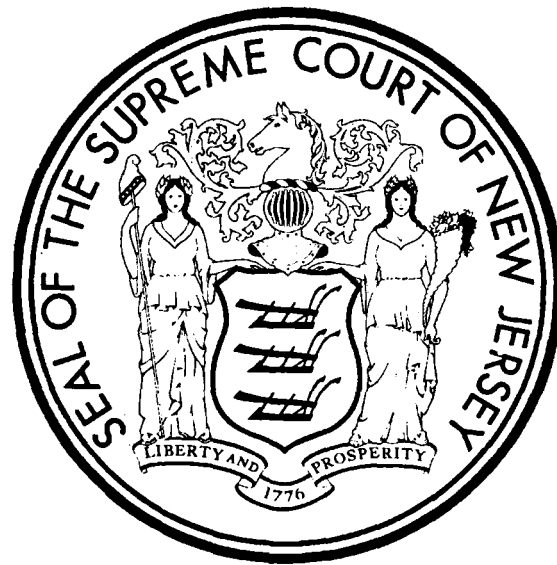


New Jersey Supreme Court Committee on Minority Concerns

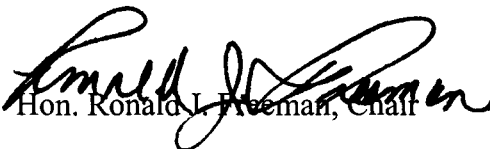


2000 - 2002 Report

The members of the standing Supreme Court Committee on Minority Concerns are grateful for having the opportunity to serve the Court in this capacity and wish to express our sincere appreciation to all those who assisted us in completing this report.

Respectfully Submitted,

March 2002


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Two Year Comparison (1999 and 2000) of Law Degrees Conferred by New
Jersey Law Schools by Race/Ethnicity and Gender

Copies of the
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Copies of the
Superior Court of New Jersey, Essex Vicinage, Ombudsman Report 2001
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Introduction

It has been almost ten years since the Supreme Court Task Force on Minority Concerns released its final report in June 1992. This report had been the culmination of six continuous years of work by the 48-member Task Force under the able leadership of The Honorable Theodore Z. Davis of Camden County. The predecessor Committee on Minority Concerns, chaired by The Honorable James H. Coleman, Jr. issued a report to the Court in August 1984. Shortly after the release of the final report, the Supreme Court established a permanent standing committee to: assure the implementation of the court-approved minority concerns recommendations; advise the Court on goals, objectives and implementation time tables; provide guidance to local advisory committees on minority concerns; monitor statewide execution of the minority concerns program; and conduct studies and other research deemed appropriate.

To complement the work of the standing Committee, the court created advisory committees on minority concerns in all fifteen vicinages and the Administrative Office of the Courts.

This report describes the work of the standing Committee during the last two committee cycles 1998-2000 and 2000-2002. Since the Committee's last report, its designation has been changed from a rules committee to a program committee.

Demographic Context

In 1992, the Task Force report commented on the fact that New Jersey was increasingly becoming a racially, culturally, ethnically and linguistically pluralistic State. At that time, the population of the state was around 7.7 million persons. As of 2000, the population was 8,414,350. The diversity of persons residing in New Jersey has similarly increased. In 1992 approximately 74.1% of New Jerseyans were White, 12.8% were Black; 9.6% were of Hispanic origin and 3.6% were Asians/American Indians/Pacific Islanders. Today the 2000 Census indicates that the White population in New Jersey has declined by 6.9% reducing the total proportion of Whites in the state from 74.1% to 67.2%. All of the minority groups, however have experienced population growth. The 0.2% gain for Blacks was negligible (from 12.8% to 13.0%). Hispanics experienced a 3.9% gain, from 9.6% to 13.5% and Asians/American Indians/Pacific Islanders experienced a 2.2% increase (from 3.6% to 5.8%).

Nearly one third (32.3%) of the present population in the State identify themselves as belonging to a race/ethnic group. This growing pluralism in the state's population places increasing demands on the Judiciary to provide court services and programs to an array of constituents from diverse cultural, ethnic, language and racial groups.

Executive Summary

The Committee believes that the Judiciary has consistently shown its resolve to meet the challenges of providing fair and equitable justice to all who enter its portals and it has launched many ground breaking initiatives designed to ensure that the court system is operating without bias. It is noteworthy that the Judiciary's commitment has been unswerving over the course of so many years as has its resolve to continuously work to improve and enhance court services and programs. Much progress has been made and this report will highlight some of those areas. However, in spite of these notable gains, the committee has identified areas which require further attention and work.

The New Jersey Supreme Court took a leadership role in 1984 when the Chief Justice appointed an ad hoc Committee on Minority Concerns and later the Supreme Court Task Force on Minority Concerns. The present Court, under the leadership of New Jersey's first woman Chief Justice, Deborah T. Poritz, and Administrative Director of the Courts, The Honorable Richard J. Williams has continued to advance these access issues on several levels.

The Judiciary hosted the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts twelfth annual meeting in May 2000 in Teaneck, New Jersey. Over 200 conference participants from 29 states and the District of Columbia attended the annual meeting. As one of the four founding member-states of the National Consortium, this was the second time that New Jersey hosted an annual meeting; the first occasion was in 1990. The comprehensive educational program offered at the meeting drew rave reviews from conference participants and as Justice Charles Z. Smith from Washington State remarked, "took the Consortium to new heights and raised the bar for future programs".

Many of the 53 court-approved Task Force recommendations have been implemented. The Judiciary is working vigorously to ensure that as new technological advancements become available that they be used to improve and enhance the quality of services and programs for court users.

The Court has worked vigorously to reduce the case backlog and ensure that justice is meted out in a timely fashion. Great strides have been made to expand and offer training opportunities for judges and court staff throughout the organization. Minorities now comprise 34.2% of the total judiciary workforce; more minority law clerks are being hired and staff interpreters are available in most courts. Great strides have been made in standardizing pro se kits and improving services for self-represented litigants. The ombudsman program has been approved for statewide expansion; an ombudsman office is now in place in two vicinages. The EEO/AA Master Plan is in the process of being implemented in all vicinages and at the Administrative Office of the Courts; full time EEO/AA Officers have been hired in almost all of the vicinages and all EEO/AA Officers and investigators have received extensive training.

These findings and other accomplishments will be discussed in greater detail in the following five subcommittee chapter reports: Criminal Justice and the Minority Defendant, Minorities and Juvenile Justice/Family; Minority Access to Justice, Legislation Review and Minority Participation in the Judicial Process. An executive summary follows for four of the subcommittee chapter reports (excluding the Subcommittee on Legislation Review). The Committee is also including a companion report, *Superior Court of New Jersey , Essex Vicinage, Ombudsman Report 2001*.

Formatting Committee Recommendations

It should be noted that the report references original Task Force (1992) recommendations in italics. Amended recommendations that address like-topic areas carried over from the 1992 report are also in italics, appear in a text box, are bolded and include the year designation. For example, ***Committee Recommendation 02:20.2*** refers to an amended original Task Force (1992) recommendation. The number, ***02*** denotes **the year 2002**, followed by a colon and the original Task Force Recommendation number ***20*** is followed by a period and the sequenced number of the amended text. Entirely new recommendations are likewise boxed, and appear in bold type, note the year, chapter number and sequential order of the recommendation. For example, **Committee Recommendation 02:1.2** is a new Committee Recommendation drafted in **2002** and appears as the **second** recommendation in **Chapter I**, Subcommittee on Criminal Justice and the Minority Defendant (internal cash bail research project recommendation).

Subcommittee on Criminal Justice and the Minority Defendant

The Subcommittee on Criminal Justice and the Minority Defendant report addresses three recommendations: bail and sentencing outcomes; jury issues and educational seminars; and drug courts. The impact of bail practices on persons of color and the poor has been a long standing concern of every court committee or task force on minority concerns convened in New Jersey beginning with the Coleman Committee Report in 1984, the interim report in 1989, the final report in 1992 and the first two rules cycle reports published in 1994-1996 and 1996-1998. These earlier reports concluded that, “the Judiciary process of setting bail denies minorities and poor citizens equal access to pre-trial release and its advantages in helping to prepare one’s defense.” The Court approved the recommendation calling for a comprehensive study of bail and noted that such a study would require “substantial funding if the analysis requested is to command respect”.

In order to understand the bail setting process, the Committee conducted preliminary bail research in several counties. The objective of the observation was to identify problem areas, determine the feasibility of conducting a comprehensive study of bail practices, and determine the availability and format of the databases. The internal observation project renewed and crystalized the Committee’s belief that a bail project should be conducted and that it would be necessary to hire an outside consultant.

The Committee recognizes that present budgetary considerations may prevent this project from going forward in the near future and recommended that the Judiciary review and revise the 1988 internal research model used to gather and analyze information on cash bails \$500 or less in six New Jersey counties. This study noted the disparity in the availability of the 10% cash bail option throughout the State.

A review of the literature on sentencing outcomes revealed that minority defendants continue to be over-represented in every phase of the New Jersey criminal justice system from the initial arrest to pre-trial detention, conviction and incarceration. These figures are virtually the same as they were ten years ago. This fact underscores the need for the Judiciary to revisit this issue and to identify those areas of bail set that are in need of improvements.

The body of literature in this area indicates that many of the defendants who find themselves in the various institutions are there because of drug related crimes and there is a serious shortage

of available treatment beds, particularly for the uninsured and indigents. The Committee 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 due to their involvement with drugs.

The Judiciary has for the past three consecutive years presented educational seminars for judges and managers on the issue of cross-racial eyewitness identification. Representatives from the Attorney General's Office and the Office of the Public Defender were extended invitations to attend these sessions.

The Court addressed a 1992 Task Force Recommendation that revisions be made to the Model Criminal Jury Charge Instructions referencing the issue of eyewitness identification. The relevant portion of the revised New Jersey Model Jury Instructions pertain to In-Court and Out-of-Court Identification.

Subcommittee on Minorities and Juvenile Justice/Family

The Subcommittee on Minorities and Juvenile Justice/Family addressed the following recommendations: disproportionate minority confinement, development and standardization of court public education programs, development of a statewide on-line juvenile program directory, establishment and institutionalization of a judicial and staff education curriculum, representation of minorities in court executive and policy-making positions in the Family Division, establishment of child waiting rooms and conducting research on juvenile case processing decision points.

As is the case with adult minority defendants, disproportionate confinement of minority youths has been a priority item on the Committee's agenda since 1992. The fact that there has been no significant decline in the confinement figures for minority youth over the course of the last ten years is a cause of great concern. The Committee believes that the intractable nature of the findings suggest, perhaps even demands, that the justice system pursue novel approaches to this multi-faceted problem. Our Court has taken steps to broaden its collaboration with the public by seeking the active participation and involvement of citizens in the dialogue on juvenile justice issues.

The Committee supports and encourages all efforts to enhance communication and networking between judges, court staff, the Committee on Minority Concerns and local advisory committees and other stakeholders who are working to find solutions to juvenile justice problems.

Judges can lend their considerable knowledge and guidance to the county youth services commissions and assist with agenda setting and prioritizing.

Vicinage Advisory Committees on Minority Concerns members are similarly urged to become more active on these boards as private citizens and as a representative of the vicinage advisory committees on minority concerns. Citizens partnering with the court community have resulted in the establishment of some very innovative programs. Two recent examples of successful court/community partnerships and citizen advocacy initiatives are noteworthy. The Essex Vicinage Advisory Committee on Minority Concerns was part of a court/community collaboration that resulted in the establishment of Our Children's Foundation of New Jersey. This program is a non-profit organization dedicated to supporting and encouraging children in the urban community. The Passaic Vicinage has established the Village Initiative Program, the only one of its kind in the nation which conducts on-site health screens for both youths and their family members. Some of the Passaic Vicinage Advisory Committee on Minority Concerns community members are also members of the Village Initiative Board of Directors.

Another crucial component in the development of alternative juvenile programs is the availability of an on-line juvenile program directory. For some time now, this recommendation has been proposed but has yet to be implemented. The Committee believes that judges and court staff need a state-of-arts on-line resource directory that will provide information on current juvenile programs and services.

The court continues to make inroads into the community and educate the public about juvenile programs and family court issues. Middlesex and Cumberland/Gloucester/Salem Vicinage Advisory Committees on Minority Concerns collaborated with local youth agencies, programs, and schools and jointly sponsored juvenile justice symposia on juvenile justice issues and Family Court. Other avenues for public education are the annual law day programs. Most vicinages use the law day program to educate the public, including youth about the court system and its operations and to present seminars on various issues such as landlord/tenant, domestic violence, record expungements and wills, for example.

Still another training venue is the annual minority concerns retreat; the retreat agenda is developed by vicinage advisory committee on minority concerns chairs and staff. Advisory

committee members from most counties attend this conference as well as judiciary court administrators and staff.

The Committee on Minority Concerns, Juvenile Justice Subcommittee has worked closely with the Family Division and the Conference of Family Division Presiding Judges in the past to address some issues common to both agendas. The development of the public education curriculum is a palpable example of this collaboration.

With respect to the issue of the availability of child waiting rooms for court users, several vicinages have been able to establish child waiting areas. The Bergen vicinage was the first vicinage to establish a court care center. It is staffed by a full-time Family Division employee. In the first year of operation (September 1998-1999) 1270 children were cared for in the center. During the second year, 1303 were cared for and 1387 in year three. The Sussex vicinage opened a court care center in April 2001 staffed by a full-time child care specialist. The facility can accommodate eight children at a time. Essex, Hudson, Hunterdon, Ocean and Union Counties each have unstaffed child waiting rooms where a parent or guardian is required to remain with the child.

Since 1992, the Committee on Minority Concerns has urged that a collaborative study be undertaken to investigate juvenile case processing decision points. Recently, the Committee learned that such a study is under serious consideration by the Juvenile Justice Commission. The Juvenile Justice Commission, Minority Concerns Issues Subcommittee is developing a request for proposals to investigate the disproportionate representation of minorities in the juvenile justice system. The Committee on Minority Concerns had an opportunity to comment on the draft request for funds. In preparation for selecting a study sample, the Juvenile Justice Commission conducted a study to determine whether minority juveniles are over-represented in the state's secure facilities relative to their representation in the state population. The Committee eagerly awaits the study results.

Subcommittee on Minority Access to Justice

The Subcommittee on Minority Access to Justice identified the following issues of concern for discussion in the 2002 program cycle report: jury issues, adoption of "Court Use Rights and Responsibilities Guide", ombudsman program, linguistic minorities and pro se materials. Over the course of the last several years, notable enhancements have been made to New Jersey's jury system. Recommendations for improvements were set forth in the Task Force final report as well as the

Committee's subsequent reports. The Administrative Office of the Courts has installed an automated jury system in all twenty-one counties; a new full-time jury manager position is in place in all 15 vicinages; and juror pay has been increased from \$5.00 to \$40.00 a day for persons serving three or more consecutive days on jury service.

The Subcommittee remains interested in learning about jury participation among persons of color. However, the present jury management system does not include a race/ethnic identifier; therefore, it is not possible to: monitor the diversity of the jury pool statewide; report on the diversity of persons contacted for jury service; capture information on who drops out at various stages in the process; and gather information on the diversity of persons who actually serve on juries. Retrieving information comparing minority and non-minority juror participation will be useful in assisting the Judiciary in targeting public education juror programs. Realizing that funding is a serious impediment to research on this issue, the court should explore other methodologies such as using state-of-art census tract data and mapping technology to obtain relevant information. Another fruitful avenue to obtain juror feedback is to conduct exit interviews.

The court should also enhance its efforts to educate the public about the importance of jury service. This public education initiative should also include public schools from the elementary level through high school. A statewide juror appreciation day should also be instituted.

The Committee is extremely pleased that the court has reviewed the draft of the Committee's "Court User Rights and Responsibilities" guide and provided comments to the Committee. The Committee will soon be responding to the court's review.

Another significant event is the Court's approval of the expansion of the ombudsman program to all vicinages. Currently, there are two vicinages with a full-time ombudsman program in place, Camden and Essex. Funds for expansion of the program were requested but this issue was tabled in the foreseeable future due to the budget situation.

The Committee notes that there is room for improvement in noticing citizens about the formal and informal complaint procedures. Moreover, while the complaint procedures and process has been standardized for court employees, there has not been a campaign to notify court users that these procedures are available to them. And too, the materials that have been standardized were prepared with Judiciary employees in mind and no statewide database exists which details the extent

to which the public actually makes use of the generic EEO/AA formal and informal complaint forms.

Both ombudsman offices have established court user complaint intake forms and both have complaint procedures in place for the public. Monthly reports are routinely provided to all divisions and programs/units about issues/complaints received and resolved in their respective practice areas.

The New Jersey Judiciary also has the distinction of being the flagship for the state court initiatives designed to assure equal access to courts for linguistic minorities, and the Supreme Court has made significant progress in ensuring equal access to courts for linguistic minorities. Some of the highlights of these initiatives are listed below: there are 34 staff court interpreters who are approved to provide interpreting services; a tuition reimbursement program for court employees is in place; training is provided to municipal court judges; the Judiciary incorporated into the Code of Judicial Conduct, the Rules of Professional Conduct and the Code of Conduct for Judiciary Employees a prohibition against discrimination on the basis of language; a Code of Professional Responsibility for Interpreters in the Judiciary, Transliterators and Translators has been approved; continuing efforts are underway to enhance access to interpreting by instituting and modernizing the technology; a pilot telephone interpreting program has been instituted and services are in place for deaf and hard of hearing persons.

For over two years now, the Judiciary has been engaged in continuing efforts to review, revise and standardize pro se kits and improve services for self-represented litigants. Revised pro se kits have been prepared and distributed in the following areas: civil matters, family matters, Municipal Court and Surrogates. A web site for self-represented litigants is also available. Other materials for self-represented litigants are available on the web site from the Supreme Court and Appellate Court.

Guidelines to assist self-represented litigants have also been developed. These guidelines were initially drafted by the Subcommittee on Minority Access to Justice. They were revised and reformatted by the Ad Hoc Pro Se Working Group and published as a poster. The poster advises court users about what staff "Can and Cannot Do". The posters were distributed in all state courts and in municipal courts.

Subcommittee on Minority Participation in the Judicial Process

Under the leadership of the Chief Justice and the Administrative Director of the Courts, the New Jersey Judiciary has made major strides both in the continued diversification of the court workforce and in embracing policies and programs to ensure fairness in the administrative fabric of the organization. Several of these accomplishments have been recognized by the legal community (in New Jersey and nationally), by the National Center for State Courts, and by the public.

The following significant milestones in the continuing pursuit and enhancement of racial/ethnic equality in the courts were achieved by the Judiciary since the Committee last reported to the Court in 1998. As of December 2001 there were 47 (11.1%) minority justices and judges: thirty-two or 7.6% are Black; 13 (3.1%) are Hispanics and 2 (0.5%) are Asians/Pacific Islanders out of a total of 423 jurists who sit on the Supreme Court, Superior Court (Appellate and Trial Divisions), and Tax Court. Racial and ethnic minorities comprise 34.2% of the Judiciary's total workforce (23.9% Blacks, 8.4% Hispanics, and 1.8% Asians/American Indians/Pacific Islanders combined) of 8,620 employees (excluding judges and judicial law clerks). There are 22.2% minority law clerks out of a total of 460, exceeding the 20.8% availability of minorities who received law degrees from the three New Jersey law schools. The Judiciary's progress positions it to meet the challenges of rapidly changing population demographics in our state. Minorities now account for almost a third of New Jersey's total population; a decade ago, they represented about a quarter of all New Jerseyans. See Table A: New Jersey Population by Race and Hispanic Origin for 1990, 1995 and 2000.

**New Jersey Population by Race and Hispanic Origin
For 1990, 1995 and 2000¹**

	Year 1990		Year 1995		Year 2000	
	#	%	#	%	#	%
Blacks	984,845	12.7	1,156,000	14.6	1,096,171	13.0
Hispanics	739,861	9.6	898,000	11.3	1,136,756	13.5
Asians/American Indians/Pac. Isl.²	276,831	3.6	370,000	4.7	490,525	5.8
Total Minorities	2,011,222	26.0	2,424,000	30.5	2,723,452	32.3
Grand Total³	7,730,188	100.0	7,931,000	100.0	8,414,350	100.0

The Judiciary has a strong program for promoting diversity in the workplace and much has been accomplished over the years. Some of these accomplishments are briefly highlighted in the discussion which follows.

In May of 2000, the New Jersey Supreme Court and the Administrative Director of the Courts approved the Judiciary EEO/AA Master Plan. This was a significant event and the Master Plan has become a model plan for other departments of the state government and other state courts. The Plan was first released to the public at the Twelfth Annual Conference of the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts 2000 meeting and it was very favorably received.

The Judiciary also revised and re-issued the Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination and discrimination complaint procedures

¹This table is duplicated as Table 23 in Chapter V, Report of Subcommittee on Minority Participation in the Judicial Process.

²According to the 2000 Census there are: 11,338 (0.1%) American Indians in the state of New Jersey, 477,012 (5.7%) Asians and 2,175 (0.0%) Native Hawaiian and Other Pacific Islanders.

³The category "two or more races" which comprises 1.6% of New Jersey's population is not included in this report. The category "some other races" which consists predominantly (97%) of people of Hispanic origin, e.g., Mexican Americans, Dominicans, Peruvians, etc. represent 19,565 (0.2%) of New Jersey's population and has been merged into the "Hispanic" category as recommended by the New Jersey State Data Center.

(both were incorporated in the EEO/AA Master Plan). The Judiciary aggressively pursued the statewide roll-out of the Judiciary EEO/AA Master Plan. At the same time, the Court has continued its outreach efforts to publicize employment opportunities (including judicial clerkships) in minority communities and in the community at-large. These activities resulted in increases in minority representation such that minorities accounted for 37.9% (23.2% Black, 10.1% Hispanic and 4.6% Asians/Pacific Islanders/American Indians) of the total 1,252 new hires by the Judiciary in 2001.

There was also a significant increase in full-time EEO/AA staff at the Central Office (Administrative Office of the Courts [AOC]) and in the vicinages and a rigorous course of training was provided to EEO/AA staff statewide. The title of EEO/AA Officer at the vicinage level was elevated to Court Executive 1B (with direct reporting to the Trial Court Administrator) as was the title of Affirmative Action Officer at the AOC/Central Clerks' Offices. A Conference of EEO/AA Officers was established and EEO/AA Advisory Committees were appointed at the AOC/Central Clerks' Offices and in each vicinage. This will enhance dialogue and the exchange of information regarding the implementation of the Judiciary EEO/AA Program.

The Judiciary has adopted a new employee classification and compensation system and a performance assessment system. The latter includes a diversity clause and a component to hold managers accountable for EEO/AA compliance.⁴

The Judiciary converted its workforce databases from more than 800 job titles (both state and county) into 10 broad band job categories, and merged the Trial Conversion Personnel Conversion System (TCPCS) and the Judicial Human Resource Information System (JHRIS) into one. Unifying the Judiciary workforce data base by job broad bands partially implements the recommendation of the Supreme Court Action Plan on Minority Concerns that the Judiciary refine its workforce data systems to assist in monitoring.⁵

Despite the substantial progress made in institutionalizing programs and procedures to ensure

⁴Many of these initiatives represent the fulfillment of Task Force on Minority Concerns recommendations approved by the Court. See the Supreme Court Action Plan, Recommendation 32, p. 25. Other initiatives were suggested by the Committee on Minority Concerns in prior Rules Cycle Reports. See also Minority Concerns Rules Cycle Report to the Court (1994-1996), p. 110.

⁵New Jersey Supreme Court Action Plan on Minority Concerns, 1993; Supreme Court Committee on Minority Concerns Rules Cycle Report to the Court (1994-1996), Recommendations 44.1 and 44.2, *Ibid*.

fairness, there remain areas in which progress is less than satisfactory. There is a need for the Judiciary to complete the self-critical analysis as required by the Judiciary EEO/AA Master Plan and to complete the review and approval of the vicinage EEO/AA Implementation Plans. The AOC/Central Clerks' Offices need to serve as a model and complete its own implementation plan.

In spite of the impressive gains made in EEO/AA staffing statewide, the dearth of bilingual/bi-cultural staff at any level of the central office EEO/AA Unit is of great concern. The Committee recommends that a bilingual/bi-cultural court executive be hired by the EEO/AA Unit and that the bilingual variant title of Affirmative Action Officer be reinstated and the job be re-posted with this clause.

The Committee on Minority Concerns has also concluded, based on a statewide survey distributed to the vicinages, that not all EEO/AA Officers have the authority, resources and time needed to carry out their duties. In those vicinages where these vital program components are not in place, the Committee urges the Judiciary to ensure that all vicinages are fully compliant as a means of ensuring an effectively managed operating program. Furthermore, EEO/AA Officers should not be required, as a matter of course, to provide staff support to the Vicinage Advisory Committee on Minority Concerns.

The EEO/AA investigative function was regionalized with the expectation of improving the effective and timely processing of discrimination complaints. EEO/AA software was purchased to facilitate the establishment of availability data to be used in the preparation of the self-critical workforce analysis.

The Committee has concerns about the timely resolution of discrimination complaints. The discrimination complaint procedures have a time table for resolution of the complaints and in order to meet the requirement that complaints be investigated effectively and in a timely manner, the Committee urges the Judiciary to modify the time frame for completing investigations from 45 days to 90 days from the point of intake.

Both the formal and informal discrimination complaint procedures and standard operating guidelines should: 1) be issued in plain English; 2) include a reference to the EEO/AA Regional Investigators; 3) be distributed to managers and supervisors, and 4) be made readily available to employees and the public.

The complaint procedures should also be translated into Spanish and other appropriate

languages. A computerized information system to manage, track and audit discrimination complaints that have been filed, both formally and informally, should be put into place. Divisions/units should receive monthly reports on the status of these cases and periodic summary reports should be distributed to management. An annual report should also be published.

The EEO/AA Unit is urged to expedite the completion of the standard operating guidelines on the discrimination complaint procedures and to provide detailed and continuous training to managers and EEO/AA staff. Mandated courses on race and ethnic bias prevention should also be developed for managers and supervisors.

The Committee on Minority Concerns also recommends that the Judiciary conduct a statewide employee survey as required by the Judiciary EEO/AA Master Plan in order to assess the Judiciary's work environment.

The Committee on Minority Concerns has also concluded that there is a need for the AOC/Central Clerks' Offices and the vicinages to immediately institute the Judiciary's EEO/AA Master Plan monitoring requirements that local EEO/AA Officers receive (in a timely manner) copies of all notices of job vacancies, interview selection lists, and Selection Disposition Forms.

The Judiciary should also immediately update the employment interviewing guidelines and training course and institute the statewide use of exit interviews for departing employees (transfers, resignations, firings, etc.). The exit interviews should be shared with the local EEO/AA Officers and employees should be given the option of filing out the surveys on-line.

The Judiciary should also ensure that the human resources function at both the AOC/Central Clerks' Offices and the vicinages are in full compliance with all the requirements of the Judiciary EEO/AA Master Plan and the Selection Evaluation Employee Services Manual. Together these documents, among other things, require that the Human Resources Division screen all employee resumés and determine which applicants meet or fail to meet minimum job requirements. This is a critical and important step and helps the judiciary ensure that all applicants are evaluated by a set of objective standards by persons who have the technical training and knowledge to make these decisions. The hiring managers should not be receiving the resumés and be expected to make these determinations.

The Committee also addressed the topic of a potential reduction in the workforce. Should

the Judiciary be required to reduce its workforce in the future, the AOC EEO/AA and Minority Concerns Unit should play a key role in the process in order to eliminate possible adverse impact on minorities and women.

The Committee asserts that the Judiciary workforce statistics tell several important stories that should be of concern to the Supreme Court. While it is indisputable that the overall diversity profile of the Judiciary workforce has significantly improved, it is also a fact that the gains are more modest at the policy-making and court executive level. Moreover, the problem areas that were identified almost ten years ago, remain problem areas today and the Committee on Minority Concerns respectfully requests that direct and immediate attention be devoted to these issues.

Of note, for example, is the continuing absence of minority court executives in several Judiciary divisions and in executive positions in many of the practice areas. This means that important policies are being formulated without the benefit of the perspectives that persons of color would bring to the table. Additionally, Hispanics and Asians/American Indians/Pacific Islanders have lost considerable ground. Their underutilization at the AOC/Central Clerks' Offices, in several vicinages and divisions is quite pronounced in the workforce and among court volunteers.

There have also been minimal gains in the number of bilingual titles statewide with the exception of the Hudson vicinage. According to the 2000 Census, Hispanics now constitute the largest minority group in the State and the Asian population has almost doubled in size since the last census. If the Judiciary is to conform to its own Strategic Plan and "meet the needs of a culturally and linguistically diverse population,"⁶ it will need to recruit and train staff that is more reflective of the population being served. The Committee reiterates its previous recommendations on these issues and urges the Judiciary "to make vigorous and aggressive recruitment and retention efforts that go beyond current efforts to increase the representation of minority court executives; of Hispanic and Asian/American Indian/Pacific Islander employees, court volunteers and of employees holding bilingual variant titles."

The Committee also recommends that the Judiciary complete its assessment to determine whether its Performance Appraisal System has an adverse impact on minorities and women and, if

⁶New Jersey Judiciary Strategic Planning Committee, Report to the Supreme Court, March 31, 1998, p. 94.

it is determined that there is adverse impact, that measures be undertaken to remove any barriers to equal treatment. The Judiciary should also revise the diversity performance standard so that it accurately evaluates performance in this area.

The Committee on Minority Concerns also conducted a preliminary examination of employee compensation and found that there are proportionately fewer minorities in the Judiciary earning salaries at the top of the compensation chart. This finding is consistent with the absence of minority employees in top level court executive positions in the organization. The Committee expects to explore this topic at greater length in the near future and to examine the impact on women of color, in particular.

The Judiciary needs to complete the process of refining its information systems capabilities and the production of employment data reports so that all the requirements of the Judiciary EEO/AA Master Plan and the current and future statistical needs of the Committee on Minority Concerns are met. Further consultation and collaboration will be required between the Committee and other divisions who respond to these data requests in order to streamline this process and institute mechanisms to ensure that the data are checked for errors and are in the format needed. The data screens requested include race/ethnic information on court volunteers and Supreme Court Committee membership.

During the course of this rules cycle, the Committee on Minority Concerns was deeply saddened by the death of one of our Committee members, The Honorable Ivelisse Torres, Public Defender. We are genuinely and deeply appreciative of her many contributions.

The members of the Supreme Court Committee on Minority Concerns are grateful for the opportunity to serve the Court and to present this report of its continuing investigation, study and analyses of the Judiciary's implementation of the court approved recommendations. Moreover, we are also deeply appreciative of the opportunity to carry out this task in an atmosphere that is supportive, willing to engage in dialogue, is cooperative and respectful of that which we do.

Chief Justice Deborah T. Poritz and the Administrative Director of the Courts, The Honorable Richard J. Williams, are continuing to illuminate a path that Chief Justice Robert N. Wilentz lit so many years ago when he challenged the Supreme Court Task Force on Minority Concerns to take the investigation on race and ethnic bias issues in the judiciary wherever it may lead and to set forth its findings with candor.

Chapter I

SUBCOMMITTEE ON CRIMINAL JUSTICE AND THE MINORITY DEFENDANT

Introduction and Mandate

In 1992, The Supreme Court Task Force on Minority Concerns Final Report stated, “. . . The criminal justice system is no stronger than the public’s confidence in it. Public confidence cannot be attained unless all defendants-minority and majority- are treated fairly and equally, and the public can gauge the degree to which the principles of fairness and equal treatment prevail.”

The mandate of the Subcommittee on Criminal Justice and the Minority Defendant is to scrutinize the criminal courts, identify all areas which need strengthening to assure fairness and equal treatment for both minority and non-minority defendants and shape recommendations to achieve that strengthening. Consistent with the recommendations approved by the Supreme Court which fall within the scope of the Subcommittee on Criminal Justice and the Minority Defendant’s mandate, the following priority recommendations were identified and monitored for the 2000-2002 Committee cycle report. The priority recommendations address bail and sentencing outcomes, jury issues and adult drug courts.

I. Subcommittee Activities

The Subcommittee implemented a work plan that included the establishment of three Ad Hoc Working Groups to formulate a proposed bail research project. Each of the three ad hoc working groups focused on different aspects of the project. Administrative Office of the Courts (hereinafter AOC) Criminal Practice Division staff were consulted to provide technical expertise with regard to the proposed project design, methodology, and the selection of counties in which to conduct day-long on-site observations of bail units. Subcommittee members also researched and reviewed articles, reports and other literature relating to bail and sentencing outcomes, and drafted an internal bail report which was submitted to the Administrative Director for review.

The Subcommittee’s action plan also included working with the AOC Criminal Practice Division and the Judicial Education Unit to design and plan workshops and seminars on cross-racial and eyewitness identification.

Members of the Subcommittee and staff served on the Committee planning the annual meeting of the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts. Two seminars were designed for presentation at the 2000 annual meeting held in New Jersey. One seminar addressed *Issues in Eyewitness and Cross-Racial Identification*. The Honorable Thomas F. Shebell, Jr., J.A.D. (retired) was the moderator of the panel. Panelists

included Paul Casteleiro, Esq., a criminal trial and appellate attorney in private practice in Hoboken, New Jersey; Sylvia M. Orenstein, Esq., Office of the Public Defender, and Debra Stone, Assistant Attorney General, Division of Criminal Justice. Dr. Gary Wells, a professor from Iowa State University, was the keynote panelist.

The second seminar developed and presented by the Subcommittee was entitled, *Juvenile and Adult Drug Courts: Effective and Efficient Models*. The moderator was Yvonne Segars, First Assistant Deputy Public Defender. The panelists included The Honorable Carmen M. Garcia of Trenton Municipal Court, C. West Huddleston III, Deputy Director, National Drug Court Institute; Dr. Bruce Stout, Executive Director, Juvenile Justice Commission, and The Honorable Steven W. Thompson, Camden Superior Court. Subcommittee staff and members also worked as conference facilitators and provided other support services as needed.

II. List of Priority Recommendations

The following priority recommendations will be addressed in the Subcommittee's 2000-2002 cycle report:

- ▶ Bail and sentencing outcomes,
Ad Hoc Working Group on Bail and Pre-Trial Intervention (PTI);
Ad Hoc Working Group on Research, and
Ad Hoc Working Group on Summons v. Arrest Warrants
- ▶ Jury issues and educational seminars,

Educational seminars for criminal justice practitioners;
Model Jury Charge addressing the issue of cross-racial eyewitness
identification, and
Peremptory challenges
- ▶ Drug Courts.

III. Discussion of Priority Recommendations

A. Bail and Sentencing Outcomes

Task Force Recommendation 14: 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 arrests through sentencing, and determining the degree to which discrimination occurs at each of those decision points.

1. Bail Outcomes : Preliminary Observation Project

a. Background

The impact of New Jersey bail practices on persons of color has been a long standing concern of every court committee or task force on minority concerns convened in New Jersey. Indeed, all reports issued by the predecessor task force and follow-up standing committees have stressed the need to address the issue, beginning with the inaugural report published by the Coleman Committee in 1984 and including the interim (1989) and final (1992) reports of the Supreme Court Task Force on Minority Concerns, as well as the first two rules cycle reports published in 1994-1996 and 1996-1998 of the Supreme Court Committee on Minority Concerns.⁷

⁷ In the 1984 Coleman Committee Report, the adverse impact of bail practices on poor defendants in New Jersey was discussed. The following quote captured the Coleman Committee's assessment. ". . . Because many minorities are also poor people, . . . the Judiciary process of setting bail denies them equal access to pre-trial release with all of its advantages in helping to prepare one's defense for trial..." Reference: National Minority Advisory Council on Criminal Justice, *The Inequality of Justice: A Report on Crime and The Administration of Justice in the Minority Community*, at p. 260.

The New Jersey Supreme Court Task Force on Minority Concerns Interim Report was published in 1989 (pp. 35, 36 and 41). Three findings contained therein formed the basis of five bail recommendations chronicled in both the 1989 Interim Report and Final Report, published in 1992. The findings noted a tremendous lack of uniformity in arriving at bail decisions in New Jersey and opined (sic) that these differences impact substantially on the constitutional right to bail; that bail type and amount is usually influenced more by factors relating to dangerousness of the offender (such as the severity of the crime and the defendant's criminal history) than by those background factors relating to risk of flight (such as employment and community ties); and that since the effects of money bail fall hardest on the poor and since minorities are disproportionately poor, the effects of money bail, therefore, fall disproportionately on minorities.

The Supreme Court Task Force on Minority Concerns (hereinafter referenced as the Task Force) proposed the following bail recommendations in the 1992 Final Report: Recommendation #4, Promulgation of Uniform Bail Procedures throughout the State; Recommendation #5, Adoption of a bail policy with release criteria focused upon factors relating demonstrably to the defendant's likelihood to appear in court; Recommendation #6, Adoption of a bail policy which requires that monetary release options incorporate a defendant's ability to pay; Recommendation #7, Adoption of a bail policy that increases non-monetary release options and Recommendation # 8 , Adoption of a bail policy based on the presumption that all individuals are release worthy.

The Supreme Court Committee on Minority Concerns (hereinafter referenced as Minority Concerns) 1994-1996 Rules Cycle Report discussed the revisions made to the Criminal Court Rules on bail, which were effective January 1, 1995, and implemented statewide. The revised rules included: R.3:3-1(b) [clarified the preference for summons over arrest warrant except in certain circumstances]; R.3:4-1(a) and (b) [bail was to be set no later than 12 hours after arrest]; R.3:7-9 [conditions of pretrial release, including the amount of bail, are to be fixed by the court and endorsed on an arrest warrant]; R.3:25-2 [allowed defendants , including those charged with first degree crimes, other than capital murder to move for a trial date and permitted pretrial release if the prosecutor is unable to proceed];

In approving Task Force Recommendation 14, the Court noted that “. . . joint social scientific studies of system-wide handling of adult criminal . . . cases from arrest through disposition, . . . are a massive undertaking requiring substantial funding if the analysis requested is to command respect.”

b. Preliminary Bail Observation Project

The Subcommittee on Criminal Justice and the Minority Defendant conceptualized a preliminary bail research project to determine which aspects of entry into the system might benefit from further examination. The Subcommittee established three Ad Hoc Working Groups: an Ad Hoc Working Group on Bail and Pre-Trial Intervention (hereinafter PTI); an Ad Hoc Working Group on Research; and an Ad Hoc Working Group on Summonses v. Arrest Warrants. The Ad Hoc Working Group on Bail and PTI set out to draft a preliminary research proposal to examine bail practices and pre-trial intervention for adult defendants. This preliminary proposal included:

- A statement of the problem to be researched;
- A determination of the availability and format of databases from which data were to be retrieved; and
- A review of existing literature in this subject area (including external and internal reports, social science and law journal articles and published research reports from other states).

The Ad Hoc Working Group on Research was assigned the following tasks: exploring options for reducing the costs of a comprehensive research project by determining if graduate students and student interns, who were fulfilling university and college practicums, may be hired to help defray research costs; designing data retrieval instruments; developing code books and manuals; recruiting student interns; and ensuring that those interns received adequate training by developing training modules for inclusion in a research orientation program.

The subcommittee consulted with the Assistant Director of the Criminal Practice Division, the Assistant Director of the Municipal Court Services and other court managers and staff in these two divisions, and reevaluated the feasibility of conducting a joint study on bail and pre-trial intervention and summonses v. arrests warrants. Because the simultaneous study of all four topics would be a massive undertaking, the Subcommittee determined that a proposed preliminary study

R.3:26-2(c) [prompts Superior Court review of initial bails]; R.3:26-2 (d) [first bail reduction motion shall be heard within 7 days after filing]. R.3:26-1a was also amended in 1998 by incorporating the Johnson factors.

should be limited to only one of these topics. The subcommittee, therefore, tabled its research on summonses v. arrest warrants and pre-trial intervention and opted to focus exclusively on bail practices.

In collaborating with Criminal Practice Division staff at the Administrative Office of the Courts, the Subcommittee designed and drafted a questionnaire and prepared interview guide questions (see Appendix A-1), selected six counties to observe after having gained insight and technical assistance from Criminal Practice Division staff, and requested and received approval to conduct the site visits from the Administrative Director. The Ad Hoc Committee on Bail observation project was designed to: identify problem areas, determine the feasibility of conducting a comprehensive study of bail practices, determine the availability and format of databases from which bail data could be extracted, and determine if the questionnaire adequately captured all of the data elements needed to investigate bail setting at each successive stage of the process. The observation team consisted of three members: The Honorable Ivelisse Torres, the Public Defender⁸, Dr. Yolande Marlow and Ms. Cheryl Gilbert, both Administrative Office of the Courts staff and staff to the Supreme Court Committee.

The three person team observed bail procedures in six vicinages. This initial stage focused on understanding bail procedures in each county, including the data collection methods and data entry schedules. Atlantic, Camden, Essex, Hudson, Middlesex and Monmouth vicinages were selected to participate in this pilot project. The following criteria were used to select the vicinages:

- the quality of databases already in place (Promis/Gavel and the Central Automated Bail System (CABS));
- the ability to retrieve information on the factors identified in State v Johnson 61 N.J. 351, 364-365 (1972) that must be considered in fixing bail, and the likelihood that data on race/ethnicity had been recorded (See State v Johnson Factors, Appendix A-2);
- the racial/ethnic diversity of the population; and
- the geographic location.

⁸ At the time that this project was convened, Ivelisse Torres was the Public Defender for the State of New Jersey and the Chair of the Subcommittee on Criminal Justice and the Minority Defendant. Ms. Torres is now deceased. This bail project was a high priority for her, and the Committee honors her memory.

The Subcommittee determined that a bail study would necessitate hiring an outside consultant, with an established track record in this area, to design the study, supervise the collection and coding of bail information, and perform the necessary data analyses for preparing a report.

The Committee respectfully reiterates its earlier recommendation that, without any further delay, a study of bail practices in selected counties be commissioned and conducted by a qualified social scientist with appropriate credentials and experience, for the purpose of determining whether current bail practices are discriminatory. The Committee further recommends that the vicinage Criminal Divisions and the Administrative Office of the Courts continue to fully cooperate with the Supreme Court Committee on Minority Concerns in selecting an expert to conduct a comprehensive bail study, and in gathering and retrieving the data and documentation necessary to complete this investigation and prepare a written report.

The Committee understands that current budget constraints may delay this recommendation, but hopes it can be carried out at the earliest possible time.

Committee Recommendation 02:1.1: Bail Research. A consultant should be retained to investigate recent New Jersey samples of bail and sentencing outcomes.

The Judiciary should use an earlier research model to revisit the issue of cash bail. The research project conducted in 1988 should be revisited and its methodology refined. A bail study was carried out in six counties (Camden, Cumberland, Essex, Mercer, Middlesex and Union) during a three-month time period (February- April 1988). Jail lists from each county were reviewed to obtain the study's sample which included all incarcerated offenders in the \$500 or less bail range. Inmate files were reviewed and when possible inmates were interviewed so that the information could be verified. At that time, the statewide pre-trial population was 6,133. The cases in the sample (3,067) represented 50% of the total pretrial population at that time.

Two focus group sessions were also conducted, one with county and municipal bail officials and another with judges. The consultant hired to conduct the focus groups was accompanied to each of the focus group session by Dale Jones, Assistant Public Defender, Office of the Public Defender and John P. McCarthy, Jr., then Assistant Director for Criminal Practice.

The study noted the disparity throughout the State in the availability of the 10% cash bail option and the inequity of the effect of cash bail on the poor.⁹

Committee Recommendation 02:1.2: A collaborative research project on the present use of cash bails should be conducted in selected counties. The research model used in 1988 should be reviewed in order to determine if its methodology is appropriate for a current examination of this issue. Race/ethnicity, county, gender, amount of cash bail and other variables should be retrieved from all cases in the pre-trial bail sample.

2. Sentencing Outcomes

a. Literature Review

It is axiomatic that minority defendants are over-represented in every phase of the New Jersey criminal justice system. From initial arrest to pre-trial detention, conviction and incarceration, the percentage of minorities in New Jersey's criminal justice system is profoundly disproportionate to that of non-minorities. The Supreme Court Task Force on Minority Concerns Final Report addressed this issue at length (excerpt from the Task Force on Minority Concerns Final Report, the Subcommittee on Outcome Determinations, pages 110-133, Appendix A-3). A review of recent New Jersey statistics as reported in the January 8, 2001 New Jersey Department of Corrections, Offender Characteristics Report, indicates that 63% of the offenders incarcerated were Black; 18% were Hispanic and only 19% were White¹⁰. This statistical phenomenon also existed in 1984, when the Report of the Committee on Minority Concerns (Coleman Report) concluded that; . . . "Minorities are more likely than non-minorities to be brought into the criminal justice system and are more likely to remain in the system once they are there."¹¹ The statistical findings persisted in 1992, when the Supreme Court Task Force on Minority Concerns noted the same finding in its final

⁹ New Jersey Supreme Court Task Force on Minority Concerns, Final Report, pages 70-71.

¹⁰ The 2001, 1999, and 1998 statistics are virtually identical. The New Jersey Department of Corrections, Offender Characteristics Report, Policy Analysis and Planning (Highlights, n. ii, January 8, 2001 p.25, January 11, 1999 p. 25, and January 9, 1998 p. 25).

¹¹ Report of the Committee on Minority Concerns (Coleman 1984), n. 2 at p.31.

report¹², and those findings remain valid today.

In a recent Newark Star-Ledger article entitled, “Study : State jails blacks at twice the national rate,” Kathy Barrett Carter, (July 12, 2001) reported on a study published in *Mother Jones*, a nonprofit magazine that has won national acclaim for its investigative reporting. The *Mother Jones* study relied on federal statistics compiled by the Justice Policy Institute, a nonprofit criminal justice research organization. The report revealed that:

. . . New Jersey leads the nation when it comes to incarcerating drug offenders, and blacks in the state are nearly 18 times more likely than whites to be behind bars. The six-month study revealed that New Jersey ranked second in the nation in the disparity between whites and blacks in prison compared with the population as a whole. Only Minnesota has a greater imbalance. The report found that for every 100,000 black residents in New Jersey, there are 1,799 blacks in prison. That ratio mirrors the national average. But there are only 100 whites prisoners for every 100,000 whites in the state – about half the national average. Nationwide, blacks are about nine times more likely than whites to go to jail, while in New Jersey blacks are 18 times more likely to be in prison.

The report concluded that:

. . . One third of New Jersey’s prison population of 31,000 is made up of drug offenders---the highest rate in the nation. Less than one-quarter of prisoners across the nation are in for drug offenses.¹³

Across the nation, at the federal and state levels, legislative bodies have opted to toughen drug laws and the inevitable result has been to incarcerate more minorities for longer periods of time. The body of statistical information now available amply documents the preponderance of minority males in confinement.¹⁴ The Committee therefore urges the Court to move forward and aggressively pursue funding for the investigation of sentencing outcomes as originally stated in Task Force Recommendation 14 referenced on page 19 of this chapter.

¹² New Jersey Supreme Court Task Force on Minority Concerns, Final Report (1992), at p.110.

¹³ Kathy Barrett Carter, Newark Star Ledger, “ State jails blacks at twice the national rate,” (July 12, 2001), p. 15 and 16.

¹⁴ Marc Mauer, “The Crisis of the Young African American Male and the Criminal Justice System.” Report Prepared for the U.S. Commission on Civil Rights, (April 15-16, 1999), pp.1-7.

b. Incarceration Statistics Comparisons

The Report of the Supreme Court Committee on Minority Concerns, Rules Cycle, 1994-1996, at page 18, stated that, "Over-representation of minorities in the correctional system continues to be a persistent problem."¹⁵

The Committee reviewed statistics compiled by The New Jersey Department of Corrections, (Offenders Characteristics Report) Policy Analysis and Planning Unit. When comparing the statistics on offenders in New Jersey Correctional Institutions in 1992, 1994, 1998, 1999 and 2001, it is evident that the proportions of racial/ethnic minorities and non-minorities incarcerated are virtually identical for all these years. See Figure 1: New Jersey Department of Corrections: Offender Characteristics Reports (December 31, 1992; December 31, 1994; January 9, 1998; January 11, 1999 and January 8, 2001) for the summary statistics. These figures were extracted from the New Jersey Department of Corrections, Offender Characteristics Annual Reports for 1992, 1994, 1998, 1999 and 2001:

December 31, 1992: 63% of all State Correctional Institution Offenders were Black; 19% were White and 17% were Hispanic.

December 31, 1994: 64% of all State Correctional Institution Offenders were Black; 19% were White and 17% were Hispanics.

January 9, 1998: 64% of all State correctional Institution Offenders were Black; 18% were White and 18% are Hispanic.

January 11, 1999: 64% of all State Correctional Institution Offenders were Black; 17% were White and 18% were Hispanic.

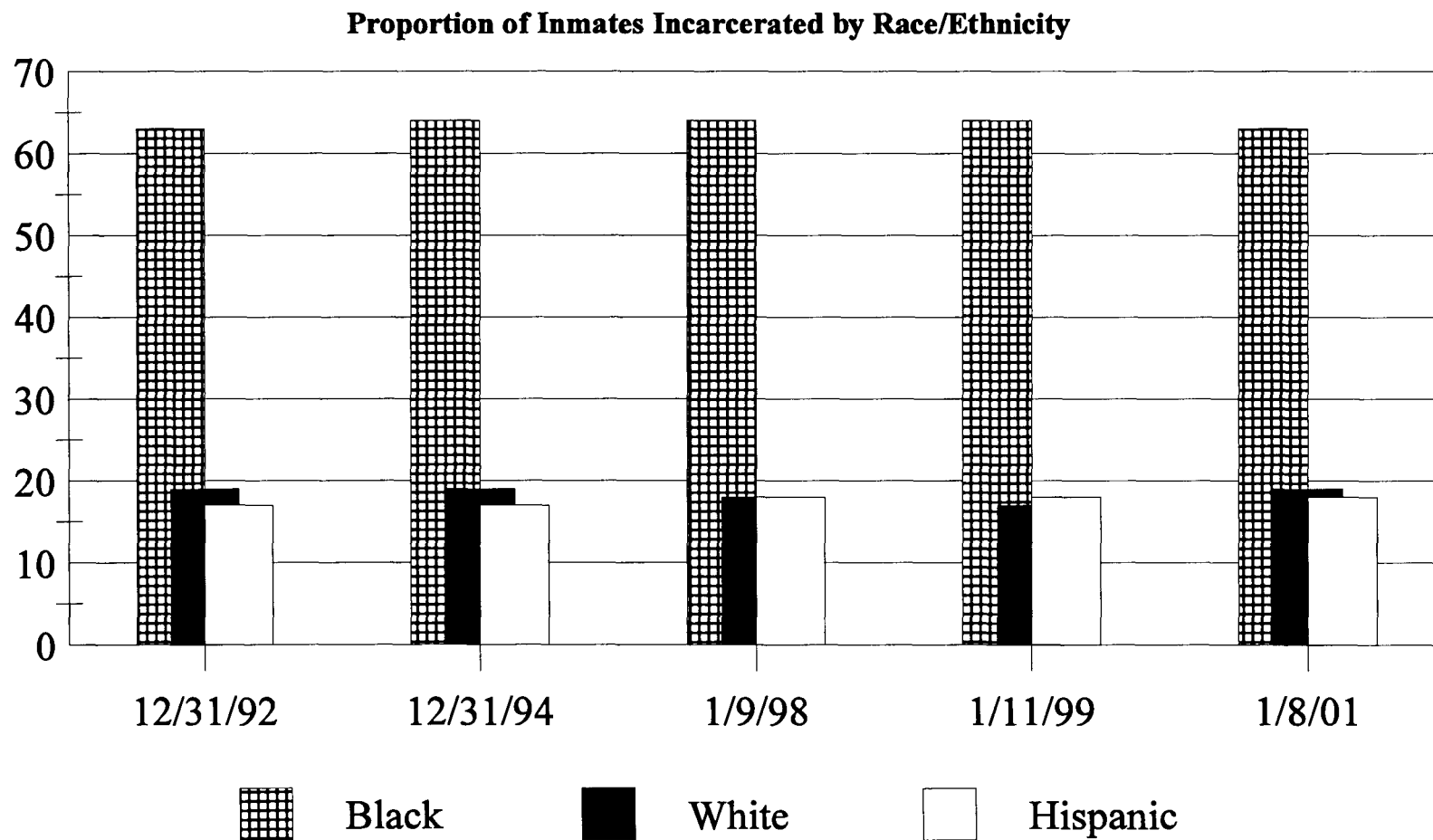
January 8, 2001: 63% of all State Correctional Institution Offenders were Black; 19% were White and 18% were Hispanic.

The reader may wish to consult Table A and Table B in Appendix A-4 for a more detailed presentation of the incarceration statistics for 1992 and 2001 by race/ethnic identification and institution. The year 1992 was selected because it is the year that the Task Force on Minority Concerns published its final report. The year 2001 represents the year with the most recent available correctional statistics.

¹⁵ New Jersey Supreme Court Task Force on Minority Concerns, (1994-1996), at p. 18.

The Subcommittee on Criminal Justice and the Minority Defendant will continue to address sentencing outcomes and work with the Criminal Practice Division, the Conference of Presiding Criminal Division Judges, Criminal Division Managers, and other outside agencies (at the direction of the Court) in an effort to move forward with a comprehensive research project in this area. Moreover, the Committee on Minority Concerns expresses its grave concerns about the seemingly intractable nature of minority over- representation in confinement.

Figure 1: New Jersey Department of Corrections: Offender Characteristics Report (December 1992, December 1994, January 1998, January 1999 and January 2001)



B. Jury Issues and Educational Seminars

Task Force Recommendation 9: Practitioners in the criminal justice system, including judges should attend educational seminars on eyewitness identification developed by their respective agencies.

Task Force Recommendation 10: The Supreme Court should develop cautionary instructions that would be used to inform juries on the issues pertaining to the unreliability of eyewitness identification generally and the more significant limitations respecting cross-racial identification particularly. The instructions should be made available to judges for use in cases where expert testimony on eyewitness identification is introduced.

Task Force Recommendation 11: The Supreme Court should allow more frequent use of expert witnesses on the general problem of unreliability of eyewitness identification in trials. Court rules should be formulated which authorize such testimony, particularly where the identification is not strong or where the case rests mainly on the identification.

1. Educational Seminars for Criminal Justice Practitioners

On May 20, 1999 at the Criminal Division Retreat in Avalon, New Jersey, an educational seminar was held for Criminal Division judges and managers on the issue of cross-racial and eyewitness identification. Representatives from the Office of the Attorney General and the Office of the Public Defender were extended invitations to attend the workshop. Dr. Gary Wells, Professor, Department of Psychology, Iowa State University, was the workshop presenter. Dr. Wells highlighted these major points in his remarks:

- there is a need for improvement in the manner in which eyewitness identification procedures are currently handled;
- research has shown that a witness's memory of an event can be fragile and that the amount and accuracy of information obtained from a witness depends in part on the method of questioning, and
- the practice of using DNA testing has proven that the primary use of eyewitness testimony presented at trial has contributed to wrongful convictions.

Nationally more than 70 people, including several in New Jersey have been exonerated by DNA testing.¹⁶ In his remarks, Dr. Wells also referenced a book in his remarks entitled, Eyewitness Evidence, A Guide for Law Enforcement (October 1999). He was one of the original 34 members known as The Technical Working Group for Eyewitness Evidence (TWGEYEE), which recommended practices to be used for law enforcement. The guide outlines basic procedures that can be used to obtain the most reliable and accurate information from eyewitnesses. This presentation was repeated at the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts' 2000 annual meeting. Dr. Wells also discussed the use of DNA evidence at the workshop on May 12, 2000. At subsequent training sessions in New Jersey, Dr Wells also addressed these issues at the Office of the Attorney General during the week of April 30, 2001 and the Office of the Public Defender on May 11, 2001.

The judiciary has continued to expand its efforts to educate judges about the use of DNA. In each of the past three consecutive years (November 1999, 2000 and 2001), this issue has been on the Judicial College agenda. In 1999, Dr. John E. B. Stewart, and Jennifer Luttmann of the Federal Bureau of Investigation, Washington, D.C. presented, DNA Analysis Forensic Application. In 2000, Judge Elaine Davis, Chair of the Conference of Presiding Criminal Part Judges, and Barry Scheck, Esq., a Professor of Law at the Cardozo School of Law, and Director of the Innocence Project, presented a seminar entitled, *Actual Innocence Agenda for Reforming the Criminal Justice System*. In 2001, retired Judge Jamine P. Geske, a Professor of Law, Marquette University Law School, Wisconsin, addressed, *Evidence Problems-Hearsay and Expert Testimony*. The Committee on Minority Concerns acknowledges the judiciary's commitment to educating its judges on these important issues. Training on these topics should be included as part of the mandated training curriculum for criminal division judges and staff.

¹⁶Robert Schwananeberg, "State to offer convicts free DNA testing." The Newark Star Ledger (June 18, 2001), pp.1,6.

Committee Recommendation 02:1.3: DNA/Eyewitness Training: Training on cross-racial and eyewitness identification and the use of DNA evidence and expert witness should be included in the mandated training curriculum for criminal division judges and orientation information on these issues should be offered to appropriate criminal division staff and supervisors of probationers.

2. Model Jury Charge Revision: Cross-Racial/Eyewitness Identification

The report of the Subcommittee on Criminal Justice and the Minority Defendant, 1994-1996, initially recommended that revisions be made to the Model Criminal Jury Charges addressing the issue of eyewitness identification. This issue was revisited by the Committee in the 1996-1998 Rules Cycle Report. The Committee recommended and forwarded to the Model Jury Charge Committee suggested revisions to the model jury charge on cross-racial eyewitness identification. While acknowledging the concerns of the Minority Concerns Committee, the Model Jury Criminal Jury Charge Committee reviewed the proposed charge on January 26, 1998, and decided to retain the charge's original language.

The cross-racial eyewitness identification issue was addressed by The Honorable Thomas Shebell, Jr., Appellate Division, in an unpublished opinion, **State v. Cromedy**, No:A-1359-95T4 (App. Div. December 29, 1997).

This appeal involved [sic] a rape and robbery in which a cross-racial identification was made of defendant as the perpetrator seven months after the offenses occurred. The identification of the perpetrator was the critical issue throughout the trial. The trial court denied defendant's request to have the jury instructed concerning the cross-racial nature of the identification. A majority in the Appellate Division panel agreed with the trial court.

In his dissent Judge Shebell stated:

A jury instruction that contains no direct reference to the hidden fires of prejudice and bias which may be stoked by an incident such as the sexual assault in question and fails to call the jury's attention to the problems of cross-racial identification, so well documented by the [New Jersey Supreme Court Task Force on Minority Concerns] denies minority defendants, such as McKinley Cromedy, their constitutional right to a fair trial. **Idem**

Judge Shebell concluded that a reversal was warranted because the trial court should have given such a charge. The Model Jury Charge Committee knew that because of Judge Shebell's dissent, this issue was before the Supreme Court.

On April 14, 1999 the Supreme Court decided State v. Cromedy, 158 N.J. 112 (1999). Justice James H. Coleman wrote the majority opinion and was joined by Chief Justice Deborah T. Poritz and Justices Stewart G. Pollock, Daniel J. O'Hern, Marie L. Garibaldi, and Gary S. Stein. Justice Coleman wrote:

It was reversible error not to have given cautionary instructions to the jury about the possible significance of the cross-racial identification factor. The Court requested that the Criminal Practice Committee and the Model Jury Charge Committee revise the current charge on Cross-Racial Eyewitness Identification to include an appropriate statement on cross-racial identification that is consistent with the Court's ruling.

It should be noted that, prior to the adoption of the cross-racial identification jury instruction, there was no provision in the New Jersey Model Jury Instructions pertinent to the question of whether a cross-racial identification might be less reliable than an identification made by a witness of the same race as the person being identified.

The relevant portion of the revised New Jersey Model Jury Instructions, with regard to both In-Court Identification, Out-of-Court Identification, and In-Court and Out-of-Court Identification, which the instructions direct, should be read in cases "when . . . identification is a critical issue in the case, and an eyewitness's cross-racial identification is not corroborated by other evidence giving it independent reliability", now reads as follows:

. . . In addition, you may consider the following factor [s]: . . . [IN THE APPROPRIATE CASE, CHARGE THE FOLLOWING FACTOR:]

. . . The fact that the witness is not of the same race as the perpetrator and/or defendant, and whether that fact might have had an impact on the accuracy of the witness' original perception, and/or the accuracy of the subsequent identification. You should consider that in ordinary human experience, people may have greater difficulty in accurately identifying members of a different race. State v. Cromedy, 158 N.J. at 132-133.

On November 9, 1999, The Honorable Richard J. Williams, then Acting Administrative

Director, sent a letter with the revised Model Jury Charges on Identification, to Chief Justice Poritz, Associate Justices, Superior Court Judges, Tax Court Judges, and to Trial Court Administrators.

3. Peremptory Challenges

The Honorable Harold W. Fullilove, former Chair of the Minority Concerns Committee, sent a memorandum (February 3, 1997, Appendix A-5.1) to The Honorable James J. Ciancia, then Acting Administrative Director of the Courts regarding the issue of Gilmore Violations. In State v. Gilmore, 103 N.J. 508 (1986), the Supreme Court held that the New Jersey Constitution forbids a prosecutor “from exercising peremptory challenges to remove potential petit jurors who are members of a cognizable group on the basis of their presumed group bias”.

A proposed draft questionnaire designed to document Gilmore challenges statewide and the remedy ordered by trial judges after finding that a proper challenge was brought was attached to Judge Fullilove’s memorandum. Although the questionnaire was not approved for distribution, Judge Ciancia sent a memorandum on May 8, 1997, reminding trial judges of the remedy required for Gilmore violations. (See Appendix A-5.2 for a copy of this memorandum).

The Committee on Minority Concerns also submitted an inquiry to the Advisory Committee on Professional Ethics in April 1997. That inquiry questioned whether the use of peremptory challenges to exclude minorities from sitting on a jury subjects an attorney to discipline for violation of RPC 8.4(g). That rule reads, in part:

It is professional misconduct for a lawyer to . . . engage, in a professional capacity, in conduct involving discrimination (except employment discrimination unless resulting in a final agency or judicial determination) because of race, color, religion, age, sex, sexual orientation, national origin, language, marital status, socioeconomic status, or handicap, where the conduct is intended or likely to cause harm.

In November 1998, the Advisory Committee on Professional Ethics issued, Opinion 685, which stated that . . .” so long as peremptory challenges are permitted, the trial bar should not be routinely exposed to disciplinary action simply by exercising them.” ACPE Docket No: 8-97, Opinion 685. See Appendix A-5.3 for a copy of Opinion 685.

The issue of peremptory challenges has been under consideration by various judiciary conferences for some time. The Criminal Division Assignment Judges formed the Assignment Judges Committee to review the use of peremptory challenges and to determine whether to

recommend changes in either the use or number of peremptory challenges. *The Report of Assignment Judges Committee to Review the Use of Peremptory Challenges* was unanimously approved by the Conference of Assignment Judges in June 1997. The recommendations contained in the report are as follows:

- The number of peremptory challenges should be significantly reduced in both civil and criminal cases and; in civil cases, the number of peremptory challenges should not exceed three for each side, regardless of the number of parties on any one side.
- Programs on conducting more meaningful voir dire should be made a part of judicial education and training.
- In criminal cases covered by N.J.S.A. 2B:23-13b, the number of peremptory challenges should not exceed eight on each side.
- In multi-defendant cases defendants would be allowed an additional challenge for each defendant and the State would be allowed an additional challenge for each given defendant.
- In all other criminal cases, the number of peremptory challenges should not exceed five for each side. Additional peremptory challenges in multi-defendant cases were to be handled in the same manner. The Trial Judges should have the authority to allow additional peremptory challenges when justified.

In July 1997, Judge Ciancia sent a letter to The Honorable Sylvia Pressler, P.J.A.D., Chair, Civil Practice Committee; and The Honorable Edwin H. Stern, J.A.D., Chair, Criminal Practice Committee, attaching the Assignment Judges Report on the Use of Peremptory Challenges and advising them of the interests of the Committee on Minority Concerns regarding the use of peremptory challenges. Prior to taking any action on the aforementioned report, the Supreme Court requested the Civil Practice Committee and the Criminal Practice Committee to review the Report of the Assignment Judges Committee.

Judge Stern recommended the establishment of a Joint Criminal/Civil Practice Committee (later renamed the Special Committee) to study voir dire issues and the jury selection process. On May 21, 1999, a workshop was presented at The Criminal Division Retreat on the work of the Special Committee on Voir Dire and Jury Selection Issues. The panelist included: The Honorable

Edwin H. Stern, J.A.D., The Honorable Elaine L. Davis, The Honorable Leonard N. Arnold, The Honorable Harvey Weissbard, and Joseph Barraco, Esq. This issue will remain on the Committee's agenda for the forthcoming cycle.

C. Drug Courts

In 1992, the Task Force recommended that the Court consider communicating to the executive branch the need for more treatment beds for alcohol and drug addicted indigents. In its 1994-1996 Rules Cycle Report, the Committee reiterated this recommendation.

Task Force Recommendation 16: The Supreme Court should consider proposing to the appropriate executive branch agencies that dedicated alcohol and drug treatment bed spaces for indigent defendants be made available to the Judiciary.

As a result of its interest in the availability of treatment beds for psychiatric and substance abuse indigents in New Jersey, the Committee conducted a *Survey on the Availability of Indigent Beds and a Directory of Treatment Facilities for Psychiatric and Substance Abuse* in 1996. The New Jersey Department of Health, Division of Addiction Services was very supportive in providing information on these services.

County alcoholism and drug abuse coordinators in New Jersey were surveyed. Respondents answered the following queries: how many beds are available for indigents in your county; how many bed days are funded; how many yearly residential and outpatient referrals are there for adult male and female individuals or families; what is the projected number of indigent beds available for the year 1996; what are the names of the residential treatment facilities in your county, and what is the length of stay for treatment programs? The treatment services reported in the report were not reserved specifically for judiciary referrals. Multiple copies of the report were distributed to all vicinages, to the New Jersey Department of Health, Division of Addiction Services, to other public agencies and to individuals upon request.

It is general knowledge that more people are being arrested, sentenced and incarcerated in the United States for drug offenses.¹⁷ A large proportion of the crimes committed are directly related

¹⁷ Robert L. Engen, Randy R. Gainey and Sara Steen, *Race and Ethnic Disparities in Sentencing Outcomes for Drug Offenders in Washington State: FY1996 to FY1999*, pages 5-9.

_____, Washington State-Minority and Justice Commission, The

to the drug trade. Notwithstanding the “war on drugs,” and the passage of tougher and more punitive drug laws, drug use and the crime it generates remains an ever present condition in all communities. Minority communities are especially vulnerable.

In the earlier discussion on sentencing outcomes, statistics presented by the Justice Policy Institute revealed that:

. . . “New Jersey leads the nation in incarcerating drug offenders and blacks were nearly 18 times more likely than whites to be behind bars . . . Furthermore, one-third of New Jersey’s prison population of 31,000 is made up of drug offenders—the highest rate in the nation. Less than one-quarter of prisoners across the nation are in for drug offenses. . .”

The dire situation is readily apparent when one examines the number of inmates in New Jersey prisons and notes that these figures have climbed dramatically in the past two decades, in part because of the mandatory penalties for convicted drug offenders. More than 42 percent of New Jersey’s inmates report “extreme” problems with drugs. The judiciary has taken a leadership role and moved forward to incrementally establish drug courts in each of the twenty-one counties. The “drug court” concept offers New Jersey an innovative strategy that addresses the underlying factors that contribute to criminal behavior and substance abuse ultimately reducing drug use and recidivism.

The Committee has actively endorsed and supported the development of Drug Courts in New Jersey and believe that they 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 confinement 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.

Impact of Race and Ethnicity on Charging and Sentencing Processes for Drug Offenders in Three Counties in Washington State, Final Report (December 1999), pages 1-10.

Drug Courts target non-violent offenders whose criminality is drug-driven and provide them with intensive treatment-based probationary supervision, which has been shown to be more effective than incarceration in rehabilitating this kind of criminal defendant. The program involves a team approach on the part of judges, prosecutors, court staff, probation officers, substance abuse evaluators and treatment counselors, all of whom work together to support and monitor a participant's recovery. Consequently, drug courts are an extremely desirable dispositional option for a significant percentage of the criminal defendants in New Jersey who are minority and otherwise prison-bound.¹⁸ See Appendix A-6 for a list of New Jersey Drug Court Programs.

On September 6, 2001, the expansion of the drug court program was signed into law. Public Law, 2001, c243 (S-2227) increases the number of judgeships in the state at the Superior Court level and appropriates \$1,480,000 to process convicted drug users through the program. Six new judges will be added along with staff and support personnel. In January 2002, drug courts will be expanded to Bergen, Cumberland/Gloucester/Salem, Monmouth, Morris/Sussex and Ocean Counties. In 2003, drug courts will be established in the following vicinages: Atlantic/Cape May, Burlington, Hudson, Middlesex, and Somerset/Hunterdon/Warren.

The New Jersey Department of Health and Senior Services will be responsible for coordinating treatment for drug court participants and will be allocated \$1,570,000 in funds for services. An additional \$10 million dollars is being transferred from the Department of Corrections to the Drug Court Program.

The Committee 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. With the Court's guidance and approval, we will continue this advocacy role and offer whatever assistance the Court may deem appropriate.

The Committee strongly endorses the Judiciary's efforts to expand drug courts and ensure that defendants, irrespective of their county of residency, are assured equal protection.

¹⁸ New Jersey Judiciary, "Drugs Courts, A Plan for Statewide Implementation," (December 2000).

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Chapter II

SUBCOMMITTEE ON MINORITIES AND JUVENILE JUSTICE/FAMILY

Introduction and Mandate

The mandate of the Subcommittee on Minorities and Juvenile Justice/Family is to monitor the implementation of the court-approved recommendations that relate to youth under the court's jurisdiction. Since the resources necessary to provide care for youth are not always equally available to minority and non-minority juveniles, it is important for youth to have equal access to all services and be treated similarly when situated in similar circumstances.

I. List of Priority Recommendations

The report addresses the status of the judiciary's implementation efforts of the following recommendations:

- A. Disproportionate minority confinement and judicial involvement in juvenile program development (Recommendations 17 and 20 respectively);
- B. Development and standardization of a public education program (Recommendation 18);
- C. Development of a statewide on-line juvenile program directory (Recommendation 21);
- D. Development and institutionalization of a judicial education curriculum that facilitates the delivery of appropriate services and bias-free decisions (Recommendation 22);
- E. Increase of minorities in key positions within the Family Court and Division (Recommendation 23);
- F. Establishment of child waiting rooms in all counties (Recommendation 24); and
- G. Collaborative study on juvenile case-processing decision points (Recommendation 26).

II. Subcommittee Activities

The Subcommittee on Minorities and Juvenile Justice/Family has worked cooperatively with other Minority Concerns subcommittees to address and monitor several of the aforementioned recommendations in public education and community outreach. Some of the recommendations have spawned the development of youth-specific judiciary education seminars; other programs were planned for the public in general. Still other subcommittee initiatives have been the catalyst for the development of on-going juvenile programs. Subcommittee members have also worked with various state government juvenile policy-making and planning bodies.

Highlights of the subcommittee activities are listed below:

- participating in the judiciary's Ad Hoc Working Group on Public Education on Juvenile Courts;
- reviewing and commenting on the Juvenile Justice Commission Master Plan and Detention Reform Task Force Report
- reviewing and commenting on a draft research proposal addressing juvenile case-processing decision points;
- volunteering to serve on planning committees and as faculty/facilitators for the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts annual meeting and the Vicinage Advisory Committees on Minority Concerns (VACMC) Conference of Chairs annual retreat;
- assisting various vicinages in their respective law day activities around the state and juvenile justice symposia and
- planning, coordinating and presenting a seminar at the November 2000 Judicial College.

III. Discussion of Priority Subcommittee Recommendations

A. Disproportionate Minority Confinement and Judicial Involvement in Juvenile Program Development

The over-representation of minority youth in confinement has been, for the duration of the judiciary's minority concerns initiatives (which began in the 1980's), a persistent problem and remains so today.¹⁹ It is evident that the solution to disproportionate minority confinement will

¹⁹See the discussion in the following reports: New Jersey Supreme Court Task Force on Minority Concerns Interim Report (1989), pp. 77-90; New Jersey Supreme Court Task Force on Minority Concerns, Final Report (1992), pp. 152-160 and 178-184; New Jersey Supreme Court Committee on Minority Concerns, Report of the Subcommittee on Minorities and Juvenile Justice/Family, 1994-1996 Rules Cycle, Supplement II, pp. 8-12 and 15-17; and New Jersey Supreme Court, Report of the Committee on Minority Concerns, January 1996-1998 Rules Cycle, pp. 20-28.

In 1990, the State Law Enforcement Planning Agency published a report entitled *The Disproportionate Incarceration of Black and Hispanic Youth in New Jersey*, Report of the Governor's Juvenile Justice and Delinquency Prevention Advisory Committee and its Ad Hoc Subcommittee on Minority Issues. A more recent report on this issue using national data finds that little has changed with respect to the over-representation of minority youth in confinement. See Appendix B-1 for a copy of the following report: Eileen Poe-Yamagata and Michael A. Jones, *Building Blocks for Youth, And Justice for Some, Differential Treatment of Minority Youth in the Justice System* (April 2000).

require a team effort involving participants from the judiciary as well as from other government agencies and organizations in both the public and private sectors. Moreover, the corpus of knowledge in this area dictates that different and novel approaches to this problem are warranted and long overdue. For this reason the Subcommittee has chosen to discuss the reduction of minority confinement and the judicial involvement in juvenile program development as complementary issues.

Task Force Recommendation 17, which addresses the issue of reducing the number of incarcerated minorities, was amended in 1996. The amendments discussed: the more active involvement of Presiding Family Court Judges in County Youth Services Commissions, the Committee's request to forward a recommendation suggesting that a disproportionate minority confinement stipulation be included in all State/Community Grant Program proposals²⁰ and the recommendation that a Vicinage Advisory Committee on Minority Concerns liaison serve on each County Youth Services Commission. The full text of the recommendation is noted below. The complementary recommendation, Task Force Recommendation 20, discusses the lead role that judges can play in expanding services for youth. This recommendation and its amendments also follow.

Task Force Recommendation 17: 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 ; (5) directing that juvenile conference committees be established for every municipality which does not now have one in

²⁰Since this recommendation does not fall within the governance of the Court, the Committee respectfully recommended that the Court consider forwarding this recommendation to the Executive branch.

order to strengthen the local constituency for developing resources and alternatives to keep juveniles from being incarcerated; (6) supporting the concept of an urban initiative to provide alternative dispositional resources in New Jersey's cities and (7) implementing a statewide intensive supervision program for juveniles.

Committee Recommendation 17.1: The Chief Justice should direct Presiding Family Court Judges to become active in County Youth Services Commissions. (1996)

Committee Recommendation 17.2: The Supreme Court should consider recommending to the Juvenile Justice Commission that all State/Community Grant Program proposals commit the applicant to the reduction of minorities in the juvenile justice system and that each applicant adopt a viable plan of action to achieve this goal. (1996)

Committee Recommendation 17.3: The Chief Justice should direct Assignment Judges to designate a member from the vicinage advisory committee on minority concerns to serve as a liaison to the County Youth Services Commission. (1996)

Committee Recommendation 17.4: The Supreme Court should consider recommending to the Juvenile Justice Commission that each County Youth Services Commission be required to actively recruit and seat minority members and that Youth Services Commissions be composed of members selected for their knowledge, competence, experience and interest in the juvenile justice system. (1996)

Task Force Recommendation 20: In order for the judiciary to play a lead role in the development of additional community alternatives which can provide adequate levels of supervision for juveniles for whom family supervision is lacking, the Supreme Court should direct each vicinage to implement the following strategies: (1) direct Family Division judges to enhance and expand the level and kinds of services currently available internally through probation and externally by developing partnerships with community groups in the judges' capacity as members of Youth Services Commissions and in their dealings with other bodies; and (2) since some juveniles are committed to the Department of Corrections because other state agencies are not forthcoming with other services, direct family division judges to actively seek to hold such agencies accountable for (a) the delivery of mandated services and (b) the meeting of statutory time goals.

*Committee Recommendation 20.1: The Supreme Court should direct the Conference of Family Division Presiding Judges to develop a viable plan of action to implement the Hawkins/Fall Committee Recommendations.*²¹ (1996)

1. Enhancing Collaboration and Participation in County Youth Services Commissions

The subcommittee has explored ways that it can enhance the collaboration between the Administrative Office of the Courts, the Family Practice Division, the Conference of Family Presiding Judges and the Conference of Family Division Managers in an effort to work more effectively and efficiently on juvenile justice and family court issues and challenges. The work of the local Vicinage Advisory Committees on Minority Concerns (a court/community partnership) has resulted in several collaborative projects such as expanding vicinage law day programs, developing juvenile justice symposia, establishing community-based alternative prevention and treatment programs for at-risk youth and court visitation programs.

Several years ago, members of the Conference of Family Presiding Judges were invited to the Subcommittee meetings and plans were made to explore other collaborative venues. At these meetings, one of the concerns discussed was enhancing participation of judges and court staff in the county youth services commissions. The Subcommittee received anecdotal information from several vicinage advisory committees on minority concerns and community representatives that improvements were needed in this area. During the previous biennial term, the Subcommittee worked with the Juvenile Justice Commission to draft, review and edit guidelines for the State/Community Partnership Grant Program. One issue championed by the Subcommittee was

²¹A number of the Task Force Recommendations were referred to the Conference of Family Division Presiding Judges. The Conference appointed a committee to review and report on the Task Force Recommendations. The committee was jointly chaired by The Honorable Rudolph N. Hawkins, Jr. and The Honorable Robert A. Fall. The Hawkins/Fall Report was submitted on September 28, 1994 and considered at the February 2, 1995 Conference of Family Division Presiding Judges meeting.

The basic premise of this report was that diversion must happen at the front end of the system and not the tail end where judges are, and that resources must be available at the early stages of juveniles' involvement with the juvenile justice system. The following recommendations were discussed in the report: judicial involvement in the County Youth Services Commissions; judicial outreach by judges; collaboration with the Committee on Minority Concerns; vigorously pursuing alternatives to detention and providing transportation services to court for families and others. *New Jersey Supreme Court Committee on Minority Concerns, Report of the Subcommittee on Minorities and Juvenile Justice/Family, 1994 -1996 Rules Cycle, Supplement II, pp. 15-16.*

ensuring greater representation of minorities on the County Youth Services Commissions.

Notwithstanding the court's preclusion from voting on funding issues in the youth service commissions meetings, Presiding Judges and other court personnel can play an important role in advising the commissions of program priorities, gaps in service and issues of program accountability.

The AOC Family Practice Division, in consultation with then Chair of the Conference of Family Division Presiding Judges, the Honorable Valerie H. Armstrong, designed and distributed a survey to capture information on the extent of judicial participation in County Youth Services Commissions. The questionnaire was distributed to Family Division Managers in all vicinages and all vicinages responded. The survey results were compiled by Family Division staff.

Judge Armstrong submitted the Conference's findings and recommendations to Judge Ciancia in December 1998. In her report, Judge Armstrong highlighted the need for judges to participate more at the early stages of the funding process, contributing to program funding and development through "committee work and agenda setting," assuring that priorities are properly set. Judge Armstrong also discussed the need to focus on prevention and diversion, as well as the need to hold programs accountable. The Subcommittee was encouraged by the position taken by the Conference on these issues and applauds all efforts to implement the recommendations of the Conference.

In a memorandum to the Conference of Family Division Presiding Judges, the Conference of Family Division Managers and the Assistant Director of the Family Practice Division (AOC), the Administrative Director discussed a companion issue also raised in the Committee's 1996-1998 Rules Report.²² The memorandum addressed the role of judges with respect to the establishment of community alternatives and the delivery of mandated services as stated in Recommendation 20. The Supreme Court reserved action on this particular recommendation as it deemed that further guidance and clarification was required. The Subcommittee looks forward to meeting with the Conference of Family Presiding Judges, the AOC Family Practice Division and the Conference of Family Division Managers to determine how best to strengthen its partnership and enhance its collaboration in order to move forward in light of the new initiatives that are now in place or are contemplated in

²²Memorandum from Acting Administrative Director James J. Ciancia to The Honorable Valerie H. Armstrong (July 31, 1998). See Appendix B-2.

Family Court.

The Essex Vicinage Advisory Committee on Minority Concerns (hereinafter the vicinage committees will be referenced as VACMC and be preceded by the vicinage name) offers a model for how this partnership may work. The Essex VACMC realized that one promising avenue for addressing the issue of over-representation of minorities in the juvenile justice system is to assure that minority youth receive needed services. The advisory committee identified and compiled a list of minority psychologists and psychiatrists in the area. This project stemmed from two years' of dialogue with judges regarding the need for access to such professionals. Another initiative that was directly related to alternative programs for youth was the establishment of Our Children's Foundation of New Jersey.

The Passaic Village Initiative is yet another example of a noteworthy court/community collaborative venture. The Passaic VACMC members, many of whom are lay members and other members of other local agencies, worked with the court to establish this model program. Both of the aforementioned programs will be discussed in more detail in Section B of the subcommittee's report.

Since the Conference of Family Presiding Judges has already established a Minority Concerns Subcommittee, and shared the same staff person with the Committee on Minority Concerns, Subcommittee on Juvenile Justice/Family, the Committee wishes to revisit this partnership and urges the AOC to re-instate this staff liaison position as soon as possible as a means to ensure that the channels of communication remain open between the advisory committees and the Family Division and to share information and to promote and optimize networking relationships between the court and the community.

2. Community Outreach

It is the Subcommittee's position that the Judiciary will be well served by some type of outreach to communities and organizations that serve juveniles. While time off the bench for a judge may be a rare commodity, the time dedicated to community outreach is a valuable tool in assuring service availability, accountability, program compatibility and enhanced community relations.

To ensure representation and advocacy of programs tailored to the needs of juveniles under the court's jurisdiction, the Supreme Court should encourage the involvement of the VACMC

members in advocating for prevention, diversion and dispositional programs for youth. However, in order for community representatives and leaders to advocate for these services, they must be fully informed about the court's needs and priorities in Family Court. In this role, vicinage members may appropriately serve a valuable role as a bridge between the court and the community.

The following model programs illustrate this point. The Bergen vicinage has invited program and service organizations to address judges, sometimes during the lunch hour, about their respective services. The Passaic vicinage is planning to inaugurate a similar program; the Essex VACMC conducted a survey of community programs and services which it shared with the Family Division and other vicinages.

The Committee believes that the continuing dialogue with other agencies such as the Juvenile Justice Commission will help identify some of the unfolding challenges and barriers to providing and enhancing services for all youth and minority youth in particular. The Juvenile Justice/Family Subcommittee is appreciative of the opportunity it had to review and comment on the Juvenile Justice Commission Master Plan and other policy documents.

The Honorable Severiano Lisboa, then chair of the Subcommittee, forwarded comments on the Juvenile Justice Master Plan to the Acting Administrative Director.²³ One of the issues addressed in Judge Lisboa's memorandum was program availability and accountability. Judge Lisboa stated in part . . . ;

As to alternatives to detention and community programs, the subcommittee resoundingly supports them. However, more programs and more beds are not going to help minority juveniles if the same access barriers that now exist, persist. Implementation of the Master Plan must include a strategy for opening program doors (now closed) to minorities. Access to alternatives to detention for minorities must be improved if DMC [Disproportionate Minority Confinement] is to be remedied.

. . . The subcommittee supports all efforts to ensure that only those programs that work receive funding through the State/Community Partnership Grant Program or any other funding source. Programs must be held accountable for quality services. Funds earmarked for

²³Memorandum from The Honorable Severiano Lisboa III to Acting Administrative Director James J. Ciancia (April 21, 1999). See Appendix B-3.

treatment should not be used to fund programs that have not demonstrated an ability to make a positive difference in the lives of the young people they are supposed to serve, and fail to deliver appropriate quality services . . .

The Subcommittee amends Task Force Recommendation 20 to include the following:

Committee Recommendation 02:20.2: The Supreme Court should adopt a policy that encourages Family Court judges to periodically meet with juvenile justice service providers. Service providers and county youth services commissions should be periodically advised by judges of the needs of youth under Family Court jurisdiction.

The Committee underscores the importance of re-establishing and maintaining enhanced communication with the Conference of Family Division Presiding Judges, Managers and the Family Practice Divisions. This team approach will better mobilize the court's resources and will provide collective guidance ". . . at the front end of the funding process. . . by contributing to program development through committee work and 'agenda setting', assuring that priorities are properly set".²⁴

B. Development and Standardization of a Public Education Curriculum/Campaign

Task Force Recommendation 18: The Supreme Court should direct two initiatives be undertaken to make the community, especially the minority community, aware of the juvenile court system: (1) a comprehensive public education program to provide information on the operation of the juvenile court system and the steps that are being taken to eliminate unfairness to minority juveniles; and (2) an engagement in partnerships with schools where the judiciary assists local schools in the development and instruction of a legal education curriculum or programs which bring judges and court workers into classrooms to speak to students, and students to visit the courts.

Committee Recommendation 18.1: The Supreme Court should direct the AOC to provide funding and staff support for two symposia to be held in selected communities for the purpose of fostering and

²⁴ Memorandum from The Honorable Valerie H. Armstrong, Chair of the Conference of Family Division Presiding Judges to Acting Administrative Director James J. Ciancia (December 4, 1998). See Appendix B-4.

encouraging long term partnerships and educating the minority community about court services. (1996)

At its June 16, 1998 Administrative Conference, the Supreme Court endorsed the Committee's 1996-1998 recommendations for improving public education on juvenile court issues and established the Ad Hoc Working Group on Public Education on the Juvenile Courts to spearhead this initiative. The Honorable F. Lee Forrester, P.J.F.P., Mercer County, was appointed chair of the Ad Hoc working Group. Members of the group included representatives from the Conference of Family Division Presiding Judges, the Conference of Family Division Managers, the Juvenile Justice Commission and the County Youth Services Commissions. The Ad Hoc Working Group was responsible for developing a statewide action plan for educating the public on the juvenile court system, including presentation of symposia, publication of public information brochures and production of videos. The final report of the Ad Hoc Working Group was completed in March 2000.

Another on-going public education initiative is the development and presentation of model education seminars and conferences that specifically address juvenile justice issues at the vicinage level. This initiative is implemented by the VACMC in collaboration with the Family Division and community-based agencies. The Committee has found that the VACMC have been very receptive to working with their respective local courts to enhance law-related public education programs. Examples of these activities are discussed below.

1. Law Day

The Vicinage Advisory Committees on Minority Concerns continue to be integrally involved in the program development for law day activities in several vicinages. Working cooperatively with the court, county bar associations, local community groups and schools, several vicinage advisory committees assist with Law Day program planning and coordination. These annual programs present workshops for adults and youth. Adults have the opportunity to learn about court related issues such as child support, domestic violence, landlord/tenant issues and record expungements in a public forum setting.

Youth have participated in mock trials, essay and poster contests, courthouse tours, age appropriate law-related education workshops and attended school programs featuring judges and

other court staff. Participating vicinages have shared their programs with other vicinages. For the several years, vicinage law day program information has been compiled and edited by the Minority Concerns Unit and forwarded to the Office of Public Affairs, Internet Services for posting on the Judiciary InfoNet and the Internet. In previous years, hard copies of law day program agenda were distributed to the vicinages.

2. Vicinage Advisory Committee on Minority Concerns Retreat

The annual Vicinage Advisory Committee on Minority Concerns Conference of Chairs Retreat has been used to conduct training on juvenile issues and to educate lay members of the vicinage advisory committees on Family Court matters. The retreat provides a forum for judges, court staff and advisory committee members across the state to become familiar with local and state minority concerns initiatives, court innovations and best practices. The 2001 retreat highlighted presentations of various alternative juvenile prevention and treatment programs and model juvenile law related education programs.

a. Our Children's Foundation of New Jersey

Our Children's Foundation of New Jersey is a non-profit organization dedicated to supporting and encouraging children in the urban community. The Foundation has its roots in the Essex VACMC. One of the goals of the committee since its inception was to develop community programs for young people that would foster understanding, encourage positive planning for the future and help prevent involvement in crime. After having identified the Our Children's Foundation of Harlem as a model for after-school programs, the committee acted as a catalyst to bring the program to Essex County. Before the establishment of the Foundation, the project was spun off from the Essex VACMC and established as a separate entity. Our Children's Foundation of New Jersey is located in Orange and plans to have an open house in 2002.

b. Village Initiative

The Passaic Village Initiative services juvenile probationers and addresses their individual needs as well as those of their families. The Initiative "enables various agencies to share information regarding individual youths or groups of juveniles who exhibit difficulties in the school or the community with the goal of intervening before further delinquency occurs".

The program teams probation officers, parole officers and local police in a holistic approach focused on guiding juveniles away from further criminality and ensuring their compliance with court orders. Social workers and health care providers also routinely visit the juveniles homes to facilitate the process of securing additional

services and conducting medical screening of family members.

Members of the Passaic VACMC were part of a team comprised of court staff, law enforcement, social service agencies, schools and health care providers who developed the program. Members of the vicinage committee presently serve on the executive board.

c. Juvenile Justice Symposium

Over the past four years, the Middlesex VACMC has sponsored an annual Juvenile Justice Symposium. The topics for the conferences have centered around awareness of the juvenile justice system, the over-representation of minorities in the system, prevention and program funding. The collaboration with various government agencies, local bar associations, community and faith-based organizations and other non-profit organizations has contributed to the success of the annual symposia.

The Cumberland/Gloucester/Salem Vicinage Advisory Committee on Minority Concerns has also presented juvenile justice symposia.

d. Juvenile Drug Courts

The goal of drug courts is to proactively deter juveniles from criminal behavior and keep them out of secure facilities. Camden and Hudson Counties presently have Juvenile Drug Courts that address cases through probation and rehabilitation. Representatives from the programs briefly reviewed the history of national drug court initiatives and discussed the development of juvenile drug courts in New Jersey.

Research and evaluation studies of these programs at the national level have demonstrated that the “drug court” approach is effective in reducing drug abuse and drug-related crime. Through the critical integration of the key components of judicial supervision, treatment matching, prescribed sanctions, intense enforcement and coerced abstinence, drug court programs represent an innovative court service which provides incentives to stay in treatment and assures certainty of punishment for non-complying drug abusing offenders.

3. National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts

Subcommittee members participated in the development and presentation of national education programs. Members and staff of the Subcommittee on Juvenile Justice/Family developed, coordinated, facilitated and/or presented four workshops at the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Court’s annual meeting. The seminars presented were: *The Race for Permanency: The Impact of the Safe Families Act (ASFA)* and *the Multi-Ethnic*

Placement Act (MEPA) on the Minority Community, Minorities and Juvenile Justice: Prevention, Detention and Sentencing Alternatives in the Twenty-First Century, In the Eye of the Beholder: A Look at Juvenile Justice from the Juvenile's Perspective and Appropriate Programming for Female Offenders: Effectively Serving the Needs of Young Women. Workshop faculty included New Jersey judges, attorneys and government representatives, including federal officials and experts from various states.

The Subcommittee also facilitated presentations by two keynote speakers, Michael Fowlin of *The World is My Stage*, a Ph.D. candidate in Psychology at Rutgers University and Jeremy Estrada, a rehabilitated juvenile offender and recent honors graduate of Pepperdine University. Each speaker conducted a powerful presentation challenging members of the audience to identify points in their lives when they could have made a difference in someone else's life and sharing anecdotes about how their lives had been changed by the intervention of judges and concerned adult role models.

The Subcommittee on Minorities and Juvenile Justice/Family believes that with continued input and support from the vicinage advisory committees on minority concerns, additional programs, courses and workshops can be developed that address issues affecting minority juveniles at the local and state levels. With technical assistance from the Family Practice Division, some of these courses can be revised and tailored to a judicial audience and enhanced for inclusion in model judicial and staff training curricula.

C. Development of an On-line Juvenile Program Directory

Task Force Recommendation 21: The Supreme Court should assure that Family Division judges, managers, and support staff are as aware as possible of resources by directing each vicinage to create and make appropriate use through training and daily use of a vicinage delinquency resource manual which is regularly updated.

Committee Recommendation 21.1: The Supreme Court should consider recommending to the Juvenile Justice Commission that all Youth Service Commission Plans be timely filed as required by law or by Juvenile Justice Commission guidelines. (1996)

Committee Recommendation 21.2: The AOC should make this project a funded priority for the coming fiscal year and ensure that those vicinages which do not have the hardware to implement the on-line

resource directory receive the necessary equipment. A combination of factors should be taken into consideration when selecting pilot sites such as the proportion of minorities within the county/vicinage population, the volume of juvenile cases (intake and disposed of) and the disproportionate over-representation of minority youth incarcerated. (1996)

Committee Recommendation 21.3: The AOC should ensure that all Family Division judges and appropriate court support staff receive training on how to use the text retrieval system. (1996)

Committee Recommendation 21.4: The Supreme Court should direct the AOC to require the Assistant Director of the Family Division and the Family Division Manager, to assure that each vicinage regularly updates their on-line resource directory. (1996)

Although this recommendation has a long history, it has yet to be implemented. The Administrative Office of the Courts purchased TextBOOK (a data management software package) in the mid-1990's in order to permit the Family Division at the Central Office to import juvenile justice programs and service directories from the counties and establish an on-line database. The objective of the TextBook application was to create a local on-line directory of juvenile services and programs for use by Family Division personnel in all twenty-one counties. Information from only two counties was imported to TextBook. One Family Division staff person, who provided staff support to the Subcommittee on Minorities and Juvenile Justice/Family and the Conference of Family Division Presiding Judges, received training in TextBOOK. Additional funds for the project were not forthcoming. A small grant proposal was prepared and forwarded to the State Justice Institute (SJI) requesting funds to fully implement the project; the project did not receive funding.

Key questions which need to be answered are: to what extent are judges and court staff aware of resources for juveniles in their vicinages; how do they keep abreast of programmatic changes, new programs, defunct programs and service availability and what is their level of familiarity with the quality of available services? See the related discussion on Recommendations 17 and 20. The more staff knows about the various programs that are available, the better staff will be able to 'match' juveniles to the needed services. The Subcommittee believes that it is essential that this recommendation be implemented. Family Division Presiding Judges and managers should be

consulted about this project inasmuch as the technological capabilities within the vicinages may have changed over the last several years. Court staff are ideally situated to know what information screens are needed.

A viable model is already in place. This “how to” guide is the brain child of the Essex VACMC and can be exported to other vicinages. The Survey of the Essex Vicinage Proposal for the Essex Family Court Resource Directory and Resource Utilization Monitoring and Evaluation Program (found in the Essex Vicinage *A Call To Action* [November 1996]) are attached as Appendix B-5.

Given the disproportionate minority confinement figures, the Judiciary should include funding for this project in the upcoming New Jersey proposed budget. In the prior session of the Legislature, a bill was introduced to appropriate \$60,000 for an on-line directory of juvenile services. The bill was not enacted.

Committee Recommendation 02:21.5: The Committee urges the Court to make the development of an on-line juvenile directory a priority and build into any state-of-the-art system a capacity to expand and search other portals for juvenile program sources. The proposed funding appropriation for this project should be increased and the AOC and vicinage Information System staff, representatives from the AOC, Family Division, Conference of Presiding Judges and Family Division Managers and the Minority Concerns Unit should be on the project planning team.

A third approach to bringing this project to fruition is to determine if resident AOC talent can be assigned to this project in order to design and implement it in conjunction with vicinage information center managers.

Another possible avenue is to monitor the newly created Children’s System of Care Initiative whereas it may serve as the catalyst for creating the on-line juvenile resource manual. The Children’s Initiative will utilize a database that will track services that are available to the juveniles and their families. The goal of the Children's Initiative is to secure services for children with emotional and behavioral problems. These services would also be extended to families when needed. The objectives of the Children’s Initiative are to: increase funding for services; broaden the

scope of services with emphasis on community based care; create an overall system to better manage and coordinate care across agencies and build service plans that are child/family centered.

The courts have played an integral role in the development of this initiative and serve as a referring body to Care Management Organizations (CMO) that have been established, to date, in Burlington, Monmouth and Union Counties.²⁵ The Committee notes the collaboration involved in launching this statewide initiative and believes that it may present an opportunity to create the judiciary's on-line directory of services for youth.

D. Development and Institutionalization of a Judicial Education Curriculum/Campaign

Task Force Recommendation 22 : The Supreme Court should require that all Family Court Judges, Division Managers, and support staff are trained effectively regarding the knowledge and sensitivity that are required to assure (1) the delivery of appropriate services to and (2) the reaching of bias-free decisions regarding court-involved minority youth.

Since this recommendation was first made by the New Jersey Supreme Court Task Force on Minority Concerns in June 1992, considerable progress has been made in developing judicial education courses designed to facilitate the delivery of appropriate services and bias-free decisions. All employees are required to take a six-hour course offered by the AOC entitled *Diversity and Workplace Issues in the New Millennium: Beyond AA/EEO: Understanding Your Role in a Multi-Cultural Work Environment*. In addition, managers and staff are given a number of opportunities during the court year to take elective courses addressing diversity, prejudice, racism and cultural issues. The 2001 Fall/Winter EEO/AA Training Catalog offered six separate programs on thirteen different days focusing on "bridging our differences and connecting with our similarities". These courses are designed to help employees better understand diversity and workplace issues in the new millennium.

Family Part Judges have been given a number of opportunities to participate in elective courses at Judicial College including, *In the Eye of the Beholder: A Look at Juvenile Justice from*

²⁵In 2002, Care Management Organization contracts have been awarded to Bergen, Mercer and Atlantic/Cape May counties. The program will be continue to expand to encompass all vicinages by the end of 2003.

the Juvenile's Perspective, offered in November 2000. Dr. Theodore Johnson (a former member of the Committee) was the panel moderator. Two courses, *What Works with Youthful Offenders* and *Cultural Competency in Drug Court*, were offered in November 2001.

In addition, Family Part Judges have the opportunity to focus on the many issues relating to youth of color in the juvenile justice system through their involvement with the National Council of Juvenile and Family Court Judges, County Youth Services Commissions and Vicinage Advisory Committees on Minority Concerns. These combined training opportunities and learning experiences have the potential to create alternatives-to-incarceration programs in coming years.

The Committee is aware that the Conference of Family Division Presiding Judges is developing a standardized curriculum for teaching specific subjects to judges and that education and training for judges and staff will be enriched by a collaborative approach. The Committee proposes the following amendments to Task Force Recommendation 22:

Committee Recommendation 02:22.3: A standardized curriculum for Family Part judges should be developed by the Judicial Training Unit in collaboration with the Conference of Family Part Judges, the Family Practice Division and the Committee on Minority Concerns. Internal experts should be designated and trained as faculty. When needed, external consultants should be hired. The curriculum should include a cultural competency component that addresses the impact of the juvenile justice system on minorities at various decision points and the unique needs of minority populations.

E. Minorities in Key Positions in the Family Division

Task Force Recommendation 23(2): The Supreme Court should: . . . (2) Set a policy requiring an increase in the number of minorities in all levels of the Family Courts and the Family Division at the Administrative Office of the Courts, especially in key positions such as family court judges, division managers, supervising probation officers, intake workers, and managers at the AOC.

Data on the representation of court executives in the Family Division are discussed in Chapter V. Review Table 49. New Jersey Judiciary: Total Judiciary Court Executives in Selected Judiciary Divisions (December 2001). There is also a general discussion on court executives.

Out of a total of 50 vicinage court executives in the Family Division, 41 or 82.0% are White and a combined total of 9 or 18.0% are minorities: 5 or 10% are Black; 3 or 6.0% are Hispanic and 1 or 2.0% are Asian/American Indian.

At the Administrative Office of the Courts Family Division there are five court executives, one of whom is a minority.

F. Establishment of Child Waiting Rooms

Task Force Recommendation 24: The Supreme Court should direct each vicinage to consult with its county government to ensure that the physical condition of the courthouse meets the guidelines developed by the Supreme Court.

Committee Recommendation 24.1: In counties where court facilities are below standard or have specific deficits, the Chief Justice should urge that individual Assignment Judges should issue Orders to Show Cause to require county officials to explain why conditions are not corrected. In addition, steps should be taken to encourage county officials to apply for federal funding, where appropriate, if court facilities are located in historical landmark sites, (Hudson County Court House in Jersey City). (1996)

The Committee, for purposes of this reporting cycle, is focusing only on the child waiting rooms component of the above recommendation. The availability of child waiting areas in court facilities for court users has been, for some time now, a concern, not only of the Committee on Minority Concerns (Subcommittees on Minority Access to Justice and Juvenile Justice/Family), but of the Supreme Court Committee on Women in the Court.

In the June 1992 Final Report, the Task Force described “loud and crowded conditions and found public facilities, including waiting rooms and conference rooms, to be either unavailable or grossly inadequate”. Attention was called to this issue again in the Committee’s 1994-1996 report to the Supreme Court.²⁶ The Subcommittee noted the monitoring by the Family Division of dirty

²⁶ The Supreme Court Committee on Minority Concerns, in collaboration with the Vicinage Advisory Committee on Minority Concerns, Conference of Chairs, presented seminars on this issue at several annual meetings and minority concerns conferences. The former Bergen Vicinage ATCA was also staff to the Bergen VACMC and worked on the Bergen court care funding proposal. With the permission of Assignment Judge Moses, Ms. Linda Dunlap-Miller presented a seminar on this issue at the Conference of Chairs Retreat in June 1999. Cindy Thomson made a presentation on the Passaic Vicinage purchase of care model.

and inconvenient family waiting areas in counties across the state. The conditions prompted the Conference of Family Division Presiding Judges to approve a recommendation supporting the establishment of child waiting areas in all state court facilities.

Several counties have been able to provide an area in the court where parents attending to court business can wait with their children or leave them in a clean, comfortable place. In July 1997, the Supreme Court Committee on Minority Concerns requested that the Vicinage Advisory Committees on Minority Concerns provide a status report of programs implemented in each vicinage, including child waiting rooms. Responses to the inquiry revealed that the availability of child waiting rooms around the state was still problematic. In January 2001, Judge Francine I. Axelrad, chair of the Supreme Court Committee on Women, made a presentation to the Judicial Council requesting that child-care facilities be included in new court houses and that some type of accommodation be made in existing court houses.²⁷

The Bergen vicinage was the first vicinage to establish a court care center. The center is staffed by a full-time Family Division employee. Volunteers from the local chapter of the National Council of Jewish Women and interns are routinely scheduled to work throughout the week. The center has three rooms, including a reception area. In its first year (September 1998-1999) 1,270 children were cared for in the center; 1,303 in year two and 1,387 in year three.

The Sussex vicinage opened a court care center in April 2001. In collaboration with the Northwest Community Action Program, the Sussex vicinage received funding through United Way for a full-time certified child care specialist. The child care specialist is an employee of the Northwest Community Action Program and reports to the Assistant Trial Court Administrator. No more than eight children can be accommodated at a time.

In the Passaic vicinage, contracted child care is purchased by the court from a private child care center and provided to court users through the use of vouchers. Services are rendered by a center located next to the courthouse in Paterson. The court is then billed for the services.

Middlesex is the most recent vicinage to establish a child waiting room. In August 2001,

²⁷ In February 2001, the Judicial Council agreed that each vicinage should explore establishing a child care facility similar to the one in the Bergen vicinage. This recommendation was in response to the presentation of the Supreme Court Committee on Women in the Courts that either adequate child care facilities or suitable alternatives be made available to care for children who accompany parents or guardians to court proceedings.

the child waiting room opened with trained child care staff provided by the Raritan Valley Young Men's Christian Association.²⁸ The child waiting room provides services similar to those of the Bergen and Sussex court care centers.

As of December 2001, Essex, Hudson, Hunterdon, Ocean and Union counties each had an unstaffed child waiting room where a parent or guardian is required to remain with the child.

The Committee is aware of some of the challenges that vicinages face in implementing this recommendation, particularly in older courthouses where space is limited, and funds for capital improvements are in short supply. There are other concerns as well, such as staffing, liability, security and utilization concerns. Other vicinages will be well served to explore the existing models. The Committee is poised to lend its continuing support to this effort.

G. Collaborative Study of Juvenile Case Processing Decision Points

Task Force Recommendation 26: The Chief Justice should share with the Governor the findings about the discrimination that has been found to occur at the law enforcement stage of processing juvenile delinquency cases and propose conducting a joint study of all decision points in processing juvenile defendants.

Committee Recommendation 26.1: The Chief Justice should direct the AOC to assure that the presently established Judiciary Research Council membership includes a representative who has expertise in the juvenile justice/family area, is familiar with funding streams in these areas, will proactively seek and identify funding sources in these areas and will function as an advocate in the juvenile justice/family area. These issues may be addressed within the present Judicial Research Council framework by stipulating that the Council membership be expanded to include representatives from these areas or that the Assistant Director of the Family Division or a designee be appointed to the present Research Council. (1996)

In the Task Force Final Report (1992), the above referenced recommendation was proposed

²⁸ Walsh, Diane C. "Court offers haven for children." The Newark Star-Ledger (October 7, 2001). Internet article and Mary P. Gallagher, "Bergen and Passaic Pave Way in Providing Child Care for Litigants." New Jersey Law Journal 184 (April 16, 2001), page 4.

and approved for implementation.²⁹ The Supreme Court shared the Task Force findings with the Executive Branch, specifically the Governor's Advisory Council on Juvenile Justice. In the intervening years, the Judiciary has continued its collaboration with the Executive Branch to address a number of concerns related to the juvenile justice system. However, no concrete plans have been put into place for a joint study examining the decision points in processing juvenile defendants.

The Subcommittee has recently learned about a possible juvenile case processing study. The Juvenile Justice Commission, Minority Issues Subcommittee is developing a request for proposals to investigate the disproportionate representation of minorities in the juvenile justice system. Prior to issuing the request for proposals (RFP), the Minority Issues Subcommittee commissioned a study to determine whether minority juveniles are over-represented in the state's secure facilities relative to their representation in the state population. The Office of Juvenile Justice and Delinquency Prevention is presently refining and analyzing juvenile confinement statistics for the state. All twenty-one counties in New Jersey have provided data to the Juvenile Justice Commission. A draft report entitled "Examining Minority Representation in New Jersey's Juvenile Justice System" is currently under review. The Minority Issues Subcommittee requested that the Minority Concerns Committee review this report and provide feedback.

An issue of concern that was noted in the Subcommittee's comments to the Juvenile Justice Commission is that of juvenile waivers to adult court. Waiver to criminal court was discussed at length in the Supreme Court Task Force on Minority Concerns Final Report, pages 161-165. (See Appendix B-7.) The waiver data discussed in the report was for a four-year period covering 1985 through 1989. The data indicated that minority youths were being disproportionately waived to adult criminal court.

For purposes of this report, the subcommittee requested current statistics on juvenile waivers from the AOC Family Division and the Juvenile Justice Commission. The data were forwarded to the subcommittee but the reports did not provide race/ethnicity, gender and age information. The Committee puts forth the following recommendation as an amendment to Task Force Recommendation 26.

²⁹ New Jersey Supreme Court. Statement on the Final Report and Action Plan on Minority Concerns (1993), pp. 14, 24 and 33.

Committee Recommendation 02:26.2: To better understand the decision points within the juvenile justice system each vicinage should be directed to keep and routinely update juvenile waiver data by race/ethnicity, gender, county, age, charge(s) and waiver type (i.e. discretionary or mandated)

The Subcommittee as was discussed earlier is keenly interested and concerned about findings ways to support, foster and promote new and innovative approaches to addressing disproportionate minority representation , support programs and looking for novel ways to better serve New Jersey citizens who appear in Family Court.

In the 1994-1996 biennial report, the Juvenile Justice/Family Subcommittee proposed the establishment of an internal Juvenile Justice/Family Research Committee. This body was envisioned as a centralized body housed at the AOC to advocate for, coordinate and review judiciary grant proposals relating to juvenile justice issues, including research focusing on policies and procedures and case law. The Subcommittee also wanted to establish an internal clearinghouse for grants in this area and support the development of grant specific expertise at the AOC in Family Court and juvenile justice.

The Administrative Director promptly responded to this recommendation by re-instituting the Judiciary Research Council. The charge of the Research Council, however, is to review all incoming research proposals from both external and internal sources across all practice areas and court programs and make recommendations to the Administrative Director regarding whether to grant approval for the proposed projects. Although the Assistant Director of the Family Division and the Assistant Chief of Research and Statistics are members of the Research Council, the Subcommittee maintains that there is still a need for a body whose primary focus is to secure program funding, advocate for technical expertise and spear-head research and review of Family Court programs, policy initiatives and case law.

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Chapter III

SUBCOMMITTEE ON MINORITY ACCESS TO JUSTICE

Introduction And Mandate

This report addresses the status of the Judiciary's implementation efforts with respect to selective Supreme Court Task Force on Minority Concerns (1992) recommendations (falling under the purview of the Subcommittee on Minority Access to Justice) that were approved by the Court (1993) for implementation.

The mandate of the Subcommittee is to ensure that throughout the court system all individuals have equal access to all services regardless of race or ethnic background. Providing equal access to justice includes all those factors that affect an individual's ability to optimally utilize court services and programs. These factors include:

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

Thus, in order to provide equal and fair access for citizens, the Judiciary must eliminate all barriers to its services.

I. Subcommittee Activities

During the course of the last two biennial Committee cycles, the Subcommittee reviewed and prioritized the recommendations that it selected to monitor. Several recommendations were designated as matters requiring further Supreme Court review. Other recommendations were identified as being more appropriately administrative, such as establishing, drafting and promulgating performance standards (Task Force Recommendations 32 and 33 [1992]) including

a measure that evaluates employees on the delivery of culturally competent services.

Members have lent their unswerving support and energies to the establishment and continuing operation of the ombudsman programs in Camden and Essex Counties respectively. They have reviewed and edited drafts of ombudsman intake and complaint forms, brochures and other literature that are distributed to the public. Both the Camden and Essex Vicinage ombudsman evaluation reports³⁰ were reviewed by subcommittee members as well. More recently subcommittee representatives were part of an ad hoc group that met with the Deputy Administrative Director, Administrative Council leadership, Administrative Office of the Courts staff and others to discuss and resolve ombudsman program administration issues.

Subcommittee members were also active in drafting guidelines for self-represented litigants (pro se poster), reviewing and editing pro se kits and other major court policy documents, such as the *Judiciary's Policy Statement on Equal Opportunity, Affirmative Action and Anti-Discrimination*.

Working collaboratively with the Conference of Vicinage Advisory Committee of Chairs and the vicinage committee of staff liaisons, several presentations have been made at the vicinage advisory conference's annual retreat about the establishment and operation of the ombudsman program as well as the establishment of child waiting rooms in the courts. See the chapter on Juvenile Justice/Family for a discussion of child waiting rooms. Other presentations on the ombudsman program and child waiting rooms have been made to various national judicial and court management forums.

Subcommittee members served on the 2000 planning committee for the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts' annual conference and prepared the curriculum agenda for two seminars (*Ombudsman Office, Cultural Navigation and Pro Se Assistance Programs and Women of Color and the Courts: Myths and Realities*). Subcommittee members also served as faculty presenters and facilitators. The twelfth annual Consortium meeting was hosted in May 2000 by the New Jersey Judiciary. The meeting was first hosted by New Jersey

³⁰ Copies of the Camden and Essex Ombudsman Program Evaluations are available from the Minority Concerns Unit, Richard J. Hughes Justice Complex, Trenton, New Jersey upon request.

in 1990.³¹

The Subcommittee deeply appreciates the Court's continuing commitment to address fairness and access issues and to further enhance its partnership with the community by promoting the direct involvement and participation of the public in the judiciary's decision-making process. The Subcommittee also commends the Administrative Office of the Courts leadership for the stance it has taken in clearly communicating to the court community and the community-at-large, the importance of this dynamic and synergistic partnership.

II. List of Priority Recommendations

The following issues were identified as priority areas relating to minority access to justice and will form the basis of the Subcommittee's 2000-2002 biennial report:

- A. Jury Issues
 - 1. Minority representation on juries (*Recommendation #27*);
 - 2. Educating the public about jury service;

- B. Adoption of court user rights and responsibilities guide (*Recommendation #30.3*);

- C. Ombudsman Program
 - 1. Expansion of ombudsman³² offices statewide (*Recommendation #31*);
 - 2. Adoption, distribution and use of a policy statement and complaint process for court users;
 - 3. Ombudsman Offices Status Reports: Camden and Essex

³¹New Jersey was one of the four founding member states of the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts. New York, Michigan and Washington joined New Jersey at a meeting convened in New York City by Ambassador Franklin H. Williams, Chair of the New York Commission on Minorities, in 1988 to share information on addressing issues of racial and ethnic bias in state courts. Currently there are thirty-one states and the District of Columbia with similar initiatives.

³² Ombudsman is a gender neutral Swedish term with no English equivalent. The term "ombudsperson" is preferred by many because it denotes a gender neutral term.

- D. Linguistic Minorities availability of qualified interpreters for court users (*Recommendation #35*) and
- E. Statewide Availability of Comprehensive and User Friendly Pro Se Materials - publication of court forms and documents intended to be read by litigants or the public in language that the lay public can easily comprehend (*Recommendation #37*).

III. Discussion of Priority Recommendations

A. Jury Issues

1. Minority Representation on Juries (*Recommendation 27*)

Task Force Recommendation 27: The Chief Justice should direct the permanent Supreme Court Committee on Minority Concerns to study minority representation on juries and their impact, if any, on verdicts.

Committee Recommendation 27.1: 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 empaneling of a jury (e.g. response rate to initial summons, disqualifications, excusals, failure to appear, non-selection, challenges) and how do these rates compare with those of non-minorities? What is the actual representation of minorities on juries that are ultimately empaneled?

Committee Recommendation 27.2: An ethnographic study (direct observation) should be designed and implemented in select vicinages in order to determine the racial composition of sitting juries for a selected time period.

Committee Recommendation 27.3: Federal statutes and regulations should be amended to allow access to entitlement lists such a AFDC, unemployment, disability and social security.

The Committee notes that over the course of the last several years notable enhancements have been made to New Jersey's jury system. Recommendations for improvements were set forth in the Supreme Court Task Force on Minority Concerns Final Report(1992), the final Report of the

Ad Hoc Committee on Jury Selection(1993) and the Supreme Court Committee on Minority Concerns 1994-1996 Rules Cycle Report, Supplement III. In the 1994-1996 biennial report, the Committee amplified Recommendation 27 and included sections 27.1 , 27.2. 27.3 and 27.4.

The Administrative Office of the Courts has installed an automated jury system in all twenty-one counties; a new full-time jury manager position has been established in all vicinages; juror pay has been increased from \$5.00 to \$40.00 a day for anyone serving three or more consecutive days of jury service; government workers no longer receive pay and are no longer responsible for returning the juror fees; the present system handles this procedure as a paperless transaction.

As was reported in the Report of the Subcommittee on Minority Access to Justice 1994-1996 Rules Cycle, Supplement III, (pages 13-14), access to entitlement lists such as the Temporary Assistance for Needy Families (TANF), unemployment, disability and social security numbers are severely limited by federal laws. The basis of the restriction is grounded in the right to privacy. Federal legislation passed in 1994 made it possible for agencies compiling juror source lists to obtain access to social security numbers if that information was already included in the lists being used for juror selection. The use of the social security number, however, is specifically limited to the identification of duplicate records and criminal record checks.

In 1995, provided that all other criteria were met, a resident of New Jersey was eligible for jury service if s/he was not currently under criminal justice supervision (parole or probation). In 1997, the eligibility standard was revised to disqualify from jury service persons who had ever been convicted of a crime or had ever plead guilty to a crime.³³ Further research is needed to determine if this standard eliminates a significant proportion of the juror pool.

For some time now, the Committee has been interested in learning about jury participation among persons of color. New Jersey's present jury management system does not include a race/ethnic identifier. There is no way, therefore, to capture information on the race/ethnic identification of either petit or grand juries. Without race/ethnic identifiers, it is not possible: to

³³ Senate, No. 264—L.1997,c. 127 restores the historical per se disqualification of convicted criminals from jury service. Persons convicted of crimes are not eligible for jury service regardless of whether they are still subject to some form of official restraint as a result of the conviction. L.1997,c.127, changed the prohibition in subsec. e., from serving a sentence or being on parole (1.1995,c. 44, § 1, eff. June 5, 1995. Cite N.J.S.A. § 2B:20-1.

monitor the diversity of the juror pool statewide or in the counties; to report on the diversity profile of persons contacted for jury service; to capture information on who drops out at various stages in the process by race/ethnicity (response to initial summons, disqualifications, excusals, failure to appear, non-selection and challenges); and to gather information on the diversity of persons who actually serve on juries. Conceivably, gender and age can be retrieved.

The Committee believes in the efficacy and desirability of conducting research comparing minority and non-minority juror participation. This information will be useful in assisting the Judiciary in targeting public education juror programs. While the Committee is still interested in pursuing this research and in engaging an expert in this area to design a research project and apply for funding, it realizes that the funding matter is a serious impediment to such research in the near future. Nevertheless the Committee encourages the court to explore other methodologies that make use of state-of-arts census tract data and mapping technology to obtain relevant information, to simultaneously permit jury managers to conduct internal jury pool audits charting the participation and attrition of all jurors at each phase of the selection process and to conduct an ethnographic study (see Recommendation 27.2) to learn about problem areas and other juror concerns. Another fruitful line of inquiry would be to conduct juror exit interviews for a specific period of time in order to get a better understanding of jurors who serve and how best to improve juror services.

2. Educating the Public About Jury Service

Committee Recommendation 27.4: The AOC should continue the publicity campaign including the use of videotapes, "You the Juror" and "Our New Jersey Courts, Equal Justice for All," and produce a cable program to encourage all people, minorities and non-minorities, to serve as jurors. Such a program should include information about all of the different types of cases(both criminal and civil) that necessitate juror participation. Moreover, consideration should be given to developing written publicity concerning jury service to be sent with AFDC checks and other government entitlements.

The Committee continues to place a high value on continuing and enhancing the Judiciary's efforts to educate the public about the importance of jury service and would like to see a collaborative program developed by the court and the public school system. Juror education

programs should embrace elementary, middle and high school grade levels and should remind youthful citizens of the importance of jury duty and emphasize the critical role jurors play in the justice system.

Treating jurors with respect and demonstrating the court's appreciation for the services rendered makes jury service more rewarding and gives the court an opportunity to enhance the public's understanding of how the court system operates. The Committee endorses a recommendation proposed by the Conference of Vicinage Advisory Committee on Minority Concerns calling for the establishment of a statewide juror appreciation day, preferably during the law day/week/month vicinage observances. The Committee for Jury Management has also proposed the establishment of a juror appreciation day as a best practice (Committee for Jury Management, September 2001 [Draft]).

To ensure that the public education is sufficiently broad and that the court receives feedback on how best to improve the use of the juror's time and to secure feedback about how to make improvements and identify problem areas, the Committee puts forward the following amendments to Recommendation #27.

Committee Recommendation 02:27.5(1): A curriculum should be designed which would introduce jury service to elementary, middle school and high school grade students; 02:27.5(2): Establish a statewide juror appreciation program and 02:27.5(3) Institute statewide, a standard juror feedback form so that jurors (after completion of their service) are given an opportunity to identify problem areas and areas which may need to be improved in the respective counties/vicinages.

The Conference of Jury Managers has drafted a grand juror and a petit juror questionnaire and included these forms in their proposed standards and best practices. The Operations Committee and Administrative Council are currently reviewing this document.

The Committee recommends that it be allowed sufficient time to review and comment on the petit and grand juror draft questionnaires before they are distributed.

B. Adoption of Court User Rights and Responsibilities Guide

Committee Recommendation 30.3: The Supreme Court should require the AOC and the vicinages to include a "Bill of Rights and Responsibilities" in all documents which introduce a litigant to the court process.

As best the Committee was able to determine, no state Judiciary has promulgated a document which spells out court user rights and responsibilities. The Committee believes that the Court's Mission Statement (New Jersey Judiciary Strategic Planning Committee: Report to the Supreme Court, March 31, 1998, pages 21-25) aptly captures the intent of the proposed document.

We are an independent branch of government constitutionally entrusted with the fair and just resolution of disputes in order to preserve the rule of law and to protect the rights and liberties guaranteed by the Constitution and laws of the United States and the State.

In furtherance of this mission, the vision statement reads in part,

We will be a court system, characterized by excellence, that strives to attain justice for the individual and society through the rule of law.
We will:

Provide equal access to a fair and effective system of justice for all without excess cost, inconvenience, or delay with sensitivity to an increasingly diverse society . . . and

Earn the respect and confidence of an informed public.

The statement of citizen rights and responsibilities should be posted in all courthouses and on the judiciary's web page, distributed to court users attending proceedings, included in promotional literature and otherwise widely publicized so that court users clearly understand what they can reasonably expect and what reciprocal obligations enure. The Committee further believes that promulgation of this document will help promote public confidence in the court system and facilitate the realization of fair and dignified treatment of all court users while informing court users of their reciprocal duties and responsibilities as citizens and stewards of the American system of

justice. A revised draft "Statement of Rights and Responsibilities" has been forwarded to the Subcommittee for review and comment.

C. Ombudsman Program

1. Expansion of Ombudsman Offices Statewide

Task Force Recommendation 31: The Supreme Court should direct that Ombudsman Offices be established at the State and vicinage levels to provide information and to receive and investigate complaints about abuses in the judicial process.

Committee Recommendation 31.1: . . . The AOC should also be directed to develop procedures and policies regarding complaints by the public immediately. These procedures shall include an avenue for filing complaints based not only on race and ethnic bias, but also gender, sexual orientation, age, language and other bases for illegal discrimination and unfair treatment. The AOC, Minority Concerns Unit should be responsible for tracking and monitoring the handling and dispositions of all court user complaints.

Committee Recommendation 31.2: 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.

The Committee on Minority Concerns has assiduously followed the development of the ombudsman program from its original recommendation to date.³⁴ The recommendation was approved subject to the outcome of the pilot project in 1993. See the Action Plan on Minority

³⁴In the Supreme Court Task Force on Minority Concerns Interim Report published in August 1989, one of the recommendations proposed that the Administrative Office of the Courts develop a formal discrimination complaint procedure for court users who wanted to complain about the improper behavior of court staff. That same year, the Women in the Courts Committee also called for the appointment of an ombudsman at the Administrative Office of the Courts that would help to promote equal justice by monitoring problems such as enforcement of judicial orders in domestic violence cases and bringing community perspectives to the judiciary through the use of liaison activities with the rape crisis centers and battered women's shelters, for example.

The Task Force on Minority Concerns amended and revised the 1989 recommendation addressing the establishment of a citizen complaint mechanism in the final report published in 1992. Two of the four subcommittees (Criminal Defendant and Minority Access) submitted recommendations (Recommendation 2,30 and 31) calling for the establishment of ombudsman offices.

Concerns.³⁵ The ombudsman recommendations were informed by the review of 1200 pages of public hearing testimony gleaned from thirteen public hearings held throughout the state. The testimony included a recurrent theme regarding the lack and clarity of court user complaint procedures. Persons providing testimony noted that complaint procedures were not uniform across the state and were not efficiently managed. Persons who wished to complain about the behavior of court employees, other than judges and attorneys found that the court did not have a central office where court users, jurors and witnesses could register their concerns (both verbal and written). Nor was guidance from staff forthcoming on how to file complaints when members of the public, court users and litigants believe that they have been subjected to or observe discriminatory or unprofessional conduct. Citizens called for both formal and informal complaint procedures and an effectively managed system that tracks and monitors court user complaints.

Relying on the judiciary's formal complaint models already in place for judges (the Advisory Committee on Judicial Conduct [R. 2:15] and attorneys (the Office of Attorney Ethics, the District Ethics Committees, the Disciplinary Review Board, the Disciplinary Oversight Committee and the District Fee Arbitration Committees [R. 1:20]) as guides, the Committee proposed an ombudsman office with a direct reporting relationship to the Assignment Judge and Trial Court Administrator as a means of ensuring the ombudsman's neutrality in the vicinage table of organization. Identification with the top management executive team places the ombudsman on an equal footing with other court executives with whom the ombudsman interacts and clearly communicates to the public the importance the court places on having a direct link with the citizenry. And too, the ombudsman should be in a position to effectively address court user concerns ensuring the expeditious resolution of problems.

³⁵“The Court approves for immediate implementation in 1993, a pilot project for developing uniform procedures for receiving and handling complaints of discriminatory conduct brought against any employee of the Judiciary other than judges (complaints against judges will continue to be brought to the Advisory Committee on Judicial Conduct) and attorneys (sic). The AOC is directed to form expeditiously an ad hoc committee which will design and carry out the pilot test, elements of which will include determining how to deliver ombudsperson functions, evaluating whether a complaint procedure needs such functions to be successful, and assessing how best to integrate complaint procedures for all forms of discrimination. Within one year, the ad hoc committee shall report to the Standing Committee for eventual transmittal to the Court its recommendations for a program that the Court can consider adopting statewide.” Excerpt from the *Supreme Court of New Jersey, Action Plan on on Minority Concerns*, pp. 8-9.

The ombudsman pilot project was implemented in the Camden Vicinage in June 1996.³⁶ In addition to the full time ombudsman, part-time clerical support was provided. After eighteen months, the pilot program was evaluated. In January 1998, the then-chair of the Minority Concerns Committee requested that the Court expand the ombudsman program to other vicinages on an incremental basis (see the January 14, 1998 Memorandum from Hon. Harold W. Fullilove to Chief Justice Deborah T. Poritz in Appendix C-1.2).

On February 2, 1998, the Supreme Court approved an expansion of the Camden ombudsman program to other interested vicinages (Advisory Letter from Hon. James J. Ciancia to Hon. Harold W. Fullilove [February 3, 1998], Appendix C-1.3).³⁷ Following the Supreme Court's endorsement of the program, the Essex Vicinage opened an ombudsman office in May 1998. The Essex ombudsman officer, unlike Camden, has responsibility for managing the already existing Essex Information and Community Relations Center.³⁸

The Administrative Council, with the approval of the Administrative Director, convened an ad hoc working group to formulate a comprehensive proposal and implementation plan for a statewide program. The Administrative Council charged the Ombudsman Working Group to "build on the experience obtained in the Camden and Essex Vicinages and take a broad view of the policy issues surrounding expansion of the ombudsman program into every vicinage." The Council cautioned that "although the ombudsman is often thought of a complaint resolver, this position should be viewed in broader customer service terms." More specifically, the Administrative Council indicated that "the ombudsman has assumed and should continue to assume important duties with respect to public information, education and outreach services to self-represented litigants." The Ad

³⁶ There were two stipulations placed on implementing a pilot program by the Conference of Assignment Judges; the complaints received from the ombudsman should go directly to the Assignment Judge and the ombudsman would report to the Trial Court Administrator regarding work assignments and administrative matters (Memorandum from the Administrative Director, March 30, 1995, [Appendix C-1.1]).

³⁷ The Conference of Operations Managers endorsed a unanimous resolution calling for the creation of an ombudsman office in each vicinage on July 20, 2000.

³⁸ This expanded model is consistent with the Camden ombudsman evaluation findings. A grant had been prepared to secure funding for the development and design of a court information center that was to be housed in the Camden ombudsman office; however, funds were not received for the project.

Hoc Ombudsman Working Report goes on to state:

. . . Indeed the collective experiences in both Camden and Essex demonstrates that people coming into the office with a complaint often need to be educated about the role of the courts or to be directed to the correct court office. For this reason, the ombudsman's office may usefully serve as a coordinating point for services for self-represented litigants generally.

These assertions were consonant with findings resulting from the Committee's extensive research of various ombudsman programs across the nation (both in the public and private sectors), prior to participating in the design and launching of the Camden Pilot Ombudsman Program. It was the Committee's expectation that fewer than 10% of the contacts with the office would involve citizen complaints that could be resolved informally. The bulk of the work of the ombudsman, it was believed (statistical reports have substantiated this presumption) would involve: issues relating to court users' understanding of court processes and procedures, dispensing various types of citizen assistance services, referrals to other agencies outside the court, and so on.

The Ad Hoc Ombudsman Working Group submitted its report to the Administrative Director in May 2001. The Administrative Director shared the Administrative Council's report with the Committee on Minority Concerns. Committee members reviewed the report and forwarded comments, under Judge Freeman's signature to the Administrative Director (June 2001). The Committee concurred with the Administrative Council on most points in the report and certainly supported the statewide expansion of the program. However, the Committee took exception to the recommendation from the Council referencing the reporting and liaison relationship, i.e. specifically having the ombudsman report to the Operations Manager and placing the position in the Court Executive 1A level as opposed to a 1B. See Appendix C-2 for a copy of the June 27, 2001 memorandum from Judge Freeman to Judge Williams.

In Fall 2001, a meeting was convened with the Chair of the Administrative Council, the chair and selected members of the Supreme Court Committee on Minority Concerns, the Deputy Administrative Director and other judiciary staff to resolve the points of disagreement. Although this special ad hoc committee reached a resolution acceptable to the representatives present at the meeting, the resolution of the disagreements was not similarly endorsed by the full Administrative

Council.

The judiciary as a whole supports the statewide implementation of the ombudsman position and funds were requested for the program in the FY2002 budget for full implementation. However, funding was not received and recently the roll-out of the ombudsman program to other vicinages has been tabled due to the growing pressures on the overall budget.

The Committee looks forward to the continuing collaboration with the Administrative Office of the Courts to resolve the few remaining issues and Committee members remain optimistic that the budget situation will improve in the foreseeable future so as to allow for the full implementation of this recommendation.

The Committee remains steadfast in its commitment to the project that has been, to date, a ten- year odyssey. The establishment of an ombudsman executive position with direct reporting to the Assignment Judge/Trial Court Administrator will be a welcomed addition to the present vicinage management team inasmuch as there has never been a top level court official whose sole responsibility is to provide feedback on court access issues across all court divisions and programs.

2. Adoption, Distribution and Use of a Policy Statement and Establishing Complaint Procedures for Court Users

Task Force Recommendation 2: The Supreme Court should direct that the Administrative Office of the Courts develop, adopt and implement in the its own offices and in each vicinage discrimination complaint procedures.

Task Force Recommendation 30: The Supreme Court should direct that all complaint procedures include: (1) behavior which results in a complaint is clearly specified; (2) notices of complaint mechanisms are accessible to the public; and (3) grievances having to do with minority issues can be identified.

Committee Recommendation 30.1: The Supreme Court should mandate that the AOC and each vicinage post notice of complaint procedures in the courthouses at places where the public will have access no later than three months after the policies are promulgated.

Committee Recommendation 30.2: The Supreme Court should require the AOC and the vicinages to publicize the availability of grievance

procedures in all promotional literature, videos and other educational materials developed by the AOC and the vicinages.

In the 1994-1996 rules cycle report the Committee amended Recommendation 30 to include sections 30.1 and 30.2 relating to the Judiciary's complaint procedures. These two amendments are noted above. The *Judiciary of the State of New Jersey Policy Statement on Equal Employment Opportunity and Affirmative Action and Anti-Discrimination (reissued in November 2000)*, embraces court users. While the aforementioned policy statement is posted in all courthouses, there has been no systematic and comprehensive campaign to advise the public of the judiciary's complaint policy or of the various processes and procedures for filing a complaint. Information on filing a complaint against judges, attorneys and Americans with Disabilities Act is available on the Judiciary's web page under FAQ (frequently asked questions). However, linkages are available for only the latter two categories. Forms, procedures and other information about the process and steps to take if one wishes to file a complaint against an attorney or initiate an ADA complaint can be accessed on the web site. See the Report of the Subcommittee on Minority Participation in the Judicial Process for a more detailed discussion of the complaint procedures for court employees.

The Committee has reviewed the EEO/AA Master Plan promulgated in May 2000 and reports from the Camden and Essex Ombudsman Offices. It notes that the complaint procedures for court employees have been standardized and information about the process have been disseminated to current employees and are made available to new employees upon hire through the new court employee orientation training. There is still, however, room for improvement with respect to standardizing court complaint procedures for the public and disseminating the information regarding formal and informal complaint procedures.

The Committee is aware that the public may file complaints by filling out the EEO/AA forms that court employees use, or the court user may chose to write a letter to the Assignment Judge, Trial Court Administrator, division manager or AOC court official regarding the behavior of a court employee. But many court users are not comfortable filing written complaints and even if formal complaints are filed, these complaints are not uniformly tracked or monitored statewide. The two ombudsman offices developed and are presently using a court user complaint form. Sample ombudsman complaint forms are attached in Appendix C-3.1.

No statewide data base currently exists which details the extent to which the public actually makes use of the generic EEO/AA complaint forms (formal and informal) in the vicinages or at the central office.³⁹ This is an area of inquiry that the Committee will pursue. Another issue that is of interest is retrieving information court user complaints from vicinages and the central office across all practice areas and programs. Access to these data or reports will provide the Subcommittee with a more global appreciation of the spectrum of issues that are of concern to New Jersey consumers of court services and will also provide some measure of the volume of complaints processed , the nature and basis of the complaint and the resolution of the complaints by the various practice areas and programs.⁴⁰

The Committee continues to work collaboratively with both the Camden and Essex Ombudsman programs. The Committee played a key role in helping to draft and revise the complaint/intake form in both the Camden and Essex vicinages. This collaboration included: providing assistance with designing and setting up the pilot program; giving feedback on problematic and promising programmatic issues; serving as a troubleshooter for issues of concerns; reaching out to the local community to inform them about the program; advocating for this innovative program and assisting with whatever other supportive services were needed, such as offering technical assistance in specific program areas. When called upon to do so, feedback will continue to be provided to the ombudsman offices in the form of reviewing, revising and drafting literature for the public, designing and planning public seminars and programs and web sites, revising and editing ombudsman reports and articles, planning and developing training curricula for court staff and the public and developing guidelines for self-represented litigants. Committee staff have also consulted with visiting representatives from the Georgia Republic, South Africa and Japan as well as other as other state courts on the New Jersey Ombudsman Program.

³⁹ Somerset/Hunterdon/Warren Vicinage does not have an ombudsman office in place but does have a court user complaint form. The Assignment Judge in Ocean County has for many years been receiving and responding to juror complaints. A conversation with the Chief EEO/AA Officer revealed that court user data on complaints (filed using the Judiciary standard complaint form) are not monitored or tracked (December 28, 2001).

⁴⁰ The Camden and Essex ombudsman offices routinely receive and monitor citizen complaints/inquiries and provide periodic reports.

3. Ombudsman Offices Status Reports: Camden and Essex

Please note in reviewing the subsequent tables that the total number of contacts (N) will vary; some respondents declined to answer all of the questions on the exit survey form.

a. Camden Report

(1) Demographic Data

(a) *Race/Ethnicity*

A review of Table 1: Camden Ombudsman Program Utilization by Race/Ethnic Groups, December 1996-December 1997 reveals that: 43.3 % of the 425 persons using the office during a one year period from December 1996 to December 1997 were White; 35.5% were Black; 14.1 % were Hispanic/Latino; 4.5% identified themselves as "Other"; 2.4% were Asians and only 0.2% were Native Americans.

**Table 1. Camden Ombudsman Program Utilization by Race/Ethnicity
December 1996 - December 1997**

ETHNICITY/RACE	Number of Contacts	Percentage to Date
White	184	43.3
Black	151	35.5
Hispanic/Latino	60	14.1
Other	19	4.5
Asian	10	2.4
Native American	1	0.2
TOTAL	425	1

(b) *Gender*

Table 2: Camden Ombudsman Program Utilization by Gender, December 1996-December 1997 indicates that 66.2% of persons using the ombudsman office during this one year period were males; 33.8 % were females.

**Table 2. Camden Ombudsman Program Utilization by Gender,
December 1996 - December 1997**

GENDER	Number of Contacts	Percentage to Date
Male	302	66.2
Female	154	33.8
TOTAL	456	100%

(c) *Age Distribution*

With respect to age, Table 3: Camden Ombudsman Utilization by Age Categories, December 1996- December 1997 reveals that the majority of persons(48.8%) using the Camden ombudsman services were between the ages of 22-40, followed by the 41-60 age group with 39.2%. Another 6.5 % were persons over 60 and 3.1% were persons under 21. The remaining respondents did not report their respective age ranges (2.4 %).

**Table 3. Camden Ombudsman Utilization by Age Categories
December 1996 - December 1997**

AGE	Number	Percentage to Date
Under 21	13	3.1
22 - 40	203	48.8
41 - 60	163	39.2
Over 60	27	6.5
Unknown	10	2.4
TOTAL	416	100%

(d) *Residency*

Table 4: Camden Ombudsman Program Utilization by Residence (December 1996 - December 1997) indicates that 52.3% of the persons using the Camden ombudsman services during a one year period were residents of the suburbs; 29.6% were residents of Camden City; 3.4 % were residents of other counties in New Jersey and 7.0% had an unknown address. Out-of-state residents comprised 7.3% of the persons using the ombudsman's services.

**Table 4. Camden Ombudsman Program Utilization by Residence
December 1996 - December 1997**

RESIDENCE	Number	Percentage to Date
Camden City	129	29.7
Suburbs (Camden County)	229	52.6
Other County in New Jersey	15	3.4
Out of State	32	7.3
Unknown Address	30	7.0
TOTAL	435	100%

(2) *Constituency*

(a) *With/Without Counsel*

The majority of persons using the ombudsman office were self-represented litigants (92.3%). Only 7.7% of the persons reported that they had retained counsel.

**Table 5. Camden Ombudsman Program Utilization by Persons
With and Without Counsel
December 1996 - December 1997**

REPRESENTATION	Number of Contacts	Percentage to Date
Self-represented Litigants (without counsel)	398	92.3
With Counsel	33	7.7
TOTAL	431	100%

(b) *Constituent Status (Who Used the Services?)*

Most of the persons making use of the ombudsman services are: court users (55.4%) who have business before the court; the general public(25.1%); others, including family members and attorneys (12.3%) and judiciary employees (7.2%).

**Table 6. Camden Ombudsman Program by Constituent Status
December 1996 -December 1997**

GROUP	Number	Percentage to Date
Court User	307	55.4
General Public	139	25.1
Judiciary Employee	40	7.2
Other (Family member, attorney, etc.)	68	12.3
TOTAL	554	100%

(3) **Constituent Concerns and Inquiries**

(a) *Complaint/Inquiry Categories*

Close to half of the issues brought to the attention of the Camden ombudsman(48.6%) addressed court procedural matters; the second most frequently appearing category, 34.6% were informational inquiries, followed by, "Other", 8.7%, employee issues (5.4%), work conditions/facilities(2.0%) and discrimination issues (0.7%).

**Table 7: Camden Ombudsman Program: Complaint/Inquiry Categories
December 1996-December 1997**

COMPLAINT INQUIRY CATEGORIES	Number	Percentage to Date
Court Procedural Matters	269	48.6
Informational Inquiries	192	34.6
Other	48	8.7
Employee Matters * ⁴¹	30	5.4
Work Conditions/Facilities *	11	2.0
Discrimination	4	0.7
TOTAL	554	100%

⁴¹The issues in these two categories, employee issues (5.4%) and work conditions/facilities (2.0%) were complaints referred to appropriate departments for resolution. The total proportion of complaints processed during this one year time period was 8.1%.

(b) *Camden Ombudsman Case Dispositions*

Close to ninety percent (87.5%) of all the issues brought to the Camden Ombudsman's attention were resolved. As of the report date, only 12.3% were still pending and one case (0.2%) was closed (no action taken).

**Table 8. Camden Ombudsman Program Case Dispositions
December 1996 - December 1997**

STATUS	Number	Percentage to Date
Resolved	484	87.5
Pending	68	12.3
Closed	1	0.2
TOTAL	553	100%

(c) *Methods Used to Contact the Camden Office*

Data were also gathered on the number of people that visited, called, sent correspondence to the Camden Ombudsman Office over a two year period beginning in 1996. These data show that of the more than 1300 person contacts made by 644 people reaching out for assistance:

- more than 45.3 % contacted the office by telephone;
- 36.8% were walk-in clients who received personal interviews;
- 14.0% were referrals and
- 3.9% contacted the office by mail.

The average transaction, from initial intake to resolution, required two to three contacts with the court user to resolve. The ombudsman is ideally situated to provide more labor intensive services because s/he does not have primary responsibility for managing a court calendar.

b. *Essex Report*

As the program has developed, the methods of collecting and analyzing data have become more refined, detailed and computerized. The remainder of the narrative on the ombudsman will share some of the data from Essex Vicinage Ombudsman 2001 Report. The reader is reminded that the Essex Ombudsman Office includes the Court Information and Community Relations Center.

(1) Methods Used by Court Users to Contact the Office of the Ombudsman and Court Information and Community Relations Center, January 2001 - December 2001

A review of Table 9: Essex, Ombudsman Office and Court Information and Community Relations Center, Methods of Contact, January- December 2001 reveals that 62.3% of persons using the offices are walk-ins; 37.1% call; 0.4% contact the offices by mail and 0.2% contact the office by fax.

**Table 9. Methods Used by Court Users to Contact the Ombudsman Office and Court Information and Community Relations Center
January 2001 - December 2001**

SOURCE	Number	Percent
Walk-Ins	1061	62.3
Telephone	632	37.1
Mail	7	0.4
Fax	3	0.2
TOTAL	1703	100%

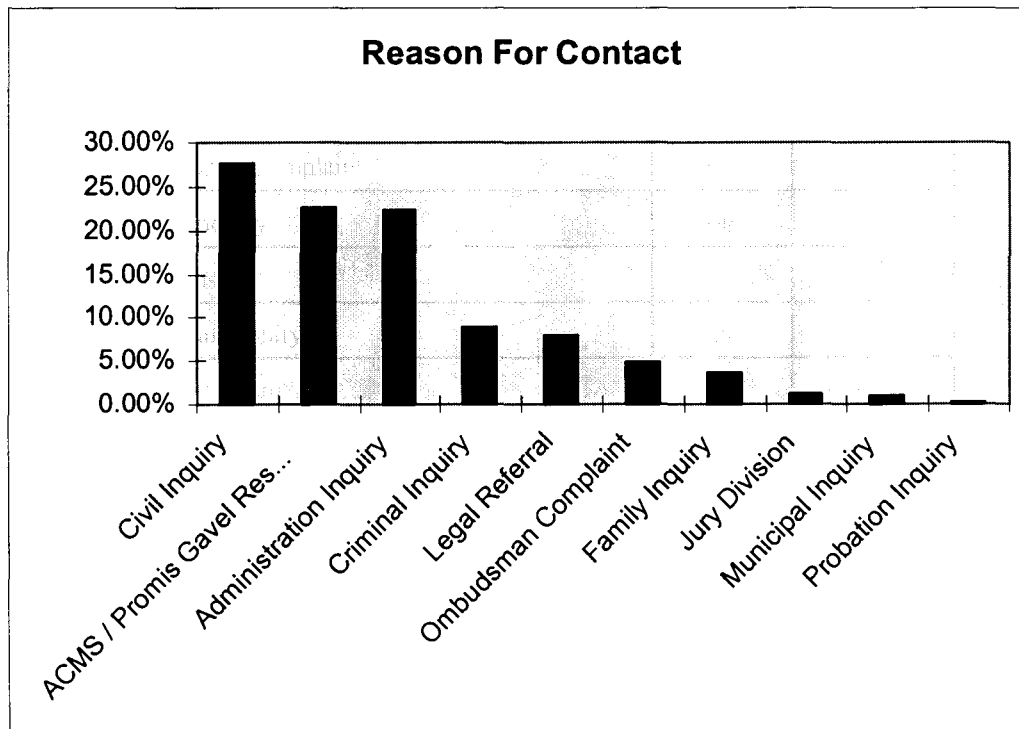
(2) Essex: Reasons Court Users Contacted the Office of the Ombudsman and the Court Information and Community Relations Center

Table 10 above lists the reasons court users gave for contacting the Essex Office of the Ombudsman and Court Information and Community Relations Center in calendar year 2001. These services represent assistance that went beyond merely directing the public to the correct office or providing a phone number. The services represent substantive interactions which included researching a case, providing referrals, assistance with filling out forms, arranging for an interpreter and communicating with court supervisors, managers and other court personnel about a specific case or court matter. See Graph 1 below for a graphic display of the information in Table 10, Essex: Reasons Court Users Contacted the Office of the Ombudsman and the Court Information Center, January - December 2001.

Table 10. Essex: Reasons Court Users Contacted the Office of the Ombudsman, Court Information and Community and Relations Center, January 2001 - December 2001

REASON FOR CONTACT	Number	Percent
Civil Inquiry	520	27.6
ACMS/Promis Gavel Research	425	22.5
Administration Inquiry	420	22.3
Criminal Inquiry	170	9.0
Legal Referral	150	8.0
Ombudsman Complaint	93	4.9
Family Inquiry	66	3.4
Jury Division	21	1.1
Municipal Inquiry	19	1.0
Probation Inquiry	3	0.2
TOTAL	1887	100%

**Figure 2: Essex: Reasons Court Users Contact the Office of the Ombudsman, Court Information and Community Relations
January - December 2001**



(3) Questions Frequently Asked by Persons Contacting the Essex Ombudsman Office Court Information and Community Relations Center

The following lists reflects anecdotal data regarding the questions frequently asked by persons contacting the Essex Ombudsman Office, Court Information and Community Relations Center.

- (a) Civil Division Questions
 - a. 1) How do I go about suing someone for money?
 - a. 2) What form do I need and where can I get that form?
 - a. 3) How do I fill out the form?
 - a. 4) What is the filing fee?
 - a. 5) How long will it take me to evict my tenant?
 - a. 6) How do I collect my money once I have a judgement in my favor?
 - a. 7) How can I sue someone if I do not know where they live?
 - a. 8) How long do I have to wait to get my court date?
 - a. 9) How can I find out if someone has been sued before?
 - a. 10) How can I get temporary rental assistance?
 - a. 11) Is an interpreter available to help me?
 - a. 12) How can I change my child's name?
 - a. 13) Where can I get an order to show cause?

- (b) Criminal Division Questions
 - b. 1) How do I collect my bail money?
 - b. 2) How do I get a Letter of Good Conduct?
 - b. 3) How do I find out when and where my case will be heard?
 - b. 4) How do I get a public defender?
 - b. 5) How can I find out if someone has a criminal record?

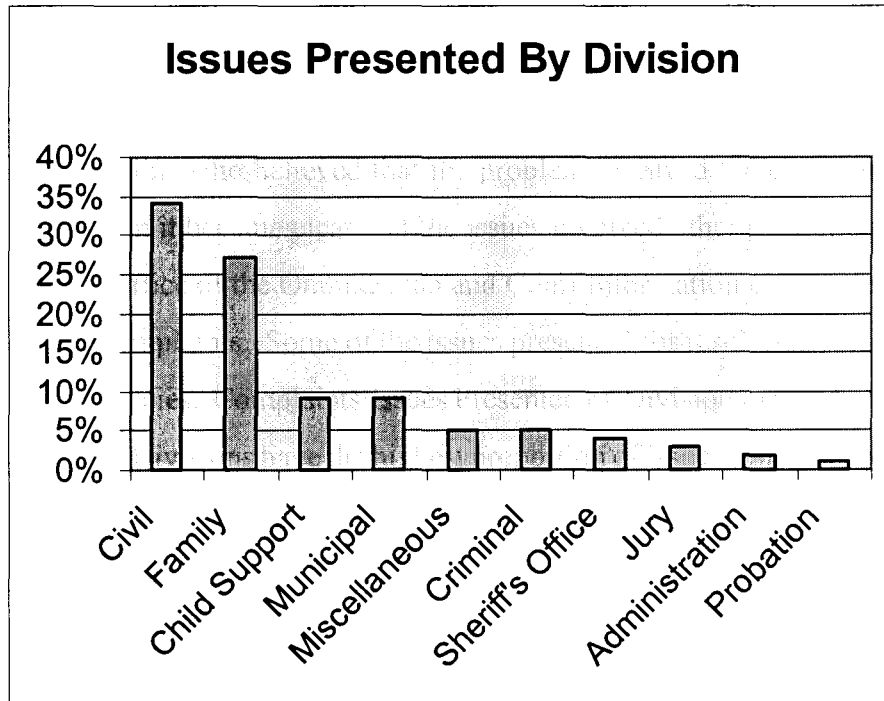
- (c) Questions From Attorneys
 - c. 1) How can I research a case?
 - c. 2) What are the service requirements in New Jersey?
 - c. 3) How do I proceed *pro hac vice* (for this one particular occasion)?

- (d) General Questions
 - d. 1) Where can I go to get a lawyer?
 - d. 2) What do I do if I cannot afford a lawyer?
 - d. 3) Will legal services or legal aid help me?
 - d. 4) Are trials open to the public?
 - d. 5) Can I speak to the judge?
 - d. 6) What are the requirements for jurors?
 - d. 7) How can I appeal the judge's decision?
 - d. 8) How do I complain about a judge or attorney?

(4) Citizen Assistance Services: Ombudsman Complaint s/Issues

The following data on complaints/issues presented to the Ombudsman for resolution were collected.⁴² These data reflect the complaint/ issues presented by division, the type of issues presented, the gender, primary language and ethnicity of office visitors. These data also indicate whether or not visitors were represented by counsel. An additional miscellaneous category reflects contacts by persons who believed that the problem involved the court, but in fact, upon review by the ombudsman it became clear that the issues involved other institutions. Of the 1887 court user contacts the Office of the Ombudsman and Court Information Center, for calendar year 2001 93 or 4.9% were complaints. Some of the issues presented for resolution were complaints or concerns about other agencies. Complaints/Issues Presented by Division to the Ombudsman reveal that the Civil and Family Divisions have the highest proportion of issues followed by Child Support and Municipal Court. The probation and administration areas have the smallest proportion of complaints/issues presented to the ombudsman for resolution respectively.

Figure 3: Essex: Complaints/Issues Presented by Division: January - December 2001



⁴² Appendix C-3.1 has a copy of the Essex Complaint/Intake Form.

Table 11 represents summary data collected on complaints/issues presented to the Essex Ombudsman for resolution across all divisions. Tables 12-20 present the issues raised by constituents for each of the divisions noted in Table 11. The detailed tables permit the reader to gain an appreciation for the range of complaints/issues which were referred to the ombudsman. The tables capture citizen concerns that were shared about various court practice areas other offices, i.e. Sheriff's Office.

**Table 11: Essex: Complaints/Issues Presented to the Ombudsman
for Resolution by Division
January - December 2001**

DIVISION	Number of Issues	Percent
Civil	32	34.4
Family	25	26.9
Child Support	8	8.6
Municipal	8	8.6
Miscellaneous	5	5.4
Criminal	5	5.4
Sheriff's Office	4	4.3
Jury	3	3.2
Administration	2	2.2
Probation	1	1.1
TOTAL	93	100%

**Table 12: Essex: Ombudsman Resolution of Complaints/Issues
Presented by Civil Division,
January - December 2001**

Confusion Regarding Court Processes	8
Judicial Demeanor	8
Staff Conduct	
Constable	3
Court Staff	2
Waiting Time / Delay	4
General Dissatisfaction	4
Phone System	3
Total	32

**Table 13: Essex: Ombudsman Resolution of Complaints/Issues
Presented By Family Division
January - December 2001**

Judicial Demeanor	12
Staff Conduct / Error	6
Confusion Regarding Court Process	3
Waiting Time / Delay	2
General Dissatisfaction	2
Total	25

**Table 14: Essex: Ombudsman Resolution of Complaints/Issues
Presented By Child Support
January - December 2001**

Incorrect Information	2
Confusion Regarding Court Process	2
Waiting Time / Delay	1
Staff Conduct	3
Total	8

**Table 15: Essex: Ombudsman Resolution of Complaints/Issues
Presented By Municipal Division
January - December 2001**

Records	1
Bail	1
Judicial Demeanor	3
General Dissatisfaction	2
Rude Treatment	1
Total	8

**Table 16: Essex: Ombudsman Resolution
of Miscellaneous Complaints/Issues
January - December 2001**

Parole Officer Problem	1
Refund Check	1
Attorney Conduct	1
Phone System (General)	1
County Employee	1
County Jail	2
Total	7

**Table 17: Essex: Ombudsman Resolution of Complaints/Issues
Presented By Criminal Division
January -December 2001**

Judicial Demeanor	1
Waiting Time / Delay	1
Bail	1
Staff Conduct	1
Confusion Regarding Court Process	1
Total	5

**Table 18: Essex: Ombudsman Resolution of Complaints/Issues
Presented By Sheriff's Office
January - December 2001**

Waiting Time / Delay	1
Incorrect Information	1
Rude Treatment	2
Total	4

**Table 19: Essex: Ombudsman Resolution of Complaints/Issues
Presented by Jury Management Division
January - December 2001**

Staff Conduct	2
Offensive Statement by Attorney	1
Total	3

**Table 20: Essex: Ombudsman Resolution of Complaints/Issues
Presented by Probation Division,
January - December 2001**

Confusion Regarding Fines	1
Total	1

Of the 93 complaints/issues, charted above, and presented to the Essex Ombudsman's Office for resolution, approximately equal proportions of females (50.5%) and males (49.5%) had complaints/issues and the majority of the concerns (93.5%) were presented in English compared to 6.5% which were noted in Spanish.

With respect to the race/ethnic categories of complainants, Table 21: Essex: Complaints/Issues Presented by Ethnicity; December 2001 reveals that 45.1% of the complainants were African Americans; 20.9% were Whites, 15.3% were of unknown race/ethnicity and 14.3% were Hispanic. Asian Americans and Nigerians were equally likely to register complaints (1.1% for each).

Table 21: Essex Complaints/Issues Presented by Ethnicity, December 2001

RACE/ETHNICITY	Number	Percent
African American	41	45.1
Nigerian	1	1.1
Jamaican	2	2.2
Caucasian	19	20.9
Hispanic	13	14.3
Asian	1	1.1
Unknown	14	15.3
TOTAL	91	100%

Of those persons (N=78) who noted if they had/did not have legal representation, 88.5% were reported as having no legal representation, compared to 11.5% who reported having retained counsel.

(5) Essex Customer Service Survey

The Essex Ombudsman designed and implemented a customer service survey in court year 2000. See Appendix C-3.2 for a copy of the Customer Service Survey form. The survey gives visitors to the court an opportunity to rate the quality of a specific division’s customer service in the categories of promptness, courtesy, efficiency, information and overall service. The rating categories include: excellent, good, fair or poor in each of the items measured. There were 715 surveys collected for calendar year 2001 from the New Courts Building and from the Wilentz Justice Complex. Review Table 22: Essex Court User Survey Results, Overall Courthouse Ratings, December 2001 and Figure 4.

The Overall Courthouse Ratings results indicate that visitors either thought that the customer service at the courthouse was either excellent or poor. These bifurcated findings may be due to case outcome, i.e. whether the person filling out the survey received a positive or negative outcome in his/her case. The overall results also reveal that visitors feel that most employees are courteous and that they do an excellent job with providing information to the public about court matters.

The findings show that most visitors complained about the amount of time that they had to wait for their matter to be heard or addressed. This is consistent with the poor ratings that the

visitors gave in the categories of promptness and efficiency throughout the year. Many court users felt that the time issue could be solved if court proceedings started on time or if more employees were hired. Visitors were also very concerned with the quality of customer service that they received. There were approximately seventy eight visitor comments received who wanted court employees to be more polite or friendly. Many of the visitors' feedback commented on the need for improvements in employee training. Finally, visitors wanted the facilities at the courthouse to improve. Specifically, they wanted an improvement in the cleanliness of the courthouse and the quality of the air-conditioning or ventilation system.

There were several employees in the Civil Customer Service Office, Criminal Division and the Family Division who were singled out by visitors during the year as being especially helpful. For more detailed information on the Essex Ombudsman Report and a break-out of the customer service ratings by divisions, see the companion report, Superior Court of New Jersey, Essex Vicinage, Ombudsman Report 2001. To obtain a copy of this report, contact the Essex Office of the Ombudsman.

Like its successful predecessor pilot program in Camden, the expanded Essex Ombudsman Program, incorporating citizen assistance services, community relations, court services and program information and citizen complaints has continued to garner national recognition as an innovative court program. Most recently, the National Association for Court Management, Knowledge Fair 2001 had this to say about the program.

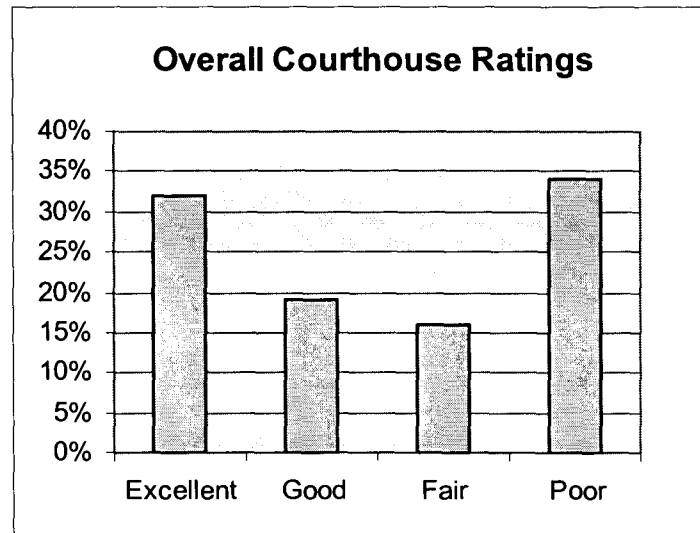
The Essex Vicinage of the Superior Court of New Jersey in Newark has made a breakthrough with the ombudsman program. By consolidating public information and community relations with the complaint function of the ombudsman, the vicinage has gained a remarkable synergy that is worthy of emulation. The combined program offers court users a single location for gaining access to the array of services now being offered by the judiciary in the county.⁴³

⁴³ Karl Thoennos, Reporter. The Court Manager, "Organizational Ombudsman, Newark, New Jersey Model, XVI, Number 3, page 43. The Essex Ombudsman, Michele Bertran, Esq. was the speaker and was assisted by Tom Dibble, Court Executive Essex Vicinage.

**Table 22: Essex Court User Survey Results, Overall Courthouse Ratings
December 2001**

RATING CATEGORIES	PROMPTNESS		COURTESY		EFFICIENCY		INFORMATION		OVERALL SERVICE		TOTAL
	#	%	#	%	#	%	#	%	#	%	
Excellent	186	28.9	232	37.2	192	31.2	215	34.9	172	27.0	997
Good	113	17.5	127	20.4	100	16.2	132	21.4	125	19.7	597
Fair	92	14.3	95	15.2	88	14.3	91	14.8	125	19.7	491
Poor	253	39.3	170	27.2	236	38.3	178	29.4	214	33.6	1051
TOTAL	644	100%	624	100%	616	100%	616	100%	636	100%	3136

**Figure 4: Essex: Overall Courthouse Ratings
January - December 2001**



D. Linguistic Minorities

Task Force Recommendation 3: The Supreme Court shall assure that the trial courts (1) provide interpreters who have knowledge of cultural variations; and (2) assure equal access to courts for linguistic minorities.

Task Force Recommendation 35: The Supreme Court should require that a qualified interpreter is provided for every person who needs an interpreter.

1. Spoken Language Services
 - a. Historical Background

The New Jersey Judiciary has the distinction of being the flagship for state court initiatives designed to assure equal access to courts for linguistic minorities.⁴⁴ Five Supreme Court Task Forces have addressed this issue.⁴⁵ In 1993, the Court reiterated its support in the Action Plan on Minority Concerns when it stated that “the courts and their support services shall be equally accessible for all persons regardless of the degree to which they are able to communicate effectively in the English language.” The provision for interpreters also embraces the deaf and hard of hearing.

In court year 1996-1997, the first year for which statistics were collected, the Superior Court needed interpreters for 45,188 events spread among forty-six languages in Superior Court. While no such statistics are collected for Municipal Courts, it is estimated that the volume of interpreted

⁴⁴The section of the report on linguistic minorities is, in large part, excerpted from a earlier report prepared by Robert Joe Lee, AOC Court Interpreting, Legal Translating and Bilingual Services Unit.

⁴⁵Chief Justice Robert N. Wilentz appointed the Supreme Court Task Force on Interpreter and Translation Services in 1982 to study the degree to which linguistic minorities have equal access to the courts and to recommend corrective steps. In 1985, that task force submitted its report to the Court entitled, *Equal Access to the Courts for Linguistic Minorities*. Also in 1985, the *Supreme Court Task Force on the Improvement of Municipal Courts* issued its final report which also called for equal access to the courts for linguistic minorities.

In 1991, the Supreme Court Task Force on Drugs and the Courts noted its concerns about the need to improve services for defendants who do not speak English. Later in 1991, the Supreme Court Committee on Court Reporting evaluated the special circumstances of testimony taken through interpreters. Focusing attention on this issue grew out of concerns about how best to handle the need to assure that misinterpretations of testimony could be identified and assessed for appellate review.

In 1989 and 1992, the Supreme Court Task Force on Minority Concerns in its interim and final reports respectively, addressed this issue as well. In 1993, the Supreme Court called for expedited adoption and implementation of a coordinated program to assure equal access to courts for linguistic minorities.

events in the Municipal Courts was around 90,000 for the same time period. See Appendix C-4.1 for the Fifth and Sixth Statistical Reports on Court Interpreting Events for Court Year 1996-1997.

It is noteworthy that since May 3, 1889, New Jersey's judges have had statutory permission to appoint interpreters. L. 1889, c. 206. Notwithstanding a long succession of bills on this issue, by the time Robert Wilentz became Chief Justice numerous calls for reform in this area had been made.⁴⁶ In 1980-81, the Chief Justice received letters alleging absence of interpreters in many courts, widespread use of unqualified interpreters, and lack of policy and guidelines regarding interpreters. He responded by appointing the Supreme Court Task Force on Interpreter and Translation Services, which began its work in May 1982 and submitted its final report in May 1985.

Chief Justice Wilentz directed the Task Force to identify and document the ways linguistic barriers inhibit equal access to the courts and their support services. This was the first body of its kind appointed by a Judiciary⁴⁷ and the only one to date that has systematically analyzed all aspects of access to courts for linguistic minorities. The Task Force recommended:

- Certification of interpreters and translators;
- Comprehensive policy (including a code of conduct, legislation, and standards);
- Professional development of interpreters and translators;
- Training for judges, attorneys, and court employees who rely on interpreters to do their jobs;
- The hiring and deployment of sufficient numbers of qualified and adequately compensated interpreters and bilingual support staff;
- Effective administrative support; and
- Education of linguistic minorities about the courts and resources for equal access to them.

⁴⁶Note, "The Right to an Interpreter," 25 Rutgers L. Rev. 145 (1970); R.C. Rodriguez, "Presently Existing Situation on Court Interpreter and Bilingual Services in the Newark Municipal Courts" (1972); M.R. Frankenthaler and H.L. McCarter, "A Call for Legislative Action: The Case for a New Jersey Court Interpreter Act," 3 Seton Hall Leg. J. 125 (1978); Frankenthaler, "How to Work with Court Interpreters," N.J. Lawyer (May 1981); Leonard J. Hippchen, "Development of a Plan for Bilingual Interpreters in the Criminal Courts of New Jersey," 2 Just. Sys. J. 258 (1977).

⁴⁷The only similar effort that preceded this study was one conducted for The Judicial Council of California which was mandated and funded by the Legislature in September 1973 (Assembly Concurrent Resolution No. 74).

The Judiciary has made significant progress toward implementing the Supreme Court's program for ensuring equal access to courts for linguistic minorities. The New Jersey Judiciary is a national leader in this area. Some of the highlights of the court's initiatives are discussed below.

b. Highlights of Court's Initiatives in Interpreting

(1) Qualifying Interpreters

Since 1987, a valid and reliable test for Spanish court interpreting has been administered. The program started with testing in Spanish, but now includes the following additional languages: Arabic, Cantonese, French, German, Haitian Creole, Italian, Korean, Mandarin, Polish, Portuguese, Russian, Serbian, and Vietnamese. Tests in additional languages are added almost every year. About 2,100 examinations have been administered. A full-fledged certification program has been designed, published for comment, and is pending final approval and implementation.

When testing began in 1987, only two of the approximately twenty-two staff court interpreters in the Superior Court at the time were able to pass the test and be approved. As of February 2001, all of the thirty-four positions are filled by staff interpreters who are approved--and eight of them have tested at the Master level. The requirement to use approved interpreters for staff positions was extended to free-lance interpreters in 1995. Hence the overall quality of interpreters working in the Judiciary has improved dramatically since 1985. The only category of interpreters who are not yet approved to go through the established approval process are interpreters provided through agencies.

Many jurisdictions come to New Jersey for guidance and our judiciary is one of four founding members of the Consortium for State Court Interpreter Certification. This body is a multi-state effort with 28 members and is staffed by the National Center for State Courts to certify interpreters and establish national standards for qualifying court interpreters.⁴⁸

(2) Training Interpreters

Chief Justice Robert N. Wilentz helped make possible a collaborative effort between the Judiciary and the Department of Higher Education to develop a model curriculum for training

⁴⁸ A national assessment of court interpreting noted, "To find certified interpreters, courts should look to the federal courts, and state courts of California, New Jersey, and Washington." William E. Hewitt, *Court Interpretation: Model Guides for Policy and Practice in the State Courts*, 238 (1995).

Spanish interpreters at institutions of higher education in New Jersey. That initiative has resulted most notably in the creation of an undergraduate minor for Spanish court interpreters at William Paterson College. Other courses have also been offered at New Jersey City University, Montclair State University, and Rutgers University at New Brunswick. In addition, a certified program for spoken languages interpreting has been established at Union County College.

Other efforts in this area include a tuition reimbursement program for court employees who interpret. The AOC also offers some training opportunities. For example, about 2,350 persons have completed a one-day seminar offered by the Court Interpreting, Legal Translating and Bilingual Services Section of the Special Programs Unit on the Code of Professional Conduct for Interpreters, the first step to becoming an approved interpreter. The Court has implemented training for all interpreters that addresses the cultural and dialect differences inherent in the native languages of linguistic minorities. Such development will assure more accurate and effective interpretation of court proceedings.

A brief segment on court interpreting has been offered since 1989 in the orientation program for new Municipal Court judges. A longer segment on access to courts for linguistic minorities has been included in Principles of Municipal Court Administration since 1988. Similar offerings were included in the orientation course for Superior Court judges from 1988 until 1997.

Training for conducting interviews and delivering services via interpreters is also available for attorneys, hearing officers, mediators, arbitrators, and court support personnel. Suggestions have been offered to staff regarding developing an orientation course to be given to all new support employees of the Superior Court statewide focusing on equal access to courts for linguistic minorities.

(3) Comprehensive Policy

The judiciary has worked diligently to make sure that a comprehensive set of policies is adopted and maintained that ensure equal access to courts. In 1994, the Supreme Court incorporated into the Code of Judicial Conduct, the Rules of Professional Conduct, and the Code of Conduct for Judiciary Employees a prohibition of discrimination on the basis of language. The Judiciary is the only branch of government in the country known to have such an explicit prohibition.

The Supreme Court has also approved the Code of Professional Conduct for Interpreters,

Transliterators, and Translators, which became effective December 1, 1994. It clarifies and establishes the role and responsibilities of interpreters and other professional linguists. The Code heavily influenced the "Model Code of Professional Responsibility for Interpreters in the Judiciary" issued by the National Center for State Courts.⁴⁹

Early in 1995, the Chief Justice and the Assignment Judges adopted Guidelines for Contracting Free-lance Interpreters in the Superior Court. That policy established minimum qualifications and unifying compensation rates for free-lance interpreters for the first time. .

Chief Justice Poritz and the AOC are now working aggressively to revise and streamline the standards for court interpreting. Revision and completion of these interpreting standards represents a major policy initiative.

(4) Bilingual Services

The AOC continues to coordinate periodic plans by the Probation Departments to hire sufficient numbers of bilingual personnel, as requested by the Chief Justice and Assignment Judges. The Supreme Court has requested that the efforts to hire sufficient numbers of bilingual employees in the Probation Departments be expanded to all operating units in the Judiciary.

(5) Telephone Interpreting

Chief Justice Poritz and Administrative Director Williams continue to enhance access to interpreting by instituting and modernizing the technology available to accomplish the goals of equal access to the courts for linguistic minorities. Initiatives have been advanced for the use of telephone interpreting.

Judge Williams issued Directive # 14-01 on August 29, 2001, which sets forth the operational standards for telephone interpreting. The telephone program initiative outlines the proper and efficient operation of telephone interpreting usage.

A Pilot Telephone Interpreting Program was instituted and feedback from this pilot guided the development of the judiciary's telephone interpreting program. The Telephone Interpreting Program was initiated in April 2001. The first phase of the program focused on interpreting in the trial courts; this phase of the program is fully operational. The second phase focused on the Hearing

⁴⁹Ibid. at 195.

Officer Programs and became operational in June 2001. The third phase of the program is focused on divisional programs, including probation. This phase is being implemented and is expected to become operational statewide by April 2002.

The Administrative Office of the Courts has developed evaluation forms on the use of telephone interpreting and will incorporate solutions to any identified problems as the use of telephone interpreting expands. Information on telephone interpreting is available on the judiciary's web page. There are links for the following areas: a registry of interpreters and agencies, a telephone interpreting calendar, and telephone interpreting policies and procedures in the New Jersey Judiciary.

(6) Administrative Oversight

All of the preceding efforts illustrate different ways of ensuring that equal access to courts for linguistic minorities is institutionalized. However, no initiative would succeed without trial court familiarity and local control. The Committee of Vicinage Coordinators of Interpreting Services field staff manage the day-to-day coordination of interpreting services and has formed a committee and expects to meet quarterly.

2. Services for the Deaf and Hard of Hearing

Although American Sign Language Interpreting Services for the deaf have been available since 1984, in September of 2001 the Administrative Office of the Courts entered into a Memorandum of Understanding and provided guidelines to the Municipal Courts for *Assisting Persons Who Are Deaf and Hard of Hearing* (see Appendix C-4.2). The guidelines give an overview of the different ways of communicating with the deaf and hard of hearing population and provide information on when it is appropriate to use the services. The guidelines also briefly describe what the court's obligations are, what the person requesting the service is required to do and provides a list of interpreting services and information on getting a certified interpreter.

Each Municipal court is required to designate an American with Disabilities Act (ADA) Coordinator to accommodate persons who are deaf and hard of hearing, to post a sign with the hearing impaired logo in the courtrooms and to continue to provide training to municipal court judges.

The Committee appreciates the Court's continuing efforts to assure equal access for linguistic minorities and respectfully proposes the following recommendations:

Committee Recommendation 02:3.1: The Supreme Court should direct the Administrative Office of the Courts to assure: 1) that an introductory seminar on interpreting issues be presented to all new Superior Court judges during the new judges orientation training and that an elective refresher course be presented annually at the Judicial College; and 2) that law clerks, new hires and veteran court staff receive orientation on matters of access to courts for linguistic minorities at the AOC and in all the vicinages.

Committee Recommendation 02:3.2: The Court Interpreting, Legal Translating and Bilingual Services Unit (AOC) in collaboration with the Committee on Linguistic Minorities should design and periodically administer a customer service survey. The survey results should be published and distributed to all divisions and the public.

E. Statewide Availability of Comprehensive and User Friendly *Pro Se* Materials

The pro se initiatives in New Jersey encompass a holistic view of offerings for court assistance services and include providing information on court services and programs. The Ombudsman Office is a key component in this model of court user “wrap-around services.” The following discussion briefly outlines some of the accomplishments that the Judiciary has made in improving services for self-represented litigants. This section begins with a review of the Judiciary’s efforts to standardize pro se forms and ends with the published guidelines to court users about the assistance court staff can and cannot provide. Ideas are also shared on the need to establish delivery of service guidelines and training for court staff in this area. The original Recommendation 37 follows as well as its amendment 37.1 (1994-1996). Further amendments were presented in a six-part pro se recommendation in the 1996-1998 report.

Task Force Recommendation 37: The Supreme Court should adopt a policy that requires all forms and documents intended to be read by the litigants or the public be published in language that the public can comprehend.

Committee Recommendation 37.1: The Supreme Court should mandate that a more systematic approach, including the adoption of uniform guidelines, be taken by all AOC Divisions with respect to redesign of forms, brochures or written materials to ensure that they are in plain language. A specific timetable and implementation plan

should be adopted and closely followed. The plan should include express provision for pretesting and a periodic monitoring system.

Committee Recommendation Pro Se 1: The Supreme Court should direct the AOC to compile all pro se materials, evaluate those materials to ensure that they are written in plain language, revise the materials, as necessary, and distribute the materials to the vicinages and to the public (libraries, community centers, municipal buildings, county government, social service and government agencies). Targeted distribution plans for minorities should be put into place.

- 1) *Production by each AOC division of easy-to-understand pro se packets for the most frequent issues facing pro se litigants in that division within the next 12 months. Uniform packets should be available in every vicinage (Pro Se 1.1),*
- 2) *Preparation of guidelines for court staff on handling pro se litigants (guidelines have been prepared by the Subcommittee for pro se litigants) (Pro Se 1.2),*
- 3) *Accessibility of general information in every courthouse concerning the availability of legal services in discrete areas. (The Subcommittee agreed and suggested that the Camden Ombudsman call Legal Aid while pro se litigants are in her office to see if their specific circumstances qualify) (Pro Se 1.3),*
- 4) *Pro se litigants should not be referred to forms books; specific court forms should be available in the courthouses regardless of whether the AOC maintains a library there or not (Pro Se 1.4),*
- 5) *The AOC should review the information collected from the Municipal Court clerks and administrators and obtain materials from legal services providers and ascertain if such materials could be adapted and made available for statewide use (Pro Se 1.5); and*
- 6) *Each AOC division should produce easy-to-understand informational videos for pro se litigants, in cooperation with vicinage staff, the State Bar and specialty bars, and distribute this information within the next 12 months. The areas in descending order of priority are Special Civil Part, Municipal Court, Family and Civil (Pro Se 1.6).*

1. What Did the Minority Concerns Task Force and Committee Propose and When?

In the Task Force's 1992 report, Recommendation 37 stated that the "Supreme Court should

adopt a policy which requires all forms and documents intended to be read by litigants or the public be published in language that the lay public can easily comprehend.” The basic thrust of this recommendation was to ensure that litigants and others using court services be able to read and understand the forms, notices, summonses, brochures and other documents issued by the court for processing cases, advising litigants about their rights and obligations or sharing information about court programs and services. The Court approved this recommendation for implementation in 1993.

In the 1994-96 report to the Court, the Minority Concerns Committee refined its earlier recommendation and suggested that all pro se materials in the state court system be compiled, evaluated and revised and that the forms be made available in public venues such as libraries, municipal buildings and community centers. The Committee further observed that while there was one attorney in New Jersey for every 200 persons, there is only one legal services attorney for every 3000-5000 poor persons in the state (depending of course on the county of residence). Legal services offices in the state were inundated with clients and were only able to represent 20% of the people seeking their services. Since minorities are disproportionately represented among the poor, the Committee reasoned that the lack of legal representation for the poor will be felt more strongly by minorities. The lack of adequate and appropriate legal services is a serious access issue and fundamentally impacts the court’s “equal justice for all” foundation.

These alarming statistics have not improved over the course of the past several years in New Jersey. The poverty rate has remained virtually the same for the past decade. In the late 1980's when the state was in a recession, the poverty rate was 8.8%. Ten years later, the poverty rate was 9.1%.⁵⁰ The report cited by Leusner goes on to recommend a significant increase in the welfare grant which has not been raised since 1987. It notes that poverty varies by county and Hunterdon had the lowest rate of 2.9% in 1998 while Hudson had the highest 17.3%. Although the rates are not published by cities, the U. S. Department of Housing and Urban Development reports that the poverty rate in Camden in 1999 was 44% and more than 30 % in Newark.

⁵⁰ Leusner, Donna, “Report Finds Robust Economy Can’t Budge State Poverty Rate,” The Star Ledger (July 27, 2001) ,p. 52.

Committee Recommendation 02:3.3: The Committee joins the Ad Hoc Committee on Pro Bo Assignments, chaired by Assignment Judge Eugene Serpentelli in the following recommendation, . . . “the Governor and Legislature should be apprised of the need to provide funding support for government sponsored legal (sic) services. . . .”⁵¹

Pro se assistance, therefore, may be one of the few ways that racial and ethnic minorities and the poor may access the courts. The Committee on Minority Concerns fact-finding also revealed that while all fifteen court administrative districts had pro se kits, these kits were not uniform nor were they universally available to the public at accessible locations throughout the state. In an effort to a complete comprehensive assessment of the available pro se materials in the state, the Supreme Court Committee on Minority Concerns asked each of the fifteen vicinage advisory committees on minority concerns staff to compile all of the pro se materials and forms made available to the public in each of the fifteen administrative jurisdictions. Rutgers University student interns catalogued these materials by subject area, document number, title, division and program, publisher, type of document, description of the format, forms present/not present, instructions present/not present, instructions clear/not clear and presence of court logo. The interns were also asked to assess how user-friendly the materials were as determined by whether or not they could complete the forms without assistance.

These student assessments were reviewed by various practice division managers and staff prior to the report being forwarded to the Court. As a result of this comprehensive review, the Committee’s pro se recommendations were amended to reflect the information that had been gleaned from the compilation of the Court’s available pro se packets. The amended pro se recommendations as noted earlier was included in the Committee’s 1996-1998 report to the Court. The six-part recommendation proposed that each Administrative Office of the Courts practice division (civil, criminal, family, municipal court) draft or revise existing pro se packets so that they are standardized and that best practices are adopted. These best practices were to embrace the dissemination of pro se forms and information to court users and the preparation of user friendly instructions.

⁵¹New Jersey Supreme Court Ad Hoc Committee on Pro Bono Assignments, *Final Report to the Supreme Court* (November 23, 1998), A General Findings, p. 7, Specific Findings, p. 8 and #6 Committee Recommendation A, pp.13-14 (Appendix C-5.1).

The Committee's report also included a discussion on how to improve access to the Court for self-represented litigants. The policy recommendations which accompanied this narrative suggested that the Court strike a balance between the Judiciary's legal needs (legal sufficiency) and the client's need to be able to understand the document; that standardized pro se kits be drafted for the most frequent issues facing litigants in a given practice division; that the forms be piloted; that the documents be clear and written at a level that most people can understand; that the forms be translated into other languages; and that a monitoring mechanism be put into place to periodically evaluate the roll-out of the standardized forms; that guidelines be prepared for court staff on handling pro se litigants; that information on pro se materials and the availability of legal services be easily accessible in all court complexes throughout the state; that pro se litigants not be referred to forms books and that court forms be available in the courthouse even if there is not a library in the facility and that each practice division produce an easy-to-understand informational video for pro se litigants. Other recommendations included putting in an evaluation component to determine the use of the pro se kits and to secure feedback from the court staff and the public in order to determine if the materials for self-represented litigants are made available to the persons who need them and if staff are using them in the manner intended.

2. Progress Report

The Administrative Director of the Courts appointed an Ad Hoc Working Group on Pro Se Materials composed of staff from all of the practice areas and the Administrative Office of the Courts to review and draft or revise pro se kits, beginning with those practice areas in which pro se kits are in high demand. This working group, composed of both AOC and vicinage representatives, has been meeting regularly for over two years .

The Ad Hoc Pro Se Committee produced various draft pro se kits and then systematically submitted the draft documents for review to various conferences and divisions (external to the working group). For example, for the Special Civil Part, the Conference of Civil Division Presiding Judges, the Conference of Civil Division Managers and other conferences all had the opportunity to review the draft pro se packets. It is also noteworthy that all of the pro se kits were reviewed by the Supreme Court Committee on Minority Concerns (Access Subcommittee) as well. Since the Subcommittee has public members who are not Judiciary employees and who do not work in the

justice system, these citizen reviews allowed the Ad Hoc Pro Se Working Group to gauge how receptive the public was to the new forms as well as to assess how clear the accompanying instructions were for persons who are not familiar with court forms.

Materials provided in the packets include information on what is included in the pro se kit, definitions of terminology and concise step-by-step instructions. Legal Services of New Jersey has found the forms very useful and is very complimentary of the work of the Ad Hoc Committee.

Selected pro se packets (Civil Division) were pilot tested in the Essex, Hudson and Mercer vicinages. The pilot included a user survey to obtain feedback on how helpful the explanatory materials and forms were. The results of the survey were generally positive. Over 80% of all users found the original civil division pro se packets either “very helpful” or “helpful”. Three-fourths of small claims filers were able to complete the forms without assistance and two-thirds of Special Civil filers were able to complete the forms without assistance. This means, however, that 25% of the people attempting to use the small claims packet and 33% of the people attempting to use the special civil packet are unsuccessful.

By the time the pro se kits reached the Court’s highest Conference, the Judicial Council, each packet had been through an exhaustive review process. The Judicial Council⁵² reviewed the packets prior to the pilot testing and post pilot testing. The following pro se kits are available:

- ▶ *Civil Matters*
 - How to Sue for an Amount of Money Under \$10,000
 - How to Sue for an Amount of Money Under \$2,000 – Non Auto
 - How to Sue for an Amount of Money Under \$2,000 – Auto
 - How to Answer a Complaint in the Special Civil Part

It is estimated that approximately 85,000 people annually file small claims and special civil complaints without a lawyer and these standardized forms should enhance access to the courts for self-represented individuals.

- ▶ *Family Matters*

In Spring 2001, the Judicial Council approved a pilot program to test informational packets designed to enable self-represented litigants to file a Motion to Increase/Decrease Child Support

⁵² The Judicial Council membership includes the Chief Justice, the Administrative Director of the Courts, the 15 Assignment Judges, the chairs of the four Presiding Judges Conferences and the Deputy Administrative Director of the Courts.

Payments or Alimony in the Family Division. The packets were pilot tested in Bergen, Cumberland and Middlesex Counties. The distribution of forms were limited to dissolution cases and cases where incarcerated individuals contacted the Family Division seeking packets for dissolution and non-dissolution cases. When court users completed the forms and filed them, they were asked to complete a user survey form . At the conclusion of the test period, vicinage staff were also asked to complete a staff survey to elicit their views on the packets.

Only 38 surveys were returned; 60% of the users rated the packets as either “ very helpful or helpful” and three- fourths of the respondents were able to complete the form on their own. Although the initial numbers were encouraging, in light of the fact that the filing requirements in the Family Division are quite complicated, the sample size is too small to draw definitive conclusions about the use of the kit.

The results of the staff survey for the pilot test of the Motion to Increase/Decrease Child Support Payments or Alimony were also generally encouraging as well. All three pilot vicinages supported the continued use of this packet and indicated that it was an improvement over the previous packets that had been used in the past. Staff especially favored the standardized packets because they could distribute theses new forms secure in the knowledge that the packets were legally sufficient to have the motion heard and that they contained information about the process in one succinct document. Prior to the distribution of the new packet, vicinage staff often had to send court users to the court law library, if they had one, to research how to properly file the form.

A revised Multipurpose Family Division Post Judgment Motion packet was recently substituted for the Motion to Increase/Decrease Child Support or Alimony packet. The new packet can be utilized for the following:

- A motion to increase or decrease child support payments;
- A motion to increase or decrease alimony payments;
- A motion to change the custody arrangements of the minor child;
- A motion to change the visitation/parenting time arrangements;
- A motion to enforce litigants rights (this includes enforcing custody, visitation and child support and alimony payment orders);
- A motion for emancipation of a child (termination of child support obligations);

- A motion for reimbursement of medical expenses; and
- A cross-motion responding to one of the motions listed above.

The following guides to help litigants appeal a court's decision are also available.

- ▶ *Municipal Court Matters*
 - How to Appeal a Decision of a Municipal Court
- ▶ *Appellate Division Matters*
 - How to File an Appeal in the Appellate Division
- ▶ *Supreme Court Matters*
 - How to File an Appeal in the Supreme Court

The Committee commends the judiciary for its rapid response to the World Trade Center Disaster in posting the forms necessary to obtain a declaration of death and proceeds through probate in New Jersey within two weeks of the disaster.

- ▶ *World Trade Center Disaster*
 - Forms for Use in Obtaining a Declaration of Death–World Trade Center Disaster;
 - Forms for Obtaining a Declaration of Death for a Person Missing in Connection with the Terrorist Attacks on September 11, 2001;
 - Full Set of Forms for Use by Surrogates, Attorneys, and Others Providing Assistance to Litigants.

Pro Se materials are now available for caregivers seeking guardianship of persons receiving services from the New Jersey Division of Developmental Disabilities.

The Ad Hoc Pro Se Working Group is continuing to work on the following packets: Name Change; Special Civil Part Post-Judgement Motion and Landlord/Tenant.

Committee Recommendation 02:3.4: The judiciary needs to determine whether additional packets will be helpful and, if so, produce those packets within the next 12 months. The judiciary should consider producing and packets addressing the following concerns:

- * **How to file emergent applications for hardship stay and other post-eviction relief for tenants;**
- * **How to obtain your own divorce;**
- * **How to modify visitation/parenting time and**
- * **How to enforce family division orders.**

Although the Ad Hoc Pro Se Working Group was mindful of the need to draft pro se kits in language that court users can easily understand, an expert should be retained to review the present body of work before the packets are translated into other languages.

Committee Recommendation 02:3. 5: The judiciary should have an expert examine the pro se packets that have been produced for reading level and reading ease. A consultant with expertise in this area should be hired to review the pro se kits and to present a seminar to the Pro Se Ad Hoc Working Group and other judiciary staff who routinely draft documents for the public and produce other media materials. The packets should be revised to a fifth grade reading level within the next 12 months.

Committee Recommendation 02:3.6: The packets are currently available only in English. Although the documents filed with the court must be filed in English, providing instructions in other languages, especially Spanish, would enable more people to use the packets. The judiciary should have the instructions for each packet translated into Spanish within the next 12 months and other languages, as appropriate, within 24 months.

3. Guidelines to Assist Self-Represented Litigants and Training Court Staff

Several years ago, the Court approved posting of the guidelines listing “What Court Staff Can and Cannot Do” (Appendix C-5.2). These guidelines were initially drafted by the Subcommittee on Minority Access to Justice. The guidelines were revised and reformatted by the Ad Hoc Pro Se Working Group and distributed to all courts, including municipal courts. The distributed guidelines were enlarged and copied on bright gold paper before being laminated. Both English and Spanish versions are on display in courthouses.

The Committee also believes that court staff should be trained in how to deliver services to self represented litigants. In conjunction with this training, guidelines for court staff should be developed. Included in the guidelines should be the Pro Se Committee recommendation: Pro Se 1.4, “that pro se litigants not be referred to forms books; specific court forms should be available in the courthouses regardless of whether the AOC maintains a library there or not.

The Essex Ombudsman has provided training to court staff in the Essex vicinage, at staff

college, for law librarians and in conjunction with the National Center for State Courts Institute for Court Management and various national forums on delivering services to self-represented litigants. These course discussions center around the court's mission and structure. The focus is on the need for access to justice for all litigants and how to direct litigants to information and resources for their own decision making. Emphasis is placed on neutrality, impartiality and fairness while lifting the veil of mystery that often surrounds court processes and procedures.

Committee Recommendation 02:27.5(4): The Committee recommends that this course be further developed and offered as a part of the judiciary's judicial and staff training curriculum.

The Committee notes that the Court has vigorously worked to revise and standardize forms and improve services for self-represented litigants. The Court is to be commended for these efforts and the Committee looks forward to continuing the teamwork in this area. Materials for self-represented litigants may be accessed on the New Jersey Judiciary's web site at www.judiciary.state.nj.us .

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Chapter IV

SUBCOMMITTEE ON LEGISLATION REVIEW

INTRODUCTION AND MANDATE

The Subcommittee on Legislation Review is a newly created group appointed in 2001 at the recommendation of Administrative Director Richard J. Williams. The Director saw that the Committee on Minority Concerns could play an important role in advising him of proposed legislation that may have an adverse impact on women and persons of color.

At the May 2000 National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts annual meeting, hosted by the New Jersey Judiciary, Judge Williams formally announced (in his address to conference participants) the request shared earlier with the Supreme Court Committee on Minority Concerns.

Subcommittee Activities

The subcommittee developed regular procedures to review a bill when it appears that movement through the legislative process is imminent. That review focuses on whether a particular proposal might have a disparate impact on minorities and women. Subcommittee members' comments are quickly transmitted to the Administrative Director as he and other leaders decide whether the Judiciary should comment on that bill.

The Subcommittee reviewed many bills. Two examples of the reviews follow. In one instance the Subcommittee's comments led to a conditional veto of legislation which, while intended as a tough crime fighting measure, would have disproportionately subjected minority youths to the possibility of referral from juvenile courts to the adult criminal courts. Thus, the possibility of racially disparate treatment of minority youths was prevented.

In another instance, the Subcommittee reviewed pending drug court legislation. It is general knowledge that a large percentage of drug prosecutions involve minorities, and current law treats these offences very seriously. Legislation supporting the establishment and funding of drug courts will play a critical role in addressing the serious problem of the disparate population of race and ethnic minorities in New Jersey jails and prisons.

These are two examples which demonstrate how the review of proposed legislation by the Supreme Court Committee on Minority Concerns is an important and appropriate expanded role.

Chapter V

SUBCOMMITTEE ON MINORITY PARTICIPATION IN THE JUDICIAL PROCESS

Introduction

Significant milestones toward ensuring racial and ethnic equality in the courts were achieved by the New Jersey Judiciary since the Supreme Court Committee on Minority Concerns last reported to the court in 1998. Under the leadership of the Chief Justice and the Administrative Director of the Courts, the New Jersey Judiciary has made major strides both in the continued diversification of the court workforce and in embracing effective and appropriate equal employment policies designed to ensure fairness. Several of these accomplishments have been recognized by the legal community (in New Jersey and nationally), by the National Center for State Courts, and by the public.

Many of these initiatives represent the fulfillment of Task Force on Minority Concerns recommendations by the Supreme Court in 1993, while others were suggested by the Committee on Minority Concerns in prior Rules Cycle Reports.⁵³

In May of 2000, the New Jersey Supreme Court and the Administrative Director of the Courts approved the Judiciary EEO/AA Master Plan; the issuance of the plan was a major accomplishment. The Judiciary also revised the *Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination* and discrimination complaint procedures (both were incorporated into the EEO/AA Master Plan). There was also a significant increase in full-time EEO/AA staff at the Central Office (AOC) and in the vicinages. The title of EEO/AA Officer at the vicinage level was elevated to Court Executive 1B (with direct reporting to the Trial Court Administrator) as was the title of Affirmative Action Officer at the AOC/Central Clerks' Offices. The EEO/AA investigative function was regionalized and EEO/AA software was purchased to facilitate the establishment of availability data.

The Judiciary also adopted a new classification and compensation system and a performance assessment system for its employees. The latter includes a diversity clause and a component to hold managers accountable for EEO/AA compliance.⁵⁴

⁵³See the following previously published reports, New Jersey Supreme Court Task Force on Minority Concerns, 1992, pp. 254-255; New Jersey Supreme Court Action Plan on Minority Concerns, 1993, pp. 26 and 36; Supreme Court Committee on Minority Concerns Rules Cycle Report to the Court 1994-1996, p. 70; and Rules Cycle Report 1996-1998, p. 44.

⁵⁴New Jersey Supreme Court Action Plan on Minority Concerns, 1993 Recommendation 32, p. 25; Supreme Court Committee on Minority Concerns Rules Cycle Report to the Court 1994-1996, p. 110.

The Judiciary converted its workforce databases from over 800 job titles (both state and county) into 10 broad band job categories, and merged the Trial Conversion Personnel Conversion System (TCPCS) and the Judicial Human Resource Information System (JHRIS) into one. Unifying the Judiciary workforce database by job broad bands partially implements the Supreme Court Action Plan on Minority Concerns' recommendation that the Judiciary refine its workforce data systems to assist in monitoring.⁵⁵

The Judiciary's progress in implementing the court-approved minority concerns recommendations positions it to meet the challenges of rapidly changing population demographics in our state. Minorities now account for almost a third of New Jersey's total population; a decade ago, they represented about a quarter of all New Jerseyans. See Table 23: New Jersey Population by Race and Hispanic Origin For 1990, 1995 and 2000 below. Later on in the report, a breakdown on the New Jersey population by county and race/ethnicity based on the U.S. Census 2000 will be presented.

**Table 23: New Jersey Population by Race and Hispanic Origin
For 1990, 1995 and 2000**

	Year 1990		Year 1995		Year 2000	
	#	%	#	%	#	%
Blacks	984,845	12.7	1,156,000	14.6	1,096,171	13.0
Hispanics	739,861	9.6	898,000	11.3	1,136,756	13.5
Asians/American Indians⁵⁶	276,831	3.6	370,000	4.7	490,525	5.8
Total Minorities	2,011,222	26.0	2,424,000	30.5	2,723,452	32.3
Grand Total⁵⁷	7,730,188	100.0	7,931,000	100.0	8,414,350	100.0

⁵⁵New Jersey Supreme Court Action Plan on Minority Concerns, 1993; Supreme Court Committee on Minority Concerns Rules Cycle Report to the Court 1994-1996. See also the Committee on Minority Concerns, Recommendations 44.1 and 44.2, Ibid.

⁵⁶According to the 2000 Census there are: 11,338 (0.1%) American Indians in the state of New Jersey, 477,012 (5.7%) Asians and 2,175 (0.0%) Native Hawaiian and Other Pacific Islanders.

⁵⁷The category "two or more races" which comprises 1.6% of New Jersey's population is not included in this report. The category "some other races" which consists predominantly (97%) of people of Hispanic origin, e.g., Mexican Americans, Dominicans, Peruvians, etc. represent 19,565 (0.2%) of New Jersey's population and has been merged into the "Hispanic" category as recommended by the New Jersey State Data Center.

This chapter will document the areas where improvements have been made and highlight those areas where the Judiciary, despite its considerable gains, needs to enhance and improve.

I. Subcommittee Mandate and Focus of the Report

The mandate of the Subcommittee on Minority Participation in the Judicial Process is to review, monitor and make recommendations regarding: existing programs affecting the employment of minorities in the Judiciary; the participation of minorities on Supreme Court boards and committees; and, minority access to vendor contracts, judicial clerkships and volunteer opportunities. The Subcommittee's monitoring responsibilities include, but are not limited to, the recruitment, retention and career development opportunities of minorities; the promotion of minority judges; the collection of workforce statistical data; and the monitoring of Judiciary employment policies and performance standards. The Subcommittee was further charged with:

- Reviewing existing Judiciary programs affecting the employment of minorities and determining their access to Supreme Court boards, committees and vendor contracts and gauging the achievement of these goals.
- Evaluating and monitoring the strengths and weaknesses of existing Judiciary programs, policies and procedures relative to employment and training initiatives.
- Assessing alternative programs, policies and procedures and identifying other areas where research is needed.
- Making recommendations to enhance, modify or augment existing Judiciary programs and/or offering new or alternative approaches to effectuating institutional change designed to eliminate racial and ethnic bias in the courts and ensure access of racial and ethnic minorities to employment opportunities, to Supreme Court boards and committees and to vendor opportunities.

This report addresses the implementation of specific recommendations in the Supreme Court Action Plan on Minority Concerns and in the Supreme Court Committee on Minority Concerns Rules Cycle Reports (1994-1996 and 1996-1998). The Subcommittee identified two broad areas as focal points for this reporting cycle: employment practices and minority participation.

Employment practices that directly affect the participation of minorities in the Judiciary were

examined and statistical data were reviewed on the extent of minority participation: as jurists, as non-judge court employees, as judicial law clerks and as court volunteers. The report discusses employment practices in order of priority, presents relevant statistics and respectfully sets forth findings and recommendations for the Court's consideration.

The Committee on Minority Concerns can report overall progress and, in some cases, significant progress in achieving equality of opportunity, representation and treatment of minorities in the workforce. Throughout this report, attention will be directed to those areas where improvement is still needed, particularly the need to increase the number of minority court executives, Hispanics, and Asians/Pacific Islanders/American Indians in the workforce. The participation of minorities in some county workforces will also be discussed.

II. Subcommittee Activities

In response to a request from the Administrative Director that the Committee comment on the draft Judiciary EEO/AA Master Plan, the Committee provided detailed legal analyses and recommendations to the Court to ensure that the Master Plan was consistent with Constitutional requirements. The Chairperson of the Minority Participation Subcommittee served on an ad-hoc committee appointed by the Administrative Director to review and edit the Judiciary EEO/AA draft Master Plan. In exercising its on-going monitoring charge, the Subcommittee has continued to work collaboratively with the Central Office and with the vicinages. The Subcommittee acknowledges and appreciates the assistance and efforts provided by court staff.

Brief highlights of some of the Subcommittee activities are as follows:

- The Subcommittee received and accepted the invitation of the Chairperson of the Performance Assessment Review Committee to attend a briefing session on April 19, 2001 where the draft status report on the Judiciary Performance Evaluation Program 1999/2000 Rating Cycle was presented. As a follow-up to this presentation, the Subcommittee prepared a list of questions and a detailed request for resource information and reports that would permit members to fully examine performance appraisal initiatives in the judiciary and ensure that the Subcommittee had an adequate knowledge base from which to make informed recommendations at some future date.
- The Subcommittee requested and received extensive cooperation from the AOC/central Clerks' Offices in obtaining workforce data and information on Judiciary employment policies and procedures.

- In collaboration with the Human Resources Division, the Minority Concerns Unit and EEO/AA Unit, the Subcommittee worked cooperatively to establish job groupings to be used in preparing the workforce analyses for the Judiciary.
- In collaboration with the Municipal Court Services Division, the municipal court judges and personnel surveys were revised. The Municipal Court Services Division distributed the surveys to municipal court judges and municipal court support staff.
- At the request of the Subcommittee, a self-report survey designed to obtain information on the status of vicinage EEO/AA program was sent to all the trial courts by the AOC Chief EEO/AA Officer. This survey updates similar information retrieved by the Subcommittee in January 1996 and January 1998. Questions were also posed to the Chief, EEO/AA Officer and to vicinage EEO/AA Officers.
- The Judiciary's informal and formal discrimination complaint intake forms were reviewed. Data on discrimination complaints filed statewide were reviewed and analyzed.
- It was necessary for members and staff to review and familiarize themselves with data sources used in this report such as: the Judicial Human Resource Information System and subsection report (such as Judicial Human Resource Central Payroll File); Municipal Court Services Division workforce data; *Volunteer Works*, the United States Census Bureau 2000 Redistricting Data (Public Law 94-171) Summary File; and data obtained from the State of New Jersey Commission on Higher Education on law degrees conferred by New Jersey state institutions.
- Other activities of the Subcommittee included the participation of members on the 2000 planning committee for the Twelfth Annual Conference of the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts and the preparation of the curriculum agendas for three seminars (*The Court as Employer: Best Practices to Ensure a Diverse Workforce and Promote a Bias Free Environment; Avoiding Liability by Establishing Nondiscriminatory Selection and Evaluation Procedures; and The New Jersey Judiciary Minority Law Clerk Recruitment Program*). Subject matter experts from the Unified Court System of New York, the United States Equal Employment Opportunity Commission, the New Jersey Law Firm Group and the Hudson Vicinage EEO/AA Officer were engaged to serve as faculty presenters. Subcommittee staff also served as faculty at two of the seminars.
- Presentations on the work of the Committee were made to the Pennsylvania Commission to Eliminate Racial and Ethnic Bias in the Courts, the Burlington Vicinage Advisory Committee on Minority Concerns and to the vicinage minority concerns staff.

III. List of Priority Recommendations

These issues were identified as priority recommendations and will be the focus of the Subcommittee's 2000-2002 biennial report.

A. Employment Practices in the New Jersey Judiciary

1. Judiciary EEO/AA Master Plan
2. EEO/AA Staffing
 - a. Increase in EEO/AA Staff
 - b. Training the New EEO/AA Officers
 - c. Establishing the Conference of EEO/AA Officers
 - d. EEO/AA Staff Work with Judiciary Committees and Conferences
 - e. Need for Bilingual Staff
 - f. Status of Vicinage EEO/AA Programs
3. Judiciary Discrimination Complaint Procedures
 - a. Background Information: Complaint Procedures
 - b. Issuance of New Jersey Judiciary Complaint Procedures, May 2000
 - (1) Informal Discrimination Complaint Procedures
 - (2) Formal Discrimination Complaint Procedures
 - (3) Prohibition Against Retaliation
 - (4) Confidentiality
 - c. Discrimination Complaint Procedures in the *Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination*
 - d. Discrimination Complaint Procedures in the Judiciary EEO/AA Master Plan
 - e. Discrimination Complaint Procedures Standard Operating Guidelines
 - f. Informal and Formal Discrimination Complaint Forms
 - g. EEO/AA Complaint Tracking Forms and Complaint Log
4. Regionalizing the EEO/AA Investigative Functions
 - a. Increase in EEO/AA Investigative Staff
 - b. Discrimination Complaint Procedures: Training for EEO/AA Investigative Staff and Employees

5. Review of EEO/AA Complaint Data
6. Discrimination Complaint Findings
 - a. Time Frames for Handling Discrimination Complaints
 - b. Tracking Discrimination Complaints/Complaint Log
 - c. Discrimination Complaint Standard Operating Guidelines
 - d. Discrimination Complaint Intake Forms
 - e. Complaints Based on Race, Sexual Harassment, Gender and Retaliation
 - f. Training Managers, Supervisors and EEO/AA Officers
 - g. Dissemination and Translation of Discrimination Complaint Procedures
 - h. Employee Survey to Assess the Judiciary Work Environment
7. Recommendations Relating to Discrimination Complaint Procedures

B. Monitoring Procedures to Ensure Minority Representation

1. Background Information: Judiciary Monitoring Procedures
2. Summary Report: Self-Report Survey
 - a. Job Notices of Vacancy Review
 - b. Interview Selection Lists: Review
 - c. Selection Disposition Forms Review
 - d. Exit Interviews
 - e. Committee Findings: Monitoring Employment Practices
 - f. *Successful Interviewing: A Guide for Those Who Interview Job Applicants*

C. Reduction in Force

D. Performance Appraisals

1. Performance Assessment Review Committee
2. Review of the Diversity Performance Standard

E. Minority Participation in the Judicial Process: Jurists

1. New Jersey Jurists
 - a. Current Report on New Jersey Judiciary: Supreme Court, Superior Court (Appellate and Trial Divisions), Tax Court and Municipal Court
 - b. Historical Review: New Jersey Representation of Judges of Color on the State Court Bench and Municipal Court

- c. Representation of Minority Judges by Court Level
 - (1) Supreme Court
 - (2) Superior Court- Appellate Division
 - (3) Superior Court Trial Division
 - (4) Tax Court
 - (5) Municipal Courts
 - 2. Women Judges and Women Judges of Color
 - a. Summary Data: Supreme Court, Superior Court (Appellate and Trial Divisions), Tax Court and Municipal Court
 - b. State Court Bench
 - c. Municipal Court Bench
 - d. Women Judges of Color
- F. Promotion of Minority and Women Judges**
 - 1. Minority Judges
 - 2. Women Judges
- G. Overview of the Judiciary Workforce**
 - 1. Workforce Profile: Administrative Office of the Courts and Vicinages Combined
 - 2. Presence of Minorities in the County Workforce
 - 3. Workforce Trends
 - 4. Employment in Judiciary Job Bands by Race/Ethnicity
 - a. Professional Supervisory
 - b. Legal
 - c. Support Staff Supervisory
 - d. Official Court Reporter
 - e. Court Interpreter
 - f. Information Technology
 - g. Administrative Professional
 - h. Case Processing
 - i. Judges Secretary
 - j. Support Staff

- 5. Judiciary Division/Unit Workforce Profiles
 - a. Total Minorities
 - b. Blacks
 - c. Hispanics
 - d. Asians/Pacific Islanders/American Indians
 - e. New Hires and Separations
- 6. Committee Findings: Recruitment and Retention
- H. Judiciary Minority Court Executives**
 - 1. Court Executives by Division
 - 2. Court Executives by Level
 - 3. Committee Findings: Minority Representation in the Court Executive Broad Band
- I. Employee Compensations**
Employee Compensation Findings
- J. Hispanics and Asian/Pacific Islanders in the Judiciary Workforce**
- K. Bilingual Variant Titles in the New Jersey Judiciary**
- L. Data on Minority Representation**
- M. Minority Law Clerks**
- N. Court Volunteers**

IV. Discussion of Priority Recommendations

A. Employment Practices in the New Jersey Judiciary

- 1. Judiciary EEO/AA Master Plan

Committee Recommendation EEO.1: The New Jersey Judiciary is urged to expedite the completion of its draft EEO/AA Master Plan. The plan should include monitoring procedures. Furthermore, the Committee on Minority Concerns should be allowed sufficient time to review the Plan before it is finalized (Rules Cycle Report, 1994-1996, page 70).

In two prior Rules Cycle reports to the Court, the Committee on Minority Concerns strongly emphasized the importance of having a current and viable EEO/AA Plan that would enable the

Judiciary to document improvements in minority hiring and in other workplace areas while at the same time identifying challenges and proposing remedial actions. (Rules Cycle Report, 1994-1996, page 70 and 1996-1998, page 45).

The Committee was very encouraged when, in May 2000, the New Jersey Supreme Court approved the Judiciary EEO/AA Master Plan. This was a significant event and the Master Plan has become a model plan for other departments of state government and other state courts. The Plan was first released to the public at the Twelfth Annual Conference of the National Consortium of Task Forces and Commissions on Racial and Ethnic Bias in the Courts where it was very favorably received.

The Plan has also been well received by the vicinages. When asked to identify some of the strengths of the Judiciary EEO/AA Master Plan and/or Program, some of the vicinages responding to a recent survey distributed to Trial Court Administrators shared the following insights.⁵⁸

- “One key strength is that the model Plan builds in very specific standards, roles and targets for the EEO/AA initiative that were not clear in the past. The EEO/AA Officer is now a vital part of the management operation, and is a strong contributing member to management staff meetings with the Assignment Judge, Presiding Judge, Trial Court Administrator policy formulation process.”
- “The Plan is a tangible document that outlines the commitment of the Judiciary to the fairness within the organization....There is accountability on every level of the organization...There are monitoring and reporting functions to ensure that fairness is administered in all aspects of court operations.”
- “The Plan shows the commitment the judiciary as a whole has to the principles of fairness, equality, and respect for all persons. The Plan encompasses not only employees but also those who come into contact with the courts.”
- “...The establishment of the EEO/AA Officer position, the EEO/AA Advisory Committee and the requirement for Vicinage Implementation Plans provide strength to the Program...”

⁵⁸“Questionnaire on the Vicinage EEO/AA Program” sent to Trial Court Administrators by the Chief, EEO/AA Officer on behalf of the Committee, January 2002. Refer to Appendix D-1 for a copy of the survey.

- “Through the Plan, managers will be assisted throughout the interview process to promote fair selection procedures.”
- “The workforce analyses provide essential data that serve as a blueprint for identifying problem areas and developing solutions.”

The comments provided by several Trial Court Administrators lend support to the Subcommittee’s assessment of the Judiciary EEO/AA Master Plan as a results-oriented management tool. The Plan is the foundation of the EEO/AA Program which affects more than 10,000 judiciary employees. It applies to judges, job applicants, attorneys, court volunteers and court users. The Plan was widely distributed to all judges, managers and supervisors and is available to employees and the public upon request from vicinage and Central EEO/AA Offices. The highlights of the Judiciary EEO/AA Master Plan are listed below.

- The plan includes strong endorsements of the EEO/AA Program by the Chief Justice and Administrative Director of the Courts;
- It includes a strong policy prohibiting discriminatory acts and practices, *Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination*. This statement is comprehensive and includes policies on sexual harassment, disabilities, racial/ethnic bias, and hostile work environment. It informs employees, applicants, clients and court users of the avenues for filing a discrimination complaint and also provides the telephone numbers of ADA designees and EEO/AA staff;
- There is also a statement prohibiting retaliation for filing a complaint.
- The Policy Statement also applies to court volunteers, attorneys, litigants, witnesses or others who come into contact with the court system and stipulates that “all who serve in the judicial branch have the responsibility for implementing this policy.”

While initially distributed as part of the Judiciary EEO/AA Master Plan, the Policy Statement was revised in November 2000 and distributed to all judges and employees statewide. The Policy Statement was also translated into Spanish and both versions were laminated. In October 2001 they were posted throughout the Justice Complex and in the trial courts.

- The Master Plan is available on the Judiciary’s Internet web site (at www.judiciary.state.nj.us) and internally on the Judiciary InfoNet site.

- The plan establishes managerial accountability for implementation of the EEO/AA Program and outlines responsibilities for the Administrative Director, Assignment Judges, senior managers, Human Resources staff, EEO/AA staff and individuals who conduct employment interviews.
- It requires that administrators, managers and supervisors be held accountable for ensuring that EEO policies and procedures are followed and that immediate corrective action be taken when necessary. Managers are evaluated under the Judiciary's performance management program based on a number of goals, including compliance with Judiciary EEO/AA policies.
- The Plan requires judges and managers to maintain a professional work environment free from discrimination and harassment. There is zero tolerance of racial, ethnic, sexual jokes or remarks of this nature in the courtroom and workplace.
- The Plan requires the appointment of EEO/AA staff and EEO/AA Advisory Committees⁵⁹.
- The Plan includes components on recruitment/community outreach and monitoring of employment practices.
- There is a requirement for training judges and other judiciary employees.
- Detailed statistical reports on the Judiciary workforce (a self-critical workforce analysis) are mandated.
- The Plan updated the discrimination complaint procedures.
- The AOC/Central Clerks' Offices and each vicinage were required to prepare an EEO/AA Implementation Plan,⁶⁰ tailored to address local issues.

According to the information received from the Central Office, EEO/AA Unit, the statewide roll-out of the Judiciary EEO/AA Master Plan is proceeding at an intense pace. The Chief EEO/AA Officer at the AOC (See Appendix D-1.2), in response to a questionnaire sent to him (that was earlier alluded to), stated that senior managers understand the court's mandate and have been very

⁵⁹As of November 2001, EEO/AA Advisory Committees have been appointed by the Administrative Director of the Courts at the AOC/Central Clerks' Offices and by the respective Assignment Judge in each vicinage.

⁶⁰All vicinages have completed and submitted an EEO/AA Implementation Plan to the AOC/Central Clerks's Office EEO/AA Unit.

supportive and cooperative.

All vicinages had submitted the required EEO/AA Implementation Plans to the AOC as of December 2001; the EEO/AA Implementation Plan for the Central Clerks' Offices has not been completed. These Plans are being reviewed by an ad hoc committee comprised of EEO/AA Officers and one Human Resources Division Manager. Feedback on the EEO/AA Implementation Plans will be provided to each vicinage along with recommended revisions. Upon completion of the revisions, the Vicinage EEO/AA Implementation Plan will be reviewed and approved by the Assignment Judge before being forwarded to the Administrative Director of the Courts for final review and approval.

In responding to one of the queries raised in the EEO/AA Questionnaire, "How Can the Judiciary EEO/AA Master Plan and/or Program be Improved?", some vicinages expressed concern with the delay in obtaining a status report on their respective EEO/AA Implementation Plan. One Trial Court Administrator stated, "It appears that insufficient AOC resources have been invested in this program. We have been waiting over seven months for approval of our implementation plan and no real assistance has been provided in designing and collecting automated information."

The Committee has also learned that the self-critical workforce analysis has not been completed, thus making it difficult to identify areas of concern, i.e. underutilization of minorities in the Judiciary's workforce. The self-critical workforce analysis is a crucial element of the EEO/AA Master Plan that examines the demographic representation of minorities at all levels of the Judiciary's workforce in order to ascertain minority representation when compared to the appropriate promotional or hiring pool in the relevant labor force. One reason for the delay is that the Judiciary substantially revised its computer reporting system (Judiciary Human Resources Information System) for internal workforce demographic data into job broad bands in August 2001. Secondly, according to the New Jersey State Data Center, 2000 United States Census data for use with EEO programs to establish availability data will not be issued until 2003. Nevertheless, the Judiciary is facing the prospect that, almost two years after the Master Plan was issued, a core component is still "under construction."

The Subcommittee notes that efforts have been made to acquire the requisite software that will facilitate the Judiciary's ability to accurately report the demographic makeup of its workforce. Additionally, the EEO/AA Unit conducted a course, entitled "Guidelines for Preparing a Vicinage

Workforce Analysis” on November 13, 2001 to assist Vicinage EEO/AA Officers in carrying out this requirement.

The Committee urges the EEO/AA Unit to complete the Implementation Plan for the AOC and to complete the review of the Vicinage Implementation Plans .

Committee Recommendation 02:5.1: Upon receipt of the EEO/AA census data in 2003, the EEO/AA Unit is urged to complete the self-critical analysis and promptly revise the Judiciary EEO/AA Master Plan, as appropriate.

Committee Recommendation 02:5.2: The Judiciary should complete the implementation of its EEO/AA Master Plan process by completing the review and approval of the vicinage EEO/AA Implementation Plans and completing the AOC/Central Clerks’ Offices’ Implementation Plan.

2. EEO/AA Staffing
 - a. Increase in EEO/AA Staff

In two prior Rules Cycle Reports to the Court, the Committee on Minority Concerns recommended that EEO/AA staffing levels be increased⁶¹ to assure adequate EEO/AA monitoring of employment practices and procedures and handling of discrimination complaints. The Committee cited the problem of EEO/AA staff “who shared double or even triple duties, e.g., the anomalous combination of personnel director and EEO/AA Officer” and called attention to the disparate nature of the working titles of many of the EEO/AA staff. At the time of the earlier report, all EEO/AA designees served on a part-time basis (except for one vicinage - Essex) and often reported to the Human Resources Division Manager.

Following the approval of the Judiciary EEO/AA Master Plan which required the appointment of EEO/AA staff in each vicinage and separation of that function from the Human Resources/Personnel component), more full-time EEO/AA officers were hired at both the

⁶¹ Report of the Minority Participation in the Judicial Process Subcommittee 1994-1996 Rules Cycle Supplement IV, page 108 (Committee Recommendations 50.1-50.4) and Report of the Committee on Minority Concerns January 1996 -1998 Rules Cycle, page 53. See also the original Task Force Recommendation (1992) #50, p. 340.

AOC/Central Clerks' Offices and the vicinages. Currently, eleven out of a total of fifteen vicinages have full-time EEO/AA Officers as compared to court year 1998 when there was only one vicinage (Essex) with a full time EEO/AA Coordinator. All the Vicinage EEO/AA Officers report to the Trial Court Administrator. Refer to Table 24. New Jersey Judiciary: Comparison of EEO/AA Vicinage Staffing Levels in 1998 and 2002.

Since 1998, EEO/AA staffing at the AOC/Central Clerks' Offices increased from eight full-time employees to nine. Refer to Table 25. New Jersey Judiciary: Comparison of EEO/AA Staffing Levels in 1998 and 2002 - AOC/Central Clerks' Offices. Two other positive developments impacting the EEO/AA Program, were the elevation of the title of EEO/AA Officer at the vicinage level to the Court Executive 1B level and the Affirmative Action Officer at the AOC/ Central Clerks' Offices.

On December 28, 2000, the Administrative Director of the Courts sent a memorandum to Assignment Judges and Trial Court Administrators informing them of the Administrative Council's recommendation, which he approved, that the Vicinages consider creating a full-time EEO/AA position and that the title be established at the Court Executive 1B level. This memorandum mandates that staff assuming EEO/AA duties on a part-time basis shall also be at a management level. According to the Chair of the Administrative Council, the rationale for this recommendation is,

“...a high level manager is required to perform these duties and exercise the leadership that is required to implement the Master plan. This individual needs to enjoy a peer relationship with other Court Executives and needs to be a full member of the Vicinage Management Team. Further, this person must become a subject matter expert who has the ability to confer with Judges and Court Executives in the EEO/AA areas. The Court Executive 1B level would also provide for a high level person who can conduct workforce analyses, prepare policies and guidelines, investigate all levels, up to and including management, and have the capacity to keep the Vicinage out of potential legal problems.”⁶²

⁶²Letter of November 15, 2000 to the Honorable Richard J. Williams, J.A.D, from the Chair of the Administrative Council regarding the Administrative Council's Follow-up EEO/AA Position, Appendix D2.

**Table 24. New Jersey Judiciary: Comparison of EEO/AA Vicinage Staffing Levels
1998 and 2002**

Vicinage	1998		2002	
	EEO/AA Staff	Full/Part Time	EEO/AA Staff	Full/Part Time
Atlantic/ Cape May	Human Resources Manager	Part-time	Assistant Division Manager	Part-time
Bergen	Assistant Division Manager	Part-time	EEO/AA Officer	Full-time
Burlington	Administrative Assistant I	Part-time	EEO/AA Officer	Full-time
Camden	Vicinage Training Coordinator	Part-time	EEO/AA Officer	Full-time
Cumberland/ Salem/Gloucester	Senior Probation Officer	Part-time	EEO/AA Officer	Full-time
Essex	EEO/AA Coordinator	Full-time	EEO/AA Officer	Full-time
Hudson	Jury Manager	Part-time	EEO/AA Officer	Full-time
Mercer	Municipal Division Manager	Part-time	EEO/AA Officer/ Ombudsman	Part-time
Middlesex	Human Resources Manager	Part-time	EEO/AA Officer	Full-time
Monmouth	Assistant Trial Court Administrator	Part-time	EEO/AA Officer	Full-time
Morris/Sussex	Administrative Assistant I and Assistant Trial Court Administrator	Part-time	Assistant Trial Court Administrator	Part-time
Ocean	Assistant Trial Court Administrator	Part-time	Operations Division Manager	Part-time
Passaic	Assistant Trial Court Administrator	Part-time	EEO/AA Officer	Full-time
Somerset/ Hunterdon/ Warren	Assistant Trial Court Administrator	Part-time	EEO/AA Officer	Full-time
Union	Trial Court Administrator	Part-time	EEO/AA Officer	Full-time
	1998		2002	
	Total Part-Time Staff	14	Total Part-Time Staff	4
	Total Full-Time Staff	1	Total Full-Time Staff	11

**Table 25. New Jersey Judiciary: Comparison of EEO/AA Staffing Levels
AOC/Central Clerks' Offices 1998 and 2002
Full-Time Staff**

1998		COURT EXECUTIVES			2002	
Title	#	Race/Ethnicity / Gender	Title	#	Race/Ethnicity / Gender	
Chief, EEO/AA Officer	1	Black male	Chief, EEO/AA Officer	1	1 Black male	
Affirmative Action Officer, Bilingual in Spanish & English	1	Hispanic female	Affirmative Action Officer (Position vacant as of 11/30/01 - job notice was posted on 11/30/01 without a bilingual variant)			
1998		INVESTIGATORS			2002	
Administrative Specialist IV	2	1 White female 1 Hispanic male	Administrative Specialist IV	4	1 White female 1 White male 1 Black female 1 Black male	
1998		OTHER PROFESSIONAL STAFF			2002	
Training & Staff Development Officer	1	1 Black female	Training & Staff Development Officer	1	1 Black female	
Administrative Specialist IV, Bilingual in Spanish & English	1	1 Hispanic female	Administrative Specialist III (Position became vacant in 1998. Was filled at a lower level in 2001 without a bilingual variant)	1	1 White female	
1998		CLERICAL STAFF			2002	
Judiciary Secretary 1 Judiciary Clerk 3	2	1 White female 1 Black female	Judiciary Secretary 1 Judiciary Clerk 3	2	1 Black female 1 Black female	
1998		Total EEO/AA Staff at the AOC/Central Clerks' Offices			2002	
#	Race/Ethnicity		#	Race/Ethnicity		
8	3 Blacks 3 Hispanics 2 Whites		9	6 Blacks 0 Hispanics 3 Whites		

On January 12, 2001, as a result of a reorganization that took place at the AOC/Central Clerks' Offices, the EEO/AA Unit reporting authority was transferred from the Counsel to the Administrative Director to the Office of the Deputy Administrative Director. This action is generally viewed as a favorable one in that the Unit continues to report to the top of the organization as recommended by EEO guidelines and encouraged by the Supreme Court Committee on Minority Concerns.

b. Training the New EEO/AA Officers

To fulfill the Judiciary EEO/AA Master Plan requirement that “. . . the AOC EEO/AA Unit hold meetings . . . with EEO/AA staff as a group to discuss legal developments pertaining to EEO/AA and to provide training, . . .,” Vicinage EEO/AA Officers, EEO/AA Regional Investigators and EEO/AA Advisory Committee members have attended a series of training sessions coordinated by the AOC, EEO/AA Unit. See Table 26. New Jersey Judiciary: Training of Vicinage EEO/AA Officers, Regional Investigators and Vicinage EEO/AA Advisory Committee Members.

Table 26. New Jersey Judiciary: Training of Vicinage EEO/AA Officers, Regional Investigators and Vicinage EEO/AA Advisory Committee Members, 2001
Fulfilling the Requirements of the Judiciary EEO/AA Master Plan: The Nuts and Bolts of Recruitment and Community Outreach, April 2001 - 1 day
Guidelines for Preparing a Vicinage EEO/AA Implementation Plan, June 2001 - 1 day
Sexual Harassment Prevention Workplace Training (Train-the-Trainer), September 2001 - 7 days
Training of EEO/AA Officers, Coordinators and Investigators: An Update on Policies and Procedures, Fall 2001 - 3 days
Train-the-Trainer Diversity and Workplace Issues in the New Millennium, October 2001 - 5 days
Training of EEO/AA Advisory Committee Members, September/October (Passaic, Mercer and Morris)
Training on the Judiciary Human Resources Information System, September 2001- 1 day
Guidelines for Preparing a Vicinage Workforce Analysis, November 2001 - 1 day
Maintaining a Sexual Harassment Work Environment: Our Managerial and Supervisory Responsibilities and Liabilities for Managers (Train-the-Trainer), December 2001 - 3 days

EEO/AA Officers and investigators have also attended external training seminars given by the United States Equal Employment Opportunity Commission and the New Jersey Division on Civil Rights.

c. Establishing the Conference of EEO/AA Officers

A Conference of EEO/AA Officers has been formed which meets on a monthly basis. The Conference is in the process of developing draft standards and goals (for use with the Court Executive 1B evaluation instrument) to assess the performance of EEO/AA Officers. These standards are currently under review.

d. EEO/AA Staff Work with Judiciary Committees and Conferences

The Committee has learned that in addition to the EEO/AA duties, many EEO/AA Officers are being asked to provide staff support to the local EEO/AA Committee as well as to the Vicinage Advisory Committee on Minority Concerns. Staff perform these duties in addition to their regular responsibilities.

In providing guidance to the local committees on minority concerns, the Committee on Minority Concerns recommended that vicinage advisory committee staff be drawn from court administration and management representing a broad range of subject and practice areas. The intent was to ensure that the minority concerns advisory committees benefit from cross-fertilization of knowledge and expertise. Since the establishment of the inaugural vicinage advisory committees on minority concerns commencing in 1992, vicinage employees providing staff support have come from various administrative and management positions, practice divisions and units such as: Trial Court Administrator, Assistant Trial Court Administrator, Operations Manager, Probation Office, Training Coordinator, Crisis Intervention Unit , Ombudsman, Family Division Supervisor and Executive Assistant in the Civil Division., among others.⁶³

While the Committee is extremely pleased that court managers and administrators are filling vicinage staff positions, there is growing concern about the decline in the subject/practice area diversity of the most recent cadre of newly appointed staff to the advisory committees on minority

⁶³ In the past several years, the Committee on Minority Concerns has had staff support from the following divisions: Civil Division, Criminal Division, Family Division and the EEO/AA Unit (Deputy Administrative Director).

concerns. Seven out of eight of the new staff are EEO/AA Officers. The Committee has learned that when the new EEO/AA positions were advertised, the job vacancy notice stated that this would be one of the responsibilities of the EEO/AA Officer. As already noted, in previous years Trial Court Administrators, in collaboration with the Assignment Judge appointed staff from a variety of divisions/practice areas and were not limited to appointing EEO/AA Officers to staff the advisory committees on minority concerns.

The Committee applauds the Deputy Administrative Director's October 4, 2001 advisory addressing this concern. His memorandum states in part,

. . . there is no mandate from the Administrative Office of the Courts or any other group that the EEO/AA staff person must be staff to the Minority Concerns Advisory Committee. . . . To ensure that there is no confusion over this issue . . . I recommend that in future vacancy notices for the EEO/AA officer, you delete entirely the reference to the Advisory Committees on Minority Concerns . . .

See Appendix D-2.2 for a copies of the advisory memoranda on this issue.

Committee Recommendation 02:5.3: Staff support for the vicinage advisory committees on minority concerns should not be limited to EEO/AA Officers.

e. Need for Bilingual Staff

While the Committee commends the significant overall progress made in EEO/AA staffing patterns, a point of concern remains regarding the lack of bilingual/bicultural staff at any level of the AOC/Central Clerks' Offices, EEO/AA Unit, especially in light of the fact that approximately 13.5% of the total population in New Jersey is Hispanic/Latino. According to statistics obtained from the Court Interpreting, Legal Translating and Bilingual Services Unit for court year 1996 - 1997, the latest year for which these data have been analyzed, the Superior Court needed interpreters for 45,188 events, of which 40,721 (or 90.1%) were in Spanish. See Appendix C-4.1 for a copy of this report.

Three bilingual/bicultural staff have left the Unit since the Committee last reported to the Court. In 1998 the position of Administrative Specialist IV, Bilingual in Spanish and English, held by an Hispanic female attorney became vacant. The job notice of vacancy was subsequently posted

at the lower title of Specialist III and the bilingual variant in Spanish and English was removed. The job was subsequently filled in 2001 by an individual who is not bilingual.

An Hispanic male in the title of Judiciary Investigator also left his position in 1999. Most recently, on November 30, 2001 the Affirmative Action Officer, Bilingual in Spanish and English (Court Executive 1B) at the AOC/Central Clerks' left that position. With her departure, there is no bilingual/bi-cultural staff at any level of the central office EEO/AA Unit. Furthermore, the position of Affirmative Action Officer (Court Executive 1B) was posted on November 30, 2001 without a bilingual variant (although the ability to communicate in Spanish and English was listed as being helpful); thus, further reducing the likelihood of a bilingual/bi-cultural appointment. The EEO/AA Unit has greatly benefitted from the work of a diverse team of employees at the Central Office from 1986 up to December 2001. The success of this diverse team is evidenced by the Judiciary's overall workforce diversity profile that will be discussed at length later on in the chapter report.

The Committee on Minority Concerns has made various recommendations in all of its prior reports to the Court pertaining to the need for bilingual/bi-cultural staff to meet the needs of an increasingly diverse court user population. This concern is coupled with the longstanding need to increase Hispanic representation in the Judiciary. Such recommendations are especially relevant at this time since Hispanics now comprise the largest minority group in New Jersey. See Table 25. Comparison of EEO/AA Staffing Levels - AOC/Central Clerks' Offices for a comparison of bilingual staff as of 1998 and 2002.

Committee Recommendation 02:5.4. The Committee on Minority Concerns strongly recommends that the job notice of vacancy for Court Executive 1B (Affirmative Action Officer) in the AOC, EEO/AA Unit be revised to reinstate the bilingual variant (Spanish and English) and b) that the job notice of vacancy be re-posted with the bilingual variant and that the goal of hiring an individual who is bilingual/bi-cultural in this title be established in order to ensure cultural diversity in the EEO/AA Unit.

Committee Recommendation 02:5.5. The Judiciary Unit is strongly urged to hire bilingual/bi-cultural staff at the Court Executive level in the AOC/Central Clerks' Offices EEO/AA Unit.

f. Status of Vicinage EEO/AA Programs

The Committee also examined whether Vicinage EEO/AA Officers have been provided the “authority, resources and time needed to carry out duties, have access to top management, and are kept informed of key vicinage developments, policies, etc.,” (see the Questionnaire on the Vicinage EEO/AA Program [January 2002]) as required by the Judiciary EEO/AA Master Plan.⁶⁴ As noted earlier, a questionnaire was sent to Trial Court Administrators by the Chief EEO/AA Officer at the request of the Committee on Minority Concerns. All vicinages responded to the questionnaire. Tables 27 and 28 present summary responses.

Table 27. New Jersey Judiciary: Summary Responses to the Questionnaire on the Vicinage EEO/AA Program, Management Team Participation			
	Yes	No	Other (Comments)
EEO/AA Officer part of the management team	14		<i>1 Other</i>
Meets with top management on a regular basis	13		<i>2 The EEO/AA Officer participates in management meetings and has input in all areas related to her function.</i>
Routinely provides reports to the management team	13		<i>2 The EEO/AA Officer was recently appointed. She will be providing reports to the management team in the near future.</i>
Is kept informed of key vicinage developments, policies, etc.	13		<i>1 No Response 1 Other</i>

Total Responses N=15*

*The responses of the AOC/Central Clerks’ Offices are not reflected in this table.

The majority of respondents replied that the EEO/AA Officer is part of the management team, meets with top management on a regular basis and is kept informed of key vicinage developments and policies. One vicinage noted that although the EEO/AA Officer may not be part

⁶⁴New Jersey Judiciary EEO/AA Master Plan, pages 21 and 22.

of the management team, that individual participates in management meetings and has input in all areas related to the EEO/AA function. A second vicinage cited the recent appointment of the EEO/AA Officer, who is part of the management team but has not yet provided reports to the management team. The EEO/AA Officer will provide reports in the near future.

The responses to the questions pertaining to the resources that are provided to the EEO/AA Officer were varied. While all eleven vicinages indicated that the EEO/AA Officer had received training and had a computer with appropriate software, only one of the vicinages provides full-time clerical support to the EEO/AA Officer. Among those vicinages providing figures on the percentage of clerical support dedicated to EEO/AA work, the range was from 8% to 25%.

Most vicinages indicated that clerical support was provided as needed. One Trial Court Administrator stated that current staffing ratios do not support a clerical assistant for the EEO/AA Officer and recommended that this staffing issue be considered in the annual staffing ratio review. In spite of the intensive training that has been provided to EEO/AA Officers, one vicinage indicated that additional guidance in carrying out the EEO/AA functions is needed.

The Committee also posed the question whether the EEO/AA Officer had a private office with a door. The basis for this question stems from the Committee's interpretation of the Judiciary EEO/AA Master Plan requirement "that EEO/AA Officers investigate discrimination and sexual harassment complaints" as meaning that there may be occasions when the EEO/AA Officer may be approached by employees, applicants or others who wish to discuss a problem or file a complaint of discrimination. Such individuals may be in a high state of distress and may be inhibited from coming forth and discussing their problems or lodging a complaint unless they can speak confidentially and in private. Similarly, the EEO/AA Officer may engage in telephone conversations of a highly confidential nature (e.g., providing advice and guidance to management or other individuals) that also require confidentiality (Judiciary EEO/AA Master Plan, pages 22, 23, 53 and 54). Of the fifteen responses received, twelve EEO/AA Officers have offices with doors, while three responded "Other". Explanations provided by three of the vicinages stated that plans for a private office are in progress or that the office is under construction. In the interim, the EEO/AA Officer has access to conference rooms and private offices as needed. The third vicinage indicated that the EEO/AA Officer had use of conference rooms for confidential meetings but did not specify whether or not there were future plans to provide the EEO/AA Officer with a private office.

Table 28. New Jersey Judiciary: Summary Responses to the Questionnaire on the Vicinage EEO/AA Program, In-Kind Support and Equipment			
	Yes	No	Other (Comments)
Has received training	15		<i>EEO/AA Officer has extensive experience in the area.</i>
Has a private office with a door	12		<p style="text-align: center;">3</p> <p><i>-Plans for a private office are in process. Currently EEO/AA officer utilizes available conference rooms.</i></p> <p><i>-EEO/AA Officer has access to conference rooms and private offices as needed.</i></p> <p><i>-EEO/AA Officer has use of a conference room for confidential meetings. Private office is under construction.</i></p> <p><i>-Space and physical move pending.</i></p>
Has clerical staff support⁶⁵ (Part Time) (Full Time)	10 2	3	<p><i>-All EEO/AA Officers are provided part-time clerical support as needed.</i></p> <p><i>-Ranges of those which provided percentage of clerical work dedicated to EEO/AA work were from 8% to 25%.</i></p> <p><i>-Current staffing ratios do not support a clerical assistant for the EEO/AA Officer. This staffing issue should be considered in the annual staffing ratio review.</i></p>
Has a computer with appropriate software	14	1	
Has a budget (to attend conferences and training, etc.)	7	3	<p style="text-align: center;">5</p> <p><i>-The EEO/AA Officer does not specifically have a budget; training is paid through the Vicinage Training Budget.</i></p> <p><i>-EEO/AA Officer gets approval to attend conferences and training as they come up.</i></p> <p><i>-Training budget is central.</i></p>

Total Responses N=15

Another query asked if the EEO/AA Officer had a budget. Of the fifteen responses received,

⁶⁵The Judiciary EEO/AA Master Plan provides a detailed outline of responsibilities for the EEO/AA Officer. It is the opinion of the Committee on Minority Concerns that access to clerical staff support will be necessary to assure a successful EEO/AA Program. Judiciary EEO/AA Master Plan, pages 21-24.

nine EEO/AA Officers have budgets to attend conferences, training sessions, etc. while for three EEO/AA Officers, such costs are paid through the Vicinage Training Budget, are submitted for approval on a case by case basis or are funded from the Operations Manager's budget. Another vicinage recommended that the Judiciary provide a statewide budget allocation to assist Vicinage EEO/AA Officers in receiving more "in-depth" training in court management as a means of integrating them into the senior court management team.

The Committee believes that vicinage EEO/AA Officers should be provided with the "authority, resources and time needed to carry out the duties of this office."

Committee Recommendation 02:5.6. Vicinages that do not have these critical EEO/AA program components in place should provide EEO/AA Officers with the "authority, resources and time needed to carry out the duties of this office"(January 2002, Vicinage EEO/AA Questionnaire).

Committee Recommendation 02:5.7. The Judiciary is urged to provide a statewide budget allocation to assist Vicinage EEO/AA Officers in receiving much more "in-depth" training in court management as a means of integrating them into the senior court management team.

3. Judiciary Discrimination Complaint Procedures

The Supreme Court Task Force on Minority Concerns Final Report (pages 248-249) noted that the Judiciary lacked sufficient complaint procedures to enable persons to overcome unfair treatment in the court. While acknowledging the fact that formal complaint procedures were in place for judges (the Advisory Committee on Judicial conduct) and attorneys (the Office of Attorney Ethics, the District Ethics Committees, the Disciplinary Review Board, the Ethics Financial Committee and the District Fee Arbitration Committees), the Task Force stated that both systems were dependent on written complaints and that only the attorney disciplinary process had a uniform format (the Attorney Grievance Form).

a. Background Information: Complaint Procedures

In 1993 the Supreme Court, in its Action Plan on Minority Concerns, approved the Task Force recommendation that "the AOC/Central Clerks' Offices develop, adopt and implement in its own offices and in each vicinage a discrimination complaint procedure." In the 1994-1996 Rules

Cycle Report to the Court, the Committee on Minority Concerns reviewed the progress made during the intervening years in making discrimination complaint procedures available to employees and applicants for employment and concluded that:

While a mechanism is in place to address discrimination complaints filed by employees and applicants for employment...the procedures are outdated, lack uniformity and have not been widely publicized . . . There is no reporting mechanism in place to quantify the number and types of complaints being lodged statewide. Furthermore, there is no tracking of divisions, departments or units with high complaint rates and/or managers or employees with multiple incidents so that appropriate corrective action and sanctions can be taken . . . No definitive determination has been made whether managers/supervisors are aware of and have been trained to reduce the number of discrimination complaints being received. (Rules Cycle 1994-1996, pp. 24-25)

In the 1996-1998 Rules Cycle Report to the Court, the Committee on Minority Concerns again monitored this area and proposed the following recommendations:

The New Jersey Judiciary is urged to expedite the completion of the draft discrimination complaint procedures. . . Furthermore, it is recommended that the Committee on Minority Concerns be allowed sufficient time to review the procedures before they are finalized.

The updated procedures should be disseminated to all employees and court users. It is recommended that the procedures be translated into Spanish and/or other appropriate languages for dissemination to the public and be readily available in courts and be displayed at information booths at the AOC/central Clerks' Offices and in each vicinage. Specialized and continuous training in this area should be given to all EEO/AA staff, managers and front-line supervisors.

The Subcommittee has again examined the implementation of the recommendation as it affects employees and applicants for employment and determined that there has been only partial implementation of the recommendation, as will be set forth in detail herein. This issue, as it relates to court users, is also discussed in the Subcommittee on Minority Access Chapter Report.

b. Issuance of New Jersey Judiciary Discrimination Complaint Procedures, May 2000

In May 2000 the New Jersey Judiciary issued discrimination and sexual harassment complaint procedures. The procedures apply to complaints filed by employees, applicants for employment, court users, volunteers, attorneys, litigants, witnesses or others who come into contact with the court system and believe they have been discriminated against on the basis of race, color, national origin, ancestry, sex, age, religion, disability or perceived disability, atypical hereditary cellular or blood trait, marital status, affectional or sexual orientation, status as a disabled veteran or veteran of the Armed Forces of the United States, or other categories covered by federal or state anti-discrimination laws. Complaints may be lodged against judges, employees and non-employees. The procedures allow for the filing of an informal or formal discrimination complaint.

The discrimination complaint procedures allow 15 days for the investigation of informal complaints and 45 days for the investigation of formal complaints.

(1) Informal Discrimination Complaint Procedures

An informal discrimination complaint may be filed by the complainant in situations that are not egregious in nature; when sanction is not sought and when it is not apparent that an anti-discrimination law has been violated. An individual may file an informal complaint with the unit supervisor, manager or local EEO/AA Officer. At this time, the complainant is advised of his/her right to file a formal complaint by filing a formal written complaint of discrimination internally or by pursuing an external complaint with a federal or state enforcement agency. Informal complaints are handled by the unit supervisor, manager or local EEO/AA Officer.

(2) Formal Discrimination Complaint Procedures

If a complainant is not satisfied with the informal complaint resolution, the complainant is again advised of his/her right to file a formal written complaint of discrimination internally or pursue an external complaint with a federal or state enforcement agency. While local EEO/AA Officers are the primary points of contact for filing both informal and formal complaints, formal complaints are investigated by a Regional EEO/AA Investigator.⁶⁶ When the alleged complainant is a vicinage employee, the investigator presents a report

⁶⁶This procedure was adopted with the hiring of Regional EEO/AA Investigators in 2001 and differs from the complaint procedures promulgated in the Judiciary EEO/AA Master Plan in May 2000 which stipulate that formal discrimination complaints shall be investigated by the local EEO/AA Officer.

to the Trial Court Administrator who will render the final disposition of the matter.

(3) Formal complaint investigation reports filed at the AOC/Central Clerks' Offices are directed to the Chief EEO/AA Officer who will forward them to the Administrative Director. The Administrative Director will render the final disposition.

An appeal of the decision may be made to the Administrative Director within 15 days after receipt of the ruling. An Appeals Panel will make a determination within 30 days.

(4) Prohibition Against Retaliation

The discrimination complaint procedures include a clause prohibiting retaliation in any form by anyone in the court system against any person who files a discrimination complaint, or who assists in the investigation of such complaints, or who opposes discrimination in the workplace.

(5) Confidentiality

The procedures stipulate that whenever possible, the confidentiality of witnesses and complainants must be maintained.

c. *Discrimination Complaint Procedures in the Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination*

This Policy Statement informs employees, applicants, clients and court users of the avenues for filing a discrimination complaint and also provides the telephone numbers of Access (Disabilities) and EEO/AA staff. The Policy also includes a strong statement prohibiting retaliation for filing a complaint.

As previously noted, the Policy Statement (including the section on the discrimination complaint procedures) was initially distributed as part of the Judiciary EEO/AA Master Plan. It was revised in December 2000 and redistributed to all judges and employees statewide. The Policy Statement has been translated into Spanish and both versions were laminated and posted throughout the Justice Complex and in the trial courts in areas visible to employees and court users. The Policy Statement (including the section on the discrimination complaint procedures) is also available on the Judiciary's Internet web site (at www.judiciary.state.nj.us) and internally on the Judiciary InfoNet

site.

d. Discrimination Complaint Procedures in the Judiciary EEO/AA Master Plan

The New Jersey Judiciary's discrimination complaint procedures are included in the Judiciary EEO/AA Master Plan. As was noted earlier, the Plan was approved by the Supreme Court and the Administrative Director in May 2000. The plan was distributed to judges, managers and supervisors statewide and can be obtained upon request from the local EEO/AA Officers or the Administrative Office of the Courts, EEO/AA Unit.

e. Discrimination Complaint Procedures Standard Operating Guidelines

After the Judiciary issued its discrimination and sexual harassment complaint procedures in May 2000, the Judiciary increased EEO/AA investigative staff and regionalized the EEO/AA investigative function. This change substantively altered the investigative role of EEO/AA Officers who previously had responsibility for investigating both informal and formal complaints of discrimination. As already noted, EEO/AA Officers now only handle informal complaints, whereas formal complaints are investigated by the Regional EEO/AA Investigator. In its prior reports to the courts, the Committee on Minority Concerns recommended that:

The New Jersey Judiciary is urged to expedite the completion of ... written standard operating guidelines to provide managers and EEO/AA staff with detailed guidance on handling and reducing informal and formal complaints of discrimination, as well as instructions for use of the formal and informal discrimination complaint forms. Furthermore, it is recommended that the Committee on Minority Concerns be allowed sufficient time to review the procedures before they are finalized.

The Subcommittee has been informed by the AOC/Central Clerks' Offices EEO/AA Unit that written standard operating guidelines to provide managers and EEO/AA staff with guidance on handling informal and formal complaints of discrimination, along with instructions for use of the formal and informal discrimination complaint forms, have been drafted by the Conference of EEO/AA Officers and are being reviewed.

f. Informal and Formal Discrimination Complaint Forms

Standard forms for intake of formal and informal discrimination complaints for Judiciary-wide use have been developed and are currently being used (refer to Appendix). The forms have

been provided to vicinage EEO/AA Officers and are available in the EEO/AA Unit at the AOC/Central Clerks' Offices. The forms are provided to employees, job applicants or court users who visit or call the EEO/AA Officer and indicate that they wish to file a complaint of discrimination. The Subcommittee has been unable to determine the extent of other distribution and availability of these forms.

g. EEO/AA Complaint Tracking Forms and Complaint Log

The Judiciary EEO/AA Master Plan requires that the local EEO/AA Officer maintain a detailed log of all formal and informal complaints filed at the vicinage level and provide quarterly reports to the AOC/Central Clerks' Offices EEO/AA Unit.

The Plan requires that the AOC/Central Clerks' Offices maintain a database or log of all complaints filed at the AOC/Central Clerks' Offices and a central database for tracking complaints Judiciary-wide. This database also should capture information regarding complaints filed with the Division on Civil Rights, the EEOC, and in the Superior Court against judges and Judiciary employees.

The Plan also requires the Judiciary EEO/AA Officer to consolidate annually the information contained in the local complaint databases. The AOC EEO/AA Unit has developed and is using tracking forms to capture information on complaints filed at the AOC/Central Clerks' Offices and vicinage level.

A local database for tracking AOC/Central Clerks' Offices and vicinage complaints is also being developed. This database will facilitate the preparation of periodic reports on all complaints filed and includes the following data screens:

- Complainant Identifying Information -- Name, organization (AOC or vicinage), race/ethnicity and gender;
- Respondent Identification -- Person against whom the complaint is lodged (respondent name, organization, race/ethnicity and gender);
- Nature of the complaint -- Issues the employee is complaining about;
- Type of complaint -- formal or informal;
- Basis of the complaint -- records the reason the employee is filing a complaint, i.e. for retaliation and so on;

- Time Frame – Key dates are noted (date complaint filed, date complaint assigned to be investigated, date investigation completed, date letter sent to the complainant, date file closed;
- Status or Action Taken – Indicate the outcome or disposition and specify what action was taken, i.e., briefly explain, complaint substantiated, finding of probable cause, settled, administrative dismissal and so on.

4. Regionalizing the EEO/AA Investigative Function

In response to recent federal and state court decisions that require employers to handle complaints of discrimination both effectively and in a timely manner or incur liability, the Judiciary regionalized the EEO/AA investigative function in the fall of 2000. As previously noted, both informal and formal discrimination complaints were handled by the local EEO/AA Officer; with regionalization this function was bifurcated. The Northern Region includes Bergen, Essex, Hudson, Morris, Passaic and Sussex Counties. The Central Regional includes Hunterdon, Middlesex, Mercer, Monmouth, Somerset, Union and Warren Counties. The Southern Region includes Atlantic, Burlington, Cape May, Camden, Cumberland, Gloucester, Ocean and Salem Counties.

According to the AOC/Central Clerks' Offices EEO/AA Unit, both the discrimination complaint procedures, complaint forms and standard operating guidelines are currently being updated to include the new role of the EEO/AA Regional Investigators who have responsibility for investigating formal complaints of discrimination.

a. Increase in EEO/AA Investigative Staff

The regionalization of the EEO/AA investigative function resulted in the hiring by the AOC/Central Clerks' Offices EEO/AA Unit of three additional investigators in the title of Administrative Specialist IV. The Regional Investigators are assigned to work in the northern, southern and central regions of the state. A fourth investigator is assigned to the AOC/Central Clerks' Offices. The Regional EEO/AA Investigators report to and are evaluated by the Chief, EEO/AA Officer at the AOC/Central Clerks' Offices.

b. Discrimination Complaint Procedures Training of EEO/AA Investigative Staff and Employees

The Committee on Minority Concerns has previously recommended, "specialized and

continuous training in this area should be given to all EEO/AA staff, managers and front-line supervisors.”

The comprehensive review of progress made since the promulgation of the EEO/AA Master Plan revealed that all EEO/AA Investigative staff have attended some of the same courses given to Vicinage EEO/AA Officers. Refer to the earlier discussion on *Training EEO/AA Staff and Advisory Committee Members*.

The discrimination complaint procedures are also covered as an integral part of the training provided to all employees on: EEO/AA; sexual harassment prevention (for managers and employees); diversity, the new hire orientation program and training of newly appointed Superior Court judges, Municipal Court judges, and law clerks.

5. Review of EEO/AA Complaint Data

Table 29. New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central Clerks’ Offices and Vicinages Combined, July 1, 2000 to June 30, 2001, indicates that during this twelve month period 111 formal and informal discrimination complaints were filed statewide. Of these complaints, 40 (36.0%) were filed at the AOC/Central Clerks’ Offices and 71 (64.0%) were filed at the vicinage level. Some summary findings are noted in Table 30: New Jersey Judiciary: Discrimination Complaints Filed by Nature of the Complaint AOC/Central Clerks’ Offices and Vicinage Combined, July 1, 2000 to June 30, 2001.

- Proportionally, the rate of race/ethnic discrimination complaints filed to the number of employees at the AOC/Central Clerks’ Offices was 3.1% (40 complaints filed out of a workforce of 1304 employees). At the vicinage level there were 1.1% race/ethnic discrimination complaints filed (71 complaints out of a workforce of 7316 employees).
- The AOC/Central Clerks’ Offices had a higher number of complaints filed (40) than any single vicinage. The vicinage with the highest number of complaints was Essex (14).
- The highest number of complaints filed statewide allege race/ethnic discrimination (27.9%). For the Essex vicinage, the vicinage with the highest total number of complaints (14), eight (57.1%) of this total alleged race bias; at the AOC/Central Clerks’ Offices, 11 (27.5%) out of 40 discrimination complaints were based on race.
- Sexual harassment and gender complaints combined comprised 30.6% of the total

111 discrimination complaints filed statewide. The AOC/Central Clerks' Offices had the largest proportion - 10 (29.4%) sexual harassment and gender complaints combined out of the statewide total of 34.

- Twenty-five percent of the discrimination complaints filed at the AOC/Central Clerks' Offices are based on retaliation and six of the nine complaints (66.7%) filed in the Cumberland/Gloucester/Salem Vicinage allege a hostile work environment.

The fact that 25% of discrimination complaints allege retaliation at the AOC/Central Clerks' Offices is a cause of concern. Of all complaints, retaliation is seen as the most serious because it is considered an obstruction of justice. If employees perceive that they will be retaliated against for filing a discrimination complaint, they will be discouraged from using the system. Furthermore, there is no way to gauge whether other employees would have come forth and filed a complaint, but have not done so, because they fear retaliation.

The Committee has, over the course of several years, received anecdotal evidence that a good number of potential complainants fail to file at the AOC/Central Clerks' Offices because they do not believe that the EEO/AA Office handles discrimination complaints effectively, efficiently and fairly. These employees have characterized filing a complaint at the AOC as a "waste of time." Moreover, many AOC Central Office employees believe there are problems in the EEO/AA Office itself with the fair and equitable treatment of its own staff. According to these employees, "the EEO/AA Office's primary purpose is to protect managers; they go through the motions of investigating discrimination complaints."

Of the 26 persons who have registered these concerns over the last five years, six are no longer employed in the court system and four are working in other positions within the judiciary. Due to the confidential nature of these conversations, the Committee is not able to determine whether any of the remaining employees later used the complaint procedures available to them.

**Table 29. New Jersey Judiciary: Discrimination
Complaints Filed at the AOC/Central Clerks'
Offices and Vicinages Combined
July 1, 2000 - June 30, 2001**

	%	#
AOC/Central Clerks' Offices	40	36.0
Vicinages Combined	71	64.0
Total Complaints	111	100.0
Discrimination Complaints Filed By Vicinage		
	%	#
AOC/Central Clerks' Offices	40	36.0
Essex	14	12.6
Cumberland/Gloucester/Salem	9	8.1
Middlesex	9	8.1
Burlington	8	7.2
Camden	7	6.3
Hudson	7	6.3
Morris/Sussex	5	4.5
Union	5	4.5
Ocean	3	2.7
Mercer	2	1.8
Bergen	1	0.9
Passaic	1	0.9
Atlantic/Cape May,	0	0.0
Monmouth	0	0.0
Somerset/Hunterdon/Warren	0	0.0
Total Discrimination Complaints Filed	111	100.0

**Table 30. New Jersey Judiciary:
Discrimination Complaints Filed By Nature of Complaint
For the AOC/Central Clerks' Offices and By Vicinage (July 1, 2000 - June 30, 2001)**

	Race	Sexual Harassment	Gender	Retaliation	Hostile Work Environment	National Origin	Age	Disability	Color	Religion	Total
AOC/Central Clerks'	11	4	6	10	2	4	1	-	1	1	40
Atlantic/Cape May	-	-	-	-	-	-	-	-	-	-	-
Bergen	1	-	-	-	-	-	-	-	-	-	1
Burlington	3	-	2	-	-	1	1	-	1	-	8
Camden	1	4	-	-	1	1	-	-	-	-	7
Cumberland/ Gloucester/Salem	-	-	-	-	6	-	-	3	-	-	9
Essex	8	-	-	1	-	1	3	1	-	-	14
Hudson	-	1	4	2	-	-	-	-	-	-	7
Mercer	1	1	-	-	-	-	-	-	-	-	2
Middlesex	3	4	1	1	-	-	-	-	-	-	9
Monmouth	-	-	-	-	-	-	-	-	-	-	-
Morris/Sussex	1	3	-	-	1	-	-	-	-	-	5
Ocean	-	-	-	-	3	-	-	-	-	-	3
Passaic	1	-	-	-	-	-	-	-	-	-	1
Somerset/ Hunt./Warren	-	-	-	-	-	-	-	-	-	-	-
Union	1	3	1	-	-	-	-	-	-	-	5
Total Complaints	31	20	14	14	13	7	5	4	2	1	111

The variation in the proportion of complaints received at the AOC/Central Clerks' Offices and the vicinages is also of interest and requires further investigation. There are a number of explanations which may account for these differences. Employees at the AOC/Central Clerks' Offices may be better informed of the discrimination complaint procedures and may exercise this right more frequently. Similarly, a low frequency of complaints filed or the absence of any complaints filed, as is seen in several vicinages, may mean that employees are not aware of the avenues available to them if they experience discrimination and wish to file a complaint. Other possible explanations are: there are factors which discourage employees from coming forward, or in the alternative, problems do not exist; when problems do arise, they are judiciously and promptly addressed, and the work environment does not tolerate biased treatment, and so on. One complainant may file several complaints emanating from a single incident; thus, increasing the total number of complaints filed.

The Committee has carefully reviewed the data received on judiciary complaints and found that it is premature to draw any conclusions. The data need to be enhanced to permit more detailed and thorough analyses of complaints and should, at a minimum, include more detailed information captured in the EEO/AA Tracking log. Further analyses are required; the submission of any further data should distinguish between formal and informal complaint filing and resolution. The variables should be clearly defined so that EEO/AA Officers consistently record information in the data base. Additionally these following data screens should also be retrieved: complaint resolutions, complainant and witness identifying information (identifies the specific division or program area), and jurisdiction (external filings, internal filings). Additional variables that need to be retrieved will be discussed in greater detail later on in the chapter in the section on Tracking Discrimination Complaints/Complaint Log.

6. Discrimination Complaint Findings

Task Force Recommendation 2: The Supreme Court should direct that the Administrative Office of the Courts develop, adopt and implement in its own offices and in each vicinage a discrimination complaint procedure.

In the course of evaluating progress made by the Judiciary in this area, the Subcommittee undertook the following activities: reviewed responses by the AOC/Central Clerks's Offices and the fifteen vicinages to questions posed by the Subcommittee; reviewed the Judiciary formal and informal discrimination complaint intake forms; analyzed qualitatively the quantitative data on discrimination complaints filed statewide and reviewed the "Model Procedures for Internal Complaints Alleging Discrimination, Harassment or Hostile Environment in the Workplace" contained in the recently approved amendments to N.J.A.C. 4A:7. This new rule incorporates significant revisions to the equal employment opportunity/ affirmative action program of the executive branch of government and extends the period for investigating a complaint in the executive branch from 45 days to 120 days as noted below:

The authority would have to complete the investigation of a discrimination complaint and issue a final letter of determination within 120 days following completion of the complainant's initial intake. However, the appointing authority may extend the period an additional 60 days due to exception circumstances, upon notice to the Division of EEO/AA and all interested parties. (N.J.A.C. 4A:7)

Although significant progress has been made by the New Jersey Judiciary in implementing Recommendation 2 as it relates to court employees, there are still areas which require the Court's attention.

a. Time Frames For Handling Discrimination Complaints

In reviewing the discrimination complaint log provided by the AOC/Central Clerks' Offices (refer to Table 31: New Jersey Judiciary, Discrimination Complaints Filed by Nature of Complaint AOC/Central Clerks' Offices and Vicinages Combined July 1, 2000-June 30, 2001), the Subcommittee noted that a large percentage of complaints remain open and may have gone beyond the 45 day limit as required by the Judiciary's discrimination complaint procedures. Out of a total

of 111 formal and informal complaints filed statewide during this twelve month period, 49 (44.1%) of the cases remain open. This suggests that in spite of the increase in Judiciary EEO/AA Investigative staff from one to four, investigations are not being completed in a timely manner. This same concern was echoed by several trial court administrators in their responses to the Questionnaire on the Vicinage EEO/AA Program:

Time frames for the handling of complaints have not been met.

There is a need for the AOC/Central Clerks' Offices to handle formal discrimination complaints more expeditiously and for the Judiciary to revise the discrimination complaint procedures to include the EEO/AA Regional Investigative function.

This situation is readily apparent in the case of the AOC/Central Clerks' Offices where a large portion of the cases remain open. The failure to timely investigate (and resolve) complaints of discrimination poses problems: employees may conclude that internal discrimination complaint procedures are inadequate or do not work. Employees will be discouraged from utilizing the complaint procedures. Moreover, the practices and actions that are the subject of meritorious complaints will continue, thus causing harm to employees as well as potential legal liability to the Judiciary, and preventing the Judiciary from holding accountable those individuals whose inappropriate, improper and/or unlawful actions gave rise to the discrimination complaints.

**Table 31. New Jersey Judiciary: Discrimination Complaints Filed By Nature of Complaint AOC/Central Clerks' Offices and Vicinages Combined
July 1, 2000-June 30, 2001**

Nature of Complaint	Number	Action Taken
Race	Filed - 31 Closed - 16 Open - 15 Closed - 51.6%	1 Substantiated/Respondent Resigned 1 Transferred 1 Memo & EEO Policy Sent to employee 5 Not Pursued 7 Unsubstantiated 1 Mediated
Sexual Harassment	Filed - 20 Closed - 20 Open - 0 Closed - 100.0%	2 Substantiated/Respondent Resigned 3 Substantiated 1 Counseled/Trained 6 Unsubstantiated 1 Consultation and Referral to Workplace Violence Manager 2 Consultation and Withdrawal 2 Workplace Restriction Imposed/Mutual Consent 1 Written Apology 1 Complaint Withdrawn/Employee Resigned 1 Workplace Restriction/Training
Retaliation	Filed - 14 Closed - 6 Open - 8 Closed - 42.9%	1 Mediated 1 Transferred 2 Substantiated 1 Withdrawn After Consultation 1 Lack of Probable Cause
Gender	Filed - 14 Closed - 4 Open - 10 Closed - 28.6%	1 Substantiated/Respondent Resigned 1 Transferred 1 Unsubstantiated 1 Handled by Assignment Judge
Hostile Work Environment	Filed - 13 Closed - 6 Open - 7 Closed 46.2%	1 Transferred 1 Mediated 3 Disciplinary Action Taken 1 Training

**Table 31. New Jersey Judiciary: Discrimination Complaints Filed By Nature of Complaint AOC/Central Clerks' Offices and Vicinages Combined
July 1, 2000-June 30, 2001**

Nature of Complaint	Number	Action Taken
National Origin	Filed - 7 Closed - 4 Open - 3 Closed 57.1%	1 Substantiated/Respondent Resigned 3 Unsubstantiated
Age	Filed - 5 Closed -3 Open - 2 Closed - 60.0%	1 Withdrawn 2 Unsubstantiated
Disabilities	Filed - 4 Closed -3 Open - 1 Closed - 75.0%	2 Consultations/Withdrawn 1 Withdrawn
Color	Filed - 2 Closed - 0 Open - 2 Closed - 0.0%	
Religion	Filed - 1 Closed - 0 Open - 1 Closed - 0.0%	
Total Complaints	Filed -111 Closed -62 (55.9%) Open - 49 (44.1%)	

Committee Recommendation 02:5.8. While a 45 day time period to complete an investigation may not be adequate, using 120 days (as does the executive branch) may be too long of a time period and may not fulfill the court's requirement for a "prompt and thorough investigation." The Committee proposes that the complaint time frame be 90 days from the point of intake.

b. Tracking Discrimination Complaints/Complaint Log

It is the Committee's understanding that the EEO/AA Unit is presently capturing detailed data on complaints. The tracking form in the Master Plan, Administrative Office of the Courts- EEO/AA Unit Discrimination Complaint Tracking Form (Formal and Informal Complaints, page 55) lists most of the necessary data screens. These additional variables are also important to include in the EEO/AA Unit's database: number of witnesses interviewed, number of witnesses presented by the complainant, the race/ethnicity and gender of each witness, division/unit of the complainant and witnesses, relationship of witnesses vis a vis the complainant, and length of time taken to investigate the complaint.

Tracking the "age sensitivity" of complaints is necessary as well. This is a standard case management technique by the federal government to keep management informed (on a monthly basis) about the velocity of complaints in the pipeline that are being investigated. This management tool helps determine if the cases are being handled in a timely fashion.

The information provided by the AOC/Central Clerks' Offices EEO/AA Unit on discrimination complaints is too sparse and does not contain enough detail for the Committee to put forth any findings and clear and tailored recommendations. Furthermore, it appears that the EEO/AA Unit is not currently consistently tracking complaints as required by the Judiciary EEO/AA Master Plan. For example, summary data provided to the Committee does not include information on the respondent's organization and race/ethnicity and gender identification. These results point to the need for the AOC/Central Clerks' Offices EEO/AA Unit to define all terminology used, i.e. define all data screens so that careful and detailed analyses of the data can be made. Without consistent definitions of the screens in the database, the EEO/AA Officers will be using variable measures of these items. Each disposition should be defined and periodic checks should be put into place to ensure that the information in the log are being accurately recorded and that the tracking is consistent across all vicinages and at the Central Office.

c. Discrimination Complaint Procedures Standard Operating Guidelines

The draft discrimination complaint standard operating guidelines that are currently under internal review should address the following issues:

- (1) Detailed guidance for managers and EEO/AA staff on how the

Judiciary conducts an investigation and information on handling and reducing informal and formal complaints of discrimination.

(2) Instructions for use of the formal and informal discrimination complaint intake forms.

(3) Information on what happens to the intake form once a complaint has been filed. Is it given to the alleged offender? Is the individual who filed the complaint given a copy of the alleged offender's responses?

(4) Instructions for local EEO/AA Officers that they inform individuals who file a complaint of their right to pursue a complaint externally with external federal and state agencies or Superior Court and of deadlines that are in place for such filing.

(5) Guidelines that address such issues as the handling of a reluctant respondent or witness; confidentiality of the investigative process; the role of the unions in the discrimination complaint process; defining the scope of the discrimination complaint process and how the local EEO/AA Officer should handle those complaints that fall outside the scope; information that taping of interview sessions is not allowed; what information can the local EEO/AA Officer share with management; define the relationship between the local EEO/AA Officer, the Regional EEO/AA Investigator and the AOC Chief, EEO/AA Officer in the investigative process; a time line for the various stages of the investigation.

d. Discrimination Complaint Intake Forms

The Subcommittee reviewed the discrimination complaint intake forms and found that they may be too complex for a layperson to understand and contain a lot of "legalese" instead of simple, easy to understand English. For example, instead of asking "who is the alleged offender" a simple alternative would be, "Who are you complaining against? What is that individual's relationship to you?" If the use of certain words is unavoidable, they should be defined somewhere on the form.

The recently revised forms for self-represented litigants should be reviewed by the AOC/Central Clerks' Offices EEO/AA Unit or a request should be forwarded to the Ad-Hoc Pro Se Working Group to review and edit the Judiciary's complaint form.

The discrimination complaint intake forms omit certain vital information that should be

included directly on both the formal and informal intake forms. This includes notifying individuals who file a complaint of their right to pursue a complaint externally with external federal and state agencies or the Superior Court, and of deadlines that are in place for filing a complaint externally. Such information should be included in both the formal and informal discrimination complaint intake forms.

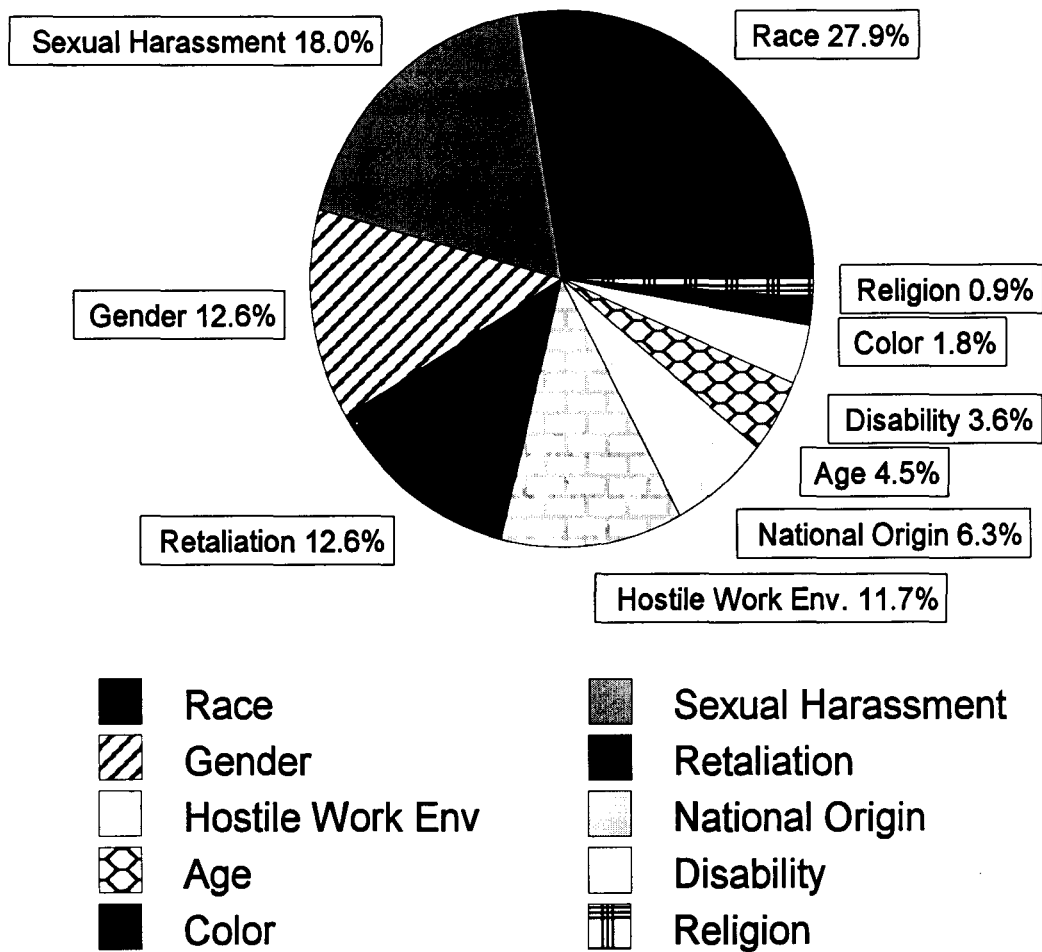
The intake forms should request information regarding the race/ethnicity of the complainant, the respondent and each of the witnesses. The gender identification of each witness should likewise be retrieved. This latter information may prove useful in the course of the investigation and will assist the Judiciary in gauging gender discrimination and sexual harassment against males.

e. Complaints Based on Race, Sexual Harassment, Gender and Retaliation

As already noted, the highest proportion of complaints filed statewide are based on race (27.9%), followed by sexual harassment (18.0%), gender and retaliation (12.6%), hostile work environment (11.7%); national origin (6.3%); age (4.5%); disability (3.6%); color (1.8%) and religion (0.9%). Refer to Figure 4: New Jersey Discrimination Complaints Filed by Basis of Complaint at the AOC/Central Clerks' Offices and Vicinages Combined July 1, 2000 - June 30, 2001.

When the complaint data are analyzed according to the "Action Taken," as presented in Table 32: New Jersey: Summary of Action Taken by Nature of Complaint, July 1, 2000 - June 30, 2001, it is shown that across all categories of complaints, the allegations are substantiated in 10 (16.1%) of the cases and are unsubstantiated in 19 (30.6%) of the cases. In over half of the closed cases, 33 (53.2%), the action taken ranged from transfers, training, consultation and referral mediation, disciplinary action and so on. The data were not sufficiently detailed in the "other" category to consistently determine who was the subject of the action. The reader should also note that the cell frequencies are fairly small; hence, it is difficult to discern any definitive patterns or draw any conclusions. Figure 5 provides a graphic breakdown of the total 111 discrimination complaints filed by nature of the complaint.

**Figure 5. New Jersey Judiciary
Discrimination Complaints Filed By Nature of Complaint
AOC/Central Clerks' Offices and Vicinages
Combined July 1, 2000 - June 30, 2001**



**Total Discrimination Complaints
Filed Statewide = 111**

Table 32. New Jersey Judiciary: Summary of Action Taken by Nature of Complaint
July 1, 2000 - June 30, 2001

Basis of Complaint	Filed Number	Closed Number	Action Taken		
			Substantiated	Unsubstantiated	Other
Race	31	16 (57.1%)	1 (6.2%)	7 (43.8%)	8 (50.0%)
Sexual Harassment	20	20 100.0%	5 (25.0%)	6 (30.0%)	9 (45.0%)
Retaliation	14	6 (42.9%)	2 (33.3%)	--	4 (66.7%)
Gender	14	4 (28.6%)	1 (25.0%)	1 (25.0%)	2 (50.0%)
Hostile Work Environment	13	6 (46.2%)	--	--	6 (100 %)
National Origin	7	4 (57.1%)	1 (25.0%)	3 (75.0%)	--
Age	5	3 (60.0%)	--	2 (66.7%)	1 (33.3%)
Disabilities	4	3 (75.0%)	--	--	3 (100 %)
Color	2	0 (0.0%)	Open	Open	Open
Religion	1	0 (0.0%)	Open	Open	Open
TOTAL COMPLAINTS	111 (44.1%)	62 (55.9%)	10 (16.1%)	19 (30.6%)	33 (53.2%)

f. Training of Managers, Supervisors and EEO/AA Officers

Although training of EEO/AA Officers and employees has been conducted, it does not appear that intensive training of managers and front-line supervisors on the discrimination complaint procedures has taken place. Further, in spite of the training that has already been provided to

EEO/AA Officers, several Trial Court Administrators indicated in their responses to the “Questionnaire on the Vicinage EEO/AA Program” that more training and guidance should be provided to the EEO/AA Officers in carrying out their functions.

Future training on the Judiciary’s discrimination complaint procedures should also be given to Human Resources staff and at a minimum, one individual in each Judiciary department should receive such training. This staff person will understand the process and serve as still another avenue to combat discrimination in the workplace. These point persons will be able to deal effectively and expeditiously with complaints when they arise and/or refer them to the local EEO/AA Officer.

g. Dissemination and Translation of Discrimination Complaint Procedures

While the revised discrimination complaint procedures have been widely disseminated, as earlier noted, as part of the Judiciary EEO/AA Master Plan and the Judiciary Policy Statement on Equal Employment Opportunity, Affirmative Action and Anti-Discrimination, they have not been publicized separately and have not been translated into Spanish and/or other appropriate languages. Further, neither the procedures⁶⁷ nor intake forms for filing a formal and informal discrimination complaint can be found in the Judiciary’s Internet web site (at www.judiciary.state.nj.us) or internally on the Judiciary InfoNet site.

Committee Recommendation 02:5.9: The Judiciary should expedite the completion of the draft discrimination complaint standard operating guidelines which will provide detailed guidance to managers and EEO/AA staff on handling and reducing informal and formal complaints of discrimination, as well as instructions for use of the formal and informal discrimination complaint forms. Furthermore, it is recommended that the guidelines be shared with the Committee on Minority Concerns/Minority Concerns Unit and that sufficient time be allowed to review the guidelines before they are finalized.

⁶⁷The procedures are included as part of the Judiciary EEO/AA Master Plan which is found on the Internet and internally on the Judiciary InfoNet site. The complaint procedures are not yet available on the web site as a separate document.

Committee Recommendation 02:5.10: (a) The discrimination complaint procedures should be revised to include the EEO/AA Regional Investigative function and an investigative time frame for completing investigations (90 days) should be put into place; (b) The Judiciary's formal and informal discrimination complaint forms should be revised, issued in plain English and include a reference to the EEO/AA Regional Investigators.

Committee Recommendation 02:5.11: (a) The Administrative Office of the Courts should develop a computerized information system to manage discrimination complaints filed. In collaboration with the Minority Concerns Committee, the Committee on Women in the Courts, and ADA Access Unit and the Minority Concerns Unit, the data fields to be included in the case management information system should be delineated clearly and defined; (b) Periodic reports should be issued and distributed to administrators and managers and an annual report should be published; and (c) The discrimination tracking log should be revised as needed and the database should be capable of capturing complainants who file multiple complaints, and managers against whom multiple complaints have been filed.

Committee Recommendation 02:5.12: a) Priority should be given to providing specialized and continuous training on the Judiciary's complaint procedures to all EEO/AA staff, managers and front-line supervisors; (b) The Administrative Office of the Courts should develop courses on race and ethnic discrimination (Race and Ethnic Bias Prevention Workplace Training and Maintaining a Race and Ethnic Bias Free Work Environment: Our Managerial and Supervisory Responsibilities and Liabilities). As is the case with the similar course developed on sexual harassment, this should be a mandated course offering for managers and supervisors.

Committee Recommendation 02:5.13: The revised discrimination complaint procedures, standard operating guidelines and intake forms should be distributed to managers and supervisors and (a) should be readily available in courts; (b) be displayed at information booths at the AOC/Central Clerks' Offices and in each vicinage; and (c) be publicized in the Judiciary's Internet web site and internally on the Judiciary InfoNet site.

Committee Recommendation 02:5.14: The Judiciary's discrimination complaint procedures should be translated into Spanish and other appropriate languages. Both the complaint procedures and intake forms for filing a formal discrimination complaint should be disseminated to all employees and court users.

h. Employee Survey to Assess the Judiciary Work Environment

The Judiciary should conduct a survey of its total workforce in order to assess the work environment and patterns of alleged unlawful discriminatory practices as required by the Judiciary EEO/AA Master Plan (page 47). A judiciary-wide survey was recommended by the Committee on Minority Concerns with the approval of the Supreme Court ten years ago and some preliminary work was undertaken to help define the parameters of workforce survey and to identify some issues of concern across all job categories .

The Task Force on Minority Concerns "Quality of Life Survey" was designed to explore the perspectives of a sample of Judiciary employees from north, central and south Jersey on personnel policies and practices and their assessment of the Judiciary's work environment. See the Task Force on Minority Concerns Final Report, Appendix E for this report, together with a copy of the survey questions. Approximately 80 employees were interviewed. The respondents included administrators and managers, professionals and clerical staff, minorities and non-minorities and both males and female employees.

Responses to the queries covered a broad spectrum of areas such as the need: to improve court facilities, to purchase better equipment and automate the court, to hire more staff and make the workforce more diverse and to reward employees for good work and cease to engage in discriminatory work practices and nepotism. These findings also revealed that minorities' experiences in the workforce are qualitatively different than the experiences of their white peers. Minorities reported more negative experiences overall at both the AOC and in the vicinages.

Committee Recommendation 02:5.15: The Judiciary should conduct a statewide employee survey and entertain input from the Supreme Court Committee on Minority Concerns, the Minority Concerns Unit, the AOC, EEO/AA Unit, Human Resources, Committee on Women in the Courts, ADA and vicinages in order to assess the Judiciary's work environment. The results should be widely distributed.

B. Monitoring Procedures to Ensure Minority Representation

1. Background Information: Judiciary Monitoring Procedures

In 1993, the Supreme Court in its Action Plan on Minority Concerns approved the Task Force recommendation that ongoing monitoring procedures be implemented to ensure representation of minorities in all job categories of the Judiciary's State, Vicinage and Municipal workforce.

In its 1994-1996 and 1996-1998 Rules Cycle Reports, the Subcommittee found mixed results with respect to the extent of compliance with this recommendation. The Judiciary had established personnel policies and procedures statewide through the Selection Evaluation Employee Services Manual⁶⁸ which was distributed to Judiciary human resources staff in 1994. The results of a self-report survey distributed⁶⁹ to the trial courts in January 1998 indicated a high degree of adherence to the manual. These preliminary results suggested a shift toward the statewide standardization of personnel procedures.

In spite of the aforementioned findings in 1998, the Committee on Minority Concerns determined that monitoring and tracking by EEO/AA staff in several vicinages appeared to be weak and even nonexistent. Survey results also indicated a lack of consistent statewide monitoring and tracking to ascertain minority representation in the Judiciary workforce and not at all in the Municipal courts as mandated by the Supreme Court. The dearth of EEO/AA staff availability to lend technical support for vicinage monitoring of employment practices was identified by the Committee as a contributing factor to the noncompliance.

With the approval of the Judiciary EEO/AA Master Plan in May 2000, the requirement that

⁶⁸The Selection Evaluation Employee Services Manual was developed by the AOC Human Resources Division and distributed at a training session given to vicinage human resources staff in December 1994.

⁶⁹The "Questionnaire on Recruitment and Personnel Procedures was sent to all vicinages by the AOC Assistant Director of Human Resources in January 1998 at the request Committee on Minority Concerns.

the Judiciary monitor its employment practices and workforce data was institutionalized. Shortly thereafter, as already noted earlier in this report, the Judiciary increased EEO/AA staffing levels from one full-time EEO/AA Officer in one vicinage in 1998 to eleven full time officers in 2002. The increased level of staff support has optimally positioned the organization to fulfill its employment practice monitoring responsibilities.

**Table 33. New Jersey Judiciary: AOC and Vicinage Questionnaires, Summary Responses
Monitoring Employment Practices (Includes AOC and Vicinages)
January 2002**

Questions	Responses		
	Yes	No	Other
1. Does the EEO/AA Officer review and sign off on all notices of job vacancies prior to posting?	11 (68.8%)	1 (6.2%)	4 (25.4%)
2. When hiring managers make an interview selection, is the EEO/AA Officer provided the interview list prior to interviews so that he or she can evaluate the interview pool, and if appropriate, recommend that it be broadened?	12 (75.0%)	1 (6.2%)	3 (18.8%)
3. Does the EEO/AA Officer review and sign off on all Selection Dispositions?	11 (68.8%)	2 (12.5%)	3 (18.8%)
4. Are exit interviews or surveys conducted of all employees who are separated, terminated and/or transferred to another position within the Judiciary?	15 (93.8%)	1 (6.2%)	
Separated	14		
Terminated	13		
Transferred to another position within the Judiciary	11		
If yes, how is the exit interview conducted?			
One-on-one interview	13		
By mail	4		
On-line	0		
Other, i.e. telephone	1		
If yes, who receives the completed questionnaire?			
Assignment Judge	2		
Trial Court Administrator	6		
Vicinage Human Resources Staff	15		
Vicinage EEO/AA Officer	5		
If yes, who analyzes and files the exit interview reports?			
Vicinage Human Resources	15		
Vicinage EEO/AA Officer	6		
Other(s)			2

To determine the effect that the changes in the EEO/AA staffing configurations have had on the monitoring function, a self-report questionnaire was sent by the AOC/Central Clerks' Offices to Trial Court Administrators. A separate survey was also sent by the Committee to the AOC Chief, EEO/AA Officer. Queries on the survey were based on the Judiciary's EEO/AA Master Plan. Table 11. New Jersey Judiciary: AOC and Vicinage Questionnaires, Summary Responses-Monitoring Employment Practices (2002) presents vicinage and AOC/Central Clerks Office summary responses.

a. Job Notices of Vacancy Review – Question #1: Does the EEO/AA Officer review and sign off on all notices of job vacancies prior to posting?

In reference to the question whether EEO/AA Officers signed off on the job notice of vacancy prior to posting, the majority of the respondents answered in the affirmative. Eleven (68.8%) out of 16 respondents indicated that local EEO/AA Officers review job notices of vacancy prior to posting. Two vicinages (one responded “no” and a second “other”) indicated that they were awaiting the approval by the AOC/Central Clerks' Offices of the Vicinage EEO/AA Implementation Plan before adopting this procedure. One vicinage which responded “other” indicated that the EEO/AA Officer would be signing off on all future job notices of vacancies.

A third respondent who indicated “other,” noted that their EEO/AA Officer did not sign off on those titles which were hired from a certification list. A fourth vicinage stated that the vicinage procedures are currently being developed, but that to date, not all notices are reviewed by the EEO/AA Officer prior to posting.

b. Interview Selection Lists Review – Question #2: When hiring managers make an interview selection is the EEO/AA Officer provided the interview list prior to interviews so that he or she can evaluate the interview pool, and if appropriate, recommend that it be broadened?

The majority of the respondents (12 or 75.0% out of 16) answered in the affirmative to this question. One respondent who answered “yes” added that effective February 1, 2001, their EEO/AA Officer would be receiving interview lists prior to the scheduled interview. Another vicinage which also answered affirmatively stated that the EEO/AA Officer reviewed Selection Disposition Forms

but did not sign off on them. There was no indication as to who did sign the forms. Three respondents who indicated “other” noted that the EEO/AA Officer would be signing off on the Selection Disposition Forms in the future or are still awaiting approval of their vicinage implementation plans. Of the two “no” responses, one vicinage indicated that they are awaiting the approval of the Vicinage EEO/AA Implementation Plan before adopting this procedure. The second vicinage stated that the vicinage procedures are currently being developed but have not yet been implemented.

c. Selection Disposition Forms Review and Sign-off – Question #3: Does the EEO/AA Officer review and sign off on all Selection Dispositions?

A majority of the EEO/AA Officers (11 or 68.8%) out of 16 review and sign-off on Selection Disposition Forms. One vicinage responded “yes” and added that effective February 1, 2001, their EEO/AA Officer would be signing off on Selection Disposition Forms. A second vicinage responded “other” and indicated that their EEO/AA Officer would be doing so in the future. One of the two vicinages that responded “no” indicated that they are awaiting the approval of the Vicinage EEO/AA Implementation Plan before adopting this procedure. Two vicinages stated that the vicinage procedures are currently being developed but have not yet been implemented.

d. Exit Interviews - Question #4: Are exit interviews or surveys conducted of all employees who are separated, terminated and/or transferred to another position within the Judiciary?

Out of a total of 16 responses, 15 indicated that exit interviews were conducted. The AOC Central Clerks’ Offices is currently revising the Exit Interview Form for statewide use as required by the Judiciary EEO/AA Master Plan.⁷⁰ For the past six months, the AOC Human Resources Division has temporarily suspended the use of exit interviews at the central office.

The respondents were asked to check off all applicable answers. Of the fifteen respondents who indicated that they do conduct exit interviews, 14 (or 93.3%) conducted exit interviews with separated employees (retirees and resignations); 11 (73.3%) conducted interviews of all employees

⁷⁰The Judiciary EEO/AA Master Plan requires the use of exit interviews and the submission of an annual summary report to the Assignment Judge and EEO/AA Officer. Judiciary EEO/AA Master Plan, pages 21 and 46-47.

who are transferred to another position within the Judiciary; 13 vicinages (86.7%) give exit interviews to employees who have been fired.

A majority of the respondents 13 (86.7%) out of 15 who indicated that they conducted exit interviews chose face-to-face interviews with departing employees. Additionally 4 (26.7%) respondents also mailed the exit interviews. Only one vicinage conducted telephone exit interviews in addition to the face-to-face interviews. None of the respondents have posted the exit interview on-line.

The Subcommittee was also interested in learning who receives and analyzes the completed exit interviews. This interest stems from the view that the exit interview, if conducted properly, is an excellent vehicle for gaining an appreciation of the workplace environment.

Human Resources staff were by far the largest recipients of the exit interview forms (15), followed by trial court administrators (6) and local EEO/AA Officers (5) and two Assignment Judges. Similarly, exit interviews were primarily analyzed by Human Resources staff (15) and EEO/AA Officers (six). Only one vicinage responded that in addition to Human Resources and EEO/AA staff, both their Assignment Judge and Trial Court Administrator also receive and analyze the exit interview forms.

e. Committee Findings: Monitoring Employment Practices

Some vicinages have not completed the Judiciary EEO/AA Master Plan requirements with respect to recruitment, monitoring and exit interviews. In order for the local EEO/AA Officer to effectively and efficiently monitor employment practices, the local EEO/AA Officer should receive copies of all job vacancy notices, interview selection lists, and Selection Disposition Forms in a timely manner. The local EEO/AA Officer should also receive copies of all completed exit interview forms for employees who leave the Judiciary (i.e. separations), are fired or transfer to another position within the Judiciary.

Committee Recommendation 02:5.16: Monitoring Requirements

**1)The Judiciary should (a) require that the AOC/Central Clerks' Offices and the vicinages immediately institute the Judiciary EEO/AA Master Plan requirements that local EEO/AA Officers receive (in a timely manner) copies of all notices of job vacancies, interview selection lists, and Selection Disposition Forms;(b)conduct exit interviews of all departing employees, including terminations, transfers and resignations; (c) collect data necessary to assess the work environment and detect racially and ethnically discriminatory practices; (d) review and revise the exit form and provide sufficient time for the Committee on Minority Concerns, the Minority Concerns Unit and the EEO/AA Office to comment on the draft prior to its re-issuance; and (e) provide local EEO/AA Officers (not currently receiving copies) with completed exit interview forms;⁷¹ and
2) Employees should be given the option of answering the interview anonymously on-line or by mail.**

f. *“Successful Interviewing - A Guide for Those Who Interview Job Applicants”*

In its 1994-1996 Rules Cycle Report to the court, the Committee on Minority Concerns made several recommendations in the areas of recruitment and selection, many of which were subsequently integrated into the Judiciary EEO/AA Master Plan. Among the requirements of the Plan are stipulations that Judiciary personnel who conduct employment interviews become familiar with the AOC booklet *Successful Interviewing – A Guide for Those Who Interview Job Applicants*.⁷² This booklet is complemented by a training course offered by the AOC/Central Clerks' Offices Organizational Development and Training Unit entitled *Employment Interviewing* which is offered as part of the management leadership training.

The interviewing guide is more than ten years old and there have been significant changes in employment law since it was first published such that its use, in its present form, may pose potential legal liability for the Judiciary. According to the AOC Human Resources Division, this booklet is not currently available for routine distribution. The Subcommittee is assuming that the

⁷¹Report of the Subcommittee on Minority Participation in the Judicial Process 1994-1996 Rules Cycle, Supplement IV page 107.

⁷²Judiciary EEO/AA Master Plan, pages 19 and 20.

training course which uses this guide is in similar need of revamping.

The Committee has been informed that the AOC EEO/AA Unit is responsible for updating the *Successful Interviewing* booklet. A committee of local EEO/AA Officers has been formed to review, draft and update the document. It is anticipated that the booklet will be completed (including a legal review) by April 2002. Also, a pilot training course "Successful Interviewing: Utilizing Appropriate EEO Selection Standards and Effective Hiring Practices" is under development and is scheduled to be conducted on April 11 and May 7, 2002. However, no decision has been made as to whether this course will replace the *Employment Interviewing* course offered by the Organizational Development and Training Unit.

Priority should be given to updating the booklet *Successful Interviewing -- A Guide for Those Who Interview Job Applicants* in order to provide guidelines that are legally sufficient for judges and Judiciary personnel who conduct employment interviews. The Judiciary needs to finalize the courses "Successful Interviewing: Utilizing Appropriate EEO Selection Standards and Effective Hiring Practices" or update the "Employment Interviewing" course.

Committee Recommendation 02:5.17: Interview Guide. The Judiciary should complete the update of the booklet *Successful Interviewing - A Guide For Those Who Interview Job Applicants* in order to provide current guidelines that are legally sufficient for judges and Judiciary personnel who conduct employment interviews and finalize or update at least one of the two training courses "Successful Interviewing: Utilizing Appropriate EEO Selection Standards and Effective Hiring Practices" or "Employment Interviewing."

C. Reduction in Force

In FY 1993 the New Jersey Judiciary experienced a major budget shortfall and was subsequently forced to make programmatic and personnel cuts. Forty-four employees at the Administrative Office of the Courts were laid off, of whom 5 or 34.1% were minorities. Decisions on who would be laid off were based on a retrenchment policy that included standard processes and procedures to be followed in reducing the workforce. A management team reviewed the proposed layoff list to ensure fairness and minimize the adverse impact on minorities and women. No

minorities served on this management team.

In its 1996-1998 Rules Cycle Report to the court, the Committee on Minority Concerns recommended that should the Judiciary be faced with a reduction of its workforce in the future, the AOC EEO/AA Unit should play a key role in the process in order to eliminate possible adverse impact on minorities and women.

In view of the current fiscal crisis looming in the state of New Jersey, which has forced the executive branch to lay-off employees, the New Jersey Judiciary may be forced to again reduce its workforce. The Committee on Minority Concerns believes now, as it did during the last reduction in workforce, that minority court administrators and managers should be a part of the team assessing and making these decisions.

Committee Recommendation 02:5.18: Reduction in Force

Should the New Jersey Judiciary be required to reduce its workforce in the future, the AOC, EEO/AA and Minority Concerns Units should play a key role in the process in order to eliminate possible adverse impact on race/ethnic minorities and women. Summary data of proposed employees to be laid off by race/ethnicity, broad band and salary levels level should be shared with the Committee on Minority Concerns.

D. Performance Appraisals

1. Performance Assessment Review Committee

The Committee on Minority Concerns is revisiting the performance assessment issue as part of its agenda for this cycle report. The Task Force on Minority Concerns Recommendations 32 and 33 were approved by the Court in 1993. See the full text of the referable recommendations below.

Task Force Recommendation 32: The Supreme Court should direct that performance standards similar to those existing for judges, lawyers and probation personnel be adopted for all employees of the Judiciary; and that all job description include related provisions; and that the personnel system incorporate these standards in the initial selection of the new hires, their orientation, and their ongoing performance evaluations.

Task Force Recommendation 33: The Supreme Court should direct that performance standards be established to evaluate employees' treatment of racially, culturally and ethnically sensitive issues.

In the 1994-1996 Report of the Minority Participation in the Judicial Process Subcommittee Report, Supplement IV (pages 110-112), the Committee again recommended that the Court direct the Judiciary to finalize the development of the performance standards for all employees, that these standards also evaluate the treatment of racially, culturally and ethnically sensitive issues and that managers be held accountable for meeting EEO/AA goals with the provision that non-compliance may adversely affect evaluations, merit pay and promotional opportunities.

The Committee notes that the performance appraisal system has been put into place and training has been offered to managers and supervisors. The creation of the Performance Assessment Review Committee⁷³, as directed by the Chief Justice and the Administrative Director, was another significant development in ensuring that the Judiciary is responsive to concerns raised by this new system.

The mandate of the Performance Assessment Review Committee is "to engage in a self-critical evaluation of employment practices and procedures including a review of the Judiciary's performance evaluation program. The self-critical analysis is being undertaken to meet the requirements of the Judiciary EEO/AA Master Plan, contractual obligations and because it is the right thing to do."

The Judiciary EEO/AA Master Plan requires that data be maintained on the Performance Appraisal System by race/ethnicity, gender and division/unit for the purpose of assessing the fairness of the ratings and to discern its impact on minorities and women.⁷⁴

The Performance Assessment Review Committee examined preliminary data, the rating instrument and the training of personnel for participation in the rating program and presented this information to various divisions/units and practice areas in Spring 2001. The Performance

⁷³The Committee is chaired by the Honorable Phillip S. Carchman, J.A.D.

⁷⁴If it is determined that minorities and women are unfairly affected by the Performance Appraisal System, the AOC Human Resources Division and EEO/AA Unit should recommend appropriate corrective measures to the Administrative Director. Refer to the EEO/AA Master Plan, p.38.

Assessment Review Committee sought input from managers and supervisors who administer the instrument and from our Committee.

The Committee on Minority Concerns forwarded questions to the Performance Assessment Review Committee (June 30, 2001) relating to the validation of the instrument, training provided to managers and line staff on the new rating system, availability of written instructions and guidelines on how to conduct the evaluations, procedures for challenging the performance appraisals, training provided to managers and line staff, and other related issues.

The Committee deferred making any findings and recommendations until it has an opportunity to gain a better understanding of the evaluation process, receives and analyzes the requested resource materials and has reviewed the final report draft.

2. Review of the Diversity Performance Standard

While the Committee has not reviewed the performance assessment instrument prepared by the AOC, Human Resource Division in its entirety, the “diversity standard” has been reviewed. This standard is the only one that the Committee specifically recommended be incorporated into the performance appraisal instrument. The standard as it is presently written fails to capture the essence of incorporating affirmative obligations to treat persons with respect and dignity and to refrain from racially or ethnically based discriminatory behavior and other discriminatory actions in the workplace and in servicing court customers. The standard states:

“Diversity--Complies with Judiciary’s policies and procedures regarding Equal Employment Opportunity, Affirmative Action, diversity and anti-discrimination. Note: Rated Only as unsatisfactory or Meets Quality Standards.”

As this standard is presently written, managers and employees are not required to take any action to receive a “meets quality standard.” For a standard to be effective, it should be used as a tool to recognize and encourage those managers and employees to actively work toward creating an environment that embraces differences and recognizes the contributions of a diverse workforce and populace. For example, a manager who actively works toward developing a program to address areas of underutilization in his/her division should be recognized for taking proactive steps to problem solve. Likewise, an employee who consistently delivers outstanding customer services to

diverse court users should also be singled out for recognition.

Similarly, managers and employees who are found deficient in this area should be evaluated accordingly and targeted for remediation as is the case for other measurement standards.

Committee Recommendation 02:5.19 Performance Appraisal. The Judiciary should: (a) complete its assessment of the Performance Appraisal System and determine whether the system has an adverse impact on minorities and women. ;(b) also use the insights and knowledge gained from the preliminary and final reviews of the performance assessment instrument and retain an expert in the field to guide the committee in revising the instrument and validating it. The diversity measure should be revised as part of this comprehensive review; (c) include the Minority Concerns and the EEO/AA Unit staff as participants on the team revising the instrument; (d) allow sufficient time for the Committee on Minority Concerns to comment on the revised instrument before it is reissued; and (e) pilot test the revised instrument and seek feedback from managers and line staff. These findings should be shared with the Committee On Minority Concerns and used by the Judiciary to remove any barriers to equal treatment.

E. Minority Participation in the Judicial Process: Jurists

Task Force Recommendation 39: 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 Supreme, Superior and Tax Court benches.

1. New Jersey Jurists

a. Current Report on New Jersey Judiciary Judges of Color: Representation on the Supreme Court, Superior Court (Appellate and Trial Divisions), Tax Court and Municipal Court

The current profile of minority judges will be discussed followed by a brief historical review of the representation of judges of color on the New Jersey state court and municipal court benches.

As one of the three co-equal branches of the government, the Judiciary has shared the findings of the Committee on Minority Concerns regarding the paucity of persons of color appointed to the state court bench with the governor's office and legislature. Appropriate county and local municipal offices have also received information regarding the appointment of minority judges to municipal courts. These reports have been forwarded without comment. The discussion of this issue begins with information on the current profile of minority judges on the New Jersey state court bench and will be followed by a historical review dating back to 1992.

As of December 2001, there are 47 (11.1%) minorities (32 Blacks, 13 Hispanics and 2 Asians/Pacific Islanders) out of a total of 423 jurists who sit on the Supreme Court, Superior Court (Appellate Division), Superior Court (Trial Division) and Tax Court. See Table 34: New Jersey Justices and Judges by Race/Ethnicity (December 2001); these figures represent a net increase in the number of minority judges by 11 (from 8.8% to 11.1% for a 2.3% gain⁷⁵) since the last report to the Court (December 1997).

- At the Municipal Court level, there are 49 (8.8%) minorities (29 Blacks, 16 Hispanics and 4 Asians/Pacific Islanders/American Indians) out of a total of 555 judgeships.
- New Jersey has a grand total of 978 jurists, 96 of whom are minorities (61 Blacks,

⁷⁵ When referring to percentage gains and decreases, this report compares the differences in proportion from one measurement year or time period and a second year or time period.

21 Hispanics and 6 Asian/Pacific Islander) comprising 9.8% of the total proportion of justices and judges in the state. The percentage of minority jurists at all court levels combined increased slightly since the last report to the Court (from 7.7% to 9.8%), representing a 2.1% gain.

Figure 6: New Jersey Judiciary: Justices and Judges by Race/Ethnicity (December 2001) presents a graphic description of the data.

Table 34. New Jersey Judiciary : Justices and Judges⁷⁶ by Race/Ethnicity (December 2001)

Court	Total # of Judges	Number of Minority Justices and Judges			Summary For All Minority Judges	
		Blacks	Hispanics	Asians/AI	#	%
Supreme Court	7	1	0	0	1	14.3
Appellate Division	34	2	1	0	3	8.8
Superior Court, Trial Division (excluding Appellate Division)⁷⁷	371	29	12	2	43	11.6
Tax Court⁷⁸	11	0	0	0	0	0.0
Sub-Total: State Judges	423	32	13	2	47	11.1
Municipal Court⁷⁹	555	29	16	4	49	8.8
Total: All Judges	978	61	29	6	96	9.8

⁷⁶ Since January 18, 1994, there have been a total 24 minority appointments to the bench. Of these appointees, 18 are Black; 5 are Hispanic and 1 is Asian/Pacific Islander. Of the Black appointments, one was to the Supreme Court: Justice James H. Coleman, Jr.; and 17 were to the Superior Court and included Stephen H. Womack (Passaic); Rudy B. Coleman (Union); Michael J. Nelson (Essex); Elijah L. Miller, Jr. (Bergen); Thomas Brown, Jr. (Camden); Thomas S. Smith, Jr. (Burlington); Marie White Bell (Burlington); Ronald J. Freeman (Camden); James L. Jackson (Atlantic); Gerald J. Council (Mercer); Glenn A. Grant (Essex); Wendel E. Daniels (Ocean); Lorraine Pullen (Middlesex); Audrey Peyton Blackburn (Mercer); Christine Allen-Jackson (Cumberland); Michelle Hollar-Gregory (Essex); and Susan F. Maven (Atlantic). The five Hispanic appointments to the Superior Court included: Peter J. Vázquez (Essex); Héctor R. Velázquez (Hudson); Estela M. De La Cruz (Bergen); Roberto Alcazar (Union) and José L. Linares (Essex). One Asian/Pacific Islander was appointed to the Superior Court: Patricia M. Talbert (Essex).

⁷⁷ Total minority Superior Court Judges include one Assignment Judge (Black) and fourteen minority female judges (eleven Black, two Hispanic and one Asian/Pacific Islander).

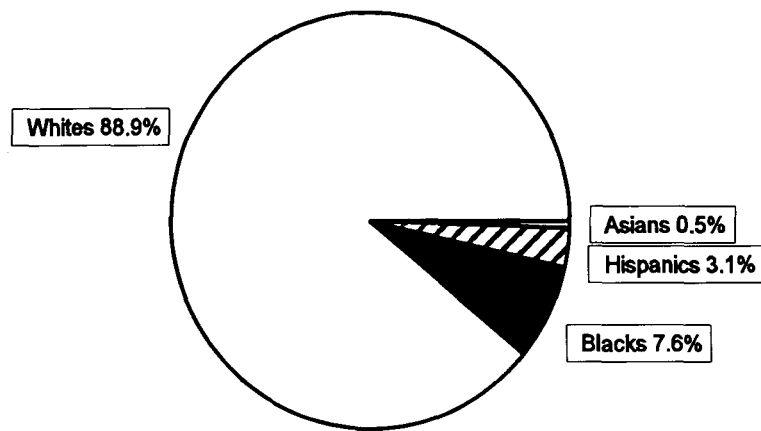
⁷⁸ As of December 2001, the Tax Court has a total of eleven Tax Court judges. These include five full-time judges and six judges who are temporarily assigned to the Superior Court. There is one vacancy on the Tax Court.

⁷⁹ The unit of count in the Municipal Court is judgeships instead of judges. This approach is necessary since some Municipal Court Judges sit in two or more Municipal Courts and representation is an issue on a court-by-court basis, not person-as-judge basis. This data is as of December 2001.

Figure 6

New Jersey Justices and Judges by Race/Ethnicity (December 2001)

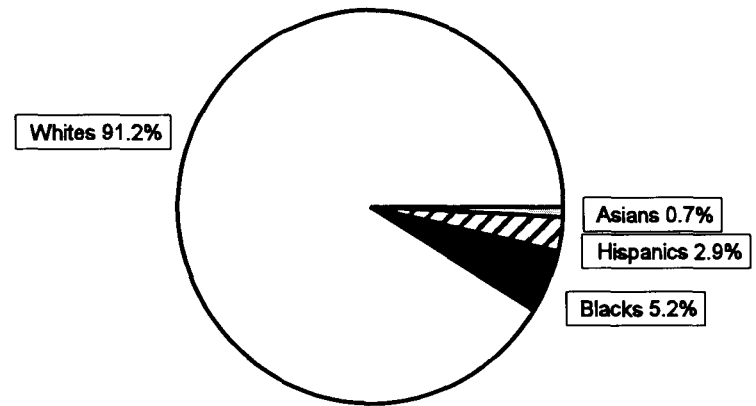
**Supreme Court; Superior Court, Appellate Division;
Superior Court, Trial Division**



- Whites
- Blacks
- Hispanics
- Asians/Pacific Islanders/American Indians

N = 423 Justices and Judges

Municipal Court



- Whites
- Blacks
- Hispanics
- Asians/Pacific Islanders/American Indians

N = 555 Judgeships

b. Historical Review: New Jersey Representation of Judges of Color on the State Court Bench, Summary Totals: State and Municipal Courts

Table 35 provides historical information on the representation of persons of color on the New Jersey state court bench. It presents data from 1992, 1996, 1997 and 2001.⁸⁰ In none of those years did the combined representation of minority judges on the state and municipal benches reach 10%.

c. Representation of Minority Judges by Court Level

A second chart, Table 36. New Jersey Judiciary: Minority Representation on the Supreme Court, Superior Court (Appellate and Trial Divisions) and Tax Court, 1992-1997 and 2001 gives a breakdown for five consecutive years and 2001. In 1992, the total minority representation on the bench was 26 or 6.8% ; in 1993, 1994, 1995 and 1996, the proportion of minority judges on the state court bench did not rise above 7.5%. In 1997, minority judges accounted for 8.8% of the total and in 2001, the proportion of minority judges was 11.1% or 47 out of a total of 423 state court judges.

When one computes the percent change in the proportion of judges of color on the bench between two consecutive one- year measurement periods in Table 36, the analyses reveal that the percent increase in minority judges appointed to the bench at the state court level was less than +0.5 for the following measurement periods: 1992-1993 (+0.3%);1993-1994 (-0.2%);1994- 1995 (+0.2%); 1995-1996 (+0.4%). For the 1996-1997 measurement period, there is an increase of +1.2%. The largest percentage increase for minority judges was recorded during a three year interval (between 1997 and 2001) when the minority representation rose from 8.7% to 11.7% (+ 2.4%).⁸¹

⁸⁰The statistics on minority representation on the Municipal Court bench in the 1992 report are for calendar year 1990.

⁸¹ When referring to percent gain/ increase and decrease /loss, this report computes the percent difference between two measurement time periods or years.

**Table 35. New Jersey Judiciary: Percent of Justices and Judges by Race/Ethnicity
Apr. 1992, Jan. 1996, Dec. 1997, Dec. 2001**

YEAR AND COURT		Total No. of Judges	Total Number of Minority Judges			Number & % Minority	
			Black	Hispanic/ Latino	Asian/Pac. Islander	#	%
A P R I L 1 9 9 2	Supreme Court	7	0	0	0	0	0.0
	Superior Court - Appellate Division	28	1	0	0	1	3.6
	Superior Court - Trial Division	339	17	8	0	25	7.4
	Tax Court	9	0	0	0	0	0.0
	Sub-total State	383	18	8	0	26	6.8
	Municipal Court 1990	542	20	4	0	24	4.4
	TOTAL - ALL JUDGES	925	38	12	0	50	5.4
J A N U A R Y 1 9 9 6	Supreme Court	7	1	0	0	1	14.3
	Superior Court - Appellate Division	32	2	1	0	3	9.4
	Superior Court - Trial Division	363	17	9	1	27	7.4
	Tax Court	9	0	0	0	0	0.0
	Sub-total State	411	20	10	1	31	7.5
	Municipal Court	539	24	8	7	39	7.2
	TOTAL - ALL JUDGES	950	44	18	8	70	7.4
D E C E M B E R 1 9 9 7	Supreme Court	7	1	0	0	1	14.3
	Superior Court - Appellate Division	32	2	1	0	3	9.4
	Superior Court - Trial Division	360	20	11	1	32	8.9
	Tax Court	11	0	0	0	0	0.0
	Sub-total State	410	23	12	1	36	8.8
	Municipal Court	565	25	11	3	39	6.9
	TOTAL - ALL JUDGES	975	48	23	4	7	8.4
D E C E M B E R 2 0 0 1	Supreme Court	7	1	0	0	1	14.3
	Superior Court - Appellate Division	34	2	1	0	3	8.8
	Superior Court - Trial Division	371	29	12	2	43	11.6
	Tax Court	11	0	0	0	0	0.0
	Sub-total State	423	32	13	2	47	11.1
	Municipal Court	553	29	16	4	49	8.8
	TOTAL - ALL JUDGES	978	61	29	6	96	9.8

Table 36. New Jersey Judiciary: Minority Representation on the Supreme Court, Superior Court (Appellate and Trial Divisions) and Tax Court 1992-1997 and 2001

	1992		1993		1994		1995		1996		1997		2001	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Total Minorities	26	6.8	29	7.1	28	6.9	28	7.1	31	7.5	36	8.8	47	11.1
Blacks	18	4.7	18	4.4	18	4.4	18	4.5	20	4.9	23	5.6	32	7.6
Hispanics	8	2.1	10	2.4	9	2.2	9	2.3	10	2.4	12	2.9	13	3.1
Asians/Amer. Indians/Pac. Islanders	0	0.0	1	0.2	1	0.2	1	0.2	1	0.2	1	0.2	2	0.4
Total All Judges	383		410		405		397		411		410		423	

(1) Supreme Court

Minority representation on the Supreme Court increased from 0.0% in 1992 to 14.3% in 1994 with the appointment of the first justice of color to the state's highest court, Associate Justice James H. Coleman. Of the four most recent appointments to the Supreme Court, none were minorities; therefore the representation of persons of color on the bench has not changed since 1996.

(2) Superior Court- Appellate Division

On the Appellate bench, the representation of judges of color increased from 3.6% (N=1) in 1992 to 9.4% (N=3) in 1996. There was no change in this figure in 1997. However in 2001, the proportion of minority Appellate court judges decreased, although the number of judges of color remained constant. This decrease is explained by an increase in the number of Appellate Court judges from 32 to 34, while the number of minority Appellate judges remained the same; hence, the percent decline in minority representation from 9.4% to 8.8% (-0.6%) between these two measurement years.

(3) Superior Court- Trial Division

At the Trial Court level, judges of color representation on the court remained constant at 7.4% in 1992 (N=25) and 1996 (N=27). There was an increase in minority representation in 1997

of +1.5% (N=32) over the January 1996 measurement date. Using the measurement points in Table 35 as reference points, the largest proportional gain for minority judges occurred in December 2001 when there was a +2.7% increase in the proportion of minorities serving on the trial court bench. (N=43).

The Subcommittee also reviewed the representation of minority judges on the Superior Court trial bench in the states 21 counties. In April 1992, there were 9 out of 21 counties that had no minority Superior Court trial judges. In January 1996, 11 of the 21 counties had no judges of color on the Superior Court trial bench. As of late December 2001, 7 of 21 New Jersey counties had no minority representation on the trial court bench. Review the tables in Appendix D-3.

(4) Tax Court

There were nine tax court judges in 1992 and 1996, none of whom were minorities. As of December 1997 and December 2001, there were eleven Tax Court judges, none of whom were minorities. Presently, the Tax Court is the only court in which there is no minority representation. See Table 34.

(5) Municipal Courts

Previous Minority Concerns rules cycle reports indicated that in 1990, 12 out of 21 counties had no minority municipal court judges; in 1995, eight counties had no minority municipal court judges and as of December 2001, 10 counties had no persons of color on the municipal court bench. Review Table 36. New Jersey Judiciary: 2000 Census Data -Municipal Court Judgeships by County and Total Minority Representation for 1995 and 2001.

An examination of Table 37: Municipal Court Judgeships by County and Race/Ethnicity (1995 and 2001) indicates that of the 49 judgeships held by persons of color in December 2001, 29 are held by Blacks, 16 by Hispanics, 4 by American Indians and none by Asian/Pacific Islanders. Black jurists hold judgeships in 9 of the 21 counties. There are Hispanic judgeships in 7 of 21 counties. American Indians hold judgeships in 2 of 21 counties. There are no Asian Americans currently on the municipal court bench.

**Table 37.a. New Jersey Judiciary: 2000 Census Data and Municipal Court Judgeships By
County and Total Minority Representation
1995 and 2001⁸²**

County	2000 Population		1995 Judgeships			2001 Judgeships			% Change Between 1995 and 2000
	Total Population	Total Minorities	Total	Min.	Min.	Total	Min.	Min.	
	#	%	#	#	%	#	#	%	
Atlantic	252,552	34.4	24	1	4.2	22	2	9.1	4.9
Bergen	884,118	26.2	73	2	2.7	69	3	4.3	1.6
Burlington	423,394	22.1	36	1	2.8	33	0	0.0	-2.8
Camden	508,932	31.0	37	2	5.4	35	0	0.0	-5.4
Cape May	102,326	9.0	14	0	0.0	15	3	20.0	20.0
Cumberland	146,438	39.9	12	3	25.0	11	3	27.3	2.3
Essex	793,633	60.0	27	12	44.4	37	17	45.9	1.5
Gloucester	254,673	13.3	23	0	0.0	22	0	0.0	0.0
Hudson	608,975	62.0	16	3	18.8	24	10	41.7	22.9
Hunterdon	121,989	7.1	12	3	25.0	9	0	0.0	-25.0
Mercer	350,761	34.3	15	2	13.3	16	3	18.8	5.5
Middlesex	750,162	36.4	31	2	6.5	32	2	6.25	-.25
Monmouth	615,301	18.2	55	0	0.0	51	2	3.8	3.8
Morris	470,212	16.9	26	0	0.0	41	0	0.0	0.0
Ocean	510,916	9.3	34	0	0.0	33	0	0.0	0.0
Passaic	489,049	46.4	19	2	10.5	19	2	10.5	0.0
Salem	64,285	19.3	15	0	0.0	12	0	0.0	0.0
Somerset	297,490	24.7	20	1	5.0	20	0	0.0	-5.0
Sussex	144,166	5.7	14	0	0.0	17	0	0.0	0.0
Union	522,541	44.0	27	5	18.5	19	2	10.5	-8.0
Warren	102,437	6.9	9	0	0.0	18	0	0.0	0.0
Grand Total	8,414,350	32.3	539	39	7.2%	555	49	8.8%	1.6%

⁸² The unit of count in Municipal Court is judgeships instead of judges. This approach is necessary since some Municipal Court Judges sit in two or more Municipal Courts and representation is an issue on a court-by-court basis, not person-as-judge basis.

Table 37.b. Municipal Court Judgeships by County and Race/Ethnicity 1995 and 2001

County	1995				2001			
	Blacks	Hispanics	Asians	Amer. Indians	Blacks	Hispanics	Asians	Amer. Indians
Atlantic	1	0	0	0	2	0	0	0
Bergen	2	0	0	0	2	1	0	0
Burlington	1	0	0	0	0	0	0	0
Camden	2	0	0	0	0	0	0	0
Cape May	0	0	0	0	2	1	0	0
Cumberland	0	0	0	3	0	0	0	3
Essex	11	1	0	0	14	3	0	0
Gloucester	0	0	0	0	0	0	0	0
Hudson	1	2	0	0	3	7	0	0
Hunterdon	0	0	0	3	0	0	0	0
Mercer	1	1	0	0	2	1	0	0
Middlesex	0	2	0	0	0	2	0	0
Monmouth	0	0	0	0	1	0	0	1
Morris	0	0	0	0	0	0	0	0
Ocean	0	0	0	0	0	0	0	0
Passaic	1	1	0	0	1	1	0	0
Salem	0	0	0	0	0	0	0	0
Somerset	0	0	0	1	0	0	0	0
Sussex	0	0	0	0	0	0	0	0
Union	4	1	0	0	2	0	0	0
Warren	0	0	0	0	0	0	0	0
Grand Total	24	8	0	7	29	16	0	4

2. Women Judges and Women Judges of Color

Over the course of the last decade, women judges have generally experienced gains in the legal professions. This section discusses how women judges in the New Jersey State court and municipal courts have fared

a. Summary Data: Supreme Court, Superior Court (Appellate and Trial Divisions), Tax Court and Municipal Court

An examination of Table 38. New Jersey Judiciary: Percent Female Judges on the Supreme Court, Superior Court (Appellate and Trial Divisions), Tax Court and Municipal Court, December 2001 reflects the following. There are a total of 143 women judges combined currently on the bench (including the Supreme Court, Superior Court [Appellate and Trial Divisions], Tax Court and Municipal Court). Ninety-one of the women judges are on the state court bench.

b. State Court Bench

Of the 91 female state court judges, 3 are Supreme Court justices comprising 42.9% of Court; 7 of 34 Appellate Judges or 20.6% are women; 79 or 21.3% (N=371) are trial court judges and 2 or 18.2% are on the 11-member Tax Court. Of the current complement of 11 Tax Court judges, none are women of color. When the figures for state and municipal court judges are combined (978), women judges account for 14.6% (143) of all judges.

The subtotal of 91 women judges comprise 21.5% of the total number of state court judges (423).

c. Municipal Court

At the Municipal Court level, out of a total of 555 judgeships, 52 or 9.4% are held by women; 25 or 4.5% of these judgeships are held by white women; 13 or 2.3% are held by Black women; and 7 or 1.3% are Hispanic women. There are no American Indians/Asians/Pacific Islanders.

The percent representation of women judges of color on the municipal court bench (3.6%) is only slightly different from their representation on the state court bench (3.3%). These preliminary figures suggest that women of color seem to have about an equal chance of being appointed to the state court and municipal court bench.

The proportional representation of White women on the Municipal Court bench is 4.5%; this figure is substantially lower than their representation on the state court bench (18.2%). These data suggest that White women are four times more likely to be appointed to the state court bench

than they are to receive appointments to municipal courts.

d. Women Judges of Color

While it is evident that women judges have made significant gains at the state court level in general, and especially at the Supreme Court level where the proportional representation of women is the highest, it is also evident that women judges of color have not been the beneficiaries of these gains. Currently there are no women judges of color on the Supreme Court and Appellate Court and no women of color have ever sat on either of these courts.

Of the total of 91 female state judges, 14 are women of color comprising 3.3% of the total proportion of women judges currently on the state court bench (11 or 2.6.% are Black; 2 or 0.5% are Hispanic and 1 or 0.2% is an Asian American). When one aggregates the minority women across all race/ethnic groups at the state level, it is clear that white females are almost five times more likely than are their minority counterparts to be on the state court bench.

**Table 38: New Jersey Judiciary - Percent Female Judges on the Supreme Court, Superior Court (Appellate and Trial Divisions), Tax Court and Municipal Court
December 2001**

Court Level	Total Judges	Total Female Judges		White		Black		Hispanic		Asian		Total Minority Female Judges		% Difference Between White & Minority Appt.
		#	%	#	%	#	%	#	%	#	%	#	%	
Supreme Court	7	3	42.9%	3	42.9%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	42.86%
Superior Court, Appellate Division	34	7	20.6%	7	20.6%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	20.59%
Superior Court, Trial Division	371	79	21.3%	65	17.5%	11	3.0%	2	0.5%	1	0.3%	14	3.8%	13.75%
Tax Court	11	2	18.2%	2	18.2%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	18.18%
Subtotal: State Judges	423	91	21.5%	77	18.2%	11	2.6%	2	0.5%	1	0.2%	14	3.3%	14.89%
Municipal Court ⁸³	555	52	9.4%	25	4.5%	13	2.3%	7	1.3%	0	0.0%	20	3.6%	0.90%
Total	978	143	14.6%	102	10.4%	24	2.5%	9	0.9%	1	0.1%	34	3.5%	6.95%

⁸³ The unit of count in the Municipal Court is judgeships instead of judges. This approach is necessary since some Municipal Court judges sit in two or more Municipal Courts and representation is an issue on a court-by-court basis, not person-as-judge basis. In reviewing these data, the reader should be mindful that race/ethnicity data are missing in 1.3% of the cases.

F. Promotion of Minority and Women Judges

1. Minority Judges

In the Supreme Court Task Force on Minority Concerns Final Report (1992), one recommendation (# 41) discussed the promotion of minority judges into more prestigious and policy-making judicial assignments. The report goes on to note that between 1986 and 1992, there were 99 promotions, 5.1% of whom went to minorities (Final Report, page 297).

The Committee on Minority Concerns Rules Cycle Report, 1994-1996 reported that one minority judge had been elevated to the Supreme Court (Justice James H. Coleman, December 16, 1994) and three minority judges had been elevated to the Appellate Division since 1992. Of the minorities on Appellate Court, two were Black males and one was an Hispanic male.⁸⁴

One minority judge has been promoted to Assignment Judge and two minority judges are designated Acting Assignment Judges (1 Black in Camden vicinage and 1 Hispanic in Bergen vicinage).

Currently, of the combined total of 60 Presiding Judges on the trial bench, 2 or 3.3% are Black males, 1 or 1.7% is a Black female and 1 or 1.7% is an Hispanic male. These Presiding Judges sit in General Equity (Camden), Civil (Mercer), Criminal (Essex) and Family (Passaic) Divisions and represent 6.7% of the total complement of Presiding Judges..

2. Women Judges

- 2 or 25% of the 8 Presiding Judges Appellate Court Judges are White women;
- 3 or 20.0% of the 15 Assignment Judges are White women;
- As noted above, one Black female is presently a Presiding Judge in the Civil Division (6.7%) and 3 (20.0%) are non-minority Civil Division Presiding Judges.⁸⁵
- 3 or 20.0% of the General Equity Presiding Judges are white females.
- 4 or 26.7% of the Criminal Division Presiding Judges are white females.
- The only Presiding Judge in Tax Court is a white female.

⁸⁴No minority Appellate Court judges currently meet seniority requirements for elevation to Presiding Judge of their respective panels.

⁸⁵ Hon. Betty J. Lester was the first minority woman to be appointed Presiding Judge at the state court level. She was Presiding Judge, Criminal Division, Essex County from 1996 to 1999.

- Of the 15 Municipal Court Presiding Judges, 2 are women; one is Black and one is White.

These analyses reveal that White(18.2%) women are being elevated to administrative and policy making levels on the state court bench at levels that consistently exceed their representation on the state court bench.

G. Overview of the Judiciary Workforce

This overview of the judiciary workforce excludes judges, law clerks and court volunteers, who are covered in separate sections.

1. Workforce Profile: Administrative Office of the Courts and Vicinages Combined

The New Jersey Judiciary has 8,620 employees as of December 2001 Refer to Table 39. New Jersey Judiciary Employees by Race/Ethnicity, AOC/Central Clerks’ Offices and Vicinages (December 2001).

Table 39. New Jersey Judiciary: Employees⁸⁶ by Race/Ethnicity, AOC/Central Clerks’ Offices and Vicinages (December 2001) - Excluding Judges and Law Clerks

	Total Judiciary Employees		AOC/Central Clerks’ Office Employees		Vicinage Employees	
	#	%	#	%	#	%
Whites	5675	65.8%	926	71.0%	4749	64.9%
Blacks	2059	23.9%	289	22.2%	1770	24.2%
Hispanics	727	8.4%	60	4.6%	667	9.1%
Asians/Am. Indians	159	1.8%	29	2.2%	130	1.8%
Total Minorities	2945	34.2%	378	29.0%	2567	35.1%
Total Employees	8620	100.0%	1304	100.0%	7316	100.0%

Other highlights describing the Judiciary’s workforce are listed below:

- Of the total Judiciary workforce of 8,620, there are 2,945 or 34.2% minority

⁸⁶ Table 39 includes full-time employees only. Judges and judicial law clerks are discussed elsewhere in the report.

employees. This total exceeds the 32.3% representation of minorities in the state of New Jersey according to the 2000 Census. Refer to Table 23. New Jersey Population by Race and Hispanic Origin for 1995 and 2000.⁸⁷

- At the AOC/Central Clerks' Offices, there are 1,304 employees of which are 378 or 29.0% are minority.
- At the vicinage level, of the 7,316 total employees 2,567 or 35.1% are minority.
- Total Judiciary Workforce: Of the total state Judiciary workforce (AOC/Central Clerks' Offices and vicinages combined) numbering 8,620, there are 2,059 (23.9%) Blacks, 727 (8.4%) Hispanics, and 159 (1.8%) Asians/Pacific Islanders/ American Indians.
- AOC./Central Clerks' Offices: Of the total workforce at the AOC/Central Clerks' Offices of 1,304, there are 289 (22.2%) Blacks; 60 (4.6%) Hispanics and 29 (2.2%) Asians/Pacific Islanders.
- Vicinages: Of the total vicinage workforce of 7,316, there are 1,770 (24.2%) Blacks; 667 (9.1%) Hispanics and 130 (1.8%) Asians/Pacific Islanders/American Indians.

2. Presence of Minorities in the County Workforce

The Judiciary's minority workforce in the following 12 counties out of 21 New Jersey counties meets or exceeds the percentage of racial/ethnic minorities in the 2000 county population: Atlantic, Burlington, Camden, Cape May, Essex, Gloucester, Mercer, Middlesex, Morris, Passaic, Salem and Union. This number however, represents a decrease from 1998 when the Committee on Minority Concerns last reported to the court that the Judiciary workforce in 16 out of 21 counties exceeded the 1990 county population. Refer to Table 40. New Jersey Judiciary: Vicinage Employees by County and Race/Ethnicity (December 2001) and Table 41. New Jersey County Population by Race and Hispanic Origin, 2000 Census Data.

⁸⁷ Population data are not used by employers in establishing hiring goals, rather specialized availability data based on the 2000 Census will be used by the New Jersey Judiciary when such data becomes available for EEO programs in the year 2003. Comparisons of the workforce with the population are being made for informational purposes only.

**Table 40. New Jersey Judiciary: Vicinage Employees By County and Race/Ethnicity
December 2001), Excluding Judges and Judicial Law Clerks**

County	Total All Employees	Total Minorities		Blacks		Hispanics		Asians/ American Indians	
		#	%	#	%	#	%	#	%
Atlantic	350	126	36.0	103	29.4	20	5.7	3	0.9
Bergen	473	74	15.6	38	8.0	29	6.1	7	1.5
Burlington	293	77	26.3	66	22.5	9	3.1	2	0.7
Camden	630	227	36.0	153	24.3	70	11.1	4	0.6
Cape May	112	14	12.5	11	9.8	2	1.8	1	0.9
Cumberland	214	41	19.2	21	9.8	17	7.9	3	1.4
Essex	1007	658	65.3	543	53.9	88	8.7	27	2.7
Gloucester	213	35	16.4	30	14.1	3	1.4	2	0.9
Hudson	577	268	46.4	112	19.4	138	23.9	18	3.1
Hunterdon	73	4	5.5	2	2.7	2	2.7	0	0.0
Mercer	364	146	40.1	122	33.5	21	5.8	3	0.8
Middlesex	536	199	37.1	114	21.3	50	9.3	35	6.5
Monmouth	454	80	17.6	70	15.4	6	1.3	4	0.9
Morris	259	54	20.8	40	15.4	10	3.9	4	1.5
Ocean	319	29	9.1	13	4.1	13	4.1	3	0.9
Passaic	504	255	50.6	126	25.0	127	25.2	2	0.4
Salem	93	25	26.9	22	23.7	2	2.2	1	1.1
Somerset	180	33	18.3	14	7.8	16	8.9	3	1.7
Sussex	87	4	4.6	2	2.3	2	2.3	0	0.0
Union	485	215	44.3	165	34.0	42	8.7	8	1.6
Warren	93	3	3.2	3	3.2	0	0.0	0	0
All Counties Combined	7316	2568	35.1%	1772	24.2%	667	9.1%	130	1.8%

Note: Percentages are % of total in each major category.

Data Source: Judicial Human Resource Information System

Table 41. New Jersey Population by County, Race and Hispanic Origin, Census 2000

Count	Total	Total Minorities ⁸⁸	Whites	Blacks	Hispanics ⁸⁹	Asians/ Pac. Isl.	American Indians
	#	%	%	%	%	%	%
Atlantic	252,552	34.4	63.9	16.9	12.3	5.0	0.2
Bergen	884,118	26.2	72.3	5.0	10.5	10.6	0.1
Burlington	423,394	22.1	76.3	14.8	4.4	2.7	0.2
Camden	508,932	31.0	67.8	17.3	9.8	3.7	0.2
Cape May	102,326	9.0	90.0	4.9	3.3	0.6	0.2
Cumberland	146,438	39.9	58.4	19.2	19.1	0.9	0.7
Essex	793,633	60.0	37.6	40.3	15.9	3.7	0.1
Gloucester	254,673	13.3	85.7	8.9	2.7	1.5	0.2
Hudson	608,975	62.0	35.3	12.2	40.4	9.3	0.1
Hunterdon	121,989	7.1	92.2	2.2	2.9	1.9	0.1
Mercer	350,761	34.3	64.2	19.4	9.9	4.9	0.1
Middlesex	750,162	36.4	61.9	8.6	13.9	13.8	0.1
Monmouth	615,301	18.2	80.6	7.8	6.4	3.9	0.1
Morris	470,212	16.9	82.0	2.7	7.9	6.2	0.1
Ocean	510,916	9.3	89.9	2.8	5.1	1.3	0.1
Passaic	489,049	46.4	51.5	12.4	30.2	3.6	0.2
Salem	64,285	19.3	79.6	14.4	4.0	0.6	0.3
Somerset	297,490	24.7	74.1	7.3	8.9	8.4	0.1
Sussex	144,166	5.7	93.4	1.0	3.4	1.2	0.1
Union	522,541	44.0	54.2	20.1	20.0	3.8	0.1
Warren	102,437	6.9	92.2	1.8	3.8	1.2	0.1
State Total	8,414,350	32.3	66.0	13.0	13.5	5.7	0.1

Data Source: United States Census Bureau 2000 Redistricting Data (Public Law 94-171) Summary File, Matrices PL1, PL2, PL3 and PL4.

⁸⁸"Total Minorities" and "Whites" do not add up to 100.0% because the category "Two or more races" which comprises 1.6% of New Jersey's population has not been included in this report. This report includes persons reporting only one race.

⁸⁹The category "some other races" which consists predominantly (97%) of people of Hispanic origin, e.g., Mexican Americans, Dominicans, Peruvians, etc. represents 19,565 (0.2%) of New Jersey's population and has been merged into the "Hispanic" category as per the guidance of the New Jersey State Data Center.

3. Workforce Trends

a. Total Minority Representation in the Judiciary Workforce

From 1992 to 2001, the total state Judiciary workforce (AOC/Central Clerks' Offices and vicinages) was reduced by 159 from 8,779 to 8,620 employees. During this same time period, total minority representation in the Judiciary workforce at the state level (AOC/Central Clerks' Offices and vicinages) increased by 879 from 2,066 to 2,945 employees representing a 10.7% increase. These data are summarized in Table 42. New Jersey Judiciary: Percent Minority Employees by Race/Ethnicity (AOC and Vicinage Combined)- 1992,1995, 1997 and 2001.

**Table 42. New Jersey Judiciary: Percent Minority Employees by Race/Ethnicity
AOC and Vicinages Combined, 1992,1995,1997 and 2001**

Year	1992		1995		1997		2001		Change 1992 - 2001
	#	%	#	%	#	%	#	%	
Total Judiciary Employees	8779	100.0	8924	100.0	8461	100.0	8620	100.0	-159
Total Minorities	2066	23.5	2461	27.6	2428	28.7	2945	34.2	+879 (+10.7%)

b. Workforce Trends by Race/Ethnic Group

The Subcommittee also examined the workforce trends by race/ethnic group at both the AOC/Central Clerks' Offices and the vicinages. From 1992 to 2001 minorities at the AOC/Central Clerks' Offices increased by 8.8%: Blacks by (5.1%), Hispanics by (2.7%) and Asians/Pacific Islanders/American Indians by (1.0%). Whites decreased by 8.1% during this period. The total workforce at the central office increased by 19 employees between 1992 and 2001 (from 1285 to 1304).

From 1992 to 2001 minorities at the vicinage level increased by 11.0%: Blacks by (7.0%), Hispanics by (2.8%) and Asians/Pacific Islanders/American Indians by (1.4%) from 7494 to 7316. The total workforce at the vicinage level decreased by 178 employees from 1992 to 2001. Refer to Table 43. New Jersey Judiciary: Percent Minority Employees by Race/Ethnicity AOC Central Clerks' Offices and Vicinages for 1992, 1995, 1997 and 2001.

Table 43. New Jersey Judiciary: Percent Judiciary Minority Employees by Race/Ethnicity (AOC/Central Clerks' Offices and Vicinages) For 1992, 1995, 1997 and 2001

AOC/Central Clerks' Offices

Year	1992	1995	1997	2001	Change 1992-2001
	%	%	%	%	
Whites	79.8	74.8	73.1	71.0	- 8.1 %
Blacks	17.1	19.3	20.4	22.2	5.1 %
Hispanics	1.9	4.2	4.5	4.6	2.7 %
Asians/ American Indians	1.2	1.6	2.0	2.2	1.0 %
Total Minorities	20.2	25.2	26.9	29.0	8.8 %
Total AOC Employees	1285	1278	1224	1304	19

Vicinages

Year	1992	1995	1997	2001	Change 1992-2001
	%	%	%	%	
Whites	75.9	72.0	71.0	64.9	-11.0 %
Blacks	17.2	19.6	20.0	24.2	7.0 %
Hispanics	6.3	7.1	7.5	9.1	2.8 %
Asians/American Indians	0.4	1.3	1.4	1.8	1.4 %
Total Minorities	24.1	28.0	29.0	35.1	11.0 %
Total Vicinage Employees	7494	7646	7237	7316	-178

Total AOC and Vicinages Combined, 1992,1995,1997 and 2001

Year	1992		1995		1997		2001		Change 1992 - 2001
	#	%	#	%	#	%	#	%	
Total Judiciary Employees	8779	100.0	8924	100.0	8461	100.0	8620	100.0	-159
Total Minorities	2066	23.5	2461	27.6	2428	28.7	2945	34.2	+879 (+10.7%)

4. Employees in Judiciary Job Bands by Race/Ethnicity

The Committee on Minority Concerns also examined the representation of minorities in the Judiciary workforce by job band. Previous analyses by the Committee were made according to job categories designated for use by employers by the United States Equal Employment Opportunity Commission (EEOC). In 1998 the Judiciary converted more than 800 job titles (based on EEOC job categories) into ten job broad bands for the career/classified or unclassified service. Due to the substantive changes resulting from the conversion from EEO job categories to Judiciary job broad band, valid historical comparisons cannot be made for most of the bands. Nevertheless, a comparison can be made of those individuals found in the top ranks of the organization. For example, officials/administrators comprised 323 of the Judiciary's workforce in 1997 of which 36 (11.1%) were minority. In December 2001 there are 489 court executives of which 80 or (16.4%) are minority. Refer to Table 44. New Jersey Judiciary: Employees by Race/Ethnicity and Job Band Combined AOC/Central Clerks' Offices and Vicinages (December 2001) Excluding Judges and Law Clerks. The Court Executive job band includes the titles of Court Executive 4, 3b, 3a, 2b, 2a, 1b and 1a. Other highlights of this report are discussed below:

a. Professional Supervisory

There are 847 employees in the professional supervisory job band of which 169 (20.0%) are minority: Blacks 125 (14.8%), Hispanics 36 (4.3%) and Asians/American Indians 8 (0.9%). The Professional Supervisory job band includes the titles of Court Services Supervisor 4, 3, 2 and 1, Administrative Supervisor 4, 3, 2 and 1, and Court Reporter Supervisor 2 and 1⁹⁰.

b. Legal

There are 52 employees in this job band which is comprised of attorneys who are members of the New Jersey bar. These attorneys are found primarily at the AOC/Central Clerks' Offices in Central Appellate Research; the Office of the Clerk, Supreme Court; the Office of Attorney Ethics and the Disciplinary Review Board. At the vicinage level there is only one individual in the legal job band. Although the Judiciary hires many attorneys, most are employed in an administrative capacity in nonlegal titles that do not require membership to the New Jersey bar.

⁹⁰Source: Memorandum dated October 11, 2001 from John Kafader, AOC Chief, Performance Management and Compensation Planning Unit on "Revised Job Bands and Levels Chart", Appendix D-4.

Of the 52 attorneys in this job band, 6 (11.5%) are minority: Blacks 3 (5.8%), Hispanics 2 (3.8%) and Asians/Pacific Islanders/American Indians 1(1.9%). The legal job band includes the titles of Attorney 2 and 1 and Law Clerk. Although judicial law clerks fall within this job band, a decision was made to not include them in this report, since they are temporary, one year appointments and their inclusion would artificially skew the data. Detailed reports on judicial law clerks are found elsewhere in this report.

c. Support Staff Supervisory

There are 210 employees in this job band of which 72 (34.3%) are minority: Blacks 57 (27.1%), Hispanics 15 (7.1%) and Asians/Pacific Islanders/American Indians 0 (0.0%). This job band includes the titles of Supervisor 2 and 1.

d. Official Court Reporter

There are 69 court reporters in the New Jersey Judiciary. They are all reflected on the database of the AOC/Central Clerks' Offices and not at the vicinage level. Of the total 69 court reporters, four (5.8%) are minority: Blacks 3 (4.3%), Hispanics 1 (1.4%) and Asians/Pacific Islanders/American Indians 0 (0.0%).

e. Court Interpreter

There are 24 court interpreters, all of who are based at the vicinage level. Of the total of 24 court interpreters, there are 15 (62.5%) minorities, all of whom are Hispanic. This job band includes the titles of Court Interpreter 3, 2 and 1.

f. Information Technology

There are 239 employees in this job band of which 69 (28.9%) are minorities: Blacks 31 (13.0%), Hispanics 15 (6.3%) and Asians/Pacific Islanders/American Indians 23 (9.6%). This job band includes the titles of Information Technology Analyst 3, 2 and 1, and Information Technology Technician and Information Systems Technician 2 and 1.

g. Administrative Professional

There are 651 employees in this job band of which 181 (27.8%) are minority: Blacks 122 (18.7%), Hispanics 39 (6.0%) and Asians/Pacific Islanders 20 (3.1%). The administrative professional job band includes the titles of Judiciary Coordinator 2 and 1, Financial Specialist 2 and 1, Administrative Specialist 4, 3 and 2, and Librarian 1.

h. Case Processing

There are 2,409 employees in the case processing band of which 923 (38.3%) are minorities: Blacks 673 (27.9%), Hispanics 227 (9.4%) and Asians/Pacific Islanders/American Indians 23 (1.0%). The case processing job band has the following job titles: Court Services Officer 3, 2 and 1, Master Probation Officer, Family Court Coordinator, Substance Abuse Evaluator, Senior Probation Officer, Probation Officer, Youth Aide and Investigator.

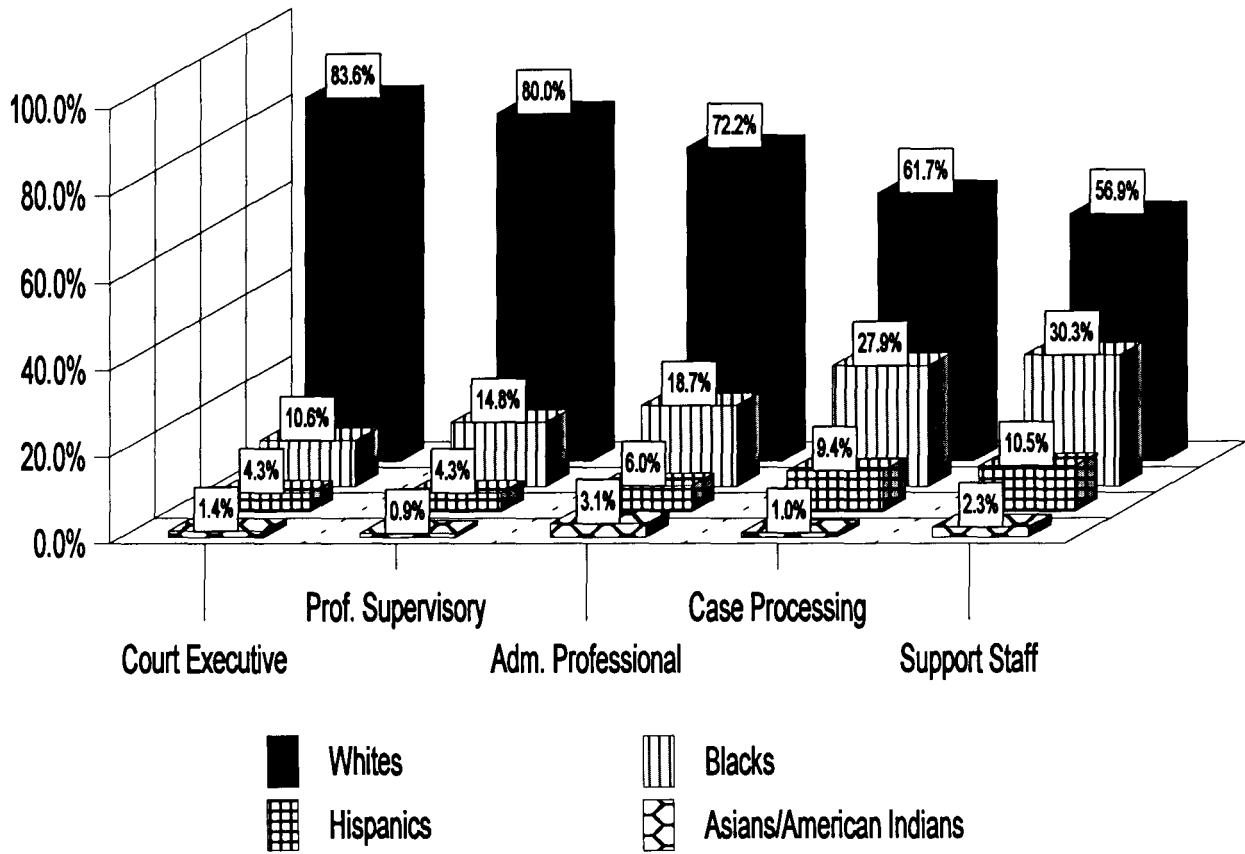
i. Judges Secretary

There are 451 secretaries to judges. Of these 60 or 13.3% are minorities: Blacks 34 (7.5%), Hispanics 23 (5.1%) and Asians/Pacific Islanders/American Indians 3 (0.7%).

j. Support Staff

This job band has the most employees. There are 3,179 employees of which 1,371 (43.1%) are minorities: Blacks 964 (30.3%), Hispanics 333 (10.5%) and Asians/Pacific Islanders/American Indians 74 (2.3%). The support staff job band includes the following titles: Judiciary Secretary 2 and 1(Confidential), Judiciary Clerk 4, 3, 2 and 1, Administrative Specialist 1, Clerk to the Grand Jury, Printing Operations Technician 2 and 1, Library Assistant, Judiciary Secretary 1, Judiciary Account Clerk 2 and 1, Judiciary Clerk 3/Court Clerk, Building Maintenance Worker Judiciary, Judiciary Clerk Driver, Court Services Representative. Refer to Figure 7: New Jersey Judiciary Employees in Selected Judiciary Job Bands By Race/ Ethnicity December 2001 for a graphic display of employees in selected job band.

Figure 7
New Jersey Judiciary Employees in Selected Judiciary Job Bands
By Race/Ethnicity
December 2001



**Table 44. New Jersey Judiciary: Employees⁹¹ by Race/Ethnicity and Job Band
 Combined AOC/Central Clerks' Offices and Vicinages
 (Excluding Judges and Law Clerks)
 December 2001**

Job Broad Band	Totals		Total Minorities		Whites		Blacks		Hispanics		Asians/AI	
	#	%	#	%	#	%	#	%	#	%	#	%
Court Executive	489	100.0 %	80	16.4%	409	83.6%	52	10.6%	21	4.3%	7	1.4%
Professional Supervisory	847	100.0 %	169	20.0 %	678	80.0%	125	14.8%	36	4.3%	8	0.9%
Support Staff Supervisory	210	100.0 %	72	34.3%	138	65.7%	57	27.1%	15	7.1%	0	0.0%
Legal ⁹²	52	100.0 %	6	11.5%	46	88.5%	3	5.8%	2	3.8%	1	1.9%
Official Court Reporter	69	100.0 %	4	5.8%	65	94.2%	3	4.3%	1	1.4%	0	0.0%
Court Interpreter	24	100.0 %	15	62.5%	9	37.5%	0	0.0%	15	62.5%	0	0.0%
Information Technology	239	100.0 %	69	28.9%	170	71.1%	31	13.0%	15	6.3%	23	9.6%
Administrative Professional	651	100.0 %	181	27.8%	470	72.2%	122	18.7%	39	6.0%	20	3.1%
Case Processing	2409	100.0 %	923	38.3%	1486	61.7%	673	27.9%	227	9.4%	23	1.0%
Judge's Secretary	451	100.0 %	60	13.3%	391	86.7%	34	7.5%	23	5.1%	3	0.7%
Support Staff	3179	100.0 %	1371	43.1 %	1808	56.9%	964	30.3%	333	10.5%	74	2.3%
Total	8620	100.0 %	2950	34.2%	5670	65.8%	2064	23.9%	727	8.4%	159	1.8%

Note: Percentages are % of total in each major job broad band category.
 Data Source: Judicial Human Resource Information System

⁹¹Only full-time employees are included in this report.

⁹²The legal job band includes attorneys and law clerks. Law clerks are not included in this report but are reported separately.

For further breakdowns of Judiciary workforce data by job band for the AOC/Central Clerks' Offices and the vicinages refer additional tables in Appendix D: Employees by Race/Ethnicity and Job Band AOC/Central Clerks' Offices (December 2001) Excluding Judges and Law Clerks and Employees by Race/Ethnicity and Job Band Vicinages (December 2001) Excluding Judges and Law Clerks.

5. Judiciary Division/Unit Workforce Profiles

The Subcommittee reviewed the workforce profile of the AOC/Central Clerks' Offices by Division or Unit.⁹³

a. Total Minorities

In seven out of 21 Divisions/Units at the AOC/Central Clerks' Offices the representation of minorities exceeds the 32.3% representation of minorities in the state population (Supreme Court Clerk's Office, Superior Court Clerk's Office, Tax Court Management Office, Probation Services, Administrative Director's Office, Commissions and the Office of the Deputy Director). There is only one Division/Unit with no minority representation: Professional and Governmental Services.

b. Blacks

Blacks in 14 out of 21 Divisions/Units at the AOC/Central Clerks' Offices exceed the 13.0% representation of Blacks in the New Jersey population. There are seven Divisions/Units which fall short of this number. There is only one division (Professional and Government Services with no Blacks).

c. Hispanics

There are no Divisions/Units at the AOC/Central Clerks' Offices which meet or exceed the 13.5% representation of Hispanics in New Jersey. The following nine Divisions/Units have no Hispanic representation: Tax Court Management Office, Civil Practice, Criminal Practice, Family Practice, Judicial Education and Training, Independent Units, Commissions, Office of Public Affairs, Professional and Governmental Services.

d. Asians/Pacific Islanders/American Indians

There are two Divisions/Units at the AOC/Central Clerks' Offices which meet or exceed the

⁹³Data on the vicinages divisions were provided to the Committee on Minority Concerns. However there was not sufficient time to reformat and analyze these data before the Committee's publication deadline.

5.8% representation of Asians/Pacific Islanders/American Indians in New Jersey. The following 13 Divisions have no Asian/Pacific Islander/American Indian representation: Tax Court Management Office, Civil Practice, Criminal Practice, Official Court Reporters, Family Practice, Municipal Court Services, Administrative Director's Office, Judicial Education and Training, Independent Units, Commissions, Office of Public Affairs, Office of the Deputy Director and Professional and Governmental Services.

**Table 45. New Jersey Judiciary: Employees by Race/Ethnicity and Division AOC/Central Clerks' Offices
(Excluding Judges and Law Clerks)
December 2001**

Divisions	Totals		Total Minorities		Whites		Blacks		Hispanics		Asians/AI	
	#	%	#	%	#	%	#	%	#	%	#	%
Supreme Court Clerk's Office	52	100.0%	19	36.5%	33	63.5%	14	26.9%	2	3.8%	3	5.8%
Appellate Division	155	100.0%	40	25.8%	115	74.2%	34	21.9%	3	1.9%	3	1.9%
Superior Court Clerk's Office	111	100.0%	53	47.7%	58	52.3%	47	42.3%	4	3.6%	2	1.8%
Tax Court Mgt. Office	26	100.0%	9	34.6%	17	65.4%	9	34.6%	0	0.0%	0	0.0%
Civil Practice	15	100.0%	1	6.7%	14	93.3%	1	6.7%	0	0.0%	0	0.0%
Criminal Practice	12	100.0%	3	25.0%	9	75.0%	3	25.0%	0	0.0%	0	0.0%
Trial Court Services	52	100.0%	11	21.2%	41	78.8%	9	17.3%	1	1.9%	1	1.9%
Official Court Repts.	92	100.0%	6	6.5%	86	93.5%	5	5.4%	1	1.1%	0	0.0%
Family Practice	20	100.0%	5	25.0%	15	75.0%	5	25.0%	0	0.0%	0	0.0%
Probation Services	266	100.0%	110	41.4%	156	58.6%	81	30.5%	27	10.2%	2	0.8%
Municipal Court Services	26	100.0%	4	15.4%	22	84.6%	3	11.5%	1	3.8%	0	0.0%
Info. Technology	176	100.0%	47	26.7%	129	73.3%	24	13.6%	8	4.5%	15	8.5%
Management & Adm.	114	100.0%	27	23.7%	87	76.3%	21	18.4%	4	3.5%	2	1.8%
Adm. Dir. Office	25	100.0%	10	40.0%	15	60.0%	8	32.0%	2	8.0%	0	0.0%
Judicial Education & Training	9	100.0%	1	11.1%	8	88.9%	1	11.1%	0	0.0%	0	0.0%
Independent Units	4	100.0%	1	25.0%	3	75.0%	1	25.0%	0	0.0%	0	0.0%
Commissions	4	100.0%	4	100.0%	0	0.0%	4	100.0%	0	0.0%	0	0.0%
Dedicated Funds	94	100.0%	17	18.1%	77	81.9%	11	11.7%	5	5.3%	1	1.1%
Office of Public Affairs	20	100.0%	2	10.0%	18	90.0%	2	10.0%	0	0.0%	0	0.0%
Office, Dpty. Dir.	18	100.0%	6	33.3%	12	66.7%	4	22.2%	2	11.1%	0	0.0%
Prof. & Gov. Services	3	100.0%	0	0.0%	3	100.0%	0	0.0%	0	0.0%	0	0.0%

Data Source: Judicial Human Resource Information System data report provided by the AOC EEO/AA Unit.

Note: Percentages are % of total in each major category.

Note: For definitions of Independent Units, Commissions and Dedicated Funds refer to Appendix D-4.

e. New Hires and Separations

According to Table 46. New Jersey Judiciary: New Hires by Race/Ethnicity January - December 2001, during this one year period the Judiciary hired 1,252 employees, including judicial law clerks. Of these 475 (37.9%) were minorities: 291 (23.2%) Blacks, 127 (10.1%) Hispanics and 57 (4.6%) Asians/Pacific Islanders/American Indians combined. There were also 810 (64.7%) females hired in 2001.

At the AOC/Central Clerks' Offices there was a total of 177 new hires (including judicial law clerks) of which 45 (25.4%) are minorities: 27 (15.3%) Blacks, 7 (4.0%) Hispanics, and 11 (6.2%) Asians/Pacific Islanders. There were also 93 (52.5%) females hired.

At the vicinage level there was a total of 1,075 new hires (including judicial law clerks) of which 430 (40.0) were minorities: 264 (24.6) Blacks, 120 (11.2%) Hispanics and 46 (4.3%) Asians/Pacific Islanders/American Indians combined. There were also 717 females (66.7%) hired at the vicinage level.

According to Table 47. New Jersey Judiciary: Separations by Race/Ethnicity August - December 2001 during this six-month period there was a total of 803 employees who separated from the Judiciary. This report includes more than 400 judicial law clerks who left on August 31, 2001. Of the separations, a total of 225 (28.0%) were minorities: 121 (15.1%) Blacks, 52 (6.5%) Hispanics and 52 (6.5%) Asians/Pacific Islanders/American Indians combined. There were also 460 (57.3%) females who separated from the Judiciary during this six-month period.

At the AOC/Central Clerks' Offices there was a total of 173 separations (including judicial law clerks) of which 42 (24.3% were minorities: 16 (9.2%) Blacks, 12 (6.9%) Hispanics and 14 (8.1%) Asians/Pacific Islanders/American Indians combined. There were 93 (53.8%) females who separated during this six-month period.

At the vicinage level, there was a total of 630 separations (including judicial law clerks) of which 183 (29.0): 105 (16.7%) Blacks, 40 (6.3%) Hispanics and 38 (6.0%) Asians/Pacific Islanders/American Indians combined. There were 367 (58.3%) females who separated during this period.

The Subcommittee determined that the rate of new hires of minorities (Blacks and Hispanics) exceed their separation rate. This is not the case for Asians/Pacific Islanders whose separation rate

(6.5%) exceed their rate of hire (4.6%).

The data reports provided by the AOC EEO/AA Unit include data on the hire and separation rates of judicial law clerks. The inclusion of law clerks artificially skews the analysis. For future analyses, the law clerks should not be included. The one-year appointments significantly impact separation rates. With 803 separations for the Judiciary during a six-month period, 50% were attributed to this group.

**Table 46. New Jersey Judiciary: New Hires By Race/Ethnicity
January - December 2001**

AOC/Central Clerks' Offices

Totals		Whites		Total Minorities		Blacks		Hispanics		Asians/ Amer Inds		Females	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
177	100.0%	132	74.6%	45	25.4%	27	15.3%	7	4.0%	11	6.2%	93	52.5%

Vicinages

Totals		Whites		Total Minorities		Blacks		Hispanics		Asians/ Amer Inds		Females	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
1075	100.0%	645	60.0%	430	40.0%	264	24.6%	120	11.2%	46	4.3%	717	66.7%

AOC/Central Clerks' Offices & Vicinages Combined

Totals		Whites		Total Minorities		Blacks		Hispanics		Asians/ Amer Inds		Females	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
1252	100.0%	777	62.1%	475	37.9%	291	23.2%	127	10.1%	57	4.6%	810	64.7%

Data Source: Judicial Human Resource Information System.

**Table 47. New Jersey Judiciary: Separations By Race/Ethnicity
January - December 2001 (For AOC/Central Clerks' Offices)
August 6 - December 31, 2001 (For Vicinages)⁹⁴**

AOC/Central Clerks' Offices

Totals		Whites		Total Minorities		Blacks		Hispanics		Asians/ Amer Inds		Females	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
173	100.0%	131	75.7%	42	24.3%	16	9.2%	12	6.9%	14	8.1%	93	53.8%

Vicinages

Totals		Whites		Total Minorities		Blacks		Hispanics		Asians/ Amer Inds		Females	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
630	100.0%	447	71.0%	183	29.0%	105	16.7%	40	6.3%	38	6.0%	367	58.3%

AOC/Central Clerks' Offices & Vicinages Combined

Totals		Whites		Total Minorities		Blacks		Hispanics		Asians/ Amer Inds		Females	
#	%	#	%	#	%	#	%	#	%	#	%	#	%
803	100.0%	578	72.0%	225	28.0%	121	15.1%	52	6.5%	52	6.5%	460	57.3%

Data Source: Judicial Human Resource Information System.

⁹⁴ Separation data for the vicinages is only available for the time period after August 6, 2001. This is due to the recent conversion of the Trial Court Payroll Conversion System (TCPCS) data into the Judiciary Human Resources Information System (JHRIS). TCPCS did not capture termination information.

6. Committee Findings: Diversity of the Judiciary Workforce

The New Jersey Judiciary is to be commended for the major strides made in the continued diversification of the court workforce. Progress was evident in the hiring of women and race/ethnic minorities, especially Blacks and, to a lesser degree, Hispanics and Asians/Pacific Islanders. These gains are notable because they occurred while there was a slight decrease in the total Judiciary workforce. In spite of gains made in augmenting the ranks of Blacks employed by the court system, there remain pockets of underutilization of Hispanics and Asians/Pacific Islanders, especially at the AOC/Central Clerks' Offices and in some vicinages. The data also show that the Judiciary workforce is currently not reflective of a large segment of the community being served.

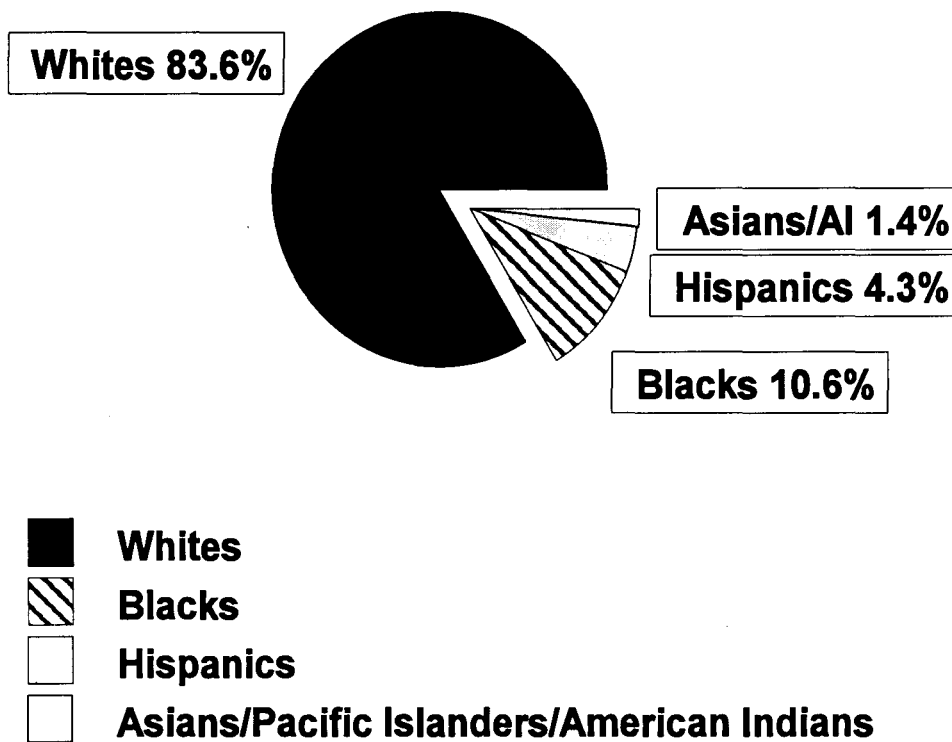
The Committee reiterates Task Force Recommendations 45 and 46 as proposed in 1992 and amended in 1994-1996. The amended recommendations added the following clauses requesting that the Supreme Court direct: (a) senior managers to increase the hiring of Hispanics and Asians at all levels of the court system where underrepresentation exists, preferably through a policy directive; (b) that vicinage EEO/AA Plans include an aggressive recruitment/retention policies targeting these two groups;(c) consider forming an ad hoc advisory group to address this issue; (d) that the vicinages and AOC continue to conduct career fairs for high school and college student and explore innovative programs used in the private sector and by the federal government to increase representation of minorities; (e) direct the AOC and vicinages to launch a public awareness/education campaign directed at Hispanics and Asians/Pacific Islanders; (f)that all Judiciary programs, training sessions, publications, media booklets and videos includes these minority groups; and (g)that Asians/Pacific islanders and Hispanic cultural issues be incorporated into current training programs and be expanded.

Task Force Recommendations 45 and 46: The Supreme Court should direct the Administrative Office of the Courts to develop and implement a more aggressive plan to ensure representation of Hispanics and Asians/pacific Islanders in the Judiciary's workforce.

H. Judiciary Minority Court Executives

In the state Judiciary workforce (AOC/Central Clerks' Office and vicinages) there are 489 court executives of which 80 (16.4%) are minorities: Blacks 52 or (10.6%), Hispanics 21 or (4.3%) and Asians/Pacific Islanders/American Indians 7 or (1.4%). Refer to Figure 8. New Jersey Judiciary: Court Executives at the AOC/Central Clerks' Offices and Vicinages (December 2001).

**Figure 8. Judiciary Court Executives: AOC/Central and Vicinages
December 2001**



Total Court Executives: 489

At the AOC/Central Clerks' Offices there are a total of 139 court executives of which 18 (12.9%) are minorities: Blacks 13 or (9.4%), Hispanics 3 or (2.2%) and Asians/Pacific Islanders/American Indians 2 or (1.4%). There are 350 court executives at the vicinage level of

which 62 (17.7%) are minorities: Blacks 39 or (11.1%), Hispanics 18 or (5.1%), Asians/Pacific Islanders/American Indians 5 (1.4%). See Table 48. New Jersey Judiciary: Court Executives AOC/Central Clerks' Offices⁹⁵ and Vicinages Combined, December 2001.

**Table 48. New Jersey Judiciary: Court Executives
AOC/Central Clerks' Offices and Vicinages Combined
December 2001**

Court Executives	Total	White	Black		Hispanic		Asian/AI		Total Min.	
			#	%	#	%	#	%	#	%
Total Judiciary	489	409	52	10.6	21	4.3	7	1.4	80	16.4
AOC/Central Clerks' Offices	139	121	13	9.4	3	2.2	2	1.4	18	12.9
Vicinages	350	288	39	11.1	18	5.1	5	1.4	62	17.7

Data Source: Judicial Human Resource Information System (report provided by the AOC EEO/AA Unit).

1. Court Executives by Division

The Subcommittee also reviewed the representation of minority court executives in certain Divisions and selected for examination those with the largest number of court executives. Refer to Table 49. New Jersey Judiciary Court Executives in Selected Judiciary Divisions (December 2001). At the AOC/Central Clerks' Offices, out of the four largest divisions, only one (Probation) has a good representation of minority court executives. The remaining divisions (Management and Administration, Information Technology, and Trial Court Services) have only one minority court executive or none at all. The absence of minority court executives in these divisions is especially disconcerting because there have been many opportunities to hire at the court executive level in all of these divisions. No minorities have been hired with the exception of one Asian/Pacific Islander in Management Services and Administration. Another reason for concern is that managers at the Central Office establish statewide policy and model behavior for the rest of the judiciary. The

⁹⁵ Central Office is a reference to the AOC/Central Clerks' Offices.

underutilization or absence of minority court executives in divisions at the Central Office, means that important policies are being formulated without the benefit of the perspectives that persons of color would bring to the table. More importantly a significant segment of the New Jersey population remain on the periphery of important decisions which impact those who use the judiciary's services and programs.

**Table 49. New Jersey Judiciary: Court Executives in Selected Judiciary Divisions
December 2001**

Court Executives	Total	White	Black		Hispanic		Asian/AI		Total Min.	
			#	%	#	%	#	%	#	%
AOC/Central Clerks' Offices: Court Executives in Selected Divisions										
Management & Administration	13	12	0	0.0	0	0.0	1	7.7	1	7.7
Information Technology	16	15	1	6.3	0	0.0	0	0.0	1	6.3
Probation	19	14	4	21.1	1	5.3	0	0.0	5	26.3
Trial Court Services	12	11	1	8.3	0	0.0	0	0.0	1	8.3
Vicinages: Court Executive in Selected Divisions										
Civil	50	40	6	12.0	4	8.0	0	0.0	10	20.0
Criminal	39	37	2	5.1	0	0.0	0	0.0	2	5.1
Family	50	41	5	10.0	3	6.0	1	2.0	9	18.0
Probation	68	59	8	11.8	1	1.5	0	0.0	9	13.2
AOC/Central Clerks' Offices and Vicinages Combined										
AOC/Central Clerks' Offices	139	121	13	9.4	3	2.2	2	1.4	18	12.9
Vicinages	350	288	39	11.1	18	5.1	5	1.4	62	17.7

Data Source: Judicial Human Resource Information System (report provided by the AOC EEO/AA Unit).

2. Court Executives By Level

A review of court executives by level (refer to Table 50. New Jersey Judiciary: Court Executives by Level , AOC/Central Clerks' Offices and Vicinages, December 2001) reveals that of the 80 minority court executives, there are only eight in the upper titles of Court Executive 4, 3B, and 3A. There are also more minorities in the lower levels of the job band. This is especially true for Hispanic and Asian court executives who are poorly represented at all levels, or are not represented at all. The Court Executive job band includes the titles of Court Executive 4, 3B, 3A, 2B, 2A, 1B and 1A.

**Table 50. New Jersey Judiciary: Court Executives by Level
AOC/Central Clerks' Offices and Vicinages
December 2001**

	Total	Whites		Blacks		Hispanics		Asians/ Am Inds		Total Minorities	
	#	#	%	#	%	#	%	#	%	#	%
Court Exec. 4	7	7	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Court Exec. 3B	34	31	91.2%	3	8.8%	0	0.0%	0	0.0%	3	8.8%
Court Exec. 3A	22	17	77.3%	3	13.6%	1	4.5%	1	4.5%	5	22.7%
Court Exec. 2B	200	174	87.0%	17	8.5%	7	3.5%	2	1.0%	26	13.0%
Court Exec. 2A	30	25	83.3%	4	13.3%	0	0.0%	1	3.3%	5	16.7%
Court Exec. 1B	156	125	80.1%	18	11.5%	10	6.4%	3	1.9%	31	19.9%
Court Exec. 1A	40	30	75.0%	7	17.5%	3	7.5%	0	0.0%	10	25.0%
Total	489	409	83.6%	52	10.6%	21	4.3%	7	1.4%	80	16.4%

Note: Percentages are % of total in each major category.
Data Source: Judicial Human Resource Information System

The breakdown by level at the AOC/Central Clerks' Offices and the vicinages shows that minorities fare better at the vicinage level (17.7%) as compared to the AOC/Central Clerks' Offices (12.9%). Refer to Table 51. New Jersey Judiciary Court Executives by Level AOC/Central Clerks' Offices, December 2001 and Table 52. New Jersey Judiciary: Court Executives by Level Vicinages,

December 2001.

Similarly, Blacks and Hispanic court executives are also better represented at the vicinage level than at the central office. The data also demonstrate that the largest number and proportion of minority court executives fall within the vicinage title of Court Executive 1B where there are 31 (38.8%) out of a total of 80. This level largely includes the functional titles of vicinage EEO/AA Officer and Assistant Division Manager.

**Table 51. New Jersey Judiciary Court Executives by Level - AOC/Central Clerks' Offices
December 2001**

	Total		Whites		Blacks		Hispanics		Asians/ Am Inds		Total Minorities	
	#	%	#	%	#	%	#	%	#	%	#	%
Court Exec. 4	7	100.0%	7	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Court Exec. 3B	19	100.0%	19	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Court Exec. 3A	22	77.3%	17	77.3%	3	13.6%	1	4.5%	1	4.5%	5	22.7%
Court Exec. 2B	60	88.3%	53	88.3%	5	8.3%	2	3.3%	0	0.0%	7	11.7%
Court Exec. 2A	29	82.8%	24	82.8%	4	13.8%	0	0.0%	1	3.4%	5	17.2%
Court Exec. 1B	1	100.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Court Exec. 1A	1	0.0%	0	0.0%	1	100.0%	0	0.0%	0	0.0%	1	100.0%
Total	139	87.1%	121	87.1%	13	9.4%	3	2.2%	2	1.4%	18	12.9%

**Table 52. New Jersey Judiciary: Court Executives by Level - Vicinages
December 2001**

	Total		Whites		Blacks		Hispanics		Asians/ Am Inds		Total Minorities	
	#	%	#	%	#	%	#	%	#	%	#	%
Court Exec. 4	0	??	0	??	0	??	0	??	0	??	0	??
Court Exec. 3B	15	80.0%	12	80.0%	3	20.0%	0	0.0%	0	0.0%	3	20.0%
Court Exec. 3A	0	??	0	??	0	??	0	??	0	??	0	??
Court Exec. 2B	140	86.4%	121	86.4%	12	8.6%	5	3.6%	2	1.4%	19	13.6%
Court Exec. 2A	1	100.0%	1	100.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Court Exec. 1B	155	80.0%	124	80.0%	18	11.6%	10	6.5%	3	1.9%	31	20.0%
Court Exec. 1A	39	76.9%	30	76.9%	6	15.4%	3	7.7%	0	0.0%	9	23.1%
Total	350	82.3%	288	82.3%	39	11.1%	18	5.1%	5	1.4%	62	17.7%

Note: Percentages are % of total in each major category.
Data Source: Judicial Human Resource Information System

3. Committee Findings: Minority Representation in the Court Executive Job Band

Task Force Recommendation 42: The Supreme Court should direct the Administrative Office of the Courts and the Vicinage to make vigorous and aggressive recruitment, hiring and retention efforts to increase the representation of minorities in senior management and key policy-making positions

The recommendation proposed in 1992 regarding representation of minorities in senior management positions was also amended in the 1994-1996 rules cycle report. The substance of these amendments are as follows: (1) EEO/AA Plans should be updated to include hiring goals and timetables for hiring minority managers; (2) a policy directive should be issued by the Chief Justice directing the implementation of the goal of increasing minority hiring at the senior ranks; and (3) the AOC and vicinages should adopt the following procedures, if they have not already done so, to promote uniformity and fairness in personnel and hiring statewide to address minority underutilization: a) appointment of selection committees which routinely include minorities; b) the use of objective selection and evaluation criteria and instruments to rate all job applicants; c) the development and use of standard job-related questions during interviews and the avoidance of illegal pre-employment inquiries; d) the requirement that Selection Disposition Forms be filled out for all employees; e) review of all job vacancy notices at the AOC EEO/AA Unit to ensure adherence to EEO/AA guidelines; f) establishing a judiciary-wide mentoring program; g) broaden the management team to ensure that minorities are represented at the highest levels of the organization.

Although the EEO/ AA Master Plan incorporates almost all of these recommendations, as well as others, the issue of minority representation in top level administrative positions continues to be a problem area.

Earlier in the chapter discussion, the Committee reported that in 1998 the Judiciary converted more than 800 job titles (based on EEOC job categories) into ten job broad bands. In 1997, when the Committee on Minority Concerns last reported to the court, it found that there were a total of 323 officials/administrators in the New Jersey Judiciary of which 36 (11.1%) were minority. With broad banding came an increase in those titles at the top ranks of the Judiciary from 323 in 1997 to 489 in 2001 representing an increase of 166. Similarly, minorities experienced gains in management titles

both numerically and percentage-wise from 36 (11.1%) to 80 (16.4%) for a gain of (+44). In spite of these gains however, there are still no minority Directors or Assistant Directors and no persons of color currently hold any of the court clerk positions or deputy court clerk positions.

Because 2000 availability data for employment purposes are still not yet available, the Committee is only able to comment on workforce trends and not specifically on whether there is continued underutilization at the court executive levels as has been reported in the past for officials/administrators. Nevertheless, it is evident that of those minorities in the court executive band, more are found at the lower levels of the job band. This is especially true for Hispanic and Asian court executives who are poorly represented at all levels, or, as earlier reported, not represented at all.

The Committee believes that an action plan should be put into place to address this concern and new hires and internal promotions should be routinely monitored. It would also be instructive to examine the career paths of those employees who advance in the organization compared to those who do not, controlling for education, years of experience, gender and other important variables. In light of the continuing need for individuals of color in the top ranks of the organization, the Subcommittee reaffirms the previous recommendations made to the court in 1992 and amended in the 1994–1996 and 1996–1998 reports to vigorously recruit, hire and retain minorities at the senior ranks of the organization as a top priority.

The absence of minority court executive in the organization is especially disconcerting because there have been many opportunities to hire at the court executive level or to promote minorities into these positions. Only one minority Asian/Pacific Islander has been hired in Management and Administration. Another reason for concern is that managers establish statewide policy. The underutilization or absence of minority court executives means that important policies are being formulated without the benefit of the perspectives of persons of color who now comprise over one third of the total population of New Jersey.

**Table 53. New Jersey Judiciary: Court Executives
AOC/Central Clerks' Offices and Vicinages By County and Race/Ethnicity
December 2001**

Court Executives	Total All Court Executives	Total Minorities		Blacks		Hispanics		Asians/Pac. Islanders		American Indians	
		#	%	#	%	#	%	#	%	#	%
Atlantic	20	5	25.0	4	20.0	1	5.0	0	0.0	0	0.0
Bergen	23	1	4.3	0	0.0	1	4.3	0	0.0	0	0.0
Burlington	18	4	22.2	3	16.7	0	0.0	1	5.6	0	0.0
Camden	20	5	25.0	3	15.0	1	5.0	1	5.0	0	0.0
Cape May	5	1	20.0	1	20.0	0	0.0	0	0.0	0	0.0
Cumberland	14	1	7.1	1	7.1	0	0.0	0	0.0	0	0.0
Essex	34	11	32.4	7	20.6	2	5.9	1	2.9	1	2.9
Gloucester	8	1	12.5	1	12.5	0	0.0	0	0.0	0	0.0
Hudson	23	4	17.4	2	8.7	2	8.7	0	0.0	0	0.0
Hunterdon	6	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Mercer	20	5	25.0	5	25.0	0	0.0	0	0.0	0	0.0
Middlesex	26	6	23.1	3	11.5	3	11.5	0	0.0	0	0.0
Monmouth	21	3	14.3	2	9.5	1	4.8	0	0.0	0	0.0
Morris	19	1	5.3	1	5.3	0	0.0	0	0.0	0	0.0
Ocean	20	1	5.0	0	0.0	1	5.0	0	0.0	0	0.0
Passaic	21	4	19.0	3	14.3	1	4.8	0	0.0	0	0.0
Salem	6	1	16.7	1	16.7	0	0.0	0	0.0	0	0.0
Somerset	18	3	16.7	0	0.0	3	16.7	0	0.0	0	0.0
Sussex	4	1	25.0	0	0.0	1	25.0	0	0.0	0	0.0
Union	19	4	21.0	2	10.5	1	5.3	1	5.3	0	0.0
Warren	5	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
All Counties Combined	350	62	17.7	39	11.1	18	5.1	3	0.9	2	0.6
AOC/Central Office	139	18	12.9	13	9.4	3	2.2	2	1.4	0	0.0
Grand Total	489	80	16.4	52	10.6	21	4.3	5	1.0	2	

I. Employee Compensation

The issue of employee compensation was not addressed in the Supreme Court Task Force on Minority Concerns Final Report (1992) but was addressed in the 1994-1996 Rules Cycle report of the Committee on Minority Concerns. The Subcommittee determined that this issue, taken together with other employment variables, might shed additional light on minority employment patterns in the Judiciary.

Table 54. New Jersey Judiciary: Salary Comparison by Race/Ethnicity of Employees in the AOC/Central Clerks' Offices and Vicinages Combined as of October 2001 compares salaries of White and minority employees statewide in all job bands (including judicial law clerks). The following conclusions were derived from the data:

- There are proportionately fewer minorities in the two top salary categories, earning more than \$100,000 (9.7%) and \$90,000-\$99,000 (7.1%). Out of a combined total of 101 employees in these two categories, 7.9% are minorities.
 - A total of 592 employees in the Judiciary earn \$70,000 or more. Of this group, 510 or 86.1% are White and 82 or 13.9% are minorities. 60 or 10.1% are Black; 13 or 2.2% are Hispanic and 9 or 1.5% are Asian/Pacific Islander/American Indian combined.
- 7,000 employees or 75.1% of the Judiciary workforce earns \$49,999 or less.
- 91 employees earn less than \$19,999.

Preliminary analyses suggest that for the few minorities who enter the ranks of court executive the progress toward the top of the compensation chart is extremely slow. The Committee however, is not able to draw solid conclusions from these preliminary data for a variety of reasons. Firstly, the inclusion of law clerks in the sample artificially skews the data toward the lower end because they are temporary employees (one year appointments) with fixed salaries. For future analyses, law clerks should not be included in the discussion on compensation. Secondly, in order to perform a valid and reliable salary compensation study, it is necessary to include other variables, such as length of employment, education, experience and other screens used by the Human Resources Divisions and managers to determine compensation.

And too, the Committee purports that women of color constitute a special class of

employee where this type of analysis is ripe for examination inasmuch as this class of women are at the intersection of both race and gender bias. The corpus of the knowledge on this issue has consistently found that the issues of women of color are not comprehensively addressed by either race and ethnic commissions or gender bias commissions. Having made this observation, the Committee is encouraged by the fact that more and more race/ethnic commissions and gender commissions are placing this issue on their respective agendas.

Because minority women have experienced historical discrimination in the workplace in general and have been usually confined to the lower service type jobs, analyses on this sample of the judiciary workforce will shed light on the compensation levels of minority women in general and for each of the race/ethnic groups, in particular.

The historical concentration of women of color in lower salaries suggest that other factors should be examined such as the opportunity for promotion and education and training initiatives that are available to employees that exist within the organization and how it is that an employee climbs the career ladder and obtains coveted promotions. Are employees informed of the avenues that are available to them to receive a promotion? Are these avenues equally accessible to minority women? What is the process and are employees aware of their managers expectations? These and other issues should be identified and defined before a proposed internal research project can be launched.

The Committee has learned that the AOC/Central Clerks' Offices EEO/AA Unit has purchased EEO software that will enable the Unit to perform compensation analyses and adverse impact studies. The ability to conduct complex salary studies will allow the Judiciary and the Committee on Minority Concerns to examine this topic in the near future and perform more sophisticated analyses on these data.

**Table 54. New Jersey Judiciary: Salary Comparison By Race/Ethnicity of Employees
AOC/Central Clerk's Office and Vicinages Combined
As of October 2001**

	Totals		Whites		Total Minorities		Blacks		Hispanics		Asians/ Am. Inds.	
	#	%	#	%	#	%	#	%	#	%	#	%
Over \$100,000	31	100.0%	28	90.3%	3	9.7%	3	9.7%	0	0.0%	0	0.0%
\$90,000-\$99,000	70	100.0%	65	92.9%	5	7.1%	2	2.9%	2	2.9%	1	1.4%
\$80,000-\$89,999	112	100.0%	103	92.0%	9	8.0%	5	4.5%	4	3.6%	0	0.0%
\$70,000-\$79,999	379	100.0%	314	82.9%	65	17.2%	50	13.2%	7	1.8%	8	2.1%
\$60,000-\$69,999	670	100.0%	561	83.7%	109	16.3%	70	10.4%	29	4.3%	10	1.5%
\$50,000-\$59,999	800	100.0%	616	77.0%	184	23.0%	141	17.6%	36	4.5%	7	0.9%
\$40,000-\$49,999	2143	100.0%	1546	72.1%	597	27.9%	414	19.3%	152	7.1%	31	1.4%
\$30,000-\$39,999	3115	100.0%	1941	62.3%	1174	37.7%	800	25.7%	297	9.5%	77	2.5%
\$20,000-\$29,999	1551	100.0%	761	49.1%	790	50.9%	536	34.6%	207	13.3%	47	3.0%
Less than \$19,999	191	100.0%	91	47.6%	100	52.4%	72	37.7%	24	12.6%	4	2.1%
Total	9062	100.0%	6026	66.5%	3036	33.5%	2093	23.1%	758	8.4%	185	2.0%

Note: Percentages are % of total in each major category. Percentages may not always add due to rounding.

Data Source: Judicial Human Resource Central Payroll File. Report provided by the AOC/Central Clerk's Office EEO/AA Unit.

J. Hispanics and Asians/Pacific Islanders in the Judiciary Workforce

For more than a decade, the need to increase the representation of Hispanics and Asians/Pacific Islanders in the New Jersey Judiciary workforce has been cited as a critical concern. The Task Force on Minority Concerns, the Committee on Minority Concerns in two prior Rules Cycle reports to the Court and the Supreme Court Action Plan on Minority Concerns recommended that the Judiciary make vigorous and aggressive recruitment and retention efforts to increase the representation of Hispanics and Asians/Pacific Islanders at all levels of the court system.

Task Force Recommendation 45: The Supreme Court should direct the AOC to develop and implement a more aggressive plan to ensure representation of Hispanics in the Judiciary's workforce.

Task Force Recommendation 46: The Supreme Court should direct the AOC to develop and implement a more aggressive plan to ensure representation of Asian/Pacific Islanders in the Judiciary's workforce.

Since the Committee on Minority Concerns last reported to the Court in 1998, negligible progress has been made in the hiring of Hispanics and Asians/Pacific Islanders. As already noted elsewhere in this report, there is a need to increase the representation of Hispanics and Asians/Pacific Islanders statewide, especially at the AOC/Central Clerks' Offices and in certain vicinages. Refer to Table 55. New Jersey Judiciary: Comparison by Selected Counties of Hispanic, Asian and Black Employees With the County Population.

Due to the rapidly changing demographics of the state, the New Jersey Judiciary, like other employers and providers of services, finds that the gap has widened such that its workforce is not reflective of the Hispanic and Asian communities being served. Aggressive measures need to be taken to address this problem in the court system and to comply with the mandate of the Supreme Court. The Committee reiterates its earlier recommendations relating to the representation of Hispanics and Asians/Pacific Islanders in the judiciary workforce.

**Table 55. New Jersey Judiciary: Comparison by Selected Counties of Hispanic, Asian and Black Employees With the County Population
December 2001**

Hispanics			
County	2000 County Population %	2001 Judiciary Workforce %	Difference %
Hudson	40.4	23.9	-16.5
Union	20.0	8.7	-11.3
Cumberland	19.1	7.9	-11.2
Essex	15.9	8.7	-7.2
Atlantic	12.3	5.7	-6.6
Monmouth	6.4	1.3	-5.1
Passaic	30.2	25.2	-5.0
Middlesex	13.9	9.3	-4.6
Bergen	10.5	6.1	-4.4

Asians			
County	2000 County Population %	2001 Judiciary Workforce %	Difference %
Bergen	10.6	1.5	-9.1
Middlesex	13.8	6.5	-7.3
Somerset	8.4	1.7	-6.7
Hudson	9.3	3.1	-6.2
Morris	6.2	1.5	-4.7
Atlantic	5.0	0.9	-4.1
Mercer	4.9	0.8	-4.1

Blacks			
County	2000 County Population %	2001 Judiciary Workforce %	Difference %
Cumberland	19.2	9.8	-9.4

K. Bilingual Variant Titles in the New Jersey Judiciary

In direct relation to the recommendations regarding the utilization of Hispanics and Asians/Pacific Islanders in the Judiciary (Recommendations 45 and 46 respectively) is Recommendation 48 regarding the use of bilingual variant positions.

Task Force Recommendation 48: The Supreme Court should direct the AOC to revise the bilingual probation initiative by (1) requiring greater reliance on the bilingual variant position for meeting goals; (2) extending the initiative to all Judiciary units, including the Municipal Courts, that have direct contact with the public or clients; (3) conducting a new needs assessment and setting new goals; and (4) directing that employees in bilingual variant titles be paid for the additional skill they are required to have.

An increase in bilingual variant positions will likely increase the utilization of these groups. When the Supreme Court issued the Action Plan in 1993 in response to the Task Force's report, the Court stated: "As to bilingual court personnel, the AOC shall extend its initiative on certain classes of bilingual personnel in the probation departments to all offices of the Judiciary where bilingual employees are needed in order to assure strategic deployment of bilingual employees statewide."⁹⁶

The Subcommittee has determined that since the 1994-1996 Rules Cycle report, when the Committee last documented the status of bilingual variants in the Judiciary, there have been no appreciable gains in the use of bilingual variant positions statewide in relation to the need, with the exception of one vicinage (Hudson) which increased its number of bilingual of bilingual variant titles from eight to 67 during this period. Refer to Table 54. New Jersey Judiciary: Bilingual Variant Titles, AOC Central Clerks' Offices and Vicinages (December 2001):

- From 1995 to 2001, the Judiciary had a net gain of bilingual variant titles of (+42).⁹⁷
- From 1995 to 2001, the following six counties gained bilingual variant titles: Atlantic (+4), Bergen (+4), Hudson (+59), Middlesex (+4), Passaic (+4), Somerset (+4) and Union (+3).

⁹⁶Supreme Court Action Plan, p. 9-10. The Supreme Court approved Recommendation 48 subject to adequate funding. This conditional approval appears to be limited to part #4 of this recommendation, i.e., additional pay for persons occupying bilingual variant positions.

⁹⁷This number is not an accurate total, because two respondents did not provide information as of the publication of this report; one of these (Passaic) has a total of 17 bilingual variant titles.

- From 1995 to 2001 the following seven counties decreased bilingual variant titles: Camden (-9), Cumberland (-2), Essex (-9), Gloucester (-1), Mercer (-1), Monmouth (-1), and Morris (-2).
- Burlington and Ocean retained the same number of bilingual variant titles during this period (four and one respectively).
- The following five counties have no bilingual variant titles: Cape May, Hunterdon, Morris, Sussex and Warren.
- At the AOC/Central Clerks' Offices EEO/AA Unit, bilingual variants have been removed from the titles of Affirmative Action Officer and Community Program Analyst I (Administrative Specialist IV). Currently, there is only one title with a bilingual variant, Administrative Specialist III in the Probation Services Division.

It appears that the increased use of bilingual variant positions has not been clearly defined as a priority by the top management of the New Jersey Judiciary with the exception of Hudson vicinage. There have been minimal gains in the number of bilingual titles being used since 1998. The reduction of and/or underutilization of bilingual variants titles at both the AOC/Central Clerks' Offices and in vicinages with high density Hispanic populations are of particular concern to the Committee on Minority Concerns. Among the counties whose complement of bilingual variant titles fall short of the Hispanic community being served are: Atlantic, Bergen, Camden, Cumberland, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Ocean, Somerset and Union.

The incorporation of the usage of bilingual variant positions will serve two very important goals:

- 1) the provision of services to a significant segment of the New Jersey populous in a language they can understand will further the goal of providing equal and fair access to court services and programs, and
- 2) the increased utilization of Hispanic and Asian/ Pacific Islander employees. The dearth of bilingual variant employees should be immediately addressed.

In the 1994-96 Rules Cycle Report, the Committee amended Task Force Recommendation 48. The substance of the amendments address the following concerns: revise the bilingual probation initiative by requiring greater reliance on the bilingual variant position for meeting goals; extending

the initiative to all divisions, including Municipal Courts, that have direct contact with client; updating a needs assessment; aggressively pursuing additional compensation in bilingual variant titles; inclusion of this issue in the EEO/AA Plans and the steps necessary to increase representation; and directing Hudson, Union and Bergen Vicinages be targeted for technical assistance and monitoring by the AOC regarding the use of bilingual variant titles.

Committee Recommendations 48.1 - 48.4: The Judiciary is urged to increase the number of bilingual variant titles statewide, especially at the AOC/Central Clerks' Offices and in those vicinages with high density Hispanic populations. These same entities should be targeted for technical assistance and monitoring regarding the use of bilingual variant titles. Managers should be made aware of policies to increase bilingual variant titles.

**Table 56. New Jersey Judiciary: Bilingual Variant Titles, AOC Central Clerks' Offices and Vicinages
December 2001**

County	Hispanics 2000 Census	2001 Vicinage Judiciary Total Workforce	Employees in Bilingual Variant Titles 1995 ⁹⁸		Employees in Bilingual Variant Titles 2001 ⁹⁹		% Change 1995-2001
	%	#	#	%	#	%	
AOC	13.5%	1304	2	0.2%	1	0.0	-0.2%
Atlantic	12.3%	350	8	2.6%	12	3.4%	0.8%
Bergen	10.5%	473	0	0.0%	4	0.8%	0.8%
Burlington	4.4%	293	4	1.4%	4	1.4%	0.0%
Camden	9.8%	630	24	4.0%	15	2.4%	-1.6%
Cape May	3.3%	112	0	0.0%	0	0.0%	0.0%
Cumberland	19.1%	214	5	2.8%	3	1.4%	-1.4%
Essex	15.9%	1007	18	1.8%	9	0.9%	-0.9%
Gloucester	2.7%	213	2	0.9%	1	0.5%	-0.4%
Hudson	40.4%	577	8	1.2%	67	11.6%	10.4%
Hunterdon	2.9%	73	0	0.0%	0	0.0%	0.0%
Mercer	9.9%	364	4	1.1%	3	0.8%	-0.3%
Middlesex	13.9%	536	12	2.0%	16	3.0%	1.0%
Monmouth	6.4%	454	3	0.6%	2	0.4%	-0.2%
Morris	7.9%	259	2	0.6%	0	0.0%	-0.6%
Ocean	5.1%	319	1	0.3%	1	0.3%	0.0%
Passaic	30.2%	504	7	1.3%	11	2.2%	0.9%
Salem	4.0%	93	0	0.0%	0	0.0%	0.0%
Somerset	8.9%	180	1	0.5%	5	2.8%	2.3%
Sussex	3.4%	87	0	0.0%	0	0.0%	0.0%
Union	20.0%	485	1	0.2%	4	0.8%	0.6%
Warren	3.8%	93	0	0.0%	0	0.0%	0.0%
Judiciary Total	13.5%	8620	104	1.2%	158	1.7%	0.5%

⁹⁸ 1995 bilingual variant titles include: at the AOC/Central Clerks' Offices (Affirmative Action Officer and Community Program Analyst I) and at the vicinage level (Probation Officer, Senior Probation Officer, Clerk Typist and Receptionist). The percentages represent total employees who held bilingual variant titles in 1995.

⁹⁹ Data on bilingual variant titles in the Judiciary in 2001 were provided by the vicinages and include: (Investigator I and 2, Probation Officer, Probation Officer Case, Senior Probation Officer, Senior Probation Officer Case, Master Probation Officer, Master Probation Officer Case, Court Services Representative, Judiciary Clerk 1, 2, 3 and 4, Judiciary Clerk Confidential 2 and 3 and Judiciary Account Clerk 1 and 2. At the AOC/Central Clerks' Offices there is one bilingual variant title, Administrative Specialist 3, Probation Services Division. The percentages represent total employees who held bilingual variant titles in 2001.

L. Data on Minority Representation

The Committee on Minority Concerns is charged with monitoring minority employment in the Judiciary and the participation of minorities on Supreme Court boards, committees, as well as court volunteers and vendors.

Task Force Recommendation 44: Additional analyses of the hiring, promotion and separation data of the judicial workforce should be conducted.

Task Force Recommendation 61: The Supreme Court should direct the Administrative Office of the Courts to maintain current data on minority representation among lawyers, municipal judges and employees, court committees and staff, court volunteers and court appointees.

In August 2001 the Judiciary merged its data bases into one: the Judicial Human Resource Information System (JHRIS) to capture workforce data by job broad band. The judiciary purchased EEO/AA software to facilitate the computation of availability data to be used in the preparation of the self-critical workforce analyses, compensation analyses and adverse impact studies. Currently we are awaiting issuance by the United States Census Bureau of 2000 Census data for use with EEO/AA programs. It is anticipated that these data will be issued in 2003.

In the course of preparing this report the Subcommittee requested and received extensive cooperation from the AOC/Central Clerks' Offices in obtaining workforce data. However, not all the data that were requested were received because of technical difficulties or because they are not collected. It is because of these complications that the Committee is not able to report on areas that have been included in past reports.

The Judiciary should further streamline its information systems capabilities so that all the current and future statistical needs of the Committee on Minority Concerns. It should also institutionalize the production of employment data on employees at the AOC/Central Clerks' Offices, vicinages and the Municipal Courts and should conduct additional analysis of the hiring, promotion and separation data on the judicial workforce. The Judiciary should also institutionalize the collection of data on Supreme Court Committees and court volunteers.

Committee Recommendation 44.1: The AOC/Central Clerks' Offices should complete the process of refining its information systems capabilities so that all the current and future statistical needs of the Committee on Minority Concerns can be met.

Committee Recommendation 44.2: The Judiciary should institutionalize the production of employment data on employees at the AOC/Central Clerks' Offices, the vicinages and the Municipal Courts and should provide these data to the Committee on Minority Concerns at least on an annual basis and include reports on new hires, promotions, reclassifications, separations, disciplinary actions, layoffs, bilingual variants, salary studies, Supreme Court Committee membership, court volunteers and vendors, among others.

M. Minority Law Clerks

For the 2001-2002 Court Year, there were a total of 460 judicial law clerkships at all court levels combined (Supreme Court, Superior Court [Appellate and Trial Divisions] and Tax Court). Of these 102 (22.2%) are minority: 44 or 9.6% are Blacks; 26 or 5.7% are Hispanics; 29 or 6.3% are Asians/Pacific Islanders and 3 or 0.7% are American Indians. Refer to Table 55. New Jersey Judiciary Judicial Law Clerks for Court Year 2001-2002 by Race/Ethnicity and Gender as of December 2001. It is noteworthy that the Judiciary's hiring of law clerks for court Year 2001-2002 (22.2%) is in tandem with their availability (20.8%) of law clerks of color graduating from New Jersey law schools as revealed in Table 57.

**Table 57. New Jersey Judiciary: Judicial Law Clerks
By Race/Ethnicity and Gender For Court Year 2001-2002
As of December 2001**

	#	%	Availability ¹⁰⁰
Grand Total Law Clerks	460	100.0	
Whites	358	77.8	
Total Minorities	102	22.2	20.8
Blacks	44	9.6	7.5
Hispanics	26	5.7	6.2
Asians	29	6.3	7.1
American Indians	3	0.7	-
Total Females¹⁰¹	248	53.9	45.6

Data Source: Judicial Human Resource Information System

Minority representation among judicial law clerks exceeds their availability 20.8% among recent law school graduates from New Jersey law schools. Indeed, there has been a steady increase

¹⁰⁰The average availability for minority and female law clerks is computed by averaging the number of law degrees conferred by New Jersey law schools in 1999 and 2000.

¹⁰¹ Total females include minority and non-minority females.

in minority law clerks through the years such that the proportion of minority law clerks almost doubled in the past five years (from 11.7% in 1996 to 22.2% in 2001). Furthermore, there has been an appreciable increase in minority law clerks (from 15.5% to 22.2%) since the Committee last reported to the Court (biennial report 1996-1998). Refer to Table 58. New Jersey Judiciary: Comparison by Court Year of Law Clerk Appointments by Race/Ethnicity and Table 59. New Jersey Judiciary: Hiring of Law Clerks by Court Level and Race/Ethnicity 1996-2001.

Table 58. New Jersey Judiciary: Comparison by Court Year of Law Clerk Appointments by Race/Ethnicity

	1997-1998 Court Year		2001-2002 Court Year		# Change
	#	%	#	%	
Total Law Clerks	401	100.0	460	100.0	+59
Whites	339	84.5	358	77.8	+19
Total Minority Law Clerks	62	15.5	102	22.2	+40
Blacks	23	5.7	44	9.6	+21
Hispanics	19	4.7	26	5.7	+7
Asians/American Indians	20	5.0	32	7.0	+12

**Table 59. New Jersey Judiciary: Hiring of Law Clerks By Court Level and Race/Ethnicity
1996-2001**

Court Year	Supreme Court	Superior Court-Appellate	Superior Court-Trial	Tax Court	Totals	Totals by Group		
							#	%
1996-1997								
Total # Law Clerks	21	40	348	9	418	Blacks	22	5.3%
# of Minorities	4	5	39	1	49	Hispanics	13	3.1%
% of Minorities	19.0%	12.5%	11.2%	11.1%	11.7%	Asians/AI	14	3.4%
1997-1998								
Total # Law Clerks	20	40	333	8	401	Blacks	23	5.7%
# of Minorities	2	7	51	2	62	Hispanics	19	4.7%
% of Minorities	10.0%	17.5%	15.3%	25.0%	15.5%	Asians/AI	20	5.0%
1998-1999								
Total # Law Clerks	22	40	360	6	428	Blacks	26	6.1%
# of Minorities	3	6	59	2	70	Hispanics	24	5.6%
% of Minorities	13.6%	15.0%	16.4%	33.3%	16.4%	Asians/AI	20	4.7%
1999-2000								
Total # Law Clerks	22	49	377	6	454	Blacks	25	5.5%
# of Minorities	2	6	66	2	76	Hispanics	24	5.3%
% of Minorities	9.1%	12.2%	17.5%	33.3%	16.7%	Asians/AI	27	5.9%
2000-2001								
Total # 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/AI	41	9.2%
2001-2002								
Total # Law Clerks	22	50	383	5	460	Blacks	44	9.6%
# of Minorities	5	8	88	1	102	Hispanics	26	5.7%
% of Minorities	22.7%	16.0%	23.0%	20.0	22.2%	Asians/AI	32	7.0%

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

A review of law clerk appointments by county, see Table 60, reveals that in 14 out of 21 counties statewide, minority law clerk representation exceeds the 20.8% availability. There is only one county with no minority law clerks.

**Table 60. New Jersey Judiciary: Superior Court Law Clerks for Court Year 2001-2002
(Excluding Supreme Court, Appellate Division and Tax Court)
By County, Race/Ethnicity and Gender
As of December 2001**

County	Total*	Minority		Black		Hispanic		Asian/ Am Ind.		Male		Female	
		#	%	#	%	#	%	#	%	#	%	#	%
Atlantic	16	2	12.5	2	12.5	0	0.0	0	0.0	4	25.0	12	75.0
Bergen	31	5	16.1	1	3.2	1	3.2	3	9.7	20	64.5	11	35.5
Burlington	15	5	33.3	2	13.3	1	6.7	2	13.3	5	33.3	10	66.7
Camden	28	1	3.6	1	3.6	0	0.0	0	0.0	16	57.1	12	42.9
Cape May	5	0	0.0	0	0.0	0	0.0	0	0.0	2	40.0	3	60.0
Cumberland	7	3	42.9	1	14.3	1	14.3	1	14.3	1	14.3	6	85.7
Essex	55	17	30.9	8	14.5	6	10.9	3	5.5	19	34.5	36	65.5
Gloucester	9	2	22.2	1	11.1	0	0.0	1	11.1	2	22.2	7	77.8
Hudson	27	9	33.3	4	14.8	5	18.5	0	0.0	13	48.1	14	51.9
Hunterdon	4	1	25.0	1	25.0	0	0.0	0	0.0	3	75.0	1	25.0
Mercer	19	3	15.8	2	10.5	0	0.0	1	5.3	5	26.3	14	73.7
Middlesex	35	8	22.9	3	8.6	2	5.7	3	8.6	17	48.6	18	51.4
Monmouth	26	6	23.1	4	15.4	0	0.0	2	7.7	11	42.3	15	57.7
Morris	15	4	26.7	1	6.7	1	6.7	2	13.3	4	26.7	11	73.3
Ocean	19	1	5.3	1	5.3	0	0.0	0	0.0	9	47.4	10	52.6
Passaic	28	8	28.6	3	10.7	3	10.7	2	7.1	10	35.7	18	64.3
Salem	3	1	33.3	0	0.0	0	0.0	1	33.3	2	66.7	1	33.3
Somerset	9	1	11.1	1	11.1	0	0.0	0	0.0	5	55.6	4	44.4
Sussex	4	1	25.0	1	25.0	0	0.0	0	0.0	2	50.0	2	50.0
Union	25	9	36.0	2	8.0	3	12.0	4	16.0	13	52.0	12	48.0
Warren	3	1	33.3	1	33.0	0	0.0	0	0.0	3	100.0	0	0.0
Total	383	88	23.0	40	10.4	23	6.0	25	6.5	166	43.3	217	56.7

Data Source: Judicial Human Resource Information System.

At the Supreme Court level there were a total of 22 judicial law clerks. Of these 5 (22.7%) are minority: Blacks -2 (9.1%); Hispanics - 0 (0.0%); Asians/Pacific Islanders and American Indians combined - 3 (13.6%).

At the Appellate Division, there were a total of 50 law clerk appointments of which 8 (16.0%) are minority: Blacks -2 (4.0%); Hispanics - 3 (6.0%) and Asians/Pacific Islanders combined - 3 (6.0%).

At the Superior Court level statewide there were a total of 383 judicial law clerks. Of these 88 (23.0%) are minority: Blacks - 40 (10.4%); Hispanics - 23 (6.0%); Asians/Pacific Islanders and American Indians combined - 25 (6.5%).

There were no minorities appointed as judicial law clerks in the Tax Court. For more information on law clerk appointments by court level refer to Table 61. New Jersey Judiciary: Law Clerks By Court Level, Race/Ethnicity and Gender for Court Year 2001-2002 as of December 2001.

Notwithstanding the overall progress made in diversifying the Judiciary's statewide law clerk profile, there remains underutilization of Hispanics and Asians/American Indians judicial law clerks. There are two counties with no Black law clerks, 12 counties with no Hispanic law clerks and 9 counties with no Asian/American Indian law clerks. Refer to Table 60. New Jersey Superior Court Law Clerks for Court Year 2001-2002 (December 2001).

**Table 61. New Jersey Judiciary: Law Clerks by Court Level, Race/Ethnicity and Gender
for 2001-2002 as of December 2001**

Court	Totals		Whites		Total Min.		Blacks		Hispanics		Asians/Am Inds	
	#	%	#	%	#	%	#	%	#	%	#	%
<i>Supreme Court</i>												
Females:	13	59.1	10	45.5	3	13.6	1	4.5	0	0.0	2	9.1
Males:	9	40.9	7	31.8	2	9.1	1	4.5	0	0.0	1	4.5
Total:	22	100.0	17	77.3	5	22.7	2	9.1	0	0.0	3	13.6
<i>Appellate Division</i>												
Females:	18	36.0	16	32.0	2	4.0	0	0.0	1	2.0	1	2.0
Males:	32	64.0	26	52.0	6	12.0	2	4.0	2	4.0	2	4.0
Total:	50	100.0	42	84.0	8	16.0	2	4.0	3	6.0	3	6.0
<i>Superior Court</i>												
Females:	217	56.7	155	40.5	62	16.2	32	8.4	16	4.2	14	3.7
Males:	166	43.3	140	36.6	26	6.8	8	2.1	7	1.8	11	2.9
Total:	383	100.0	295	77.0	88	23.0	40	10.4	23	6.0	25	6.5
<i>Tax Court</i>												
Females:	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0
Males:	5	100.0	4	80.0	1	20.0	0	0.0	0	0.0	1	20.0
Total:	5	100.0	4	80.0	1	20.0	0	0.0	0	0.0	1	20.0
<i>Total - All Law Clerks</i>												
Females:	248	53.9	181	39.3	67	14.6	33	7.2	17	3.7	17	3.7
Males:	212	46.1	177	38.5	35	7.6	11	2.4	9	2.0	15	3.3
Grand Total:	460	100.0	358	77.8	102	22.2	44	9.6	26	5.7	32	7.0

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

The Chief Justice's and Administrative Director's strong support for the Judiciary minority law clerk recruitment program continues to sustain and enhance this program. The Judiciary undertook specific initiatives to attract minority law students to apply to a judicial clerkships. The outreach programs were coordinated by the AOC Affirmative Action Officer. Among the activities were the following:

- Co-sponsored law clerk seminars with the New Jersey State Bar Association, Minorities in the Profession Section at New Jersey law schools (Seton Hall School of Law, Rutgers Law School, Camden and Rutgers Law School, Newark) with judges, former law clerks and the Affirmative Action Officer.
- As a member of the New Jersey Law Firm Group, conducted several joint programs at New Jersey law schools. The New Jersey Law Firm Group is a coalition of governmental and private law firms seeking to enhance employment opportunities for minority students.
- The AOC Affirmative Action Officer and the Essex EEO/AA Officer /Recruited at the following job fairs:
 - ▶ Philadelphia Area Minority Job Fair, University of Pennsylvania, Philadelphia.
 - ▶ Massachusetts Consortium Public Interest Job Fair, Philadelphia.
 - ▶ Black Law Student Association Job Fair, New York.
 - ▶ Hispanic National Bar Association Convention, Philadelphia.
- The AOC Affirmative Action Officer carried out speaking engagements to publicize judicial clerkships at:
 - ▶ Temple Law School, Philadelphia
 - ▶ Rutgers Law School, Camden
 - ▶ Hispanic National Bar Association, Women's Conference
- Publicized judicial clerkships on the Judiciary website (www.judiciary.state.nj.us)
- Chief Justice Deborah T. Poritz sent a letter to all justices and judges encouraging their support of the Minority Law Clerk Recruitment Program.
- Forwarded informational packets to more than 300 law school placement offices and Black, Hispanic and Asian minority law student organizations nationally.
- The AOC Affirmative Action Office profiled the Minority Law Clerk Recruitment Program at the National Consortium of Task Forces and Commissions to Eliminate Racial and Ethnic Bias in the Courts Twelfth Annual Meeting held in Teaneck, NJ on

May 12, 2000 before a national audience of judges and administrators seeking to establish a similar law clerk program.

Minority underutilization is established by the minority law school graduation rate at the three New Jersey law schools. According to the New Jersey Commission on Higher Education in 1999 and 2000 (average of the two years), 20.8% of all law school graduates from the three New Jersey law schools were minority: Blacks 7.5%; Hispanics 6.2%; Asians/Pacific Islanders and American Indians combined 7.1%. Refer to Table 62: Law Degrees Conferred by New Jersey Institutions by Race/Ethnicity. More detailed information on law school graduates in New Jersey may be found in the Appendix D, Two-Year Comparison (1999 and 2000) of Law Degrees Conferred by NJ Law Schools by Race/Ethnicity and Gender.

Table 62
Law Degrees Conferred by New Jersey Institutions by Race/Ethnicity¹⁰²
1999 and 2000 (Averaged Data)¹⁰³

Race	# Degrees Conferred	% Degrees Conferred
Total Law Degrees Conferred	789	100.0
Total Minorities	164	20.8
Whites	570	72.2
Blacks	59	7.5
Hispanics	49	6.2
Asians/American Indians	57	7.2
Total Females	360	45.6

¹⁰² Data provided by the State of New Jersey Commission on Higher Education in report "First-Professional Degrees Conferred to Men-Women by Race/Ethnicity at N.J. Law Schools, FY 1996". Includes Rutgers Camden, Rutgers Newark and Seton Hall.

¹⁰³ Race/ethnic totals do not add up to total law degrees conferred because there are non-resident aliens and "unknowns" for which race/ethnic information was not provided.

Distribution of Judicial Law Clerk Appointments by Law School, Court Year 2001-2002

The Committee on Minority Concerns requested and received from the AOC/Central Office information regarding law clerk appointments by law school. Although the Judiciary's Law Clerk Recruitment Program is national in scope, and students are recruited from law schools throughout the country, approximately 63% (291) of all clerks appointed for the 2001-2001 Court Year are graduates of New Jersey law schools. As of November 2001, 81.5% of all law clerk appointments were from the Eastern law schools noted in Table 63. Law Clerk Appointments by Law School, 2001-2002 Law Year.

**Table 63. New Jersey Judiciary: Law Clerk Appointments by Law School
2001-2002 Court Year¹⁰⁴**

	#	%
Seton Hall University School of Law	127	27.3
Rutgers University School of Law - Camden	114	24.5
Rutgers University School of Law - Newark	50	10.8
Widener School of Law, Delaware	37	8.0
New York Law School	22	4.7
Temple University James E. Beasley School of Law	9	1.9
Syracuse University College of Law	8	1.7
Villanova University School of Law	6	1.3
William and Mary Law School	6	1.3
Subtotal	379	81.5
Total Appointments (as of November 2001)	465	100.0

¹⁰⁴Fewer than 5% of all appointments were made of law students who graduated from law schools from the southern, mid-western and western United States combined. Seven or 1.5% of the law clerks appointed were graduates from the following law schools: Harvard University, Columbia University, the University of Pennsylvania and Cornell University.

N. Court Volunteers

Task Force Recommendation 59: The Supreme Court should set the standard for determining underrepresentation (SDU) in court volunteer programs in two stages: First at the level of minorities in the county population and second at the level of minorities among the constituency.

Task Force Recommendation 60: The Supreme Court should require that the various volunteer programs be better advertised in the minority community.

Committee Recommendation 59, 60.1: 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 Asians/Pacific Islanders that exists among court volunteers.

Committee Recommendation 59, 60.3: 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.

1. Recruitment Initiatives

In response to a request by the Subcommittee, the Manager of Volunteer Programs at the AOC/Central Clerks' Offices provided the following information on efforts to meet the court's mandate to "better advertise volunteer programs in the minority community."¹⁰⁵ A retreat focusing on recruitment was held in the fall, 2001 for vicinage volunteer coordinators and liaisons. Topics covered included differentiating between recruitment and merely disseminating information; techniques in reaching target groups and identifying and narrowing target populations. It is anticipated that various recommendations targeting minorities will soon be implemented. Among the recruitment initiatives undertaken to date are:

- Outreach at colleges and universities.
- Contact with senior citizens groups.
- Publicizing the volunteer programs at county fairs and shopping centers.

¹⁰⁵Task Force on Minority Concerns Recommendation 60.

- Publicizing the volunteer opportunities as part of Law Day programs.
- Advertising in local publications, including Spanish newspapers and newsletters.
- Posting flyers throughout the courthouses.
- Distributing of flyers among agencies and community groups.

Newly appointed volunteers are required to complete a training program before they are put on active status that contain modules on problem solving, communication skills, diversity and an orientation to the New Jersey Courts.

2. Court Volunteers Profile

According to data provided to the Subcommittee, minorities comprise 19.1% of all court volunteers. Refer to Table 64. New Jersey Judiciary: Volunteers by Vicinage and Race/Ethnicity as of October 2001. Of the 19.1% minority volunteers, 15.3% are Black, 3.1 % are Hispanic and .6% are Asian/Pacific Islander.

**Table 64. New Jersey Judiciary: Volunteers by Vicinage and Race/Ethnicity
as of October 2001**

County	Total	White		Minority		Black		Hispanic		Asian/ AI ¹⁰⁶		Other	Not Avail
		#	%	#	%	#	%	#	%	#	%		
Atlantic/ Cape May	176	105	58.0	41	22.7	41	22.7	0	0.0	0	0.0	0	30
Bergen	443	323	73.0	39	8.8	23	5.2	11	2.5	5	1.1	3	78
Burlington	180 ¹⁰⁷	177	98.3	35	19.4	27	15.0	6	3.3	2	1.1	0	2
Camden	504	41	8.1	28	5.6	23	4.6	5	1.0	0	0.0	0	435
Cumberland/ Glouc./Salem	353	278	78.8	74	21.0	59	16.7	14	4.0	1	0.3	1	0
Essex	542	283	52.2	249	45.9	227	41.9	22	4.1	0	0.0	10	10
Hudson	111	48	43.2	62	55.9	27	24.3	30	27.0	5	4.5	1	1
Somerset/Hun /Warren	202	182	90.1	20	9.9	13	6.4	6	3.0	1	0.5	1	0
Mercer	104	84	80.8	20	19.2	20	19.2	0	0.0	0	0.0	0	0
Middlesex	266	197	74.1	69	25.9	52	19.5	10	3.8	7	2.6	0	0
Monmouth	862	600	69.6	150	17.4	126	14.6	18	2.1	6	0.7	1	111
Morris/Sussex	570	456	80.0	16	2.8	9	1.6	5	0.9	2	0.4	0	98
Ocean	275	244	88.7	30	10.9	21	7.6	8	2.9	1	0.4	1	0
Passaic	166	119	71.7	47	28.3	34	20.5	13	7.8	0	0.0	0	0
Union	220	148	67.3	69	31.4	60	27.3	7	3.2	2	0.9	0	3
Total	4974	3285	66.0	949	19.1	762	15.3	155	3.1	32	0.6	18	768

Note: Percentages are % of total in each major category.

Data Source: Information provided by the AOC/Central Clerks' Offices, Volunteer Programs Unit and the Statewide Vicinage Volunteer Coordinators.

¹⁰⁶Includes Asian/Pacific Islanders and American Indians combined.

¹⁰⁷Burlington Vicinage summary total of race/ethnic groups exceed 180 because 28 individuals volunteer for more than one program, some even for two or three.

Findings

The Committee finds that the underutilization of minorities in general and of Hispanics and Asians/Pacific Islanders parallels the underrepresentation that currently exists in the Judiciary's workforce and therefore, compounds the problem of these populations in so far as this situation may further contribute to their difficulty in accessing judicial services. The Committee reiterates its recommendations in the 1994-1996 Report of the Committee on Minority Concerns that Judiciary develop and aggressive Action Plan to address the underrepresentation of Hispanic and Asian/Pacific Islander volunteers and that statistical data on court volunteers including race/ethnicity, county and program information be provided to the Committee on Minority Concerns.

Summary

The New Jersey Judiciary has made major strides both in the continued diversification of the court workforce and in embracing policies and programs to ensure fairness in the administrative fabric of the judicial system. The issuance by the Supreme Court and the Administrative Director of the Courts of the Judiciary EEO/AA Master Plan and discrimination complaint procedures as well as the statewide increase in EEO/AA staffing levels are important signals of the commitment to continued progress.

Despite the substantial progress in many areas, there also are areas in which progress is less than satisfactory. There is a need to finalize standard operating guidelines on the discrimination complaints procedures and to refine monitoring procedures, employment interviewing guidelines and information systems capabilities to comply with the requirements of the Judiciary EEO/AA Master Plan.

The Judiciary workforce statistics tell several important stories that should be of concern to the Supreme Court. Minor disparities between population and workforce easily can be addressed. However, the significant disparities that the Committee on Minority Concerns has highlighted for almost a decade need direct and immediate attention.

The Committee is committed to continue its work in this area and memorializing the progress the Court has made. We are also very appreciative of the opportunity to assist the court in its efforts to eradicate all forms of bias and discrimination rooted in racial and ethnic prejudice within the court system.