2009 - 2011

NEW JERSEY SUPREME COURT COMMITTEE ON MINORITY CONCERNS

BIENNIAL REPORT

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Chapter I

SUBCOMMITTEE ON CRIMINAL JUSTICE AND THE MINORITY DEFENDANT

I. Introduction and Mandate

During the 2009-2011 reporting cycle, the Subcommittee on Criminal Justice and the Minority Defendant continued its work on the following issues:

Peremptory Challenges and Voir Dire

- identifying the initial steps required to conduct research on peremptory challenges and voir dire and any possible impact on minority representation on juries;

Public Education Initiatives

- monitoring the distribution and availability of the Judiciary's informational brochure on Superior Court bail;
- monitoring the distribution and availability of the publication advising probationers on how to restore their voting rights upon completion of their sentences;

Statewide Update on Adult Drug Courts

- conducting a longitudinal review of New Jersey Drug Court outcomes; and

Judicial Training Initiatives

- providing assistance in the planning and production of the educational program of the 22nd Conference and Annual Meeting of the National Consortium on Racial and Ethnic Fairness in the Courts.

II. Task Force Priority Recommendations Considered

The work of the Subcommittee during this term continues to be guided by Task Force Recommendations 4, 5, 6, 7, 8, and 14 (bail sentencing measures and outcomes) and Task Force Recommendation 16 (expansion of Drug Courts in New Jersey) in addition to ongoing work relating to judicial training initiatives and jury voir dire.

III. Subcommittee Activities

A. Peremptory Challenges and Jury Voir Dire

The Report of the Supreme Court's Special Committee on Peremptory Challenges and Jury Voir Dire was approved for publication on May 16, 2005. Since the publication of that report, the Administrative Director has promulgated Administrative Directive #21-06, which

offers approved jury selection standards including model voir dire questions and Administrative Directive #4-07, which supplements and modifies the procedures and questions contained in Administrative Directive #21-06.

As the Committee has a longstanding interest in the larger issue of minority representation on juries,[1] the Subcommittee on Criminal Justice and the Minority Defendant during this term identified the steps required to plan a research project on the voir dire process to determine what, if any, impact peremptory challenges have on minority representation on juries. The steps being taken to operationalize this research are as follows:

- review of the in-state reports and publications on peremptory challenges and voir dire;
- review of relevant case law;
- consultation with the Administrative Office of the Courts, Criminal Practice Division regarding any additional work that has been undertaken on these issues subsequent to the most recent report;
- consultation with the Administration Office of the Courts, Jury Services Unit to better understand jury operations;
- discussion of tools for gathering input from judges and jury managers, such as the possibility of conducting focus groups and one-on-one interviews with selected judges and jury managers; and
- upon completion of background and literature/research reviews, a research design will be completed along with a proposed timeline to further explore this issue.

In the process of pursuing informational updates, the Supreme Court Committee on Minority Concerns (SCCMC) learned that the Supreme Court Special Committee on Peremptory Challenges and Jury Voir Dire no longer exists and its responsibilities have been assigned to the Supreme Court Committee on Jury Selection in Civil and Criminal Trials. The Supreme Court Committee on Minority Concerns understanding is that the Supreme Court Committee on Jury

[1] See Chapter III, Minority Access to Justice for additional discussion of jury issues.

Selection in Civil and Criminal Trials already had begun an informal study on peremptory challenges; Minority Concerns asked to have a representative from its Subcommittee on Criminal Justice and the Minority Defendant appointed to serve on the Committee on Jury Selection and Judge Lorraine Pullen was appointed in June 2011. The resulting collaboration will, in the view of this Committee, prove mutually beneficial to the two Supreme Court Committees.

The Committee benefitted greatly from a presentation on jury management operations presented by Michael Garrahan, Esq.[2] The presentation assisted the Committee in better understanding the history and current development of the jury selection process and procedures in New Jersey.

In addition to continuing its work on peremptory challenges and voir dire, the Committee will continue to monitor procedural or rule changes in this area.

B. Public Education Initiatives

> The Supreme Court should direct the Administrative Office of the Courts to develop a plan aimed at familiarizing the community with the Judiciary … This should include recommendations as to materials that might be included in public school curricula. The plan should include initiatives that are culturally and ethnically appropriate for reaching minority communities. Task Force Recommendation 28 (Final Report, 1992, p. 241)

1. Informational Brochure: Superior Court Bail

In its 2004-2007 report, the Subcommittee reported that it had drafted an informational brochure for defendants and other court users regarding the Superior Court bail process. At the time the 2004-2007 report was completed, the brochure, *Frequently Asked Questions about*

[2] The technical assistance and expertise provided by Michael Garrahan, Esq., continues to be of great assistance to the Committee in both of its jury-related projects.

Superior Court Bail, had been approved by the Administrative Director[3] and was awaiting publication. On June 18, 2007, the Administrative Director released the brochure to all assignment judges and trial court administrators for distribution at all court facilities. Since that time, the brochure which includes a customized contact panel for each vicinage has been distributed statewide. Committee staff from the Criminal Practice Division and the Minority Concerns Unit work collaboratively to periodically review internal documents and reports in order to ascertain whether updates are necessary due to changes in law or court rules. The brochure continues to be available for printing at the vicinage level on an as needed basis through the Judiciary's Infonet, and is available to the public through the Judiciary's website.

2. Informational Brochure: Restoring Your Right to Vote

> Since the temporary loss of the right to vote in these cases formally occurs as a result of a judicial act of sentencing, the Subcommittee reiterates its recognition that the Court has a role in ensuring that information on restoring the right to vote is made readily available to probationers as voting is a fundamental right and, therefore, access to information on restoring the right to vote is extremely important. Eligibility to vote can be a significant component of an ex-probationer's re-entry into society, providing a person a direct voice in the community and the ability to participate in civic life. The Subcommittee believes that it is important to distribute a single guide statewide to probationers so that they … receive consistent information and not be forced to cobble together information from a variety of sources. (Supreme Court Committee on Minority Concerns, 2007-2009 Report, p. 7)

The informational brochure, *How to Restore Your Right to Vote in New Jersey*, was completed during the 2007-2009 rules cycle. The brochure had been published by the New Jersey Office of the Public Advocate with an acknowledgement of the role of the Supreme Court Committee on Minority Concerns Subcommittee on Criminal Justice and the Minority Defendant in conceptualizing and drafting the publication. The pamphlet was published in September 2008. Probation offices in all vicinages throughout New Jersey have been using the pamphlet to advise

[3] Philip S. Carchman, P.J.A.D.

individuals who complete their probation on how to restore their voting rights. The Committee sees this publication as a useful tool for both probationers and parolees. Since the New Jersey State Parole Board is outside the Judiciary, the Committee has limited its references herein to making the brochure available to probationers through the Judiciary's Probation Division; however, the Committee is encouraged to learn that the Parole Board readily and regularly makes this information available directly to parolees nearing the completion of their terms and generally to parolees via bulletin board and other communications methods.

As the Office of the Public Advocate has since been eliminated and its functions distributed to other offices, the Committee is seeking to identify other avenues for ensuring the ongoing availability of the publication as intended. The Committee will continue to monitor the availability of this important document and urges the Court to ensure that the information remains in print and available to probationers [and parolees]. Participation in civic life through the exercise of one's right to vote can serve as a critical re-entry tool.

C. Statewide Update on Adult Drug Courts

> The Supreme Court should consider proposing to the appropriate Executive Branch agencies that dedicated treatment bed spaces for indigent defendants be made available to the Judiciary. Task Force Recommendation 16 (Final Report, 1992, p. 137)

In the 2000-2002 report, the Committee stated that it

> … has actively endorsed and supported the development of Drug Courts in New Jersey and believes that [these courts] represent an opportunity to have a positive impact on rehabilitating minorities and others who find themselves in the criminal justice system. Equally as important, drug courts have the potential to deinstitutionalize a significant segment of minorities in [jails and prisons] in New Jersey. This fact is made abundantly clear when one considers that for an entire generation, over 80% of the inmates in the state have been minorities, a percentage that is grossly disproportionate to that of minorities in the general New Jersey population. At the same time, consistently well over half of the inmates in New Jersey's prisons have been incarcerated for drug-related offenses (p.36).

In the same report, the Committee observed that it "has been an advocate for this initiative and lent its support by commenting on the legislation proposed for the expansion of drug courts and pointing out the dire need for more rehabilitation-based programs and treatment beds" (p.37). The Committee noted further that it "strongly endorses the Judiciary's efforts to expand drug courts and ensure that defendants … are assured equal protection" (p.37) and are given an opportunity to enter this court-based treatment intervention for non-violent drug involved offenders.

The New Jersey Adult Drug Court Program marked its 10th anniversary in 2010. To commemorate this event, the program released a report in October 2010 titled *A Model for Success: A Report on New Jersey's Adult Drug Courts.*[4] The report discusses: the Drug Court framework and history; the pillars of implementation in New Jersey; measures of achievement including new admissions; retention and graduation rates; success stories; recidivism data, and cost savings; program highlights; future enhancements; and the ten key components of adult drug courts.

In reviewing the report, the Committee notes that New Jersey has identified numerous indicators of success. Among the many program accomplishments, the Committee highlights two factors illuminated by the *A Model for Success* report that underscore the long-term value of the ongoing investment in Drug Courts:

1. Recidivism rates for New Jersey Drug Court graduates are considerably lower (16%) than that of drug offenders (54%) after their release from the state's Department of Corrections.

[4] See www.judiciary.state.nj.us/pressrel/2010/pr101116a.htm to view the press release and www.judiciary.state.nj.us/pressrel/2010/Drug%20Court%20Report%20v1%20Final.pdf for the complete report.

2. The conservative cost savings annually for each drug offender that is placed in a drug court program rather than state prison is approximately $13,000.[5]

The Committee reiterates its support for this very successful and worthwhile program and applauds the Judiciary for its continuing commitment and outstanding efforts to address access to drug court treatment on a statewide basis.

In fact more recent information presented in April 2011 at the budget hearings indicate that the costs associated with incarceration have been reduced appreciably and there was a "…net savings of $19 million dollars to the state in fiscal year 2009 and $22 million dollars in fiscal year 2010." The Committee will continue to review reports, outcomes data, and relevant literature regarding the progress of Drug Courts in New Jersey.[6]

D. Ongoing Judicial Training for Superior Court Judges

As noted in the 2007-2009 report,

> The Committee has been involved in developing diversity/cultural competency training courses that have been presented at various judicial training programs. The Committee continues to examine the criminal practice areas in which training is currently in place for Superior Court judges and, more importantly, the areas in which training may be needed, (p. 12).

The Committee has advanced its work in this area by participating in the development and delivery of various aspects of the educational program of the 22nd Conference and Annual Meeting of the National Consortium on Racial and Ethnic Fairness in the Courts which was hosted by the New Jersey Judiciary in April 2010. The criminal justice related sessions were:

- *Essential Elements of Cross-Agency Collaborations and Community Partnerships: An Interagency Examination of Fugitive Safe Surrender Initiatives (Plenary Session);*
- *Prosecution and Racial Justice;*

[5] See previous footnote for reference to report, pp. 15-16. This figure reflects administrative costs saved and does not include other tangential but tangible savings realized such as medical care costs saved as a result of the number of drug-free babies born to female drug court participants.

[6] See Chapter II for a brief discussion of juvenile and family drug courts in New Jersey.

- *The Who, What, Why, When, Where, and How of Successful Drug Courts;*
- *Sentencing Reforms as a Means of Reducing Disparities in Criminal Justice Outcomes;*
- *Probation Services Adult Mental Health Initiative;*
- *Site Visit to the Middlesex Vicinage Adult Drug Court;*
- *Re-Entry Resources as a Means of Reducing Recidivism;*
- *The Delivery of Justice in the Trial Courts: Effective Tools for Jury Administration;* and
- *A Cross-Agency Dialogue on Race: Lessons Learned About Creating and Sustaining Organizational Change*

IV. Discussion of Future Work to be Done on the Priority Recommendations

In addition to its ongoing work on peremptory challenges and voir dire, the Committee also anticipates undertaking additional work on sentencing.

Sentencing Outcomes

In follow up to this original recommendation, the Committee plans to study the sentencing impact of the 2010 changes to the drug-free school zone law during the Committee's next term.

> The Chief Justice should consider approaching the Attorney General to explore the possibility of jointly sponsoring an empirical analysis of recent New Jersey samples of bail and sentencing outcomes, controlling for key factors that influence the outcomes of these decisions, examining the possibility of cumulative discrimination effects over the sequence of decisions from arrest through sentencing, and determining the degree to which discrimination occurs at each of those decision points.
> Task Force Recommendation 14 (Final Report, 1992, p. 133)

V. Conclusion

During the next rules cycle, the Committee will remain focused on fulfilling its mandate for the subject areas detailed in this chapter and on strengthening and improving current court procedures, case processing and criminal court policies.

Chapter II

SUBCOMMITTEE ON MINORITIES AND JUVENILE JUSTICE AND THE FAMILY

I. Introduction and Mandate

The mandate of the Supreme Court Committee on Minority Concerns (SCCMC) Subcommittee on Minorities and Juvenile Justice and the Family is to monitor the implementation of court-approved recommendations that relate to court-involved youth and their families.

II. Subcommittee Activities

During the 2009-2011 committee term, the Committee has continued its focus on systemic disparities in justice outcomes for minority youth and the disproportional representation of racial/ethnic minorities throughout the juvenile justice continuum (FJ docket) as well as the overrepresentation of children and families of color in other Family Part docket types, specifically in abuse and neglect cases (FN docket), youth post-termination of parental rights (post-TPR) who are awaiting adoption (FC docket), and family crisis matters (FF docket).

III. List of Priority Recommendations

Addressing items carried forward from prior reports, including the 2007-2009 report, the Committee continued work relating to two major areas of long-term interest:

A. Disproportionate Minority Contact in Juvenile Delinquency, Children in Court, and other Family Part Dockets (Task Force Recommendation 17, p.171, Recommendation 07:02.2, p. 22; Recommendation 09:02.1 through 09:02.12, p. 16 et seq.)

B. Outcomes for Juvenile and Family Drug Courts

IV. Discussion of Priority Action Items and Related Recommendations

The Committee's work on minority overrepresentation in juvenile justice matters and its continued exploration of three additional Family Part docket types to determine whether, and if so to what degree, there is overrepresentation of children and families of color. At present, the Committee focuses it attention on the FJ, FN, FC, and FF dockets. The Committee's review of related data has identified disproportionality and overrepresentation in each of the

aforementioned docket types. Discussion of the Committee's findings and recommendations will follow.

A. The Committee's Recommendations to Address Minority Overrepresentation and Disproportionality in Juvenile Delinquency and Children-in-Court Dockets

The Committee recommends that the Court adopt and enact a Judiciary action plan to address disproportionate minority contact that (1) establishes as a divisional best practice the address of disproportionate minority contact; (2) engages in ongoing regular monitoring of data on disproportionate minority juvenile confinement at the state level (i.e., judges and managers conferences) and the vicinage level; (3) monitors data on a regular basis (e.g., monthly) data on the various decision-making points along the juvenile justice continuum in which the Court plays a decision-making role; (4) includes plans for addressing disproportionate minority contact as an evaluation element in the Family Division team visits to the vicinages; and (5) provides a method/template by which the Court can regularly review data on other Family Part docket types to monitor for disproportionate representation of children/youth of color. (Recommendation 09:02.1)

The Committee recommends that as part of the Judiciary's statewide action plan to examine disproportional overrepresentation of children of color in abuse and neglect cases the Judiciary engage in ongoing regular review and analysis of available data at both the state and vicinage levels to monitor for the disproportional overrepresentation of children of color in abuse and neglect cases and where appropriate that plans for addressing disproportional minority/non-minority representation in the FN and related docket types such as FG, FC, and FF as an evaluation element in the Family Division team vicinage visitation reports. The Committee also recommends that the Court develop a methodology for assessing minority overrepresentation comparable to the relative rate index used in measuring disproportionate minority contact along the juvenile justice continuum. The Committee is prepared to assist in the development of these measurement tools. (Recommendation 09:02.4)

The Committee recommends that the Court as part of its emerging plan to address disproportionate minority contact along the juvenile justice and child welfare continuums direct attention be given to minority representation among legal orphans including, but not limited to, regular review at both the state- and vicinage-levels of demographic data that includes and intersects race/ethnicity, gender, and age. (Recommendation 09:02.7)

The Committee recommends that the Court as part of its emerging plan to address disproportionate minority contact along the juvenile justice and child welfare continuums direct attention be given to minority representation in family crisis matters (FF docket type) including but not limited to regular review at both the state- and vicinage-levels of demographic data that includes and intersects but, is not limited to, race/ethnicity, gender, and age. (Recommendation 09:02.11)

1. Principles and Framework of the New Jersey Judiciary's Disproportionate Minority Contact Action Plan

In fall 2008 the Assistant Director of Trial Court Services for Family Practice and the Manager of the Minority Concerns Unit were tasked by the Administrative Director with developing an action plan proposal to address disproportionate minority contact in Family Part docket types. The proposed plan, which was presented on October 22, 2008 by Mr. Cassidy and Dr. Marlow and approved for adoption on December 2, 2008 by Acting Administrative Director Grant, sets forth the framework, principles, and substance of the *Judiciary's Action Plan to Address Disproportionate Minority Contact in Juvenile Delinquency and Children In Court Dockets and the Evaluation of Minority Representation in Other Family Part Docket Types.*

In terms of action items, the approved plan sets forth by docket type a variety of specific activities that build on continuous systems improvement initiatives including but not limited to visitation team elements for both juvenile delinquency and children in court matters, the expansion of the Juvenile Detentions Alternative Initiative Steering Committees to Councils on Juvenile Justice Systems Improvement, work with the Burns Institute on reducing racial/ethnic disparities in the juvenile justice system, and examination of racial/ethnic minority representation in other Family Part dockets.

In its discussion of other family part docket types, the plan states:

> The broad question as to whether there is a disproportionately negative impact on minorities who are litigants in other family dockets, compared to other litigants poses a unique challenge to the Judiciary. **How do court customs and practices impact the various populations that are served? Is there a differential impact and if so how does the court measure this phenomenon and mitigate the outcomes by using alternative approaches?** [7]
>
> These questions are potentially key factors in continuing efforts in the Family Division to reexamine the efficacy of a more 'holistic' approach to

[7] Emphasis made by the Committee.

> family issues. Treating family issues that are brought to the attention of the Court in a more coordinated and service-oriented fashion was a guiding principle in the establishment of the Family Division.

The Committee is of the view that these statements embody the framework that will continue to guide the Judiciary in this long-term work. These principles express the Judiciary's recognition, with which the Committee concurs, that addressing disparate minority contact is not achieved simply by completing tasks on a "to do" list but rather flows from a collective organizational state of mind and a set of shared principles and standards made visible in the way our organization does business.

The action plan identifies reporting and accountability as two main features of this effort:

- The leadership for this initiative originated with the Judiciary. However, the success of the effort will require the commitment of all of the stakeholders in these two complex systems.
- The judiciary's multiple partners at the state, county and community levels will be asked to collaborate in the development and implementation of policy, programmatic and operational changes in their respective institutions. All partners in this initiative must be committed to a long term investment in this endeavor in order for this broad based project to succeed and for the program enhancements to be integrated successfully in each respective institution.

Based on a review of the judiciary's work in this area since the adoption of the action plan, the Committee believes that these two guiding principles are well documented and will continue to drive the successes that are being achieved and will guide the long-term self critical work designed to ensure equal and fair access for youth at-risk and their families.

In presenting the adopted Action Plan, Acting Administrative Director Glenn A. Grant, J.A.D., summarized the role and view of the Courts:

> While there may be societal reasons for the disparate contact that minorities have with the Courts, including the disproportionate number of minorities living in poverty, the Judiciary must do what we can to minimize disparities that arise with the judicial system. While the Courts do not control, for example the proportion of minority youth arrested and charged by the police, we do control whether minority and non-minority youth get equal treatment and equal results once the prosecuting authorities bring them before the Courts.

2. Sustaining the Long-Term Focus of the Judiciary's Disproportionate Minority Contact Action Plan

Disproportionate minority contact, the overrepresentation of racial/ethnic minorities in the juvenile justice and child welfare systems, and systemic disparities in outcomes for youth and families of color – three distinct but related areas of interest and concern – remain a priority on the national agenda. Although New Jersey is leading the way in statewide approaches addressing systemic juvenile justice systems improvement through JDAI,[8] there is no single solution as to how these multifaceted, intersecting and persistent challenges should be addressed. Multiple approaches will be required and while there is no road map to guide the Judiciary, the Court is constructing its own road map by turning its attention to a more focused internal examination of the intersectional relationships between the various docket types and DMC and combining evidence-based research with sustaining a strong collaboration with other external system partners.

Central and essential to the long-term success of the Judiciary's DMC Action Plan is the recognition that as a separate but co-equal branch of state government the Court has a unique and palpable set of responsibilities with respect to disproportionate minority contact and systemic disparities in juvenile justice outcomes. The Court rightly recognizes that it should both continue its collaborative interagency partnerships which have moved from a single focus on juvenile detention reform to a proactive improvement model of the juvenile justice system. Furthermore, the court will sustain an internal focus through which it examines critically its own procedures, policies, and protocols relating to each of the decision-making points along the juvenile justice and child welfare continuums.

[8] JDAI is the statewide interbranch/interagency collaborative Juvenile Detention Alternatives Initiative. This effort is discussed later in this chapter.

> The Courts are at the center of this system and have special authority over the system. The Courts have a special responsibility for the fair and humane operation of the system… Through an understanding of what happens before a juvenile enters the system and then of what happens after a juvenile leaves court, our judges can lead the way. It is the leadership of the Court that can make a true difference. Chief Justice Deborah T. Poritz, Opening Remarks, September 2006 Minority Concerns Conference, *Addressing Disparities in Juvenile Justice Outcomes for Minority Youth.*

The framework for this Court's current DMC action plan reflects the operational principles identified at both the 2006 Minority Concerns Conference and the Judiciary's 1989 Conference, both of which called for an action plan that:

- sustains internal focus on addressing systemic disparities;
- builds in accountability and publishes results periodically;
- includes established timelines and continuous monitoring of the implementation of proposed action steps at the vicinage, central office, and state levels;
- contributes to effective ongoing communication among vicinages and stakeholders;
- provides for regular periodic meetings, problem solving, and brainstorming sessions among the vicinages including judges and line staff;
- establishes a judiciary-wide task force on disproportionate minority contact; and
- commits to listening to the voices of youth/parents and local community leaders that have been involved in the juvenile justice system, or have intimate knowledge of constituent involvement in the system.

As the Court moves forward in implementing a fully developed action plan on disproportionate minority contact, the Committee remains encouraged by the principles of the Judiciary's Action Plan and applauds the Court for its sustained momentum in moving forward with the work required and bringing about the necessary systemic changes that are identified in the process.

B. Systemic Disparities in Justice Outcomes for Minority Youth and Disproportionate Minority Contact (DMC)

The Committee is actively engaged in monitoring for systemic disparities in justice outcomes for youth of color[9] by reviewing data on disproportionate minority juvenile contact and exploring relevant factors relating to the overrepresentation of youth of color in the juvenile justice system. This work has its roots in the work of the Supreme Court Task Force on Minority Concerns (1992)[10]:

> The Supreme Court should set a goal for the Judiciary of reducing the number of minorities incarcerated. This goal would be accomplished by: (1) working through County Youth Services Commissions to expand sentencing alternatives; (2) carefully considering the use of available alternative dispositions that would keep juveniles in the community; (3) adopting a policy that factors like family status which may appear race-neutral, but which when considered in creating a disposition may tend to result in disproportionate numbers of minorities being incarcerated, are insufficient grounds in and of themselves for justifying a decision to incarcerate; (4) encouraging judges to play a more active role in determining which juveniles go into these programs by recommending specific placements at the time of sentencing..." Task Force Recommendation 17, (p. 171)

The Committee's ongoing approach to this tapestry of interrelated issues continues to be based upon the Task Force's recommendation that "[the] SCCMC … develop partnerships to educate themselves about the juvenile justice system…" (Recommendation 18, 1992, pp. 174-176) and follows up on the recommendation that "a joint research inquiry be conducted on possible racial/ethnic disparities in juvenile justice outcomes" (Recommendation 26, 1992, pp. 196-197).

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[9] In the common discourse and national discussions, "DMC" typically refers to "disproportionate minority contact" and sometimes to "disproportionate minority confinement" as the most restrictive type of contact. However, the Committee recognizes that these terms do not adequately capture the full spectrum and nuances of the problem. Throughout the course of its discussion, the Committee refers to "systemic disparities in justice outcomes," disproportionate minority contact (or confinement)," and "[disproportionate] minority overrepresentation" as related but distinct concepts.

[10] See also Report of the Committee on Minority Concerns (Summer 1984), pp. 9-13, and the Interim Report of the Supreme Court Task Force on Minority Concerns (August 1989), pp. 77-90.

Task Force Recommendation 17, the original basis for the Committee's work on this issue, focuses on post-disposition secure confinement. The Committee having been intensely engaged in this issue for an extended period of time recognizes that one decision-making point on the juvenile justice decision-making continuum cannot be isolated from another decision-making point. Therefore, while secure confinement as a disposition remains the priority focus, the Committee also rightly concerns itself with predispositional confinement and outcomes at other decision-making points that contribute to disproportionate minority contact and systemic disparities in justice outcomes for minority youth.

For purposes of presenting a cohesive discussion, comments are organized under discrete topical headings. Readers are reminded that these issues are interrelated and, to the degree possible and practical, should be addressed holistically or from a system approach.

1. Review of Statewide Data on Juvenile Justice Decision-Making Points

The Committee once again examined and analyzed race/ethnicity data provided by the Juvenile Justice Commission for eight of the nine decision-making points[11] along the juvenile justice continuum for Calendar Year 2008.[12] *Table 2-1 A: Youth Race/Ethnicity Profile, Juvenile Justice Decision-Making Continuum, Calendar Year 2008, Statewide* visually presents these data. For this review, the Committee supplemented the raw data by calculating the proportional representation of each race/ethnicity category for each of the decision-making points along the juvenile justice continuum.

[11] Transfers of selected juvenile matters from the Family Part to the (adult) Criminal Part are the result of a process called "involuntary transfer of jurisdictions." As the AOC's Family Practice Division has informed the Committee, race/ethnicity data on this decision-making point has not been available due to a feature in the Judiciary's data management system. However, as a result of grant funds, the Administrative Office of the Courts is in the process of expanding the data management system to enable tracking of race/ethnicity and is developing a standard report that will make the related data available.

[12] The Committee expresses its sincere appreciation to the New Jersey Juvenile Justice Commission and Executive Director Veleria N. Lawson for providing the statewide and detailed county data on the juvenile justice continuum included in this report. The county tables are not presented in this report but are available upon request.

Table 2-1 A. Youth Race/Ethnicity Profile, Juvenile Justice Decision-Making Continuum, Calendar Year 2008, Statewide

	White		Black/African American		Hispanic/ Latino		Asian		Native Hawaiian/ other Pacific Islanders		American Indian/ Alaska Native		Other/ Mixed		All Minorities		Total Youth
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
1. Population at risk (age 10 through 17)[13a]	562,611	59.0	153,736	16.1	165,115	17.3	69,485	7.3	0	0	2,022	2.1	--	--			**952,969**
2. Juvenile Arrests	29,944	48.5	21,864	35.4	9,296	15.1	595	1.0	0	0	95	0.2	0	0.0	31,810	51.5	**61,754**
3. Refer to Juvenile Court	13,389	43.2	12,140	39.1	4,478	14.4	479	1.5	0	0	33	0.1	507	1.6	17,637	56.8	**31,026**
4. Cases Diverted	6,605	49.4	4,383	32.8	1,849	13.8	260	1.9	0	0	13	0.1	261	2.0	6,766	50.6	**13,371**
5. Cases Involving Secure Detention	1,167	15.2	4,879	63.6	1,526	19.9	0	0.0	0	0	0	0.0	95	1.2	6,500	84.8	**7,667**
6. Cases Resulting in Delinquent Findings	5,750	39.0	6,337	43.0	2,226	15.1	197	1.3	0	0	22	0.2	199	1.4	8,981	61.0	**14,731**
7. Cases resulting in Probation Placement	2,464	35.2	3,269	46.7	1,101	15.7	80	1.1	0	0	9	0.1	78	1.1	4,537	64.8	**7,001**
8. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	64	9.6	478	72.0	117	17.6	0	0.0	0	0	0	0.0	5	0.8	600	90.4	**664**
9. Cases Transferred to Adult Court[14]	**N/A**																

Data Source: AOC EEO/AA Unit

[13] Calendar year 2008 figures for each of the numbered steps (juvenile justice continuum decision-making points) provided by 1: 2007 Juvenile Population Data at http://www.ojjdp.ncjrs.gov/ojstatbb/ezapop/; 2: UCR; 3: NJ AOC "Juvenile New Complaints"; 4: NJ AOC "Juvenile Diversions"; 5: NJ JJC Compliance Monitoring Unit; 6: NJ AOC "Juvenile Adjudications"; 7: NJ AOC "Probation Dispositions"; 8: NJ JJC Commitments; 9: Data Not Available (see footnote 17).

[a] The combined raw number for each of the race/ethnic categories sums to more than the total youth population combined because of the impact of the change in federal race/ethnic categories. Beginning with the U.S. Census in 2000, respondents have the ability to elect Hispanic/Latino as an ethnicity in addition to another category such as White or African American/Black as a race. This typically results in a duplicate count of persons who elect Hispanic and a race.

[14] See footnote 5 for an explanation of juvenile waiver.

A census of the youth population ages 10 through 17 is the first point of reference for evaluating race/ethnicity data at each of the decision-making points along the juvenile justice continuum. The data in *Table 2-1 A: Race/Ethnicity Profile, Juvenile Justice Decision-Making Points, Calendar Year 2008 (Statewide)* show that the demographic breakdown by race/ethnicity within the total youth population statewide (952,969) ages 10 through 17 is 59.0% White, 16.1% Black/African American, 17.3% Hispanic/Latino, 7.3% Asian, and 2.1% American Indian/Alaska Native.[15] The statewide population data indicate, in contrast to the data reported in the 2007-2009 report, a 1.8% decrease (going from 970,130 to 952,969) representing a loss of 17,161 youth in the total number of youth at stage one in 2008.

A within group analysis of each of the discrete race/ethnic categories reveals that: American Indian/Alaskan Native (52%) showed the most dramatic decline followed by White (-21.8%) and Black (-12.3%) youth. The Asian youth population at risk decreased by only 2.2%, while Hispanic youth (+0.06%) experienced a slight increase.

Table 2-1A generally shows that as youth progress from stage one along the continuum to the final stage, the proportional representations by race/ethnicity shift with increasing percentages of youth of color and decreasing percentages of White youth particularly at points leading to more restrictive outcomes, e.g., secure detention predisposition or secure confinement post-disposition. These shifts in proportional representation culminate at the final step resulting in confinement to secure juvenile facilities.

At this final decision-making point, the composite statewide population snapshot for juveniles confined to secure juvenile correctional facilities is 9.6% White, 90.4% minority (72.0% Black/African American, 17.6% Hispanic/Latino, and 0.7% Other). The demographic distribution at the most restrictive dispositional outcome for a juvenile delinquency charge is

[15] See footnote 7[a] Table 2-1A.

striking and troubling when the proportional representation of White youth is contrasted to the proportional representation of minority youth. A review of these data across each row (comparatively across one specific decision-making point) and within each demographic group (within a column at each decision-making step) illuminates a number of observations that warrant comment and discussion:

- Hispanic/Latino youth are basically equitably represented throughout the juvenile justice decision-making continuum. Hispanic/Latino youth comprise 17.3% of the at-risk youth population, and throughout the juvenile justice decision-making continuum comprise between 13.8% and 19.9% with representation at most of the decision-making points falling below their representation in the general youth population. While there is slight underrepresentation of Hispanic/Latino youth in terms of cases diverted (13.8%) and slight overrepresentation in terms of cases resulting in confinement in secure juvenile correctional facilities (19.9%), Hispanic/Latino youth are arguably fairly represented in the juvenile justice system in comparison to their representation in the general at-risk population.

- White youth are consistently underrepresented throughout the juvenile justice decision-making continuum. White youth comprise 59% of the at-risk youth population, and throughout the juvenile justice decision-making continuum comprise between 9.6% and 49.4% with representation at most of the decision-making points being below their representation in the general youth population. The highest representation of White youth is at #4 - Cases Diverted and the two lowest representations of White youth are at #5 - Cases Involving Secure Detention and #8 - Cases Resulting in Confinement in Secure Juvenile Correctional Facilities. Overall White youth are arguably underrepresented in the juvenile justice system in comparison to their representation in the general population.

- Black/African American youth are consistently and disproportionately overrepresented throughout the juvenile justice decision-making continuum. Black youth comprise 16.1% of the at-risk youth population, and throughout the juvenile justice decision-making continuum comprise between 32.8% and 72% with representation at most of the decision-making points significantly above their representation in the general youth population. The highest representations of Black/African American youth are at #8 - Cases Resulting in Confinement in Secure Juvenile Correctional Facilities and at #5 - Cases Involve Secure Detention and the lowest representation of Black/African American youth is at #4 - Cases Diverted. Overall Black/African American youth are disproportionately overrepresented in the juvenile justice system in comparison to their representation in the general population at the two most restrictive outcomes points and less consistently at #4 - Cases Diverted.

- Asian youth are consistently and disproportionately underrepresented throughout the juvenile justice decision-making continuum. Asian youth comprise 7.3% of the at-risk youth population, and throughout the juvenile justice decision-making continuum comprise between 0% and 1.9% with representation at most of the decision-making points being below their representation in the general youth population. The highest representation of Asian youth is at #4 - Cases Diverted and the two lowest representations of Asian youth are at #5 - Cases Involve Secure Detention and #8 - Cases Resulting in Confinement in Secure Juvenile Correctional Facilities. Overall Asian Youth are statistically underrepresented in the juvenile justice system in comparison to their representation in the general population.

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In light of the fact that no Asian youth were sent to secure detention or secure confinement and White youth are notably underrepresented at these two decision-making points, the Committee believes that there are lessons that can be learned from examining family case histories of a matched sample of youth across race/ethnicity and gender and/or drawing a blind sample study to identify or tease out the factors, quantitative and/or qualitative, that contribute to less restrictive/more restrictive outcomes.

Comparative data for calendar years 2004 and 2006 mirror the general trend observed in the demographic breakdown (by race/ethnicity) within the total youth population statewide compared to the demographic breakdown of youth confined post-adjudication to secure juvenile correctional facilities. As these youth cohorts move along the continuum, the proportional representations by race/ethnicity gradually and notably shift with increased percentages of youth of color and decreased percentages of White youth appearing at points leading to more restrictive outcomes (e.g., secure detention or secure confinement).

The endpoint demographic data for calendar years to 2006 and 2008 are noteworthy. Both the White and the aggregate youth of color populations in secure confinement remained virtually stationary during the two measurement periods: White youth decreased from 10.2 % in

2006 to 9.6% in 2008; the proportional representation of youth of color[16] combined increased slightly from 89.8% in 2006 to 90.4% in 2008. While there was no appreciable decrease in the percent of youth of color committed to secure juvenile correctional facilities there was also no sharp increase in the representation of minority youth committed to secure confinement over this two-year period. See *Table 2-1B*

[16] The Committee has not conducted a gender analysis; however it reiterates its previous recommendation that additional analyses be undertaken to determine whether there are statistically significant differences when race/ethnicity and gender intersect. Gender data are collected and reviewed by JDAI and the Committee encourages this work to continue. It would be helpful if the gender analyses were incorporated into the juvenile justice decision-making continuum analyses.

Table 2-1 B. Youth Race/Ethnicity Profile, Juvenile Justice Decision-Making Continuum, Calendar Year 2006 - Statewide

	White		Black/African American		Hispanic/ Latino		Asian		Native Hawaiian/ other Pacific Islanders		American Indian/ Alaska Native		Other/ Mixed		All Minorities		Total Youth
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
1. Population at risk (age 10 through 17)[17a]	719,597	74.2	175,289	18.1	165,018	17.0	71,032	7.3	0	0.0	4,212	0.4	0	0.0			**970,130**
2. Juvenile Arrests	38,281	48.	26,305	35.8	11,190	15.2	667	0.9	0	0.0	97	0.1	0	0.0	38,259	52.0	**73,540**
3. Refer to Juvenile Court	14,058	42.9	12,621	38.5	4,752	14.5	468	1.4	0	0.0	33	0.1	811	2.5	18,685	57.1	**32,743**
4. Cases Diverted	7,002	50.1	4,314	30.9	1,912	13.7	216	1.5	0	0.0	19	0.1	519	3.7	6,980	49.9	**13,982**
5. Cases Involving Secure Detention	1,328	13.9	6,248	65.3	1,865	19.5	0	0	0	0.0	0	0.0	123	1.3	8,236	86.1	**9,564**
6. Cases Resulting in Delinquent Findings	6,132	29.2	6,767	43.3	2,297	14.7	223	1.4	0	0.0	14	0.1	210	1.3	9,511	60.8	**15,643**
7. Cases resulting in Probation Placement	2,703	34.7	3,664	47.1	1,348	16.0	103	1.3	0	0.0	8	0.1	61	0.8	5,084	65.3	**7,787**
8. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	86	10.2	566	67.1	183	21.7	0	0	0	0.0	8	0.0	8	1.0	757	89.8	**843**
9. Cases Transferred to Adult Court[18]	**N/A**																

Data Source: AOC EEO/AA Unit

[17] Calendar year 2006 figures for each of the numbered steps (juvenile justice continuum decision-making points) provided by 1: http://www.ojjdp.ncjrs.gov/ojstatbb/ezapop/; 2: UCR; 3: NJ AOC "Juvenile New Complaints"; 4: NJ AOC "Juvenile Diversions"; 5: NJ JJC Compliance Monitoring Unit; 6: NJ AOC "Juvenile Adjudications"; 7: NJ AOC "Probation Dispositions"; 8: NJ JJC Commitments; 9: Data Not Available

[a] The combined actual numbers for each of the race/ethnicity categories together actually sum to more than the total youth population combined because of the impact of the change in federal race/ethnicity categories. Beginning with the U.S. Census in 2000, respondents have the ability to elect Hispanic/Latino as an ethnicity in addition to another category such as White or African American/Black as a race. This typically results in a duplicate count of persons who elect Hispanic and a race.

[18] Transfers of selected juvenile matters from the Family Part to the (adult) Criminal Part are the result of a process called "involuntary transfer of jurisdictions." As the AOC's Family Practice Unit has informed the Committee, race/ethnicity data on this decision-making point has not been available due to a feature in the Judiciary's data management system. However, as a result of grant funds, the Administrative Office of the Courts is in the process of expanding the data management system to enable tracking of race/ethnicity and is developing a standard report that will make the related data available.

Recognizing that the examination of the data in terms of reviewing the raw numbers, calculating the percentages and comparing the proportional representations within discrete race/ethnic categories and between various race/ethnic categories is the first in a series of steps, the Committee also chose to examine calendar year 2008 data and to calculate the national standard of measure, the relative rate index.[19] The continued disproportional representation of youth of color is an issue that warrants further examination and remediation particularly when one observes at the local level evidence of more disparate measures of disproportionality. While the Committee is not suggesting that representation within detention or secure confinement should match the proportional representation within the general youth population, the marked disparities are nevertheless a source of great concern warranting further in-depth exploration and close evaluation.

After a careful review and discussion of the 2008 data, the Committee turned its attention to examining the disproportionality at three specific decision-making points: #4 - cases diverted; #5 - cases involving secure detention (pre-adjudication); and #8 - cases resulting in confinement in secure juvenile correctional facilities (post-adjudication). The disproportionality and disparity in justice outcomes, as indicated both by the proportional representation and the calculation and application of the Relative Rate Index (RRI), is markedly distinguishable at these three specific decision-making points. Given the active role that the Court plays at these three decision points, the Court has an opportunity to exercise proactive leadership by engaging in furthering the

[19] The U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention defines the relative rate index: "The relative rate index (RRI) method involves comparing the relative volume (rate) of activity at each major stage of the juvenile justice system for minority youth with the volume of activity for White (majority) youth.

The method of comparison provides a single index number which tells the extent to which the volume of activity for minority youth differs from that of White youth. The RRI merely serves as a red flag. It is used to identify points on the juvenile justice continuum that are in need of further investigation in regards to disproportionality. However, taken alone, the RRI does not tell if there is a problem that needs to be addressed with intervention or what intervention, if any, to use" (Provided by the Juvenile Justice Commission, January 9, 2009).

exploration of these three discrete points in order to develop a more nuanced understanding of the factors contributing to these outcomes.

As part of a statewide review, the judiciary is conducting internal reviews of outcomes in the screening of juvenile delinquency cases. The Committee's understands that the preliminary research will also examine classifications and diversions decisions. As the research goes forward, the Committee respectfully requests that the variable, "single head of household" be added. [D]ata collected in the 80's and more recently support the view that when a question of family stability, [i.e., existence of single parent families] exists the likelihood of incarceration is greater. Minority at-risk youth and other economically marginalized/challenged groups, as a result, may be adversely impacted.[20]

2. Ongoing Juvenile Justice Systems Improvements and the Judiciary's Model JDAI

a. Detention Data Review, Findings and Recommendations

New Jersey has made laudable and replicable improvements to its juvenile justice system through the collaborative partnerships of JDAI and the statewide and county Councils on Juvenile Justice Systems Improvement.[21] The statewide Council on Juvenile Justice Systems Improvement and its county counterparts grew out of the original JDAI steering committee structure. With its focus on juvenile justice systems improvement, the Council not only guides and directs the ongoing work of JDAI but also engages broadly and expansively in promoting juvenile justice systems improvement. The Committee appreciates the Court's involvement and leadership in this critical area.

[20] Juvenile Delinquency Commission, Juvenile Justice - Towards Completing the Unfinished Agenda, 51 (August 1988), p. 55.

[21] The Statewide Council on Juvenile Justice Systems Improvement is co-chaired by the Honorable F. Lee Forrester, J.S.C., and Ms. Patricia Walker, of the Juvenile Justice Commission. Judge Forrester is a previous member of this Committee and Subcommittee; Ms. Walker is a current member.

Through JDAI,[22] New Jersey has been highly successful in reducing the number of youth in detention, and the designation as a national model for statewide implementation is well earned. The 2009 JDAI annual report[23] highlights several significant overall successes:

- Comparing the year prior to JDAI in each site to the current year, across all eleven sites average daily population has decreased by 42.9%. On any given day, there were 288 fewer youth in secure detention with youth of color accounting for 88.7% of this decrease.

- Across all eleven sites, more than four thousand (4,091) fewer youth were admitted to detention in 2009 compared to each site's last year prior to implementation of JDAI; this figure represents a decrease of 47.5%.

- Over the past year alone, all JDAI sites reduced the total number of [youth] admitted to detention for a technical violation of probation for a combined reduction of 21%.

- In 2009, across eight sites reporting detention alternative outcomes data, the success rate averaged 79 %. Across these sites an average of only 3.7% of youth were discharged from a detention alternative program as the result of a new delinquency charge.

- The number of girls in detention on any given day has decreased by 60% across the eleven sites combined.

The Committee elected once again to review the data for the five original JDAI pilot sites, namely Atlantic, Camden, Essex, Hudson, and Monmouth Counties, now referenced as the program expands statewide as the Phase I sites. The benefit of looking to these five sites is that JDAI has become institutionalized in these venues so more extensive longitudinal data are available. In addition, three of these counties are engaged in a partnership with the Burns Institute to engage the 8th core JDAI strategy, i.e., "… the reduction of racial disparities …," to

[22] JDAI is the interagency Juvenile Detention Alternatives Initiative (JDAI) currently funded by a grant from the Annie E. Casey Foundation.

[23] The full report is available online at www.state.nj.us/lps/jjc/pdf/JDAI-2009-Report-Annual.pdf. The Committee encourages readers to review the informative report in its entirety as the limited discussion of selected outcomes in the context of this report cannot give readers a full appreciation of the JDAI and its many successful outcomes and operational principles.

address the disproportional overrepresentation of youth of color in the juvenile justice system in general and in detention in particular.

Table 2-2. Average Daily Juvenile Detention Population, Five Original JDAI Pilots Sites

Original Sites	2003	2006	2009	1-Yr Change '08-'09		6-Yr Change '03-'09	
				Youth	*%*	*Youth*	*%*
Atlantic	34.1	24.8	16.3	-8.1	-33.2	-17.8	-52.2
Camden	94.6	47.6	46.7	-3.2	-6.4	-47.9	-50.6
Essex	243.6	115.1	113.2	-1.5	-1.3	-130.4	-53.5
Monmouth	40.0	22.2	25.7	-2.2	-7.9	-14.3	-35.8
Hudson	86.7	74.3	62.3	+1.5	+2.5	-24.4	-28.1
TOTAL	**499.0**	**284.0**	**264.2**	**-13.5**	**-4.9**	**-234.8**	**-47.1**

Data Source: 2007 JDAI Annual Report (Table 1: ADP Population, p. 1) and 2009 Report (Table 2, p. 2)

Table 2-2: Average Daily Juvenile Detention Population shows that in each of the five original JDAI sites (Atlantic, Camden, Essex, Hudson, and Monmouth Counties) and for the five sites combined initiatives have been very successful at reducing the overall daily population[24] in juvenile detention. For the six-year period 2003-2009, the average daily population in juvenile detention decreased in the five counties combined by 47.1%. All five counties experienced decreases in average daily population of more than 25% and in three of these counties the decrease was greater than 50%.

[24] "[D]etention numbers reflect all youth in detention who were not serving a disposition in a detention commitment program. [T]hat includes youth pre-adjudicated, adjudicated and awaiting disposition, disposed and awaiting placement, and youth where a waiver was granted but the youth was being held in detention pending trial." (Juvenile Justice Commission, December 23, 2010, via email)

Table 2-3. Average Daily Minority Juvenile Population in Detention Five Original JDAI Pilots Sites

Original Sites	2003	2006	2009	1-Yr Change '08-'09		6-Yr Change '03-'09	
				Youth	*%*	*Youth*	*%*
Atlantic	30.6	22.1	14.4	-7.1	-33.0	-16.2	-52.9
Camden	79.9	40.8	43.0	-1.7	-3.8	-36.9	-46.2
Essex	242.6	114.1	112.9	-0.3	-0.3	-129.7	-53.5
Monmouth	29.8	17.9	23.2	-2.2	-8.7	-6.6	-22.1
Hudson	82.5	71.9	61.6	+2.1	+3.5	-20.9	-25.3
TOTAL	**465.4**	**266.8**	**255.1**	**-9.2**	**-3.5**	**-210.3**	**-45.2**

Data Source: 2007 JDAI Annual Report (Table 12: ADP Population of Minority Youth in Detention, p. 8) and 2009 JDAI Annual Report (Table 15, p. 14)

Table 2-3: Average Daily Minority Juvenile Detention Population shows that again in each of the five original JDAI sites and also for the five sites combined initiatives have been very successful at reducing the average daily minority population in juvenile detention. For the six year period 2003-2009, the average daily population in juvenile detention decreased in the five counties combined by 45.2%.

Table 2-4. Average Length of Stay (LOS) in Detention, Minority vs. Non-Minority (White) Youth, Five Original JDAI Pilots Sites

Original Sites	Minority Youth			White Youth		
	[a]2003	2006	2009	2003	2006	2009
Atlantic	31.2	22.6	23.8	18.7	17.0	21.4
Camden	21.9	17.2	34.5	13.2	18.0	22.9
Essex	40.3	20.8	33.3	20.9	13.1	7.9
Monmouth	37.9	22.1	42.4	21.7	13.3	17.2
Hudson	30.2	28.0	33.8	15.8	27.3	9.1
TOTAL	**33.2**	**21.8**	**33.5**	**16.6**	**16.6**	**18.2**

Data Source: 2007 JDAI Annual Report (Table 13: Average LOS in Detention, Minority vs. White Youth, p. 9) and 2009 Annual Report (Table 16)

[a] 2003 figures are based on a 4-month sample (Jan, Apr, Jul, Oct) for each site.

[b] Hudson's 2005 figures are based on Sept through Dec.

An examination of *Table 2-4: Average Length of Stay (LOS)* in Detention reveals that in each of the five original JDAI sites and the five sites combined JDAI has shown fluctuating success in reducing the average length of stay for both minority and non-minority youth. In

2009 the average length of stay for youth of color for the five sites combined was 33.5 days (approximately one month and for 4 days) whereas the average length of stay for White youth was 18.2 days (approximately 2 weeks and 4 days). The average length of stay for minority youth overall has increased and the difference between the average length of stay for minority and White youth has almost doubled. On average, minority youth are staying in detention 15.3 days longer than White youth. These new data stand in marked contrast to the data reported in the 2007-2009 wherein the Committee noted that for the five sites combined the difference in average length of stay for minority youth is an additional 7.4 days, a difference of slightly over one full week on average. The 2009 JDAI Annual Report shared these findings:

> Unfortunately, like the overall length of stay trends described, early gains made in terms of reducing the gap between youth of color and white youth have been essentially lost (Table 16). In 2003, in the original JDAI sites, minority youth remained in detention [on average] 16.6 days longer than white youth. While this gap had been reduced to 8.3 days in 2008, minority youth once again remained in detention more than two weeks longer than white youth (15.3 days) the following year.
>
> In the phase 2 sites, the [average length of stay] gap between minority youth and white youth increased from 1.5 days in 2005 to 3/5 days in 2009. However, in 2009, there were three sites where the [average length of stay] gap between youth of color and white youth was close to zero: Atlantic (+2.4 days), Bergen (-1.9 days), and Burlington (+2.4) [while there were four sites where] youth of color remained in detention more than three weeks longer than white youth: Essex (+25.4), Monmouth (+25.2), Hudson (+24.7), and Mercer (+21.2).

The Committee is very concerned about the gap in average length of stay for minority compared to non-minority youth and the fact that the gap has markedly increased. The Committee urges the Court to consider the following recommendation:

New Recommendation 11:02.2

Considering these data together with the decision-making points outcomes data discussed in an earlier section of this chapter and the data included in the 2009 JDAI Annual Report on average length of stay by departure type, the Committee recommends that the Judiciary explore the factors that contribute to departure from detention so that these factors can be considered in the context of reducing the disparities in average length of stay between minority and White youth.

The three vicinages with near zero gaps in average length of stay should be included in the review in order to identify replicable "lessons learned" from local jurisdictions. The Judiciary has a pivotal leadership role to play in identifying factors that contribute to the disparity in pointing out factors that lead to youth successfully exiting the system and in offering viable system-based solutions rooted in case processing, court policies and procedures, research and outcome-based findings.

Table 2-5. Percent of Detention Admissions Comprised of Minority Youth, Five Original JDAI Pilots Sites

Original Sites	2003	2006	2009	1-Yr Change '08-'09		6-Yr Change '03-'09	
				Points	*%*	*Points*	*%*
Atlantic	85.0	85.5	86.7	+2.8	+3.3	+1.7	+2.0
Camden	80.4	85.5	86.5	-3.0	-3.4	+6.1	+7.6
Essex	98.5	97.7	98.6	+0.9	+0.9	+0.1	+0.1
Monmouth	62.8	72.7	79.3	-0.8	-1.0	+16.5	26.3
Hudson	93.9	96.9	95.1	-0.5	-0.5	+1.2	+1.3
TOTAL	89.0	91.9	92.9	-0.2	-0.2	+3.9	+4.4

Source: 2007 JDAI Annual Report (Table 14: % of Detention Admissions Comprised of Minority Youth, p. 10) and 2009 JDAI Annual Report (Table 17)

In *Table 2-5: Percent of Detention Admissions Comprised of Minority Youth* in all five of the original JDAI sites and also for the five sites combined the percent of detention admissions increased for minority youth for the six year period 2003-2009. While the Committee is not in a position to hypothesize about factors contributing to the uptick, it is aware that since the last report a standardized Risk Screening Tool (RST) has been put into use across the state and, as with the introduction of any new tool, it will take some time to educate the staff in the use of the

tool. Members look forward to an informational presentation by the Family Practice Division on the structure, purpose, and use of the Risk Screening Tool in order to enhance the Committees understanding of the detention admissions process. This additional information will shed light on and assist the SCCMC with identifying those factors that may/may not contribute to detention admissions and diversions.

b. Detention Alternative Outcomes - Five Original JDAI Pilots Sites

The Committee also closely reviewed a number of other data tables *Table 14: Detention Alternative Outcomes*. Across the five Phase I sites, these data show a high rate of successful completion, ranging from 75.1% to 87%; a low rate of new charges filed while on a detention alternative, ranging from 1.8% to 6.2%; and a varied rate of violation/non-compliance (without new charges), ranging from 8.4% to 23.1%.

While the use of detention alternatives overall appears not only successful in reducing the population in detention but also in achieving the goals of court-intervention, in light of the growing awareness of unintended consequences and disparate outcomes, the Committee offers the following recommendation:

New Recommendation 11:02.3
The Committee recommends that the Judiciary as part of its routine review and data monitoring include information on the selection/assignment of detention alternatives in order to ascertain the degree to which more restrictive/less restrictive detention alternatives are utilized across racial/ethnic, gender, and age groups.

c. JDAI and Minority Disproportionality

With the "reduction of racial disparities" as one of the core strategies of the JDAI framework[25], JDAI continues to offer promise in the ongoing efforts to address disproportionate minority contact (DMC). However, as the current data demonstrate, although the number of

[25] Annie E. Casey Foundation. "Juvenile Detention Alternatives Initiative: Core Strategies," Pathways to Detention Reform #8. http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/CoreStrategies.aspx

youth of color in detention is decreasing minority disproportionality is actually increasing. The 2009 JDAI Annual Report states:

> A core principle of JDAI is recognizing that no matter how well the current system is operating there is always room for improvement. While the accomplishments of New Jersey's JDAI sites to-date are indeed substantial, the report's findings indicate there remains work to be done.

The Committee agrees:

> …the issue of systemic disparities in juvenile justice outcomes did not occur suddenly and will not be resolved instantaneously. Resolving disparities will take consistent ongoing collaborative efforts. While the Subcommittee [Committee]recognizes that many decision-making points that contribute to disparate outcomes occur before a youth's first contact with the Court, the Committee remains firm in its belief that the Court must maintain a leadership role in the long-term address of disparities in justice outcomes with the Family Division and Minority Concerns working side-by-side on the Court's behalf to bring all the stakeholders and partner agencies together to address seriously and systematically the factors that contribute to disparate justice outcomes for minority youth. (2004-2007 Report, p. 27).

While it is expected that many of the important successes realized, and yet to be realized, by the JDAI initiative will be integrated into the organizational culture of our court and various other partner agencies, departments and organizations, the Committee urges the Judiciary to continue its active leadership role in the collaborative interagency systems improvement initiative and to stay the course with its own internal work agenda.

The Committee is supportive of the Judiciary's continuing active engagement of JDAI with respect to its core strategy of "reducing racial disparities in juvenile detention" as well as its more expansive internal agenda including an examination of disparities in juvenile justice and child welfare outcomes.

d. Disposition Alternatives: Juvenile Conference Committees

> The Committee recommends that the Judiciary review data to ascertain the ways in which the Court's existing disposition alternatives such as the Juvenile Conference Committees support the goals of reducing disproportionate minority contact and identify the ways in which the strengths of these disposition alternatives meet and support the goals of the Court's emerging action plan. (Recommendation 09:02.2)

While the Judiciary continues to realize great successes in the reduction of the number youth in detention overall through its involvement in the interagency Annie E. Casey Foundation-funded Juvenile Detention Alternatives Initiative (JDAI), the Judiciary also has longstanding disposition alternatives that are positioned to address the issue of disproportionate minority contact, *e.g.*, the Juvenile Conference Committees (JCCs), Intake Service Conferences (ISC), and Juvenile Referees. In follow-up to the Court's approval of Recommendation 09:02.2, the Committee has obtained data on youth served by the Juvenile Conference Committees. These data and other available resources such as the recently promulgated directive regarding youth participation as members of Juvenile Conference Committees will be reviewed.

C. Minority Representation in Abuse & Neglect Cases (FN Docket)

> The Committee recommends that as part of the Judiciary's statewide action plan to examine disproportional overrepresentation of children of color in abuse and neglect cases the Judiciary engage in ongoing regular review and analysis of available data at both the state and vicinage levels to monitor for the disproportional overrepresentation of children of color in abuse and neglect cases and where appropriate that plans for addressing disproportional minority/non-minority representation in the FN and related docket types such as FG, FC, and FF as an evaluation element in the Family Division team vicinage visitation reports. The Committee also recommends that the Court develop a methodology for assessing minority overrepresentation comparable to the relative rate index used in measuring disproportionate minority contact along the juvenile justice continuum. The Committee is prepared to assist in the development of these measurement tools. (Recommendation 09:02.4)

> The Committee recommends that the Judiciary continue its support for system wide initiatives at the state- and vicinage levels to monitor for disproportional overrepresentation of children of color in abuse and neglect cases through initiatives including but not limited to training, in-service, and professional development opportunities for judges, staff, and other stakeholders such as the upcoming (proposed) CIC Improvement Conference on the minority representation in abuse and neglect cases. (Recommendation 09:02.5)

The Center for the Study of Social Policy notes that "although African Americans constituted 15% of the child population of the United States in 1999, they accounted for 45% of the children in substitute care [while] in contrast, [White] children, who constituted 60% of the U.S. child population [in 1999,] accounted for 36% of the children in out-of-home care." [26]

Also examined were data available on children in active abuse and neglect cases (i.e., the FN docket) handled by the New Jersey Courts. *Table 2-6* depicts data reviewed for calendar year 2010.

[26] Derezotes, Dennette, Poertner, John, Testa, Mark F. (eds.) "Race Matters in Child Welfare: The Overrepresentation of African American Children in the System," Race Matters Consortium. Washington, DC: Child Welfare League of America, 2005.

Table 2-6. New Jersey Judiciary: Children in Active Abuse and Neglect (FN) Cases, December 31, 2010

County	White		Black / African American		Hispanic / Latino		Asian / Pacific Islander		American Indian		Alaskan Native/ Eskimo		Other		Total Known		Unknown/ Not Indicated		Total	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Atlantic	122	23.0	140	26.3	51	9.7	2	<0.1	0	0.0	0	0.0	17	0.3	332	62.5	199	37.5	**531**	**100.0**
Bergen	160	29.4	86	15.8	69	12.7	2	<0.1	2	<0.1	0	0.0	8	1.5	327	60.1	217	39.9	**544**	**100.0**
Burlington	94	30.3	109	35.2	7	2.3	3	1.0	0	0.0	0	0.0	15	4.9	228	73.5	82	26.5	**310**	**100.0**
Camden	131	14.9	212	24.1	83	9.4	4	0.5	0	0.0	1	0.1	20	2.3	450	51.2	429	48.8	**880**	**100.0**
Cape May	143	49.5	32	11.1	22	7.6	0	0.0	0	0.0	0	0.0	13	4.5	210	72.7	79	27.3	**289**	**100.0**
Cumberland	78	24.5	111	34.8	54	17.0	0	0.0	1	0.3	0	0.0	11	3.4	255	79.9	64	20.1	**319**	**100.0**
Essex	92	6.0	1076	70.0	122	8.0	6	0.4	1	<0.1	0	0.0	4	0.3	1301	84.6	236	15.4	**1537**	**100.0**
Gloucester	138	35.4	80	20.5	5	1.2	1	0.3	0	0.0	0	0.0	11	2.8	235	60.2	155	39.8	**390**	**100.0**
Hudson	70	7.7	308	34.0	241	26.6	8	0.9	1	0.1	1	0.1	19	2.1	648	71.5	258	28.5	**906**	**100.0**
Hunterdon	65	73.9	10	11.4	3	3.4	0	0.0	0	0.0	0	0.0	2	2.3	80	90.9	8	9.1	**88**	**100.0**
Mercer	22	6.6	198	59.0	19	5.7	1	0.3	0	0.0	0	0.0	5	1.5	245	72.9	91	27.1	**336**	**100.0**
Middlesex	98	20.3	111	23.0	68	14.1	0	0.0	0	0.0	0	0.0	7	1.4	284	58.8	199	41.2	**483**	**100.0**
Monmouth	95	22.1	87	20.2	14	3.3	1	0.2	0	0.0	0	0.0	13	3.0	210	48.8	220	51.2	**430**	**100.0**
Morris	86	30.8	36	12.9	46	16.5	5	1.8	0	0.0	0	0.0	14	5.0	187	67.0	92	33.0	**279**	**100.0**
Ocean	150	44.5	68	20.2	20	6.0	5	1.5	0	0.0	0	0.0	19	5.6	262	77.7	75	22.3	**337**	**100.0**
Passaic	56	12.9	174	40.1	89	20.5	1	0.2	1	0.2	0	0.0	1	0.2	322	74.1	112	25.9	**434**	**100.0**
Salem	53	51.5	23	22.3	9	8.7	0	0.0	0	0.0	0	0.0	1	1.0	86	83.5	17	16.5	**103**	**100.0**
Somerset	98	28.9	93	27.4	35	10.3	5	1.5	0	0.0	0	0.0	10	2.9	241	71.1	98	28.9	**339**	**100.0**
Sussex	61	80.3	2	2.6	2	2.6	0	0.0	0	0.0	0	0.0	1	1.3	66	86.8	10	13.2	**76**	**100.0**
Union	73	12.1	254	42.1	64	10.6	1	0.2	0	0.0	0	0.0	15	2.5	407	67.3	197	32.7	**604**	**100.0**
Warren	132	62.9	15	7.1	9	4.3	0	0.0	0	0.0	0	0.0	2	1.0	158	75.2	52	24.8	**210**	**100.0**
TOTAL	**2,017**	**21.4**	**3,225**	**34.2**	**1,032**	**10.9**	**45**	**0.5**	**6**	**<0.1**	**2**	**<0.1**	**208**	**2.2**	**6,535**	**69.3**	**2,890**	**30.7**	**9,425**	**100.0**

Data Source: AOC Family Division, Report LOG1085B, 01/21/2011

The Committee recommends that the Judiciary as directed by the Chief Justice communicate to the Executive Branch its concerns about the gaps in data relating to race/ethnicity of children involved in the child welfare system broadly and children involved in abuse and neglect cases before the Court specifically. The Committee recommends that the Court work collaboratively with the Executive Branch to identify mutually beneficial ways to improve the collection, availability, and usability of demographic data relating to children in the child welfare system. (Recommendation 09:02.3)

In follow up to Recommendation 09:02.3, the Committee notes the improvements that have been made by the Executive Branch Child Welfare Agency, namely the New Jersey Department of Children and Families, in the collection and availability of race/ethnicity data for children involved in the child welfare system and in children-in-court cases before the New Jersey Courts. The increased availability of accurate data on race/ethnicity is a valuable tool in fulfilling the Committee's monitoring and research mandates. The SCCMC respectfully requests that the Court share the acknowledgement of the ongoing enhanced data collection efforts of the Department of Children and Families with the Executive Branch.[27]

As *Table 2-6 New Jersey Judiciary Pending Abuse and Neglect Cases (FN)* depicts, race/ethnicity data were available for 69.3% (6,535) of the children who as of December 31, 2010 were the subjects of the pending abuse and neglect cases currently before the Court (9,425)[28]. While Table 2-6 depicts the proportional representation of children by race/ethnicity within each county including both reported and unreported, for purposes of this analysis, the focus will be limited to the proportional representation of the children with active FN cases (69.3%) for whom race/ethnicity has been reported. Of these 6,535 children in abuse and neglect cases for whom race/ethnicity information is available statewide the race/ethnic breakdown is:

[27] The Committee notes that this observation about improvements in the availability of race/ethnicity data for court-involved youth under the care of the New Jersey child welfare system also applies to Recommendations 09:02.6 and 09:02.12.

[28] The Committee notes that a direct comparison of data cannot be made between the FN docket data reported here, which reflects children in active abuse and neglect cases, and the FN docket data reported in the 2007-2009 biennial report which reflected active abuse and neglect cases, not a census of the individual children involved.

34.2% (3,225) are identified as Black/African American; 10.9% (1,032) are Hispanic/Latino; 0.5% (45) are Asian; equal percentages are American Indian, <0.1(6) and Alaskan Native/Eskimo, <0.1% (2); and 2.2% (208) are categorized as Other.

With race/ethnicity data available for 69.3% of the children in abuse and neglect cases currently before the New Jersey Superior Court, the available data are sufficient to engender confidence that the observed overrepresentation is not due to biased sampling. While no findings can be proposed at this time about the extent of disproportionate overrepresentation of children of color in the universe of abuse and neglect cases, the initial indications of disproportionality within the pool of children for whom race/ethnicity data are reported[29] underscores the need to continue to monitor and analyze these data in order to be able to more thoroughly probe these issues, secure better data and continue to engage in additional research. Additional examination will perhaps afford the Committee an opportunity to uncover other nuanced internal/external juvenile justice system findings that may further illuminate this challenging issue.

Similar to the juvenile justice continuum, the child welfare paradigm's includes a number of sequential decision points which precede a case's referral to the Court and are outside the direct authority of the Court. Similarly, the Court plays a significant and unique role in providing direction to and resolving child welfare cases that are pursued through formal abuse and neglect charges. Consequently, concern for the (over)representation of racial/ethnic minorities in abuse and neglect cases (FN docket) is important to the Court. The Committee is pleased that these docket types have been added to the Family Division's ongoing monitoring and action agenda.

[29] Although the Committee does not have sufficient information at this time to characterize fully the process by which these race/ethnicity data have been collected, the Committee can observe that even if all of the "unknowns" were in fact non-minority significant issues of overrepresentation would remain.

The Committee plans to continue its work in abuse and neglect docket areas as well. The SCCMC looks forward to sharing that which it has gleaned from further exploration of these docket types. The hope is that our joint efforts will result in a clearer picture emerging on how best to address the multiple presenting problems so evident in these case types and a better understanding of how these case types intersect and inform case dispositions will be the outcome.

D. Minority Representation among Youth Free for Adoption/Legal Orphans

Another area which is being closely monitored is youth post-termination of parental rights. Anecdotal evidence from multiple sources during previous terms suggests strongly that male children/youth of color are most frequently disproportionately overrepresented among youth available for adoption; unfortunately many of these youth ultimately age out of the system before experiencing permanent placement with an adoptive family.[30]

1. Terminology: Legal Orphans vs. Youth Free for Adoption/Youth-Post Termination of Parental Rights

Throughout the course of many discussions, the Committee uses the expressions "youth post-termination [of parental rights]" and "youth free for adoption," terminology that it used in its 2004-2007 and 2007-2009 reports, interchangeably with "legal orphans." Having used the term "legal orphans" with some reservation over the course of several committee cycles the Committee expressed its perspective through the following commentary in the 2007-2009 report:

> While the Committee recognizes that "legal orphans" is a technically accurate description of youth whose parents' parental rights have been

[30] The Court and other state agencies involved in the child welfare system are guided by the federal *Adoption and Safe Families Act* (1997), also known as *ASFA*, in their work of finding/creating permanent homes for children in foster care. In the absence of family reunification as a desirable outcome, the goal is permanent placement through adoption. The intention of the *Adoption and Safe Families Act* through a variety of reporting and monitoring mechanisms is to facilitate the process of moving "legal orphans" into permanent placement, providing for permanency and stability within a specified period of time. The State of New Jersey advanced the federal *Adoption and Safe Families Act* by enacting legislation designed to create compliance with the federal requirements through the implementation of related procedures, protocols, and timelines.

> terminated, the Committee finds that, considering the nature and dynamics of language, the phrase tends to put the focus on "orphan" as a permanent identity rather than as a temporary status, working unconsciously against the goal of permanency and stability through adoption.

From the Committee's perspective this was not an issue of semantics but rather is an issue about the social significance of language (both conscious and unconscious). In the previous report, the Committee expressed its point of view in the following recommendation:

> The Committee recommends that the Court explore and consider alternative terminology to the phrase "legal orphan" to describe programmatically this group of children and youth. While the Committee recognizes that "legal orphans" is a technically accurate description of youth whose parents' parental rights have been terminated, the Committee finds that, considering the nature and dynamics of language, the phrase tends to put the focus on "orphan" as a permanent identity rather than a temporary status, working unconsciously against the goal of permanency and stability through adoption. The Committee has the concern that the language of the phrase, while technically accurate, may unconsciously work against the goal of permanent placement through adoption. (Recommendation 09:02.8).

At its administrative determination hearing on the recommendations of the 2007-2009 report of the Committee on Minority Concerns, the Court referred the recommendation to the Conference of Family Presiding Judges for consideration and discussion.

During this term, the Committee learned that the Conference of Presiding Judges of the Family Part reviewed the recommendation and a discussion ensued with input from the Children-in-Court Subcommittee. The Family Division concluded that the term legal orphans is a productive term from an operational perspective because the phrase serves as a reminder that these children are orphaned as a result of legal action taken by the court. The court keeps the focus on a permanent placement or alternate plan in the best interest of the child; therefore, the operational terminology will remain in the Judiciary's lexicon.

The Committee observed that in Directive #04-10, which addresses a number of programming issues, the Judiciary referred exclusively to these children as "youth post-termination of parental rights" and not as legal orphans. The Committee is encouraged to see the

Court use a variety of terms in referring to these children and appreciates the Conference of Presiding Judges for revisiting the issue, giving consideration to the Committee's perspectives and sharing a detailed explanation of the rationale for retaining the use of the term.

2. Demographic Data on Youth Post-Termination of Parental Rights/Legal Orphans

The Committee examined data provided by the Administrative Office of the Courts on youth post-termination/pre-adoption ("legal orphans") in New Jersey as of December 31, 2010. The data, reflected in Table 2-7, provides a breakdown on the census of legal orphans by county cross-tabulated with race/ethnicity.

Table 2-7 Statewide Census of Legal Orphans shows that race/ethnicity data were available for 76.2% (925) of the current pool of legal orphans (1,214) and this discussion will be limited only to those youth for whom these data are available. Of the 925 legal orphans 14.8%(180) are White; 50.7% (616) are identified as Black/African American; 7.9% (96) as Hispanic/Latino, 0.7%(8) as Asian; 0.0% as American Indian; 0.0% as Alaska Native/Eskimo, and 2.1%(25) as Other for a combined total of 61.4% (745) children/youth of color.

There are some successes revealed by the current data:

- Improvements have been made in the availability of race/ethnicity data for these children.
- The overall number of legal orphans has decreased 45.5% from 2,230 as of July 2008 to 1,214 as of December 2010. The numbers of children have decreased in all race/ethnicity categories: White children have decreased from 354 to 180(-49.2%); Black/African American children have decreased from 920 to 616(-33%); Hispanic/Latino youth have decreased from 193 to 96 (-50.3%); Asian/Pacific Islander youth have decreased from 9 to 8(-1.1%); American Indian children have decreased from 3 to 0; children who identify as Other went from 29 to 25 (-13.8 %).
- The proportional representation of Black /African American youth decreased from 61.4% to 50.7% representing -11% and Hispanic/Latino youth decreased from 12.9% to 7.9% and indicates a -5% drop.

Table 2-7. Statewide Census of Youth Post-Termination of Parental Rights, Legal Orphans with Active FC Cases - December 31, 2010

County	White		Black / African American		Hispanic / Latino		Asian / Pacific Islander		American Indian		Alaskan Native/ Eskimo		Other		Total Known		Unknown/ Not Indicated		Total	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Atlantic	2	6.5	17	54.8	4	12.9	0	0.0	0	0.0	0	0.0	0	0.0	23	74.2	8	25.8	**31**	**100.0**
Bergen	9	19.1	18	38.3	6	12.8	0	0.0	0	0.0	0	0.0	2	4.3	35	74.5	12	25.5	**47**	**100.0**
Burlington	17	33.3	30	58.8	0	0.0	0	0.0	0	0.0	0	0.0	1	2.0	48	94.1	3	5.9	**51**	**100.0**
Camden	17	12.3	42	30.4	8	5.8	3	2.2	0	0.0	0	0.0	6	4.3	76	55.1	62	44.9	**138**	**100.0**
Cape May	8	33.3	11	45.8	0	0.0	0	0.0	0	0.0	0	0.0	4	16.7	23	95.9	1	4.1	**24**	**100.0**
Cumberland	6	25.0	11	45.8	1	4.2	0	0.0	0	0.0	0	0.0	1	4.2	19	79.2	5	20.8	**24**	**100.0**
Essex	5	1.4	284	78.0	22	125	3	0.8	0	0.0	0	0.0	0	0.0	314	86.3	50	13.7	**364**	**100.0**
Gloucester	10	43.5	7	30.4	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	17	73.9	6	26.1	**23**	**100.0**
Hudson	8	12.5	13	20.3	23	35.9	1	1.6	0	0.0	0	0.0	2	3.1	47	73.4	17	26.6	**64**	**100.0**
Hunterdon	2	50.0	2	50.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	4	100.0	0	0.0	**4**	**100.0**
Mercer	7	7.4	54	57.4	4	4.3	1	1.1	0	0.0	0	0.0	2	2.1	68	72.3	26	27.7	**94**	**100.0**
Middlesex	7	14.0	17	34.0	6	12.0	0	0.0	0	0.0	0	0.0	0	0.0	30	60.0	20	40.0	**50**	**100.0**
Monmouth	13	29.5	17	38.6	2	4.5	0	0.0	0	0.0	0	0.0	0	0.0	32	72.7	12	27.3	**44**	**100.0**
Morris	6	24.0	3	12.0	3	12.0	0	0.0	0	0.0	0	0.0	1	4.0	13	52.0	12	48.0	**25**	**100.0**
Ocean	25	43.9	16	28.1	1	1.8	0	0.0	0	0.0	0	0.0	0	0.0	42	73.7	15	26.3	**57**	**100.0**
Passaic	6	13.0	20	43.5	5	10.9	0	0.0	0	0.0	0	0.0	0	0.0	31	67.4	15	32.6	**46**	**100.0**
Salem	3	13.6	14	63.6	1	4.5	0	0.0	0	0.0	0	0.0	0	0.0	18	81.8	4	18.2	**22**	**100.0**
Somerset	1	33.3	1	33.3	1	33.3	0	0.0	0	0.0	0	0.0	0	0.0	3	100.0	0	0.0	**3**	**100.0**
Sussex	6	54.5	3	27.3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	9	81.8	2	18.2	**11**	**100.0**
Union	6	9.1	35	53.0	9	13.6	0	0.0	0	0.0	0	0.0	2	3.0	52	78.8	14	21.2	**66**	**100.0**
Warren	16	61.5	1	3.8	0	0.0	0	0.0	0	0.0	0	0.0	4	15.4	21	80.8	5	19.2	**26**	**100.0**
TOTAL	**180**	**14.8**	**616**	**50.7**	**96**	**7.9**	**8**	**6.6**	**0**	**0.0**	**0**	**0.0**	**25**	**2.1**	**925**	**76.2**	**289**	**23.8**	**1,214**	**100.0**

Data Source: AOC Family Division, Report 01/13/2011, 10.50.21

The availability of race/ethnicity data for 76.2% of the current pool of youth post-termination of parental rights in New Jersey is sufficient for the readership to be reasonably confident that the observed overrepresentation does not result from biased sampling. While no findings can be offered at this time from the available race/ethnicity data about the exact extent of disproportionate overrepresentation of children of color in the universe of legal orphans, the initial indications of disproportionality within the pool of youth for whom race/ethnicity data are reported underscore the need to continue to monitor and mine these data.[31] Although the detailed explanation about how these data were collected is not available at his time even if all of the "unknowns" were non-minority youth, significant issues of overrepresentation would still remain.

Ongoing routine review of these and related data such as age and gender will enable the Court to measure with greater precision the extent of disproportionality and will provide a clearer picture of the representation of children of color among youth whose parents' parental rights have been terminated and are now awaiting adoption or another appropriate case outcome.

3. Strengthening Court Policy

In its 2007-2009 report, the Supreme Court Committee on Minority Concerns noted:

> As with the issue of minority overrepresentation in juvenile delinquency and child abuse and neglect cases, the Committee recognizes that the Court itself may not cause disproportional representation of racial/ethnic minorities among "legal orphans." However, recognizing that in these cases the status of legal orphan occurs as a result of a judicial determination terminating the rights of the child's parents, the Committee is of the view that the Court has a responsibility to participate actively in collaborative efforts directed towards realizing permanent placement for all children. Close review and analysis of related data on an ongoing basis will assist in better understanding the role that the Court can (or cannot) play in helping to remedy this issue.

[31] While the Committee does not have sufficient information at this time to characterize fully the process by which these race/ethnicity data have been collected, the Committee can observe that even if all of the "unknowns" were in fact non-minority significant issues of overrepresentation would remain.

> Minority overrepresentation among legal orphans is a multi-dimensional issue that requires a multidisciplinary approach in partnership with other agencies involved in the child welfare system. Like the issue of disproportionate minority juvenile confinement which is the endpoint of the juvenile justice continuum, overrepresentation of minorities among legal orphans is the endpoint of the child welfare continuum, and similarly a systematic study of the related decision-making points is necessary in order to better understand the significance of data relating to various decisional outcomes.

The Court continues to take a proactive leadership role within the scope of its authority in children-in-court cases: Administrative Directive #04-10 entitled "Better Protection for Children-Improved Oversight of Abused and Neglected Children in Foster Care" and promulgated on March 9, 2010, revises "policies approved by the Supreme Court with respect to Children in Court (CIC) cases." Specifically this administrative directive adopted a new CIC standard elevating the proactive role of the Courts, modifying the role of judges in providing judicial oversight in litigated cases and after termination of parental rights and refocusing the role and responsibilities of the Child Placement Review (CPR) boards. This directive and the practices it standardizes across the state will not only contribute to the ongoing improvement of the interagency child welfare system but will also provide additional opportunities for the Judiciary to play an active role in improving the disproportionate overrepresentation of children of color in the children-in-court dockets.

The SCCMC applauds the Court for its most recent efforts to give deliberate attention to minority representation among legal orphans.

4. Programming and Resources

In "More Good Than Harm: Legal Orphans and the New Jersey Post-Termination Project," the author notes that "[i]n the U.S. foster care system, many children languish in the legal and social limbo between termination of their parents' rights and adoption or some other

form of permanent living arrangement" (Floria, 2008).[32] This publication has provided the Committee with a foundation and understanding of the background on the legal orphans issue in New Jersey and the critically important role the Court plays not only in managing, overseeing and monitoring the case docket but also in fostering a climate that promotes permanency and stability for legal orphans and generates innovation at the vicinage level.

> Recognizing that some youth post-termination/pre-adoption wait an extended period of time to achieve permanency through adoption, if at all, the Committee encourages the Court to take an active leadership role, internally or in partnership with other agencies, to ensure that while a youth post-TPR is awaiting adoption he or she is able to experience "family" to the degree possible. As the Court has in these cases determined the termination of parental rights to be in the best interest of the child, the Committee recommends that the Court explore programming and procedural options that can provide for the stability and experience of "family" in the absence of permanency. These family-like experiences can include but are not limited to maintaining relationships with siblings (whether adult or minors) and developing innovative programming that provides a steady adult (parent-like) presence in the youth's life beyond foster care alone. (Recommendation 09:02.10)

The Committee is pleased to learn that as a component of the implementation of Directive #04-10 directs all vicinages, as part of their respective post-termination projects, to work collaboratively to offer "Aging Out Seminars" to provide youth who are facing aging out of the child welfare system with the informational resources and access to support services that will help to make their transition to independent adult living as successful as possible. The Committee has received information from the AOC's Family Practice Division regarding the format and content of the initial round of "Aging Out Seminars" and looks forward to reviewing this program and providing feedback.

A second pending item relates to gathering information on programming and procedural options that provide for the stability and experience of "family" for these youth in the absence of permanency. "Family-like" experiences may include but are not be limited to maintaining

[32] Floria, Sallyanne, P.J.F.P. (Essex). "More Good Than Harm: Legal Orphans and the New Jersey Post-Termination Project," Juvenile and Family Court Journal (National Council of Juvenile and Family Court Judges). Spring 2008: 59:2.

relationships with siblings (whether adult or minors) and developing innovative programming that provides a steady adult (parent-like) presence in the youth's life beyond foster care alone. Another related pending action item on the Committee's agenda is to review available literature reports and studies, preferably with local statistics, that report on the race/ethnic, gender and age profiles of youth who age out of the system.

E. Minority Representation among Family Crisis Petitions (FF Docket)

To advance its work in this area of inquiry, a preliminary examination and analysis of data and information relating to family crisis intervention matters (FF docket) was conducted.[33]

The Committee started its statistical review by examining data provided by the Administrative Office of the Courts on family crisis petitions (FF docket) filed during calendar year 2010. During court year 2010; there were 412 family crisis petitions (FF docket types) filed with the New Jersey Superior Court. These 412 cases reflect matters originally referred to a county FCIU[34] Unit; however, despite the professional efforts of the FCIU worker, the family crisis issue persisted thus requiring the intervention of the Court.[35]

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[33] "There are currently Family Crisis Intervention Units in all twenty-one counties. Prior to 2006, nine of the Family Crisis Intervention Units (FCIUs) were in-court units meaning that the Judiciary staffed the units and provided the FCIU services and twelve were operated by outside agencies. As of January 2006, all FCIUs were out-of-court. Seven counties merged the function of the FCIUs with their Mobile Response and Stabilization Service (MRSS). At present, the Administrative Office of the Courts Family Practice Division continues to maintain oversight of all FCIUs. The Administrative Office of the Courts continues to monitor the activities of the Family Crisis Intervention Units (FCIU) by conducting at least three meetings per year for the FCIU Directors. Judiciary staff who are entrusted with handling the FCIU matters at the Court level are also invited to attend the meetings. Training sessions have been provided on a variety of issues. Monthly statistical data are collected from the FCIUs." (2007-2009 Biennial Report)

34 FCIU = Family Crisis Intervention Unit

35 The information was provided to the Committee by the Administrative Office of the Courts Family Practice Division via written memorandum.

Table 2-8. Family Crisis (FF) Petitions Filed By Race/Ethnicity[1] with Population Comparison[2], Court Year (CY) 2010

	# FF Petitions Filed CY 2010	% FF Petitions Filed CY 2010	# Youth Ages 10-17 New Jersey	% Youth Ages 10-17 New Jersey
White	172	41.8	707,373	74.2
African American/Black	120	29.1	169,999	17.8
Hispanic/Latino	55	13.3	165,115	17.3
Asian/Pacific Islander	5	1.2	71,351	7.5
American Indian	0	0.0	4,246	0.4
Other	2	0.4	N/A	N/A
Unknown	58	14.1	0	0.0
TOTAL	**412**	**100%**	**952,969**[3]	**100.0**

[1] Data Source: AOC Family Practice Division
[2] Data Source: Juvenile Justice Commission
[3] Percentages may not sum to 100 due to rounding and individual race/ethnicity categories sum to greater than total number of youth because the U.S. Census provided respondents the opportunity to select Hispanic/Latino as ethnicity with or without also selecting a race. Percentages reflect portion of the column total.

The data depicted in *Table 2-8. Family Crisis (FF) Petitions Filed by Race/Ethnicity with Population Comparison, Calendar Year 2010* provides a snapshot of the race/ethnicity profile for the youth in these cases along with the distribution of race/ethnicity within the juvenile population statewide.

Race/ethnicity data were available for 86 % (354) of the group (n=412). Given the relatively small percentage (14.1%) of "unknowns," the Committee evaluated the racial/ethnic profile in terms of the entire pool of 412 family crisis petitions filed. Of the 412 family crisis petitions filed, 41.7 % (172) involved White youth whereas White youth account for 74.2% of the total youth population statewide; 29.1% (120) involved Black/African American youth whereas Black/African American youth account for only 17.8% of the total youth population statewide; 13.3% (55) involved Hispanic/Latino youth whereas Hispanic/Latino youth account for 17.3% of the total youth population statewide; 1.2% (5) involved Asian/Pacific Islander youth whereas Asian/Pacific Islander youth account for 7.5% of the total youth population statewide (71,351); 0% (0) involved American Indian youth while American Indian youth

account for 0.4% (4,246) of the total youth population statewide. In addition, these data also indicate two youth identified themselves as Other.

The overall number of petitions filed and the number of children in each race/ethnicity category have decreased. However, there is still concern with the proportional overrepresentation of Black/African American children with active FF cases. With race/ethnicity data available on 86.8% of children involved in family crisis (FF) matters currently pending before the New Jersey Superior Court, the available data are sufficient for the readership to be confident that the observed overrepresentation is reliable. While no findings can be offered at this time from the available race/ethnicity data about the extent or degree of disproportionality of Black/African American children in the universe of family crisis matters, the initial indication of overrepresentation for Black/African American children and youth within the pool of children for whom race/ethnicity data are reported[36] underscore the need for a closer exploration of these data. This same finding was reported in the Committee's 2007-2009 report and occurs again with an entirely new FF data set. It is hoped that further examination of FF docket data may lead to a more nuanced understanding of the factors contributing to the overrepresentation of Black/African American in family crisis petitions pending before New Jersey Courts.

The Committee renews its previous observation:

> The issue of overrepresentation of Black/African American children with family crisis petitions before the Court is multi-faceted and understanding the dynamics surrounding this issue will require further study and additional research and information gathering. In response to these initial data, the Committee has identified a series of next steps it plans to take to examine this issue further. Despite there being no inherent difference in the actual incidence of child abuse among the different racial/ethnic groups, the dependency court system as a whole continues to struggle with minority children disproportionately entering its system, staying longer,

[36] While the Committee does not have sufficient information at this time to characterize fully the process by which these race/ethnicity data have been collected, the Committee can observe that even if all of the "unknowns" were in fact non-minority significant issues of overrepresentation would remain.

> and being less likely to be reunited with their parents. Since family crisis matters share many characteristics with abuse and neglect cases, the question arises as to whether the same phenomenon is occurring for some of the same reasons, whatever those reasons may be. Given that nationally there is a pattern often seen in the dependency court system of minority children staying in the system longer, the Committee also envisions exploring by race/ethnicity, gender, and age, the average length of duration for family crisis (FF) petitions to determine if a similar pattern exists locally.
>
> Similar to the relative rate index methodology used to assess representation and flag disproportionality throughout the juvenile justice continuum, the Committee would like to undertake a comparable assessment of family crisis matters by evaluating race/ethnicity data for the universe of family crisis referrals for a specified time period. This additional information should help to identify the factors that contribute to the rate of family crisis petitions (FF) being filed that involve minority children and would likely assist in determining at what point the overrepresentation initially occurs and if there are steps that the Court can take to address or remedy the disproportionality.

Recognizing that in these cases the Court plays a significant role in managing the cases once petitions are filed, the Court has a unique role to play in the resolution of these matters and another opportunity to participate actively in collaborative efforts towards successful resolution of these cases. The availability of comprehensive data and detailed information will play a significant role in advancing the Court's work in examining and monitoring minority representation in the range of Family Part docket types. As stated in an earlier discussion, the careful routine compilation, review and analysis of data on an ongoing basis and the development of concrete action plans will assist in clarifying the role that the Court can (or cannot) play in helping to remedy the disproportional overrepresentation of Black/African American children in the FF docket.

F. Intersecting Systems of Justice and Care

The Minority Concerns Committee has previously expressed a desire to critically examine the intersection between the child welfare systems and juvenile justice systems by

exploring both subsequent and simultaneous involvement of children and families in two or more systems. Added emphasis will be placed on studying and understanding current practices and policies/protocols for managing families involved in dual or multiple dockets; the goal is to advance the knowledge base in these areas and contribute insights that may enhance case management techniques and identify those critical areas that require external networking with agency/organization partners.

G. Juvenile and Family Drug Courts

The general purpose of the Juvenile Drug Courts is to reduce recidivism which creates a safer community; allow juveniles to be alcohol and/or drug free which enables them to go back into or continue attending school or become employed, alleviate detention overcrowding, where it exists, implement effective case processing measures, provide services for family members, and heighten community awareness of substance abuse.

The drug courts serve as an alternative to the traditional formal court process and also as an alternative to incarceration in state juvenile correctional facilities, where overrepresentation of racial/ethnic minorities has been persistent over several decades. Drug Courts provide an intermediate sanction between probation and state correctional facilities as well as better treatment outcomes for juveniles with alcohol and drug-related problems. Juvenile Drug Courts serve as a more effective way to deal with juvenile offenders who have drug-dependency problems. Juvenile drug courts allow intensive supervision for at-risk adolescents who are supported with community and court services.

Currently there are Juvenile Drug Courts[37] operating in three vicinages: Camden, Hudson, and Passaic.[38] To date, the Juvenile Drug Courts have served a total of 874 juveniles, and 49 juveniles are currently enrolled in the Juvenile Drug Court Program. Since the inception of the Juvenile Drug Courts in New Jersey, 267 juveniles have graduated from the program, and 23 drug-free babies have been born to female drug court clients.[39]

The objectives of Family Drug Court are to help parents become abstinent from alcohol and drugs, to maximize and balance child safety and permanency while preserving family integrity and functioning, and to increase retention of parents in major services mandated and provided by the Family Drug Court. In Family Drug Court there in much closer monitoring for parents involved in child abuse and neglect cases. The program is expected to result in a higher percentage of reunifications of affected families, and increase the opportunity for parents to successfully remain drug-free and to ultimately provide a better life for their children.

There are three Family Drug Courts[40] currently operating: two in Morris/Sussex Vicinage (one in each of the two counties) and one in Essex Vicinage. As of their last reporting date, the three Family Drug Courts have served a total of 129 clients, and currently have 41 clients enrolled. To date, 42 clients have graduated from the program, seven drug-free babies were born to Family Drug Court clients, and 46 families have been reunified.

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[37] Juvenile Drug Courts serve as a more effective way to deal with juvenile offenders who have drug-dependent problems. The drug courts serve as a diversion from the formal court process for some cases and also as an alternative to incarceration in state juvenile correctional facilities. They provide an intermediate sanction between probation and state correctional facilities and typically provide better treatment outcomes for juveniles with alcohol and drug-related problems. Juvenile drug courts allow intensive supervision for at-risk adolescents who are surrounded with community and court services.

[38] Mercer Vicinage ceased operation of its Juvenile Drug Court in September 2007.

[39] Data are not currently collected regarding the offspring of male drug court clients.

[40] Family Drug Courts serve as a way to treat the parent(s) in child abuse and neglect cases who have alcohol/substance abuse issues and whose child(ren) have been removed from the home. Treating the substance abuse issues of the parents and reunification with their child(ren) are the main goals of the FDCs.

As is the case with Adult Drug Courts, the Juvenile and Family Drug Court programs result in substantial savings to the State:

- The cost of keeping a juvenile in the Juvenile Drug Court program is estimated to be within a $3,000-$5,000 range compared to the cost of a juvenile spending one year in a detention facility which is $30,000-$50,000.

- Family Drug Courts reduce or eliminate the time that a child spends in foster care compared to the $7,200 per year it costs the State to care for one child in foster care.

- The current treatment costs for each child born addicted to drugs is estimated to be, at a minimum, $250,000 for the first year of life with additional medical and related costs accruing in subsequent years ranging as high as $1.4 million for each child. With 30 babies born drug-free to Juvenile and Family Drug Court clients, the State has realized a potential savings at minimum of several million dollars.

The cost-benefit analysis of successful drug court outcomes is impressive and makes a strong business case; the positive social outcomes are equally as impressive in terms of the benefits to the "human social/economic equation."

The Committee is pleased with the ongoing successes of both the Juvenile and Family Drug Courts and encourages the Court to continue its support for these valuable holistic problem solving and treatment-centered, incentive/sanction-based disposition models.

H. Ongoing Education and Training Opportunities for Judges, Managers, and Staff

The Committee advanced its work in this area by participating in the development and design and delivery of various aspects of the educational program of the 22nd conference and annual meeting of the National Consortium on Racial and Ethnic Fairness in the Courts which was hosted by the New Jersey Judiciary in April 2010. The juvenile justice and family related sessions included:

- *Knowing the Communities We Serve;*

- *The Intersection of Child Welfare and Juvenile Delinquency;*

- *Strategies and Approaches to Addressing Disproportionate Minority Juvenile Contact (DMC);*

- *A National Model for Engaging in Juvenile Detention Reform: New Jersey's Successful Juvenile Detention Alternatives Initiative (JDAI);*
- *The Relevance of Culture to Adjudicating Domestic Violence Cases;*
- *Innovative Solutions Showcase: Juvenile Probation Orientation Program;*
- *Site Visit to the Middlesex Vicinage Family Court Facility;*
- *Putting the Tools to the Test: Recognizing and Remedying Minority Disproportionality and Disparities in Child Welfare Outcomes;* and
- *Engaging Technology to Advance Justice: Municipal Courts and the E-TRO Project.*

V. Conclusion

During the 2011-2013 term, the Committee will remain focused on fulfilling its mandate for the subject areas detailed in this chapter and on strengthening and improving current court policies and procedures. Disproportionate minority contact and the overrepresentation of children and families of color across Family Part docket types remains the overarching priority for our work on juvenile justice and the family.

As the Committee continues its work on the long-term priorities discussed in this report, engages in the examination of the intersections between abuse and neglect cases and juvenile delinquency cases, explores the management of matters for children and families involving dual or multiple docket types, the members look forward to partnering in this important work throughout and beyond the remainder of the current rules cycle.

Chapter III

SUBCOMMITTEE ON MINORITY ACCESS TO JUSTICE

I. Introduction and Mandate

The Subcommittee on Minority Access to Justice recognizes that assuring fair, equal and meaningful access to justice involves weighing and considering several factors that have an impact on an individual's ability to utilize effectively and efficiently court services and programs. These factors include:

- the location and physical conditions of court facilities or physical access to the facilities and to court programs and services;
- economic access or the ability to participate equally in court proceedings and programs and receive fair and equal services regardless of income level;
- timely access or the ability to obtain timely justice since "justice delayed is justice denied"; and
- cognitive/psychological access or the ability to understand fully court, policies procedures and processes.

This chapter reports on the Judiciary's progress relative to the ongoing implementation of selected recommendations intended to advance fair and equitable access to justice.

II. Subcommittee Activities

During the course of the 2009-2011 report cycle, the Subcommittee on Minority Access to Justice worked on the following projects carried forward from the 2007-2009 report:

- implementing the statewide promulgation and distribution of the *Guide to Court User Rights and Responsibilities*;
- continuing research and literature review of jury pool diversity articles and reports;
- revisiting New Jersey juror qualifications, summons, and selection process, in preparation for developing a recommended work plan for the jury pool representation study previously proposed to and approved by the court;
- ongoing review of the utilization of interpreters, court volunteers, and analyses of data provided by the state ombudsman program.

III. Discussion of Priority Recommendations

A. Publication of "Guide to Court User Rights and Responsibilities"

> The Supreme Court should require the Administrative Office of the Courts and the vicinages to include a *Guide to Court User Rights and Responsibilities* in all documents which introduce a litigant to the court process. Committee Recommendation 30.3 (2000-2002 Report, p.72).

The Guide to Court User Rights and Responsibilities was distributed statewide in early Fall 2010 and is now available in each vicinage courthouse. The Committee expresses its appreciation to all involved in preparing, piloting,[41] and promulgating this publication.

In addition, the Committee prepared for publication and statewide use a companion informational card, *On the Day of Your Court Appearance*. This informational publication was developed by Essex Vicinage and included in a 1996 publication, *A Guide to the Superior Court of New Jersey, Essex Vicinage*.

B. Jury Issues

> The Chief Justice should direct the permanent Supreme Court Committee on Minority Concerns to study minority representation on juries and its impact, if any, on verdicts. Task Force Recommendation 27 (Final Report, 1992, p.234).

> The Supreme Court should direct the Administrative Office of the Courts to conduct research on the following issues: to what degree do racial/ethnic minorities drop out at each of the major stages leading up to the impaneling of a jury (e.g. response rate to initial summons, disqualifications, excusals, failure to appear, non-selection and challenges) and how do these rates compare with those of non-minorities? What is the actual representation of minorities on juries that are ultimately impaneled? Committee Recommendation 27.1 (2002-2004 Report, p. 39).

Since currently there are no race/ethnicity identifiers in the jury pool source lists, it is not possible to:

- measure the diversity of the jury pool locally or statewide;
- capture racial/ethnic information regarding the juror from the questionnaire/summons phase;

[41] Camden, Essex, and Middlesex Vicinages

- report on the diversity of persons contacted for jury service;
- track information on attrition throughout the juror summons/selection process (e.g., response to initial summons, disqualifications, excusals, failure to appear, non-selection and challenges); and
- retrieve information on the racial/ethnic diversity of persons who actually serve on juries.

During the course of its work on this issue across several report cycles, the Committee has detailed its longstanding interest in measuring the representativeness of the juror source lists as a first step in developing a demographic snapshot of the jury pool and understanding the degree to which the pool is broadly diverse and representative. Advancing access to justice for all constituents and stakeholders requires a pool of potential jurors that is as representative of the community from which the pool is drawn to the degree possible and procedurally feasible.

Interest in the representativeness of the jury pool is not premised on any concern for the legal sufficiency of the Judiciary's current jury pool procedures (the jury panels are drawn from multiple source lists) but rather the Committee has chosen to take proactive steps to learn about the breadth of diversity and representativeness of prospective master jury pools drawn from selective counties. The Committee believes that diversity on jury panels enhances public confidence in the courts.

The Committee is presently engaged in a project whose objective is to obtain a demographic profile of the pool of potential jurors generated by current juror source lists. In the 2007-2009 biennial report, the Committee reported on the successful completion of a pilot of a proposed jury pool demographic study.[42] By way of brief reminder, the pilot study allowed the Committee, working with the AOC's Human Resources Office, to demonstrate the applicability,

[42] See Chapter III for a detailed discussion of the two-phase pilot study using a blind sample that included the addresses of Judiciary employees indicating a Mercer County residential address. Delete this footnote. This is Chapter III.

usefulness, reliability, and statistical validity of the GIS (geographic information systems) methodology.

> With no direct way to ascertain the racial/ethnic profile of potential New Jersey jurors, the Committee identified a widely accepted indirect research methodology to determine if this approach could be a valuable tool for developing a profile of the racial/ethnic composition of a pool. To demonstrate the applicability of the geomapping methodology, a sample of judicial employees with Mercer County residential addresses was drawn. The profile of the sample was based on Human Resource information and payroll data. Although the actual racial/ethnic profile of the sample was known, this information was sealed for verification purposes until after the completion of the geocoding and related data analyses.
>
> Of the 1,000 addresses in the sample, 748 were usable for testing purposes. These 748 cases were geocoded and individually overlaid with the US Census 2000 block group data for race and ethnicity.
>
> The second stage in this process assigned racial/ethnic identifiers to the sample based on the racial/ethnic block group to which the individual home addresses corresponded. Using geomapping technology, the researcher inferred the racial/ethnic composition of the sample study group. The validity [and reliability] of the scientific inference was demonstrated by comparing the researcher's[43] findings to the actual racial/ethnic composition of the study group provided by available racial/ethnic identifiers in the Court's personnel management information system (PMIS). Given the high [statistical] significance of the pilot outcome, the researcher concluded that geomapping is a valid and appropriate research tool for predicting the probable racial/ethnic profile of a study sample such as a juror pool.

With the Court's approval to proceed with this project, the Committee is in the process of compiling and reviewing national and state literature on jury research and case law relating to the issue of racial/ethnic diversity and measures of diverse representation on juries.

To secure additional background information on the judiciary's automated jury selection process, the Subcommittee on Minority Access to Justice also benefitted from a presentation on

[43] Dr. Wansoo Im, Ph.D., is a member of the Subcommittee on Minority Access to Justice and currently an adjunct professor at Rutgers University in the Department of Urban Studies and Community Health. He also is the founder and principal consultant for Vertices, LLC, a consulting firm that provides a wide range of GIS (Geographic Information System) and information technology services.

jury management operations presented by Michael Garrahan, at a joint meeting of the Subcommittees on Criminal Justice and Minority Access to Justice. A key component of the Committee's GIS Study work plan is to complete the study implementation action plan and initiate the research.

C. Legal Needs of New Jersey's Economically Disadvantaged

1. Update on the State of the Local Economy and Its Impact on People's Legal Needs

The Poverty Research Institute of Legal Services of New Jersey (LSNJ) has studied the number of unrepresented litigants[44] in New Jersey courts based on data provided by the Administrative Office of the Courts for the period covering July 2005 - June 2006.[45] This report,[46] *People Without Lawyers: New Jersey's Civil Legal Justice Gap Continues*: A Report from Legal Services of New Jersey (October 2006), presented information on the general civil docket and noted that it is largely handled by attorneys, with 95% of plaintiffs and 98% of defendants represented by counsel. This general finding stands in stark contrast to the current experience of many of New Jersey's residents at the lower end of the economic ladder.

In 2007, the Legal Services Corporation reported that nationally at least one-half of those seeking help from Legal Services programs were turned away[47] due to the lack of resources to service them. Legal Services programs served 63,000 clients in New Jersey in 2007; however, LSNJ was forced to turn away at least two low-income applicants for every client served. In

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[44] For purposes of this discussion, the Committee uses "unrepresented litigants" to include both those who choose to self-represent and those who see no other option than to self-represent with a primary focus on those litigants who self-represent primarily for economic reasons.

[45] It should be noted, however, that the AOC does not collect or have information on litigant incomes; the case types discussed may be considered proxies for direct income information.

[46] See *People Without Lawyers: New Jersey's Civil Legal Justice Gap Continues*: A Report from Legal Services of New Jersey, October 2006, page 2. http://www.lsnj.org/PDFs/NJJusticeGap2006.pdf

[47] *Documenting the Justice Gap in America, A Report from the Legal Services Corporation*, June 2007.

2006 it was estimated that five out of six low-income people experiencing a civil legal problem did not have access to an attorney.[48]

The current fiscal crisis continues to impact low-income litigants and the legal services community's ability to represent them in their broad legal needs. Considering that racial and ethnic minorities in New Jersey still tend to be clustered in large urban cities where there are high rates of concentrated poverty and that New Jersey in 2007 ranked as the 15th worse state in the nation in terms of income inequality, racial and ethnic minorities remain disproportionately impacted by the lack of access to affordable legal representation.

Since this Committee's 2007-2009 report, the economic problems in New Jersey and income inequality have grown progressively more disparate. This reality is exacerbated by the deep service cuts Legal Services of New Jersey has been required to make as a result of the drastic funding cuts the agency has experienced. LSNJ's most recent report on the civil legal needs of the poor in New Jersey, *Unequal Access to Justice: Many Legal Needs, Too Little Legal Assistance – The Continuing Civil Justice Gap for Lower-Income New Jerseyans*, offers a number of striking findings based on a survey conducted in 2006. These results were analyzed and presented in LSNJ's 2009 report.[49] The Committee highlights the following findings included in that report's executive summary:

- Approximately one-third of the respondents with lower incomes experienced a legal problem during the course of [2006].
- Only one in five lower income people with legal problems secured the assistance of a lawyer.
- The number of people who experience more than one legal problem is increasing.

[48] See *People without Lawyers: New Jersey's Civil Legal Justice Gap Continues*: A Report from Legal Services of New Jersey, October 2006, page 4. http://www.lsnj.org/PDFs/NJJusticeGap2006.pdf

[49] The full report is available online at http://www.lsnj.org/PDFs/PovertyResearchInstitute/LegalNeeds2009.pdf. The Committee encourages readers to review the full report as this limited discussion does not fully capture the issues as presented in LSNJ's report.

- There is a disproportionately high incidence of legal problems among certain groups, including selected racial/ethnic minorities, single head of households with children, people living in rental residences, and people who are employed.
- Consumer, housing, and health legal problems had the highest incidence rates among respondents.
- Lower income people rated nearly two-thirds of their legal problems as "most serious."
- Lower income people had lower levels of legal assistance despite the perception of the seriousness of their legal problems.
- Lower income people believed they needed lawyers in twice as many problems where they did not seek them.
- Lower income people were less likely to obtain a lawyer.
- Lower income people had to go to court more often.
- Lower income people were less likely to act on their own when they did not have a lawyer.
- Lower income people were less satisfied with [justice] outcomes especially when they did not have a lawyer.

Faced with cascading budget cuts, the Court is to be commended for its continuing efforts to find innovative programs and procedures to enhance services for self-represented litigants, other underserved court users such as constituents with multifaceted legal challenges and needs, and court users that have specialized issues and legal problems.

While the Court did not approve the Committee's recommendation to establish a collaborative blue ribbon committee to explore how the legal needs of low-income litigants can best be met, the matter was referred to the conference of civil presiding judges, the conference of special civil presiding judges and the conference of family presiding judges for discussion. The court also noted that Legal Services of New Jersey already has a strong focus on this issue and directed the SCCMC to obtain more current information from LSNJ to determine if another approach might be warranted.

Following-up on the court's suggestion, the Committee reviewed additional resources. In a recent article addressing state funding available to Legal Services of New Jersey, Chris Megerian, a reporter on the statehouse bureau reported that the economic recession had created a new class of poor who qualify for pro bono legal services; this new class has depleted the services of the organization to such a degree that large numbers of clients have to be turned away. This situation presents serious challenges for the organization according to Melville D. Miller, president of Legal Services of N.J. "You have to start making decisions such as: which domestic violence cases do we take?" Former Supreme Court Justice Deborah T. Poritz, Legal Services Board of Trustees Chairwoman, echoes this concern. She opined in the same article, "…the gap is worse than she's ever seen it…We make a promise to people, that they will get fair treatment in court. When we can't fulfill that promise, when people lose faith in the justice system, I really believe that's the disintegration of our system"[50]

After reviewing additional materials including the most recent LSNJ report, the Committee concluded that it is axiomatic that the poor and other marginalized groups in 2011 are even more vulnerable today than they were even just a few years ago particularly in light of the diminishing services available through Legal Services of New Jersey, state government programs, and non-profit community-based service providers. The funding cuts at Legal Services of New Jersey were so severe (dropping from $71 million in 2007 to $47.6 million in 2010) that LSNJ lawyers turned away two of every three eligible court users needing help. (The Record, Editorial, [May 31, 2011. A-8].) At a special hearing of the Assembly Judiciary Committee and with the support of the Judiciary and the State Bar Association, LSNJ went to the Legislature to ask for an increase in its proposed appropriations. The acting administrative

[50] Chris Megerian/Statehouse Bureau, " Legal Services of N.J. fighting to help the poor overcome a growing barrier to justice," nj.com,(Sunday ,April 17, 2011) ,pp.1-4, http:/blog.nj.com/perspective//print.html.

director of the courts, Judge Glenn Grant announced, at the same time, that the Judiciary will seek to increase the filing to help fund LSNJ and to implement a statewide judiciary electronic filing system.[51]

As these are entities that lie outside the court's jurisdiction, the Committee's will focus primarily on judiciary efforts to improve and enhance services to self-represented court users and other marginalized court users.

To address the service needs of increasing numbers of self-represented court users, Judge Grant appointed an Advisory Group on Self-Representation in the New Jersey Courts in December 2008. Nancy Manuele, Esq., Manager of Litigant Services chaired the advisory group.

The mandate of the advisory group was to enhance and improve court services and programs for litigants who are without access to legal representation by ensuring that these court users have the support that they need to bring their cases to court. The work of the advisory committee resulted in the publication of a report in 2009 entitled: *Ensuring an Open Door to Justice: solutions for enhancing access to the courts for self-represented litigants*. Readers may download a copy of this report from the judiciary web page at the following address: http://www.judiciary.state.nj.us/pressrel/Ensuring%20an%20open%20door%20to%20justice%20Oct%202009.pdf

Following a review of the advisory committee report, an internal permanent Supreme Court Committee on Access and Fairness was appointed. This new committee includes judges, court managers, and representatives from external organizations that are tasked to collaborate on

[51] Legal Services Pleads for Increase in State Aid: Court Seeks Filing Fee Hike. Michael booth,204 N.J.L.J.,1.19(May 30,2011).

ways to assure procedural fairness in the Courts.[52] In the February 14, 2011, press release announcing the formation of the committee and naming Judge Grant as its chair, Chief Justice Rabner stated:

> The millions of litigants who come to the courts each year for a just resolution of their cases are entitled to believe that they have been treated respectfully and fairly in a neutral forum … All people regardless of income, language barriers, or cultural or educational background must have full access to the Courts. This Committee will look at ways to improve our operations so that we can meet those needs in every case.

2. Education as a Means of Advancing Access to Justice for Self-Represented and Unrepresented Litigants

In order to achieve its mission of equal justice, the Judiciary should continue to devote significant resources to assisting unrepresented litigants in securing access to court services, fair treatment and equal justice through the use of available court services and programs throughout the state court system. The Committee renews the observation it offered in its 2007-2009 report:

> Access, however, is only the first step to equal justice. Unrepresented litigants, unfamiliar with court rules, procedures, and substantive law, are not on a level playing field with represented litigants. Judges and other court personnel should be trained to address the needs of the unrepresented and give the unrepresented guidance on the most effective and efficient ways to process their cases. It is imperative that judges and court personnel understand that treating unrepresented and represented litigants exactly the same does not result in fairness and equal justice. In order to achieve justice, unrepresented litigants should be provided with information and tools necessary to have the facts presented to the court and have their stories told. This is not to say that unrepresented litigants should be exempt from the same rules of evidence and standards of proof as represented litigants but rather that unrepresented litigants need to be provided with explanations and the assistance necessary to understand the rules and the law so they can present their cases in such a way that the Court has all the information required to render just decisions.

[52] The recently appointed Advisory Committee on Access and Fairness' mandate and membership is similar to the blue ribbon study group proposed by the SCCMC in the 2004-2007 Report with one notable exception--the latter committee has no sunset clause.

In terms of state judicial education initiatives, a one-hour seminar on self-represented litigants in the courtroom was presented in September 2010 at the annual New Judges Orientation, and in April 2010 two plenary sessions discussing access to justice themes -- "Knowing the Communities We Serve" and "Serving Self-Represented Litigants as an Access to Justice Issue" -- were presented at the annual conference of the National Consortium on Racial and Ethnic Fairness in the Courts, hosted by the New Jersey Judiciary in Spring 2010.

Regarding local public education initiatives, vicinages continue to design and present information sessions targeted for the public where court personnel provide information, answer questions about court services, resources, and procedures, distribute informational publications relating to issues such as landlord/tenant matters, child support, small claims, and criminal and juvenile record expungements. Often representatives from other public and community based agencies and organizations partner with the court to present public information fairs where agencies distribute their literature to the public and members of the public can query the presenters on various topics related to the services that each offers. At some of the public presentations court users are offered free legal assistance by volunteer attorneys; other agency participants make referrals to substance abuse treatment programs, vocational programs, housing assistance, immigration assistance, hospital and domestic violence programs, mental health services, and offer information on various court and agency job openings, child support payments/protocols, and record adult expungements for example.

The Judiciary is to be commended for its current initiatives and continuing efforts to institute new and innovative programs and operations to address the legal needs of self-represented court users and other marginalized constituents; there is an opportunity for the Court

to enhance its training efforts for judges, administrators/managers, and court staff. To that end, the Committee proposes the following new recommendations:

New Recommendation 11:03.1

The Supreme Court Committee on Minority Concerns recommends offering a three hour seminar at Judicial College to commence in November 2011 (once in the morning and once in the afternoon) to address the topic of procedural fairness and how to prepare for and manage one's courtroom to ensure equal access for self-represented litigants. 1) To accommodate jurists who, due to scheduling conflicts, are unable to attend the course at Judicial College and to provide an opportunity for the presentation to be tailored to address specific topical issues, the seminar should also be offered at the practice area judges' retreats; 2) a similar course addressing procedural fairness and access should also be available for managers and frontline staff at the annual staff college; and 3) the court should develop teams of judges and practice area managers and provide them with the necessary extensive training so that this cadre of in-house faculty will be available to offer in-service training on access and procedural fairness along with external consultants on an as needed basis once the basic training has been rolled out.

New Recommendation 11:03.2

The Supreme Court Committee on Minority Concerns recommends further collaboration among the vicinages so that public education seminars in all of the vicinages are tracked and attendance is routinely recorded as well as topical areas (subject matter, teaching objectives, course description, faculty, location, and partnerships. Educational materials posted on social media should also be tracked and monitored.

Well-defined assessment mechanisms should be into place so that programming decisions are supported by outcomes data such as requests for seminars by other service providers, faith-based organizations, and the general public, and public and private schools. The compilation of data statewide locally will provide feedback to the court and will yield information regarding the frequency with which community education seminars should be offered, what the subject matter should be as well as the location, and perhaps what day of the week and what time is most convenient for the public. Educational resources uploaded to social media sites should also be tracked.

A marketing component targeting court users should be an integral part of this court-user education initiative.

As a complement to locally produced programs, a statewide calendar of free regional public education programs presented by the New Jersey Judiciary is available on the Judiciary website.[53] In the press release announcing the inaugural online calendar of public education events, Administrative Director Grant shared these insights:

[53] The calendar is accessible online at http://www.judiciary.state.nj.us/ombuds/public events_1.htm.

> The new web page enhances access to justice by giving the public a convenient resource for finding opportunities to learn more about court operations and procedures. We would love nothing better than to see every one of our seminars and workshops [populated] with people who want to learn about what the courts do, what resources we can provide, and what guidance we can offer those who do business with the courts. We are particularly interested in helping self-represented litigants come to court prepared and informed about our court procedures as well as their rights and responsibilities when they come to court. Well-informed litigants help our courts run more smoothly and efficiently which makes for a better system of justice for everyone.

It is precisely the spirit and vision expressed in these words that drive the Judiciary's continuing efforts to adopt innovative and efficient ways to advance access to justice. The Committee is interested in learning the extent to which low income and other marginalized groups utilize the services available to them through the Judiciary's website, in the community and in court-based programs.

The Judiciary continues to take affirmative steps to enhance existing programs and offer new training opportunities focusing on how best to assure access and fairness for increasing numbers of self-represented litigants. While the Court is aware that these sustained efforts are not a panacea for all the ills that face court users, doing nothing is not an option. The Court's own efforts to fill emergent and long-term gaps in services are evidenced by the following selected initiatives:

- Veterans Assistance Project

  The Veterans Assistance Project, announced by Chief Justice Rabner, is a collaborative program of the Judiciary, the New Jersey Department of Military and Veterans Affairs, the New Jersey Department of Human Services, and the Division of Mental Health Services. Referrals are provided to various community services and mentors.

  The New Jersey Department of Military and Veterans Affairs determine which veterans are assigned mentors. The mentors include both active duty and retired veterans who volunteer their services and work with defendants while the criminal cases are pending. The mentors remain in contact with their respective mentees and

try to assist them so that no additional offense or contact with the criminal justice system occurs.

The program was piloted in Atlantic County in the municipal courts and in the criminal division of the Superior Court in 2008. Since its inception, the Veterans Assistance Program is currently available in thirteen counties.

- Steps to Protect the Integrity of Residential Mortgage Foreclosure Process

  On December 20, 2010, Chief Justice Rabner announced steps to protect the integrity of foreclosure filings in New Jersey. His actions were announced after a thorough review of a report by Legal Services of New Jersey regarding "robo-signing" irregularities by mortgage lenders and services and discussing actions in several other states. At the direction of Acting Administrative Director Glenn A. Grant, an order was issued explaining the scope of the problem and delineating certain procedures to safeguard the mortgage foreclosure document preparation and filing process.

- Use of Technology to Enhance Access to Justice and Court Information

  The New Jersey Judiciary continues to expand and improve its use of access-enhancing technology including its presence via new social media and the redesign of its nationally recognized award-winning website focused on continuing efforts to improve customer service and constituent access.

  One notable feature of the recently launched redesigned website is that it provides public access to the civil docket statewide. The system allows queries on civil, special civil, general equity, and foreclosure cases filed in Superior Court. Court users are able to look up cases on the website by name or by docket number without needing to know the vicinage in which the matter was filed.

- Specialized Adult Mental Health Grant Caseload: Referral of Adult Probationers for Consideration of Placement into this Caseload by Judges

  Sentencing judges may refer an adult probationer to the vicinage Probation Division for consideration of placement, in a specialized mental health caseload.

  Adult probationers placed in this specialized caseload will receive improved access to treatment, individual assistance with maintaining stable housing and employment and support for preventing and controlling substance abuse. Probation officers who have this type of caseload have fewer cases to manage and the smaller caseloads translate into an opportunity to devote more time to manage these clients and to seek out and engage supportive community networks.[54]

  Unlike many other states that have established mental health courts, the New Jersey Judiciary has opted not to follow this national trend "…because…boutique courts,"

[54] Memorandum from Glenn A. Grant, J.A.D. to Assignment Judges, Specialized Adult Mental Grant Caseload: Referral of Adult Probationers for Consideration of Placement into this Caseload by Judges, December 20, 2010, page 1.

according to Judiciary spokesperson, Dr. Tamara Kendig, "…once established…limit the flexibility of manpower and funding."[55]

- Passaic Vicinage Hospital Project

  The Passaic County Domestic Violence Working Group and St. Joseph's Regional Medical Center in Paterson, New Jersey, have collaborated to implement an innovative pilot program that permits domestic violence victims to address their emergent medical and legal needs. This program means that court users no longer have to concern themselves with prioritizing their immediate medical and legal needs. The *Passaic Vicinage Hospital Project* operates weekdays between the hours of 8:30 a.m. and 3 p.m.

  During the hours of operation domestic violence victims, who are receiving emergent medical services at St. Joseph's, may receive court attention directly from the hospital by indicating to their health care professional that they are interested in obtaining a restraining order. The hospital alerts the Domestic Violence Unit of Passaic Superior Court of the court users' interests; the next step involves screening victims and interviewing them telephonically. Court staff conducts the interviews. Once the domestic violence complaint has been completed, the victim can testify directly to the Superior Court via video conferencing.[56]

  The digital conferencing permits both the judge and the victims to clearly see one another on monitors. An added benefit to the technology is that the Court is able to zoom in with great clarity in order to view signs of visible injury experienced by the victims. Interpreters are able to participate where needed, either by visual or telephonic transmission.

[55] Tom Howell, Jr. "Mentally ill persons pose challenge to cops, courts," http//www.njherald.com/printer friendly/06MENTALHEALTH3-11, page 1 of 3.

[56] June Zieder, "Passaic Vicinage Hospital Project" (May 13,2011), 1-2.

D. Access to Justice through Language Services

Table 3-1. Languages Appearing in the New Jersey Superior Court, (Unit of Count = Number of Discrete Interpreted Events), July 1, 2008 - June 30, 2009

Language	# of Events	Language	# of Events
Spanish	72,969	Burmese	16
Portuguese	1,900	Romanian	15
Korean	1,275	Albanian, Unknown	15
Polish	1,202	Albanian, Gheg	13
American Sign Language	1,076	Bosnian	13
Haitian Creole	1,070	Mandinka	12
Chinese, Mandarin	767	Akan	10
Russian	677	Czech	10
Arabic, Egyptian Colloquial	599	German (Standard)	8
Vietnamese	420	Yoruba	8
Turkish	247	Krio [Creole]	8
Gujarati	245	Bulgarian	7
Idiosyncratic Gesturing System[57]	231	Amharic	7
Tagalog	225	Swahili	7
Hindi	170	Telugu	7
Italian	169	Serbian	5
Arabic, Levantine	147	Farsi, Eastern	5
Panjabi, Eastern	112	Sinhala	5
Bengali	109	Chinese, Northern Fukienese, Unknown	5
French	104	Tamil	5
Urdu	100	Soninke	4
Chinese, Cantonese	92	Lao (Laotian)	4
Greek	77	Zapotecan, Unknown	4
Macedonian	62	Arabic, North African	4
Slovak	60	Tibetan	3
Arabic, Arabian Peninsula	52	Bassa	2
Serbian	49	Khmer, Central	2
Albanian, Tosk	42	Indonesian	2
Japanese	38	Fulfulde, Adamawa	2
Hungarian	37	Somali	2
Chinese, Cantonese, Unknown	34	Chinese, Southern Fukienese	2
Chinese, Northern Fukienese/Minbel: Foochow, Fuzhou	32	Mende	2
Thai	19	**LANGUAGES WITH ONE EVENT EACH** Bamanankan, Dutch, Igbo, Lithuanian, Nepali, Karen S'gaw, Sicilian, Telegu, Uzbek, Wolof	
Panjabi, Western	19		
Hebrew	19	**TOTAL NUMBER OF DISCRETED INTERPRETED EVENTS: 84,832**	
Croatian	18	**TOTAL NUMBER OF LANGUAGES INTERPRETED: 85**	

[57] The category "Idiosyncratic Gesturing System" is used for deaf persons whose primary mode of communication is through gestures and other signs developed among a very small number of persons, usually family members, and not through a recognized sign language.

Table 3-1. Languages Appearing in the New Jersey Superior Court (Unit of Count = Number of Discrete Interpreted Events) presents the volume of work accomplished by both staff interpreters and other outside agency interpreters hired by the various vicinages from a directory compiled by the AOC's Language Services Section.

To provide the reader with an appreciation for the level of need in our state and to contextualize the work of the Interpreting Services, six New Jersey's counties and 77 municipalities reported having Hispanic/Latino populations in excess of 13.3% in 2000.[58] A consistent pattern has emerged over the course of years of collecting, compiling, and analyzing the languages appearing in New Jersey Superior Courts: Of the 85 languages for which an interpreter was required, Spanish consistently ranks first as the language for which an interpreter is most frequently requested. Between July 1, 2008 and June 30, 2009, 72,969 (86%) of the 84,832[59] discrete interpreted events in New Jersey Superior Court involved Spanish.

Table 3-2. New Jersey Judiciary: Number of Events Interpreted By County and Primary Context provides data on the number of events interpreted by county and primary context or court proceeding type. Of the 84,832 interpreted events in the 21 counties between July 1, 2008 and June 30, 2009, 62,980 (72.4%) were before a judge or grand jury; 13,160 (15.5%) were before a hearing officer or in complementary dispute resolution (CDR) proceedings, and the remaining 8,692 events (10.2%) were in various court support services. These data reflect a slight increase in the percentage of interpreted events taking place before a hearing officer/in complementary dispute resolution proceedings, or in various court support services.

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[58] U.S. Census. *Table B.1: New Jersey 2000 Census: Selected Counties and Municipalities with a Total Hispanic Population of 13.3+%* is included in Appendix C-1.

[59] The total number of reported discrete interpreted events for court year 2009 (84,832) represents a decrease of 1,933 from the number of discrete interpreted events for court year 2007 (86,765) reported in the 2007-2009 biennial report. It is not clear at this time what factor(s) precisely contribute to the numerical decline, and the Committee cautions readers not to infer that this decline means that interpreters are not as busy. These numeric changes may be attributable to the Judiciary having implemented a new language services data management system.

Table 3-2. New Jersey Judiciary: Number of Events Interpreted by Vicinage (& County) and Primary Context, July 1, 2008 - June 30, 2009

Vicinage/County	Primary Contexts			
	Before a Judge or Grand Jury	Before a Hearing Officer or in a CDR Proceeding	Any Court Support Service	Vicinage Totals
I. Atlantic	1,003	107	266	1,376
I. Cape May	217	6	87	310
II. Bergen	4,423	304	595	5,322
III. Burlington	717	224	156	1,097
IV. Camden	3,485	609	189	4,283
V. Essex	5,219	824	1,118	7,161
VI. Hudson	11,567	2,617	399	14,583
VII. Mercer	2,956	603	277	3,836
VIII. Middlesex	6,086	1,057	1,968	9,111
IX. Monmouth	1,951	269	621	2,841
X. Morris	1,977	388	439	2,804
X. Sussex	113	8	10	131
XI. Passaic	9,570	4,237	278	14,085
XII. Union	7,339	970	451	8,760
XIII. Somerset	375	19	31	425
XIII. Hunterdon	1,793	249	150	2,192
XIII. Warren	305	27	108	440
XIV. Ocean	1,630	303	1,329	3,262
XV. Gloucester	183	8	3	194
XV. Cumberland	1,800	297	89	2,186
XV. Salem	271	34	128	433
GRAND TOTAL	**62,980**	**13,160**	**8,692**	**84,832**
TOTAL PERCENT	**72.4%**	**15.5%**	**10.2%**	**100.0%**

Data Source: Language Services Section, Court Year 2008-2009 Report (downloaded)

Hudson (14,583), Passaic (14,085) and Middlesex (9,111) counties in descending rank order rank first, second and third with respect to the total number of events interpreted.

As reported in the 2004-2007 and 2007-2009 reports, currently there are no statistics collected statewide on the use of interpreters in Municipal Courts.

E. Judiciary Volunteer Services Program

The Volunteer Services Program[60] is designed to support the mission of the New Jersey Judiciary by providing assistance to the court with the resolution of disputes and the delivery of services and programs to court users. As of January 2011, nearly 4,300 community members across the State of New Jersey participate in the Judiciary Volunteer Services Program. Through eighteen (18) distinct court volunteer programs, Judiciary volunteers contribute to public confidence in the courts through their involvement in the fair and just resolution of disputes before the courts and extending access to judiciary services for a growing number of court users.

Court volunteers uniquely complement the work of thousands of full-time court employees in every vicinage of the Superior Court and in the municipal courts. All court volunteers are screened, appointed, and trained to serve local court users within the prescribed scope of their assigned volunteer duties -- from helping court users navigate the court system to reviewing certain types of cases and making recommendations to judges regarding how disputes may be resolved. It is through the direct participation of these community members in the judicial process that the public remains engaged in the day-to-day operations of the court, enhancing the public's confidence in the court system and promoting a longstanding court-community partnership that dates back to the 1940s. These data have been provided on an as needed basis when requested and the Committee is looking forward to further discussions with the Volunteer Services Unit so that a mutually convenient schedule for requesting and receiving these data on an annual basis can be determined.

> The Supreme Court should direct the Judiciary to provide on an annual basis, statistical data on court volunteers by race/ethnicity, county and programs to the Committee on Minority Concerns. Committee Recommendation 59, 60.3 (2000-2002 Report, p. 237).

[60] The data and discussion in this section relates to case-related and operational volunteers and does not include people serving in appointed positions such as to Supreme Court Committees and other advisory bodies.

Table 3-3. New Jersey Judiciary, Volunteer Programs: Count of Active Volunteers by Program (January 21, 2011) illustrates that the Family, Civil, Municipal, Probation, and General Operations Divisions benefit from volunteer services. According to the data reported from the Judiciary's Volunteer Management Information Systems (VMIS),[61]

- 76.3% of volunteers (3,326) serve in the Family Part.
  - 45.3% of the volunteers (1,977) serve on Juvenile Conference Committees (JCC), making recommendations to judges regarding cases of alleged juvenile delinquency.
  - 23.4% of the volunteers (1,021) serve as Court Appointed Special Advocates (CASA), assisting courts in obtaining objective information to ensure appropriate permanency plans for children in foster care due to abuse and neglect.
- Slightly more than 15.1% of the volunteers (658) serve as mediators for the Municipal Courts, assisting other community members in resolving their disputes.

[61] Due to various program reporting dates and timelines, information culled from various sources, including the tally of court volunteers, may not match. The Committee limits its discussion in this chapter to the court volunteer census data downloaded from VMIS on January 21, 2011.

Table 3-3. New Jersey Judiciary: Volunteer Programs,[62] Count of Active Volunteers by Program, January 21, 2011

Name of Program	Number	Percentage of Total
Family Court Volunteer Services		
Child Placement Review Boards (CPR)[63]	263	6.0
Court Appointed Special Advocates (CASA)[60] (as of December 31, 2010)	1,021	23.4
Domestic Violence Court Assistance Program	4	0.1
Juvenile Auto Theft Prevention Program (JATPP) – Essex only	4	0.1
Juvenile Conference Committee (JCC)[60]	1,977	45.3
Supervised Visitation Program (SVP)	57	1.3
Civil Practice Volunteer Services		
Guardianship Monitoring Program (GMP)	25	0.6
Complementary Dispute Resolution (CDR) Volunteer Services		
Municipal Court Division		
Municipal Court Mediation (MCM)[60]	658	15.1
Civil Practice Division – Special Civil Part		
Landlord Tenant Settlement	17	0.4
Small Claims Settlement ($3000 limit and $5000 for Return of Security Deposit)	19	0.4
Special Civil Settlement ($15000 limit)	78	1.8
Family Court Division		
Parenting Mediation	19	0.4
Probation Services Volunteer Services		
Intensive Supervision Program (ISP)[61]	-	-
Juvenile Intensive Supervision Program (JISP)[64]	-	-
Volunteers In Education (VIE) – Passaic only; cooperative effort between the Family and Probation Divisions	22	0.5
Volunteers in Probation (VIP)	16	0.4
General Volunteer Services		
Courthouse Services Assistance (CSA)[65]	132	3.0
Courthouse Visitors Assistance (CVA)	48	1.1
Total Volunteers[66]	**4,360**	**100.0**

Data Source: Judiciary Volunteer Services Unit, VMIS (Volunteer Management Information Systems)

[62] Unless otherwise noted, programs are active in one or more counties but not statewide.

[63] Program is implemented statewide.

[64] JISP volunteers are aligned with a northern or southern regional office of probation services, versus any particular vicinage, and are not yet tracked in VMIS; ISP volunteers are also not yet tracked in VMIS; statistical profile data for these two categories are not available for this reporting cycle.

[65] Program title summarizes multiple, similar volunteer positions in existence throughout the State.

[66] The total volunteers figure corresponds to the volunteer headcount by program such as program participation headcount and includes a number of volunteers who serve in more than one program.

Since the publication of this Committee's 2007-2009 biennial report, there have been a few noteworthy programmatic changes in several volunteer programs and the statewide administration of volunteer services.

1. Child Placement Review (CPR) Boards

The CPR program is a key component of the court's role in the oversight of children in out-of-home placements. Panels of trained judicial volunteers, appointed by the assignment judge, assist the court in certain categories of cases regarding children placed in out-of-home placements.

In March 2010, the Judiciary promulgated Administrative Directive #4-10[67], *Better Protection for Children - Improved Oversight of Abused and Neglected Children in Foster Care*. This directive formalizes direct judicial oversight provided by Superior Court judges of abused and neglected children in out-of-home placements and refocuses the work performed by Child Placement Review (CPR) boards. The referable administrative directive, in part, states:

> To continue to improve protection for New Jersey's children, the Supreme Court has adopted a policy recommendation by the Conference of Family Presiding Judges that responsibility for monitoring abused and neglected children in foster care be assigned to Superior Court judges. This direct judicial oversight of abused or neglected children in foster care will necessitate some refocusing of the work performed by the Child Placement Review (CPR) boards.

As a result of the promulgation of Administrative Directive #04-10, CPR boards will conduct an enhanced "45 day review" for all cases that they review. In litigated cases for children in foster care, which include a pending abuse/neglect case (FN docket) or a guardianship case (FG docket, termination of parental rights), the CPR boards will only conduct this enhanced 45 Day Review. At this review, the CPR board gathers information vital to

[67] This administrative directive is also discussed in Chapter II.

obtaining a permanent home for the child. Because of the judge's direct oversight role, however, the CPR boards will not be required to conduct subsequent reviews in litigated cases.

In addition to the CPR boards' specified role in litigated cases, CPR boards conduct reviews regarding children involved in "voluntary placement cases." Voluntary placement cases are situations where DYFS has placed a child in an out-of-home placement pursuant to a voluntary agreement signed by the parent where there is no allegation of abuse or neglect and DYFS has not filed a child abuse or neglect complaint against the parent. In both categories of cases, CPR boards prepare case-specific recommendations for consideration by the judge overseeing the case.

These changes in the realignment of the roles and responsibilities of CPR boards have resulted in a decrease in the number of CPR volunteers from 557 (October 2008) to 263 (January 2011).[68]

2. Juvenile Conference Committees (JCC)

Juvenile Conference Committees (JCC) serve under the authority of the Family Division of the Superior Court and are comprised of six to nine volunteers from the community appointed by a judge to hear and decide matters involving alleged juvenile offenders in a confidential setting. The JCC program is designed to divert juvenile charged with non-violent minor offenses to the local juvenile conference committee panel which acts as a community-based arm of the Family Part of the Superior Court. The alleged juvenile offender, parent(s)/guardian(s), and complainant are invited to discuss the offense and related matters with the Juvenile Conference Committee. The JCC then makes recommendations to the judge for a resolution that fosters the juvenile's rehabilitation.

[68] These numbers are based on information available through VMIS, the Judiciary's volunteer management information system.

An enhanced focus on inviting youth between the ages of 14 and 18 to serve as members of Juvenile Conference Committee (JCC) panels began near the end of court year 2010. This effort has multiple goals including achieving compliance with the Guide for Juvenile Conference Committees (updated July 2007) which states that, "The JCC should encourage the participation on each committee of one trained and certified member who is under the age of eighteen." With four counties already having this standard in place prior to June 2010, the statewide implementation effort set as a goal that there will be one trained youth member on every Juvenile Conference Committee.

A special recruitment effort was undertaken by each vicinage, including outreach to local high school principals for their recommendations of students who, with parental consent, would be willing to serve as a JCC volunteer. In addition to sharing the recruitment needs with existing vicinage volunteers across all programs and utilizing their usual recruitment channels, many vicinages also made personal contact with school-based organizations as well as issued press releases. "Young people play a valuable role in the juvenile justice process as volunteers on these committees," noted Assignment Judge Lawrence M. Lawson (November 30, 2010). As a result of these efforts, the number of youth JCC volunteers has increased to over 150 statewide as of December 2010 and represents notable progress towards the Court's goal.[69] Targeted recruitment of youth JCC members will continue until there is at least one youth member participating on each of the committees statewide.

3. Court-Appointed Special Advocates (CASA)

The Court Appointed Special Advocates (CASA) program is designed to help monitor abused and neglected children in out-of-home placements. This mission is accomplished by the

[69] The youth JCC volunteers are included in the count of active volunteers for the Juvenile Conference Committee program provided in Table 3-3.

careful recruitment, training, and supervision of community volunteers who are assigned to a child in the foster care system in order to represent to the court the best interests of the particular child. CASA becomes the child's voice in court. The CASA program in New Jersey expanded to all twenty-one counties in the state with the addition of CASA Affiliate Programs in Gloucester and Warren counties in 2009, and Hunterdon and Salem counties in 2010.

Court Rule 5:8C guides the Family Part on the use of court appointed special advocates. The court gives CASA investigative authority to examine all aspects of a child's case and explore all viable avenues to achieve a stable home environment for the child.

On November 1, 2010, the law that establishes the Court Appointed Special Advocate (CASA) program as a resource to the courts in New Jersey in determining the best interests of children removed from their homes due to abuse or neglect (N.J.S.A. 2A:4A-92) became effective. The new law clarifies in statute the most important features of the CASA model and states that the duties and activities of a CASA program and its volunteers shall be in accordance with guidelines and standards established by the Administrative Director of the Courts.

4. Statewide Administration of Judiciary Volunteer Services Program

In addition to the program-specific changes highlighted, there has also been noteworthy change in the administration of the statewide Volunteer Services Program. As a result of changes in vicinage staffing models that took effect as of July 1, 2009, the full-time equivalent position assigned to perform the Vicinage Volunteer/Complementary Dispute Resolution (CDR) Coordinator function was eliminated statewide. The related duties were dispersed by local vicinage management in a variety of ways to various divisions at different staffing levels. Although this adjustment has made both local and statewide volunteer administration more challenging, all core volunteer coordination functions such as recruitment, screening and appointment, training, and recordkeeping, continue to be performed.

a. Profile of Active Volunteers

There are nearly 4,300 active Judiciary volunteers statewide.[70]

Gender and County

Table 3-4. New Jersey Judiciary: Volunteer Programs - Active Volunteers by Gender and County, January 21, 2011

County	Female		Male		Total
	#	%	#	%	#
Atlantic	137	68.2	64	31.8	**201**
Bergen	253	68.4	117	31.6	**370**
Burlington	96	55.2	78	44.8	**174**
Camden	162	71.1	66	28.9	**228**
Cape May	58	70.7	24	29.3	**82**
Cumberland	65	85.5	11	14.5	**76**
Essex	294	72.6	111	27.4	**405**
Gloucester	71	68.9	32	31.1	**103**
Hudson	214	75.6	69	24.4	**283**
Hunterdon	24	72.7	9	27.3	**33**
Mercer	165	73.0	61	27.0	**226**
Middlesex	183	67.8	87	32.2	**270**
Monmouth	239	69.3	106	30.7	**345**
Morris	239	62.4	144	37.6	**383**
Ocean	133	58.1	96	41.9	**229**
Passaic	141	75.0	47	25.0	**188**
Salem	42	76.4	13	23.6	**55**
Somerset	102	79.7	26	20.3	**128**
Sussex	94	67.6	45	32.4	**139**
Union	223	67.4	108	32.6	**331**
Warren	40	81.6	9	18.4	**49**
Total	**2,975**	**69.2**	**1,323**	**30.8**	**4,298**

Data Source: Judiciary Volunteer Services Unit

An examination of *Table 3-4. New Jersey Judiciary Volunteer Programs by Gender and County* indicates that the proportion of active female volunteers increased slightly from 68% (October 2008) to 69.2% (January 2011). There was a slight decline in the proportion of active

[70] The statistical information presented in this report is based on current data drawn from the VMIS database.

male volunteers decreasing from 31.1% (October 2008) to 30.8% (January 2011). Eleven counties currently report representation of male volunteers at less than 30% whereas in the 2007-2009 biennial report thirteen counties reported male volunteers comprising 30% or less of the local volunteer corps.

Race/Ethnicity

Table 3-5. New Jersey Judiciary: Volunteer Programs - Statistical Summary Report by Race/Ethnicity, January 21, 2011

Ethnicity	Number	Percentage of Total
White	2,857	66.5
Black	753	17.5
Hispanic or Latino	231	5.4
Asian/Pacific Islander/American Indian	68	1.6
Multi-racial	23	0.5
Other	3	0.1
Did not Answer	363	8.4
Total Volunteers	**4,298**	**100.0**

Data Source: Judiciary Volunteer Services Unit

As illustrated in *Table 3-5. New Jersey Judiciary Volunteer Programs, Statistical Summary Report by Race/Ethnicity*, the proportional representation of all major racial/ethnic categories reflect an increase when comparing the current data (January 2011) to the data reviewed for the previous biennial report (October 2008): White volunteers increased from 62.5% to 66.5%, Black/African American volunteers increased from 13.8% to 17.5%, Hispanic/Latino volunteers increased from 2.4% to 5.4%, and Asian/Pacific Islander volunteers increased from 1.0% to 1.6% These data show that 25.1% of all court volunteers reporting race/ethnicity classify themselves in a minority race/ethnicity category. It is also notable that the percentage of volunteers who declined to report race/ethnicity or for whom this information was not recorded in VMIS has decreased significantly from 24.0% in 2006 to 18.8% in 2008 and to

8.4% in 2011. The Committee appreciates this improvement in the collection and availability of these data.

Table 3-6. New Jersey Judiciary, Volunteer Programs, Active Volunteers by Race/Ethnicity and County (January 21, 2011) shows that there is good news to report regarding the growth of the Judiciary Volunteer Services Program: There was an increase of approximately 4% in the total number of court volunteers since the 2007-2009 biennial report, and each of the 21 counties has a pool of court volunteers. However, these data also reveal some notable areas where further diversity can be achieved: Hunterdon County is the only county in the state which has no reported race/ethnic diversity among court volunteers; Gloucester, Salem, and Somerset report having no Hispanic/Latino court volunteers.

The volunteer statistics over the course of the past 20 or so plus years consistently show that the representation of racial and ethnic minorities among court volunteers lags far behind the representation of Whites in the volunteer corps. Therefore, the Committee reiterates Task Force Recommendations 59, 60, and 60.1 encouraging the Court to continue its efforts to ensure the availability of information on volunteer opportunities in minority communities and launch aggressive recruitment plans to address the persistent underutilization of minority groups and males. The Committee congratulates the Volunteer Services Unit for its recent release of the volunteer video on the judiciary website and encourages the program to continue its use of social media as well as other strategies to recruit more minority volunteers.

> The Supreme Court should require that the various volunteer programs be better advertised in the minority community. Task Force Recommendation 60 (Final Report, 1992, p. 357)

> The Supreme Court should direct the Judiciary to develop an aggressive, innovative Action Plan with timetables which go beyond current efforts to address the underrepresentation of Hispanics and Asian/Pacific Islanders that exists among court volunteers. Committee Recommendation 59, 60.1(2000-2002 Report, p. 237)

Table 3-6. New Jersey Judiciary, Volunteer Programs - Active Volunteers by Race/Ethnicity and County, January 21, 2011

County	White		Black		Hispanic/ Latino		Asian/Pacific Islander and American Indian		Multi-racial		No Response		Other		Total
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#
Atlantic	105	52.2	73	36.3	12	6.0	6	3.0	0	0.0	5	2.5	0	0	**201**
Bergen	320	86.5	22	5.9	22	5.9	5	1.4	1	0.3	0	0.0	0	0	**370**
Burlington	140	80.5	23	13.2	1	0.6	2	1.1	0	0.0	8	4.6	0	0	**174**
Camden	140	61.4	67	29.4	7	3.1	5	2.2	3	1.3	5	2.2	1	0.4	**228**
Cape May	73	89.0	7	8.5	1	1.2	0	0.0	0	0.0	1	1.2	0	0	**82**
Cumberland	45	59.2	24	31.6	7	9.2	0	0.0	0	0.0	0	0.0	0	0	**76**
Essex	91	22.5	144	35.6	12	3.0	1	0.2	6	1.5	151	37.3	0	0	**405**
Gloucester	89	86.4	10	9.7	0	0.0	2	1.9	0	0.0	2	1.9	0	0	**103**
Hudson	122	43.1	82	29.0	57	20.1	11	3.9	9	3.2	1	0.4	1	0.4	**283**
Hunterdon	33	100.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0	**33**
Mercer	157	69.5	53	23.5	10	4.4	6	2.7	0	0.0	0	0.0	0	0	**226**
Middlesex	172	63.7	54	20.0	17	6.3	10	3.7	1	0.4	16	5.9	0	0	**270**
Monmouth	296	85.8	31	9.0	10	2.9	5	1.4	0	0.0	2	0.6	1	0.3	**345**
Morris	307	80.2	8	2.1	9	2.3	5	1.3	1	0.3	53	13.8	0	0	**383**
Ocean	213	93.0	9	3.9	4	1.7	0	0.0	0	0.0	3	1.3	0	0	**229**
Passaic	98	52.1	36	19.1	29	15.4	1	0.5	1	0.5	23	12.2	0	0	**188**
Salem	44	80.0	11	20.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0	**55**
Somerset	108	84.4	12	9.4	0	0.0	1	0.8	0	0.0	7	5.5	0	0	**128**
Sussex	92	66.2	2	1.4	3	2.2	1	0.7	1	0.7	40	28.8	0	0	**139**
Union	172	52.0	81	24.5	29	8.8	6	1.8	0	0.0	43	13.0	0	0	**331**
Warren	40	81.6	4	8.2	1	2.0	1	2.0	0	0.0	3	6.1	0	0	**49**
Total	**2,857**	**66.5**	**753**	**17.5**	**231**	**5.4**	**68**	**1.6**	**23**	**0.5**	**363**	**8.4**	**3**	**0.1**	**4,298**

Data Source: Judiciary Volunteer Services Unit

b. Sustaining the Volunteer Corps through Ongoing Training

Judiciary volunteers, like judges and court employees, serve an increasingly diverse population in New Jersey. Accordingly, one's multi-cultural sensibilities/acumen and cultural competency IQ are important cognitive skills in meeting the growing demands of diverse court users. Upon initial appointment, all judiciary volunteers must successfully complete volunteer orientation and program-specific training. Continuing education on an annual basis is mandatory for volunteers in some programs, and it is strongly encouraged for all others.

Many vicinages include a segment on diversity/cultural competency issues in their mandatory new volunteer orientation program and/or offer the related training through continuing education programs. These programs also cover the Judiciary policies on Equal Employment Opportunity/Affirmative Action and Anti-Discrimination. In many cases, Judiciary volunteers can avail themselves of the same diversity/cultural competency training courses that are offered internally to court employees.

Review the list of related course titles of mandatory and optional training opportunities that were made available to volunteers across the state during 2009 and 2010:

- *A Complaint Free Workplace;*
- *Cross Cultural Conflict Resolution;*
- *Cross System Training Event on Special Immigrant Juvenile (SIJ) Status;*
- *Cultural Awareness;*
- *Lesbian, Gay, Bisexual, Transgender, Questioning, and Intersex (LGBTQI) Youth Issues in the Child Welfare and Juvenile Justice Systems;*
- *Discovering Your Personality Style;*
- *Multigenerational Workforce;*
- *Myers-Briggs Type Indicator;*

- *Overcoming Cultural Barriers;*
- *Valuing Diversity;* and
- *Working with Different Generations.*

These trainings were sponsored by the judiciary and presented by the judiciary and/or various external organizations.

F. Statewide Ombudsman Program

1. Historical Background of the New Jersey Judiciary Statewide Ombudsman Program

For the benefit of the readership, this brief background information that appeared in the 2007-2009 biennial report is offered:

> In its final report (1992), the Supreme Court Task Force on Minority Concerns amended and revised an earlier recommendation published in the Interim Report of the Supreme Court Task Force, (1989,p.29) addressing the establishment of a citizen complaint mechanism at the Administrative Office of the Courts and in each vicinage. Subsequently, both the Criminal Defendant and Minority Access subcommittees submitted separate amended recommendations in the 1994-1996 report calling for enhancements to the original ombudsman recommendations.[71]
>
> Following the completion of the pilot program in Camden (1996), Essex opened its Office of the Ombudsman in 1998 followed by Mercer in 2001. In 2001 the Administrative Council endorsed the statewide expansion of the program and proposed the creation of a statewide Committee of Ombudsman. A directive was issued promulgating the statewide implementation of the Office of the Ombudsman in March 2005, including the filling of positions in each of those vicinages that did not at the time have an ombudsman office. Since that time, recruitments have been made to fill vacancies at the Court Executive 1B level. Management and coordination of the statewide ombudsman program [continues to be] housed in the Office of Communications and Community Relations Litigant Services Unit.

[71] See the New Jersey Supreme Court Task Force on Minority Concerns Final Report (June 1992), Recommendation 30 p. 250, and Recommendation 31 p. 252. Similarly the New Jersey Task Force on Women in the Courts (also in 1989) proposed establishing an office of the ombudsman at the Administrative Office of the Courts to promote equal justice. The Task Force on Women in the Courts envisioned the ombudsman as an office that monitored problems, e.g., the enforcement of judicial orders in domestic violence cases, and collaborated and networked with community organizations (such as rape crisis centers and battered women's shelters) to bring community perspectives to the Judiciary.

2. Current Ombudsman Statistics

a. Modes of Contact

Table 3-7. Office of the Ombudsman: Modes of Contact by Vicinage, Calendar Year 2009 provides data on the modes of contact that court constituents use to initiate contact with an ombudsman office. In 2009 there were a total of 32,659 contacts by court users, representing an overall statewide increase of 238% compared to calendar year 2006 (9,656).

Nearly half (49.7%) of the court users who contacted the ombudsman offices in 2009 did so in-person and approximately 44% used the telephone. Growing percentages of contacts were made via e-mail (5.1%), while fax (0.3%) and letter/memo (1.0%) contacts remained virtually unchanged. These findings suggest that New Jersey constituents show a clear preference for non-written personal contact with an ombudsman and to a lesser degree also consider convenience such as communication via e-mail.

Table 3-7. The Office of the Ombudsman - Modes of Contact[72] by Vicinage, Calendar Year 2009

Vicinage[73]	In-Person		Telephone		E-mail		Fax		Letter/Memo		Total[a]	
	#	%	#	%	#	%	#	%	#	%	#	%
Atlantic/Cape May[b]	41	11.6	233	66.0	55	15.6	2	0.6	22	6.2	**353**	**100.0**
Bergen	187	15.4	528	43.6	456	37.7	15	1.2	25	2.1	**1,211**	**100.0**
Burlington	278	26.8	686	66.1	22	2.1	0	0.0	52	5.0	**1,038**	**100.0**
Camden	1,170	63.1	586	31.6	92	5.0	1	<0.1	4	0.2	**1,853**	**100.0**
Cumberland/Salem/Gloucester	212	15.7	988	73.2	95	7.1	5	0.4	49	3.6	**1,349**	**100.0**
Essex[c]	5,522	72.6	1,978	26.0	76	1.0	6	<0.1	22	0.3	**7,604**	**100.0**
Hudson	27	19.1	21	14.9	82	58.2	1	0.7	10	7.1	**141**	**100.0**
Mercer[d]	100	9.9	916	86.0	20	1.9	10	0.9	20	1.9	**1,066**	**100.0**
Middlesex[e]	35	8.4	254	60.8	91	21.8	10	2.4	28	6.7	**418**	**100.0**
Monmouth[f]	230	15.9	1,077	74.6	96	6.7	14	1.0	27	1.9	**1,444**	**100.0**
Morris/Sussex	35	5.9	366	61.6	181	30.5	3	0.5	9	1.5	**594**	**100.0**
Ocean	173	17.1	660	65.3	135	13.4	14	1.4	28	2.8	**1,010**	**100.0**
Passaic	4,648	52.3	4,188	47.1	42	0.5	0	0.0	6	<0.1	**8,884**	**100.0**
Somerset/Hunterdon/Warren	278	30.4	575	62.8	54	5.9	3	3.3	5	0.5	**915**	**100.0**
Union	3,304	69.1	1,280	26.8	167	3.5	10	2.1	18	3.8	**4,779**	**100.0**
Total Vicinages Combined	**16,240**	**49.7**	**14,336**	**43.9**	**1,664**	**5.1**	**94**	**0.3**	**325**	**1.0**	**32,659**	**100.0**

Data Source: Litigant Services Unit and Committee of Ombudsman, December 2009

[72] For purposes of consistency, this table is now titled "Modes of Contact" so that it matches the title used in the newly standardized report, "New Jersey Judiciary Statewide Ombudsman Daily Contacts Report," Calendar Year 2009.

[73] Comments: [a] Unless otherwise noted, the contacts reflect those recorded only by the Office of the Vicinage Ombudsman. [b] In Atlantic/Cape May; the Ombudsman also shares Vicinage Volunteer Services responsibilities. [c] Essex Vicinage data include services provided by the Ombudsman, 2 community relations liaisons (Information Center), and 1 Judiciary Clerk (Family Information Desk). [d] Mercer Vicinage data represent April through December 2009. [e] In Middlesex Vicinage, the Ombudsman was on leave for much of calendar year 2009. [f] Monmouth Vicinage includes Ombudsman and a part-time assistant beginning March 2009.

b. Type of Assistance

The mode of contact referenced in Table 3-7 and discussed in the previous section describes the initial interaction that the court user has with ombudsman staff. That number is typically less than the total number of "Types of Assistance" offered to the court user over the course of the office contact as the "type of assistance" refers to the different types of service needs a court user requires and the various types of assistance (usually more than one) provided to resolve the presenting issue(s). While the data presented here correspond to the resolution of the matter addressed to the Office of the Ombudsman, the assistance rendered often is multifaceted and labor intensive, involving substantial interaction over multiple visits and telephone conversations.

The fifteen vicinages continued to track types of assistance provided using these standardized categories of assistance:

- *Court Information* indicates that the ombudsman provided a court publication or court document and/or provided explanation about case status, court procedure, policy, or service.
- *Internal Referral* indicates that the ombudsman assisted the court user and then provided an internal referral to another court office for additional assistance.
- *Court Form* indicates that the ombudsman provided a court form and/or answered questions about a form.
- *Research/Investigation* indicates that the ombudsman reviewed a file or computer system and/or conferred with court staff in order to resolve the issue or answer the inquiry.
- *Non-Court Information* indicates that the ombudsman provided literature or referral information about an outside agency or organization.
- *Court Tours/Speakers Bureau* indicates that the ombudsman assisted a court user who had questions about organizing a court tour, arranging a speaking engagement, or observing a court proceeding.
- *Interpreter/Bilingual Employee Needed* indicates that the ombudsman assisted a court user who needed an interpreter or bilingual staff person.

- *Update* indicates that the ombudsman provided follow-up status regarding an ongoing inquiry or issue.
- *Other* indicates assistance provided that is not captured in the other categories.

Table 3-8. Office of the Ombudsman: Type of Assistance (2009) reveals that statewide most court users received assistance in the form of court information 47.9%, (20,371), court forms19.6% (8,321), and research/investigation 16.4% (6,963). The categories of assistance that were least frequently provided were internal referral 1.8%, (762) and updates 1.7% (740).

Table 3-8. Office of the Ombudsman - Type of Assistance,[74] 2009

Vicinage	Types of Assistance Provided to Resolve Inquiry/Matter									
	Court Info	Internal Referral	Court Form	Research/ Investigation	Non-Court Information	Court Tours/ Speakers	Interpreter/ Bilingual Needed	Update	Other	Total
Atlantic/Cape May	201	16	21	27	6	11	2	12	68	
Bergen	295	4	628	134	54	62	2	55	97	
Burlington	663	33	26	71	217	7	1	18	2	
Camden	763	10	470	33	85	317	13	133	29	
Cumberland/Salem/Gloucester	1,091	38	393	119	121	36	76	9	160	
Essex	4,101	87	2,655	3,023	680	100	949	76	348	
Hudson	69	38	23	41	7	0	0	0	18	
Mercer	966	250	500	950	10	0	2	0	0	
Middlesex	269	160	8	41	61	8	1	32	47	
Monmouth	1,322	46	188	232	136	19	83	4	121	
Morris/Sussex	360	0	148	3	58	11	1	61	178	
Ocean	541	28	69	90	156	170	51	152	86	
Passaic	6,178	0	372	2,035	298	29	4	0	0	
Somerset/Hunterdon/Warren	692	25	79	24	76	16	87	1	58	
Union	2,860	27	2,741	140	1	15	0	187	60	
Totals	**20,371**	**762**	**8,321**	**6,963**	**1,966**	**801**	**1,272**	**740**	**1,272**	**42,468**

Data Source: Litigant Services Unit and Committee of Ombudsmen, December 2009

[74] In previous reports, this table provided summary data. As these data are now available by vicinage, the table has been expanded accordingly.

c. Type of Assistance by Division

The Committee is very pleased to receive detailed data showing divisional contacts[75] by vicinage and statewide for calendar year 2009. This information may be helpful in assisting practice areas in pinpointing and addressing discrete case processes/procedures that raise questions or pose challenges for some court users. *Table 3-9. Office of the Ombudsman: Constituent Inquiry by Division* provides an informative overview of these contacts.

As *Table 3-9* reveals,

- the Family (31.1%) and Civil (30.3%) Divisions have almost equal percentages of inquiries for all vicinages combined;
- the Criminal (12.5%) and Probation (11.6%) Divisions have nearly equal percentages of inquiries;
- County/Other inquiries have a combined total percentage of 10.5%;
- Court Operations (1.8%) and Municipal Court (1.6%) had nearly equal percentages of inquiries; and
- Human Resources with 22 (0.1%) had the lowest percent of queries.

[75] By "divisional contacts," the Committee refers to the court division to which the court users' inquiry to the Ombudsman related or the court division whose assistance was required to resolve the court users' concern.

Table 3-9. Office of the Ombudsman - Constituent Inquiry by Division,[76] 2009

Vicinage	Types of Assistance Provided to Resolve Inquiry/Matter									
	Civil	Criminal	Family	Probation	Municipal	Operations	Finance	Human Resources	County/ Other	Total
Atlantic/Cape May	125	28	122	9	16	2	0	1	61	
Bergen	519	29	355	69	51	62	4	2	120	
Burlington	333	71	311	155	23	8	1	0	136	
Camden	256	73	1,074	30	6	28	4	2	380	
Cumberland/Salem/Gloucester	213	55	655	157	49	15	7	2	262	
Essex	2,183	398	2,380	1,933	61	98	41	0	583	
Hudson	57	5	24	6	11	21	0	0	10	
Mercer	84	16	188	18	5	2	0	0	29	
Middlesex	139	32	146	59	31	14	0	7	22	
Monmouth	311	84	659	151	16	16	2	2	257	
Morris/Sussex	202	27	197	26	17	20	0	4	101	
Ocean	302	79	235	35	21	0	3	1	370	
Passaic	3,344	2,679	849	924	148	204	116	0	611	
Somerset/Hunterdon/Warren	272	49	164	28	20	16	3	1	352	
Union	1,401	388	2,643	141	48	62	25	0	71	
Totals	**9,741**	**4,023**	**10,002**	**3,741**	**523**	**568**	**206**	**22**	**3,365**	**32,191**

Data Source: Litigant Services Unit and Committee of Ombudsmen, December 2009

[76] In previous reports, this table provided summary data. As these data are now available by vicinage, the table has been expanded accordingly.

d. Constituent Complaints

> The Supreme Court should direct that all complaint procedures include the following features: all key aspects of behavior which could result in a complaint are clearly specified, notices of complaint mechanisms are readily accessible to the public, and complaint procedures are structured so that grievances having to do with minority issues can be identified and quantified. Task Force Recommendation 30 (Final Report, 1992, p. 250)

> The Supreme Court should direct that Ombudsman Offices … receive and investigate complaints about abuses in the judicial process. Task Force Recommendation 31 (Final Report, 1992, p. 252)

> The AOC should also be directed to develop procedures and policies regarding complaints by the public…These procedures shall include an avenue for filing complaints based not only on race and ethnic bias, but also discrimination and unfair treatment. Committee Recommendation 31.1 (1994-1996 Report, p. 11)

> The Supreme Court should require each Assignment Judge to identify a 'point' person who will be responsible for accepting complaints, following up on disposition of complaints and reporting to the AOC. Committee Recommendation 31.2 (1994-1996 Report, p. 11)

The Supreme Court Committee on Minority Concerns is pleased to learn that the Ombudsmen have begun to track "constituent complaint" data in a separate category as the recommendation approved by the court so stipulated. The Committee looks forward to reviewing the court user complaints data and learning more about the kinds of issues that court users are bringing to the attention of the judiciary, how the complaints are processed and resolved, within what span of time the complaints are resolved, learning about if and how court users and litigants participate in the problem-solving process, and how the anecdotal information and outcomes are utilized to inform court operations, training, policies and procedures and case processing.

e. Accessing the Ombudsman Services: Status of Court Users

Detailed data showing the status of court users[77] served by each vicinage and aggregate figures for the state were recorded. Knowledge of the constituency served is helpful to the court for several reasons: 1) this knowledge provides information that assist the judiciary in determining how well it is meeting its outcome goals relative to assuring access to the courts regardless of the nature of one's legal representation; 2) these data identify the constituencies served; 3) the data provide valuable planning information insofar as designing and planning public education seminars; 4) the availability of the ombudsman office presents a unique opportunity for citizens to interface with the court in non-adversarial and problem-solving interactions; and 5) the court user learns first hand that the services provided by the court extend beyond adversarial court trials. *Table 3-10 Office of the Ombudsman: Status of Court User (2009)* provides an informative overview of these contacts

Table 3-10. Office of the Ombudsman - Status of Court User, 2009

Vicinage	Self-Represented Litigant	Attorney-Represented Litigant	Attorney	Unknown	N/A	Total
Atlantic/Cape May	199	38	13	52	51	
Bergen	1,091	49	4	0	137	
Burlington	986	37	15	0	0	
Camden	1,383	30	12	32	396	
Cumberland/Salem/Gloucester	961	2	54	167	165	
Essex	6,293	199	79	806	227	
Hudson	91	6	2	14	28	
Mercer	340	2	2	722	0	
Middlesex	300	6	11	34	67	
Monmouth	1,374	26	40	0	4	
Morris/Sussex	465	0	15	0	114	
Ocean	575	17	36	265	117	
Passaic	8,875	9	0	0	0	
Somerset/Hunterdon/Warren	624	8	12	246	25	
Union	4,718	1	23	7	30	
Totals	**28,205**	**430**	**318**	**2,345**	**1,361**	**32,659**

Data Source: Litigant Services Unit and Committee of Ombudsmen, December 2009
Note: "Represented" and "N/A" were added as of September 2009.

[77] By "divisional contacts," the Committee refers to the court division to which the court users' inquiry to the Ombudsman related or the court division whose assistance was required to resolve the court users' concern.

As Table 3-10 shows, 86.3% of constituents served by the Ombudsman Offices statewide were self-represented litigants. Attorney-represented litigants and attorneys account for only 2.3% of persons seeking assistance from a vicinage ombudsman. These data indicate that the Office of the Ombudsman across the state perform a vital service in providing self-represented litigants with information and resources needed to prepare for court. According to information from Legal Services of New Jersey presented earlier in this chapter, the majority of these court users do not have the funds to secure an attorney.

3. Vicinage Pro Se Initiatives

One of the strengths of the New Jersey Ombudsman model is that it is dynamic; ombudsman offices utilize the local knowledge gained from analyzing the quantitative and qualitative data and observations gained from anecdotal information to engage in proactive programmatic innovations. New and renewed/re-visioned initiatives that build on the Court's longstanding commitment in this area are tangible responses to concrete informational and assistance needs of self-represented and unrepresented litigants. Here are a few selected examples that highlight the proactive innovative approach that are hallmarks of the statewide program and will, no doubt, continue to shape future initiatives in this regard:

- To enhance services available to court users seeking assistance in Essex Vicinage, the Information and Community Relations Center opened a self-help center in 1997 and it has been in continuous operation since its opening. More recently, Union and Monmouth Vicinages have both opened self-help centers. The Union Self-Help Center was established in January 2009. Its purpose is to provide individualized services to litigants; the Center has a direct link to the Interpreter's Unit. To date the service has reduced the volume of litigants at the intake windows across all divisions and many litigants are better prepared to handle their court matters.

  Union's Self-Help Center is open three days a week for four hours a day. Most of the Center's users need assistance with family matters and nearly 30% needed assistance help with civil matters. Almost all of the self-represented constituents could not afford an attorney to handle their legal matter and many did not have access to computer.

In Fall 2010, the Monmouth Vicinage Self-Help Resource Center established a partnership with Ocean-Monmouth Legal Services. Ocean-Monmouth Legal Services works with the Monmouth Vicinage Self-Help Resource Center by conducting monthly group seminars on court-related topics including child support, divorce, expungement of criminal records, landlord/tenant issues, and small claims matters.

Legal Services attorneys are onsite twice each month to offer limited free legal advice and conduct one-on-one screenings to determine eligibility for legal services and provide referrals to helpful resources. Building on the model of partnerships established in Camden and Essex through their respective Ombudsman Offices, the Monmouth Vicinage collaboration with Ocean-Monmouth Legal Services is the first such formal partnership with a legal services entity.

- Burlington Vicinage currently holds the distinction of being the only vicinage with a mobile ombudsman unit. Through this initiative, the Ombudsman can provide assistance at off-site locations (currently in Willingboro at the Senior Citizens Center and in Pemberton Township at the Municipal Court). The current sites were selected because they both of these locations have limited public transportation access and have high population concentrations.

- In a collaborative effort involving the Office of the Ombudsman and the Family Division, Passaic Vicinage launched a self-represented litigant internship program. This program was developed to address the assistance needs of many of the self-represented litigants appearing in the vicinage. The goal of the program is to foster positive relationships with the Passaic County community served by the Family Division, to limit the number of documents being returned to the self-represented litigants by proactively providing assistance to selected litigants, and to educate the community about procedures to be followed when filing documents in matrimonial cases. In rolling out this initiative, the services of two law school students were utilized during a ten-week period.

- Through a grant secured by Communications and Community Relations Division, the Judiciary received funding from the National Center for State Courts to initiate a regional training program, free to librarians, on how to help their patrons find legal information and use court resources, especially the New Jersey Court website to access legal and litigant service information available on the Judiciary's website. In addition to these electronic resources, the training also included information on the services available through several Judiciary self-help centers located in the state. Five regional training were held throughout the state.

While it is encouraging that both the vicinage and Central Office will continue to develop proactive and innovative programs that enhance the availability of court-related information and are responsive to the documented needs of pro se litigants, there is concern that in many

communities, especially in urban centers, service-oriented programs targeting low income recipients cannot meet the needs of their constituents. Other public institutions such as local libraries (especially in the urban center throughout the state) have reduced their hours of operation and in some cases even closed their doors. Therefore, the Committee is very concerned that some of the court partnerships, such as with the State Library Association, for example, may not provide the access to court resources as initially envisioned. While there is encouraging news in the legal community with respect to an increase in pro bono hours, there is no information on what impact this increase has had on the universe of clients seeking legal assistance. In 2010, New Jersey's top law firms contributed 103,920 hours to indigent defense. This figure compares to 95,565 hours in 2008 (204N.J.L.J.352,) May 9, 2011, pp.110-11. However, it is difficult to gauge the impact of the increase in pro bono services on the universe of court users who need legal counsel.

G. Ongoing Education and Training Opportunities for Judges, Managers, and Staff

The Committee advanced its work in this area substantially by participating in the development and delivery of various aspects of the educational program of the 22nd conference and annual meeting of the National Consortium on Racial and Ethnic Fairness in the Courts which was hosted by the New Jersey Judiciary in April 2010 for the third time in the history of the national organization. The access to justice related sessions included:

- *Building Bridges between Courts and Communities: Implementing a Systemwide Judiciary Ombudsman Program;*
- *Knowing the Communities We Serve;*
- *The Intersection of Race, Conflict, and Legal Institutions in the United States: Is Race Still a Factor for the Legal System Today?*
- *Promises of Equality: Race, Law, and the U.S. Constitution;*
- *Serving Self-Represented Litigants as an Access to Justice Issue;*

- *Mind Bugs: The Science of Unconscious Bias;*
- *Either and Both: What We Know Today About Race and Gender as Social Constructs;*
- *Racial and Ethnic Underrepresented Groups in the Dispute Resolution Field: Barriers, Promises, and Challenges for ADR Professionals;*
- *E-Tools for Examining Demography and Conducting Social Research;*
- *Transformative Teaching: The Role and Influence of Law School Education on Legal Practice and the Administration of Justice;*
- *Delivery of Services and Perceptions of Justice: The Role of Customer Service in Promoting Access to Justice and Public Confidence in the Courts;*
- *Facilitating Access to Justice for Limited English Proficient (LEP) Court Users;*
- *At the Intersection of Race and Gender: The Experiences of Women of Color in the Courtroom;*
- *The Delivery of Justice in the Trial Courts: Effective Tools for Jury Administration;*
- *Enhancing Public Confidence in the Courts through the Use of Social Networking Tools;*
- *A Place at the Table? The Role of Faith-Based Communities in Advancing the Delivery of Justice; and*
- *Site Visit to Middlesex Vicinage Smart Courtoom.*

IV. Conclusion

The Committee reiterates its ongoing appreciation for the opportunity to work with the Judiciary on a spectrum of access and fairness issues. As the Committee sustains its address of challenging and longstanding priority focus matters and revisits other areas such as municipal court, and emergent issues on its action agenda, members look forward to continuing its interactive work with other court divisions/programs and external partners to improve minority/non-minority access to justice and enhance public confidence in the court for all court constituents.

Chapter IV

SUBCOMMITTEE ON MINORITY PARTICIPATION IN THE JUDICIAL PROCESS

I. Introduction and Mandate

The mandate of the Subcommittee on Minority Participation in the Judicial Process is to review, monitor, and make recommendations regarding Judiciary programs affecting racial and ethnic minorities, the participations of racial and ethnic minorities on Supreme Court boards, committees, fiduciary appointments, and minority access to vendor contracts, judicial clerkships, and volunteer opportunities.

The Committee's monitoring responsibilities include but are not limited to the recruitment, retention, and career development opportunities of all court personnel; promotional patterns of judges; the collection and analysis of data and statistics on the judicial workforce; and Judiciary employment policies, procedures, and performance standards. An equally important charge of the Committee is its continuing effort to educate court personnel and the general public about the progress of the court to diversify its workforce. In carrying out its mandate, the Committee makes recommendations to enhance, modify, or augment existing Judiciary programs and/or offer new or alternative approaches to effectuating institutional changes designed to eliminate racial and ethnic bias in the courts and to ensure access by racial and ethnic minorities to employment opportunities, Supreme Court committee appointments, law clerkships, fiduciary appointments, and vendor opportunities.

The New Jersey Judiciary has made substantial progress over the course of the last 25 years in its efforts to ensure fair and equitable access to employment opportunities. The Judiciary's progress in implementing the court-approved recommendations of the Minority Concerns Committee and other human resource systems improvements positions the Judiciary to meet the continuing challenges of the State's changing population demographics. This chapter focuses on how the Judiciary since the Committee's last report has addressed particular concerns raised and recommendations made in the Supreme Court Committee on Minority Concerns

2007-2009 Biennial Report, in addition to selected priority carryover issues from previous reports.

In the previous biennial report (2007-2009) the Committee addressed in detail the following subjects: the "availability data" and the self-critical findings of underutilization of racial and ethnic minorities in the Judiciary workforce, as set forth in the Judiciary EEO/AA Master Plan; a demographic overview of the judiciary workforce with separate breakouts for judges, law clerks, AOC/Central Clerks' Offices and vicinages; demographic distribution within job bands and within compensation levels with particular attention to court executives and career progression; recruitment outreach; the demographics of hiring and separations; the nature and handling of discrimination complaints within the Judiciary; equal employment and diversity training; minority vendors; and the demographics of Supreme Court committees and other bar-related committees. The current biennial report, however, represents a departure from the Committee's past practice. This report's chapter relating to Judiciary activities monitored by the subcommittee on minority participation is somewhat abbreviated - in part, because of the lack of current data obtained by the Committee (due to the Human Resource Division upgrading existing databases) - and will focus only on a limited number of the above-cited subject areas. The subcommittee on minority participation will make every effort to collect data proactively during the current term so that updated data on a wider variety of subjects and areas of concern can be addressed.

II. <u>Overview of the Judiciary Workforce</u>

Table 4-1(A). New Jersey Judiciary: Employees by Race/Ethnicity (Excluding Judges, Bar Examiners, and Part-Time Employees), AOC/Central Clerks' Offices and Vicinages July 2009 provides the number and corresponding percentages of Judiciary employees in the vicinages, in the AOC, and in the vicinages and AOC combined, as of July 2009. This analysis

also uses August 2007 data. See *Table 4-1(B). New Jersey Judiciary: Employees by Race/Ethnicity (Excluding Judges, Bar Examiners, and Part-time Employees), AOC/Central Clerks' Offices and Vicinages, August 2007*, that provides information from the 2007-2009 Biennial Report, as a basis of comparison with the most current figures, i.e., as of July 2009.

Table 4-1(A). New Jersey Judiciary: Employees by Race/Ethnicity (Excluding Judges, Bar Examiners, and Part-time Employees), AOC/Central Clerks' Offices, and Vicinages, July 2009

	Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total
	#	%	#	%	#	%	#	%	#	%	
Vicinages	4387	58.9	3062	41.1	1918	25.7	920	12.4	224	3.0	**7449**
AOC/Central Clerks' Offices	993	69.5	435	30.5	292	20.4	78	5.5	65	4.6	**1428**
Total	**5380**	**60.6**	**3497**	**39.4**	**2210**	**24.9**	**998**	**11.2**	**289**	**3.3**	**8877**
U.S. Census 2000[78] NJ Experienced Civilian Labor Force, Census 2000	**68.3%**		**31.7%**		**11.9%**		**12.1%**		**6.5%**		

Table 4-1(B). New Jersey Judiciary: Employees by Race/Ethnicity (Excluding Judges, Bar Examiners, and Part-time Employees), AOC/Central Clerks' Offices, and Vicinages, August 2007

	Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total
	#	%	#	%	#	%	#	%	#	%	
Vicinages	4,684	60.8	3,026	39.2	1,935	25.1	889	11.5	202	2.6	**7,710**
AOC/Central Clerks' Offices	1,001	69.5	440	30.5	295	20.5	77	5.3	68	4.7	**1,441**
Total Judiciary	**5,685**	**62.1**	**3,466**	**37.9**	**2,230**	**24.4**	**966**	**10.6**	**270**	**3.0**	**9,151**

Data Source: AOC EEO/AA Unit.
Note: Percentages are percent of total in each major category and may not always sum to 100 due to rounding. In addition, readers should note that 2000 Census offered respondents the option to select two or more races and to indicate Hispanic/Latino in addition to race. This explains why the total percentages sum to >100%

A review of data in *Table 4-1(A)* shows that as of July 2009, racial and ethnic minorities comprised 39.4% of the total Judiciary workforce, exceeding the 31.7% "total minorities"

[78] In order to match the available census data to the data categories currently in use by the Judiciary, calculations for the New Jersey experienced civilian labor force and the New Jersey total population were drawn from using the totals listed for White, Black/African American, and American Indian/Alaskan Native and Asian (combined) under one race and Hispanic/Latino of any race from *Table 1. Population by Race and Hispanic Origin for All Ages and for 18 Years and Over for New Jersey, 2000*. The ECLF includes only those 16 years of age and older; the total population includes all ages.

demographic in the Census 2000 experienced civilian labor force ("ECLF").[79] Comparison against the August 2007 data in the 2007-2009 Biennial Report indicates that, although the number of employees in the total Judiciary workforce decreased by 3% between August 2007 and July 2009, the overall percentage of minorities in the total Judiciary workforce actually increased during that time period from 37.9% to 39.4%. Based on a 0.89% increase in the number of minorities in the Judiciary workforce (3,497 in July 2009 compared to 3,466 in August 2007) in tandem with a decrease in the number of white employees in the Judiciary workforce during this same period (5,380) in July 2009 compared to 5,685 in August 2007 is consistent with the overall trend of an increase in total minority representation in the Judiciary workforce. However, the percentage of minority representation at the AOC remained constant from 2007 (30.5%) to 2009 (30.5%). Data for the vicinages combined indicates that in 2007, the percentage of minority employees was 39.2% and 41.1% in 2009. *Table 4-2: New Jersey Judiciary: Percent Minority Employees by Race/Ethnicity AOC/Central Clerks' Offices, Vicinages and Total AOC and Vicinages) (Excluding Judges, Bar Examiners, and Part-time Employees) Combined 1995, 1997, 2001, 2003, 2005, 2006, 2007, and 2009.*

These favorable statistics, however, can conceal ongoing concerns regarding the demographic representation of specific racial/ethnic minority groups within the AOC and/or vicinages vis-à-vis the ECLF data for those particular groups. A closer look at the breakdown of the demographics of the vicinages and the AOC indicates that the increase in both percentage and total number of minority employees in the overall Judiciary workforce can primarily be attributed to the impact of an increase in the total number of all minorities employed in the

[79] The availability data used in the Judiciary's workforce analysis is the percentage of minorities and/or women in the external labor force who reside within the Judiciary's labor market area and who possess a job title relevant to a specific Judiciary job group based on the 2000 Census data. The Judiciary established the availability for each job group by taking the equivalent (relevant) civilian labor force (ECLF) for the 2000 Census analogous occupational job codes for each Judiciary job group within reasonable geographical areas of recruitment (commuting patterns).

vicinages between August 2007 (3,026 minorities) and July 2009 (3,062 minorities) - an increase of 1.2% in that time period - while the vicinages' total workforce decreased from 7,710 to 7,449 (-3.4%) during this period. (Compare the data in Tables 4-1(A) and 4-1(B).) This resulted in a relatively slight increase (from 39.2% in August 2007 to 41.1% in July 2009) in the total proportion of minorities in the vicinages' workforce between August 2007 and July 2009. Although the number of total minorities within the AOC workforce decreased in the same time period, the vicinages' numbers, when combined with the AOC's, resulted in a favorable outcome from the perspective of overall minority representation within the Judiciary's workforce.

As set forth in *Table 4-2,* the total AOC workforce shrunk a little less than 1% between August 2007 and July 2009. However, during this period the total percentage of minorities in the AOC workforce remained stationary (30.5%) despite a decrease of minorities from 440 to 435 (about -1%).

Within the vicinages, the increase in total minority representation is attributable to an increase in the raw number of Hispanics/Latinos and Asians/Pacific Islanders/American Indians employed by the vicinages in July 2009 as compared to August 2007 (respectively 920 or +31, and 224 or +22) combined with the overall decrease in the number of all vicinage employees. The raw number of Blacks/African Americans in the vicinages decreased slightly about –0.88% from 1,935 to 1,918 in this time period although the relative percentage of Blacks/African Americans in the vicinages' employee population increased slightly from 25.1% to 25.7% during this period.

Table 4-2. New Jersey Judiciary: Percent Minority Employees by Race/Ethnicity AOC/Central Clerks' Offices, Vicinages and Total AOC and Vicinages (Excluding Judges, Bar Examiners, and Part-time Employees) Combined 1995, 1997, 2001, 2003, 2005, 2006, 2007, and 2009

AOC	**1995 %**	**1997 %**	**2001 %**	**2003 %**	**2005 %**	**2006 %**	**2007 %**	**2009 %**
Whites	76.1	73.1	71.7	71.0	70.0	70.2	69.5	69.5
Blacks	18.7	20.4	21.2	21.3	21.2	20.4	20.5	20.4
Hispanic/Latinos	3.8	4.5	4.6	4.6	4.5	4.8	5.3	5.5
Asians/American Indians	1.4	2.0	2.6	3.1	4.3	4.6	4.7	4.6
Total % Minorities	**23.9**	**26.9**	**28.3**	**29.0**	**30.0**	**29.8**	**30.5**	**30.5**
Total # AOC Employees	**1324**	**1224**	**1402**	**1328**	**1429**	**1444**	**1441**	**1428**
Vicinages	**1995 %**	**1997 %**	**2001 %**	**2003 %**	**2005 %**	**2006 %**	**2007 %**	**2009 %**
Whites	71.8	71.0	66.5	63.8	62.5	61.5	60.8	58.9
Blacks	19.8	20.0	22.7	24.3	24.6	25.1	25.1	25.7
Hispanic/Latinos	7.2	7.5	8.8	9.5	10.5	11.0	11.5	12.4
Asians/American Indians	1.2	1.4	1.9	2.3	2.4	2.4	2.6	3.0
Total % Minorities	**28.2**	**29.0**	**33.5**	**36.2**	**37.5**	**38.5**	**39.2**	**41.1**
Total # Vicinage Employees	**7751**	**7237**	**8221**	**7486**	**7755**	**7777**	**7710**	**7449**

AOC and Vicinages Combined	**1995**		**1997**		**2001**		**2003**		**2005**		**2006**		**2007**		**2009**	
	#	**%**	**#**	**%**	**#**	**%**	**#**	**%**	**#**	**%**	**#**	**%**	**#**	**%**	**#**	**%**
Total Minorities	2500	27.5	2428	28.7	3151	32.7	3093	35.1	3337	36.3	3425	37.1	3466	37.9	3497	39.4
Total Judiciary Employees	9075	100	8461	100	9623	100	8814	100	9184	100	9221	100	9151	100	8877	100

Data Source: AOC EEO/AA Unit.
Note: In reviewing the data in Table 4-2, the reader should be mindful that the years represented in the table do not represent equal year intervals. These data snap shots were taken with variable intervening years from four years to one year; the most frequently appearing time interval is two years.

As shown in *Table 4-1(A)*, the relative percentages of Blacks/African Americans and Hispanics/Latinos in the vicinages' workforce both exceed their respective ECLF based on the 2000 Census date demographics. In fact, the proportion of Blacks/African Americans as a percentage of the vicinages' workforce substantially exceeds the demographic representation of Blacks/African Americans in the ECLF. However, notwithstanding the increase in both the number (224 in 2009 versus 202 in 2007) and percentage (3.0% in 2009 versus 2.6% in 2007) of Asians/Pacific Islanders/American Indians in the vicinages' workforce as a whole, *Table 4-1(A)* indicates that the representation of this racial/ethnic category in the vicinages' workforce falls

substantially short of its 6.5% representation in the ECLF. In fact, *Table 4-3. New Jersey Judiciary: Vicinage Employees by County and Race/Ethnicity (Excluding Judges, Law Clerks, Bar Examiners and Part-time Employees) July 2009,* shows that no vicinage except for Middlesex even comes close to employing individuals from this racial/ethnic category at a level comparable to the ECLF demographic.[80]

Although *Table 4-2* shows definite progress in increasing the demographic representation of Asians/Pacific Islanders/American Indians in the AOC over a 14-year period, Table 4-2 also shows that such "progress" has been somewhat stagnant. Further, although Asians/Pacific Islanders/American Indians are better represented in the AOC workforce than in the vicinages, the level of Asians/Pacific Islanders/American Indians representation in the AOC still falls significantly short of the ECLF demographics for that racial/ethnic category, as set forth in *Table 4-1(A).*

As for Hispanics/Latinos employed in the AOC, there was a net numerical gain of one employee and a percentage increase from 5.3% in August 2007 to 5.5% in July 2009. Notwithstanding the continued progress in improving the representation of Hispanics/Latinos in the AOC workforce, the percentage representation of Hispanics/Latinos in the AOC workforce (5.5% as of July 2009) - unlike in the vicinages' workforce in which the percentage of Hispanics/Latinos actually exceeds the ECLF demographic - continues to fall significantly short of the ECLF demographics as set forth in *Table 4-1(A).*

Blacks/African Americans continue to be substantially overrepresented as a proportion of the AOC workforce as compared to the ECLF demographics for Blacks/African Americans. The significant overrepresentation of Blacks/African Americans in both the AOC and vicinages

[80] The Committee is mindful that NJ ECLF calculations are based on 10-year-old Census data and urges caution when interpreting these data and drawing definitive conclusions.

serves to skew upward the representation of minorities in total as a percentage of the Judiciary workforce. See *Table 4-3. New Jersey Judiciary: Vicinage Employees by County and Race/Ethnicity (Excluding Judges, Law Clerks, Bar Examiners and Part-time Employees) July 2009* where the representation of minority employees in seven counties exceeds 39.4%, i.e., the diversity profile of all racial/ethnic minorities in the entire judiciary workforce in 2009. The disproportionate percentage of Blacks/African Americans in the Judiciary workforce arguably accounts for the fact that the proportion of "total minorities" in the vicinages and in the AOC combined (39.4%) exceeds the proportion of total minorities in the ECLF in 2000 as well.

Table 4-3. New Jersey Judiciary: Vicinage Employees by County and Race/Ethnicity (Excluding Judges, Law Clerks, Bar Examiners and Part-time Employees), July 2009

County	Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total
	#	%	#	%	#	%	#	%	#	%	
Atlantic	233	63.5	134	36.5	106	28.9	20	5.4	8	2.2	**367**
Bergen	368	74.3	127	25.7	53	10.7	55	11.1	19	3.8	**495**
Burlington	226	67.5	109	32.5	81	24.2	18	5.4	10	3.0	**335**
Camden	369	59.5	251	40.5	164	26.5	78	12.6	9	1.5	**620**
Cape May	100	90.1	11	9.9	8	7.2	2	1.8	1	0.9	**111**
Cumberland	165	71.1	67	28.9	30	12.9	34	14.7	3	1.3	**232**
Essex	253	26.7	694	73.3	570	60.2	89	9.4	35	3.7	**947**
Gloucester	183	79.6	47	20.4	36	15.7	9	3.9	2	0.9	**230**
Hudson	256	44.9	314	55.1	122	21.4	173	30.4	19	3.3	**570**
Hunterdon	67	91.8	6	8.2	3	4.1	3	4.1	0	0.0	**73**
Mercer	210	57.7	154	42.3	114	31.3	33	9.1	7	1.9	**364**
Middlesex	294	54.3	247	45.7	139	25.7	64	11.8	44	8.1	**541**
Monmouth	353	74.3	122	25.7	75	15.8	32	6.7	15	3.2	**475**
Morris	188	69.4	83	30.6	46	17.0	27	10.0	10	3.7	**271**
Ocean	330	87.1	49	12.9	12	3.2	23	6.1	14	3.7	**379**
Passaic	216	44.6	268	55.4	126	26.0	137	28.3	5	1.0	**484**
Salem	65	63.7	37	36.3	30	29.4	4	3.9	3	2.9	**102**
Somerset	138	70.4	58	29.6	27	13.8	26	13.3	5	2.6	**196**
Sussex	96	93.2	7	6.8	4	3.9	3	2.9	0	0.0	**103**
Union	199	43.0	264	57.0	166	35.9	85	18.4	13	2.8	**463**
Warren	78	85.7	13	14.3	6	6.6	5	5.5	2	2.2	**91**
Total Vicinage Employees	**4387**	**58.9**	**3062**	**41.1**	**1918**	**25.7**	**920**	**12.4**	**224**	**3.0**	**7449**

Data Source: AOC EEO/AA Unit

This overrepresentation, moreover, can be misleading because minorities – Blacks/African Americans in particular – are not evenly distributed throughout the Judiciary workforce. *Table 4-4. New Jersey Judiciary: Employees by Race/Ethnicity and Job Band AOC/Central Clerks' Offices and Vicinages Combined (Excluding Judges, Bar Examiners, and Part-time Employees) July 2009*, provides a portrait of the job categories in which the Judiciary's employees are distributed. Note that, in July 2009, nearly equal proportions of minorities

(49.4%) and non-minorities (50.6%) employed by the Judiciary were in Support Staff positions. Minorities comprise almost half of the employees in this job category whereas minorities comprise less than 40% of the entire Judiciary workforce. In particular, Blacks/African Americans occupy about one-third of Support Staff positions whereas Blacks/African Americans comprise a little over one-quarter of the overall Judiciary workforce.

Table 4-4. New Jersey Judiciary: Employees by Race/Ethnicity and Job Band, AOC/Central Clerks' Offices and Vicinages Combined (Excluding Judges, Bar Examiners, and Part-time Employees), July 2009

	Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total
	#	%	#	%	#	%	#	%	#	%	
Court Executive	372	73.7	133	26.3	84	16.6	40	7.9	9	1.8	**505**
Professional Supervisory	649	73.6	233	26.4	162	18.4	55	6.2	16	1.8	**882**
Support Staff Supervisory	74	55.6	59	44.4	47	35.3	11	8.3	1	0.8	**133**
Legal(Attorneys)	51	85.0	9	15.0	4	6.7	3	5.0	2	3.3	**60**
Legal(Law Clerks)	362	77.5	105	22.5	39	8.4	22	4.7	44	9.4	**467**
Official Court Reporter	47	94.0	3	6.0	2	4.0	0	0.0	1	2.0	**50**
Court Interpreter	17	34.0	33	66.0	1	2.0	31	62.0	1	2.0	**50**
Information Technology	190	62.5	114	37.5	38	12.5	29	9.5	47	15.5	**304**
Administrative Professional	524	68.7	239	31.3	145	19.0	69	9.0	25	3.3	**763**
Case Processing	1402	54.3	1179	45.7	756	29.3	384	14.9	39	1.5	**2581**
Judge's Secretary	358	79.9	90	20.1	49	10.9	39	8.7	2	0.4	**448**
Support Staff	1334	50.6	1300	49.4	883	33.5	315	12.0	102	3.9	**2634**
Total	**5380**	**60.6**	**3497**	**39.4**	**2210**	**24.9**	**998**	**11.2**	**289**	**3.3**	**8877**

Data Source: AOC EEO/AA Unit

Similar disparate concentrations of other racial/ethnic groups can be seen in the case processing job band. Moreover, Asians/Pacific Islanders/American Indians, who as a group comprise about 3% of the Judiciary workforce, comprise 15.5% of the employees in the Information Technology job band. A "reverse" concentration exists in the Judge's secretary's job band where almost 80% of the positions are held by White Judiciary employees. The concentration of White employees among judge's secretaries has previously been cited.

Since job bands correspond significantly to compensation levels, the concentration of minorities in some job bands, particularly those at the lower end of the Judiciary pay scale, continues to be an issue of concern. These data over many years has consistently demonstrated the relative dearth of minorities, and the corresponding, lack of proportionate representation of all minority racial/ethnic groups at the upper end of the Judiciary job structure, e.g., the Court Executive Band, continues to be a persistent and seemingly intractable issue. Refer to *Table 4-4* and *Table 4-5.* The Committee will request more detailed data from the Human Resources Division so that a more detailed study can be conducted to examine the reasons for this concentration of minorities in particular job bands. It should be noted that the concentration phenomenon and the disproportionately smaller representation of minorities in other job bands was cited by the Committee in previous biennial reports.

As discussed, fewer Blacks/African Americans and Asians/Pacific Islanders/American Indians were respectively employed in the AOC in July 2009 as compared to August 2007. The percentage of each of these racial/ethnic groups as a percentage of the Judiciary workforce remained virtually stable for each of the race/ethnic categories for the 2007-2009 time period at the AOC:

- The proportional representation of whites in both 2007 and 2009 was 69.5%.
- The proportion of total minorities remained constant at 30.5% for the two measurement snapshots.
- Within the various race/ethnic categories there is little variation between the data snap-shots: Black representation in 2007 is 20.5% versus 20.4% in 2009; Hispanic representation is 5.3% in 2007 versus 5.5% in 2009; and Asian/American Indians is 4.7% in 2007 versus 4.6% in 2009.

A similar pattern emerges when the vicinage data are examined for these two data collection periods. Given the present economic downturn in the country and in our state coupled with the precarious situation in which many baby boomers now find themselves as they approach

retirement and/or opt not to retire, the Committee will revisit its previous data requests to the Human Resources Division to undertake a comprehensive comparative study of the attrition rate of minority employees at the AOC, broken down for each race/ethnic group, compared to White employees in the most recent one-year period (e.g., 2010 calendar year), with separate breakdowns considering terminations based on retirements, death, voluntary separations, disciplinary terminations, disability, illness, and other causes of or reasons for termination of employment. This recommendation is consistent with the Committee's Recommendation 09:04.1:

> …that the AOC/Central Clerks Offices and each of the vicinages periodically – but at least annually – review the appropriate demographics of hires and separations (including a separate breakout for resignations, retirements, and other terminations) to ascertain if there are statistically significant disparities in these activities and where any such disparity is identified to look further into the causes, explanations, and resolutions of the identified disparities.

Indeed, this kind of study is particularly important in view of the absence of new hire and separation micro data for the Committee's review and inclusion in this Biennial Report. The Committee anticipates that the new hire data will be forthcoming in the upcoming biennial report.

A. Outreach for Under-utilized Minorities: Hispanics/Latinos and Asians/Pacific Islanders

> The Supreme Court should direct the Administrative Office of the Courts to develop and implement a more aggressive plan to ensure representation of Hispanics in the Judiciary's work force. Task Force Recommendation 45 (Final Report, 1992, p. 326)

> The Supreme Court should direct the Administrative Office of the Courts to enhance its efforts to ensure representation of Asians/Pacific Islanders in the Judiciary's workforce. Task Force Recommendation 46 (Final Report, 1992, p. 326)

Since the publication of the final task force report in 1992 there has been persistent under–utilization of Hispanics/Latino and Asians/Pacific Islanders in the judiciary workforce.

The Judiciary EEO/AA Master Plan published in 2000 was distributed to all judiciary judges and managers/administrators. It was also distributed at the National Consortium Annual Conference and meeting in Teaneck, New Jersey to participants from approximately 30 states and the District of Columbia. This document is available on the judiciary internal website and the internet. Presently the Master Plan is in the process of being updated and revised.

The Master Plan contains provisions for community outreach, as well as recruitment procedures, geared towards increasing the representation of Hispanics/Latinos and Asians/Pacific Islanders in the Judiciary workforce. In April 2009, the Administrative Director of the Courts, working with the Central Office EEO/AA Unit and Human Resources, formed two employee resource groups comprised of Hispanic/Latino Judiciary employees and Asian/Pacific Islander Judiciary employees respectively. Both resource groups were comprised of vicinage and Central Office employees drawn from diverse job titles and work divisions. The ad hoc employee resource groups were asked to assist in improving recruitment/outreach and in developing career strategies for the underutilized minorities.

The work of the employee resource groups is ongoing and the Committee looks forward to receiving additional feedback as these initiatives are developed and implemented in various vicinages. Local vicinage implementation plans developed in 2010 are designed for more tailored recruitment strategies based on each vicinage's respective county demographics and the surrounding metropolitan areas from which each vicinage recruits its workforce.

III. <u>Compensation</u>

Table 4-5. New Jersey Judiciary: Salary Comparisons by Race/Ethnicity of Employees AOC/Central Clerks' Offices July 2009 shows the distribution of salaries across nine salary ranges as of July 2009. The nine compensation ranges set forth in this table can be separated into tiers, comprised of the three lowest wage ranges, the three middle wage ranges and the three

highest wage ranges. Although Whites comprise 69.5% of the employees in the aggregate of the AOC workforce covered by these groupings, Whites comprise 82.3% (204) of the employees in the highest wage range. By contrast, although minorities comprise 30.5% of the total employees in the AOC, they comprise only 17.7% (44) of the employees in the top highest salary range. Moreover, 76.2% (448) or three times as many White employees in the AOC fall within the three highest wage ranges compared to 23.8% (140) of the minority employees who are similarly situated. These figures might reflect the "concentration phenomenon" of minorities in lower bands, noted earlier. As discussed in the Committee's previous biennial report, a further examination of salary data in relation to job band data will be undertaken by the Committee to ascertain if there is, and if so why there is still, a possible racial/ethnic component in salary distribution at the AOC and also in the vicinages' workforce. This issue is critically important as it has a direct impact on an employee's lifetime earning and ultimately one's retirement income.

Table 4-5. New Jersey Judiciary: Salary Comparisons by Race/Ethnicity of Employees, AOC/Central Clerks' Offices, July 2009

AOC	Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total
	#	%	#	%	#	%	#	%	#	%	
Over $100,000	204	82.3	44	17.7	25	10.1	11	4.4	8	3.2	**248**
$90.000-$99,999	174	71.6	69	28.4	44	18.1	14	5.8	11	4.5	**243**
$80,000-$89,999	70	72.2	27	27.8	18	18.6	3	3.1	6	6.2	**97**
$70,000-$79,999	111	66.5	56	33.5	29	17.4	13	7.8	14	8.4	**167**
$60,000-$69,999	147	71.4	59	28.6	42	20.4	8	3.9	9	4.4	**206**
$50,000-$59,999	127	55.7	101	44.3	76	33.3	18	7.9	7	3.1	**228**
$40,000-$49,999	111	66.9	55	33.1	38	22.9	8	4.8	9	5.4	**166**
$30,000-$39,999	40	69.0	18	31.0	15	25.9	2	3.4	1	1.7	**58**
$20,000-$29,999	9	60.0	6	40.0	5	33.3	1	6.7	0	0.0	**15**
Total	**993**	**69.5**	**435**	**30.5**	**292**	**20.4**	**78**	**5.5**	**65**	**4.6**	**1428**

Data Source: AOC EEO/AA Unit

IV. Court Executives

In the past years, the Committee has reviewed detailed data relative to court executives in the AOC/Central Clerks' Offices. As noted in the 2007-2009 biennial report, "the Court Executive job band is extremely significant in that it is the highest level within the judicial workforce, and in particular at the Central Office, as it includes those positions that have the greatest influence over administrative policy and procedures as well as hiring within the administrative units that form the AOC/Central Clerks' Offices. The "court executives" job band includes seven levels with Court Executive 1 as the "entry" level and Court Executive 4 as the highest level. The data reviewed by the Committee for the current biennial report are set forth in *Table 4-6(a). New Jersey Judiciary Court Executives at the AOC/Central Clerks' Offices July 2009*; *Table 4-6(b). New Jersey Judiciary Court Executives by Gender and Level Summary of all Vicinages Combined July 2009*; and *Table 4-6(c). New Jersey Judiciary Court Executives by Gender and Level AOC/Central Clerks' Offices and Vicinages Combined July 2009.*

As set forth in *Table 4-6(a)*, the six individuals employed in the Executive 4 job band at the AOC do not include a single racial or ethnic minority. Essentially this situation at the top of the court executive ladder has remained unchanged sine the 1970s. In August 2007 there were seven court executives in the Executive 4 job band none of whom was a racial/ethnic minority.[81] White female representation at the Court Executive 4 level increased from 28.6% in August 2007 to 33.3% in July 2009 at the Central Office. While there was no change in the actual number of White females at this level (2), as noted above there was a decrease of one in the number of positions at the Executive 4 level in 2009.

[81] Similar findings are reported in all of the Minority Concerns reports dating back to 1984. Fred D. Font, a Black African American male was the first minority assistant director of probation in New Jersey. He served **from** 1970 until his retirement in 1983.

Table 4-6(a). New Jersey Judiciary: Court Executives at the AOC/Central Clerks' Offices July 2009

AOC		Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total
		#	%	#	%	#	%	#	%	#	%	#
Court Exec 4	Females	2	33.3	0	0.0	0	0.0	0	0.0	0	0.0	**2**
	Males	4	66.7	0	0.0	0	0.0	0	0.0	0	0.0	**4**
	Total	**6**	**100.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**6**
Court Exec. 3B	Females	6	35.3	0	0.0	0	0.0	0	0.0	0	0.0	**6**
	Males	9	52.9	2	11.8	2	11.8	0	0.0	0	0.0	**11**
	Total	**15**	**88.2**	**2**	**11.8**	**2**	**11.8**	**0**	**0.0**	**0**	**0.0**	**17**
Court Exec. 3A	Females	1	5.6	3	16.7	1	5.6	2	11.1	0	0.0	**4**
	Males	11	61.1	3	16.7	2	11.1	1	5.6	0	0.0	**14**
	Total	**12**	**66.7**	**6**	**33.3**	**3**	**16.7**	**3**	**16.7**	**0**	**0.0**	**18**
Court Exec. 2B	Females	20	31.7	5	7.9	3	4.8	1	1.6	1	1.6	**25**
	Males	33	52.4	5	7.9	4	6.3	0	0.0	1	1.6	**38**
	Total	**53**	**84.1**	**10**	**15.9**	**7**	**11.1**	**1**	**1.6**	**2**	**3.2**	**63**
Court Exec. 2A	Females	13	36.1	5	13.9	4	11.1	1	2.8	0	0.0	**18**
	Males	13	36.1	5	13.9	3	8.3	1	2.8	1	2.8	**18**
	Total	**26**	**72.2**	**10**	**27.8**	**7**	**19.4**	**2**	**5.6**	**1**	**2.8**	**36**
Court Exec. 1B	Females	4	80.0	1	20.0	1	20.0	0	0.0	0	0.0	**5**
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	**0**
	Total	**4**	**80.0**	**1**	**20.0**	**1**	**20.0**	**0**	**0.0**	**0**	**0.0**	**5**
Court Exec. 1A	Females	2	66.7	1	33.3	1	33.3	0	0.0	0	0.0	**3**
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	**0**
	Total	**2**	**66.7**	**1**	**33.3**	**1**	**33.3**	**0**	**0.0**	**0**	**0.0**	**3**
Grand Total Court Executives	Females	48	32.4	15	10.1	10	6.8	4	2.7	1	0.7	**63**
	Males	70	47.3	15	10.1	11	7.4	2	1.4	2	1.4	**85**
	Total	**118**	**79.7**	**30**	**20.3**	**21**	**14.2**	**6**	**4.1**	**3**	**2.0**	**148**

Data Source: AOC EEO/AA Unit

Minorities did make some noteworthy gains: there was an increase of one minority in each of the next two highest levels (Court Executive 3B and Court Executive 3A) at the AOC since the last biennial report. At the next two levels down, there was a drop (from 12 in August 2007 to 10 in July 2009) in the number of minorities in the Court Executive 2B band but a substantial increase in the number of minorities in the Court Executive 2A band (from 6 in

August 2007 to 10 in July 2009) at the AOC. It should be noted that, not only are there no minorities in Court Executive 4 positions at the AOC, but also there are no Asians/Pacific Islanders/American Indians at level 3 among the Court Executives at the AOC.[82] On the other side of the ledger is the encouraging fact that, in the Executive Band in the AOC, there were four more minorities (two more Black/African American court executives and two more Hispanic/Latino court executives) in July 2009 than in the August 2007 (20.3% versus 17.0%).

As shown in *Table 4-6(b)*, the representation of minorities - or rather underrepresentation of minorities - among top level Court Executives at the AOC is paralleled by the vicinages' demographics.[83] Overall, however, minorities are better represented in Court Executive positions in the vicinages (28.6%) than in the AOC (20.3%). This is likely attributable to the strong minority representation in Court Executive Bands 1B and 2B - relatively highly populated bands - in the vicinages, thereby skewing upward the total proportion of minority representation in the vicinages.

[82] The Committee has subsequently learned that in 2010 an Asian female has been appointed to a Court Executive 3A position at the AOC.

[83] At the vicinage level there are no Court Executive 4s; the Trial Court Administrator (TCA) is classified as a Court Executive 3B.

Table 4-6(b). New Jersey Judiciary: Court Executives by Gender and Level, Summary of all Vicinages Combined, July 2009

		Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total
		#	%	#	%	#	%	#	%	#	%	#
Court Exec 4	Females	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	**0**
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	**0**
	Total	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**
Court Exec. 3B	Females	1	5.3	2	10.5	1	5.3	1	5.3	0	0.0	**5**
	Males	10	52.6	2	10.5	2	10.5	0	0.0	0	0.0	**14**
	Total	**11**	**57.9**	**4**	**21.1**	**3**	**15.8**	**1**	**5.3**	**0**	**0.0**	**19**
Court Exec. 3A	Females	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	**0**
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	**0**
	Total	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**
Court Exec. 2B	Females	50	29.1	24	14.0	14	8.1	9	5.2	1	0.6	**98**
	Males	56	32.6	9	5.2	4	2.3	4	2.3	1	0.6	**74**
	Total	**106**	**61.6**	**33**	**19.2**	**18**	**10.5**	**13**	**7.6**	**2**	**1.2**	**172**
Court Exec. 2A	Females	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	**0**
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	**0**
	Total	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**
Court Exec. 1B	Females	71	31.3	46	20.3	29	12.8	13	5.7	4	1.8	**163**
	Males	44	19.4	10	4.4	7	3.1	3	1.3	0	0.0	**64**
	Total	**115**	**50.7**	**56**	**24.7**	**36**	**15.9**	**16**	**7.0**	**4**	**1.8**	**227**
Court Exec. 1A	Females	17	41.5	6	14.6	3	7.3	3	7.3	0	0.0	**29**
	Males	6	14.6	3	7.3	3	7.3	0	0.0	0	0.0	**12**
	Total	**23**	**56.1**	**9**	**22.0**	**6**	**14.6**	**3**	**7.3**	**0**	**0.0**	**41**
Grand Total Court Executives												
	Females	139	30.3	78	17.0	47	10.2	26	5.7	5	1.1	**295**
	Males	116	25.3	24	5.2	16	3.5	7	1.5	1	0.2	**164**
	Total	**255**	**55.6**	**102**	**22.2**	**63**	**13.7**	**33**	**7.2**	**6**	**1.3**	**459**

Data Source: AOC EEO/AA Unit

While the total number of minorities and overall percentage has increased over time, at least in the AOC, the Committee did not examine court executive demographics at the vicinage level in its previous biennial report;[84] there is still a dearth of minorities at the top. Since the Court Executive 4 position, unlike the lower levels within the court executive job band, may sometimes be filled by appointment rather than by an open competitive application process, the Committee urges that in the future the hiring authority seek out qualified minority candidates for consideration to fill upper level Court Executive vacancies.[85] It is also important that the promotional career paths of minorities and non-minorities be thoroughly explored. The latter issue has been raised in several of the biennial reports.

Indeed, it is widely understood that for an organization to increase the representation of minorities in its workforce and to retain minorities within its workforce, it is critical for minorities to hold highly visible, leadership positions. Arguably, the lack of minorities at the top of the Court Executive job band could undercut recruitment and retention of minorities at lower levels throughout the Judiciary.

In view of the foregoing, the Committee again notes Task Force Recommendation 42:

> The Supreme Court should direct the Administrative Office of the Courts and the vicinages to make vigorous and aggressive recruitment, hiring, and retention efforts to increase the representation of minorities in senior management and key policy-making positions. (Final Report 1992, p. 303)

[84] The current practice in the Human Resources Division is open recruitment for all top-level positions except those where the Acting Administrative Director makes a direct appointment. Other areas that need to be explored are the relative positions that minorities and non-minorities occupy as the result of reorganizations.

[85] The current practice in the Human Resource Division is open recruitment for all top-level positions except those where the Acting Administrative Director make a direct appointment.

Table 4-6(c). New Jersey Judiciary: Court Executives by Gender and Level, AOC/Central Clerks' Offices and Vicinages Combined, July 2009

		Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total
		#	%	#	%	#	%	#	%	#	%	#
Court Exec 4	Females	2	33.3	0	0.0	0	0.0	0	0.0	0	0.0	**2**
	Males	4	66.7	0	0.0	0	0.0	0	0.0	0	0.0	**4**
	Total	**6**	**100.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**0**	**0.0**	**6**
Court Exec. 3B	Females	7	21.9	2	6.3	1	3.1	1	3.1	0	0.0	**9**
	Males	19	59.4	4	12.5	4	12.5	0	0.0	0	0.0	**23**
	Total	**26**	**81.3**	**6**	**18.8**	**5**	**15.6**	**1**	**3.1**	**0**	**0.0**	**32**
Court Exec. 3A	Females	1	5.6	3	16.7	1	5.6	2	11.1	0	0.0	**4**
	Males	11	61.1	3	16.7	2	11.1	1	5.6	0	0.0	**14**
	Total	**12**	**66.7**	**6**	**33.3**	**3**	**16.7**	**3**	**16.7**	**0**	**0.0**	**18**
Court Exec. 2B	Females	70	34.7	29	14.4	17	8.4	10	5.0	2	1.0	**99**
	Males	89	44.1	14	6.9	8	4.0	4	2.0	2	1.0	**103**
	Total	**159**	**78.7**	**43**	**21.3**	**25**	**12.4**	**14**	**6.9**	**4**	**2.0**	**202**
Court Exec. 2A	Females	13	36.1	5	13.9	4	11.1	1	2.8	0	0.0	**18**
	Males	13	36.1	5	13.9	3	8.3	1	2.8	1	2.8	**18**
	Total	**26**	**72.2**	**10**	**27.8**	**7**	**19.4**	**2**	**5.6**	**1**	**2.8**	**36**
Court Exec. 1B	Females	75	42.6	47	26.7	30	17.0	13	7.4	4	2.3	**122**
	Males	44	25.0	10	5.7	7	4.0	3	1.7	0	0.0	**54**
	Total	**119**	**67.6**	**57**	**32.4**	**37**	**21.0**	**16**	**9.1**	**4**	**2.3**	**176**
Court Exec. 1A	Females	19	54.3	7	20.0	4	11.4	3	8.6	0	0.0	**26**
	Males	6	17.1	3	8.6	3	8.6	0	0.0	0	0.0	**9**
	Total	**25**	**71.4**	**10**	**28.6**	**7**	**20.0**	**3**	**8.6**	**0**	**0.0**	**35**
Grand Total Court Executives	Females	187	37.0	93	18.4	57	11.3	30	5.9	6	1.2	**280**
	Males	186	36.8	39	7.7	27	5.3	9	1.8	3	0.6	**225**
	Total	**373**	**73.9**	**132**	**26.1**	**84**	**16.6**	**39**	**7.7**	**9**	**1.8**	**505**

Data Source: AOC EEO/AA Unit

V. Jurists

A. Representation of Minority Judges on the Supreme Court, Superior Court (Appellate and Trial Divisions) and Tax Court

> The Supreme Court should consider presenting to the Governor and the State Legislature the finding of the Task Force that there is a widespread concern about the underrepresentation of minorities on the Supreme, Superior, and Tax Court benches. Task Force Recommendation 39 (Final Report, 1992, p. 291)

The New Jersey Judiciary has no input on the selection of judges. The New Jersey Constitution rests the responsibility of judicial appointments to the governor, with advice and consent responsibilities reserved for the New Jersey Senate. As one of the three co-equal branches of the government the Judiciary has shared the findings of the Committee on Minority Concerns describing the diversity of the state court bench with the Executive and Legislative branches on a routine basis.

The Committee's discussion of this issue for this biennial report focuses on the current profile of judges on the New Jersey Supreme, Superior, and Tax Court benches.[86]

Data for the Supreme, Superior, and Tax Court judges are reported in *Table 4-7. New Jersey Judiciary: Justices and Judges by Race/Ethnicity, November 10, 2010*. These data show that there are 418 jurists on the Supreme Court, Superior Court (Appellate and Trial levels), and Tax Court as of November 10, 2010. Of the cadre of 418 judges, there are 62 racial/ethnic minority jurists who represent 14.8% of the state Judiciary bench: 8.4% (35) of these judges identify as Black/African Americans; 6.0% (25) as Hispanic/Latinos; and 0.5% (2) as Asian/Pacific Islanders.[87]

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[86] The Committee typically also reviews data on municipal court judgeships and municipal court judges but does not do so in the current report.

[87] Since data on the race/ethnicity of attorneys qualified by statute for potential service on the bench **are** not readily available, the Committee is precluded from commenting on whether the number and proportional representation of minorities serving as state jurists is representative of the number of practicing minority attorneys in New Jersey's eligible pool of attorneys.

A comparison of these data with information presented in the 2007-2009 biennial report shows a net decline of 3 racial/ethnic minority jurists on the state bench or 4.6%. In contrast, the decline in the number of non-minority jurists on the state bench was 2.2%, less than half the rate of decline in the count of minority jurists. Regrettably, the trend in 2009-2010 is inconsistent with the progress noted in the 2007-2009 report of relatively consistent small gains in the diversity profile of the state bench, and the Committee views this trend with dismay and concern.

Table 4-7. New Jersey Judiciary: Justices and Judges by Race/Ethnicity, November 10, 2010

Court	Total Judges	Total Non-Minorities		Number of Minority Justices and Judges						Total Minorities	
				Blacks/African Americans		Hispanics/ Latinos		Asians/Pacific Islanders/ American Indians			
	#	#	%	#	%	#	%	#	%	#	%
Supreme Court[88]	6	5	83.3	0	0.0	1	16.7	0	0.0	**1**	**16.7**
Appellate Division[89]	35	28	80.0	3	8.6	4	11.4	0	0.0	**7**	**20.0**
Superior Court Trial Division (excluding Appellate Division)	368	315	85.6	32	8.7	20	5.4	1	0.3	**53**	**14.4**
Tax Court[90]	9	8	88.9	0	0.0	0	0.0	1	11.1	**1**	**11.1**
Total	**418**	**356**	**85.2**	**35**	**8.4**	**25**	**6.0**	**2**	**0.5**	**62**	**14.8**

Data Source: AOC EEO/AA Unit

1. Supreme Court

In the 2007-2009 report, the Committee noted that the New Jersey Supreme Court included two minority jurists, Associate Justices John E. Wallace, Jr., and Roberto Rivera-Soto.

[88] There is one minority Supreme Court Justice, Associate Justice Roberto A. Rivera-Soto, appointed in September 2004. In 2010, Associate Justice John E. Wallace, Jr. was not reappointed by Governor Chris Christie. Justice Wallace would have reached age 70 in March 2012.

[89] The Appellate Division total includes two judges who are on temporary assignment from the Tax Court (2 white females). Those individuals are not included under the Tax Court section of this table.

[90] In July 2009, the first minority was appointed to the Tax Court—Judge Mala Narayanan. The Tax Court total includes three Judges who are on temporary assignment to the Superior Court, Trial Division (3 white males). Those individuals are not included under the Superior Court section of this table.

At present, there is only one minority justice, Associate Justice Roberto Rivera-Soto, who has already advised the Governor that he will not be seeking reappointment when his current term expires in September 2011. His departure will leave the Supreme Court with no sitting racial/ethnic minorities and no nominated racial/ethnic minorities in the pipeline.

2. Superior Court - Appellate Division

The Appellate Division ranks first among the court levels considered in this report with respect to the overall representation of racial and ethnic minorities on the bench. According to the 2007-2009 biennial report, 6 out of 34 (17.6%) Appellate Division judges were racial/ethnic minorities. As of November 10, 2010, 7 out of 35 (20.0%) judges currently on the Appellate bench are minorities: Judges Paulette Sapp-Peterson[91], Carmen H. Alvarez[92], Rudy B. Coleman, Ariel A. Rodriguez, Jose L. Fuentes, Glenn A. Grant[93] and Marianne H. Espinosa.[94] The composition of total minorities on the Appellate bench is as follows: 1)Hispanic/Latinos comprise 11.4% of the jurists; 2) Blacks/African Americans represent 8.6%; and 3) there are no Asians/Pacific Islanders/American Indians.

The proportional representation of White female judges on the Appellate bench is 37.1% (12) out of a total of 35 judges as of November 2010. In October 2008 White females comprised 38.2% (13) of Appellate court judges; numerically there is a decrease of one White female Appellate judge during the measurement periods cited above.[95]

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[91] Judge Sapp-Peterson was the first African American female to be appointed to the Appellate bench, and the first women of color to be appointed to the Appellate bench. Previously, she was the first minority female to be elevated to Presiding Judge in the Civil Division.

[92] Judge Alvarez was the first Hispanic/Latina woman to be appointed to the Appellate bench.

[93] Effective September 1, 2008, Judge Grant commenced assignment to the Appellate Division and service as the Acting Administrative Director of the Courts; he is the first minority to be elevated to this position.

[94] Judge Espinosa is the second Hispanic/Latina woman to be appointed to the Appellate bench.

[95] EEOC guidelines stipulate that White females are member of a protected class.

3. Superior Court -Trial Division

Prior to the current Committee report, the consistent long-term trend was towards greater representation of minorities among Superior Court judges. However, this biennial report reveals that the total number of Superior Court judges decreased by 11, from 429 in January 2009 to 418 in November 2010. Yet, as noted earlier, even with an overall decrease in Superior Court judges, the proportional decrease in minority jurists is almost twice the proportional decrease for all Superior Court judges.

The representation of Blacks/African Americans in the trial courts has consistently outpaced the representation of Hispanics/Latinos and Asians/Pacific Islanders/American Indians. As of January 2009 there were 36 (9.5%) Blacks/African Americans on the trial court bench compared to 20 (5.3%) Hispanics/Latinos. This trend is consistent in the November 2010 information where Blacks/African Americans represent 8.7% (32) of judges in the trial division and Hispanics/Latinos represent 5.4% (20). The number of Black/African American trial judges has decreased significantly (-11) while the number of Hispanic/Latino judges in the trial division has remained the same since the last report. There has been no change in the representation of Asian/Pacific Islander/American Indian judges in the trial courts (1).

The data in *Table 4-8. New Jersey Judiciary: Representation of Minority Judges at All Court Levels Combined, 1993, 1997, 2001, 2005, 2008, 2010* reveals that:

- between October 2008 and November 2010, there was a negligible decline of -0.4% in total minorities;
- the proportional decline for Black/African American jurists was approximately -1.0%;
- there is a negligible increase of +0.4% in the proportional representation of Hispanic/Latino jurists'; and

- the proportional representation of Asians/Pacific Islanders/American Indians remains >1.0% and their representation on the bench has not appreciably improved or even reached one percent in any of the data snapshots taken during the last 25 plus years.

Table 4-8. New Jersey Judiciary: Representation of Minority Judges at All Court Levels Combined, 1993, 1997, 2001, 2005, 2008, and 2010

	1993		1997		2001		2005		10/28/2008		11/20/2010	
	#	%	#	%	#	%	#	%	#	%	#	%
Blacks/African Am.	18	4.4	22	5.4	31	7.4	31	7.1	40	9.3	35	8.4
Hispanics/Latinos	10	2.4	11	2.7	13	3.1	19	4.3	24	5.6	25	6.0
Asians/Pacific Islanders/ American Indians	1	0.2	1	0.2	2	0.5	2	0.5	1	0.2	2	0.5
Total Minorities	**29**	**7.1**	**34**	**8.4**	**46**	**11.0**	**52**	**11.8**	**65**	**15.2**	**62**	**14.8**
Total All Judges	**410**		**404**		**418**		**439**		**429**		**418**	

Table 4-9. Superior Court (Trial) Judges by County, Race/Ethnicity and Gender (November 10, 2010) reveals that Camden (26.1%), Hudson (24.1%), and Essex (20.8%) rank first, second and third respectively, in the proportional representation of minorities on the trial court bench. This table shows the race/ethnicity categories set forth by the U.S. Equal Employment Opportunity Commission (EEOC).[96]

There are no minority judges in the following four counties: Salem, Somerset, Sussex, and Warren. However, it should be noted that Hany Mawla was named a judge in 2010 and currently sits in Hunterdon County, one of the three counties that form the Somerset/Hunterdon/Warren Vicinage. As an Arab-American, Judge Mawla is considered White by the EEOC.

The New Jersey Judiciary is required to report its equal opportunity/affirmative action data to the federal government using the race/ethnicity categories specified by the Equal Employment Opportunity Commission (EEOC). However, given the ever-growing demographic

[96] The current EEOC racial/ethnic reporting categories include American Indian/Alaska Native, Asian, Black/African American, Hispanic/Latino, Native Hawaiian/Other Pacific Islander, and White.

diversity within New Jersey, the Committee renews its concern that the current reporting framework is not sufficient to include some ethnic minorities (e.g., Arab-Americans) who are part of the New Jersey community but who fall outside the currently recognized EEOC categories. The operational affect of not recognizing these persons is the risk of denying equal access and fairness to these individuals by rendering them invisible. The Committee deems it a matter of equity and fairness that the Judiciary consider how it will recognize all people who work within or who are served by this organization. Given the presence of numerous growing diverse populations in this State and the reporting disparity stated above, the Committee will include this issue on its action agenda for the next biennial report cycle for research and development of a report to the Court with its recommendations.

Table 4-9. Superior Court (Trial) Judges by County, Race/Ethnicity and Gender, November 10, 2010

County	Total	Minorities		Blacks/ African Am.		Hispanics/ Latinos		Asians/Pacific Islanders/Amer. Ind's		Female		Male	
		#	%	#	%	#	%	#	%	#	%	#	%
Atlantic	**15**	2	13.3	2	13.3	0	0.0	0	0.0	4	26.7	11	73.3
Bergen	**31**	4	12.9	1	3.2	3	9.7	0	0.0	9	29.0	22	71.0
Burlington	**18**	2	11.1	2	11.1	0	0.0	0	0.0	5	27.8	13	72.2
Camden	**23**	6	26.1	4	17.4	2	8.7	0	0.0	7	30.4	16	69.6
Cape May	**6**	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	6	100.0
Cumberland	**8**	1	12.5	0	0.0	1	12.5	0	0.0	2	25.0	6	75.0
Essex	**48**	10	20.8	8	16.7	2	4.2	0	0.0	16	33.3	32	66.7
Gloucester	**10**	1	10.0	1	10.0	0	0.0	0	0.0	4	40.0	6	60.0
Hudson	**29**	7	24.1	2	6.9	5	17.2	0	0.0	10	34.5	19	65.5
Hunterdon	**5**	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	5	100.0
Mercer	**17**	3	17.6	2	11.8	1	5.9	0	0.0	4	23.5	13	76.5
Middlesex	**32**	5	15.6	3	9.4	2	6.3	0	0.0	11	34.4	21	65.6
Monmouth	**27**	4	14.8	2	7.4	1	3.7	1	3.7	6	22.2	21	77.8
Morris	**17**	1	5.9	1	5.9	0	0.0	0	0.0	5	29.4	12	70.6
Ocean	**18**	2	11.1	2	11.1	0	0.0	0	0.0	2	11.1	16	88.9
Passaic	**22**	3	13.6	1	4.5	2	9.1	0	0.0	4	18.2	18	81.8
Salem	**3**	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	3	100.0
Somerset	**10**	0	0.0	0	0.0	0	0.0	0	0.0	5	50.0	5	50.0
Sussex	**6**	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	6	100.0
Union	**20**	2	10.0	1	5.0	1	5.0	0	0.0	4	20.0	16	80.0
Warren	**3**	0	0.0	0	0.0	0	0.0	0	0.0	2	66.7	1	33.3
Total	**368**	**53**	**14.4**	**32**	**8.7**	**20**	**5.4**	**1**	**0.3**	**100**	**27.2**	**268**	**72.8**

Note: Percentages are % of total in each major category. Percentages may not always add due to rounding.
Data Source: Payroll Management Information System

4. Tax Court

In the 2007-2009 report, the Committee noted "a continued lack of minority representation" in the tax court and that "[i]n fact, since the inception of the Tax Court there has never been a minority judge appointed to this court." For the first time since the establishment of the Tax Court in 1979, a racial/ethnic minority jurist sits on the Tax Court bench; Judge Mala Narayanan was appointed in July 2009.

5. Observations and Recommendations

For the first time in 17 years, New Jersey faces the possibility of having no racial/ethnic minorities on the New Jersey Supreme Court, and with the combination of the recent and approaching departures (including both mandatory and elective retirements, resignations, and unanticipated deaths) of many of the first cohorts of minority jurists on the State bench, the Judiciary faces the possibility of a bench the possibility of a bench that is markedly less diverse than it was 10years ago. The Committee hopes that this regression will not continue and renews its commitment to Task Force Recommendation 39 and notes that the nomination of potential jurist of color is not a matter of selecting diversity to the exclusion of competency and excellence; but making diverse selections based on competency and excellence.

Table 4-10. Representation of Minorities and Females among New Jersey Justices and Judges November 10, 2010

Court	Total # of Judges	Summary: Racial/Ethnic Minorities		Number of Minority Judges						Total Minorities by Gender		Female Justices and Judges (Minority and Non-Minority Combined)	
				Blacks/African Americans		Hispanic/ Latino		Asians/Pacific Islander/ American Indian					
		#	%	Males	Females	Males	Females	Males	Females	Males	Females	#	%
Supreme Court[97]	6	1	16.7	0	0	1	0	0	0	**1**	**0**	3	50.0
Appellate Division[98]	35	7	20.0	2	1	2	2	0	0	**4**	**3**	15	42.9
Superior Court Trial Division (excluding Appellate Division)	368	53	14.4	17	15	13	7	1	0	**31**	**22**	100	27.2
Tax Court[99]	9	1	11.1	0	0	0	0	0	1	**0**	**1**	3	33.3
Total Minority Judges by Gender				**19**	**16**	**16**	**9**	**1**	**1**	**36**	**26**		

GrandTotal Judges	Total # of Judges	Total Blacks/African Americans		Total Hispanic/ Latino		Total Asians/Pacific Islander/ American Indian		Total Minorities		Total Female Justices and Judges	
	418	**35**	**8.4%**	**25**	**6.0%**	**2**	**0.5%**	**62**	**14.8%**	**121**	**28.9%**

Data Source: AOC EEO/AA Unit

[97] There is one minority Supreme Court Justice, Associate Justice Roberto A. Rivera-Soto, appointed in September 2004. In March 2010, Associate Justice John E. Wallace, Jr. was not reappointed by Governor Chris Christie.

[98] The Appellate Division total includes two judges who are on temporary assignment from the Tax Court (2 white females). Those individuals are not included under the Tax Court section of this table.

[99] In July 2009, the first minority judge was appointed to the Tax Court—Judge Mala Narayanan.

The Tax Court total includes three Judges who are on temporary assignment to the Superior Court, Trial Division (3 white males). Those individuals are not included under the Superior Court section of this table.

B. Representation of Minorities and Females among New Jersey Justices and Judges

Data showing the intersection of race/ethnicity and gender can be found at *Table 4-10. Representation of Minorities and Females among New Jersey Justices and Judges*.

1. Supreme Court

Of the six Supreme Court Justices, three (50.0%) are White females.[100] No minority female to date has been appointed to the New Jersey Supreme Court.

2. Superior Court - Appellate Division

> The Chief Justice should promote minority judges into the more prestigious and policy-making judicial assignments. Task Force Recommendation 41 (Final Report, 1992, p. 297)

Of the 35 Appellate Division judges, 15 (42.9%) are females: 12 of the 15 (34.3%) are White females; one (2.9%) is a Black/African American woman; and two (5.7%) are Hispanic/Latina.

3. Superior Court-Trial Division

Of the 368 Trial Division judges, 100 (27.2%) are women. Women of color represent 6% (22) of the total number of women judges, with Black/African American women accounting for 4.1% (15) and Hispanic/Latina women accounting for 1.9% (7). Presently there are no Asian/Pacific Islander/American Indian women on the trial court bench.[101]

4. Tax Court

One (10%) White female judge sat on the Tax Court bench as of October 2008. The current data reveals that there are three female tax court judges, one of whom is a racial/ethnic minority. Females comprise one-third of the nine tax court judges.

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[100] The current nominee to the vacant seventh seat on the New Jersey Supreme Court is also a White female.

[101] Patricia M. Talbert was appointed to the trial court bench in Essex County in 2000; she later resigned prior to receiving tenure.

C. Minority Judges in Administrative Positions

1. Administrative Director of the Courts

The Honorable Glenn A. Grant, J.A.D., continues to serve as Administrative Director of the Courts. The first person of color to hold this position, he was appointed September, 2008, by Chief Justice Stuart Rabner.

2. Appellate Division Presiding Judges

There are nine Presiding Judges in the Appellate Division. Judge Ariel A. Rodriguez remains the only racial/ethnic minority (Hispanic/Latino male).

Of the nine Presiding Judges at the Appellate level, three (33.3%) are White females (Judges Dorothea O'C Wefing, Mary Catherine Cuff, and Francine I. Axelrad). To date, no minority woman has been appointed a presiding judge of the Appellate Division.[102]

3. Trial Court Divisions

a. Assignment Judges - Trial Division

There are 15 Assignment Judges in the New Jersey Judiciary. As of November 2010, two (13.3%) were racial/ethnic minorities. Both are Black/African American males (Hon. Lawrence M. Lawson,[103] Hon. Travis L. Francis[104]). There has been no change in the representation of racial/ethnic minorities among assignment judges since the 2007-2009 report. These positions are typically filled when there are vacancies.

[102] Historically, presiding judge appointments in the Appellate Division are based on seniority.

[103] Hon. Lawrence M. Lawson was the first and is the longest serving minority Assignment Judge. He was appointed by Chief Justice Robert N. Wilentz to be Assignment Judge of Monmouth County.

[104] Hon. Travis L. Francis was appointed by Chief Justice James R. Zazzali to be the Assignment Judge in Middlesex County.

The November 2010 data also shows that six (40.0%) of the 15 assignment judges are female; all the female assignment judges are White. To date, no woman of color has held the position of Assignment Judge.

b. Presiding Judges - Trial Division

There are 59 Presiding Judges at the Trial Court level as of November 10, 2010. See *Table 4-11. Roster of Minority Presiding Judges, Superior Court Trial Division.* Of the total number of Presiding Judges at the trial court level, 10 (17.0%) are racial/ethnic minorities: five (8.5%) are Black/African Americans; four (6.8%) are Hispanic/Latinos; and one (1.7%) is Asian/Pacific Islander. As was the case in the previous Committee report, there is no minority presiding judge in General Equity although there has been representation in past years.

Women of color account for 3.4% (2) of the 10 presiding judges of color: one African American (Hudson) and one Latina (Bergen). Both are Criminal Presiding Judges in their respective vicinages. White female presiding judges comprise 30.5% (18) of the total cadre of presiding judges and are represented across the spectrum of court practice areas.

Table 4-11. Roster of Minority Presiding Judges Superior Court Trial Division, November 10, 2010

Trial Court Division	Black /African American	Hispanic/ Latino	Asian/Pacific Islander/ American Indian	Total Minority Presiding Judges
Civil	0	Faustino J. Fernandez-Vina	David F. Bauman	**2**
General Equity	0	0	0	**0**
Criminal	Thomas A. Brown, Jr. Gerald J. Council Wendel E. Daniels Sheila A. Venable	Liliana S. DeAvila-Silebi Peter Vazquez	0	**6**
Family	James L. Jackson	Julio L. Mendez	0	**2**
Total	**8.5% (5)**	**6.8% (4)**	**1.7% (1)**	**17.0% (10)**

4. Supreme Court Committees

While the Committee has not yet undertaken a full study of leadership assignments for Supreme Court Committees, the Committee does note that Chief Justice Rabner brought about

two historic firsts relative to of the Committee on Minority Concerns. In naming the Honorable Octavia Melendez as Vice-Chair of the Committee for the 2007-2009 term, Chief Justice Rabner appointed the first Hispanic/Latina female to a committee leadership role on the Supreme Court Committee on Minority Concerns; and in naming the Honorable Susan F. Maven as Chair of the Committee for the 2009-2011 term, Chief Justice Rabner appointed the first woman of color and the first Black/African American woman to the role of committee chair. Given the 25+ year history of the Judiciary's Minority Concerns initiative in our state, these historic firsts are worthy of note in the context of this report.

VI. Representation of Minority Law Clerks

The Committee examined the data set forth in *Table 4-12. State of New Jersey Judicial Law Clerks Court Year 2009-2010 and Court Year 2008-2009*. The total number of judicial law clerks at all court levels combined (Supreme Court, Superior Court including the Appellate and Trial Divisions, and Tax Court) for the 2009-2010 court year is 471. Of these, 86 (18.3%) are minority: 38 or 8.1% are Black/African American; 14 or 3.0% are Hispanic/Latino; and 34 or 7.2% are Asian/Pacific Islander/American Indian.

This table also shows the availability of minorities based on the graduation rate at the three New Jersey law schools in 2009.[105] In this court term, the percentage of minority law clerks (18.3%) falls below the 21.7% availability. In examining each race/ethnicity category, the reader observes that Hispanic/Latino law clerks at 3.0% are well below their 6.2% availability. Also Asian/Pacific Islander/American Indian law clerks at 7.2% are below their 9.8% availability. Black/African American law clerks at 8.1%, however, exceed their 6.2% availability.

[105] The Committee notes that using these demographics for defining "availability" is a proxy for a demographic breakdown of the actual "labor force" from which law clerks are recruited and hired; however, arguably more precise availability data are currently not available.

In comparing the data from the last court term (2008-2009), one sees that, while the total number of law clerks increased slightly from 467 in the 2008-2009 term to 471 in the 2009-2010 term, the total number of minority law clerks fell from 105 to 86 in the same time period. The 18.1% decrease (i.e., from 105 to 86) in the number of minority law clerks in the Judiciary far exceeds the 8.4% decline (i.e., from 23.7%in 2008-2009 term to 21.7% in the 2009-2010 term) in their availability during the same time period. Refer to *Table 4-12.* Moreover, the overall increase in the total number of law clerks taken together with the decrease in the number of minority law clerks has resulted in a significant decrease (i.e. from 22.5% to 18.3%) in the percentage representation of minority law clerks among all law clerks. This is a matter of significant concern to the Committee.

Table 4-12. State of New Jersey Judicial Law Clerks, Court Year 2009-2010 and Court Year 2008-2009

Court Year 2009-2010	**#**	**%**	**Availability** [106]
Total Law Clerks	**471**	**100.0**	
Total Minorities	**86**	**18.3**	**21.7**
Blacks/African Americans	38	8.1	5.8
Hispanics/Latinos	14	3.0	6.2
Asians/American Indians	34	7.2	9.8
Total Females[107]	**269**	**57.1**	**43.6**
Court Year 2008-2009	**#**	**%**	**Availability**
Total Law Clerks	**467**	**100.0**	
Total Minorities	**105**	**22.5**	**23.7**
Blacks/ African Americans	39	8.4	7.8
Hispanics/Latinos	22	4.7	7.0
Asians/American Indians	44	9.4	9.0
Total Females	**254**	**54.4**	**40.3**

Data Source: Payroll Management Information System, AOC EEO/AA Unit
Note: Percentages are percent of total in each major category and may not always sum to 100 due to rounding.

[106] Availability is based on the demographics of the graduating classes at the three New Jersey law schools (Rutgers University Law School – Camden, Rutgers University Law School – Newark, and Seton Hall University School of Law) for 2009, from which a majority of law clerks are hired (see Table 4-18). These data were provided by the New Jersey Commission on Higher Education (for Rutgers-Camden and Rutgers-Newark) and by Seton Hall.

[107] Total females include minorities and non-minorities.

For 2008-2009, Hispanic/Latino law clerks at 4.7% were well below their 7% availability. For 2009-2010 the availability decreased from 7% to 6.2% and the total percentage of Hispanic/Latino law clerks hired dropped from 4.7% to 3%. Hispanic/Latino law clerk hires at 3% fell well below their 6.2% availability for the 2009-2010 court term. This figure represents a decrease of over 18% in the raw number of law clerks which greatly exceeds the 8.4% decline in the availability of minority law clerk candidates for the same time period. It is strongly recommended that greater efforts be made to recruit minority law clerks and, in particular, Hispanic/Latino law clerks in view of the disparity between the availability of Hispanic/Latino law clerks and their proportional representation in the demographics of the law clerks currently employed by the court.

With respect to Black/African American law clerks, for the 2008-2009 court term 8.4% of minority law clerks were Black/African American, compared with 8.1% in 2009-2010. It is notable that the availability of Black/African American law clerks sharply decreased from 7.8% in 2008-2009 to 5.8% in 2009-2010. So while availability dropped, the percentage of Black/African American law clerks remained stable.

The percentage of Asian/Pacific Islander/American Indian law clerks dropped from the 2008-2009 court term from 9.4% (44) to 7.2% (34) in the 2009-2010 court term; this figure represents a 22.7% decrease. While the numbers of Asian/Pacific Islander/American Indian law clerks decreased, the Asian/Pacific Islander/American Indian law clerk availability increased modestly from 9.0% in 2008-2009 to 9.8% in 2009-2010. *Refer to Table 4-12.*

An examination of minority law clerk representation by race/ethnicity categories over a ten-year period (from court terms 2000-2001 to 2009-2010) reveals that a distinctive longitudinal pattern does not emerge. The Committee found that the hiring of minority law clerks does not

consistently increase across the various measurement periods. Refer to *Table 4-13. Hiring of New Jersey Judicial Law Clerks by Court Level and Race/Ethnicity 2000/01 to 2009/10*.

For the total count of minority law clerks, when the data review is extended beyond the ten year period, the percentage of minority law clerks in the 2009-2010 term (18.3%) reflects a decrease from the previous three terms (22.5%, 20.3%, 19.4%, respectively). And it is revealed that the 2009-2010 (18.3%) court term has the second lowest total minority law clerk diversity profile since 2005-2006 (17.4%).

There is also great concern when one examines the pattern of law clerk decline among Hispanics/Latinos over the same period. Hispanic/Latino law clerk representation reached an all time low at 3% in the 2009-2010 court term. In 2000-2001 the diversity profile was around 4% and in 2005-2006 it was (3.8%); the Hispanic/Latino diversity profile peaked in 2004-2005 at 6.4% and was 6.1% in 2003-2004.

Representation of Asian/Pacific Islander/American Indian law clerks in the 2009-2010 court term was 7.2%. Generally the overall diversity profile for this category of law clerks reveals two distinct clusters of frequently appearing diversity profile ranges. The first cluster represents the peak cluster of diversity profile ranges: 10.3% in 2003-2004; 9.8% in 2002-2003; 9.4% in 2008-2009; and 9.2% in 2000-2001. The second most frequently occurring cluster of diversity profile scores are in the 7% range, e.g., 7.2% in 2009-2010 and in 2007-2008, 7.9% in 2006-2007, and 7.5% in 2004-2005). The two peak point ranges indicate Asian law clerk diversity profile scores cluster around two distinct point ranges 10-9 % and 7.8-7.2%, and there are equal numbers of diversity profile scores appearing in each of these two ranges. This distribution of values is a bimodal distribution.[108]

[108] A mode is defined in the Ninth New Collegiate Dictionary as the most frequent value of a set of data. Merriam-Webster Inc. (1983), p.762.

The most frequently appearing diversity profile of Black/African American law clerks fall within the 7.2-7.8 range (5 scores) followed by the 8.4-8.8 range(4 scores). The peak year for Black law clerk representation was in Court Year 2001-2002 when the Black law clerks comprised 10% of the new law clerk class. The lowest representation of Black law clerks was in Court Year 2006-2007 when Black law clerks accounted for 7.2% of the new court year class.

Table 4-13. Hiring of New Jersey Judicial Law Clerks by Court Level and Race/Ethnicity, 2000-01 to 2009-10

		Supreme Court	Superior-App. Div.	Superior - Trial Div.	Tax	Totals	Totals By Group		
Court Year 2009-2010	Total # of Law Clerks	21	49	393	8	**471**	Blacks	38	8.1
	# of Minorities	3	4	77	2	**86**	Hispanics	14	3.0
	% of Minorities	14.3	8.2	19.6	25.0	**18.3**	Asians/Amer. Indians	34	7.2
Court Year 2008-2009	Total # of Law Clerks	22	49	389	7	**467**	Blacks	39	8.4
	# of Minorities	6	3	95	1	**105**	Hispanics	22	4.7
	% of Minorities	27.3	6.1	24.4	14.3	**22.5**	Asians/Amer. Indians	44	9.4
Court Year 2007-2008	Total # of Law Clerks	22	49	395	6	**472**	Blacks	37	7.8
	# of Minorities	3	6	86	1	**96**	Hispanics	25	5.3
	% of Minorities	13.6	12.2	21.8	16.7	**20.3**	Asians/Amer. Indians	34	7.2
Court Year 2006-2007	Total # of Law Clerks	21	49	394	6	**470**	Blacks	34	7.2
	# of Minorities	7	10	74	0	**91**	Hispanics	20	4.3
	% of Minorities	33.3	20.4	18.8	0.0	**19.4**	Asians/Amer. Indians	37	7.9
Court Year 2005-2006	Total # of Law Clerks	22	48	401	6	**477**	Blacks	39	8.2
	# of Minorities	3	6	73	1	**83**	Hispanics	18	3.8
	% of Minorities	13.6	12.5	18.2	16.7	**17.4**	Asians/Amer. Indians	26	5.5
Court Year 2004-2005	Total # of Law Clerks	22	50	389	7	**468**	Blacks	36	7.7
	# of Minorities	5	6	90	0	**101**	Hispanics	30	6.4
	% of Minorities	22.7	12.0	23.1	0.0	**21.6**	Asians/Amer. Indians	35	7.5
Court Year 2003-2004	Total # of Law Clerks	23	50	398	6	**477**	Blacks	37	7.8
	# of Minorities	6	13	95	1	**115**	Hispanics	29	6.1
	% of Minorities	26.1	26.0	23.9	16.7	**24.1**	Asians/Amer. Indians	49	10.3
Court Year 2002-2003	Total # of Law Clerks	22	50	401	6	**479**	Blacks	42	8.8
	# of Minorities	1	11	101	2	**115**	Hispanics	26	5.4
	% of Minorities	4.5	22.0	25.2	33.3	**24.0**	Asians/Amer. Indians	47	9.8
Court Year 2001-2002	Total # of Law Clerks	22	50	384	5	**461**	Blacks	46	10.0
	# of Minorities	5	8	88	1	**102**	Hispanics	26	5.6
	% of Minorities	22.7	16.0	22.9	20.0	**22.1**	Asians/Amer. Indians	30	6.5
Court Year 2000-2001	Total # of Law Clerks	23	48	372	4	**447**	Blacks	35	7.8
	# of Minorities	4	8	81	1	**94**	Hispanics	18	4.0
	% of Minorities	17.4	16.7	21.8	25.0	**21.0**	Asians/Amer. Indians	41	9.2

Data Source: Payroll Management Information System, AOC EEO/AA Unit
Note: Percentages are percent of total in each major category and may not always sum to 100 due to rounding

An examination of law clerk appointments by county, see *Table 4-14. Superior Court Law Clerks for Court Year 2009-2010 by County, Race/Ethnicity and Gender as of October 5, 2009*, reveals that in 8 out of 21 counties, the total minority law clerk representation exceeds the

21.7% availability. Minority law clerks[109] are underrepresented in 13 counties; in fact, there are four counties (Cumberland, Hunterdon, Salem and Warren counties) where there are no minority law clerks. By way of contrast note that the Committee reported the following finding in the 2000-2002 Report (p.231) on law clerk appointments by county: in 14 out of 21 counties, minority law clerk representation exceeded the 20.8% availability and there was only one county that had no racial/ethnic minority law clerks.

Table 4-14. New Jersey Superior Court Law Clerks for Court Year 2009-2010 by County, Race/Ethnicity, and Gender as of October 5, 2009

County	Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Female		Male		Total Law Clerks
	#	%	#	%	#	%	#	%	#	%	#	%	
Atlantic	**5**	**27.8**	3	16.7	0	0.0	2	11.1	14	77.8	4	22.2	**18**
Bergen	**4**	**12.5**	1	3.1	0	0.0	3	9.4	20	62.5	12	37.5	**32**
Burlington	**2**	**12.5**	0	0.0	1	6.3	1	6.3	7	43.8	9	56.3	**16**
Camden	**5**	**18.5**	2	7.4	0	0.0	3	11.1	18	66.7	9	33.3	**27**
Cape May	**1**	**20.0**	1	20.0	0	0.0	0	0.0	5	100.0	0	0.0	**5**
Cumberland	**0**	**0.0**	0	0.0	0	0.0	0	0.0	6	60.0	4	40.0	**10**
Essex	**13**	**24.1**	6	11.1	2	3.7	5	9.3	29	53.7	25	46.3	**54**
Gloucester	**2**	**22.2**	2	22.2	0	0.0	0	0.0	8	88.9	1	11.1	**9**
Hudson	**9**	**31.0**	3	10.3	2	6.9	4	13.8	14	48.3	15	51.7	**29**
Hunterdon	**0**	**0.0**	0	0.0	0	0.0	0	0.0	1	33.3	2	66.7	**3**
Mercer	**5**	**26.3**	1	5.3	2	10.5	2	10.5	9	47.4	10	52.6	**19**
Middlesex	**12**	**34.3**	4	11.4	2	5.7	6	17.1	19	54.3	16	45.7	**35**
Monmouth	**3**	**10.7**	2	7.1	0	0.0	1	3.6	15	53.6	13	46.4	**28**
Morris	**4**	**25.0**	2	12.5	1	6.3	1	6.3	9	56.3	7	43.8	**16**
Ocean	**1**	**4.3**	1	4.3	0	0.0	0	0.0	12	52.2	11	47.8	**23**
Passaic	**4**	**16.0**	1	4.0	1	4.0	2	8.0	16	64.0	9	36.0	**25**
Salem	**0**	**0.0**	0	0.0	0	0.0	0	0.0	2	66.7	1	33.3	**3**
Somerset	**1**	**9.1**	0	0.0	0	0.0	1	9.1	3	27.3	8	72.7	**11**
Sussex	**1**	**16.7**	1	16.7	0	0.0	0	0.0	4	66.7	2	33.3	**6**
Union	**5**	**23.8**	2	9.5	2	9.5	1	4.8	11	52.4	10	47.6	**21**
Warren	**0**	**0.0**	0	0.0	0	0.0	0	0.0	2	66.7	1	33.3	**3**
Total	**77**	**19.6**	**32**	**8.1**	**13**	**3.3**	**32**	**8.1**	**224**	**57.0**	**169**	**43.0**	**393**

Data Source: Payroll Management Information System, AOC EEO/AA Unit.
Note: Percentages are percent of total in each major category and may not always sum to 100 due to rounding.

[109] The self-identification of one's race/ethnicity is voluntary and an employee is free to opt out of doing so. However, all employees must be accounted for when submitting race/ethnicity data to the EEOC. In the FAQ section this question was posed. What should an employer do if an employee refuses to self-identify using the new race and ethnic categories? A: An employer may obtain the necessary information from existing employment records or visual observations if an employee declines to self identify. Employment records and visual identification may be used only if an employee refuses to self-identify. http://archive.eeoc.gov/eeo1/qanda-implementation.html

Table 4-15. New Jersey Judiciary Net Changes in Minority Law Clerk Representation 2008-2009 and 2009-2010 shows that there are a total of 86 minority law clerks in the 21 counties for the 2009-2010 term. For the 2008-2009 term, there were 105 minority law clerk appointments across the various court levels. Comparing these most recent court terms shows that there is a total net change of -19 for minority law clerk appointments. While the 86 minority law clerk appointments in the counties for court term 2009-2010 reflects a negative trend, it must be noted that there were 83 minority law clerks in the 2005-2006 court term, 91 in 2006-2007, and 96 in 2007-2008. If the reader looks back further to the 2004-2005 court year there were 101 minority law clerks and the 2003-2004 court term there were 115 minority law clerks. In spite of the decline of minority law clerk numbers, it is encouraging that 7 out of 21 counties demonstrate a positive net change in minority law clerk representation for the 2009-2010 court term.

Table 4-15. New Jersey Judiciary Net Changes in Minority Law Clerk Representation, 2008-2009 and 2009-2010 Court Years

Court	2008-2009	2009-2010	Net # Change
Supreme	6	3	-3
Appellate	3	4	+1
Tax	1	2	+1
Superior	95	77	-18
Total Net Change	**105**	**86**	**-19**
County	**2008-2009**	**2009-2010**	**Net # Change**
Atlantic	3	5	+2
Bergen	3	4	+1
Burlington	4	2	-2
Camden	5	5	0
Cape May	1	1	0
Cumberland	1	0	-1
Essex	19	13	-6
Gloucester	4	2	-2
Hudson	8	9	+1
Hunterdon	0	0	0
Mercer	4	5	+1
Middlesex	15	12	-3
Monmouth	5	3	-2
Morris	3	4	+1
Ocean	5	1	-4
Passaic	3	4	+1
Salem	1	0	-1
Somerset	2	1	-1
Sussex	0	1	+1
Union	8	5	-3
Warren	1	0	-1
Total Net Change	**95**	**77**	**-18**

Data Source: Payroll Management Information System, AOC EEO/AA Unit
Note: Percentages are percent of total in each major category and may not always sum to 100 due to rounding.

A review of the data on law clerk appointments by court level for the 2009-2010 court term is set forth in *Table 4-16. New Jersey Judicial Law Clerks by Court Level for Court Term 2009-2010 Court Term,* demonstrates that at the Supreme Court there are a total of 21 judicial law clerks, three (14.3%) of whom are minority (all three are Black/African American). This

figure represents a net change of -3 minority law clerk appointments from the 2008-2009 court term. In court year 2008-2009, of the 22 Supreme Court judicial law clerks, six (27.3%) were minority: two Black/African American (9.1%), two Hispanic/Latino (9.1%), and two Asian/Pacific Islander/American Indian (9.1%).

At the Appellate Division, for court term 2009-2010, there were a total of 49 law clerk appointments of whom only four (8.2%) are minority: three Black/African American (6.1%), one Asian/Pacific Islander/American Indian (2.0%), and Hispanic/Latino law clerks are absent. Refer to *Table 4-16*. The racial/ethnic minority law clerk representation at the Appellate Division demonstrates a net change of +1 from the 2008-2009 term.

In the Superior Court, Trial Division, there were a total of 393 law clerk appointments in 2009-2010, of which 77 (19.6%) are minority: 32 Black/African American (8.1%), 13 Hispanic/Latino (3.3%), and 32 Asian/Pacific Islander/American Indian (8.1%). Refer to *Table 4-13*. This demonstrates a net change of -18. Refer to *Table 4-16.*

At the Tax Court, there are a total of 8 law clerk appointments in 2009-2010, with only two minority law clerks: one Hispanic/Latino (12.5%), one Asian/Pacific Islander/American Indian (12.5%), and Black/African American law clerks are not present. This demonstrates a net change of +1 from the 2008-2009 term. Review *Table 4-16.*

Overall there were 86 minority law clerk appointments for the various court levels in the 2009-2010 court term. Refer to Table *4-16.* This is a net change of -19 from the previous term. Thus while the number of race/ethnic minority law clerks fell at the Superior Court trial level (-18 net change) and fell at the Supreme Court level (-3 net change), both the Appellate Division and Tax Court added one minority law clerk.

With respect to the representation of female law clerks serving at the various court levels in the 2009-2010 court term there is a strong diversity profile as female law clerks comprise 13 (62.0%) of the 21 clerks serving on the Supreme Court: 10 (47.6%) of the female law clerks are White, and three are Black (14.3%).

At the Appellate Court level 28 (57.1 %) of the total contingent of 49 law clerks are females: 24 (49.0 %) are White, 3 (8.2%) are Black, and 1 (2.0%) is Asian/American Indian. At the Trial Court level out of 393 law clerks 224 (57.0%) are females: 164 are White females (41.7%), 60 are minority females; 30 (7.6%) are Black, 9 are Latinas (2.3%), and 21(5.3%) are Asians/American Indians.

In Tax Court one-half of the 8 law clerks are females: 2 (25.0%) are White, and one each (12.5%) is a Latina and Asian/American Indian.

Since the inception of the New Jersey Law Clerk recruitment program in the early eighties its recruitment efforts have been national in scope. Approximately 53.6% of all law clerks appointments in the 2009-2010 court term are New Jersey law school graduates, as set forth in *Table 4-18. New Jersey Judiciary: Law Clerk Appointments by Law School 2009-2010 Court Year*. The remaining 46.4% of law clerks were graduates from various other law schools.

Table 4-16. New Jersey Judicial Law Clerks by Court Level for Court Term, Court Term 2009-2010

Court		Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total	
		#	%	#	%	#	%	#	%	#	%	#	%
Supreme Court	Females	10	47.6	3	14.3	3	14.3	0	0.0	0	0.0	13	61.9
	Males	8	38.1	0	0.0	0	0.0	0	0.0	0	0.0	8	38.1
	Total	**18**	**85.7**	**3**	**14.3**	**3**	**14.3**	**0**	**0.0**	**0**	**0.0**	**21**	**100.0**
Appellate Div	Females	24	49.0	4	8.2	3	6.1	0	0.0	1	2.0	28	57.1
	Males	21	42.9	0	0.0	0	0.0	0	0.0	0	0.0	21	42.9
	Total	**45**	**91.8**	**4**	**8.2**	**3**	**6.1**	**0**	**0.0**	**1**	**2.0**	**49**	**100.0**
Superior Court	Females	164	41.7	60	15.3	30	7.6	9	2.3	21	5.3	224	57.0
	Males	152	38.7	17	4.3	2	0.5	4	1.0	11	2.8	169	43.0
	Total	**316**	**80.4**	**77**	**19.6**	**32**	**8.1**	**13**	**3.3**	**32**	**8.1**	**393**	**100.0**
Tax Court	Females	2	25.0	2	25.0	0	0.0	1	12.5	1	12.5	4	50.0
	Males	4	50.0	0	0.0	0	0.0	0	0.0	0	0.0	4	50.0
	Total	**6**	**75.0**	**2**	**25.0**	**0**	**0.0**	**1**	**12.5**	**1**	**12.5**	**8**	**100.0**
Grand Total All Law Clerks													
	Females	200	42.5	69	14.6	36	7.6	10	2.1	23	4.9	269	57.1
	Males	185	39.3	17	3.6	2	0.4	4	0.8	11	2.3	202	42.9
	Total	**385**	**81.7**	**86**	**18.3**	**38**	**8.1**	**14**	**3.0**	**34**	**7.2**	**471**	**100.0**

Data Source: Payroll Management Information System, AOC EEO/AA Unit
Note: Percentages are percent of total in each major category and may not always sum to 100 due to rounding.

Table 4-17. New Jersey Judicial Law Clerks by Court Level for Court Term, 2008-2009 Court Term

Court		Whites		Total Minorities		Blacks		Hispanics/ Latinos		Asians/ Amer. Indians		Total	
		#	%	#	%	#	%	#	%	#	%	#	%
Supreme Court	Females	9	40.9	3	13.6	0	0.0	2	9.1	1	4.5	12	54.5
	Males	7	31.8	3	13.6	2	9.1	0	0.0	1	4.5	10	45.5
	Total	**16**	**72.7**	**6**	**27.3**	**2**	**9.1**	**2**	**9.1**	**2**	**9.1**	**22**	**100.0**
Appellate Div	Females	22	44.9	3	6.1	1	2.0	1	2.0	1	2.0	25	51.0
	Males	24	49.0	0	0.0	0	0.0	0	0.0	0	0.0	24	49.0
	Total	**46**	**93.9**	**3**	**6.1**	**1**	**2.0**	**1**	**2.0**	**1**	**2.0**	**49**	**100.0**
Superior Court	Females	142	36.5	71	18.3	28	7.2	13	3.3	30	7.7	213	54.8
	Males	152	39.1	24	6.2	8	2.1	6	1.5	10	2.6	176	45.2
	Total	**294**	**75.6**	**95**	**24.4**	**36**	**9.3**	**19**	**4.9**	**40**	**10.3**	**389**	**100.0**
Tax Court	Females	3	42.9	1	14.3	0	0.0	0	0.0	1	14.3	4	57.1
	Males	3	42.9	0	0.0	0	0.0	0	0.0	0	0.0	3	42.9
	Total	**6**	**85.7**	**1**	**14.3**	**0**	**0.0**	**0**	**0.0**	**1**	**14.3**	**7**	**100.0**
Grand Total All Law Clerks													
	Females	176	37.7	78	16.7	29	6.2	16	3.4	33	7.1	254	54.4
	Males	186	39.8	27	5.8	10	2.1	6	1.3	11	2.4	213	45.6
	Total	**362**	**77.5**	**105**	**22.5**	**39**	**8.4**	**22**	**4.7**	**44**	**9.4**	**467**	**100.0**

Data Source: Payroll Management Information System, AOC EEO/AA Unit

Note: Percentages are percent of total in each major category and may not always sum to 100 due to rounding.

Table 4-18. New Jersey Judiciary: Law Clerk Appointments by Law School 2009-2010 Court Year[110]

Law School	#	%
Seton Hall University School of Law (NJ)	117	24.4
Rutgers University School of Law - Newark (NJ)	71	14.8
Rutgers University School of Law - Camden (NJ)	69	14.4
Widener University School of Law (DE and PA)	20	4.5
Temple University Beasley School of Law (PA)	15	3.1
Thomas M. Cooley School of Law (MI)	13	2.7
Drexel Earl Mack School of Law (PA)	11	2.3
CUNY School of Law (NY)	11	2.3
New York Law School (NY)	11	2.3
New England School of Law (MA)	9	1.9
Cardozo School of Law (NY)	7	1.5
Pace University School of Law (NY)	7	1.5
Brooklyn Law School (NY)	6	1.3
Subtotal	**367**	**76.5**
Other Schools Combined	113	23.5
Total Appointments	**480**	**100**

Data Source: AOC Human Resources. *Total appointments includes all appointments made for a law clerk term, including mid-term replacement clerks, clerks for newly appointed judges, etc., and therefore the total number of appointments may be greater than the total number of law clerks reported elsewhere.*

[110] New Jersey law school graduates accounted for 53.5% of all law clerk appointments, with the remaining 46.5% from the following schools: Albany Law School (4), American University Washington College of Law (2), Cardozo Law School (7), Boston College Law School (1), Brooklyn Law School (6), Case Western Reserve University School of Law (1), Catholic University of America School of Law (2), Columbia University School of Law (3),Cornell Law School (2), CUNY (City University of New York) School of Law (11), Drexel University School of Law (11), Duke University School of Law (1), Duquesne University School of Law (2), Emory University School of Law (1), Florida Coastal School of Law (2), Fordham University School of Law (4), Franklin Pierce Law Center (1), George Washington University Law School (3), Georgetown University Law Center (3), Golden Gate University School of Law (1), Harvard Law School (2), Hofstra University School of Law (4), Howard University School of Law (3), John Marshall Law School (1), Loyola University (1), Michigan State University College of Law (1), New England School of Law (9), New York Law School (11), New York University School of Law (2), North Carolina Central University School of Law (1), Notre Dame Law School (1), Nova Southeastern University Law Center (1), Ohio Northern University College of Law (3), Pace University School of Law (7), Pennsylvania State Dickinson School of Law (5), Quinnipiac College School of Law (1), Regent University School of Law (1), Roger Williams University School of Law (4), St. John's University School of Law (4), St. Louis University School of Law (1), Stetson University College of Law (1), Suffolk University Law School (1), Syracuse University College of Law (5), Temple University School of Law (15), Thomas Jefferson School of Law (2), Thomas M. Cooley Law School (13), Touro College Jacob D. Fuchsberg Law Center (3), Tulane Law School (3), University of Connecticut School of Law (1), University of Maryland School of Law (2), University of Miami School of Law (5), University of North Carolina at Chapel Hill School of Law (1), University of Pennsylvania Law School (4), University of Pittsburgh School of Law (3), University of San Diego School of Law (1), University of Washington School of Law (1), Valparaiso University School of Law (1), Vermont Law School (2), Villanova University School of Law (5), Widener University School of Law (20), William & Mary Law School (3).

VII. Discrimination Complaints

A. Background Information

In 1992, the Supreme Court Task Force on Minority Concerns Final Report noted that the "Court system lacks sufficient complaint procedures to enable persons to overcome unfair treatment in the court." (Finding #32 at p. 248) Thereafter, the Committee on Minority Concerns conveyed in each of its biennial reports to the Court the following recommendations focusing on discrimination complaint procedures: (1) that the Judiciary issue updated complaint procedures (in English and Spanish) and intake forms; (2) that it publicize the complaint procedures; (3) that it offer training to judges, managers and staff on the complaint procedures; and (4) that it develop a computerized information system to track complaints.

As noted in this Committee's previous report, the Judiciary has addressed many, but not all, of the Committee's recommendations by (1) issuing via Directive #5-04 the *EEO Complaint Procedures Manual* (hereafter referred to as the "Manual") to be used in cases involving allegations of discrimination and/or sexual harassment in the Judiciary and to be utilized by any Judiciary employee, applicant for employment, court user, volunteer, attorney, litigant, witness, vendor, contractor, or any other person who comes into contact with the court system who believes that a violation of the Judiciary's Policy Statement on Equal Employment Opportunity/Affirmative Action and Anti-Discrimination (hereafter referred to as "the Policy Statement") has occurred; (2) developing an explanatory booklet for all employees entitled *Employee Guide to Reporting and Handling Complaints of Discrimination or Harassment in the Judiciary*; (3) completing statewide training of all EEO Officers, EEO Regional Investigators, managers and supervisors on the EEO Complaint Procedures as of September 30, 2004, and making the course mandatory for all subsequent managers and supervisors; (4) implementing a computerized complaint tracking system and training for EEO/AA Officers on the system; and

(5) widely publicizing the complaint procedures so that judiciary employees and the public will be knowledgeable about their rights, responsibilities, and the tools available to them to address discrimination complaints.

B. Complaint Procedures Update

In October 2008, the Judiciary announced an outreach initiative aimed at informing the public of their rights for fair treatment and various avenues for filing complaints about discriminatory or unfair treatment.[111] As a result of this new initiative, each vicinage has signs posted and brochures available for distribution about how court users can report concerns about fair treatment including contact information for the statewide and vicinage EEO/AA Officers, Ombudsman, and the Advisory Committee on Judicial Conduct. On a routine basis, the EEO/AA and Anti-Discrimination Policy Statement is updated / revised and made available to the public in both English and Spanish, and is disseminated to all court locations (including the municipal courts). The "Concerned About Fair Treatment?" flyer has been translated into Spanish and is available online at www.njcourts.com/eeo/fairtreatment.htm.

The Judiciary plans to disseminate information about the complaint procedures to bar associations, agencies, and community groups whose members deal frequently with the Court. Each vicinage has developed an implementation plan for disseminating information to the public. The SCCMC looks forward to learning about what processes and procedures are being used by the vicinages to disseminate the fair treatment complaint information. There is also an interest in determining what cognizable groups have been effectively reached.

C. Discrimination Complaints

Table 4-19. New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined July 1, 2008 to June 30, 2009 indicates that during this

[111] Committee Recommendation 02:5.13, 2000-2002, p. 162.

twelve-month period 126 complaints[112] were filed statewide. A follow-up recommendation issued in the previous report was to examine the number of complaints relative to employment. As stated in the last report,

> As a next step, the Committee recommends looking at the number of complaints filed in relation to the size of the respective workforce to gain a better understanding of the prevalence of complaints. It is quite possible that the vicinages showing the largest numbers of complaints may in fact have the lowest proportional complaint rate.

This sound recommendation is of great importance, as a seemingly large raw number of complaints, or even proportion of complaints, can be meaningless if the vicinage in question makes up a large proportion of judiciary employment. To this end, in this report we present *complaint rates*, along with the raw number of complaints and "percent of complaints" figures. The *complaint rate* is the number of complaints divided by total employment. For example, the complaint rate within the AOC is equal to the 9 complaints filed divided by AOC employment of 1428, for a complaint rate of 0.63%.

In light of this statistical consideration, the Committee has added the complaint rate to its review of the data presented in *Table 4-19* on discrimination complaints.

[112] While previous New Jersey Supreme Court Committee on Minority Concerns Reports refer to "formal" and "informal" complaints, it should be noted that as of the issuance of the April 27, 2004 EEO Complaint Procedures Manual, this distinction is no longer used.

Table 4-19. New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2008 to June 30, 2009

Summary	**Number**	**% of Complaints**	**Complaint Rate**[113]
AOC/Central Clerks' Offices	9	7.10	0.63
Vicinages Combined	117	92.90	1.57
Total Complaints	**126**	**100.00**	**1.42**
Breakdown of Complaints by Location	**Number**	**% of Complaints**	**Complaint Rate**
AOC/Central Clerks' Offices	9	7.1	0.63
Atlantic/Cape May	16	12.7	3.35
Bergen	4	3.2	0.81
Burlington	6	4.8	1.79
Camden	0	0.0	0.00
Cumberland/Salem/ Gloucester	10	7.9	1.77
Essex	34	27.0	3.59
Hudson	1	0.8	0.18
Mercer	10	7.9	2.75
Middlesex	8	6.3	1.48
Monmouth	5	4.0	1.05
Morris/Sussex	1	0.8	0.27
Ocean	1	0.8	0.26
Passaic	2	1.6	0.41
Somerset/Hunterdon/ Warren	7	5.6	1.94
Union	12	9.5	2.59
Total Discrimination Complaints Filed *	**126**	**100.00**	**1.42**

Data Source: AOC EEO/AA Unit
Note: Percentages are percent of total in each major category and may not always sum to 100 due to rounding.

A closer examination of these data reveals a higher complaint rate in the vicinages than in the AOC/Central Clerks' Offices, as less than one percent of employees in the AOC/Central Clerks' Offices filed complaints, while just over one and a half percent of employees, on average, filed complaints at the vicinage level. That is, the average complaint rate within the vicinages overall was approximately two and half times that at the AOC. While the average

[113] The complaint rate is typically calculated to second place following the decimal.

complaint rate was higher at the vicinage level, there was considerable variation among vicinages.

Table 4-19 shows that Essex Vicinage had the highest complaint rate, at 3.59%, while Camden Vicinage had zero complaints filed. System wide, the average complaint rate was 1.42%. A statistical analysis of the variation in complaint rates reveals that, while several vicinages appeared to have relatively large complaint rates (Essex, Atlantic/Cape May, and Mercer), only the complaint rate for Essex Vicinage was such as to be statistically significantly outside the norm.[114] While this variation of interest to the Committee, the Committee notes that a relatively high complaint rate may indicate that the procedures for filing complaints are well publicized and that complaints are welcomed. Conversely, a very low complaint rate could reflect an entirely happy workforce or that complaint procedures are either poorly understood or the climate is such that employees are fearful of registering complaints. Since the complaint rate in and of itself serves as a flag, the Committee recommends that the Judiciary examine these data in relation to the complaint rate to determine what the complaint rate says about the filing of discrimination complaints both systemwide and locally.

The total of 126 complaints filed during this one-year period represents a decrease of 11.3% compared to the previous year, during which 142 complaints were filed from July 1, 2007 to June 30, 2008. This information can be found in *Table 4-20. New Jersey Judiciary: Comparison of Discrimination Complaints 2007-2008 and 2008-2009,* which also shows that changes at the vicinage level were responsible for the decrease in claims filed, as claims at the vicinage level dropped from 133 to 117, representing a 12% reduction in claims. Claims at the AOC/Central Clerks' Offices remained steady at 9 claims in each period. Unfortunately, as the

[114] Essex Vicinage was statistically significantly "over-represented" in complaints at the 5% confidence level. This is the standard commonly used in courts for statistical evidence.

Committee did not examine complaint rates in the previous report, there can be no direct examination of how complaint rates have changed. Given that Judiciary employment fell by approximately five percent from June 2008 to June 2009, the Committee can conclude that complaint rates did not decline as significantly as the raw numbers would suggest.

Table 4-20. New Jersey Judiciary: Comparison of Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined, 2007-2008 and 2008-2009

Comparison of Discrimination Complaints Filed			
	2007-2008	**2008-2009**	**Percent Change**
AOC/Central Clerks' Offices	9	9	0.0
Vicinages Combined	133	117	-12.0
Total Complaints	**142**	**126**	**-11.3**

Data Source: AOC EEO/AA Unit

The single most common form of complaint filed over the July 1, 2008 to June 30, 2009 period continues to be race-based.[115] A total of 49 race-related complaints were filed over this period, with 4 race-related complaints filed at the Central Office and 45 race-related complaints filed within the vicinages. Given that complaints filed on the basis of race made up more than a third of all EEO complaints filed over the period, the Committee explored these complaints in more detail. *Table 4-21. New Jersey Judiciary: Race Related Complaints Filed July 1, 2008 to June 30, 2009* details the race-related complaints filed, broken out by location.

[115] Since the inaugural discrimination tracking system (July 1, 2000-June 2001) was implemented, race-based complaints have ranked as the most frequently reported complaint filed for the last ten plus years.

Table 4-21. New Jersey Judiciary: Race-Related Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2008 to June 30, 2009

Summary	**Number**	**% of Complaints**	**Complaint Rate**
AOC/Central Clerks' Offices	4	8.16	0.28
Vicinages Combined	45	91.84	0.60
Total Complaints	**49**	**100.00**	**0.55**
Breakdown of Complaints by Location	**Number**	**% of Complaints**	**Complaint Rate**
AOC/Central Clerks' Offices	4	8.16	0.28
Atlantic/Cape May	4	8.16	0.84
Bergen	3	6.12	0.61
Burlington	4	8.16	1.19
Camden	0	0.00	0.00
Cumberland/Salem/ Gloucester	4	8.16	0.71
Essex	15	30.61	1.58
Hudson	1	2.04	0.18
Mercer	3	6.12	0.82
Middlesex	2	4.08	0.37
Monmouth	2	4.08	0.42
Morris/Sussex	1	2.04	0.27
Ocean	0	0.00	0.00
Passaic	0	0.00	0.00
Somerset/Hunterdon/ Warren	3	6.12	0.83
Union	3	6.12	0.65
Total Race Discrimination Complaints Filed *	**49**	**100.00**	**0.55**

Data Source: AOC EEO/AA Unit

For the most part, the same pattern the Committee observed when looking at all EEO complaints combined holds true for race-related complaints. Once again there is a higher average complaint rate within the vicinages than is found at the AOC. While the combined average complaint rate is higher at the vicinage level, there is considerable variation among vicinages. Camden, Ocean, and Passaic Vicinages reported no complaints on the basis of race. At the other end of the spectrum, Essex Vicinage reported 15 race discrimination complaints.

Once again, the Committee finds that the race-related complaint rate within Essex Vicinage is statistically significantly higher than the norm.[116] This finding, an obvious cause of concern, led the Committee to examine more closely the Essex complaints by examining the Essex Vicinage Yearly Report Complaint Summary. A study of this document revealed that of 34 total complaints, 21 were recorded as "contacts" with no follow-up required. Similarly, as regards race-related complaints, 9 of the 15 total complaints were reported to have been "contacts" (the other six were deemed "unsubstantiated"). This raises a question as to whether various vicinages may be handling the 2007 change in reporting requirements differently. In other words, is it possible that some of the variation observed in complaint rates may be due to differences in how the vicinages are now reporting informal complaints and/or coding "contacts"? This is an issue that warrants further investigation. It is possible that by dropping the distinction between "formal" and "informal" complaints, an important source of data has been lost, and that seeming disparities between vicinages may be due to different reporting practices.

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The Committee recommends that an investigation into how informal complaints, or contacts, are being handled at each vicinage be launched. If it is found that there are disparities in how the various vicinages are reporting these types of complaints, a new reporting form should be developed to ensure consistency in reporting practices. The Committee also recommends that complaint statistics be tracked to show complaints filed by employees versus complaints filed by other categories of non-employees.

Additionally, in the light of the Committee's discussion of its interest in complaint rate for Essex Vicinage, Essex Vicinage may wish to examine further the dynamics that contribute to its complaint rate. Any vicinage could further examine its own complaint rate to determine the

[116] An examination of age-related claims revealed that the Essex vicinage complaint rate was statistically significantly higher than the norm in this area as well. Most vicinages reported no age-related complaints, however, so this is not as strong of a finding as those pertaining to the overall complaint rate and the race-related complaint rate.

local dynamics that contribute to the rate and if any remedial steps need to be taken by considering the following questions:

- Has the vicinage been aware of its complaint rate?
- If so, what steps have they already taken to research the factors underlying the [high or low] complaint rate?
- What specific types of complaints are being made with regard to each complaint type and by whom and against whom are these alleged complaints lodged?
- Given that most of the complaints in question have been filed by active employees, the Committee also encourages that similar analyses be undertaken with respect to promotion and compensation practices.
- Is there consistency in coding the complaints throughout the state?

Table 4-22. New Jersey Judiciary: Discrimination Complaints Filed by Type of Complaint, AOC/Central Clerk's Offices and Vicinages Combined July 1, 2008 to June 30, 2009, provides greater detail on the nature of the discrimination complaints. As noted above, an examination of the data reveals that more than a third of all discrimination complaints filed over the July 1, 2008 to June 30, 2009 period were race-related (49). The next most common type of complaint was sexual harassment (25), followed by disability-related complaints (17). Complaints related to retaliation (9), age (8), gender (7), religion (6), and national origin (5) were all recorded as well. During this reporting period there were no complaints on the basis of color, marital status, military status, sexual orientation, or gender identity/expression.[117]

[117] To avoid double-counting of complaints when reporting complaint statistics, only one main basis is assigned to each complaint, when in fact a complainant may have indicated multiple bases for his/her complaint, including one of the areas listed above as having no complaints filed.

Table 4-22. New Jersey Judiciary: Discrimination Complaints Filed by Type of Complaint, AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2008 to June 30, 2009

	Race	Sexual Harassment	Disability	National Origin	Retaliation	Gender	Religion	Age	Hostile Work Environment	Military Status	Color	Marital Status	Sexual Orientation	Total	
														#	%
AOC	4	3	1	0	0	1	0	0	0	0	0	0	0	**9**	**7.1**
Atlantic/Cape May	4	11	1	0	0	0	0	0	0	0	0	0	0	**16**	**12.7**
Bergen	3	1	0	0	0	0	0	0	0	0	0	0	0	**4**	**3.2**
Burlington	4	0	0	0	0	0	2	0	0	0	0	0	0	**6**	**4.8**
Camden	0	0	0	0	0	0	0	0	0	0	0	0	0	**0**	**0.0**
Essex	15	2	4	2	3	1	2	5	0	0	0	0	0	**34**	**27.0**
Gloucester/Cumberland/Salem	4	1	2	0	1	1	0	1	0	0	0	0	0	**10**	**7.9**
Hudson	1	0	0	0	0	0	0	0	0	0	0	0	0	**1**	**0.8**
Mercer	3	3	1	1	0	1	0	1	0	0	0	0	0	**10**	**7.9**
Middlesex	2	1	1	1	2	1	0	0	0	0	0	0	0	**8**	**6.3**
Monmouth	2	0	2	0	1	0	0	0	0	0	0	0	0	**5**	**4.0**
Morris/Sussex	1	0	0	0	0	0	0	0	0	0	0	0	0	**1**	**0.8**
Passaic	0	0	2	0	0	0	0	0	0	0	0	0	0	**2**	**1.6**
Union	3	2	2	1	2	1	1	0	0	0	0	0	0	**12**	**9.5**
Somerset/Hunterdon/ Warren	3	1	1	0	0	1	1	0	0	0	0	0	0	**7**	**5.6**
Ocean	0	0	0	0	0	0	0	1	0	0	0	0	0	**1**	**0.8**
Total Vicinages Combined	45	22	16	5	9	6	6	8	0	0	0	0	0	**117**	**92.9**
Total Complaints Filed	**49**	**25**	**17**	**5**	**9**	**7**	**6**	**8**	**0**	**0**	**0**	**0**	**0**	**126**	**100.0**

Data Source: AOC EEO/AA Unit

An examination of *Table 4-23. New Jersey Judiciary: Discrimination Complaints Filed by Type of Complaint, and Action Taken, AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2008 to June 30, 2009*, reveals that 106 of the 126 complaints filed were closed over the period, which represents a closure rate of 84%. Of the complaints which were closed, there was a "finding" in just 14 cases, reflecting a "finding rate" equal to 13%. This overall finding rate obscures the fact that there were "findings" in only two complaint areas: race and sexual harassment. None of the other areas in which complaints were filed, including disability, national origin, retaliation, gender, religion, and age, resulted in an official "finding."

With respect to race-related complaints, there was a finding rate equal to 10.5%, while there was a sexual-harassment related finding rate equal to 34%. These rates are similar to those noted in the last report. Unlike previous reports, however, which noted finding rates equal to approximately 20% for gender-related complaints, there were no substantiated gender-related complaints this period.

The committee remains concerned by the overall high rate of "no finding" reflected in these data. As noted in the last report, while the Committee certainly acknowledges that not all claims are meritorious, there is concern that complaints may not be receiving the full attention they are due. The Committee again compares the rate of "No Finding" within the New Jersey Judiciary to the rate at which the EEOC reports "No Reasonable Cause." While the New Jersey Judiciary reports "No Finding" in 84% of its complaint cases, the EEOC reported its corresponding "No Reasonable Cause" in just 61% of cases in Fiscal Year 2009.[118]

[118] The Committee notes that some portion of those EEOC cases coded as "Administrative Closures" may reflect a lack of merit, however there are a number of reasons for Administrative Closure, many of which are associated with a meritorious claim. It is therefore not possible to combine the two classifications. That said, even if Administrative Closures *were* combined with No Reasonable Cause classifications the total rate would still be less than the "No Finding" rate within the New Jersey Judiciary.

Table 4-23. New Jersey Judiciary: Discrimination Complaints Filed by Type of Complaint and Action Taken, AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2008 to June 30, 2009

Complaint Summary FY 07	Case Status			Action Taken													
	Filed	Closed	Open	No Finding	Finding	Counseled	Mediated	Referred to Mgmt.	Referred to Other Agency	Letter of Warning	RA Training*	Written Reprimand	Discipline	Transfer	Referred to Other Vic.	Job Duties Changed	Referred to EAP**
Race	49	38	13	34	4	11	1	5	0	0	0	0	1	2	0	1	0
Sex Harassment	25	29	3	19	10	2	1	2	0	0	2	0	6	0	0	0	0
Disability	17	13	4	12	0	1	2	4	0	0	0	0	0	2	0	0	0
Nat'l Origin	5	3	2	3	0	1	0	0	0	0	0	0	0	0	0	0	0
Retaliation	9	6	3	6	0	0	0	1	0	0	0	0	0	0	0	0	0
Gender	7	4	3	4	0	1	1	1	0	0	0	0	0	0	0	0	0
Religion	6	6	1	6	0	0	2	0	0	0	0	0	0	0	0	0	0
Age	8	7	1	7	0	0	0	0	0	0	0	0	0	0	0	0	0
Hostile Work Environment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Veteran Status	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Color	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Marital Status	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Sexual Orientation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total All Categories	**126**	**106**	**30**	**91**	**14**	**16**	**7**	**13**	**0**	**0**	**2**	**0**	**7**	**4**	**0**	**1**	**0**

Data Source: AOC EEO/AA Unit
*Remedial Action (RA) Training – refers to specific, individualized training as a result of sexual harassment charges, trainings offered to the general workforce is a separate statistic
**EAP – Employee Assistance Program

VIII. Conclusion

The Committee is grateful for the opportunity to participate in its combined review of evidence based research data provided by the judiciary and the participation of the committee members as the Court's partners. While we are cognizant of our role in monitoring the recommendations already in place, we are interested in exploring other areas that will perhaps assist the Judiciary in setting and revising Human Resources policies and procedures, revisiting some issues discussed years ago and forging ahead to address emergent and novel concerns not yet addressed in depth and ensure procedural fairness and fair treatment relative to, e.g., hiring, promotions, employee evaluations, discipline, job retention and resolution of employee and customer complaints.

Members 2009-2011

The Supreme Court Committee on Minority Concerns appreciates the opportunity to serve the Court and wishes to express our sincere gratitude to all members and Administrative Office of the Courts staff who assisted in completing the report.

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