services and participate comfortably and meaningfully in virtual court proceedings. Another promising court service is the Office for Justice Initiatives’ successful Virtual Court Navigator Pilot Program, where trained non-lawyers assist court users with their virtual appearances and with accessing and navigating our virtual court services.

14. [Special Adviser’s Report](#), pp. 54-58

15. County Law, Article 18-B.

## COURT SIMPLIFICATION TO PROMOTE EFFICIENCY AND RELIEVE OVER-BURDENED COURTS

Court simplification is one of Chief Judge DiFiore’s critical reform proposals. Under our State Constitution, New York has eleven separate trial courts, each with its own jurisdiction and cumbersome procedural demands that it places upon court users. This complex court structure is incredibly challenging for the public to navigate and for court administrators to manage effectively.

The Chief Judge has called for constitutional amendments to merge the state’s major trial courts into a two-tiered structure. Under this merger, County, Family, Surrogate’s Courts and the Court of Claims would be abolished, with their judges and staff absorbed into the Supreme Court. Additionally, the New York City Civil and Criminal Courts, the District Courts on Long Island and the 61 City Courts outside New York City would be abolished and replaced by a newly established District Court System. By creating a two-court structure, with streamlined statewide superior and municipal courts, the Chief Judge’s court simplification proposal provides the courts with flexibility to allocate resources more efficiently in order to provide first-class services to every individual who enters our courts.<sup>16</sup>

### 3. MANDATORY BIAS EDUCATION AND TRAINING

“Countless” judges and court staff alike reported to the Special Adviser that mandatory implicit bias and cultural sensitivity training were “long overdue.” Noting that bias training was “both inconsistent and insufficient”, the Special Adviser recommended that UCS conduct a comprehensive review of the trainings provided to judges and non-judicial personnel.

Prior to the Special Adviser’s appointment, a number of court system stakeholders had expressed concerns about persistent misconceptions among judges and court staff on issues of poverty, race, gender, gender identity, culture and disabilities, which could negatively impact case outcomes. This issue was also raised by the New York State Permanent Commission on Access to Justice in its 2018 Annual Report. In January 2019, the Office for Justice Initiatives (OJI) was charged with developing a training protocol for judges and non-judicial personnel on cultural awareness, implicit bias, inclusion, and the impact of poverty on a litigant’s interactions with the legal system.

As a first step, OJI conducted a review of bias trainings offered in the various Judicial Districts. OJI then formed a steering committee, comprised of court managers from across the state, to develop a plan for administering centralized, role-oriented bias and procedural justice training. After reviewing existing trainings and considering the magnitude of the project, the steering committee determined that any meaningful training protocol would require strong technical assistance dedicated to completing critical research and to developing a comprehensive training strategy. Fortunately, Casey Family Programs, a nationally renowned organization dedicated to improving the lives of America’s children, families and communities,<sup>17</sup> agreed to partner with

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16. See 20-UCS-Annual-Report.pdf (nycourts.gov)( UCS 2020 Annual Report) p. 19; 21\_SOJ-Speech.pdf (nycourts.gov), (Chief Judge DiFiore’s State of Our Judiciary Address, 2021) p. 16.

17. <https://www.casey.org/>

UCS in this effort. With an eye towards improving Disproportionate Minority Representation (DMR) in child welfare cases, Casey generously contracted Welfare Research, Inc. (WRI) to perform that technical assistance for the court system.

The Special Adviser’s recommendation that OCA develop and mandate centralized “comprehensive racial bias and cultural sensitivity training for both judicial and non-judicial employees, informed by experts in these fields...” directly aligned with OJI’s pre-existing training objectives.<sup>18</sup> In 2021, UCS committed resources for hiring experienced subject matter experts to collaborate with OJI in leading the court system’s bias education and training program. Trainings are already underway.

## **COMPREHENSIVE MANDATORY BIAS TRAINING FOR JUDICIAL AND NON-JUDICIAL STAFF**

The UCS is developing a multi-year mandatory bias education and training program. This program will incorporate training modules that will be specifically tailored for judges, court attorneys, court staff and public safety officers and be led by both experts and credible (or peer) messengers. For example, Court Officer Academy instructors and members of fraternal and affinity organizations (which are sometimes referred to as Employee Resource Groups) will serve as credible messengers for court officers during their bias training sessions.

### **EXPERT CONSULTANTS**

To assist with the development of the racial bias curriculum and to plan for multi-year trainings, UCS has consulted with subject matter experts including Rachel Godsil, Distinguished Professor of Law at Rutgers University School of Law, and Co-Founder and Co-Director of the Perception Institute;<sup>19</sup> Devon Carbado, Honorable Harry Pregerson Professor of Law at UCLA School of Law; Jerry Kang, Distinguished Professor of Law and Asian American Studies at the UCLA School of Law; and Linda Tropp, Professor of Social Psychology, University of Massachusetts Amherst; and other social scientists.

### **UCS FAIRNESS SURVEY**

To identify concrete issues relating to bias within the court system and to establish a baseline for future evaluation, experts recommended the use of a systemwide survey. *Welfare Research, Inc.* (WRI),<sup>20</sup> a technical assistance firm, worked together with the Perception Institute to develop a survey entitled *Understanding Fairness in the NYS Courts*. In July 2021, the survey was distributed to all judges and court staff in state-paid and in Town and Village Courts. Participation in the survey was voluntary.

An analysis of the survey responses revealed that — as a whole — UCS judicial and non-judicial personnel are not comfortable discussing issues of race. Although the number of survey participants was relatively low, consistent themes have helped to identify a departure point for state-wide trainings and may pinpoint particular issues for focus in specific jurisdictions and courts, and for particular work titles.

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18. [Special Adviser’s Report](#), pp. 81-82.

19. <https://perception.org/about-us/>

20. <http://www.welfareresearch.org/index.html>

## **SUBJECT MATTER FOR BIAS TRAININGS**

The first training module will launch in December 2021. Ongoing safety constraints and concerns related to the COVID-19 pandemic will require UCS to conduct this training virtually.

Consistent with the Special Adviser's recommendations, the initial bias education and training program will focus on:

- An understanding of implicit racial bias and microaggressions;
- The intersectionality of racial and cultural bias with other forms of bias;
- Types of biases often displayed toward and experienced by multiple actors within the court system;
- Trauma-informed principles: safety, choice, collaboration, trustworthiness and empowerment;
- Principles of procedural justice, including:
  - » fairness in the processes
  - » transparency in actions
  - » providing opportunities for participants to give voice to their thoughts and concerns
  - » impartiality in decision making;
- Tools to interrupt one's own biases; and
- Appropriate responses for those who are subject to or witness discriminatory acts or discriminatory statements.

Trainings will also incorporate specific factual scenarios, employ criteria to assess and ensure effectiveness of trainings and include a tracking mechanism for monitoring compliance.

## **NUANCED BIAS TRAINING FOR JUDGES**

*"Judges are not above the reach of the implicit racial and cultural biases that pervade our society, yet equality before the law requires them to be."<sup>21</sup>*

In conversations with the Special Adviser's team, multiple judges acknowledged their own implicit biases and welcomed training to help them examine and challenge stereotypes. The Special Adviser therefore recommended that UCS provide enhanced training for judges on the "nuances of racial and cultural bias" and indicated that such training represents a "crucial step towards alleviating racial injustice throughout the court system." The NYS Judicial Institute and OJI established a curriculum committee to assist with developing training programs for judges. With the guidance of UCS experts, judicial summer seminar trainings will offer judges the opportunity to address issues of racial bias and cultural sensitivity among their peers.

## **JUDICIAL COURT LEADER TRAINING**

Reflective of UCS's "Commitment from the Top" the first new bias education and training program was held on July 30, 2021 for top judicial leaders. The Chief Judge, Chief Administrative Judge, Deputy Chief Administrative Judges, and the state's Administrative Judges (who are the judges responsible for administration of the courts in each Judicial District) took part in this interactive workshop led by Professor Rachel Godsil.

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21. [Special Adviser's Report](#), p.81.

## **RULES OF THE CHIEF JUDGE, SECTION 17.3<sup>22</sup>**

Effective October 5, 2021, Section 17.3 of the Rules of the Chief Judge has been amended to require bi-annual anti-bias training for all judges in state-paid courts.<sup>23</sup>

## **UPDATED TRAININGS FOR COURT OFFICERS**

Under the leadership of Chief Michael Magliano, Director of Public Safety and Chief Joseph Baccellieri, Jr., Commanding Officer and Chief of Training at New York's Court Officers Academy, enhanced bias training is being provided for all incoming recruits. The new training focuses on understanding implicit bias, techniques to recognize and avoid such biases, procedural justice, and available resources to assist officers with recognizing and addressing problems of bias. The trainings encourage participants to examine their own practices and attitudes in daily life, particularly when on duty. The new training program also underscores the duty of uniformed court personnel to treat all those who enter the courts fairly and respectfully, as these positive interactions affect officers, court employees' and court users' safety by decreasing the likelihood of hostile encounters. The new training program was developed by Lieutenant Vincent Sinclair and Lieutenant Erica Prosper, both of whom are certified by the New York State Division of Criminal Justices Services as procedural justice and trauma-trained instructors.

Finally, the Court Officer Academy is developing a mandatory anti-bias virtual learning course for all uniformed personnel statewide, including veteran officers and non-uniformed peace officers.

## **CENTRALIZED TRAINING FOR TOWN & VILLAGE COURTS**

All Town and Village Court judges and staff will be required to participate in UCS's new centralized anti-bias education and training program. This year, the UCS Office of Justice Court Support, Town & Village Resource Center joined with the Office for Justice Initiatives to provide an updated implicit bias and inclusion training program for Town & Village judges.

## **CENTRALIZED BIAS TRAINING FOR UCS NON-JUDICIAL STAFF**

The Special Adviser highlighted that the only mandatory training universally required for non-judicial employees is the generalized "discrimination and harassment" training provided during new employee orientation. Implicit bias is not specifically addressed.<sup>24</sup> The new centralized training program will include specially tailored instruction on recognizing and interrupting implicit racial bias. Training will begin in early 2022 for all non-judicial staff and will be designed to track compliance.

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22. On page 49 of the Special Adviser's report, the New York State CLE requirement is addressed. The report states that the NYS CLE requirement applies to both attorneys and judges, i.e., that full-time NYS judges are mandated to complete one credit hour in Diversity, Inclusion and Elimination of Bias CLE training every two years. However, generally, full-time NYS judges were exempt from the NYS CLE requirement. (See *New York State CLE Program Rules*, 22 NYCRR 1500.5[b]). UCS has thus enacted rules to make diversity training mandatory for state-paid judges.

23. See [Appendix C](#).

24. [Special Adviser's Report](#), p.73.

## 4. BUILDING ON EXISTING INSTITUTIONS

The Special Adviser concluded that when it comes to issues of race and racial bias there was “a considerable lack of transparency within the court system.”<sup>25</sup> As part of the review process, the Special Adviser’s team conducted an extensive search for court system institutions, policies and programs that address racial bias but had difficulty finding a list or chart explaining them. “Information in booklets, brochures and web pages [was] confusing, inaccurate and often out of date.”<sup>26</sup>

Further, many of those interviewed were unfamiliar with the existing institutions or the nature of their missions. Those who were aware of existing institutions expressed skepticism and suggested that these organizations were “running out of steam.”<sup>27</sup>

The Special Adviser’s Report focused on the Office of Diversity and Inclusion, the Franklin H. Williams Judicial Commission and the Office of the Inspector General, the three existing UCS offices tasked with addressing issues of racial bias in the court system and recommended that their roles be enhanced and that their respective functions be well publicized.<sup>28</sup>

### THE OFFICE OF DIVERSITY AND INCLUSION

The Office of Diversity and Inclusion (ODI), formerly named the Office of Workforce Diversity, led by S. Anthony Walters, provides resources to judicial and non-judicial personnel on diversity-related matters and identifies and develops practical mechanisms through which the court system attempts to ensure a diverse workforce and bias-free work environment. ODI’s visibility and profile have grown substantially over the past year within UCS and on social media.

#### **NEW MISSION STATEMENT**

ODI updated its mission statement to reflect and emphasize its shared firm commitment to promoting diversity at all levels.

The New York State Unified Court System’s Office of Diversity and Inclusion (ODI) has a long-standing commitment to equal employment opportunity, the elimination of under-representation of minorities and women, and to ensuring a diverse workforce that reflects the community.

Diversity contributes to the myriad perspectives, approaches, talents and aspirations court employees bring to their work. Considerations of diversity may include nationality, ethnicity, race, gender identity or expression and other aspects of background and identity, such as: age, religion, geography, family status, sexual orientation, or physical and mental ability. Some of our differences are unique to us as individuals, while others connect us to groups of people; the strength of diversity is realized by valuing all of these differences.

ODI’s objective is to ensure an atmosphere that is conducive to the highest quality of work, through a workplace where all people feel comfortable, valued and productive.<sup>29</sup>

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25. [Special Adviser’s Report](#), p. 4.

26. [Special Adviser’s Report](#), p. 42.

27. [Special Adviser’s Report](#), p. 4.

28. [Special Adviser’s Report](#), pp. 42-46, 80-81, 87-90.

29. <https://www.nycourts.gov/whatsnew/mission.shtml>

## **DIVERSITY SUMMIT**

On March 4, 2021, ODI held its first Diversity Summit. Led by the Chief Judge, CAJ Marks, the DCAJs and leadership from key UCS offices, the Summit launched the court system's new state-wide Diversity and Inclusion agenda. Keynote speaker Professor Khalil Muhammad, Ford Foundation Professor of History, Race and Policy at Harvard's Kennedy School educated the court community on the historic origins of systemic and institutional racism in the United States. The Summit further provided the 1800+ employee participants with an overview of UCS policies regarding race, equity and bias, the process for implementing the Special Adviser's recommendations, and the various roles and resources of UCS Offices, i.e., Human Resources, ODI, the IG's Office and also the Williams Commission. The summit will be hosted annually. All programs will be recorded to afford all employees the opportunity to view the event.

## **DIVERSITY DIALOGUES PODCASTS**

Commencing 2019, ODI Diversity podcasts have been produced in collaboration with the UCS Senior Advisor on Strategic Communications, John Caher, and were expanded in 2020 to include a broader selection and greater number of interviewees. Links to the podcasts are posted to the OCA@Work website, and are featured on the UCS internal CourtNet site and "HR Notes" pages<sup>30</sup>

The podcasts feature interviews with employees who share significant anecdotes about their careers in the court system, what diversity means to them, and the importance of diversity in the workplace. Interviews often coincide with cultural themes, such as Black History Month. The Diversity Dialogues are posted and promoted on a variety of social media sites and on UCS court websites. They are also provided to UCS fraternal and affinity groups, individuals and to organizations on ODI outreach lists. In 2020, there were 20 Diversity Dialogue podcasts.

## **PARTNERSHIPS**

ODI maintains partnerships with UCS fraternal and affinity organizations, also referred to as Employee Resource Groups (or ERGs), including the Cervantes Society, Tribune Society, and the newest UCS affinity organization, the Asian Jade Society. ODI assisted Asian American Pacific Islander employees in forming the Asian Jade Society in 2021. ODI holds regular meetings, sends email updates, and makes every effort to leverage its longstanding relationships with these organizations for outreach, recruitment, and to publicize career advancement opportunities, training, and educational programming. ODI assists these organizations with mentoring and allyship programs, and in offering professional development opportunities, including workshops and materials relating to interviewing skills and resume writing.

ODI's partnerships with national organizations, such as the National Center for State Courts, the Racial Justice Committee, and its Consortium on Racial & Ethnic Fairness in the Courts provide resources and input on broader national issues of diversity.

## **COORDINATION WITH OTHER UCS OFFICES**

ODI works with other UCS offices and commissions on diversity and inclusion issues. For example, ODI creates online resource pages and hosts regular meetings with stakeholders such as the Williams Commission, the Richard C. Failla LGBTQ Commission, the Inspector General's Bias Unit, and the New York State Judicial Committee on Women in the Courts. These meetings are opportunities to exchange ideas, discuss current challenges, develop new programming, and brainstorm methods for communicating effectively on disputed, complex and challenging issues of race and discrimination.

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30. <http://ww2.nycourts.gov/diversity-dialogues-28056>

## **ODI PUBLICATIONS**

In October 2021, ODI launched a newsletter, “Mosaic,”<sup>31</sup> dedicated to building understanding and appreciation of the need for diversity within the court system. The first issue showcased DCAJ Mendelson as a Diversity and Inclusion (D&I) changemaker within UCS, highlighted available resources for court staff and provided links to ERGs. ODI is also developing a Diversity and Inclusion guide and anti-bias resources for court personnel, litigants and partner organizations. The guide will be distributed throughout UCS, and will include referral information for the Inspector General for Bias Matters and a review of the complaint process. ODI is also developing a glossary of offensive terminology and an inclusive language guide. The glossary and language guide will be published in early 2022.

## **ODI ON THE UCS WEBSITE**

Links to ODI have been added throughout the UCS public website, and updated with a new name and logo, for ease of location and navigation. ODI now enjoys a high profile on the UCS website and homepage, and the content of its webpages is reviewed monthly by ODI staff for updates. A new ODI Intranet site has also been developed.

## **TRAINING**

ODI partners with OJI and the Division of Human Resources to create and review training modules during new employees during orientation, for all recruits at the Court Officers Academy and HR managers.

ODI also provides training upon request to audiences of court institutional providers, the Appellate Division’s Grievance Committees, Americans With Disabilities Act (ADA) Liaisons, civil court judges, Town & Village Court judges, bar groups and judges’ associations.

## **STATISTICS**

Together with HR’s Workforce unit, ODI comprehensively reviews and analyzes statistical data regarding the UCS workforce. ODI also produces a bi-annual Equal Employment Opportunity Plan (EEO) utilization report for the United States Department of Justice.

## **THEME PROGRAMS**

ODI promotes and showcases diversity through its cultural theme-month programs for Black History, Hispanic Heritage, LGBTQ Pride and Disability Awareness. In 2021, ODI hosted its inaugural celebration of Asian American and Pacific Islander Month. Programs are usually held on a virtual platform during lunch, to permit and encourage state-wide participation. These recorded programs are posted on the ODI website for later viewing.

# **THE FRANKLIN H. WILLIAMS JUDICIAL COMMISSION**

The Franklin H. Williams Judicial Commission, founded in 1988 as the New York State Judicial Commission on Minorities, is an independent judicial commission that educates and advises the Chief Judge and UCS policymakers on issues affecting judges, employees and litigants of color.<sup>32</sup> The mission of the Williams Commission is to eradicate systemic racism in the court system

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31. [https://www.nycourts.gov/info/Diversity\\_Inclusion/Newsletter/01/pages/index.html](https://www.nycourts.gov/info/Diversity_Inclusion/Newsletter/01/pages/index.html)

32. <http://ww2.nycourts.gov/ip/ethnic-fairness/index.shtml>

by eliminating barriers to racial and ethnic fairness in the courts. The Commission is currently chaired by Hon. Shirley Troutman, Associate Justice, Appellate Division - Fourth Department and Hon. Troy K. Weber, Associate Justice, Appellate Division - First Department.

In 1991, the former Minorities Commission conducted a comprehensive study on minority participation in the courts and in the legal profession and on perceptions regarding the treatment of minorities in the courts. Following the release of its detailed report,<sup>33</sup> the Commission was established as a permanent UCS entity charged with developing programs to improve the perception of fairness within the court system and to ensure equal justice in New York State courts.

To advance the goals and recommendations of the Special Adviser, and in furtherance of its mission, the Williams Commission has sponsored a variety of excellent programs aimed at promoting diversity and eliminating bias and discrimination within the court system.

### **TOWN HALLS**

On January 7, 2021, March 11, 2021 and October 15, 2021, the Commission held statewide Town Hall meetings featuring Chief Judge DiFiore, CAJ Marks, DCAJ Mendelson, ODI Director Tony Walters, and Inspector General Sherrill Spatz and distinguished keynote speakers. The Town Hall meetings provide an important opportunity for all the members of the court community to listen, be heard, and offer suggestions and insights on how we can achieve our shared goal of eliminating racism and discrimination from the court system. As stated by Chief Judge DiFiore, this is part of an essential “open, honest and respectful conversation”— a critical step in addressing issues of racial bias within the courts.

### **PRESENTATIONS ON DIVERSITY AND INCLUSIVITY TOPICS**

The Commission regularly sponsors and promotes presentations and programs on important issues relating to equal justice and diversity in the courts. For a list of the Commission’s programs sponsored during the past year, see [Appendix D](#).

### **JUDICIAL MENTORSHIP**

The Commission’s Judicial Mentorship program has been expanded to include attorneys seeking both elective office and appointments to the bench. The Commission also conducts workshops for judges and attorneys on building successful mentoring relationships. Over 100 attorneys and judges have participated in this program. Several program participants have been appointed or elected to judicial office.

### **OTHER MENTORSHIPS**

The Commission partners with other court committees and commissions, and with fraternal groups, bar associations and community groups to provide “pipelines”<sup>34</sup> to law school, to leadership positions, and the judiciary. On April 16, 2021, the Commission with local law schools, sponsored a program entitled *Pathways to Equity in Legal Education and the Profession*. Law professors, administrators, and recent graduates of CUNY School of Law, St. John’s University School of Law, Syracuse University College of Law, and the State University at Buffalo School of Law discussed how students of color can be better prepared and supported as they journey towards becoming licensed attorneys. Topics included the diversity gap in the legal pipeline, existing preparatory programs, programs to meet law student needs in law school and during preparation for the bar exam, and recent graduates’ perspectives.

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33. [http://ww2.nycourts.gov/sites/default/files/document/files/2018-11/Judicial%20commission%20%20vol%201\\_0.pdf](http://ww2.nycourts.gov/sites/default/files/document/files/2018-11/Judicial%20commission%20%20vol%201_0.pdf)

34. Pipeline programs (also known as pathway programs) are designed to provide support and resources to students and to aspiring, early-career and established professionals from diverse ethnic, gender, and economic backgrounds.

## **THE WILLIAMS COMMISSION ROLE AS MONITOR AND REPORTER**

The Williams Commission is thoroughly immersed in issues of racial bias affecting both operations and policy in the court system. Through its Town Hall studies, comprehensive surveys and other scholarly and community-based programming, the Commission is well poised to assume its future role as the permanent monitor of UCS racial and ethnic fairness initiatives.

## **THE INSPECTOR GENERAL'S OFFICE**

The Unified Court System Inspector General's Office (IG) is responsible for investigating allegations of misconduct, fraud, criminal activity or conflicts of interest by court employees and persons or corporations doing business with the court system. Sherrill Spatz is the Inspector General. There are two specialized units within the IG's Office: The Office of the Managing Inspector General for Bias Matters ("IG for Bias Matters") and the Office of the Managing Inspector General for Fiduciary Appointments. This report will focus on the Office of the Managing Inspector General for Bias Matters.

The Office of the Managing Inspector General for Bias Matters, established in 1998, conducts confidential investigations involving allegations of discrimination and bias based upon race, sex (including sexual harassment), sexual orientation, gender identity, domestic violence status, prior criminal record (in certain circumstances), age, marital status, disability, national origin, religion, military status, gender expression or gender dysphoria that affect the workplace or the terms and conditions of employment of UCS personnel, including acts that relate to services provided by court system personnel to the public. Kay-Ann Porter Campbell serves as the Managing Inspector General for Bias Matters.

When a complaint is substantiated, the IG's Office refers the matter to the applicable Deputy Chief Administrative Judge or to the Chief Administrative Judge for appropriate action. Within the last year, the IG has furthered the Special Adviser's recommended goals of enhancing the general knowledge inside and outside UCS of the functions of the IG, in particular its role in investigating bias problems and complaints about and by court employees and others within New York's courts.

## **PROMOTIONAL AND PUBLICITY CAMPAIGN**

The IG has engaged in a robust informational campaign to explain and publicize its functions, through participation in educational programs for court personnel and court users about the protocols, processes and services provided by their office. The Office has conducted 46 such presentations state-wide, attended by 2800 employees, some of which were also recorded for later review. Presentations covered:

- the process for filing a complaint with the IG;
- types of cases handled by the IG and its jurisdiction;
- who may file a complaint, and how complaints may be filed anonymously;
- the procedures followed for complaints, including explaining how investigations are conducted and resolved;
- the strict no-retaliation policy of UCS with regard to employee complaints; and
- the court system's policy with regard to social media postings (discussed in [Section 1, supra](#)).

## **AMICI PODCAST**

On December 20, 2020, the Inspector General and the Managing Inspector General for Bias Matters were interviewed for the Amici Podcast series on the UCS website, which is also available on Twitter and Facebook, and is accessible via SoundCloud, Stitcher and iTunes.<sup>35</sup> During the interview, the IG and Managing IG for Bias Matters explained the creation of the Bias Matters unit and promoted its role in addressing complaints of bias and discrimination within the court system.

## **WEBPAGE ENHANCEMENTS AND NEW EMAIL**

During March of 2021, the IG's Office published enhancements to its webpage. The Claim of Discriminatory Treatment Form, used for complaints of bias, can now be directly uploaded and completed online. The IG webpage is also linked to a variety of other relevant UCS webpages, including the FHWJC and ODI pages. As of February 2021, the Bias Matters Unit established a new, dedicated email address, [MIGBM@nycourts.gov](mailto:MIGBM@nycourts.gov), which provides another, alternative, method for submission of complaints and inquiries to the IG's Office.

## **INFORMATIONAL POSTERS IN THE COURTS**

The IG's Office has distributed informational posters describing the units within its office, including the Bias Matters Unit. These informational posters are being displayed in courts in all Judicial Districts and Judicial Departments, and are placed in high-traffic areas, such as courthouse lobbies, as well as in employee-only accessible areas. The posters have been translated into Spanish and the Spanish version will also be displayed. The posters can be translated into additional languages, depending on the demographic needs of a given courthouse.

## **ADDITIONAL OUTREACH**

The IG has participated fully in outreach efforts, such as panel discussions and other educational programs, including the Williams Commission's Town Halls and ODI's Diversity Summit. The IG's Office has also participated in, for example, the NYC Civil Court's Equal Justice in the Courts Committee, Suffolk County Equal Justice Group, and the NYC Bar Association's Working Group on Racial Equity in the Courts.

## **ANONYMOUS COMPLAINTS**

The IG has always accepted anonymous complaints; consistent with the recommendation of the Special Adviser's Report, the IG's Office has undertaken extensive outreach efforts to reinforce and publicize the process for filing anonymous complaints and has created informational posters. Moreover, as described, new electronic means of filing complaints have been established. While anonymous complaints are often difficult to pursue because of the lack of information necessary to undertake an investigation, this avenue may prove helpful, in particular, where a complaint relates to public statements or acts, such as social media postings.<sup>36</sup>

## **DEMOGRAPHIC DATA TRACKING**

In the interests of increased transparency, for all complaints of bias, the IG now collects data, provided voluntarily to the IG, relating to the self-identified demographic identity of all complainants and subjects of the investigation (including such items as race, ethnicity, sexual identity, and age).

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35. A transcript of the interview appears at <http://ww2.nycourts.gov/sites/default/files/document/files/2020-12/IG.pdf>.

36. <https://www.nycourts.gov/howdoi/courtemployee.shtml>

## **NOTIFICATION OF THE CONCLUSION OF INVESTIGATIONS**

In line with the recommendation in the Special Adviser’s Report, as of December 2020, both complainants and subjects of IG investigations are informed in writing when the investigation has been completed, and the confidential report has been provided to the appropriate Deputy Chief Administrative Judge or UCS executive for such action as he or she deems appropriate. When any such action is taken, such as the filing of a disciplinary complaint against the subject of the complaint, the Deputy Chief Administrative Judge or executive so informs the subject.

## **APPOINTMENT OF AN OMBUDSPERSON**

In keeping with the Special Adviser’s recommendation, as of January 2021, Eva Moy, an employee of the Inspector General’s Office, with over 20 years’ experience, was appointed to serve as Ombudsperson for the Bias Matters Unit.

Ms. Moy has received enhanced training, and handles intakes of bias matter complaints, and provides information on procedures and facts relating to filing such matters. As of mid-October 2021, she has handled over 261 such inquiries. There were approximately three times as many bias complaints during 2021 than during an equivalent period during 2019 — the most recent pre-pandemic year, a clear indication that the IG’s outreach efforts have been successful. The Ombudsperson can be contacted at [MIGBM@nycourts.gov](mailto:MIGBM@nycourts.gov).

# **5. COURT INITIATIVES ADDRESSING POTENTIAL JUROR BIAS AND RECRUITING REPRESENTATIVE JURIES**

The Special Adviser’s Report made a series of recommendations relating to juror bias, including the creation of a video to be reviewed by all potential jurors, and new uniform rules to permit *voir dire* of jurors on racial bias,<sup>37</sup> as well as new model jury instructions that address issues of racial bias.<sup>38</sup> Each of these recommendations has been addressed over the last year. In addition, the UCS Jury Support Office has developed new tools and methods to secure more representative juries throughout the state.

## **NEW JUROR ORIENTATION VIDEO**

The Office for Justice Initiatives with support from the Jury Support Office (JSO) and experts from the Perception Institute, spearheaded the creation of a new juror bias orientation video, *Jury Service and Fairness*.<sup>39</sup> The video, introduced by the Chief Judge and featuring Professor Rachel Godsil and Afua Addo of the Perception Institute, addresses among other things, the concept of implicit bias and provides practical approaches to assist jurors with making decisions that are free from biases or stereotypes. The juror bias video is closed-captioned and being shown to all potential grand and petit jurors, including those serving in Town & Village courts.

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37. [Special Adviser’s Report](#), pp. 74-76, 83-84.

38. [Special Adviser’s Report](#), pp. 74-76, 83-84.

39. <http://wowza.nycourts.gov/vod/vod.php?source=ucs&video=2021-JuryServiceFairness.mp4>

## **PATTERN JURY INSTRUCTIONS AND UNIFORM RULES FOR VOIR DIRE**

The UCS Criminal Jury Instruction and Model Colloquies Committee, chaired by retired judges William C. Donnino and Patricia D. Marks, has amplified several pattern jury instructions on implicit bias. The mandatory instructions will be provided to trial jurors during *voir dire* and during preliminary and final charges, and provided to grand jurors during impanelment and prior to deliberations. The new instructions underscore the importance of being aware of implicit biases and instruct jurors to guard against any impact those biases might have on their decision-making. The Committee also developed a revised credibility instruction that directs jurors to evaluate whether bias, hostility or some other attitude affected the truthfulness of a witness's testimony. These instructions were widely circulated for public comment and have now been officially promulgated for use.

## **JURY SUPPORT OFFICE DATA, TRAINING AND OUTREACH INITIATIVES**

The Jury Support Office (JSO), an office within the UCS Division of Technology and Court Research, works closely with jury commissioners throughout the state to provide direct support to jury system operations. The JSO also provides continuing education for New York's Commissioner of Jurors, designs materials for juror orientation and education, coordinates efforts to enhance jury system automation, provides research, and provides region-specific reports and analysis required to improve the jury system. Promoting juror inclusivity and representativeness has been a continuous goal of JSO throughout the last three decades.

Following the issuance of the Special Adviser's Report, the JSO, with input from OJI and the Williams Commission, turned a critical eye on previously established practices with the goal of furthering fair representation and inclusivity in each of New York's 62 counties. JSO took measures to promote inclusivity in three general areas: communication, education and outreach.

### **COMMUNICATION ENHANCEMENTS TO ESTABLISH AND BUILD RELATIONSHIPS WITH POTENTIAL JURORS**

The technological tools available to jury offices have been extensively upgraded by JSO's programmers in the last year and a half. These changes allow jury commissioners to better establish relationships both in person and through modern technology tools with their communities and potential jurors. Below is a snapshot of these enhancements:

- **Portal.** JSO enhanced their online 'Juror Portal' to include frequently asked questions, the ability to enter mobile phone numbers and email addresses into juror records and the ability to subscribe to text and email alerts related to service and facilities.
- **Programming.** JSO upgraded the online volunteer form platform to be mobile friendly.
- **Training.** JSO trained all jury staff on these new resources through a series of videos, user guides and live demos.
- **Bi-Lingual Phone Tree.** The phone tree provides information regarding qualification, postponement, summonses, excusal, and payment for service in both English and Spanish. JSO plans to implement bi-lingual phone trees in additional counties.

## **TRAINING OF JURY STAFF AND COMMISSIONERS**

**Jury College Training Course: Promoting Juror Inclusivity.** The Jury College was established by JSO in 2017 as the first non-judicial continuous education program offered by OCA for UCS employees. The college offers a variety of trainings, with an “on-boarding” series specifically targeting new jury commissioners and new jury staff statewide. Since its inception in 2017, a minimum of two new courses have been added to the college each year. In 2021, a course entitled *Promoting Juror Inclusivity 101*, was developed and included in the on-boarding suite of trainings.

## **RECRUITING AND ASSURING REPRESENTATIVE JURIES**

**Report on Jury Inclusivity Recommendations.** JSO produced a detailed report in April 2021, *Expanded Report on Juror Inclusivity and Community Outreach*. The report was distributed to the state’s Commissioner of Jurors Association and Equal Justice in the Court Implementation Committee members. The report is also available to all court employees through the Commissioner of Jurors internal website.

**Jury Management System Improvements.** In March 2021, JSO formalized and centralized technical resources that jury commissioners can use to maximize outreach efforts and to identify areas where outreach is critical. These new tools help focus jury recruitment efforts in order to target those communities with the highest number of nonrespondents or the highest percentage of underrepresentation.

**Potential Juror Outreach: The Community Engagement and Outreach Plan.** A longstanding goal of the JSO has been to adopt and promote a modern, centralized Community Engagement and Outreach Plan, with associated training offered by JSO, to be utilized across all 62 New York counties with universal resources (flyers, training PowerPoints and videos, press releases, outreach events in local court houses, etc.). These outreach strategies can vary by jurisdiction and are outlined in the *COJA Social Media and Diversity Juror Outreach Report*.

**Implementation of the New Outreach Plan.** JSO will implement its Community Engagement and Outreach model, once finalized, with all Commissioners and will release a Jury College course, the follow-up to *Juror Inclusivity 101*, to introduce the model’s expectations and resources.

While JSO will lead the development of outreach resources, it will require the support and assistance of other UCS offices, including the Williams Commission, as well as the state Commissioner of Jurors Association.

## 6. INCREASING DATA TRANSPARENCY AND AVAILABILITY

The Special Adviser’s Report calls for improving the availability of data relating to UCS operations and court proceedings. The report noted that “data collection and analysis on case outcomes is critically important to identifying the points at which racial disparities exist, and the first step to remedying bias in the court system.”<sup>40</sup>

UCS is committed to providing data transparency, and with it an objective means of both assessing diversity in the courts and the effects of the justice system on people of color.<sup>41</sup> The Division of Technology Office of Court Research (Court Research) is responsible for making this data available. Court Research’s primary mission is to provide internal policymakers, judges, and court managers of all court types with data, analysis, reports, performance measures and analysis tools to support decision-making and operations with respect to efficient case management, court operations and administrative efficiencies. Court Research also supports requests for data from the public — from researchers, legislators, media, and policymakers — and implements statutorily required data-reporting mandates of the New York State Legislature. The office works hand in glove with the overarching UCS Division of Technology, which supplies resources for its work.

This year, Court Research has developed new data and a suite of new or enhanced technological tools.

### COURT DATA PAGE

As recommended by the Special Adviser’s Report and required by data-reporting mandates from the State Legislature, Court Research has created a public webpage<sup>42</sup> to host court-related data that is accessible to all interested parties. This page, and associated dashboards, go above and beyond what is required by law and what was recommended by the Special Adviser. The webpage provides data in a transparent fashion, which can be searched and sorted as the user desires. User-friendly dashboards summarize case-level filing data into dynamic tables and graphs. Samples of such inclusive and readily generated tables are annexed to this report as [Appendix E](#). To date, the following data and dashboards have been added to the public website:

#### **OCA-STAT ACT DATA AND ADDITIONAL DATA ON FELONIES**

Monthly data on arraignments of violations, misdemeanors, and felonies by location, charge, demographics, disposition, sentence, and other data points are provided on the website. This data is de-individuated, so that charged individuals’ personal identities cannot be ascertained. Like the other data available on the site, the data can be searched, and is provided in downloadable format. Reports may, as the user chooses, be provided based on race, ethnicity, sex and age, and segregable by location of offense, precinct, the disposition of the matter, and the sentence imposed, if any. While the OCA STAT Act (Judicial Law section 212) required data on misdemeanor offenses and violations, OCA has gone further to provide the same data on felonies as well.

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40. [Special Adviser’s Report](#), p. 91.

41. [Special Adviser’s Report](#), pp. 91-95.

42. <https://ww2.nycourts.gov/court-research/index.shtml>

Publication of this data will greatly improve transparency regarding criminal case outcomes and aid the state’s collective ability to identify and understand the points at which racial disparities may exist in the criminal justice system and enable policymakers to pursue responsible and necessary reforms on that basis.

### **PRETRIAL RELEASE DATA**

Bi-annual data on pretrial release and detention by case location, intake process, representation type, release decisions, top charge, demographics, case status, disposition, prior arrest and rearrest.

### **PRETRIAL SERVICES INFORMATION**

Annual aggregate data, including such information as the number of defendants supervised with a breakdown by race and ethnicity and charge, average length of time in pretrial supervision, number and reasons for supervision revocations, and final case dispositions.

### **SELF-REPORT DEMOGRAPHICS**

Annual demographic data on UCS judicial and non-judicial staff. Together, this data permits a complete overview of the demographic composition, as voluntarily self-identified, of UCS judges and employees, which can be localized as desired by the user of the tool.

### **LIMITED ENGLISH PROFICIENCY (“LEP”) REPORT**

Annual data on court interpreter assignments for the state-paid courts. This provides a breakdown by court, and number of assignments, as well as language, for every interpreter assignment.<sup>43</sup>

### **STATEWIDE EVICTIONS DASHBOARD**

Weekly updated data on landlord-tenant eviction cases filed since January 2019 in City, District and Town and Village courts statewide. This dashboard provides comparisons to U. S. census data used to identify rates of eviction proceedings, so that the user can judge the relative frequency of evictions by zip code. This dashboard can also generate reports that provide a baseline of pre-pandemic filings and enable users to identify trends and geographic hot spots in a specific locale.

### **OTHER DASHBOARD ITEMS TO BE ADDED**

Court Research confers with court leadership and Counsel’s Office with regard to the feasibility for making other forms of data publicly available.

## **ENSURING THE ACCURACY AND COMPLETENESS OF COURT DATA: THE ADOPTION OF UCMS**

The Special Adviser stressed the need to ensure the accuracy and completeness of data entry in criminal cases. One of the primary factors affecting the accuracy of court data entry has been the use of outdated and differing data systems by local and Supreme and County criminal courts. These systems lack uniform data fields and values, quality controls and validations. To remedy this, the Division of Technology (DoT) has been working for over the past several years to standardize the case management system used to collect criminal data by implementing its Universal Case Management System (UCMS) in City, District, and Supreme and County criminal courts.

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43. Interpreter assignments are discussed further in [Section 7](#).

## **UCMS ADVANTAGES**

UCMS is a modern, user-friendly, streamlined case management system that ensures the accuracy of data entry by including standardized dropdown menus, quality controls and validations. The additional controls and validations have led to significant improvements in data quality, timeliness and overall criminal disposition reporting.

## **UCMS TO BE USED IN ALL NYS COURTS**

While the Special Adviser's Report specifically addressed data issues in the criminal courts, it is worth noting that DoT has been working consistently over the past several years to improve data accuracy in all court types – not only in criminal courts - by implementing UCMS statewide. As of 2021, UCMS is running in all courts with the exception of approximately half of the Supreme and County courts. All Supreme and County Criminal courts will operate on UCMS by December 2021. All Supreme and County Civil courts will operate on UCMS by December 2022.

## **ENSURING TRAINING ON DATA ENTRY OF COURT DATA**

The Special Adviser's Report discussed the need to ensure proper data entry training in the criminal courts. Data entry training in the criminal courts, as well as the other court types, is continuous:

- Prior to UCMS implementation, DoT and Court Research conducted formal, scenario-based training to individuals identified by court administrators who would then train the data entry staff.
- To assist with training, all data entry staff are provided access to a training database where they can learn the UCMS application and practice data entry.
- To facilitate ongoing training for both new and current data entry staff, user guides are made available in the help menu of UCMS. The help menu also contains short videos to demonstrate specific tasks within UCMS, as well as reference materials related to those videos.
- When there are new court or legislative initiatives requiring additional data collection in the court case management system, or it is learned that there is a data entry issue resulting in data not being properly entered, relevant staff receive training via written instructions, virtual training sessions or both. Additionally, DoT and Court Research work daily with the data entry supervisors statewide to remedy identified concerns.

## 7. ENHANCING LANGUAGE ACCESS

The Division of Professional and Court Services (“DPCS”) administers a wide array of court offices, programs and initiatives with the goal of providing efficient, effective, quality service consistent with the goals of equal justice. The Office of Language Access operates within DPCS.

The Office of Language Access (OLA) assists in the development and implementation of policies and best practices to ensure that persons with Limited English Proficiency (LEP), or who are deaf or hard of hearing, have equal access to the courts and available court services. In March of 2017, the New York State Advisory Committee on Language Access issued its most recent report, *Ensuring Language Access, A Strategic Plan for the New York State Courts*, focusing on issues surrounding access to interpreters and quality of language services in the court system.

The Special Adviser’s Report endorsed the Strategic Plan currently being implemented by DPCS, and also noted complaints about the disparate treatment of interpreters.<sup>44</sup>

### INTERPRETATION AND TRANSLATION SERVICES

OLA actively promotes equal justice in the courts through the implementation of recommendations contained in the March 2017 *Ensuring Language Access Strategic Plan for the Courts*.<sup>45</sup>

#### **TRAINING**

Training judicial and non-judicial staff to work with interpreters is a current priority. The 2021 OLA Judges Seminar included a program on working in the virtual environment, the need for consecutive mode of interpretation, preparation for the interpreter and the court user, and working with deaf court users and with sign language interpreters. This presentation was recorded on June 17, 2021. Trainings such as these are divided into segments and posted on the OLA and Training and Professional Development websites. (Nearly all DPCS future trainings that were previously done live, including court interpreter ethics and clerk’s conference presentations can be done virtually and be recorded in order to expand the reach of attendees.) This training is also available on the Judicial Institute’s website.

#### **ASL GUIDE**

OLA and the Statewide ADA Coordinator worked together this past year to develop *A Guide to ASL [American Sign Language] Interpretation in the Virtual Courtroom*.<sup>46</sup> The Guide provides helpful tips on working with deaf court users in the virtual courtroom. Much of the information provided in this guide is also applicable for in-person proceedings.

#### **BEST PRACTICES TRAINING**

OLA has developed a new training for Court Officers and planned a dedicated annual timeframe at the Court Officer’s Academy and New Employee Orientations to discuss best practices in working with Limited English Proficiency (“LEP”) and Deaf court users. Timeframes are now being established for conducting Transition to Supervisor trainings for Senior and Principal Court Interpreters.

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44. [Special Adviser’s Report](#), pp. 76, 91.

45. <http://ww2.nycourts.gov/sites/default/files/document/files/2018-06/language-access-report2017.pdf>

46. <https://www.nycourts.gov/LegacyPDFS/COURTINTERPRETER/ASL-Virt-Interpret-Guide.pdf>

## **NEW SIGNAGE**

Great progress has been made in the production of signage in the languages most frequently spoken within each Judicial Department. OLA works with the Translation Committee (formed pursuant to the *Ensuring Language Access Strategic Plan for the Courts*), which submitted its report to the Chief Administrative Judge in March 2021 containing recommendations intended to promote equal justice through effective signage. The following has thus far been accomplished:

- As of August of 2018, “Interpreters are available at no cost” signage has been distributed to all courts. Each sign has a blank space in the middle in which the court can add a phone or room number that a court user may call or visit. The signs were created with the six most requested languages in each Judicial Department.<sup>47</sup>
- Informational materials (“palm” cards) describing the functions of court interpreters are distributed to the courts, to be made available at court Help Centers, Pro se offices, courtrooms and other areas of the court. The palm cards also list resources for submitting comments, questions or concerns.
- Additional plain language signage is being considered by the Translation Committee and the Advisory Committee on Language Access at their upcoming meetings.

## **LEP DASHBOARD**

DoTCR has created a LEP dashboard to help OLA keep better track of the number of court users that require language access. The interpreters’ electronic scheduling system was enhanced to include a field where these numbers are now entered for every court interpreter scheduled. Rather than simply tracking interpreter assignments to courts, OLA now records and retains the number of individual court users provided with interpreter assistance, as well as the specific language service provided.

## **REVISED COMPLAINT PROCESS**

OLA has revised the process for submitting language access complaints. There is now a user-friendly complaint form with questions in plain language that a court user can complete. There is also an email address where complaints can be sent. The form and instructions are available on both internal and external UCS websites.

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47. First Department: Spanish, Chinese, French, Arabic, Bengali, Korean; Second Department: Spanish, Chinese, Haitian Creole, Russian, Polish, Arabic; Third Department: Spanish, Arabic, Chinese, Korean, Russian, Burmese; Fourth Department: Spanish, Arabic, Somali, Burmese, Korean, Nepali

## 8. DIVERSITY AND INCLUSION IN RECRUITING AND HIRING

The Division of Human Resources (“HR”) is charged with providing support services to the court system for personnel administration, benefits administration, labor relations, peace officer training, career services, and professional development and equal employment opportunity policies. Human Resources professionals provide outreach and consultation to judges, court administrators, court personnel, union representatives and members of the public. The Division’s activities are primarily designed to support the court system’s workforce in all aspects of employment.

In the last year, HR has worked to improve diversity and inclusion within human resources practices as recommended by the Special Adviser for Equal Justice in the Courts. HR has enhanced communication between the Division and HR administrators in the districts and courts throughout the State. UCS policies and other information are now routinely posted on HR notes to ensure open access. To further improve communications, HR has collaborated with the Office of Diversity and Inclusion to communicate policies and practices to fraternal organizations to ensure employees understand the civil service system and the HR practices and policies of the Unified Court System. The Division has presented programs on topics such as the hiring process, recruitment, and the classification system.

In addition, HR has increased transparency by publishing workforce statistics on the UCS website. These statistics are available to the public and provide a detailed picture of the workforce in each judicial district and court. HR implemented an electronic EEO information survey tool to facilitate data collection for applicants, interviewees and new employees. HR has provided information to offices such as the Williams Commission, judge’s associations and the ODI that ensures that stakeholders are up to date on workforce metrics.

The HR internal website and the Careers website have been expanded to include information that allows employees and the public to have a clear understanding of our policies and practices including on the testing, interviewing and classification process. Communication is the key to ensuring that our hiring practices are more user friendly. HR is working with the UCS Division of Technology (DoT) to create an employee portal website that will enable UCS employees to access important HR policies and documents outside of regular work hours.

HR and DoT developed an on-line application system that will reduce application barriers for job seekers. Similarly, HR computerized civil service exams and contracted with a test delivery vendor to increase access to exams by offering longer testing windows and local test center sites. To ensure that the widest possible audience is aware of examination opportunities, HR will continue to use email communications with employees, social media outreach, post on online job sites such as *Handshake*, and work with fraternal groups and the ODI to promote examinations.

### OUTREACH

#### **OUTREACH AND COMMUNICATION STRATEGIES**

HR uses a variety of media and recruitment strategies to advertise open positions, as well as to provide information about upcoming civil service examinations. Media and information strategies include: posting on social media, working with a public relations agency to develop a campaign for recruitment, posting on recruitment sites such as *Handshake* (college recruitment website), using text notification service (*Textedly*), attending career fairs, providing recruitment

materials and strategies to District Executives and each judicial District's Chief Clerks, providing recruitment materials to assure that they are appropriate for the intended audience, targeting advertisements in upstate regions including in local papers and on Craigslist, providing recruitment materials to fraternal and affinity organizations and unions, and sending email blasts to current UCS employees.

### **WORK WITH AFFINITY GROUPS**

HR and ODI continue to share information with court employees and the public about HR initiatives, such as new interview forms and ratings, civil service exams and promotional materials. HR and ODI have worked with fraternal organizations to provide information on the UCS job classification process, competitive and non-competitive hiring, recruitment, promotional examinations and interview skills. HR participates in virtual outreach with community leaders and with career fairs and college fairs.

### **BEST PRACTICES GUIDE**

In February 2021, HR surveyed human resource administrators, court clerks, and District Executives to identify effective diversity recruitment strategies. HR hosted a "Best Recruiting Practices" roundtable with executive and human resources managers in May 2021. Finally, ODI, statewide court managers and local HR offices developed a "best practices" guide for recruiting diverse applicants. The guide was distributed to all court managers in August 2021.

### **ENHANCED INFORMATION ON WEBSITES**

HR updated its Inside UCS intranet site to include additional information on interview practices, selection process, civil service examination content, the UCS job classification process, EEO data collection process and to specifically include and describe UCS diversity initiatives. In addition, HR updated the public-facing Careers websites. To increase visibility and access to the Careers page, the website is now featured on the main UCS home page under "Job Opportunities". New Careers pages include an interview resources guide, an employment guide, career paths guide and an exams guide. The interview resources page outlines the interview process and includes interviewing FAQs along with resume and interviewing tips. The employment guide explains the UCS hiring process through the competitive and non-competitive title tracks. The Career Paths page describes the types of UCS jobs (e.g., court operations, legal) including qualifications and hiring process for the main UCS title series. The Exams page was expanded to include an explanation of the civil service examination process, exam FAQs and exam study guides. The exam study guide page includes test content, scope of exams and sample examinations for all open-competitive and promotional examinations.

### **PLAIN LANGUAGE REVIEW**

HR and ODI are working to ensure potential and current employees' awareness of current job opportunities, the civil service system and HR's practices and policies, including job classification and reclassification. HR and ODI review all job descriptions, hiring requirements, title standards, and job postings for biased-verbiage, gender-neutral language, acknowledgment of disability issues, and to assure that all descriptions are in plain language.

### **24-7 HR WEBSITE ACCESS FOR UCS EMPLOYEES**

HR and the Division of Technology and Court Research are creating an employee portal website to enable UCS employees to access important HR policies and documents outside of regular work hours from a non-UCS computer.

# INTERVIEWS AND EXAMS

## INTERVIEWS

HR has updated its job and promotional interview practices to foster diversity and inclusion.

- **Structured Interview Process Training.** HR developed and implemented structured interview process training for interview panels, which has been designed to foster inclusion.
- **New Interview Forms.** Structured interview forms were created to include diversity-related questions and ratings.
- **Diverse Interview Panel Composition.** All interview panels reflect diversity by having at least one person of color and one woman on every panel.
- **Court Officer Background Investigation Anti-Bias Procedures.** Policy implemented to remove identifying information of court officer candidates to ensure neutral review of background investigation reports.
- **Interview Preparation.** HR developed a “What to expect when you go on an interview” packet to be distributed to candidates prior to interviews, which will be widely shared with fraternal organizations and the public. It is also available on the external Careers website and accessible to candidates.

## EXAMINATIONS

- **Adverse impact analysis of all employment exams** has been performed by a team of Industrial and Organizational Psychologists in the HR Exam Development Office. Adverse impact analysis is also conducted on all phases of the court officer selection procedures. HR will continue to monitor civil service examinations and the court officer selection process for adverse/disparate impact.
- **Improved access to civil service examinations** by converting paper-and-pencil exams to computer-based testing with flexible testing windows and more locations throughout the state.
- HR created a **civil service page** with exam content and sample test materials for all open-competitive and promotional examinations. The Exam page includes FAQs about the civil service examination process, test content and practice exams.

## ANTI-DISCRIMINATION TRAININGS

HR developed and has provided mandatory training for judges and the entire UCS workforce on sexual harassment policies.

## DATA TRANSPARENCY AND ANALYSIS

A dashboard of demographic data relating to UCS employees is now fully available on the UCS website. Examples of these statistics are provided as [Appendix E](#) to this report. This data is available to the public and provides a detailed demographic picture of the judiciary and non-judicial workforce in each district and each court. HR is also working to improve transparency through the use of the following tools:

**Application Demographic Information.** HR implemented an electronic EEO information survey tool to facilitate data collection for applicants, interviewees and new employees. HR has shared this information with the Williams Commission, judges’ associations and ODI to ensure that these stakeholders are up to date on UCS workforce metrics.

**Data Analysis.** HR routinely conducts data analysis relating to the composition of the UCS workforce and provides reports on judicial and non-judicial diversity data for, among others, the Equal Employment Opportunity Commission (EEOC), the United States Department of Justice (Grants & Contracts), special interest groups and affinity organizations, and the Williams Commission.

**Use of Census Data to Assess Diversity Initiatives.** HR is analyzing newly released United States Census Bureau demographic data and American Community Survey (ACS) labor statistics. The data will be compared with UCS workforce data to create organizational metrics. These metrics will determine the success of UCS's diversity recruitment efforts.

## **9. FOSTERING TRUST BETWEEN COURT OFFICERS AND THE COMMUNITY**

The UCS Department of Public Safety ("DPS"), headed by Chief Michael Magliano, is responsible for safety and security within the state's courts, including by training and providing a uniformed staff of court officers. DPS is responsible for developing uniform guidelines, policies, and procedures for ensuring safety throughout the UCS. The Chief of Public Safety is responsible for developing standards and curricula for the Court Officers Academy, and for the Court Officers Rules and Procedures Manual. DPS also serves as a liaison between the law enforcement and public safety community at the local, state, and federal levels.

The Special Adviser's Report largely focused on public and stakeholder interactions with UCS Court Officers and other uniformed personnel. Recounting multiple stories from all sectors the Special Adviser found that the "mistreatment of litigants of color, their families, and attorneys of color is a significant barrier to achieving equity in the court system." Accordingly, the Special Adviser made several recommendations aimed at enhancing trust between court officers and the community. DPS and UCS's Executive Office have taken the following steps to implement these recommendations.

### **ENHANCED TRAINING**

All court officers will now be provided with mandatory training to address issues of implicit bias, cultural awareness, and basic tenets of customer service. This training program has been specifically developed for New York State Court Officers and has been implemented for the incoming class at the Court Officers Academy. Additional mandatory training programs are being developed in consultation with the Perception Institute and other experts.

### **TRAINING LEADERS**

DPS is currently identifying and developing court officers to help craft specific strategies for outreach in their communities and to lead and coordinate our community affairs programs at the local level.

## **NEW COURT OFFICER MANUAL**

In addition to new trainings, UCS is developing a new court officer's manual that will include anti-bias materials. UCS has contracted with a firm that specializes in advising organizations on law enforcement policies and procedures. They have been tasked with rewriting the new manual, updating every section including tasks and responsibilities, safety and security, use of force and adding new directives on such items as the proper use of social media. They will be working with a cross-section of judges and employees, with varying employment experiences, backgrounds, and expertise, who will advise, assist and provide initial approval of the revised manual.

## **NAMETAGS**

As of April 2021, all uniformed personnel are now required to wear nameplates on their uniforms while on duty. Our court officers serve as the public face of our court system and are often the first individuals the public encounters upon entering our facilities. Wearing a nametag fosters an environment of trust and accountability. Being able to address a court officer by their name is humanizing and assists court users in feeling safe and welcomed.

## **COMMUNITY AFFAIRS PROGRAM**

A new position of Community Affairs Officer is being established in every court facility in the state. This Fall, DPS will train and appoint several Community Affairs Officers, who will be stationed at information desks in courthouse lobbies to greet members of the public and to provide basic information and assistance. In early 2022, Community Affairs Officers will be stationed in courthouses throughout the state and will participate in other DPS outreach programs.

## **OUTREACH EVENTS**

Since the release of the Special Adviser's Report, representatives of DPS have participated in a variety of community events including a NYC virtual meeting of Community Board Presidents, the NYPD's Women's Recognition Luncheon, the Garden of Dreams park rebuilding in Bronx County, a National Night Out Against Crime in Onondaga County and several food pantries.

## 10. BUILDING ON THE UCS COURT NAVIGATOR PROGRAM

“As early as 1991, the Williams Commission called for measures to make the courts more ‘user friendly.’”<sup>48</sup> A frequent theme among those interviewed by the Special Adviser and his team was that for many litigants of color, the first experience with the court system is often a negative or traumatizing one because of hostile interactions with security staff or a lack of informational resources. Hence, the Special Adviser recommended that OCA designate “an individual within each courthouse to welcome litigants and answer basic questions about how to navigate the building and adhere to general procedures and practices.”<sup>49</sup>

The Office for Justice Initiatives’ Court Navigator Program, which is being expanded statewide, is uniquely designed to provide the supportive, user friendly service envisioned by the Special Adviser. The role of a Court Navigator is to empower unrepresented court users to fully express their objectives and concerns when appearing in court. Court Navigators aid court users by providing general information and resources, organizing paperwork, explaining what to expect during a court proceeding and by providing moral support.

### INITIAL OPERATION AND SUCCESS

UCS launched its Court Navigator Program in February 2014 to provide free non-legal support and assistance for unrepresented New York City litigants in housing and consumer credit cases.

In 2018, OJI created a robust internship program in partnership with local colleges and organizations, including APPLE Corps at John Jay College and the New York City College of Technology. Through participation in the Court Navigator Program, students earn school credit for their service and have the unique opportunity to obtain firsthand experience in the court system. While many Navigators are undergraduate students, the program is open to any qualified non-attorney volunteer.

In January 2020, the Navigator program was expanded to Westchester County’s Family Court and the White Plains City Court Housing Part, but was suspended shortly thereafter due to the pandemic.

### VIRTUAL COURT NAVIGATOR PROGRAM

Pivoting by necessity, OJI launched a virtual version of the Navigator program in June 2021. Conceptually identical to the in-person model, the Virtual Court Navigator Pilot Program incorporated technological supports to improve court user experience. Using Microsoft Teams, court users connected with Court Navigators to receive many of the same services provided in actual courthouses.

For the pilot program, John Jay College APPLE Corps interns, attended a comprehensive week-long training that included sessions on topics such as Virtual Appearances on Microsoft Teams, DIY (Do-It-Yourself) Form Programs, the New York State Electronic Filing System (NYSCEF), the

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48. [Special Adviser’s Report](#), pp. 99.

49. [Special Adviser’s Report](#), pp. 99.

Electronic Document Delivery System (EDDS), and trauma-informed interactions. The training also provided substantive and procedural information related to case filings in the 9th Judicial District (a pilot location), Erie County Surrogate's Court (a pilot location), New York State Surrogate's Courts and New York City Housing Court.

During the two-month pilot, Navigators assisted court users from nine NYS counties with matters involving custody and visitation, child support, divorce, housing, small estates, parentage and name change, and provided tutorials on navigating virtual appearances.

## **THE COMMISSION TO REIMAGINE THE FUTURE OF NEW YORK'S COURTS AND A MODERNIZED COURT NAVIGATOR PROGRAM**

In June 2020, Chief Judge DiFiore established the Commission to Reimagine the Future of New York's Courts. The commission, chaired by former New York State Bar President Henry M. Greenberg, is comprised of judges, lawyers, academics and technology experts. The Commission's charge is two-fold: To offer short-term recommendations to assist UCS with safely managing its return to in-person operations and to formulate a long-term blueprint for creating the court system of tomorrow.

The Commission's Working Group on Regulatory Innovations is charged with exploring regulatory and structural innovations to more effectively adjudicate cases and improve the accessibility, affordability and quality of services for all New Yorkers. In its December 2020 report, the Working Group made two relevant recommendations for increasing access to justice in New York's courts and for improving the delivery of legal services: trained and certified social workers should be permitted to provide limited legal services and advocacy; and the Court Navigator Program should be expanded statewide to include all high traffic courts.

The Office for Justice Initiatives is building broader virtual capacity for the Navigator program taking into account relevant data that will inform need and feasibility. When circumstances permit, OJI will work with the various Judicial Districts to develop accompanying in-person versions of the modernized program. This flexible model not only creates a more welcoming and well-informed experience for court users, but also serves to improve efficiency by improving the confidence and preparedness of unrepresented litigants.

# A SUSTAINED COMMITMENT TO RACIAL EQUITY

This past year has been a challenging one. The Unified Court System has worked hard to reckon with the harsh realities addressed in the Special Adviser’s Report and to embrace its responsibility to meet this moment in our history with honesty and with integrity. As the Special Adviser declared in his report, “this is a moment that demands a strong and pronounced rededication to equal justice under law ... [and] credibility will only be earned if the public [as well as the UCS court family] see both strong commitments to reform at the front end and a sustained effort to follow through on those commitments...”<sup>50</sup>

The court system has taken significant steps to confront those conditions within our control that have fostered an environment where a “second-class system of justice for people of color” has been able to exist.

This historic endeavor is one of enormous complexity and consequence. We recognize that the steps we have taken since October 2020, while substantial, are but a beginning. Racial bias and discrimination take many forms and have many layers. Our approach to eradicating bias in our court system, therefore, must also be multi-faceted and multi-layered. We will attempt new interventions, some of which may not work. Where we fall short — we will restart.

The Special Adviser reminds us throughout his report that attention and accountability must be at the forefront of our continued work. The Unified Court System’s leadership understands and expects that our communities, court system stakeholders and members of our own court family will hold us responsible for fully implementing the Special Adviser’s recommendations. We stand resolutely behind the commitment we make in our new mission statement: To promote a court system free from any and all forms of bias and discrimination, to promote a judiciary and workforce that reflect the rich diversity of New York State and to ensure that all who enter or serve in our courts are treated with respect, dignity and professionalism.

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50. [Special Adviser’s Report](#), pp. 8-9.

# APPENDICES

## APPENDIX A: FURTHER ADDRESSING BIAS IN THE COURT SYSTEM



*Janet DiFiore*

*The Chief Judge of the State of New York  
and  
The Chief Administrative Judge*

*Lawrence K. Marks*

### MEMORANDUM

February 3, 2021

TO: Judges and Non-Judicial Personnel of the Unified Court System

FROM: Janet DiFiore *JDF*  
Lawrence K. Marks *LM*

SUBJECT: Further Addressing Bias in the Court System

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As you know, last October we received a report from former U.S. Secretary of Homeland Security Jeh Johnson, acting as the Chief Judge's Special Adviser on Equal Justice in the Courts, that presented a broad, independent, in-depth review of court system policies, practices, rules and programs as they relate to issues of racial and other bias. The Johnson Report contained a set of practical recommendations aimed at advancing diversity and inclusion within the court system and ensuring equal justice under the law. We are pleased to report that Deputy Chief Administrative Judge Edwina Mendelson has been overseeing our day-to-day efforts to implement and expand upon the Report's recommendations to the fullest extent possible.

One important recommendation in the Johnson Report is to strengthen current court system practices investigating bias complaints against court personnel. Recently a matter was brought to our attention that strongly illustrated this point. Last spring our Inspector General's Office received a complaint alleging that a court employee had posted an extraordinarily insensitive comment to a widely publicized photo of George Floyd in police custody -- with a police officer kneeling on his neck -- shortly before his death. Following an IG investigation, disciplinary charges were filed against the employee; and thereafter, the matter was settled through stipulated penalties and without a hearing. This was a mistake. While settlement of disciplinary matters can serve appropriate goals, settlement of cases involving allegations of racial or other bias inevitably fosters a perception that such conduct, though penalized, is nonetheless tolerated within our ranks. It is not. As the Johnson Report underscores, the perception of such tolerance is pernicious and long-lasting, and seriously impacts the court system's ability to conduct its public mission in a manner that truly honors the dignity of all who serve it and appear before it.

Consequently, and commencing immediately, we will require a full disciplinary hearing in all matters where an Inspector General investigation has substantiated a claim of discriminatory conduct by a UCS employee. Those disciplinary proceedings will be conducted in full conformity with the procedures set forth in our collective bargaining agreements, and will comport with all dictates of due process. Upon a finding by a hearing officer sustaining a charge of discriminatory conduct, the respective Deputy Chief Administrative Judge (either inside or outside of New York City, depending on the employee's location) responsible for reviewing the hearing officer's findings and recommendations shall consult with a special panel consisting of the other Deputy Chief Administrative Judge, the Deputy Chief Administrative Judge for Justice Initiatives and the Director of the court system's Office of Diversity and Inclusion. The special panel will advise on the appropriate penalty to be imposed. This will promote both statewide consistency and the broadest possible scope of collective wisdom and experience in this critical area.

Another of the Johnson Report's central recommendations is mandatory anti-bias training for all court system personnel. Such training is currently being developed, and you will be receiving more information about this in the coming weeks. In the meantime, however, those court officials who participated in the ill-advised decision to settle the aforesaid disciplinary matter will be participating in immediate anti-bias training.

In addition to these developments, we are issuing today the attached anti-discrimination and anti-harassment policy applicable to all non-judicial and judicial UCS personnel. This policy prohibits communication that demeans or disparages others on the basis of race, sex, gender identity, and a host of other personal attributes. The policy restates and reemphasizes an undeniable truth: service in the court system carries concomitant responsibilities of public conduct, including the responsibility to maintain the reputation of the courts as a forum where all participants are treated with equal dignity and respect, both inside and outside the workplace, both in person and on social and other media. Where comment projects racist or other offensive sentiments, its impact upon the courts is immediate, irreparable and completely unacceptable. As we have stated in the past, our approach toward such behavior must be "zero tolerance". Our policy will help to detail the expectations and standards that all court personnel must meet.

We will be sharing additional details with you in the coming weeks as we further proceed with implementation of the Johnson Report recommendations. As we move forward, we thank you for your support and assistance in fulfilling our court system's most important and fundamental responsibility: the assurance of equal justice under law.

Attachment

### UCS Anti-Discrimination and Anti-Harassment Policy

The New York State Unified Court System (UCS) affirms its zero tolerance for any and all forms of bias, discrimination or harassment. We hereby renew our collective commitment to ensuring equal employment opportunities and a bias-free environment for all UCS personnel, litigants, lawyers, job applicants and other members of the public. UCS embraces its duty to promote a court system free from all forms of discrimination and bias based upon race, color, national origin, religion, creed, sex (including sexual harassment), sexual orientation, age, marital status, disability, genetic status, gender identity or expression, or domestic status. UCS recognizes and will uphold every individual's right to be treated with respect and dignity, and to work in a professional atmosphere that promotes fairness and equality.

UCS personnel must conduct themselves in a manner consistent with UCS policies and Rules, and with an understanding of their duties and responsibilities as public servants. Accordingly, all UCS personnel should take time to revisit the provisions of the UCS Employee Handbook, Sexual Harassment Policy & Procedure, Discrimination Claim Policy & Procedure, E-Mail and Internet Policies, as well as the Rules of the Chief Judge and Rules of the Chief Administrator, e.g. Part 50 and Part 100, as may be applicable to their position with the UCS, and which further maintain standards to promote public confidence in a fair, impartial, and independent court system and judiciary.

All UCS personnel are hereby reminded that engaging in conduct that is threatening, harassing, demeaning, bullying, or disparaging on the basis of race, color, national origin, religion, sex, sexual orientation, age, marital status, disability, genetic status, gender identity or expression, or domestic violence status, whether in-person, online or through any other verbal, written or electronic means, is a violation of UCS policies and Rules. Such discriminatory, harassing, threatening, or disparaging communications or materials include, but are not limited to, epithets, slurs, negative stereotyping, demeaning jokes, and vulgar, profane, insulting, or offensive language or content showing hostility or aversion toward an individual or group on the basis of the above.

UCS personnel who are found to have engaged in conduct that violates UCS policies and/or Rules against harassment and discrimination will be subject to appropriate administrative, remedial and/or disciplinary action, including termination.

Bias, discrimination, or harassment by or against UCS judicial or nonjudicial personnel will not be tolerated.

## **APPENDIX B: LOCAL EQUAL JUSTICE COMMITTEES**

### **NEW YORK CITY**

#### **Civil Court of the City of New York**

The mission of the Civil Court Equal Justice Implementation Group (EJIG) is to suggest ways to eliminate racism, bias, and sexual harassment in the local courthouses. Members of the EJIG include court personnel from all five boroughs, covering a broad range of titles from both Civil Court and Housing Court. The EJIG has been meeting since March 2021, and has met with several court leaders including Judge Mendelson, Justice Webber, Tony Walters and Kay Ann Porter, Esq. to get a full understanding of the parameters of the Committee and existing OCA's policies, resources, and programs. The EJIG has also met with the attorney for the young man who appeared in New York City Family Court and was the subject of an inappropriate comment made on the record by a court clerk, as well as John Caher of the Office of Court Administration to discuss the communication options available to disseminate information. Within the EJIG, the following four sub-committees have been formed: best practices committee, video committee, communications committee, and a social media committee.

#### **Family Court of the City of New York**

With their inaugural meeting in November 2021, the Family Court Equal Justice Committee is coordinating citywide efforts to develop programs that will address the types of bias that have been displayed by some within the court. Many of these programs will be educational and will incorporate Disproportionate Minority Representation (DMR) issues.

#### **Criminal Court of the City of New York**

The goal of the New York City Criminal Court Equal Justice Committee is to facilitate the implementation of the recommendations set forth in the Report of the Special Advisor on Equal Justice in the Courts, with representation from every court staff position. The Committee's specific goals include addressing issues of implicit bias facing interpretation services staff, facilitating navigation of courthouses, forwarding all instances of racial bias and discrimination to the Managing Inspector General for Bias Matters, renewing a focus on diversity in interview panels and recruitment efforts, and maintaining and forging relationships with court partner agencies.

#### **New York County Supreme Court, Civil Term**

The Equal Justice Committee held its inaugural meeting in September 2021. At that meeting, the Committee discussed the New York County Supreme Court's commitment to zero tolerance for all forms of racial bias, discrimination, and harassment. The Committee emphasized the need for Equal Justice Champions – such as the Committee themselves – to represent the court and underscore the court's commitment to work toward the eradication of bias in our justice system. Some ideas being considered in service of this goal include implicit bias training sessions, educating court staff on how to recognize and address racial bias, meeting with the Unified Court System Inspector General, practices to increase diversification in the workforce, creating programs to assist court users in navigating courthouses, and holding regular town hall meetings to openly discuss issues of fairness and equity.

### **New York County Supreme Court, Criminal Term**

The New York County Supreme Court, Criminal Term has been meeting regularly since the onset of the COVID-19 pandemic in March 2020 to discuss court operations. Since the release of the Report of the Special Advisor on Equal Justice in the Courts and the commencement of the Equal Justice in the Courts initiative, that regular meeting has expanded to include matters concerning equal justice and the zero-tolerance policy for racial bias, which extends to all those working in the court system. Mandatory anti-bias education will be incorporated into the training for all new employees, including 16 recently hired Senior Court Clerks, as well as veteran employees. The Committee has undertaken initiatives such as working with the Commissioner of Jurors to ensure that all jurors are shown the implicit bias video before voir dire, monitoring concerns regarding social media as a source of racial bias and improving diversity and inclusion within human resources practices by making diversity a serious consideration for the court's leadership. Going forward, the Committee is planning other diversity initiatives and programs that will highlight the importance of diversity in the courts.

### **Bronx County Supreme Court, Civil Term**

The Equal Justice Committee in Bronx County Supreme Court, Civil term meets quarterly to discuss and explore the findings in the Report of the Special Advisor on Equal Justice in the Courts and how to best implement the recommendations made in the Report. The Committee, which first convened in July 2021 to meet with Judge Mendelson, includes members of both court staff and the local community.

### **Queens County Supreme Court, Criminal Term**

The Queens County Supreme Court, Criminal Term group recently selected a Court Officer to serve as the Equal Justice Committee representative and have prepared their Court Officers at the Courthouse front entrance to greet and assist all incoming court users. Technology is made available for family members or any other court users who are not otherwise able to view a live proceeding. Queens County Supreme Court, Criminal Term has also reaffirmed its commitment to ensuring diversity among court staff.

### **Richmond County Supreme Court**

Judicial and non-judicial volunteers from Richmond County Supreme Court serve on their local Equal Justice Committee since June 2021, committed to ending discrimination and bias in the court. New programs and developments undertaken in Richmond County include recruitment and information efforts in local businesses, schools and religious institutions, renewed focus on improving diversity and inclusion within HR practices, developing plans to foster relationships between court officers and the community, offering a series of panel discussions centered on diversity, equity, and inclusion, and facilitating courthouse navigation through including rotating front door officers to greet and field questions from court users, as well as installing rooms with access to TEAMS, printers and telephone equipment to connect language services.

### **3rd Judicial District**

The 3rd JD's Equal Justice Committee was created in early 2021 and consolidated six already active subcommittees doing a variety of this work. Within the 3rd JD, Equal Justice Committee members have presented to middle school, high school, and college students to raise awareness about career opportunities in the courts. The 3rd JD's goal is to promote diversity within its District by reaching out to potential applicants before they have settled into their career choices. Additionally, the 3rd JD has provided implicit bias training in conjunction with the Legal Aid Society of Northeastern New York and with In Our Own Voices, a non-profit LGBTQ advocacy organi-

zation. This training has been mandatory for judges and managers since 2019 and has since been provided to both front line and back-office staff of the district, including Court Officers. The District has also created a program to provide remote court access for community members who would not otherwise have such access. Finally, the District is developing a therapy dog program in Family Court to provide comfort to court users upon request.

#### **4th Judicial District**

The 4th JD's Equal Justice Committee had its inaugural meeting in September 2021. The Committee, as well as the District's Chief of Security, undertook a listening tour of the District's eleven counties, including its City, Town & Village courts. Additionally, the Committee has invited representatives from the 3rd and 6th Judicial Districts to present on the equal justice initiatives in their own Districts, with the aim of providing guidance for the development of similar programs and initiatives in the 4th Judicial District.

#### **5th Judicial District**

Immediately after Chief Judge DiFiore's declaration of zero tolerance for bias and discrimination in our Courts and commitment to addressing the issues identified in the Report of the Special Advisor on Equal Justice in the Courts, the "5th District Equal Justice for All Think Tank" was established to review all current practices, protocols and procedures in the District with a goal of eliminating any implicit or systemic bias and discrimination in Court operations. Letters of interest were requested from court employees, attorneys, bar associations, stakeholders and court users, and of those, 25 members were selected to the Think Tank from throughout the District. The Think Tank meets regularly to develop a strategic plan for the District, and most recently convened to hear from Gwen McLeod Webber, founder of Gwen, Inc., which conducts seminars, trainings and discussion on implicit bias, equity, and inclusion. A group of Think Tank members will also be touring the District's courthouses to get feedback from local stakeholders and staff as to how to make their courthouses more welcoming and easier to navigate. This tour will be accompanied by a survey for court users and stakeholders.

The Think Tank has also established several subcommittees to address specific recommendations. These subcommittees have met multiple times and submitted summaries and recommendations as of September 2021:

- Court Operations/Policies/Procedures
- Training
- Promoting Existing Institutions
- Translation and Interpretation Services
- Data Collection
- Improve Diversity and Inclusion within HR practices
- Community Engagement with Court Officers

#### **6th Judicial District**

The 6th JD, which includes ten counties, was among the first to establish a local Equal Justice Committee, first meeting in April 2021. The Committee has successfully developed and operated a Court Officer Pilot Project. Focusing on a customer service approach, the 6th JD aimed to immediately and tangibly improve every court user's experience at the initial point of contact, and to increase and improve the quality of interactions between officers and the public. Now in its second phase, the Court Officer Pilot Project uses a simple script to emphasize positive statements, provide basic information and to ask how the Court Officer can be of assistance to the court user. The project also requires that commanding officers set the example by being the first to act in this new role. The 6th JD is also sponsoring displays within their courthouses that

highlight diversity and is organizing its own community outreach program for court officers modeled upon efforts undertaken in other judicial districts – in particular, the community outreach program in New York City.

### **7th Judicial District**

The 7th JD’s Administrative Judge’s Task Force has a wide array of committees and working groups comprised of Judges, non-judicial court staff, and community stakeholders, which oversee a variety of projects and initiatives. Although some of these initiatives predate the Report of the Special Advisor on Equal Justice in the Courts, as of early 2021, the Task Force has restructured itself to focus on immediate ways to enhance diversity, eliminate bias, and promote trust and equity as part of the Equal Justice in the Courts Initiative. These committees and working groups include:

- Diversity and Inclusion Awareness & Education
- Sitting Judge Implicit Bias Observation Project & Real-Time Focus Group to Eliminate Implicit Bias, Enhance Trust, and Promote Equity and Diversity (“REEP”)
- Justice, Understanding, Societal, Trust (“JUST”) Law
- Bridges to Justice
- Justice for All Leadership Advisory Council
- Doors to Justice
- Workforce Diversity Committee

### **8th Judicial District**

In adopting a more structured approach to the recommendations of the Report of the Special Adviser on Equal Justice, the 8th JD’s Diversity Steering Committee (and other 8th JD Committees focused on equal justice) is transforming into the 8th Judicial District Local Equal Justice in the Court Committee as of September 2021. The Committee has held a variety of outreach programming and engaged in other equal justice programs, including:

- 8th Judicial District Access to Justice Taskforce
- Erie County Family Court
  - » Native American Sovereignty: Western New York, Indian Child Welfare Act (ICWA) Roundtables
  - » Disproportionate Minority Representation (DMR) Committee
  - » Sexual Orientation, Gender Identity and Expression (SOGIE) Committee
  - » WNY Muslim and Immigrant Community Committee
  - » Juvenile Justice Team – attended Race Equity Analysis Impact Training in September 2021
- Jury Outreach
- Training on Bias Matters
- Law School Intern Program
- Law School Program
- School Tours
- Religious Diversity
- Erie County Landlord/Tenant HUB Court
- Racial Equity in the Courts: A Conversation About Implicit Bias in the Jury Selection Process

## 9th Judicial District

The 9th JD's Equal Justice Committee, which began operating in May 2021, consists of judges, court managers, court security, court professionals, faith-based community members, legal community, and local and state stakeholders seeking to adopt measures to eliminate bias and discrimination in the 9th Judicial District courts. Several subcommittees were created and charged with issuing recommendations to the District Administrative Judge on educational and community outreach activities that increase transparency, propose new policies and protocols that promote equal access under the law. These subcommittees are as follows:

- Education
- Career Pathways/Workforce Diversity
- Community Relations
- Data Collection and Stewardship
- 9th JD Speaker Bureau
- Court Equity
- Juror Diversity and Awareness
- Inclusion

Since the establishment of the 9th JD's Equal Justice Committee, the co-chairs have met with the District's Chief of Security to discuss strategic outreach efforts in high-risk communities where issues have been identified between the court officers and the community, explored the benefits of trauma-informed response training for law enforcement and criminal justice practitioners, and met with a researcher to review quantitative research and data collection tools and methodology. Proposed new initiatives undertaken by the subcommittees include multiple programs in Rockland County to increase juror diversity, outreach, and awareness, a listening tour with local District bar associations, and identifying additional organizations and stakeholder groups with which to exchange information about the District's Equal Justice in the Courts outreach initiatives.

## 10th Judicial District (Nassau)

First convening in September 2021, the Nassau County Equal Justice Committee is currently staffed by over 50 members from all areas of the court, including Judges, the District Executive, Law Clerks, Security Personnel, Chief Clerks, Court Clerks, Analysts, Stenographers, Coordinators, Court Assistants and Interpreters, as well as members from various organizations and associations outside the court. In consideration of the recommendations of the Equal Justice in the Courts initiative, the Committee has identified the following goals:

- CLE Goal – presenting a series of CLE programs, in conjunction with the Nassau Academy of Law, to reach a wide audience of lawyers on topics directly related to implicit bias and raising awareness.
- Greeter Goal – have Court Officers at courthouse entrance refer court users to a greeter – ideally a bilingual uniformed Court Officer – to greet court users and provide direction. This goal will both help improve the court user's experience and foster more positive interactions between court users and uniformed court staff.
- Signage Goal – make the courts more user-friendly and easier to navigate by posting basic, natural language signage notifying court users of resources such as the Nassau County Bar Association Lawyer Referral Service and the Legal Hand Call-in Center in high-traffic courthouse locations. A walking tour to assess the utility of current signage using the Signage Assessment Tool is currently planned.
- Discrimination Policy Goal – educate court employees and the public on how to file complaints (including racial discrimination and sexual harassment) using available court system offices and mechanisms.

- Overall Diversity Goal – explore avenues to increase diversity within the County’s Assigned Counsel Plan and among court-approved mediators.
- Commitment from the Top Goal – encouraging and expecting regular meetings and communication between Supervising Judges, Judges, and court staff to emphasize the importance of serving the public, promoting justice, and eliminating bias.

### **10th Judicial District (Suffolk)**

The Suffolk Equal Justice Committee had its inaugural meeting in July 2021 and continues to meet monthly. The Committee consists of a wide variety of judicial and nonjudicial court staff, attorneys and legal scholars, striving to craft local recommendations to address the issues highlighted in the report of the Special Advisor on Equal Justice in the New York State Courts. From the first meeting, the Committee has held in-depth discussions about the Report and endeavored to ensure that all members had a shared understanding of the findings and recommendations contained therein, as well as current court policies. Additionally, the Committee has met with Kay Ann Porter, Managing Inspector General for Bias Matters, who explained the Inspector General’s current procedures in accordance with Chief Judge DiFiore’s directives. The Committee has also engaged in candid discussions to identify issues faced by lawyers and the public (such as implicit and explicit bias) with an eye toward how the Suffolk Courts can work to address these issues locally. With respect to court employees, the Committee identified several recurring concerns including “diversity fatigue,” a lack of understanding as to how bias incidents are handled, and general anxiety surrounding issues of diversity and inclusion in the workplace.

Initial recommendations under development include:

- Navigator program for the public, including the use of plain clothes court personnel to direct and assist the public, court volunteers to and assistance to court visitors, and short informational videos on the Suffolk Courts website
- Encouraging routine feedback from court visitors and litigants through electronic surveys and standardized feedback processes and surveys
- Reinstatement and enhancement of community outreach to include local teams of court presenters to address community groups and organizations, school tours in the courthouse and in-school presentations by court officers and staff, breakfast with a Court Officer program, reading lunch program with Court Officers (elementary school level), and Town Hall meetings
- Reinstatement of the antidiscrimination panels and/or informal mechanism for court employees to have a safe space to discuss interactions that may or may not be related to bias
- Physical courthouse improvements including multilingual signage, nongender identified or single person/family bathrooms, and digital screens and/or information kiosks in strategic locations to provide the public with interactive maps and access to court videos

# APPENDIX C: ADMINISTRATIVE ORDER AMENDING RULE 17.3 OF THE RULES OF THE CHIEF JUDGE



*State of New York  
Court of Appeals*

*John P. Asiello  
Chief Clerk and  
Legal Counsel to the Court*

*Clerk's Office  
20 Eagle Street  
Albany, New York 12207-1095*

October 5, 2021

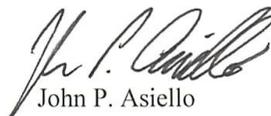
Eileen D. Millett, Esq.  
Counsel  
Office of Court Administration  
25 Beaver Street  
New York, NY 10004

Dear Ms. Millett:

Enclosed herewith is an original Administrative Order of the Chief Judge amending Rule 17.3 of the Rules of the Chief Judge.

I leave the appropriate follow-up action with the Secretary of State, etc. to you. I would appreciate receiving from you a copy of the order reflecting that it has been so filed. Thank you.

Very truly yours,

  
John P. Asiello

JPA/ab  
Enclosure

ADMINISTRATIVE ORDER OF THE  
CHIEF JUDGE OF THE STATE OF NEW YORK

Pursuant to Article VI, § 28(c) of the State Constitution and section 211 of the Judiciary Law, upon consultation with the Administrative Board of the Courts, and with the approval of the Court of Appeals of the State of New York, I hereby amend, effective immediately, section 17.3 of the Rules of the Chief Judge, by adding the underlined material as follows:

17.3 Training and Education of Judges and Justices other than Town and Village Justices

The Unified Court System shall provide training and education for its judges and justices, other than town and village justices, which shall include annual seminars, special seminars for new judges, anti-bias training and such other courses, classes and presentations as the Chief Administrator of the Courts deems appropriate. Judges and justices shall attend at least 24 hours of such training and education courses, classes and presentations, including two hours of anti-bias training, every two calendar years, which may include, with the approval of the Chief Administrator, courses, classes and presentations provided outside of the Unified Court System. The Chief Administrator also may grant credit in complying with the requirements of this rule for the teaching of courses and classes, the making of presentations, and the writing of publications, directed to the training and education of judges or to the presentation of a judicial perspective.

  
\_\_\_\_\_  
Chief Judge of the State of New York

Attest:

  
\_\_\_\_\_  
Clerk of the Court of Appeals

Dated: October 5, 2021

AO/02/21



## APPENDIX D: FRANKLIN H. WILLIAMS COMMISSION STRATEGIC PLAN SUMMARY HIGHLIGHTS AND TIMELINE

- **OCT 20, 2020**  
The Historical Society of the New York State Courts, the Franklin H. Williams Judicial Commission and the Unified Court System’s Office of Diversity and Inclusion hosted the Eunice Carter program: Invisible No More: The Eunice Carter Story.
- **NOVEMBER 12, 2020**  
The Franklin H. Williams Judicial Commission partnered with the Amistad Long Island Black Bar Association hosted a free virtual seminar entitled Pathways to Jury Diversity.
- **NOVEMBER 19, 2020**  
The Importance of Diversity and Inclusion in the Courts – “Meet the Commissioners” program.
- **DECEMBER 1, 2020**  
The Franklin H. Williams Judicial Commission hosted “Building a Successful Mentoring Relationship,” speakers included Hon. Lillian Wan and Hon. Joanne D. Quiñones discussing their experiences as mentees in the FHW Judicial Mentor Program and their paths to the bench.
- **DECEMBER 8, 2020**  
The Youth Initiatives Committee of the Williams Commission held the first virtual “Career day in the Courts” with ten local high schools.
- **DECEMBER 10, 2020**  
The Youth Initiatives Committee of the Williams Commission held the second virtual “Career day in the Courts” with the Bronx Charter School for Children.
- **JANUARY 7, 2021**  
Virtual Town Hall: Dismantling Systemic Racism in the Courts (Part I). Town Hall meeting for court community.
- **JANUARY 8, 2021**  
The Commission Co-Chairs, Appellate Division Justices Shirley Troutman (Fourth Department) and Troy K. Webber (First Department), participated in the New Judges Virtual Program at the Judicial Institute
- **JANUARY 26, 2021**  
The Franklin H. Williams Judicial Commission, and the Asian American Judges Association, Diversity, Equity and Inclusion Committee of the New York City Bar Association presented “Our Story: Asian American Judges Share Their Path to the Bench, Diversity and Thoughts of the Future.
- **MARCH 11, 2021**  
Virtual Town Hall: Dismantling Systemic Racism in the Courts (Part II). Town Hall meeting for court community.
- **MAY 3, 2021**  
The Williams Commission held a virtual Law Day Program – Advancing the Rule of Law in the Pursuit of Justice for All.

● **MAY 5, 2021**

The Commission held an Asian American & Pacific Islander (AAPI) Heritage Month program entitled, "A Dialogue on Race and Sensitivity."

● **MAY 19, 2021**

The Commission met with New York City Family Court stakeholders to address issues of racial Bias in the NYC Family Court.

● **MAY 27, 2021**

The Williams Commission co-sponsored with the Amistad Long Island Black Bar Association, Long Island Hispanic Bar Association, Nassau County Bar Association, Nassau County Women's Bar Association, National Association of Women Judges-New York Chapter, New York State Judicial Committee on Women in the Courts, Puerto Rican Bar Association and the Richard C. Failla LGBTQ Commission, Part One of the virtual program, "Everything You Need to Know About Becoming a Judge."

● **MAY 28, 2021**

The Franklin H. Williams Judicial Commission hosted the Tulsa Race Massacre Centennial Program.

● **APRIL 16, 2021**

The Williams Commission, along with City University of New York School of Law, St. John's University School of Law, Syracuse University College of Law, and University at Buffalo School of Law co-hosted a virtual panel presentation, entitled Pathways to Equity in Legal Education and the Profession.

● **APRIL 22, 2021**

The Williams Commission with co-sponsors, the Cervantes Society, Inc., and the Tribune Society of the Courts of the State of New York, hosted a virtual panel presentation entitled "So You Want to Go to Law School?"

● **APRIL 29, 2021**

The Franklin H. Williams Judicial Commission co-sponsored a program on the legacy of Franklin H. Williams with the Westchester County Bar Association, White Plains Bar Association, and Westchester Black Bar Association. The event, The Impact of Franklin H. Williams' Legacy: Then, Today, Tomorrow, explored the life and legacy of Ambassador Williams.

● **APRIL 29, 2021**

The Commission hosted a roundtable discussion on Family Mediation: Why Diversity and Inclusion Matter at the New York State Council on Divorce Mediation Annual Conference.

● **JUNE 2021**

The Franklin H. Williams Judicial Commission issued a statement in solidarity with the Asian American and Pacific Islander communities and in response to the recent increase in bias and violent attacks across the United States.

● **JUNE 2021**

The Franklin H. Williams Judicial Commission collaborated with John Caher, host of the court system's Amici Podcast, to launch a month long "Oral Histories" series of thirteen short interviews to tell the story of the Commission's history and establishment.

● **JUNE 17, 2021**

The Franklin H. Williams Judicial Commission Commemorates Juneteenth with a publication of the Juneteenth statement via OCA Broadcast.

● **JUNE 17, 2021**

One-day virtual seminar, "Jury Summit Conference, Achieving Equal Justice Through Jury Service."

● **JUNE 23, 2021**

The Williams Commission partnered with the Richard C. Failla LGBTQ Commission for a program featuring a joint interview with the United States Representatives Mondaire Jones (NY-17) and Ritchie Torres (NY-15) entitled "Leadership and Legislation: A New Generation Steps Forward in Congress."

● **JUNE 24, 2021**

The Williams Commission co-sponsored with the Amistad Long Island Black Bar Association, Long Island Hispanic Bar Association, Nassau County Bar Association, Nassau County Women's Bar Association, National Association of Women Judges-New York Chapter, New York State Judicial Committee on Women in the Courts, Puerto Rican Bar Association and the Richard C. Failla LGBTQ Commission, Part Two of the virtual program, "Everything You Need to Know About Becoming a Judge."

● **JUNE 1 – JULY 30, 2021**

The Commission hosted seven legal interns for its first Summer Internship Program.

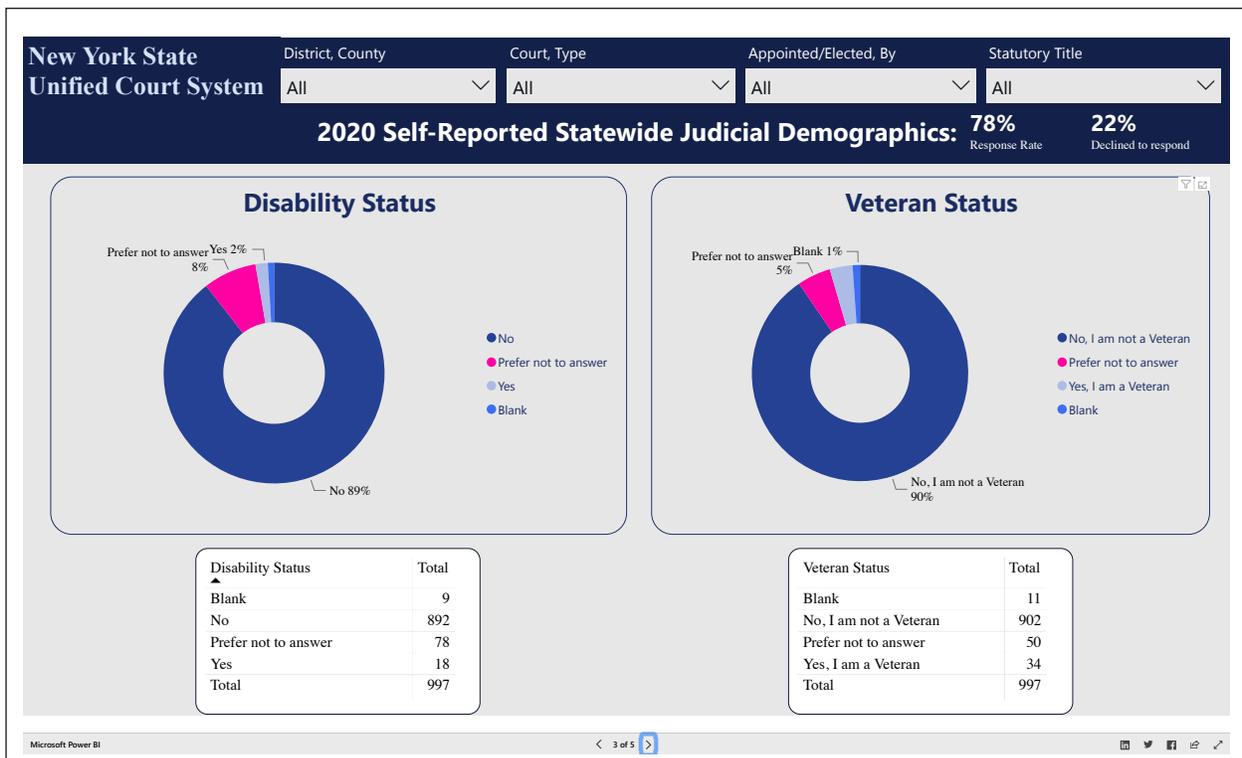
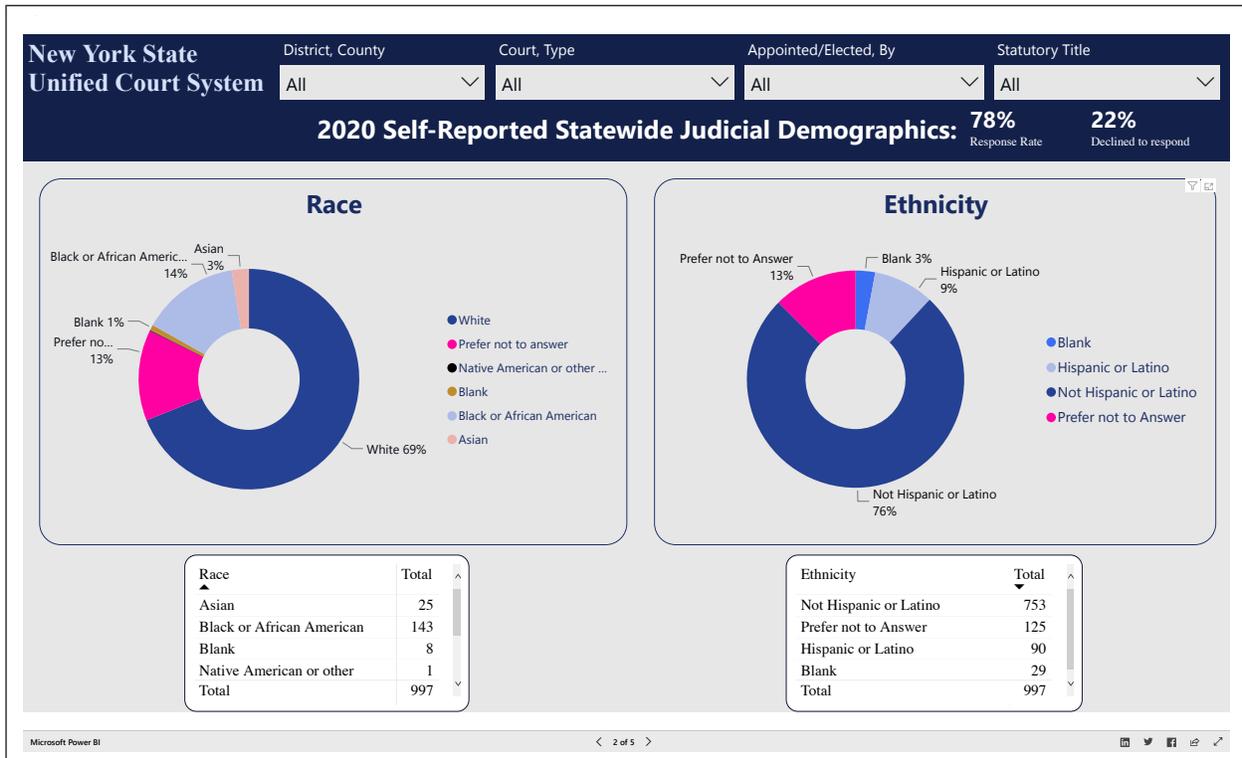
● **OCTOBER 13, 2021**

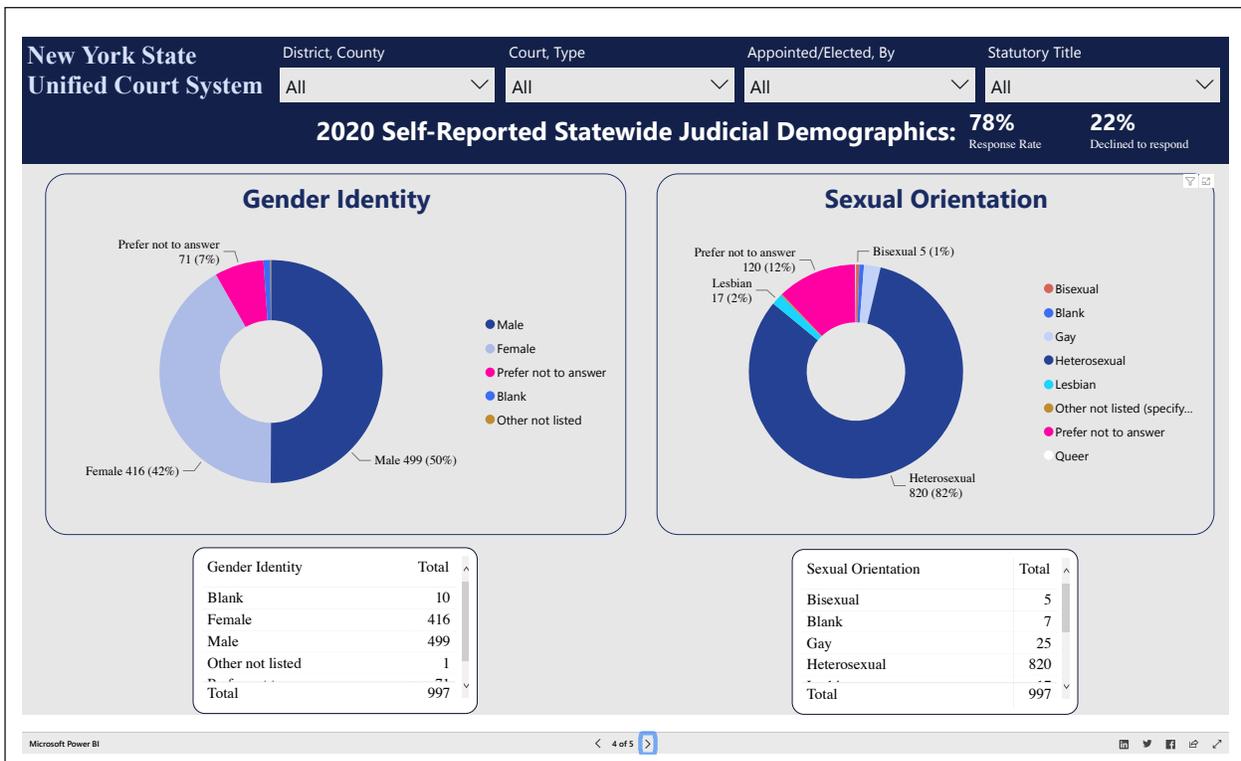
The Williams Commission and the Appellate Division, First, Second, Third and Fourth Departments, will host a virtual Zoom CLE webinar entitled "Attorneys for Children and Assigned Counsel - A Lawyer's Role in Promoting Justice for Children and Families."

● **OCTOBER 15, 2021**

Town Hall meeting for court community – Diversity, Racial and Ethnic Fairness (Part III).

# APPENDIX E: COURT DATA PAGE SEARCH EXAMPLE





**New York State Unified Court System**

District, County: All | Court, Type: All | Appointed/Elected, By: All | Statutory Title: All

**2020 Self-Reported Statewide Judicial Demographics: 78% Response Rate, 22% Declined to respond**

| District       | Race                      | Appointed | Blank | Elected | Total |
|----------------|---------------------------|-----------|-------|---------|-------|
| <b>Total</b>   |                           | 314       | 7     | 676     | 997   |
| ⊕ District 10N |                           | 6         |       | 54      | 60    |
| ⊕ District 10S |                           | 9         |       | 51      | 60    |
| ⊕ District 3   |                           | 15        |       | 44      | 59    |
| ⊕ District 4   |                           | 6         |       | 42      | 48    |
| ⊕ District 5   |                           | 7         |       | 54      | 61    |
| ⊕ District 6   |                           | 4         | 1     | 28      | 33    |
| ⊕ District 7   |                           | 5         |       | 46      | 51    |
| ⊕ District 8   |                           | 9         |       | 59      | 68    |
| ⊕ District 9   |                           | 21        |       | 61      | 82    |
| ⊖ NYC          | <b>Total</b>              | 222       | 2     | 207     | 431   |
|                | Asian                     | 16        |       | 7       | 23    |
|                | Black or African American | 33        |       | 58      | 91    |
|                | Blank                     | 2         |       | 2       | 4     |
|                | Prefer not to answer      | 25        |       | 35      | 60    |
|                | White                     | 146       | 2     | 105     | 253   |
| ⊕ Other        |                           | 10        | 4     | 30      | 44    |

Ethnicity: All

Gender Identity: All

Sexual Orientation: All

Veteran Status: All

Disability Status: All

Microsoft Power BI | 5 of 5



NEW YORK STATE UNIFIED COURT SYSTEM