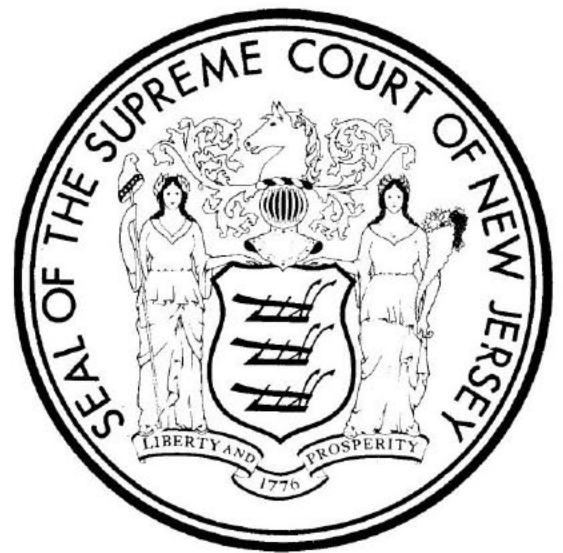
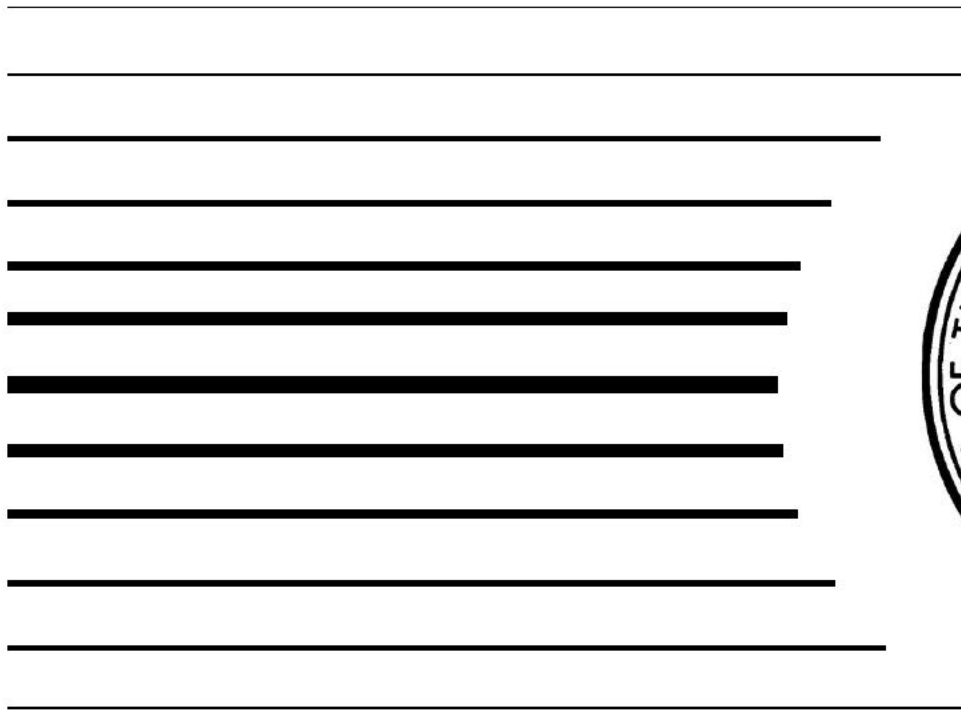


NEW JERSEY
SUPREME COURT COMMITTEE
ON MINORITY CONCERNS



2013 - 2015
REPORT

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For more information or to obtain copies of the
Supreme Court Committee on Minority Concerns Report
contact:

Minority Concerns Unit
Administrative Office of the Courts
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, New Jersey 08625-0037
609-292-8967

minorityconcerns.mailbox@judiciary.state.nj.us

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Introduction and Executive Summary

Our system of justice requires that all court users have equal access to services and equal treatment from judicial and administrative bodies. The New Jersey Judiciary has a strong reputation for the quality of our jurisprudence and the efficiency of our administration. We also have been leaders in developing policies and programs that improve the access and fairness of our courts.

These words of Chief Justice Stuart Rabner express the principles that give the Supreme Court Committee on Minority Concerns (SCCMC or the committee) in its work to carry out the mandate first given to it by the late Chief Justice Robert N. Wilentz “to undertake a critical examination of the concerns of minorities with their treatment in and by the courts, to propose solutions to the identified problems that are within the power of the Judiciary to implement, to pursue its investigations wherever they may lead, set forth its findings with candor.” The New Jersey Judiciary Minority Concerns Program marked its thirtieth year during the 2013-2015 term of the SCCMC. The Committee continues to embrace its mandate with the same enthusiasm and vigor that the members and staff of the original exploratory committee chaired by Justice James H. Coleman, Jr. This biennial report serves as a summary of the Committee’s work this term and offers the Court insight into the SCCMC’s key focus areas, organizational priorities and its assessment of community needs.

This term, the SCCMC engaged in several significant policy reviews and submitted to the Court several detailed comments on matters relevant to the mission and mandate of the SCCMC and the issues of access and fairness. These policy review activities included the submission of substantive commentaries on the proposed *pro bono* rules changes, the report and recommendations of the Joint Committee on Criminal Justice, the proposed court fee schedule, and a municipal practice recommendation regarding consideration of inmate letters as motions. The Committee also presented a recommendation to update the Rules of Professional Conduct

(RPC), specifically RPC 8.4(g), to include gender identity and expression, civil union status, and domestic partnership status and to change handicap to disability in order to mirror more closely New Jersey's Law Against Discrimination. The Committee greatly appreciates the opportunity to continue to play a meaningful role in the evaluation of policy proposals that stand to have an impact of such a large number of court users and the character and effectiveness of the New Jersey Courts in such diverse and far-reaching dimensions. The Committee views its activity this term as essential to the fulfillment of its role in serving in an advisory capacity to the Court in visible and tangible ways.

Chapter I, reflecting the activities led by the SCCMC Subcommittee on Criminal Justice and the Minority Defendant, provides updates on longstanding Judiciary programs such as Adult Drug Courts, presents key questions raised by the Committee about emerging initiatives that warrant further in-depth consideration with multiple stakeholders, and begins a more substantive conversation within the Committee about complex issues such as the access to justice needs of immigrants by considering policies that address the intersection of State court matters with the immigration status concerns of defendants who are not citizens.

Chapter II, reflecting the activities led by the SCCMC Subcommittee on Juvenile Justice and the Family, provides updates on a growing list of longstanding areas of interest in both the juvenile delinquency and the children-in-court dockets. The Committee once again discusses juvenile justice outcomes and proportional representation across the juvenile justice decision-making continuum, examines outcomes reported in the annual statewide JDAI report, and examines minority representation in FJ, FC, FN, and FF dockets and for the first time presents its discussion of multidocket youth, who have simultaneous delinquency and children-in-court matters before the New Jersey Court. According to the data reviewed, 75% of multidocket youth

in New Jersey are children of color, affirming that this new area of focus is very relevant to the Committee's mission and mandate. This chapter also provides a summary of the Committee's discussion of issues of interest that it has begun to explore in greater depth including involuntary waivers of jurisdiction, re-entry support services and juvenile expungements, and the needs of a number of relevant emerging constituencies such as LGBTQI youth.

Chapter III, reflecting the activities led by the SCCMC Subcommittee on Minority Access to Justice, offers the Committee's observations and data reviews of several longstanding areas of interest including volunteer programs, languages services, and the model statewide Ombudsman Program. This chapter also includes brief discussion of ongoing concern about the legal needs of New Jersey's poor and working class. With the approach of the ten year anniversary of the statewide implementation of the Ombudsman Program, the Committee renews its unequivocal support for the program and offers some specific recommendations for proactive steps to be taken to ensure the continued success of the program that is now a well-institutionalized component of the Judiciary's statewide programs and services.

Chapter IV, reflecting the activities led by the SCCMC Subcommittee on Minority Participation in the Judicial Process, includes updated reviews of data on the workforce, jurists, law clerks, and discrimination complaints. In carrying out its mandate, the Committee makes recommendations to enhance, modify, or augment existing Judiciary programs and/or offer new or alternative approaches to effectuate institutional changes designed to eliminate racial and ethnic bias in the courts and to ensure access by racial and ethnic minorities to employment opportunities, Supreme Court committee appointments, law clerkships, fiduciary appointments, and vendor opportunities. This term the Committee makes two new recommendations to enhance the collection regarding the diversity of the Bar and the Judiciary workforce.

Chapter V, a supplement to this term's routine areas of reporting, includes a periodic update on education and training initiatives by the SCCMC and community outreach and public education activities by the fifteen Vicinage Advisory Committees on Minority Concerns (VACMCs). Twelve of the 53 original court-approved recommendations of the Supreme Court Task Force on Minority Concerns deal with education and training in some form and these efforts continue today to be a substantial and valuable component of the Judiciary's Minority Concerns Program statewide.

This biennial report again offers extensive data review and analysis in key areas relating to access to justice for racial/ethnic minorities, other historically marginalized groups, and new constituencies and stakeholder groups. These issues have not and should not become irrelevant if the Judiciary is to continue to innovate and maintain its reputation for excellence as a State Court in the twenty-first century. It is with these aims and aspirations that the SCCMC submits this report.

The Supreme Court Committee on Minority Concerns is grateful for the opportunity to be of ongoing service to the Court and public served by the New Jersey Judiciary.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Hany A. Mawla', with a large, stylized loop at the top and a horizontal line at the bottom.

Hany A. Mawla, J.S.C.
Chair, 2014-2015 (Vice Chair 2013-2014)
Supreme Court Committee on Minority Concerns

January 16, 2015

2013-2015 SUPREME COURT COMMITTEE ON MINORITY CONCERNS

Engy Abdelkader, Esq.
Ahmad Aboelezz, Esq., designee of New Jersey Muslim Lawyers Association
Louis Acevedo, Esq., designee of the Office of the Public Defender
Rahat Babar, Esq., designee of the Asian Pacific American Lawyers Association of New Jersey
John S. Beckerman, Esq.
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Sunil Chandrahas
Frank L. Corrado, Esq.
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Amy Henderson, Ph.D.
Wansoo Im, Ph.D.
Hon. Lisa James-Beavers, A.L.J.
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Jeanette King
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Jacqueline D. Smith, Esq., designee of the Department of Law & Public Safety
Morris L. Smith
Radames Velazquez, Jr., Esq.
Nora Vele
Daniel L. Weiss, Esq.
Hon Sue Pai Yang, J.W.C. (ret.)

Committee Staff: Yolande P. Marlow, Ph.D.
 Lisa R. Burke, M.A.
 Kimberly B. Douglas, Esq.
 Jacqueline Draper, Esq.
 Geri Moore Manahan, M.S.W., L.S.W., H.S.-B.C.P.

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Chapter I

SUBCOMMITTEE ON CRIMINAL JUSTICE AND THE MINORITY DEFENDANT

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I. Introduction and Mandate

The Subcommittee on Criminal Justice and the Minority Defendant underwent a transition in leadership during the 2011-2013 reporting cycle and used the 2013-2015 term to recalibrate its current long-term interest areas, review the status of some critical ongoing areas of concern, and evaluate its focus for the forthcoming term.

This report provides status updates regarding these longstanding areas of interest:

- A. jury issues including peremptory challenges and *voir dire*;
- B. public education initiatives;
- C. adult drug courts;
- D. warrants and detainers; and
- E. ongoing training for Superior Court judges, and Criminal Division managers, staff, and volunteers.

This report also includes discussions of the Committee's continuing interest in the following wide-reaching areas which it plans to continue to monitor and review during the forthcoming term:

- F. criminal justice systems reforms and implementation of the new Pre-Trial Release Program;
- G. sentencing outcomes and recidivism; and
- H. cross-racial eyewitness identification.

In addition, this report sets forth an overview of the Committee's engagement with several new and emerging areas of interest:

- I. collateral consequences of findings of guilt and guilty pleas on immigration status; and
- J. the Veterans Assistance Project.

II. Task Force Priority Recommendations Considered

The work of the Subcommittee continues to be guided by Task Force Recommendations 4, 5, 6, 7, 8, and 14 (bail and sentencing measures and outcomes) and Task Force Recommendation 16 (expansion of Drug Courts in New Jersey) along with subsequent recommendations proffered by the Committee relating to judicial training initiatives, jury *voir dire*, and the other listed topics.

III. Subcommittee Interest Areas

A. Jury Issues: Peremptory Challenges and *Voir Dire*

The Committee has held an abiding interest in minority representation on juries. The Subcommittee on Criminal Justice and the Minority Defendant has focused its efforts in this area on the critical issues of peremptory challenges and *voir dire*.

As noted in the Committee's previous biennial report, a representative of the Criminal Justice Subcommittee¹ has been serving since June 2011 on the Supreme Court Committee on Jury Selection in Civil and Criminal Trial. This appointment came about at the recommendation of this Committee to have direct exchange between the two committees regarding areas of mutual interest. The Committee continues to hold the view that the resulting collaboration achieved through the cross-committee appointment will prove mutually beneficial to the two Supreme Court Committees.

During the forthcoming term, the Committee plans to undertake the following steps in planning a research project on the *voir dire* process to determine what impact, if any, peremptory challenges have on minority representation on juries. The steps being taken to operationalize this research are as follows:

- review of in-state reports and publications on peremptory challenges and *voir dire*;

¹ Hon. Lorraine Pullen, J.S.C., Subcommittee Chair

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

As the Committee moves forward in examining this issue, the Committee would like to explore ways to evaluate the implementation of Administrative Directive #21-06, which offers approved jury selection standards and model *voir dire* questions, and Administrative Directive #4-07, which supplements and modifies Administrative Directive #21-06.

In addition to continuing its work on peremptory challenges and *voir dire*, the Committee will continue to monitor procedural or rule changes in this area and will contribute to the Minority Concerns sponsored GIS jury pool study (see Chapter III).

B. Public Education Initiatives

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

1. Informational Brochure: Superior Court Bail

At the time the 2004-2007 report was completed, the brochure, *Frequently Asked Questions About Superior Court Bail*, had been approved by the Administrative Director² and was awaiting publication. On June 18, 2007, the Administrative Director released the brochure to all assignment

² Hon. Philip S. Carchman, P.J.A.D.

judges and trial court administrators for distribution at all court facilities. Since that time, the brochure, which includes a customized contact panel for each vicinage, has been distributed statewide and has undergone review and revision. The revised brochure, updated to include some procedural and statutory changes, is pending release. In light of the recently enacted changes to the right to bail and the development of a new pre-trial release program, the informational brochure will need further revision. The Committee recognizes the importance of making this kind of information available to the public in an accessible format like this brochure and is pleased that the Judiciary remains committed to making this valuable informational publication available to the public.

2. Informational Brochure: Restoring Your Right to Vote

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

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

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

Participation in civic life through the exercise of one's right to vote can serve as a critical re-entry tool. As the Office of the Public Advocate has since been eliminated and its functions distributed to other offices, the Committee has been working to identify other avenues for ensuring the ongoing availability of the publication as intended. The Committee is pleased to learn that the Secretary of State, Division of Elections, which is the executive branch department that has chief responsibility for overseeing elections in the State of New Jersey, makes available an electronic publication titled "Voter Restoration Handbook: Restore Your Right To Vote in New Jersey." The document is available online at <http://www.state.nj.us/state/elections/publications/voter-restore-handbook-060710.pdf>. While this publication is not a replica of the one on which the Committee collaborated with the Office of the Public Advocate, the Committee believes it contains the information that former and soon-to-be former probationers and parolees need in order to restore their right to vote in this state. The Committee will continue to monitor the availability of this important information and urges the Court to ensure that the information remains in print and is readily and routinely made available to probationers, as well as to parolees, as a component of the collection of resources provided during re-entry preparation and support.

C. Adult Drug Courts

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

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

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

The New Jersey Adult Drug Court Program’s 10th anniversary report, *A Model for Success: A Report on New Jersey’s Adult Drug Courts*,³ identified numerous indicators of success. Among the many program accomplishments, the Committee highlights two factors illuminated by the *A Model for Success* report that underscore the long-term value of the ongoing investment in Drug Courts:

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

³ See www.judiciary.state.nj.us/pressrel/2010/pr101116a.htm to view the press release and www.judiciary.state.nj.us/pressrel/2010/Drug%20Court%20Report%20v1%20Final.pdf for the complete report.

2. The conservative cost savings annually for each drug offender that is placed in a drug court program rather than state prison is approximately \$13,000.⁴

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

In light of recent transitions in the leadership of the statewide Drug Court program, the Committee opted to postpone its periodic update on the New Jersey Adult Drug Court program until early 2015. However, the Committee did have an opportunity to discuss the successes of the model program, the ongoing implementation of the program statewide, and several key factors that the Committee believes are integral to the program's ongoing long-term success.

The Committee remains committed to its support of the New Jersey Adult Drug Court Program. The Committee's discussion focused on the existing statewide voluntary drug court program and the expansions of drug courts to include a mandatory component. Several key points and questions emerged during recent discussions of the Adult Drug Court Program:

- There is concern about the ability to sustain the highly successful nationally-lauded model in the face of the required expansion of the program without additional funding for operational expenses.
- A key question is, "How do we approach the adult Drug Court model?" For example, the model distinguishes "addicts" from "abusers." Is this component impacted by the change in paradigm and if so how?
- What are the key characteristics of the program, e.g., holistic supervision and treatment by Probation Officers, in order to yield habilitation/rehabilitation? What are the distinctions between the traditional Probation model and the Drug Court Probation model?
- How does the Judiciary plan to sustain these characteristics/key program components with significantly increased caseloads?

⁴ See previous footnote for reference to report. This figure reflects administrative costs saved and does not include other tangible savings realized such as medical care costs saved as a result of the number of drug-free babies born to female Drug Court participants.

- What role, if any, does private insurance play in affecting/facilitating a participant's access to treatment?
- Admission to Drug Court may seem like good social policy, but legally speaking from a defense point of view it may not always be in a defendant's best legal interest. It has been said that good defense practice should not be abandoned in favor of good social policy. How is this dynamic different from PTI?
- According to published newspaper reports, additional funding in the FY2015 budget is going toward treatment in the next round of counties. No new monies have been added to the Judiciary budget for operational expenses. This is a significant concern for the Committee as far as how it potentially impacts the Judiciary's ability to sustain the program as it has been built with the anticipation of more far-reaching participation and service needs.
- In terms of treatment, there continues to be the ongoing issue of space availability in existing programs. With the expansion, there is also the added question of what will be the quality control mechanisms for a variety of factors such as service providers and their measurements of programmatic outcomes?

The subcommittee through its discussions enumerated a variety of facets of the program that can be examined in further detail, recognizing that it should begin with information gathering and an updated presentation by the Drug Court leadership team in early 2015, schedules permitting. The greatest testimony to the value of Drug Court, beyond the quantitative data available, is a Drug Court graduation ceremony. Minority Concerns Unit staff and several subcommittee members had a recent opportunity to attend a local Drug Court graduation and witness firsthand the impact that the program has on changing individual lives and re-setting them in a more productive fulfilling direction. The Committee remains committed to continuing to support the program and to ensuring that with the expansion of the program the integrity and successes that have become the hallmarks of this national model program remain intact.

D. Warrants and Detainers

The subject of warrants and detainers, particularly “low amount out-of-county detainers,” is an issue that the Committee worked on for several terms, last reporting on it in the 2004-2007 report. Based on anecdotal observation that there were a significant number of inmates spending time incarcerated on low amount out-of-county detainers, the Committee engaged in a review of data on bails of \$500 or less. The purpose of the review was to determine if there was statistical evidence to support the observation and to explore what some solutions to the situation might be. At the time, the Committee observed notably long lengths of stay for persons with low amount out-of-county detainers but could not substantiate with certainty that there was a systemic problem that the Committee could address. As a result, the Committee continued to hold an interest in the topic but removed the issue from its priority list.

Since that time, the subject of warrants and detainers, as the Committee had originally framed its focus, emerged as an issue among criminal justice system stakeholders across the State. State agencies working together have been attempting to provide a solution to reduce the disproportionate impact on low-income and minority inmates being held solely on low amount out-of-county detainers. Awareness of the scope of this issue seemed to become heightened as a result of several Fugitive Safe Surrender programs held across New Jersey. A working group was established under the leadership of the Attorney General’s Office and included representatives of numerous public agencies, including the New Jersey Judiciary (Municipal Court Services Unit at the AOC and Camden Vicinage) New Jersey State Parole Board, the Department of Corrections, the Division of Motor Vehicles, and others. Rutgers University School of Criminal Justice (Newark) played a significant research and facilitation role in the process. Staff from the Minority Concerns Unit were invited to attend several working group sessions. The sessions were characterized by collaborative problem-solving and concrete measurable goal setting and

outcomes. While the working group project in its original form has concluded, the Committee is pleased to learn that subsequently the Administrative Director convened a collaborative working group to begin to explore how the New Jersey Judiciary can play a role, within its administrative processes, in addressing this issue. The Committee is also very pleased that the issue was addressed by the Joint Committee on Criminal Justice, convened by Chief Justice Rabner to address multiples aspects of the State's criminal justice system. The Committee encourages the Court to continue both its involvement and its leadership on this issue.

E. Ongoing Training for Superior Court Judges and Criminal Division Managers, Staff, and Volunteers

As noted in the 2007-2009 report and reaffirmed in the 2009-2011 report,

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

Twelve of the original 53 Minority Concerns task force recommendations approved by the Supreme Court relate to training in some form. Through the Subcommittee on Criminal Justice and the Minority Defendant, the Committee periodically reviews information on trainings provided in the field of criminal justice on subjects that relate to the mission and mandate of Minority Concerns. As part of its work, the Subcommittee on Criminal Justice and the Minority Defendant may also propose new training as a means to improve access to justice through the Criminal Division programs and services for racial and ethnic minorities and other historically marginalized groups. There are a number of broad topics that the Committee believes need to be added to the roster of course offerings for judges, managers, staff, and volunteers. These foundational topics include but are not limited to the social impact of race and ethnicity, implicit bias, white privilege, and other forms of institutional bias. The Committee intends to direct efforts

in this regard during the forthcoming term by developing, as appropriate, relevant course proposals for Judicial College, Staff College, the Criminal Division Education Conference, and the Judiciary Institute for Staff Attorneys (JISA).

F. Bail

Bail remains an issue of relevance and interest to the Committee. The last time the Committee dedicated ample time and attention to the issue of bail was during the 2004-2007 term. During that cycle, the Committee invested significant human resources into examining a number of bail-related concerns. During the current term, the Committee again had the opportunity to consider bail issues.

As the Supreme Court Committee on Minority Concerns is charged with advising the Supreme Court on matters affecting the Judiciary and how the Judiciary may best assure fairness, impartiality, equal access, and full participation of racial and ethnic minorities and economically disadvantaged residents of this State in the judicial process, the Committee on Minority Concerns values the opportunity it had recently to share its feedback with the Court on the report and recommendations of the Joint Committee on Criminal Justice (JCCJ).

The Committee on Minority Concerns recognizes the need for wide-reaching reform of New Jersey's criminal justice system particularly in relation to pre-trial release and speedy trial. Beginning with the *Interim Report of the Supreme Court Task Force on Minority Concerns* (1989) and in numerous SCCMC biennial reports thereafter, several of the same issues addressed by the Joint Committee have been considered by the Committee on Minority Concerns. The SCCMC agrees that, with the collective investment of the three branches of state government, there is a unique opportunity to enact new legislation and modify the Rules of Court that govern pre-trial release and other critical aspects of the criminal justice system, both pre- and post-indictment, as discussed in the *Report of the Joint Committee on Criminal Justice*.

New Jersey's bail system has caused hardship to many defendants and unindicted individuals who are disproportionately poor people and people of color. Simply put, too many people are in jail because they cannot afford bail. The Supreme Court Committee on Minority Concerns has long recognized the systemic biases inherent in the existing resource-based system and concurs with the surveys and studies referenced in the *Report of the Joint Committee* that document the impact of a resource-based pre-trial release system on the poor and on racial/ethnic minorities resulting from the structural inequities of the current system.

The proposal to shift New Jersey's pre-trial release program to a risk-based system from the current resource-based system is a necessary and timely undertaking. The Joint Committee proposed several tangible reforms. The Committee on Minority Concerns concurs that these reforms will eradicate systemic disparities and inequities inherent in the current criminal justice system that impact to a larger degree poor people, racial/ethnic minorities, and members of other historically marginalized groups.

The Committee on Minority Concerns supports the proposed recommendations. The SCCMC recommends that the Court enact the structural reforms set forth in the *Report of the Joint Committee* and re-emphasizes the need to be vigilant in ensuring that the reforms do not create a new set of unintended systemic disparities for racial/ethnic minorities and the economically disadvantaged. As the Court moves into the design, development, and implementation phase of these reforms, the Committee on Minority Concerns stands ready to be of continued service in this critical work.

G. Sentencing Outcomes and Recidivism

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

The Committee remains interested in the issues of sentencing and recidivism generally and in the impact of the 2010 changes to the drug-free school zones specifically but has not had the opportunity to review these areas during the current term. Looking to the future, the Committee plans to explore the issue of disparate impact as it relates to sentencing and sentencing reforms in New Jersey and will revisit the recommendations by the Sentencing Commission to determine what areas may be appropriate for and would benefit from further consideration by the Committee.

H. Cross-Racial Eyewitness Identification

The Committee made a very significant contribution to the field of eyewitness identification when, at the time it was a rules committee, it did extensive research on cross-racial eyewitness identification and the likelihood of error and as a result recommended the implementation of special instructions to juries in applicable cases. The Supreme Court Committee on Minority Concerns submitted draft language for the instructions and the Supreme Court Committee on Model Criminal Jury Charges revised the eyewitness identification model jury charges to incorporate a factor on cross-racial identification pursuant to the holding in State v. Cromedy, 158 N.J. 132 (1999). The Committee has remained interested in this issue and throughout the years has been affirmed in its work as the Court continued to uphold the instruction and the long-term, wide-reaching relevance of the issue was reflected in popular culture with the topic being included as a central issue in the storyline of an episode of the TV series “Law and Order.”

The serious importance of the general issue of eyewitness identification was re-affirmed by the New Jersey Supreme Court in a unanimous decision authored by Chief Justice Stuart Rabner in State v. Henderson, 208 N.J. 208 (2011). The Court's decision in Henderson re-established the weight of significant scientific research on the (un)reliability of eyewitness identification and set forth tighter parameters for managing jury trials involving eyewitness identification through revised model jury charges, a new court rule, and a revised court rule. In Henderson the Court revised the existing legal standard for assessing eyewitness identification evidence because the previous standard "did not offer an adequate measure of reliability, did not sufficiently deter inappropriate police conduct, and overstated the jury's ability to evaluate identification evidence" (Administrative Office of the Courts, Press Release, July 19, 2012).

With the Court's address of the issue of eyewitness identification generally, the Committee looks forward to continuing to consider the particular issue of cross-racial eyewitness identification in this context and to learning more about the substance of the procedural changes post-Henderson.

I. Collateral Consequences of Findings of Guilt and Guilty Pleas on the Immigration Status of Non-Citizens

The Committee has an interest in the experience of immigrants interfacing with the Courts and in particular with ensuring that non-citizens understand that they are entitled to equal justice and fair access to the state court system without regard to immigration status.

In light of the decisions by the United States Supreme Court in Padilla v. Kentucky, 559 U.S. 356, (2010) and the New Jersey Supreme Court in State v. Nunez-Valdez, 200 N.J. 129 (2009), the New Jersey Judiciary has recently established protocols, thus far in Criminal and Municipal Practice, designed to ensure that non-citizens appearing before the Court as defendants in criminal or quasi-criminal proceedings are alerted to the potential collateral consequences that

a finding, plea, or adjudication of guilt could have on their immigration standing and future options regarding immigration status in the United States, and the option to consult with an attorney.

The Administrative Director of the Courts requested that the Committee, particularly the Vicinage Advisory Committees on Minority Concerns, consider what public education initiatives might be helpful to court users about these new protocols and advisories and how the Committee might help with such education and outreach efforts.

Staff of the Minority Concerns Unit met with representatives of the relevant practice areas including Criminal Practice, Municipal Division, and Family Practice to learn more about the newly established protocols and advisories and to ascertain what public education initiatives, if any, were underway or being considered. To advance the working knowledge of the leaders of the Vicinage Advisory Committees on Minority Concerns (VACMCs), staff of the Minority Concerns Unit arranged for an in-service presentation on the issue of collateral consequences and immigration at the October 2012 meeting of the Conference of Vicinage Advisory Committee on Minority Concerns Chairs and Staff Liaisons. In addition, staff from the AOC practice areas were invited to attend to share information from their respective areas of expertise. In lieu of an in-person presentation, a joint memo, referred to here as the AOC Immigration Summary Memo, was prepared on behalf of Criminal, Municipal, and Family Practice Units at the AOC.

The Committee understands that the issue of collateral consequences is very nuanced. As a starting point, the Subcommittee wishes to highlight the passage relating to the Criminal Division and Municipal Court matters as the passage contains both the substance of the protocol and valuable information about training efforts. The AOC Immigration Summary Memo,⁵ providing an overview of the New Jersey Supreme Court's ruling in the relevant case, in part reads as follows:

⁵ To distinguish the substance of the AOC Immigration Summary memorandum from the narrative of the Committee's report, the excerpt from the memo appears in italics.

In State v. Heitzman, the Court “expressed the view that there was no requirement to warn a pleading noncitizen client that his or her plea would result in certain collateral consequences” of a guilty plea.⁶ The *Heitzman* majority categorized immigration consequences as those that fall “within the ‘collateral’ designation.”⁷ Nonetheless, since 1988, the Plea Form used in the Superior Court, Criminal Division, has included a question notifying criminal defendants of potential deportation consequences. The “immigration question” was added to the Plea Form in response to Chief Justice Wilentz’s dissent in *State v. Heitzman*, which urged that defendants be advised of the deportation consequences of their guilty pleas, and expressed concern that “the possibility of deportation, even if viewed as a collateral consequence obviously can have a severe impact on a person’s life.”⁸ In its original form, the question asked if a defendant who is not a citizen understood that he “may be deported by virtue of [the] plea of guilty.”⁹

Over time, changes to the immigration laws have limited the ability for noncitizens who commit certain crimes to avoid deportation or removal. As recognized by the United States Supreme Court, in *Padilla v. Kentucky*¹⁰:

The landscape of federal immigration law has changed dramatically over the last 90 years. While once there was only a narrow class of deportable offenses and judges wielded broad discretionary authority to prevent deportation, immigration reforms over time have expanded the class of deportable offenses and limited the authority of judges to alleviate the harsh consequences of deportation. The ‘drastic measure’ of deportation or removal, . . . is now virtually inevitable for a vast number of noncitizens convicted of crimes.

*As such, courts have recognized that “[d]eportation is an integral part—indeed, sometimes the most important part—of the penalty that may be imposed on noncitizen defendants who plead guilty to specified crimes.”*¹¹

More recently, in State v. Nunez-Valdez, the New Jersey Supreme Court considered the issue of ineffective assistance of defense counsel in the context of providing advice to a client on immigration consequences of a guilty plea.¹² The Court held that “when counsel provides false or affirmatively misleading advice about the deportation consequences of a guilty plea, and the defendant demonstrates that he would not have pled guilty if he had been provided with accurate information, an ineffective assistance of

⁶ *State v. Heitzman*, 107 N.J. 603, 604 (1987); *State v. Gaitan*, 209 N.J. 339, 351 (2012).

⁷ *Ibid.*

⁸ *Id.* at 606-07; *State v. Gaitan*, 209 N.J. at 362.

⁹ Administrative Directive # 1-1988 (Jan. 15, 1988). See *State v. Gaitan*, 209 N.J. at 351.

¹⁰ *Padilla v. Kentucky*, 130 S. Ct. 1473, 1478 (2010)

¹¹ *Padilla v. Kentucky*, 130 S.Ct. at 1480.

¹² *State v. Nunez-Valdez*, 200 N.J. 129 (2009)

*counsel claim has been established.*¹³ *The Court asked the Criminal Practice Committee and AOC Director to revise the plea form to:*

- 1. inform a non-citizen defendant that "if your plea of guilty is to a crime considered an aggravated felony under federal law you will be subject to deportation/removal."*
- 2. instruct defendants of their right to seek legal advice regarding their immigration status.*¹⁴

Amendments to the Plea Form, consistent with Nunez-Valdez, were promulgated in Administrative Directive # 08-09 (Sept. 4, 2009). Thereafter, Padilla was decided by the United States Supreme Court and held, "counsel must inform her client whether his plea carries a risk of deportation."¹⁵ In 2011, the Plea Form was further amended in light of evolving immigration law. The 2011 amendments were "designed to ensure that defendants understand that they have an opportunity to seek consultation with an attorney about the immigration consequences of a plea, should they choose to do so." The Directive explains that "there is no obligation to provide defendant with separate counsel for this purpose."¹⁶

As detailed in the AOC Immigration Summary memo, all Criminal Part judges have been informed about this area of the federal law and how it may impact upon non-citizens facing charges in criminal courts. Training sessions have been conducted at Judicial College, Comprehensive Judicial Orientation Program, and through updates by the Criminal Presiding Judges in their respective vicinages. The Municipal Court Services Division provides training to municipal court judges on the changes in the law in this area and on Directive #9-11 at the annual conference of municipal court judges; the four-day training for new municipal court judges conducted in January and February; the two-day judges orientation program conducted in September; and in vicinage-level programs.

The memorandum summarizes discussions among Minority Concerns Unit staff and practice area staff involved in this issue regarding possible avenues for public outreach. These

¹³ State v. Gaitan, 209 N.J. at 351; State v. Nunez-Valdez, 200 N.J. at 131.

¹⁴ State v. Nunez-Valdez, 200 N.J. at 144.

¹⁵ Padilla v. Kentucky, 130 S.Ct. at 1481.

¹⁶ Administrative Directive #5-11(August 1, 2011).

discussions recognized the limitations on the role the Judiciary can play in informing the public on immigration issues. The following excerpt from the summary memo provides the backdrop for the Committee's consideration of this subject:

[Staff] discussed possible avenues for public outreach and recognized some limitations on the judiciary. [I]mmigration issues are very individualized, depending upon an individual's status in the country, criminal history and the current charges that he or she may be facing. There are comparisons that need to be made between federal immigration law and our state law. As a result, discussions about immigration matters can often be complex. Indeed, in this area there is a delicate balance between providing customer service to ensure that litigants are well-informed of court procedures without offering legal advice.

The Committee recognizes that immigration law is very complex and tends to be very nuanced in the application to the circumstances of each individual case so the Judiciary rightly remains extremely cautious not to appear to give expert advice on an individual's immigration situation and any public education initiatives should also bear this reality in mind. The group of staff involved in these referenced inaugural discussions concurred that the Judiciary, upon recommendation of the Supreme Court Committee on Minority Concerns, may wish to consider developing limited web-based links to select information regarding the issue and the Court's revision to the plea form. The Committee considered these possibilities and concurred that the New Jersey Judiciary does well in advising non-citizens of the potential collateral consequences of findings of guilt and guilty pleas on immigration status. While the Committee generally believes that making information available to the public is a worthwhile and beneficial endeavor, in light of the specific nuances when immigration law is involved, the Committee believes that no further public education effort on these protocols and advisories is warranted at this time and in fact urges that caution be exercised in the presentation of any immigration-related informational resources so as to not exacerbate the apprehensions many immigrants, particularly non-citizens, have about interacting with the judicial system.

The Subcommittee believes that the issue of collateral consequences is but one of a number of relevant issues affecting non-citizen immigrants and their interaction with the Courts. In addition, the Committee's consideration of this wide-reaching issue also yielded the following questions, which it plans to explore in greater detail in the forthcoming term:

- What internal expertise on immigration does the Judiciary have?
- What staff expertise in immigration is available through partner agencies or the Bar?
- Is there required training for judges on immigration, collateral consequences, and other related topics? If not, what informational resources are widely available to judges?
- Apart from the issue of collateral consequences, what might/do Superior Court judges need to know about the workings of the immigration system and the meaning of immigration status as these factors relate to state court matters before them, for example, when a parent needs to request the Court's permission to take a child out of the country on an extended visit with family?

The Committee believes that judges and court staff should stay informed about immigration law and immigrant experiences so as to serve better the people who appear before the Court. The Committee believes that there is a continuing need for Superior Court judges to be provided with a baseline understanding of how the U.S. immigration system works not to be able to advise defendants before them but for their own knowledge base and in order to understand better the parties before them. The Committee believes that it could be beneficial to develop additional immigration-themed training for judges and court staff such as the basics of immigration law so that they have more useful working knowledge of the material realities that face non-citizens who appear in state courts. The Committee plans to explore this issue further and examine the range of relevant concerns in greater depth during the forthcoming term.

J. Veterans Assistance Project

Within the scope of its mandate, this Committee looks to ensure that stakeholders and constituencies who face particular access to justice issues or have particular service needs are having their needs met by the Court. The Committee has been very pleased to learn of the Court's ongoing proactive response under the leadership of Chief Justice Rabner to the needs of veterans through Criminal Practice's development of the Veterans Assistance Project. In brief, the key components of this collaborative, interbranch referral project are as follows:

The Veterans Assistance Project is a voluntary referral service. Its purpose is to refer veterans who come in contact with the court system and who may be in need of veteran's services to their Veterans Services Office. Services that may be available can include mental health counseling, addiction services, legal services, and housing. The Veterans Assistance Project strives to get services and support for veterans to improve the quality of life for the men, women, and families who have made sacrifices in the defense of the United States.¹⁷

While the Committee has not yet reviewed quantitative data and program outcomes, it believes based on qualitative anecdote that this is a worthwhile endeavor that should be sustained. The Committee looks forward to learning more about the project.

IV. Conclusion

During the 2013-2015 term, the Committee focused on fulfilling its mandate for the subject areas detailed in this chapter and on strengthening and improving current court procedures, case processing and criminal court policies. As the Committee continues its work on the long-term priorities discussed in this report, its members look forward to partnering with the Court in this important work throughout and beyond the remainder of the current committee term.

¹⁷ The description is taken from the "Veterans Assistance Project" information card published by the Criminal Practice Division.

Chapter II

SUBCOMMITTEE ON MINORITIES AND JUVENILE JUSTICE AND THE FAMILY

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I. Introduction and Mandate

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

Subcommittee Activities

During the 2013-2015 committee term, the Committee continued its focus on systemic disparities in justice outcomes for minority youth and the disproportional representation of racial/ethnic minorities throughout the juvenile justice continuum (FJ docket) as well as the overrepresentation of children and families of color in other Family Part docket types, specifically in abuse and neglect cases (FN docket), youth post-termination of parental rights (post-TPR) who are awaiting adoption (FC docket), and family crisis matters (FF docket). The Committee advanced its work on multi-docket youth and families and engaged in preliminary work on both non-JDAI diversionary program outcomes, specifically the Juvenile Conference Committees, and involuntary waivers of jurisdiction. The Committee also identified new and emerging areas of interest relevant to its mission and mandate.

List of Priority Recommendations

Addressing items carried forward from prior reports to the Court, the Committee continued work relating to several major areas of long-term interest:

- A.** Disproportionate Minority Contact in Juvenile Delinquency, Children in Court, and other Family Part Dockets (Task Force Recommendation 17, p.171, Recommendation 07:02.2, p. 22; Recommendation 09:02.1 through 09:02.12, p. 16 et seq.);
- B.** Systemic Disparities in Justice Outcomes for Minority Youth;
 - 1. Review of Statewide Data on Juvenile Justice Decision-Making Points
 - 2. Ongoing Juvenile Justice Systems Improvements and the Judiciary's Model JDAI
- C.** Minority Representation in Abuse and Neglect Cases;

- D. Minority Representation among Youth Post-Termination of Parental Rights;
- E. Minority Representation among Family Crisis Petitions;
- F. Multi-Docket Youth and Families: Intersecting Systems of Justice and Care;
- G. Juvenile and Family Drug Courts;
- H. Vicinage Visitations;
- I. Involuntary Waivers of Jurisdiction; and
- J. Ongoing Education and Training Opportunities for Judges, Managers, and Staff.

In addition, the Committee has identified several emerging areas of interest/concern including juvenile re-entry support services and juvenile expungements, juvenile sex offenders, juveniles in confinement with specialized treatment needs, immigrant youth including the undocumented, and LGBTQI¹⁸ youth.

Discussion of Priority Action Items and Related Recommendations

A. Minority Overrepresentation and Disproportionality in Juvenile Delinquency and Children-in-Court Dockets

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

The Committee recommends that as part of the Judiciary’s statewide action plan to examine disproportional overrepresentation of children of color in abuse and neglect cases the Judiciary engage in ongoing regular review and analysis of available data at both the state and vicinage levels to monitor for the disproportional overrepresentation

¹⁸ LGBTQI, depending on context, generally is used as an adjective and refers to lesbian, gay, bisexual, transgender, queer/questioning, and intersex. While these identities are not synonymous or parallel, when it comes to their historic marginalization and the social stigmas around differences in sexual orientation and gender identity, these groups are often placed together and frequently may come together in coalition to address shared concerns, challenges, and issues. It is in that spirit that the Committee uses the acronym as a reference to these groups but notes that they, in fact, are diverse and in no way monolithic.

of children of color in abuse and neglect cases and where appropriate that plans for addressing disproportional minority/non-minority representation in the FN and related docket types such as FG, FC, and FF as an evaluation element in the Family Division team vicinage visitation reports. The Committee also recommends that the Court develop a methodology for assessing minority overrepresentation comparable to the relative rate index used in measuring disproportionate minority contact along the juvenile justice continuum. The Committee is prepared to assist in the development of these measurement tools. (Recommendation 09:02.4)

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

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

In addressing these recommendations, the Committee continued its ongoing work on minority overrepresentation in Family Part matters by examining data regarding the juvenile (FJ & FF) and children-in-court (FN & FC) dockets and determining whether there is overrepresentation of children and families of color.

In its 2009-2011 report, the Committee discussed in detail the principles and framework of the New Jersey Judiciary's Family Division Disproportionate Minority Contact Action Plan. As reported, the plan entitled *The New Jersey Judiciary's Action Plan to Address Disproportionate Minority Contact in Juvenile Delinquency and Children In Court Dockets and the Evaluation of Minority Representation in Other Family Part Docket Types* was developed by the Assistant Director of Trial Court Services for Family Practice and the Manager of the Minority Concerns Unit and was approved for adoption on December 2, 2008 by Acting Administrative Director Grant.

The Committee encourages the Court to continue to engage the principles, framework, and substance set forth in the statewide action plan. As this report highlights the related efforts and

relevant initiatives undertaken, the Committee wishes to note that there are two key features of the Judiciary's action plan. As noted in the 2009-2011 biennial report, the Committee believes that internal leadership and external partnerships are the two guiding principles that drive the work designed to ensure equal and fair access to justice for youth at-risk and for their families.

Regarding the long-term focus of the Judiciary's Disproportionate Minority Contact Action Plan, the unique role of the Court was expressed in the SCCMC's 2009-2011 biennial report:

Disproportionate minority contact, the overrepresentation of racial/ethnic minorities in the juvenile justice and child welfare systems, and systemic disparities in outcomes for youth and families of color – three distinct but related areas of interest and concern – remain a priority on the national agenda. Although New Jersey is leading the way in statewide approaches addressing systemic juvenile justice systems improvement through JDAI,¹⁹ there is no single solution as to how these multifaceted, intersecting and persistent challenges should be addressed. Multiple approaches will be required and while there is no road map to guide the Judiciary, the Court is constructing its own road map by turning its attention to a more focused internal examination of the intersectional relationships between the various docket types and DMC and combining evidence-based research with sustaining a strong collaboration with other external system partners.

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

¹⁹ JDAI is the statewide interbranch/interagency collaborative Juvenile Detention Alternatives Initiative. This effort is discussed in detail later in this chapter.

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

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

As work on juvenile justice systems improvements continue, the Judiciary must address in partnership with other related agencies the disproportionate minority contact that takes place outside the administrative scope of the Court while also remaining focused on reducing, eradicating, and preventing systemic disparities in juvenile justice outcomes for youth of color.

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

The Committee monitors systemic disparities in justice outcomes for youth of color²⁰ by reviewing data on disproportionate minority juvenile contact and exploring relevant factors

²⁰ In the common discourse and national discussions, “DMC” typically refers to “disproportionate minority contact” and sometimes to “disproportionate minority confinement” as the most restrictive type of contact. However, the Committee recognizes that these terms do not adequately capture the full spectrum and nuances of the problem. Throughout the course of its discussion, the Committee refers to “systemic disparities in justice outcomes,” disproportionate minority contact (or confinement),” and “[disproportionate] minority overrepresentation” as related but distinct concepts.

relating to the overrepresentation of youth of color in the juvenile justice system. This work continues to find its roots in the work of the Supreme Court Task Force on Minority Concerns (1992)²¹:

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

As a reminder to readers, the Committee offers a brief summary of its approach and methodology as presented in the 2009-2011 biennial report. The Committee’s ongoing approach to this tapestry of interrelated issues continues to be based upon the Task Force’s recommendation that “[the] SCCMC ... develop partnerships to educate themselves about the juvenile justice system...” (Recommendation 18, 1992, pp. 174-176) and follows up on the recommendation that “a joint research inquiry be conducted on possible racial/ethnic disparities in juvenile justice outcomes” (Recommendation 26, 1992, pp. 196-197).

Task Force Recommendation 17, the original basis for the Committee’s work on this issue, focuses on post-disposition secure confinement. The Committee recognizes that decision-making points on the juvenile justice decision-making continuum cannot be isolated from each other. While secure confinement as a disposition remains the priority focus, pre-dispositional confinement and outcomes at other decision-making points that contribute to disproportionate minority contact and systemic disparities in justice outcomes for minority youth must remain part of any analysis. (*SCCMC Biennial Report 2009-2011*)

²¹ See also Report of the Committee on Minority Concerns (Summer 1984), pp. 9-13, and the Interim Report of the Supreme Court Task Force on Minority Concerns (August 1989), pp. 77-90.

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

The Committee examined and analyzed race/ethnicity data provided by the Juvenile Justice Commission for eight of the nine decision-making points²² along the juvenile justice continuum for Calendar Year 2009.²³ *Table 2-1(a): Youth Race/Ethnicity Profile, Juvenile Justice Decision-Making Continuum, Calendar Year 2009, Statewide* presents these data. As part of its review, the Committee examined these raw data, which are presented in *Table 2-1(a)*, considered the proportional representation of each race/ethnicity category, and evaluated the *Relative Rate Index (RRI)* for each of the decision-making points along the juvenile justice continuum as part of its analysis and a basis for its recommendations.

²² Transfers of selected juvenile matters from the Family Part to the (adult) Criminal Part are the result of a process called “involuntary transfer of jurisdictions.” Previously race/ethnicity data on this decision-making point had not been available due to a feature in the Judiciary’s data management system. However, as a result of grant funds, the Administrative Office of the Courts Family Practice Division engaged in the process of expanding the data management system to enable tracking of race/ethnicity and has developed a standard report that makes these related data more readily available and more easily accessible.

²³ The Committee expresses its sincere appreciation to the New Jersey Juvenile Justice Commission for providing the statewide and detailed county data on the juvenile justice continuum included in this report. The county tables are not presented in this report but are available upon request.

Table 2-1(a). Youth Race/Ethnicity Profile, Juvenile Justice Decision-Making Continuum, Calendar Year 2009, Statewide

	White		Black/African American		Hispanic/ Latino		Asian		Native Hawaiian/ other Pacific Islanders		American Indian/ Alaska Native		Other/ Mixed		All Minorities		Total Youth
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
1. Population at risk (age 10 through 17) ^{24a}	535,799	58.1	145,823	15.8	168,136	18.2	70,406	7.6	0	0	1,880	0.2	--	--	386,245	41.9	922,044
2. Juvenile Arrests	26,809	46.6	21,209	36.9	8,851	15.4	545	0.9	0	0	65	0.1	0	0.0	30,670	53.4	57,479
3. Refer to Juvenile Court	12,078	43.1	11,041	39.4	4,181	14.9	434	1.6	0	0	20	<0.1	244	0.9	15,920	56.9	27,998
4. Cases Diverted	6,035	49.9	3,948	32.6	1,777	14.7	225	1.9	0	0	12	<0.1	102	0.9	6,064	50.1	12,099
5. Cases Involving Secure Detention	1,025	16.0	4,176	65.0	1,140	17.8	0	0.0	0	0	0	0.0	80	1.2	5,396	84.0	6,421
6. Cases Resulting in Delinquent Findings	4,838	38.0	5,572	43.8	2,011	15.8	188	1.5	0	0	9	<0.1	106	0.9	7,886	62.0	12,724
7. Cases resulting in Probation Placement	2,164	34.4	3,001	47.8	994	15.8	71	1.1	0	0	5	<0.1	57	0.9	4,128	65.7	6,282
8. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	73	12.6	406	69.9	99	17.0	0	0.0	0	0	0	0.0	3	0.5	508	87.4	581
9. Cases Transferred to Adult Court ²⁵	N/A																

Data Source: Juvenile Justice Commission⁶

²⁴ Calendar year 2006 figures for each of the numbered steps (juvenile justice continuum decision-making points) reported by the Juvenile Justice Commission from the following sources -- 1: 2007 Juvenile Population Data at <http://www.ojdp.njrs.gov/ojstatbb/ezapop/>; 2: UCR; 3: NJ AOC "Juvenile New Complaints"; 4: NJ AOC "Juvenile Diversions"; 5: NJ JJC Compliance Monitoring Unit; 6: NJ AOC "Juvenile Adjudications"; 7: NJ AOC "Probation Dispositions"; 8: NJ JJC Commitments; 9: Data Not Available.

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

²⁵ Transfers of selected juvenile matters from the Family Part to the (adult) Criminal Part are the result of a process called "involuntary transfer of jurisdictions." Previously race/ethnicity data on this decision-making point had not been available due to a feature in the Judiciary's data management system. However, as a result of grant funds, the Administrative Office of the Courts Family Practice Division engaged in the process of expanding the data management system to enable tracking of race/ethnicity and has developed a standard report that makes these related data more readily available and more easily accessible. These data are not considered a reportable point on the continuum but are discussed in greater detail later in this chapter.

A census of the youth population ages 10 through 17 is the first point of reference for evaluating race/ethnicity data at each of the decision-making points along the juvenile justice continuum. The data in *Table 2-1(a): Race/Ethnicity Profile, Juvenile Justice Decision-Making Points, Calendar Year 2009 (Statewide)* illustrate that the demographic breakdown by race/ethnicity within the total youth population statewide (922,044) ages 10 through 17 is 58.1% White, 15.8% Black/African American, 18.2% Hispanic/Latino, 7.6% Asian, and 0.2% American Indian/Alaska Native.²⁶

The statewide population data indicate, in contrast to the data reported in the 2009-2011 report, a 3.2% decrease (going from 952,969 to 922,044) representing a loss of 30,925 youth in the total number of youth ages 10 to 17 in 2009. Analysis of each of the discrete race/ethnic categories shows that American Indian/Alaskan Native had the most notable decrease followed by White and Black youth. The Asian and Hispanic youth populations at risk remained relatively stable with slight increases.

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

²⁶ The combined raw number for each of the race/ethnic categories sums to more than the total youth population combined because of the impact of the change in federal race/ethnic categories. Beginning with the U.S. Census in 2000, respondents have the ability to elect Hispanic/Latino as an ethnicity in addition to another category such as White or African American/Black as a race. This typically results in a duplicate count of persons who elect Hispanic and a race.

The composite statewide population snapshot for juveniles confined to secure juvenile correctional facilities is 12.6% White and 87.4% minority (69.9% Black/African American, 17.0% Hispanic/Latino, and 0.5% Other). The demographic distribution at the most restrictive dispositional outcome is striking when the proportional representation of White youth is contrasted to the proportional representation of minority youth at each stage and compared to the youth population as a whole. A review of these data across each row (comparatively across one specific decision-making point) and within each demographic group (within a column at each decision-making step) illuminates a number of observations that warrant comment and discussion:

- Hispanic/Latino youth generally-speaking are equitably represented throughout the juvenile justice decision-making continuum. Hispanic/Latino youth comprise 18.2% of the at-risk youth population, and throughout the juvenile justice decision-making continuum comprise between 15.4% and 17.8% with representation at most of the decision-making points falling below their representation in the general youth population, an improvement over the data reported in the Committee's 2009-2011 biennial report. While there is slight underrepresentation of Hispanic/Latino youth in terms of cases diverted (14.7%), a dynamic discussed later in this chapter, Hispanic/Latino youth are arguably fairly represented in the juvenile justice system in comparison to their representation in the general at-risk population.
- White youth are consistently underrepresented throughout the juvenile justice decision-making continuum. White youth comprise 58.1% of the at-risk youth population and throughout the juvenile justice decision-making continuum comprise between 12.6% and 49.9% with representation at most of the decision-making points which is below their representation in the general youth population. The highest representation of White youth is again at #4 - Cases Diverted and the two lowest representations of White youth are at #5 - Cases Involving Secure Detention and #8 - Cases Resulting in Confinement in Secure Juvenile Correctional Facilities. This is a trend that continues. Overall White youth remain underrepresented in the juvenile justice system in comparison to their representation in the general population.
- Black/African American youth are consistently and disproportionately overrepresented throughout the juvenile justice decision-making continuum. Black youth comprise 15.8% of the at-risk youth population and throughout the juvenile justice decision-making continuum comprise between 32.6% and 69.9% with representation at most of the decision-

making points significantly above their representation in the general youth population. The highest representations of Black/African American youth are at #8 - Cases Resulting in Confinement in Secure Juvenile Correctional Facilities and at #5 - Cases Involving Secure Detention and the lowest representation of Black/African American youth is at #4 - Cases Diverted. Black/African American youth overall are disproportionately overrepresented in the juvenile justice system in comparison to their representation in the general population at the two most restrictive outcome points and disproportionately underrepresented at the least restrictive outcome point, #4 - Cases Diverted. This pattern also continues to occur from one report cycle to another.

- Asian youth are consistently and disproportionately underrepresented throughout the juvenile justice decision-making continuum. Asian youth comprise 7.6% of the at-risk youth population, and throughout the juvenile justice decision-making continuum comprise between 0% and 1.9% with representation at most of the decision-making points being below their representation in the general youth population. The highest representation of Asian youth is at #4 - Cases Diverted and the two lowest representations of Asian youth are at #5 - Cases Involving Secure Detention and #8 - Cases Resulting in Confinement in Secure Juvenile Correctional Facilities where there are none. Asian youth overall are statistically underrepresented in the juvenile justice system in comparison to their representation in the general population.

Recommendation 15:02.1

In light of the fact that no Asian youth were sent to secure detention or secure confinement and White youth are notably underrepresented at the two most restrictive decision-making points, the Committee modifies Recommendation 11:02.1 and recommends that the Judiciary engage in a direct study of the factors that contribute to the identified general patterns of less restrictive outcomes for White and Asian youth and more restrictive outcomes for Black/African American youth. Possible approaches to such a study could include but are not limited to an examination of family case histories or a study to identify the factors, quantitative and/or qualitative, that contribute to less restrictive/more restrictive outcomes.

Comparative data for calendar years 2004, 2006, and 2008 mirror the general trend observed in the 2009 demographic breakdown (by race/ethnicity) within the total youth population statewide compared to the demographic breakdown of youth confined post-adjudication to secure juvenile correctional facilities. The proportional representations by race/ethnicity gradually and

notably shift with increased percentages of youth of color and decreased percentages of White youth appearing at points leading to more restrictive outcomes (e.g., secure detention or secure confinement). Interestingly the endpoint demographic data – *cases resulting in confinement in secure juvenile correctional facilities* – for calendar year 2009 are noteworthy as there is a slight shift in pattern from the prior reporting cycle: White youth increased 3 percentage points while the aggregate youth of color populations in secure confinement decreased 3 percentage points. Notwithstanding these shifts, significant disproportionalities remain.

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

	White		Black/African American		Hispanic/ Latino		Asian		Native Hawaiian/ other Pacific Islanders		American Indian/ Alaska Native		Other/ Mixed		All Minorities		Total Youth
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
1. Population at risk (age 10 through 17) ^{27a}	562,611	59.0	153,736	16.1	165,115	17.3	69,485	7.3	0	0	2,022	2.1	--	--			952,969
2. Juvenile Arrests	29,944	48.5	21,864	35.4	9,296	15.1	595	1.0	0	0	95	0.2	0	0.0	31,810	51.5	61,754
3. Refer to Juvenile Court	13,389	43.2	12,140	39.1	4,478	14.4	479	1.5	0	0	33	0.1	507	1.6	17,637	56.8	31,026
4. Cases Diverted	6,605	49.4	4,383	32.8	1,849	13.8	260	1.9	0	0	13	0.1	261	2.0	6,766	50.6	13,371
5. Cases Involving Secure Detention	1,167	15.2	4,879	63.6	1,526	19.9	0	0.0	0	0	0	0.0	95	1.2	6,500	84.8	7,667
6. Cases Resulting in Delinquent Findings	5,750	39.0	6,337	43.0	2,226	15.1	197	1.3	0	0	22	0.2	199	1.4	8,981	61.0	14,731
7. Cases resulting in Probation Placement	2,464	35.2	3,269	46.7	1,101	15.7	80	1.1	0	0	9	0.1	78	1.1	4,537	64.8	7,001
8. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	64	9.6	478	72.0	117	17.6	0	0.0	0	0	0	0.0	5	0.8	600	90.4	664
9. Cases Transferred to Adult Court ²⁸	N/A																

Data Source: Juvenile Justice Commission

²⁷ Calendar year 2008 figures for each of the numbered steps (juvenile justice continuum decision-making points) provided by 1: 2007 Juvenile Population Data at <http://www.ojdp.ncjrs.gov/ojstatbb/ezapop/>; 2: UCR; 3: NJ AOC "Juvenile New Complaints"; 4: NJ AOC "Juvenile Diversions"; 5: NJ JJC Compliance Monitoring Unit; 6: NJ AOC "Juvenile Adjudications"; 7: NJ AOC "Probation Dispositions"; 8: NJ JJC Commitments; 9: Data Not Available (see footnote 17).

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

²⁸ Transfers of selected juvenile matters from the Family Part to the (adult) Criminal Part are the result of a process called “involuntary transfer of jurisdictions.” Previously race/ethnicity data on this decision-making point had not been available due to a feature in the Judiciary’s data management system. However, as a result of grant funds, the Administrative Office of the Courts Family Practice Division engaged in the process of expanding the data management system to enable tracking of race/ethnicity and has developed a standard report that makes these related data more readily available and more easily accessible. These data are not considered a reportable point on the continuum but are discussed in greater detail later in this chapter.

A census of the youth population ages 10 through 17 is the first point of reference for evaluating race/ethnicity data at each of the decision-making points along the juvenile justice continuum. The data in *Table 2-1(b): Race/Ethnicity Profile, Juvenile Justice Decision-Making Points, Calendar Year 2008 (Statewide)* show that the demographic breakdown by race/ethnicity within the total youth population statewide (952,969) ages 10 through 17 is 59.0% White, 16.1% Black/African American, 17.3% Hispanic/Latino, 7.3% Asian, and 2.1% American Indian/Alaska Native.²⁹ The statewide population data indicate, in contrast to the data reported in the 2007-2009 report, a 1.8% decrease (going from 970,130 to 952,969) which represents a loss of 17,161 youth in the total number of youth at stage one in 2008.

An analysis within each discrete race/ethnic category reveals the following: American Indian/Alaskan Native (-52.0%) showed the most dramatic decline followed by White (-21.8%) and Black (-12.3%) youth. The Asian youth population at risk decreased by only 2.2%, while Hispanic youth (+0.06%) experienced a slight increase.

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

²⁹ The combined raw number for each of the race/ethnic categories sums to more than the total youth population combined because of the impact of the change in federal race/ethnic categories. Beginning with the U.S. Census in 2000, respondents have the ability to elect Hispanic/Latino as an ethnicity in addition to another category such as White or African American/Black as a race. This typically results in a duplicate count of persons who elect Hispanic and a race.

At this final decision-making point, the composite statewide population snapshot for juveniles confined to secure juvenile correctional facilities is 9.6% White, 90.4% minority (72.0% Black/African American, 17.6% Hispanic/Latino, and 0.7% Other). The demographic distribution at the most restrictive dispositional outcome for a juvenile delinquency charge is striking and troubling when the proportional representation of White youth is contrasted to the proportional representation of minority youth. A review of these data across each row (comparatively across one specific decision-making point) and within each demographic group (within a column at each decision-making step) illuminates a number of observations:

- Hispanic/Latino youth are basically equitably represented throughout the juvenile justice decision-making continuum. Hispanic/Latino youth comprise 17.3% of the at-risk youth population and throughout the juvenile justice decision-making continuum comprise between 13.8% and 19.9% with representation at most of the decision-making points falling below their representation in the general youth population. While there is slight underrepresentation of Hispanic/Latino youth in terms of cases diverted (13.8%) and slight overrepresentation in terms of cases resulting in confinement in secure juvenile correctional facilities (19.9%), Hispanic/Latino youth are arguably fairly represented in the juvenile justice system in comparison to their representation in the general at-risk population.
- White youth are consistently underrepresented throughout the juvenile justice decision-making continuum. White youth comprise 59% of the at-risk youth population and throughout the juvenile justice decision-making continuum comprise between 9.6% and 49.4% with representation at most of the decision-making points being below their representation in the general youth population. The highest representation of White youth is at #4 - Cases Diverted and the two lowest representations of White youth are at #5 - Cases Involving Secure Detention and #8 - Cases Resulting in Confinement in Secure Juvenile Correctional Facilities. White youth overall are arguably underrepresented in the juvenile justice system in comparison to their representation in the general population.
- Black/African American youth are consistently and disproportionately overrepresented throughout the juvenile justice decision-making continuum. Black youth comprise 16.1% of the at-risk youth population and throughout the juvenile justice decision-making continuum comprise between 32.8% and 72% with representation at most of the decision-making points significantly above their representation in the general youth

population. The highest representations of Black/African American youth are at #8 - Cases Resulting in Confinement in Secure Juvenile Correctional Facilities and at #5 - Cases Involving Secure Detention and the lowest representation of Black/African American youth is at #4 - Cases Diverted. Black/African American youth overall are disproportionately overrepresented in the juvenile justice system in comparison to their representation in the general population at the two most restrictive outcome points and less consistently at #4 - Cases Diverted.

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

Recognizing that the examination of the data -- reviewing the raw numbers, calculating the percentages and comparing the proportional representation within discrete race/ethnic categories and between various race/ethnic categories -- is the first in a series of steps, the Committee also chose to examine calendar year 2009 data and to calculate the national standard of measure, the relative rate index.³⁰ **The continued disproportional representation of youth of color continues to remain an issue that warrants examination and remediation particularly when one observes at the local level evidence of more disparate disproportionality. While the Committee is not suggesting that representation within detention or secure confinement should match the proportional representation within the general youth population, the**

³⁰ The U.S. Department of Justice Office of Juvenile Justice and Delinquency Prevention defines the relative rate index: "The relative rate index (RRI) method involves comparing the relative volume (rate) of activity at each major stage of the juvenile justice system for minority youth with the volume of activity for White (majority) youth. The method of comparison provides a single index number which tells the extent to which the volume of activity for minority youth differs from that of White youth. The RRI merely serves as a red flag. It is used to identify points on the juvenile justice continuum that are in need of further investigation in regards to disproportionality. However, taken alone, the RRI does not tell if there is a problem that needs to be addressed with intervention or what intervention, if any, to use" (Provided by the Juvenile Justice Commission, January 9, 2009).

marked disparities remain a source of great concern warranting ongoing in-depth exploration and close evaluation.

After reviewing the 2009 data and revisiting of the 2008 data, the Committee examined the disproportionality at three specific decision-making points: #4 - cases diverted; #5 - cases involving secure detention (pre-adjudication); and #8 - cases resulting in confinement in secure juvenile correctional facilities (post-adjudication). The disproportionality and disparity in justice outcomes, as indicated both by the proportional representation and the calculation and application of the Relative Rate Index (RRI), continues to be markedly distinguishable at these three specific decision-making points. Given the active role that the Court plays at these three decision points, the Court has an opportunity to exercise proactive leadership and to develop a greater understanding of the factors contributing to these outcomes.

As part of a statewide review, the Judiciary is conducting internal reviews of outcomes in the screening of juvenile delinquency cases. The Statewide Council on Juvenile Justice Systems Improvement has been and continues to look at data and the factors contributing to outcomes at the three problematic decision-making points. Close monitoring and in-depth examination remain essential to the ongoing work on this issue.

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

a. Data Review, Findings and Recommendations

New Jersey continues to make laudable improvements to its juvenile justice system through the collaborative partnerships created through the implementation and institutionalization of JDAI that can be replicated across the country.³¹ The statewide Council on Juvenile Justice Systems

³¹ The Statewide Council on Juvenile Justice Systems Improvement at the time of the above-referenced annual report was co-chaired by the Honorable F. Lee Forrester, J.S.C., and Dr. Jennifer LeBaron of the Juvenile Justice Commission. Judge Forrester previously served as a member of this Committee and Subcommittee, and the Juvenile Justice Commission is currently represented on the Committee by Mr. Edwin Lee, JJC Director of Parole and Transitional Services.

Improvement and its county-level counterparts, which grew out of the original JDAI steering committee structure, remain critical elements in the ongoing work of continuous juvenile justice systems improvements. With its focus on juvenile justice systems improvement broadly, the Council not only guides and directs the ongoing work of JDAI but also engages in promoting juvenile justice systems improvement.

Through JDAI, New Jersey is highly successful in reducing the number of youth in detention and is the only state designated as a national model for statewide implementation. The 2012 JDAI annual report³² highlights several significant overall successes:

- Comparing the year prior to JDAI in each site to the current year, across all fifteen sites average daily population has decreased by 58.0%. On any given day, there were 472 fewer youth in secure detention with youth of color accounting for 90.2% of this decrease.
- Comparing the year prior to JDAI in each site to 2012, collectively more than six thousand five hundred (6,557) fewer youth were admitted to detention, a decrease of 64.3%.
- Since the implementation of JDAI, the number of youth admitted to detention for noncompliance with the rules of probation dropped 67.9%. [Y]outh admitted to detention for failing to appear in court decreased by 62.8%, and the number of youth admitted for other violations, rule non-compliance, and non-delinquency matters dropped by 30.3%.
- An average of 3.0% of youth in 2012 were discharged from a detention alternative program as the result of a new delinquency charge, a clear indicator that the JDAI public safety goals are being met. A review of Uniform Crime Report data indicates that in 2011 (the most recent year for which the Uniform Crime Report is available) juvenile arrests were down in all 15 sites as compared to each site's pre-JDAI year for a total reduction of 44.5% , ... another indication that JDAI public safety goals are being met.

³² The Committee encourages readers to review the informative report in its entirety as the limited discussion of selected outcomes in the context of this report cannot give readers a full appreciation of the JDAI and its many successful outcomes and operational principles. To access the full report online, please see <http://www.jdaihelpdesk.org/jersey/New%20Jersey%20JDAI%20Annual%20Data%20Report%202012.pdf>.

- The number of girls in detention on any given day has decreased by 74.6% across the fifteen sites combined.

The JDAI Annual Report (2012) notes, beyond the changes evidenced by the data, that the “the actual reforms implemented ... [which include] during the most recent annual reporting period alone more than 125 policy, practice, and programming changes [as well as] other substantive activities ... [resulted from the] furtherance of JDAI goals, spanning all eight JDAI core strategies and all New Jersey JDAI counties” (p. iv). The Committee recognizes the scope and depth of these changes and the ways in which this unique data-driven, outcomes-focused approach to systems improvements is continuing to yield an improved justice system for all stakeholders, clients, and the public-at-large.

In prior biennial reports, the Committee discussed the longitudinal data for the five original JDAI pilot sites/Phase I sites: Atlantic, Camden, Essex, Hudson, and Monmouth Counties. With the release of the 2012 JDAI Annual Report, the Juvenile Justice Commission continues to make available more extensive data for all fifteen sites as well as additional data views.

*Average Daily Juvenile Detention Population*³³

There is good news regarding average daily juvenile detention population: “On any given day in 2012, across the fifteen JDAI sites there were 472 fewer [youth] in secure detention centers than there were prior to JDAI implementation, a decrease of 58.0%.” (JDAI Annual Report 2012, p. 2). This area continues to show great success in realizing JDAI goals. Given the original overrepresentation of youth of color in secure detention, these successes have had a significant and measurable impact on youth of color.

³³ In prior SCCMC biennial reports, data regarding the *Average Daily Juvenile Detention Population* have been presented in Table 2-2. In the 2012 JDAI Annual Report these data are shown in Table 2.

***Average Daily Minority Juvenile Population³⁴
and Percent of Detention Admissions Comprised of Minority Youth³⁵***

There is mixed success reported as far as average daily minority juvenile population and percentage of admissions comprised of youth of color. “On any given day in 2012 across the fifteen JDAI sites³⁶ there were 425 fewer youth of color in detention than prior to JDAI implementation, a decrease of 57.7%” (JDAI Annual Report 2012, p. 19). **Despite the substantial drop in the number of minority youth in detention, disproportionality in average daily population (ADP) and admissions has not been reduced.** For example, for the sites collectively, since JDAI implementation “[t]he percentage of ADP comprised of youth of color has remained essentially flat [with a slight increase] of 0.7 percentage points. Similarly across sites the percentage of all admissions to detention comprised of minority youth is up 1.7 percentage points...” (JDAI Annual Report, p. 24).

Interestingly “[p]re-JDAI minority youth comprised 44.7% of the total youth population. In the most recent year for which data are available (2011) across sites minority youth comprised 48.9% of the total youth population. While overrepresentation remains evident in all 15 sites, for the sites as a collective the gap has decreased by 3.6 percentage points... [C]urrent figures vary across sites... [O]verrepresentation, i.e., the difference between the percentage of minority youth in the general population [versus in] detention, currently ranges from 11.9 percentage points in Ocean to 55.8 percentage points in Monmouth” (JDAI Annual Report, 2012, p. 24, and Table 31, p. 26).

³⁴ In prior SCCMC biennial reports, data regarding *Average Daily Minority Juvenile Population* have been presented in Table 2-3. In the 2012 JDAI Annual Report these data are shown in Table 29.

³⁵ In prior SCCMC biennial reports, data regarding *Percent of Detention Admissions Comprised of Minority Youth* have been presented Table 2-5. In the 2012 JDAI Annual Report these data are shown in Table 30.

³⁶ JDAI is now implemented in eighteen sites.

No meaningful discussion about admissions can take place without acknowledging the implementation of the standard use of the Risk Screening Tool (RST) across the fifteen sites. The Risk Screening Tool was designed to support the proper and appropriate use of detention which, according to N.J.A.C. 13:92-1.3, is “to provide secure custody for those juveniles who are deemed a threat to the physical safety of the community and/or whose confinement is necessary to insure their presence at the next court hearing.” The Risk Screening Tool, administered by the New Jersey Courts, has three primary purposes: 1) to ensure detention is used consistent with its purpose; 2) to promote equity and transparency in use of detention; and 3) to make use of the ancillary benefits such as the consistent use of structured decision-making and in the allocation of limited resources.

The Committee reviewed the Risk Screening Tool Operating Policies and Procedures document in place in Camden County. The Risk Screening Tool uses a scoring system to identify youth at intake who should clearly be sent to detention and those for whom a detention alternative is appropriate. There are procedures in place for limited overrides and other variables that need to be considered when assessing a youth for possible placement in detention.

It is clear to the Committee that the standardized statewide use of the Risk Screening Tool has had measurable success in contributing to the reduction in the number of youth in detention. The Committee encourages continued examination of the process and related data to address factors that contribute to disproportionality. As the JDAI model has proven, undertaking deep data review and analysis should prove informative and illuminative as it continues to be throughout the JDAI and juvenile justice systems improvement processes.

*Average Length of Stay in Detention, Minority vs. Non-Minority Youth*³⁷

Average length of stay in detention has been a persistent area of concern for the Committee. Recognizing the overall successes realized through JDAI, average length of stay has been an area with varied results, and in fact in some ways average length of stay has increased for minority youth and where it has occurred it has been measurably disproportionate. In the 2009-2011 report, the Committee noted:

An examination of data on *Average Length of Stay (LOS) in Detention* has shown that in each of the five original JDAI sites and the five sites combined JDAI has shown fluctuating success in reducing the average length of stay for both minority and non-minority youth. In 2009 the average length of stay for youth of color for the five sites combined was 33.5 days (approximately one month and 4 days) whereas the average length of stay for White youth was 18.2 days (approximately 2 weeks and 4 days). The average length of stay for minority youth overall has increased and the difference between the average length of stay for minority and White youth has almost doubled. On average, minority youth are staying in detention 15.3 days longer than White youth. These new data stand in marked contrast to the data reported in the 2007-2009 wherein the Committee noted that for the five sites combined the difference in average length of stay for minority youth is an additional 7.4 days, a difference of slightly over one full week on average.

The 2009 JDAI Annual Report offered these findings:

Unfortunately, like the overall length of stay trends . . . , early gains made in terms of reducing the gap between youth of color and white youth have been essentially lost. In 2003, in the original JDAI sites, minority youth remained in detention 16.6 days longer than white youth. While this gap had been reduced to 8.3 days in 2008, minority youth once again remained in detention more than two weeks longer than white youth (15.3 days) the following year.

In the phase 2 sites, the [average length of stay] gap between minority youth and white youth increased from 1.5 days in 2005 to 3.5 days in 2009. However, in 2009 there were three sites where the [average length of stay] gap between youth of color and white youth was close to zero: Atlantic (+2.4 days), Bergen (-1.9 days), and Burlington (+2.4 days) [while there were four sites where] youth of color remained in detention more than three

³⁷ In prior SCCMC biennial reports, data regarding *Average Length of Stay* have been presented Table 2-4. In the 2012 JDAI Annual Report these data are shown in Table 22.

weeks longer than white youth: Essex (+25.4 days), Monmouth (+25.2 days), Hudson (+24.7 days), and Mercer (+21.2 days).

The Committee has remained very concerned about the marked and significant gap in average length of stay for minority versus non-minority youth and the fact that the gap increased.

In 2011, the Committee offered the following recommendation to the Court:

Considering these data together with the decision-making points outcomes data discussed in an earlier section of this chapter and the data included in the 2009 JDAI Annual Report on average length of stay by departure type, the Committee recommends that the Judiciary explore the factors that contribute to departure from detention so that these factors can be considered in the context of reducing the disparities in average length of stay between minority and White youth. (Recommendation 11:02.2)

JDAI takes a very serious approach to exploring this phenomenon and unpacking the factors that may be contributing to it. The 2011 JDAI Annual Report noted the following:

[N]ine of the 15 sites have experienced an increase in one or more measures of length stay since JDAI implementation. Since JDAI implementation, averaging across sites, the mean length of stay in detention has increased by +3.0 days and the median by +1.5 days, while the percentage of youth remaining in detention for 60 days or more has increased by an average of 1.9 percentage points.

Importantly, though, the gap in length of stay [calculating across sites on average] between youth of color and white youth, while still apparent, has decreased since JDAI implementation. In the year prior to JDAI, averaging across sites the mean length of stay in detention for youth of color was 11.2 days longer than that for white youth; in 2011, this difference had been reduced to 8.4 days. In 2011, the median length of stay for youth of color was 3.8 days longer than that for white youth. (page iv)

In light of the significant achievements made by JDAI sites in terms of reducing unnecessary admissions to detention, an intentional focus on length of stay and related case processing issues, with an emphasis on further diagnosing and addressing potential disparities in this area, seems to be an area warranting further examination for the coming year. (JDAI, Annual Report, 2011, page iv)

The 2012 JDAI Annual Report offers similar findings:

Averaging across sites, mean length of stay (LOS) for minority youth in 2012 was 35.7 days, [that is] 9.9 days longer than that for White youth (25.8 days). A positive finding is that this gap has narrowed from 11.2 days pre-

JDAI. However the narrowing of the gap is the result of an increase in mean LOS for White youth and not a decrease in mean LOS for minority youth; in fact, mean LOS for minority youth also continues to rise. For example, averaging across sites, mean LOS for minority youth in 2012 had increased by 4.5 days (14.4%) since JDAI implementation, and mean LOS for White youth had increased by 5.8 days (29.0%). In 2012, average LOS for minority youth was longer than that for White youth in 12 sites, though this is a decrease from pre-JDAI where average LOS for minority youth was longer in all 15 sites. In 2012, the largest gap between minority youth and White youth was seen in Union, with minority youth remaining in detention an average of 35 days longer than White youth, and conversely in Passaic, White youth remained in detention an average of 43.7 days longer than minority youth. (JDAI Annual Report, 2012, p. 19)

The 2012 JDAI Annual Report presents in detail the results of in-depth review and analysis of data on various dimensions of detention departures and length of stay (LOS).³⁸ These data clearly are being examined and analyzed in meaningful ways.

The Committee concurs with the findings of the 2011 and 2012 JDAI annual reports and encourages the Court, in the context of its roles in JDAI and leading juvenile justice reforms statewide and within its own operations, to continue to engage in this critical examination.

b. Juvenile Justice Systems Improvement, Practical Outcomes, and Ongoing Programmatic Considerations

The SCCMC Subcommittee on Juvenile Justice and the Family received a very informative and promising status update presentation at its meeting on June 18, 2012. The presentation, which covered a wide range of subcommittee interest areas with a focus on JDAI, was delivered by the Hon. F. Lee Forrester, J.S.C., Dr. Jennifer LeBaron, and Mr. Harry Cassidy.³⁹ The information and resources from this presentation were shared with the 2013-2015 subcommittee membership.

³⁸ These views include but are not limited to overall length of stay, average length of stay by departure type, and nature of departures.

³⁹ Judge Forrester, a former member of the SCCMC and the Subcommittee on Juvenile Justice and the Family, at the time was co-chair with Dr. LeBaron of the Juvenile Justice Commission of the Statewide Council for Juvenile Justice Systems Improvement and Mr. Cassidy was the Assistant Director of Trial Court Services for Family Practice.

The attention that the Council on Juvenile Justice Systems Improvement and its county level counterparts give to data analysis remains essential to the ongoing successes of JDAI and the overall commitment to true systems improvement. The central tenet of this work has been that “any day in detention is too much if it’s not necessary” and the changes in policies and practices reflect this fundamental principle as well as the converse principle that if it is necessary then detention is appropriate.

This New Jersey model continues to reflect and embody the values that have long guided juvenile justice systems reform nationally. One of the outcomes of detention reform has been underused/unused detention centers that have had to be closed and small juvenile populations that have had to be housed in other counties through county-to-county agreements. The unoccupied former detention centers are now available to be repurposed by county governments or other organizations.

As more out-of-county placements in detention occur, the Subcommittee recommends evaluating whether contact or lack of contact with family support systems on a frequent versus reduced basis is having any impact on youth, e.g., on recidivism and length of stay.

c. JDAI and Minority Disproportionality

The Committee asserts that the critical issue of minority disproportionality and systemic disparities in juvenile justice outcomes for minority youth remains a critical focus for the long-term. As noted in its 2009-2011 report, “With the ‘reduction of racial disparities’ as one of the core strategies of the JDAI framework⁴⁰, JDAI continues to offer promise in the ongoing efforts to address disproportionate minority contact (DMC). However, the current data demonstrate that the number of youth of color in detention is decreasing while minority disproportionality is actually

⁴⁰ Annie E. Casey Foundation. “Juvenile Detention Alternatives Initiative: Core Strategies,” Pathways to Detention Reform #8. <http://www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/CoreStrategies.aspx>

increasing. [As] the 2009 JDAI Annual Report states: A core principle of JDAI is recognizing that no matter how well the current system is operating there is always room for improvement.”

The Committee continues to concur that:

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

One of the key efforts the Judiciary has undertaken in embracing this core strategy was to partner with the W. Haywood Burns Institute to work with three of the original JDAI sites to address specifically disparities in outcomes for minority youth. The pilot sites for the Burns Institute partnership were Atlantic, Camden, and Monmouth.

The Subcommittee reviewed the March 24, 2011 report prepared by the Burns Institute which concluded the following:

All three jurisdictions have made significant progress in seeking to reduce racial and ethnic disparities on the local level. Although each site has its own unique characteristics, the jurisdictions each sought to address the problem with a refreshing energy. They continue to engage in often challenging discussions to enhance [the] juvenile justice system [locally]. Thus as the Burns Institute reduces its presence in these sites, the respective stakeholder groups are well-positioned to move the work forward.

The report of the Burns Institute went on to delineate some of the key focus areas that the three local stakeholder groups planned to address in 2011:

- continue meeting with community based organizations to discuss JDAI, the racial and ethnic disparities work, and community needs from the system perspective;

- hold a community event to help improve communication between [residents] from targeted communities and the county’s juvenile justice stakeholders;
- work with Probation to identify strategies to more effectively engage community representatives to help prevent youth from violating their probation conditions; continue to regularly review detention admissions to identify additional target populations on which to focus;
- collaborate with Probation to address further violations of Probation caused by program violations;
- develop strategies to continue to increase community involvement with youth who are on detention alternatives or Probation;
- continue to monitor impact of current strategies (e.g., caller notification program) to reduce racial disparities;
- work with prosecutors and public defenders to begin to develop an analysis of youth detained for CDS offenses;
- monitor the implementation of the Community Coaches intervention designed to reduce probation program violations;
- further integrate the racial and ethnic disparities work into other workgroups such as the alternatives to detention workgroup; and
- analyze ... and develop strategies to address length of stay issues [relating to target populations].

Each of the delineated focus points were specific to one of the three participating sites but are applicable to any and all sites working on addressing racial and ethnic disparities. One focus area was repeated for each of the three sites and clearly should remain a guiding point for the ongoing work of eliminating racial and ethnic disparities specifically and continuous juvenile justice systems reform broadly: **Continue to review on a routine periodic basis detention admissions to identify additional target populations on which to focus.**

Many of the important successes being realized have already been integrated into the Judiciary’s organizational culture and are being established as standard or best practices. The Committee recommends that the Judiciary continue its active leadership role in the collaborative

interagency systems improvement initiative and stay the course with its own internal work agenda. As stated in the 2009-2011 report, “the Committee is supportive of the Judiciary’s continuing active engagement of JDAI with respect to its core strategy of ‘reducing racial disparities in juvenile detention’ as well as its more expansive internal agenda including an examination of disparities in juvenile justice and child welfare outcomes.” As part of these ongoing efforts, the Committee reiterates its support for Recommendation 11:02.3:

Recommendation 11:02.3

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

d. Diversion Outcomes: Juvenile Conference Committees

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

The Judiciary continues to realize success in the reduction of the number of youth in detention overall through its involvement in the interagency Annie E. Casey Foundation-funded Juvenile Detention Alternatives Initiative (JDAI) and the broad juvenile justice systems improvement work that it is leading across the State. The New Jersey Judiciary also has longstanding disposition alternatives that existed prior to and outside of JDAI, such as Juvenile Conference Committees (JCCs) and Intake Services Conferences (ISCs), which are positioned to address the issue of disproportionate minority contact. In 2009, the Committee proposed studying the outcomes of the Juvenile Conference Committees to learn more about how these disposition alternatives function and to understand how they might contribute to the commitment to reduce

systemic disparities in justice outcomes for minority youth and address disproportionate minority contact.

In follow-up to the Court’s approval of Recommendation 09:02.2, the Committee has obtained data from the AOC’s Family Practice Division on youth served by the Juvenile Conference Committees. In addition to these data, the Committee has received a copy of the administrative manual and several related memoranda and reports including those dealing with the effort to include youth as members of the JCCs. The Committee looks forward to engaging in further review of these informative resources.

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

The Committee recommends that as part of the Judiciary’s statewide action plan to examine disproportional overrepresentation of children of color in abuse and neglect cases the Judiciary engage in ongoing regular review and analysis of available data at both the state and vicinage levels to monitor for the disproportional overrepresentation of children of color in abuse and neglect cases and where appropriate that plans for addressing disproportional minority/non-minority representation in the FN and related docket types such as FG, FC, and FF be included as an evaluation element in the Family Division team vicinage visitation reports. (Recommendation 09:02.4.a)

The Committee also recommends that the Court develop a methodology for assessing minority overrepresentation comparable to the relative rate index used in measuring disproportionate minority contact along the juvenile justice continuum. The Committee is prepared to assist in the development of these measurement tools. (Recommendation 09:02.4.b)

When discussing minority representation in abuse and neglect cases and related data for the FN docket, it is important to bear in mind the following:

The Center for the Study of Social Policy notes that “although African Americans constituted 15% of the child population of the United States in 1999, they accounted for 45% of the children in substitute care [while] in contrast, [White] children, who constituted 60% of the U.S. child population [in 1999,] accounted for 36% of the children in out-of-home care.”⁴¹

⁴¹ Derezotes, Dennette, Poertner, John, Testa, Mark F. (eds.) “Race Matters in Child Welfare: The Overrepresentation of African American Children in the System,” Race Matters Consortium. Washington, DC: Child Welfare League of America, 2005.

The Committee examined data available on children in active abuse and neglect cases (i.e., the FN docket) handled by the Superior Court. *Table 2-6* depicts snapshot data reviewed for calendar year 2013.

Table 2-6. New Jersey Judiciary: Children in Active Abuse and Neglect (FN) Cases, December 31, 2013

County	White		Black / African American		Hispanic / Latino		Asian / Pacific Islander		American Indian		Alaskan Native/ Eskimo		Other		Total Known		Unknown/ Not Indicated		Total	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Atlantic	344	40.4	314	36.9	47	5.5	4	0.5	0	0.0	4	0.5	24	2.8	737	86.5	115	13.5	852	100.0
Bergen	272	42.8	102	16.4	60	9.4	19	3.0	0	0.0	2	0.3	10	1.6	465	73.1	171	26.9	636	100.0
Burlington	290	46.0	209	33.1	9	1.4	5	0.8	0	0.0	0	0.0	12	1.9	525	83.2	106	16.8	631	100.0
Camden	381	33.4	458	40.1	84	7.4	7	0.6	0	0.0	2	0.2	16	1.4	948	83.1	193	16.9	1,141	100.0
Cape May	120	55.0	42	19.3	1	0.5	0	0.0	0	0.0	0	0.0	6	2.8	169	77.5	49	22.5	218	100.0
Cumberland	104	33.9	109	35.5	20	6.5	1	0.3	0	0.0	0	0.0	15	2.7	249	81.1	58	18.9	307	100.0
Essex	141	8.1	1,096	63.3	118	6.8	8	0.5	0	0.0	1	0.1	16	0.9	1380	79.7	351	20.3	1,731	100.0
Gloucester	250	53.1	123	26.1	3	0.6	2	0.4	0	0.0	0	0.0	9	1.9	387	82.2	84	17.8	471	100.0
Hudson	176	19.1	358	38.8	186	20.2	7	0.8	0	0.0	4	0.4	13	1.4	744	80.7	178	19.3	922	100.0
Hunterdon	48	65.8	16	21.9	5	6.8	0	0.0	0	0.0	0	0.0	1	1.4	70	95.9	3	4.1	73	100.0
Mercer	98	19.5	291	57.9	64	12.7	3	0.6	0	0.0	2	0.3	5	1.0	43	92.0	40	8.0	503	100.0
Middlesex	133	21.0	154	24.4	134	21.2	8	1.3	0	0.0	0	0.0	17	2.7	446	70.6	186	29.4	632	100.0
Monmouth	292	42.0	209	30.1	21	3.0	0	0.0	0	0.0	1	0.1	18	2.6	541	77.8	154	22.2	695	100.0
Morris	128	54.7	38	16.2	15	6.4	3	1.3	0	0.0	0	0.0	3	1.3	187	79.9	47	20.1	234	100.0
Ocean	318	56.9	47	8.4	24	4.3	3	0.5	0	0.0	1	0.1	18	3.2	411	73.5	148	26.5	559	100.0
Passaic	83	20.0	172	41.5	97	23.4	0	0.0	1	0.2	0	0.0	9	2.2	362	87.4	52	12.6	414	100.0
Salem	69	48.3	55	38.5	3	2.1	0	0.0	0	0.0	0	0.0	2	1.4	129	90.2	14	9.8	143	100.0
Somerset	49	22.9	52	24.3	17	7.9	2	0.9	0	0.0	0	0.0	8	3.7	128	59.8	86	40.2	214	100.0
Sussex	129	84.9	1	0.7	2	1.3	0	0.0	0	0.0	0	0.0	1	0.7	133	87.5	19	12.5	152	100.0
Union	116	23.0	269	53.4	73	14.5	0	0.0	0	0.0	0	0.0	5	1.0	463	91.9	41	8.1	504	100.0
Warren	135	71.1	15	7.9	6	3.2	2	1.1	0	0.0	0	0.0	2	1.1	160	84.2	30	15.8	190	100.0
TOTAL	3,676	32.8	4,130	36.8	989	8.8	74	0.7	1	<0.1	17	0.1	210	1.9	9,097	81.0	2,125	19.0	11,222	100.0

Data Source: AOC Family Division, Report LOG1085B, 11/05/2014

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

In follow up to Recommendation 09:02.3, the Committee notes the significant improvements that have been made by the executive branch child welfare agency, the New Jersey Department of Children and Families, regarding the collection and availability of race/ethnicity data for children involved in the child welfare system and in children-in-court cases before the New Jersey Courts. The increased availability of accurate data on race/ethnicity is a valuable tool in fulfilling the Committee's monitoring and research mandates.⁴²

As *Table 2-6 New Jersey Judiciary Pending Abuse and Neglect Cases (FN)* depicts, race/ethnicity data were available for 81.0% (9,097) of the children who as of December 31, 2013 were the subjects of the pending abuse and neglect cases currently before the Court (11,222).⁴³ While Table 2-6 depicts the proportional representation of children by race/ethnicity within each county including both reported and unreported, for purposes of this analysis, the focus will be limited to the proportional representation of the children with active FN cases (81.0%) for whom race/ethnicity has been reported. With 9,097 children in abuse and neglect cases for whom race/ethnicity information is available the data provide the following snapshot: 32.8% (3,676) are

⁴² The Committee notes that this observation about improvements in the availability of race/ethnicity data for court-involved youth under the care of the New Jersey child welfare system also applies to Recommendations 09:02.6 and 09:02.12.

⁴³ The Committee notes that a direct comparison of data cannot be made between the FN docket data reported here and in the 2009-2011, which reflects children in active abuse and neglect cases, and the FN docket data reported in the 2007-2009 biennial report which reflected active abuse and neglect cases, not a census of the individual children involved.

identified as White; 36.8%⁴⁴ (4,130) are identified as Black/African American; 8.8% (989) are Hispanic/Latino; 0.7% (74) are Asian; percentages for American Indian and Alaskan Native/Eskimo are less than 0.1% (1) and 0.1% (17) respectively; and 1.9% (210) are categorized as Other.

In contrast to the 2010 data reported in the 2009-2011 biennial report, the number of children overall and the number of children and percent of children for whom race/ethnicity data are available have both increased. The number and percent of Black/African American children have increased while the number and percent of Hispanic/Latino children have decreased. There is no way at present to determine whether the increases regarding Black/African American children are actual or are a result of improved data collection as far as the increase in number and the increased number of cases overall in terms of the percentage.

With race/ethnicity data available for 81.0% of the children in abuse and neglect cases currently before the New Jersey Superior Court, the available data are once again sufficient to engender confidence that the observed overrepresentation is not due to biased sampling. While no findings can be proposed at this time about the extent or basis of the disproportionate overrepresentation of children of color in the universe of abuse and neglect cases, the initial indications of disproportionality within the pool of children for whom race/ethnicity data are reported⁴⁵ underscores the need to continue to monitor and analyze these data.

The literature on child abuse and neglect also confirms what is obvious: **Parents of color are not inherently worse at parenting than their White counterparts and are not more likely**

⁴⁴ The percentages in this paragraph refer to representation within the pool as a whole, that is including those for whom race/ethnicity is known and those for whom it is unknown.

⁴⁵ Although the Committee does not have sufficient information at this time to characterize fully the process by which these race/ethnicity data have been collected, the Committee can observe that even if all of the “unknowns” were in fact non-minority significant issues of overrepresentation would remain.

because of race/ethnicity to engage in abusive or neglectful parenting. To what then is this overrepresentation attributed? The Committee anticipates that additional examination will provide a beneficial opportunity to identify nuances in the child welfare system that will further illuminate this challenging issue and offer the Court insight on how best to proceed to address the observed disproportionality/overrepresentation of particular racial/ethnic minority groups within this docket type.

The Committee holds the view that its previous observations bear reaffirmation here:

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

The Committee recognizes, after several terms of reporting on the numbers, percentages, and related analyses, that a more in-depth analysis is required. For example, in the next term the Committee plans to request intersectional data, e.g., FN with FC, FN with FD, and most importantly FN with FJ. The Committee will also explore prior and current involvements with DCF whereas these docket types have been added to the Family Division's ongoing monitoring and action agenda.

D. Minority Representation among Youth Free for Adoption (Legal Orphans)

As the Committee has reported previously:

Another area that the Committee continues to monitor closely and with great interest is youth post-termination of parental rights. As has been noted, anecdotal evidence from multiple sources during previous terms suggests strongly that male children/youth of color are most frequently disproportionately overrepresented among youth available for adoption;

unfortunately many of these youth ultimately age out of the system before experiencing permanent placement with an adoptive family.⁴⁶

1. Demographic Data on Youth Post-Termination of Parental Rights (Legal Orphans)

The Committee examined data provided by the Administrative Office of the Courts on youth post-termination of parental rights in New Jersey as of December 2014. The data, reflected in Table 2-7, provides a breakdown on the census of “legal orphans” by county cross-tabulated with race/ethnicity.

Table 2-7 Statewide Census of Youth Post-Termination of Parental Rights, Legal Orphans with Active FC Cases shows that race/ethnicity data were available for 86.9% (1,081) of the current pool of legal orphans (1,244). The Committee’s discussion will be limited only to the youth for whom race/ethnicity data are available. Of the 848 legal orphans, 34.0% (423) are White; 44.5% (554) are identified as Black/African American; 7.1% (88) as Hispanic/Latino, 0.6% (7) as Asian; 0.0% (0) as American Indian; 0.0% as Alaska Native/Eskimo, and 0.7% (9) as Other for a combined total of 52.9% (658) children/youth of color.

The current data reveal some successes along with some ongoing challenges: Significant improvements have been made in the availability of race/ethnicity data for these children. The overall number of legal orphans has increased slightly from 1,214 in December 2010 to 1,244 in December 2014. The overall number of legal orphans has stayed relatively stable as have percentages and numbers for most race/ethnicity categories as reported in the 2009-2011, however, the updated data show that the number and percent for Hispanic/Latino youth has decreased.

⁴⁶ The Court and other state agencies involved in the child welfare system are guided by the federal *Adoption and Safe Families Act* (1997), also known as *ASFA*, in their work of finding/creating permanent homes for children in foster care. In the absence of family reunification as a desirable outcome, the goal is permanent placement through adoption. The intention of the *Adoption and Safe Families Act* through a variety of reporting and monitoring mechanisms is to facilitate the process of moving “legal orphans” into permanent placement, providing for permanency and stability within a specified period of time. The State of New Jersey advanced the federal *Adoption and Safe Families Act* by enacting legislation designed to create compliance with the federal requirements through the implementation of related procedures, protocols, and timelines.

Table 2-7. Statewide Census of Youth Post-Termination of Parental Rights, Legal Orphans with Active FC Cases – December 2014

County	White		Black / African American		Hispanic / Latino		Asian / Pacific Islander		American Indian		Alaskan Native/ Eskimo		Other		Total Known		Unknown/ Not Indicated		Total	
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%	#	%
Atlantic	24	44.4	26	48.1	0	0.0	0	0.0	0	0.0	0	0.0	1	1.0	51	94.4	3	0.6	54	100.0
Bergen	30	60.0	12	24.0	0	0.0	0	0.0	0	0.0	0	0.0	1	2.0	43	86.0	7	14.0	50	100.0
Burlington	27	48.2	19	34.0	0	0.0	3	5.4	0	0.0	0	0.0	0	0.0	49	87.5	7	12.5	56	100.0
Camden	46	32.2	69	48.3	11	7.7	0	0.0	0	0.0	0	0.0	0	0.0	126	88.1	17	11.9	143	100.0
Cape May	19	13.3	8	26.7	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	27	90.0	3	10.0	30	100.0
Cumberland	11	28.2	18	46.2	4	10.3	0	0.0	0	0.0	0	0.0	0	0.0	33	84.6	6	15.4	39	100.0
Essex	16	8.4	125	65.8	13	6.8	0	0.0	0	0.0	0	0.0	0	0.0	154	81.1	36	18.9	190	100.0
Gloucester	41	66.1	18	29.0	0	0.0	0	0.0	0	0.0	0	0.0	1	1.6	60	96.8	2	3.0	62	100.0
Hudson	3	75.0	1	25.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	4	100.0	0	0.0	4	100.0
Hunterdon	31	29.0	43	40.2	27	25.2	0	0.0	0	0.0	0	0.0	0	0.0	101	94.4	6	5.6	107	100.0
Mercer	13	14.0	67	72.0	7	7.5	3	3.2	0	0.0	0	0.0	0	0.0	90	96.8	3	3.2	93	100.0
Middlesex	25	38.5	13	31.6	8	12.3	0	0.0	0	0.0	0	0.0	0	0.0	46	70.8	19	29.2	65	100.0
Monmouth	19	50.0	14	36.9	0	0.0	1	2.6	0	0.0	0	0.0	0	0.0	34	89.5	4	10.5	38	100.0
Morris	27	54.0	14	28.0	2	4.0	0	0.0	0	0.0	0	0.0	2	4.0	45	90.0	5	10.0	50	100.0
Ocean	35	48.6	11	15.3	4	5.6	0	0.0	0	0.0	0	0.0	4	5.6	54	75.0	18	25.0	72	100.0
Passaic	9	14.5	25	40.3	7	11.3	0	0.0	0	0.0	0	0.0	0	0.0	41	66.1	21	33.9	62	100.0
Salem	11	36.7	19	61.3	1	3.2	0	0.0	0	0.0	0	0.0	0	0.0	31	100.0	0	0.0	31	100.0
Somerset	3	15.0	13	65.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	16	80.0	4	20.0	20	100.0
Sussex	9	81.8	2	18.2	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	11	100.0	0	0.0	11	100.0
Union	9	19.1	33	70.2	4	8.5	0	0.0	0	0.0	0	0.0	0	0.0	46	97.9	1	2.1	47	100.0
Warren	15	75.0	4	20.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	19	95.0	1	5.0	20	100.0
TOTAL	423	34.0	554	44.5	88	7.1	7	0.6	0	0.0	0	0.0	9	0.7	1,081	86.9	163	13.1	1,244	100.0

Data Source: AOC Family Division, Report 12/03/2014, s:\vine\legal_orphan_detail_adoption_main_2013.xls (December 3, 2014)

The availability of race/ethnicity data for 86.9% of the current pool of youth post-termination of parental rights in New Jersey is more than sufficient for the readership to be confident that the observed overrepresentation does not result from biased sampling. While no findings can be offered at this time from the available race/ethnicity data about the exact extent of or basis for the disproportionate overrepresentation of children of color in the universe of legal orphans, the initial indications of disproportionality within the pool of youth for whom race/ethnicity data are reported underscore the need to continue to monitor and examine these data.⁴⁷

2. Strengthening Court Policy

In its 2007-2009 report and again in its 2009-2011 report, the Supreme Court Committee on Minority Concerns noted:

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

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

⁴⁷ While the Committee does not have sufficient information at this time to characterize fully the process by which these race/ethnicity data have been collected, the Committee can observe that even if all of the “unknowns” were in fact non-minority significant issues of overrepresentation would remain.

The Court continues to take a proactive role within the scope of its authority in children-in-court cases: Administrative Directive #04-10, “Better Protection for Children-Improved Oversight of Abused and Neglected Children in Foster Care,” which was promulgated on March 9, 2010, adopts “policies approved by the Supreme Court with respect to Children in Court (CIC) cases.” This administrative directive memorialized the proactive role of the courts, providing oversight in Children in Court cases and refocusing the role and responsibilities of the Child Placement Review (CPR) boards.

Directive #04-13, “Child Placement Review (CPR) Program – Revised Standards,” was promulgated on June 24, 2013. This directive includes revised standards and a number of best practices. The promulgation memo, in part, notes:

The CPR standards were originally promulgated in 2004 to provide statewide program uniformity. The revisions reflected in [Directive #04-13] are intended to set out procedures consistent with Directive #04-10 ... and to clarify existing policies and best practices ... The revisions to the standards include technical changes, such as formatting and reorganization. The previous 16 standards have been restructured by consolidating common topics, and this [directive] now promulgates a total of 13 standards . The revised standards describe more clearly the composition of CPR boards, and the recruitment, training, and supervision of CPR board volunteers and incorporates the CPR manual.

The Committee is encouraged by the Judiciary’s ongoing efforts to improve delivery of services and case management in these areas. These directives are but two examples of how the system works to achieve these goals.

3. Programming and Resources: Aging Out Seminars

The SCCMC applauds the Court for its most recent efforts to give deliberate attention to minority representation among legal orphans and in particular youth aging out of the state child care system. In “More Good Than Harm: Legal Orphans and the New Jersey Post-Termination Project,” the author notes that “[i]n the U.S. foster care system, many children languish in the legal

and social limbo between termination of their parents’ rights and adoption or some other form of permanent living arrangement” (Floria, 2008).⁴⁸ This publication continues to provide the Committee with a foundation and understanding of the background on the legal orphans issue in New Jersey and the critically important role the Court plays not only in managing, overseeing and monitoring the case docket but also in fostering a climate that promotes permanency and stability for legal orphans and generates innovation at the vicinage level.

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

Directive #04-10 directs all vicinages, as part of their respective post-termination projects, to work collaboratively to offer “Aging Out Seminars” to provide youth who are facing aging out of the child welfare system with the informational resources and access to support services that will help to make their transition to independent adult living as successful as possible. The Committee has received and reviewed detailed information from the AOC’s Family Practice Division regarding the format and content of the “Aging Out Seminars” for calendar year 2013 and remains encouraged by the effort going into producing and providing these informational seminars.

During calendar year 2014, “Aging Out Resource Seminars” were held in 11 vicinages. These programs reached approximately 884 youth, and many included the youths’ DCPD case

⁴⁸ Floria, Sallyanne, P.J.F.P. (Essex). “More Good Than Harm: Legal Orphans and the New Jersey Post-Termination Project,” Juvenile and Family Court Journal (National Council of Juvenile and Family Court Judges). Spring 2008: 59:2.

worker and, if applicable, law guardian. Participating vendors included a broad range of educational, social, cultural, legal, and other support organizations and programs, giving the youth in attendance direct access to information and options critical to making well-informed decisions about their transitions into independent living as young adults aging out of the state's care system.

Informational seminars such as these are, in the view of the Committee, of critical importance. The Committee recognizes the breadth and depth of resources, both in terms of human capital, planning time, production energy, and otherwise, that go into producing these seminars. The Judiciary should be confident that these are efforts well-invested in the futures of the young people served through them.

The Committee notes that four vicinages (a total of seven counties) did not offer these seminars in 2014. The Committee does not know if this was because there was no need or other circumstances. The Committee encourages the vicinages to offer the programs as often as is feasible and to consider, if beneficial, offering them on a regional (multi-vicinage) basis and including the members of the respective Vicinage Advisory Committee on Minority Concerns as a resource to partner with in the production of these programs. These committees have many dedicated community members, some of whom work for prospective partner agencies, who would be more than happy to assist with the development and production of these seminars.

Another related component of providing support to children/youth in the system is something the Committee discussed in previous reports, namely programming and procedural options that provide for the stability and experience of "family" for these youth in the absence of permanency. As noted in the 2009-2011 report, "Family-like" experiences may include but are not limited to maintaining relationships with siblings (whether adult or minors) and developing innovative programming that provides a steady adult (parent-like) presence in the youth's life

beyond foster care alone.” The Committee encourages the Judiciary to continue its efforts in these regards.

Looking to the next term, the Committee plans to review available literature, reports and studies, with local statistics if possible, that report on the race/ethnicity, gender, and age profiles of youth who age out of the system without achieving permanency through adoption or kinship legal guardianship.

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

To advance its work in this area of inquiry, another preliminary examination and analysis of data and information relating to family crisis intervention matters (FF docket) was conducted.⁴⁹

The Committee resumed its statistical review by examining data provided by the Administrative Office of the Courts on family crisis petitions (FF docket) filed during calendar year 2013. During calendar year 2013, there were 295 family crisis petitions (FF docket types) filed with the New Jersey Superior Court. These 295 cases reflect matters originally referred to a county Family Crisis Intervention Unit (FCIU); however, despite the professional efforts of the FCIU worker, the family crisis issue persisted thus requiring the intervention of the Court.⁵⁰

⁴⁹ “There are currently Family Crisis Intervention Units in all twenty-one counties. Prior to 2006, nine of the Family Crisis Intervention Units (FCIUs) were in-court units meaning that the Judiciary staffed the units and provided the FCIU services and twelve were operated by outside agencies. As of January 2006, all FCIUs were out-of-court. Seven counties [now 9 as of 2014] merged the function of the FCIUs with their Mobile Response and Stabilization Service (MRSS). At present, the Administrative Office of the Courts Family Practice Division continues to maintain oversight of all FCIUs. The Administrative Office of the Courts continues to monitor the activities of the FCIUs by conducting at least three meetings per year for the FCIU Directors. Judiciary staff who are entrusted with handling the FCIU matters at the Court level are also invited to attend the meetings. Training sessions have been provided on a variety of issues. Monthly statistical data are collected from the FCIUs.” (2007-2009 Biennial Report)

⁵⁰ The information was provided to the Committee by the Administrative Office of the Courts Family Practice Division via written memorandum.

Table 2-8. Family Crisis (FF) Petitions Filed By Race/Ethnicity¹ with Population Comparison², Calendar Year (CY) 2013

	# FF Petitions Filed CY 2013 ¹	% FF Petitions Filed CY 2013	# Youth Ages 10-17 New Jersey ²	% Youth Ages 10-17 New Jersey
White	100	33.9	535,799	58.1
African American/Black	95	32.2	145,823	15.8
Hispanic/Latino	53	18.0	168,136	18.2
Asian/Pacific Islander	2	0.7	70,406	7.6
American Indian	n/a	0.0	1,880	0.2
Other	6	2.0	--	--
Unknown	39	13.2	--	--
TOTAL	295	100%	922,044	100.0

¹ Data Source: AOC Family Practice Division

² Data Source: Juvenile Justice Commission for most recent period, 2010

³ Percentages may not sum to 100 due to rounding and individual race/ethnicity categories sum to greater than total number of youth because the U.S. Census provided respondents the opportunity to select Hispanic/Latino as ethnicity with or without also selecting a race. Percentages reflect portion of the column total.

The data depicted in *Table 2-8. Family Crisis (FF) Petitions Filed by Race/Ethnicity with Population Comparison, Calendar Year 2011* provides a snapshot of the race/ethnicity profile for the youth in these cases along with the distribution of race/ethnicity within the juvenile population statewide.

Race/ethnicity data were available for 86.8 % (256) of the group (n=295). So given the relatively small percentage (13.2%) of “unknowns,” the Committee evaluated the racial/ethnic profile in terms of the entire pool of 295 family crisis petitions filed. Of the 295 family crisis petitions filed, 33.9 % (100) involved White youth whereas White youth account for 58.1% of the total youth population statewide; 32.2% (130) involved Black/African American youth whereas Black/African American youth account for only 15.8% of the total youth population statewide; 18.0% (81) involved Hispanic/Latino youth whereas Hispanic/Latino youth account for 18.2% of the total youth population statewide; 0.7% (2) involved Asian/Pacific Islander youth whereas Asian/Pacific Islander youth account for 7.6% of the total youth population statewide; 0.0% (0) involved American Indian youth while American Indian youth account for 0.2% of the total youth

population statewide. In addition, these data also indicate six youth identified themselves as “Other.”

The overall number of petitions filed decreased compared to the previous year reported, i.e., calendar year 2010 reported in the Committee’s 2009-2011 biennial report. Yet there are a few notable changes within individual race/ethnicity groups that are worthy of comment.

There remains a growing concern with the continued proportional overrepresentation of Black/African American children with active FF cases. With race/ethnicity data available on 86.8% of children involved in family crisis (FF) matters currently pending before the New Jersey Superior Court, the available data are sufficient for the readership to be confident that the observed overrepresentation is reliable. While no findings can be offered at this time from the available race/ethnicity data about the extent, degree, basis, or cause of the measurable disproportionality in the representation of Black/African American children in the universe of family crisis matters, the initial indication of overrepresentation⁵¹ once again underscores the need for a closer and more in-depth exploration of these data.

The same finding for Black/African American youth was reported in the Committee’s 2007-2009 and 2009-2011 biennial reports and occurs again with an entirely new FF data set. In addition, while the percentage increase was not so marked, the numeric increase in the number of Hispanic/Latino youth represented a 60% increase. It is hoped that further examination of FF docket data may lead to a better understanding of the factors contributing to the overrepresentation of Black/African American youth in family crisis petitions pending before New Jersey Courts and

⁵¹ While the Committee does not have sufficient information at this time to characterize fully the process by which these race/ethnicity data have been collected, the Committee can observe that even if all of the “unknowns” were in fact non-minority significant issues of overrepresentation would remain.

the recent increase in Hispanic/Latino youth in family crisis petitions pending before the Superior Court.

The Committee renews its previous observation:

The issue of overrepresentation of Black/African American children with family crisis petitions before the Court is multi-faceted and understanding the dynamics surrounding this issue will require further study and additional research and information gathering. In response to these initial data, the Committee has identified a series of next steps it plans to take to examine this issue further. Despite there being no inherent difference in the actual incidence of child abuse among the different racial/ethnic groups, the dependency court system as a whole continues to struggle with minority children disproportionately entering its system, staying longer, and being less likely to be reunited with their parents. Since family crisis matters share many characteristics with abuse and neglect cases, the question arises as to whether the same phenomenon is occurring for some of the same reasons, whatever those reasons may be. Given that nationally there is a pattern often seen in the dependency court system of minority children staying in the system longer, the Committee also envisions exploring by race/ethnicity, gender, and age, the average length of duration for family crisis (FF) petitions to determine if a similar pattern exists locally.

Similar to the relative rate index methodology used to assess representation and flag disproportionality throughout the juvenile justice continuum, the Committee would like to undertake a comparable assessment of family crisis matters by evaluating race/ethnicity data for the universe of family crisis referrals for a specified time period. This additional information should help to identify the factors that contribute to the rate of family crisis petitions (FF) being filed that involve minority children and would likely assist in determining at what point the overrepresentation initially occurs and if there are steps that the Court can take to address or remedy the disproportionality.

Recognizing that in these cases the Court plays a significant role in managing the cases once petitions are filed, the Court plays a unique role in the resolution of these matters and another opportunity to participate actively in collaborative efforts towards successful resolution of these cases. The availability of comprehensive data and detailed information will play a significant role in advancing the Court's work in examining and monitoring minority representation in the range of Family Part docket types. The Committee is interested in determining whether the notable

decrease in FF filings has been accompanied by an increase/or decrease in FJ (juvenile delinquency) filings for the same time period. The careful routine compilation, review and analysis of data on an ongoing basis and the development of concrete action plans will assist in clarifying the role that the Court can (or cannot) play in helping to remedy the disproportional overrepresentation of Black/African American children in the FF docket.

F. Intersecting Systems of Justice and Care

The Supreme Court Committee on Minority Concerns on several prior occasions has expressed its desire to examine critically the intersection between the child welfare systems and juvenile justice systems by exploring both subsequent and simultaneous involvement of children and families in two or more systems.

In the 2007-2009 report, the Committee introduced its interest in this issue as it noted in the conclusion that “the Committee [will] ... explore the management of matters for children and families involved in dual or multiple docket types” (p. 58). In the 2009-2011 report, this Committee elaborated on its interest and identified its starting point for further exploration of this multi-faceted issue:

The Minority Concerns Committee has previously expressed a desire to examine critically the intersection between the child welfare system and juvenile justice system and both [sequential] and simultaneous involvement of children and families in [the two] systems. Added emphasis will be placed on studying and understanding current practices and politics/protocols for managing families involved in dual or multiple dockets. [T]he goal is to advance the knowledge base in these areas and contribute insights that may enhance case management techniques and identify those critical areas that require external networking with agency/organization partners. (p. 49-50).

This term the Committee had the opportunity to obtain a data snapshot of the number of youth/families with simultaneous involvement in multiple Family Part dockets and review Judiciary protocols for the case management of families/youth with simultaneous active Family

Part cases. *Table 2-9* provides a snapshot of the current load of multi-docket youth/families. In addition, the Committee reviewed a similar data snapshot for CY2012:

**Table 2-9. SNAPSHOT CENSUS OF CIC/JUVENILE DUAL STATUS CASES:
Minors with Active FC and FJ Cases (Run Date: October 2, 2014)**

COUNTY	WHITE		BLACK		LATINO		ASIAN		OTHER		UNKNOWN		TOTAL	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Atlantic	0	0	2	4	0	0	0	0	0	0	0	0	2	4
Bergen	1	1	0	0	0	0	0	0	0	0	0	0	1	1
Burlington	6	2	7	7	9	0	0	0	0	0	0	0	13	9
Camden	12	6	21	12	6	5	0	0	0	0	0	0	39	23
Cape May	0	2	0	0	0	0	0	0	0	0	0	0	0	2
Cumberland	2	1	1	0	2	0	0	0	0	0	0	0	5	1
Essex	0	0	16	4	0	0	0	0	0	0	0	0	16	4
Gloucester	1	0	4	2	1	0	0	0	0	0	0	0	6	2
Hudson	2	0	9	1	2	0	0	0	0	0	2	1	15	2
Hunterdon	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Mercer	2	1	8	7	3	0	0	0	0	0	0	0	13	8
Middlesex	3	0	8	2	2	1	0	0	0	0	0	0	13	3
Monmouth	3	1	3	2	1	0	0	0	0	0	0	0	8	4
Morris	1	2	0	0	0	0	0	0	0	0	1	1	1	2
Ocean	5	1	1	1	1	0	0	0	0	0	0	0	7	2
Passaic	0	0	8	2	3	1	0	0	0	0	0	0	11	3
Salem	0	0	0	2	0	0	0	0	0	0	0	0	0	2
Somerset	0	0	2	0	0	0	0	0	0	0	0	0	2	0
Sussex	1	0	0	0	0	0	0	0	0	0	0	0	1	0
Union	0	0	3	4	1	1	0	0	0	0	0	0	4	5
Warren	1	0	0	1	0	0	0	0	0	0	0	0	1	1
SUB-TOTALS	40	17	93	51	22	8	0	0	0	0	3	2	158	78
Combined M/F by R/E	57		144		30		0		0		5		236	
GRAND TOTAL													236	

Source: Family Practice, Administrative Office of the Courts, manual count by staff

In March 2012, subcommittee liaison Lisa Burke of the Minority Concerns Unit attended a one-day by invitation only symposium presented by the Center for Juvenile Justice Reform (CJJR) at Georgetown University. The primary purposes of the Symposium were to release publicly a newly published paper; to provide a venue for professionals across the country engaged in various stages of systemic work to improve outcomes for multi-system families and youth to acquire new information and exchange resources and lessons learned; and to advance the work being done in local jurisdictions by connecting practitioners from across systems to the national network of professionals in this field.

The centerpiece of the symposium was the newly published paper “Addressing the Needs of Multi-System Youth: Strengthening the Connection between Child Welfare and Juvenile

Justice.”⁵² The Subcommittee reviewed the publication and the post-symposium report prepared by staff with great interest and would like to highlight several summary points of importance from her post-symposium internal report:

There is much energy being spent on the issue nationwide. While approaches vary from venue to venue, there are some emerging commonalities. Many jurisdictions look at simultaneously involved youth and families; some jurisdictions look at sequentially involved youth and families. Focus often is placed instinctively on juvenile delinquency and children-in-court matters, but in a growing number of venues this interdisciplinary approach includes domestic violence and dissolution/non-dissolution matters, thus the focus on youth and families and not only on youth.

When the Committee first discussed its interest in this area, the national dialogue was focusing on the notion of “one judge, one family,” a standard set forth by the National Council of Juvenile and Family Court judges; however, the focus nationwide today extends far beyond the processing or managing of cases on a docket and tends towards a more holistic paradigm of care and services.

The national view of the intersection of child welfare and juvenile justice includes prevention, intervention, and a focus on building healthier families through the delivery of services. Today the national dialogue has expanded and in many instances there are collaborative interagency initiatives underway that seek to provide approaches to justice and the delivery of services similar to the multidisciplinary teams that the New Jersey Judiciary utilizes in adult drug courts. There are numerous interagency initiatives in place that mirror the interbranch collaboration that New Jersey has harnessed in its national model JDAI program.

There is also growing awareness nationally, a kind of unintended beneficial consequence, on attaining services in ways that are low cost or even cost saving. For example, one of the judges who spoke discussed how having multiple agencies involved simultaneously allows her to order necessary evaluations without additional expense to taxpayers because the agencies can determine among themselves which one can provide the valuation in the most timely and comprehensive manner possible.

⁵² See <http://cjjr.georgetown.edu/pdfs/msy/AddressingtheNeedsofMultiSystemYouth.pdf> to access the complete paper.

The Committee would encourage the Judiciary to continue to consider this issue both from the case management perspective and the broader view discussed above. With approximately 75% of the youth with simultaneous juvenile delinquency and children-in-court dockets being children of color, the issue is highly relevant to this Committee's mission.

G. Juvenile and Family Drug Courts

1. Juvenile Drug Courts

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

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

There are currently two Juvenile Drug Courts (JDC); they are located in the Camden and Hudson Vicinages. Juvenile Drug Courts serve as a more effective way to deal with juvenile offenders who have drug-dependent problems. The drug courts serve as a diversion from the formal court process for some cases and also as an alternative to confinement in state juvenile correctional facilities. They provide an intermediate sanction between probation and state

correctional facilities as well as better treatment outcomes for juveniles with alcohol and drug-related problems. Juvenile drug courts allow intensive supervision for at-risk adolescents who are supportively surrounded with community and court services. To date, the two JDCs have served a total of 658 juveniles, 36 participants are currently enrolled in the program, 268 juveniles have graduated from the program, and 10 drug-free babies have been born to female juvenile drug court clients.⁵³

2. *Family Drug Courts*

Family Drug Courts serve as a way to treat the parent(s) in child abuse and neglect cases who have alcohol/substance abuse issues and whose child(ren) have been removed from the home. Treating the substance abuse issues of the parents and reunification with their child(ren) are the main goals of the FDCs. The objectives of Family Drug Court are to help parents become abstinent from alcohol and drugs, to maximize and balance child safety and permanency while preserving family integrity. In Family Drug Court there is much closer monitoring for parents involved in child abuse and neglect cases.

There are now two Family Drug Courts⁵⁴ currently operating: the two are in Morris/Sussex Vicinage with one in each of the two counties.⁵⁵ As of their last reporting date, the Family Drug Courts have served a total of 165 clients, 3 clients are currently enrolled, 40 clients have graduated

⁵³ Data are not currently collected regarding the offspring of male juvenile drug court clients.

⁵⁴ Family Drug Courts serve as a way to treat the parent(s) in child abuse and neglect cases who have alcohol/substance abuse issues and whose child(ren) have been removed from the home. Treating the substance abuse issues of the parents and reunification with their child(ren) are the main goals of the FDCs.

⁵⁵ The Essex Vicinage Family Drug Court suspended operations in January 2013. Since its implementation in September 2006 the Essex Vicinage Family Drug Court served a total of 60 clients with 26 clients graduating and 36 reunifications taking place.

from the program, seven drug-free babies have been born to Family Drug Court participants, and 80 FDC-involved families have been reunified.⁵⁶

As is the case with Adult Drug Courts, the Juvenile and Family Drug Court programs result in substantial savings to the State. The Committee highlights the following examples.

- The cost of keeping a juvenile in the Juvenile Drug Court program is estimated to be within a \$3,000-\$5,000 range compared to the cost of a juvenile spending one year in a detention facility which is \$30,000-\$50,000.
- Family Drug Courts reduce or eliminate the time that a child spends in foster care compared to the \$7,200 per year it costs the State to care for one child in foster care.
- The current treatment costs for each child born addicted to drugs is estimated to be, at a minimum, \$250,000 for the first year of life with additional medical and related costs accruing in subsequent years ranging as high as \$1.4 million for each child. With 30 babies born drug-free to Juvenile and Family Drug Court clients, the State has realized a potential savings at minimum of several million dollars.

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

The Committee recognizes the ongoing successes of both the Juvenile and Family Drug Courts and encourages the Court to continue its support for these valuable holistic problem-solving and treatment-centered, incentive/sanction-based disposition models. In the Committee’s view these two programs are essential court services so the Committee commends the Court for assuming operational costs for these programs as start-up grant funding ends. The Committee encourages the Court to promote the expansion of these programs, as deemed beneficial, on a vicinage by vicinage basis.

⁵⁶ These cumulative statewide data include outcomes for the Essex Vicinage Family Drug Court which ceased operations in January 2013. See the previous footnote for the statistics specific to the Essex Vicinage Family Drug Court.

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As the Judiciary continues to monitor and evaluate the Juvenile and Family Drug Court programs, the Committee encourages examination of several particular outcomes: 1) a comparison of reunification rates by race/ethnicity; 2) recidivism and success rates by race/ethnicity; and 3) identification of any particular administrative or structural challenges, e.g., how some ASFA guidelines may work at cross-purposes with goals and timelines of Family Drug Courts. The Committee anticipates requesting related data and information from the AOC Family Practice Unit during the forthcoming term as it expands its exploration of Juvenile and Family Drug Court outcomes.

H. Vicinage Visitations

Recognizing the role that standardization of procedures across the state and the establishment of best practices plays in the quality of service delivery, the Committee became interested in the work of the Family Division Vicinage Visitation teams. The Committee this term took initial steps to learn more about the visitation process, the development of the teams, the goals and objectives of the visitations, the structure of the reports developed by the teams, and the Judiciary's long-term plan in follow up to the initial round visitations.

Staff provided the Committee with a narrative description of the Family Division Visitation Team Protocol, an outline of key issues that were reviewed across the vicinages and docket types, and a listing of docket specific questions/areas of focus to be reviewed as part of the visitation process. The Family Division vicinage visitation program is a worthwhile endeavor. The Committee encourages that the program continue to function on a cycle to be decided by Family Division leadership and that the protocol that guides the visitations be updated periodically to include measurement of new/revised statewide concerns and priorities, e.g., outcomes for initiatives designed to reduce system disparities in justice outcomes for minority youth and disproportionate minority confinement as appropriate. The Committee looks forward in the next term to reviewing the substance of the existing reports in order to see how this tool can be enhanced

to address the shared priorities of the Administrative Office of the Courts and the Supreme Court Committee on Minority Concerns.

I. Involuntary Waivers

Both in the context of its monitoring of outcomes for each of the steps along the juvenile justice decision-making continuum and in the larger context of systemic justice outcomes for youth of color, the Committee has maintained its interest in reviewing data and information relating to involuntary waivers of jurisdiction, i.e., the transfer of a juvenile matter to adult Criminal Court. This category is not a reportable decision-making point along the juvenile justice continuum although it is a very relevant decision-making point in the context of justice outcomes for youth of color.

The Committee's ability to receive and review comprehensive data on involuntary waivers had been limited as the information was officially stored outside the administrative purview of the Family Division and therefore was not easily accessible and was difficult to query meaningfully. Over an extended period of time, the Family Division worked to acquire a way to obtain easier access to these data so that they could be more readily available to a range of stakeholders and interested parties. The Subcommittee is grateful to former Assistant Director Harry Cassidy, Family Practice staff member John Shutack, and all who were involved in this effort. The results of these collaborative efforts will enable the Committee and others to review this data and examine this process more closely and with greater precision.

This term the Committee reviewed a data snapshot that marks its initial engagement in review of the issue beyond the theoretical/abstract. The Subcommittee, moving forward into the next term, plans to review these data more closely, engage in various related information gathering/research efforts, and determine what other information it needs to access to be of benefit to the Court on this topic. The Committee believes that it will be significantly beneficial not only

to review general data on involuntary waivers but also to have access to data that shows the breakdown as far as category/class of involuntary waiver. The Committee looks forward to working with the AOC Family Practice Division to see how this additional dimension of available data might be able to be accessed by the Committee in the future.

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

The Supreme Court Committee on Minority Concerns since its inception has underscored the importance of ongoing education and training for judges, managers, staff, and court volunteers as a significant means to advance access to justice not only for minority communities but also for the public at large. During the current term, the Committee reviewed information on trainings held by the Family Division particularly relating to diversity, cultural competency, and access and fairness. The Committee recommends that the Court continue in this direction and as appropriate expand the scope of subjects offered with integrated diversity-related and cultural competency-related dimensions.

The Committee is interested in exploring in further detail the standard curriculum and training opportunities, including the availability of ongoing mentoring for newly-appointed judges to the Family Part, Family judges who receive a change in assigned docket types, and judges transferred into the Family Part mid-cycle who have no particular background in Family Law. The Committee looks forward to learning more about what existing training standards exist along with those that are under consideration or in development.

K. Juvenile Re-Entry Support Services and Juvenile Expungements

The general area of re-entry support services for juveniles nearing completion of probation or a term of confinement at a JJC facility is a new area of interest for the Committee as it expands its focus within its mandate relating to juvenile justice. A specific component within this wide-reaching topic is the issue of juvenile expungements along with related public education initiatives.

As part of its initial background research/information gathering, the Committee engaged in discussion of the topic generally and identified several next steps for further consideration and examination including but not limited to a census of statewide Judiciary-based or Judiciary co-sponsored general expungement seminars and review of printed and electronic information on juvenile expungements; discussion with the Judiciary's Probation Services and the Juvenile Justice Commission to learn more about existing re-entry support and re-entry preparation initiatives; and exploration of the degree to which the need for, basis for, and benefits of juvenile expungements are known and understood. The Committee looks forward to exploring a range of issues regarding re-entry support services for juveniles.

L. Emerging Areas of Interest/Concern

The Committee has long been aware that there are particular needs within various groups within the juvenile population. Throughout the years, the Committee has explored these issues at the information level but during this term decided to take some additional steps to expand its knowledge base and broaden its approach in the forthcoming term.

In addition to its ongoing work in the areas discussed earlier in this chapter, there are three specific emerging areas in which the Committee has particular interest in expanding its work during the 2013-2015 term: juvenile sex offenders, juveniles with specialized treatment needs such as firesetting, immigrant youth including the undocumented, and LGBTQI⁵⁷ youth.

⁵⁷ LGBTQI, depending on context, generally is used as an adjective and refers to lesbian, gay, bisexual, transgender, queer/questioning, and intersex. While these identities are not synonymous or parallel, when it comes to their historic marginalization and the social stigmas around differences in sexual orientation and gender identity, these groups are often placed together and frequently may come together in coalition to address shared concerns, challenges, and issues. It is in that spirit that the Committee uses the acronym as a reference to these groups but notes that they, in fact, are diverse and in no way monolithic.

1. *Juvenile Sex Offenders*

The Committee has held a tangential interest in examining issues relating to juvenile sex offenders for several terms. The Committee now plans to look at two dimensions: treatment programs for adjudicated youth and the dynamics of sex offender registries. The main purpose of the Committee's engagement in these areas will be to examine how these two areas relate to juveniles and families of color and whether there are any particular concerns or disproportionate impact.

The Committee will begin its examination by conferring with Family Practice, the Juvenile Justice Commission, and other partner agencies to determine current services available to juvenile sex offenders and to identify any existing program/service gaps. Regarding sex offender registration, the Committee will move its research forward by reviewing the 2012 Human Rights Watch report, "Raised on the Registry," which discusses the impact of registration on juveniles, a 2010 report by the Minnesota Department of Corrections, proposed changes to New Jersey's "Megan's Law," and other relevant and appropriate informational resources.

2. *Confined Juveniles with Specialized Treatment Needs: Firesetters*

The Committee similarly has been aware of concerns about the availability of in-state specialized treatment such as programs for firesetters. The Committee has received anecdotal information about the impact of out-of-state/long distance placements on families of color and poor and working class families. Addressing firesetting behaviors in youth requires highly specialized treatment and services since, as the Sun Times notes in a special feature report, "firesetting is not a phase and needs to be addressed before it gets worse."⁵⁸ Looking towards the 2013-2015 committee term, the Committee would like to explore the range of programs and

⁵⁸ <http://specialsections.suntimes.com/education/firesafety/15395501-555/playing-with-fire---juvenile-firesetters.html>

services available as a first step in its information gathering process. Following a review of the literature and cataloguing of available services, the Committee will look to identify other highly specialized, high demand areas of treatment that are not currently available in-state in order to ascertain other similarly situated, relevant constituencies.

3. *Immigrant Youth*

The Committee in Chapter I discussed its interest in the experience of immigrants interfacing with the Courts and in particular with ensuring that non-citizens understand that they are entitled to equal justice and fair access to the state court system without regard to immigration status. The Committee reported there on the established protocols in light of decisions by the United States Supreme Court in Padilla v. Kentucky and the New Jersey Supreme Court in State v. Nunez-Valdez in Criminal and Municipal Courts to ensure that non-citizens appearing before the Court as defendants in criminal or quasi criminal proceedings as defined in U.S. immigration law are aware of the potential collateral consequences that a finding, plea, or adjudication of guilt could have on their immigration standing and future options regarding immigration status in the United States. The Committee looks forward to learning more about similar efforts developing in Family Practice.

The Subcommittee believes that the concern regarding potential collateral consequences are but one of a number of relevant issues affecting immigrant youth and families and their interaction with the Courts. Therefore, the Subcommittee plans to explore this issue further and examine the range of relevant concerns in greater depth during the forthcoming term.

4. *LGBTQI Youth*

In order to build a resource foundation for the Committee's work in this area, committee staff⁵⁹ participated in several national webinars sponsored by OJJDP on themes relating to providing services to LGBTQI youth.

Youth of color are disproportionately overrepresented in both the juvenile justice and child welfare systems and LGBTQI youth are estimated to be represented in the youth population at large at an average rate of at least 1 in 10 (10%). Furthermore, because of the high incidence of bullying/victimization of LGBTQI youth, they are likely to come into contact with the courts as victims at notably significant rates.

The following data presented in *Understanding and Overcoming the Challenges Faced by LGBTQI Youth in Schools and Communities* are, on a social level, alarming:

- Large percentage of bullying among students involves the use of homophobic teasing and slurs, [also] called homophobic teasing or victimization. (Espelage et al., 2009; Poteat & Espelage, 2005; Poteat & Rivers, 2010)
- Bullying and homophobic victimization occur more frequently [towards] LGBT youth in [U.S.] schools than [towards] students who identify as heterosexual. (Birkett, Espelage, & Koenig, 2009; Kosciw, Greytak, and Diaz, 2009)
- LGBT youth reports indicated 84.6% of LGBT students reported being verbally harassed, and 40.1% reported being physically assaulted at school in the [prior] year because of their sexual orientation. (Kosciw, Greytak, Diaz, and Bartkewicz, 2010)
- Compared to “straight”-identified youth, LGBTQ youth are at significantly greater risk of suicidal thoughts and attempts; victimization by peers; and high levels of unexcused absence from school. (Robinson & Espelage, 2011, 2009 Dane County Youth Assessment)
- The LGBTQI population is diverse in its risk profiles. While the majority are not at risk, the disproportionate percentages of LGBTQI youth at mid-level and extreme risks suggests much more needs to be done to help these students.

⁵⁹ Subcommittee liaison Lisa R. Burke of the Minority Concerns Unit.

A recent report by the Human Rights Campaign entitled “Growing Up LGBT in America” offers additional survey findings that the Committee will examine in its ongoing research on this subject.

- Youth of color are more likely to be “out” to their peers and in school [while] White youth are more likely to be out to their families.
- Non-accepting families, school/bullying problems, and fear of being out or open were the top three problems selected by LGBT identified youth whereas classes/exams/grades, college/career, and financial pressures related to college/job were the top three problems selected by non-LGBT youth.

These findings among many others have significance for the courts as the need for support and affirmation is not merely conceptual but something that courts in particular, along with child welfare and juvenile delinquency systems, must be aware of in making determinations *in loco parentis* in the best interest of youth involved in the system.

These selected factors underscore the relevance of this issue to the Supreme Court Committee on Minority Concerns. In the forthcoming term, the Committee will increase its knowledge base by exploring what is known about the needs of LGBTQI youth who come into contact with the New Jersey Courts, what specific services are available to them and their families through the courts and the child welfare and juvenile delinquency systems, and what particular concerns there may be for LGBTQI youth of color and their families and support systems.

V. Conclusion

During the 2013-2015 term, the Committee will remain focused on fulfilling its mandate for the subject areas detailed in this chapter and on strengthening and improving current court policies and procedures. Disproportionate minority contact and the overrepresentation of children and families of color across Family Part docket types remains the overarching priority for our work on juvenile justice and the family as does further in-depth examination of systemic disparities in justice outcomes for minority youth, minority representation in abuse and neglect cases, minority

representation among youth post-termination of parental rights, minority representation among family crisis petitions, multi-docket youth and intersecting systems of care, juvenile and family drug courts, vicinage visitations, involuntary waivers of jurisdiction, ongoing education and training opportunities for judges, managers, staff, and volunteers, and the emerging areas of interest delineated in this chapter, namely juvenile sex offenders, juveniles in confinement with specialized treatment needs such as firesetters, immigrant youth including the undocumented, and LGBTQI youth.

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

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Chapter III

SUBCOMMITTEE ON MINORITY ACCESS TO JUSTICE

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I. Introduction and Mandate

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

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

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

II. Subcommittee Activities

During the course of the 2013-2015 committee term, the Subcommittee on Minority Access to Justice worked on the following projects carried forward from the 2009-2011 report:

- continuing research and literature review of jury pool diversity articles and reports;
- revisiting New Jersey juror qualifications, summons, and selection process, in preparation for developing a recommended workplan for the jury pool representation study previously proposed to and approved by the court;
- commencement of the approved GIS jury pool study; and
- ongoing review of the utilization of interpreters, court volunteers, and analyses of data provided by the Ombudsman Program.

III. Discussion of Priority Recommendations

A. Jury Issues

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

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

As has been reported previously, there are still no race/ethnicity identifiers in the jury pool source lists so it remains impossible to use the data to:

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

The Committee's interest in the representative nature of the jury pool is not premised on any concern for the legal sufficiency of the Judiciary's current jury pool procedures (the jury panels are drawn from multiple source lists), but rather the Committee believes that diversity in the jury pool and the resulting jury panels tangibly enhances public confidence in the courts. The Committee holds the view that advancing access to justice for all constituents and stakeholders benefits from a pool of potential jurors that is as representative of the community from which the pool is drawn to the degree possible and procedurally feasible. During the course of its work on this issue across several report cycles, the Committee has detailed its longstanding

interest in measuring the representativeness of the juror source lists as a first step in developing a demographic snapshot of the jury pool and understanding the degree to which the pool is broadly diverse and representative.

The Committee continues to be engaged in research, the objective of which is to obtain a demographic profile of the pool of potential jurors generated by current juror source lists. In the 2007-2009 biennial report, the Committee reported on the successful completion of a pilot of a proposed jury pool demographic study. By way of brief reminder, the pilot study allowed the Committee, working with the AOC's Human Resources Office, to demonstrate the applicability, usefulness, reliability, and statistical validity of the geomapping methodology to such a study. The Committee reported the following regarding the pilot outcomes:

With no direct way to ascertain the racial/ethnic profile of potential New Jersey jurors, the Committee identified a widely accepted indirect research methodology to determine if this approach could be a valuable tool for developing a profile of the racial/ethnic composition of a pool. To demonstrate the applicability of the geomapping methodology, a sample of judicial employees with Mercer County residential addresses was drawn. The profile of the sample was based on Human Resource information and payroll data. Although the actual racial/ethnic profile of the sample was known, this information was sealed for verification purposes until after the completion of the geocoding and related data analyses.

Of the 1,000 addresses in the sample, 748 were usable for testing purposes. These 748 cases were geocoded and individually overlaid with the US Census 2000 block group data for race and ethnicity.

The second stage in this process assigned racial/ethnic identifiers to the sample based on the racial/ethnic block group to which the individual home addresses corresponded. Using geomapping technology, the researcher inferred the racial/ethnic composition of the sample study group. The validity [and reliability] of the scientific inference was demonstrated by comparing the researcher's ⁶⁰ findings to the actual racial/ethnic

⁶⁰ Dr. Wansoo Im, Ph.D., is a member of the Subcommittee on Minority Access to Justice and currently an adjunct professor at Rutgers University in the Department of Urban Studies and Community Health. He also is the founder and principal consultant for Vertices, LLC, a consulting firm that provides a wide range of GIS (Geographic Information System) and information technology services. He is an internationally sought after GIS/geomapping expert.

composition of the study group provided by available racial/ethnic identifiers in the Court's personnel management information system (PMIS). Given the high [statistical] significance of the pilot outcome, the researcher concluded that geomapping is a valid and appropriate research tool for predicting the probable racial/ethnic profile of a study sample such as a juror pool.

Since the completion of the pilot study, Dr. Wansoo Im, SCCMC member and principal investigator on this project, has commenced the process of coding the jury data provided by the AOC's jury management section. Some issues were identified with the data early on so the process was paused while the AOC worked to resolve the data quality issues. With the data issues resolved, the study process resumed. Staff from the AOC Jury Management and the Minority Concerns Units met several times with Dr. Im for periodic project updates. In addition, Dr. Im has provided periodic reports to the SCCMC Executive Board. This project remains in progress, and with the forthcoming completion of the project the SCCMC looks forward to submitting a detailed report to the Court before the end of CY2015.

B. Legal Needs of New Jersey's Economically Disadvantaged

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

The Poverty Research Institute of Legal Services of New Jersey (LSNJ) continues to publish valuable informational resources documenting the scope of the needs of the poor and working class in New Jersey. The Committee continues to utilize these resources over the course of time to remain up-to-date and maintain a current knowledge base as to the legal needs of these constituencies.

As previously reported, the Legal Services Corporation reported in 2007 that nationally at least one-half of those seeking help from Legal Services programs were turned away⁶¹ due to the lack of resources to service them. Legal Services programs served 63,000 clients in New Jersey

⁶¹ *Documenting the Justice Gap in America: A Report from the Legal Services Corporation*, June 2007.

in 2007; however, LSNJ was forced to turn away at least two low-income applicants for every client served. In 2006 it was estimated that five out of six low-income people experiencing a civil legal problem did not have access to an attorney.⁶²

Since this Committee's 2007-2009 report, the economic problems in New Jersey and income inequality have grown progressively more disparate. LSNJ's most recent report on the civil legal needs of the poor in New Jersey, *Unequal Access to Justice: Many Legal Needs, Too Little Legal Assistance – The Continuing Civil Justice Gap for Lower-Income New Jerseyans*, contains a number of striking findings.⁶³

- Approximately one-third of the respondents with lower incomes experienced a legal problem during the course of [2006].
- Only one in five lower income people with legal problems secured the assistance of a lawyer.
- The number of people who experience more than one legal problem is increasing.
- There is a disproportionately high incidence of legal problems among certain groups, including selected racial/ethnic minorities, single head of households with children, people living in rental residences, and people who are employed.
- Consumer, housing, and health legal problems had the highest incidence rates among respondents.
- Lower income people rated nearly two-thirds of their legal problems as “most serious.”
- Lower income people had lower levels of legal assistance despite the perception of the seriousness of their legal problems.
- Lower income people believed they needed lawyers in twice as many problems where they did not seek them.

⁶² See *People without Lawyers: New Jersey's Civil Legal Justice Gap Continues: A Report from Legal Services of New Jersey*, October 2006, page 4. <http://www.lsnj.org/PDFs/NJJusticeGap2006.pdf>

⁶³ The full report is available online at <http://www.lsnj.org/PDFs/PovertyResearchInstitute/LegalNeeds2009.pdf>. The Committee encourages readers to review the full report as this limited discussion does not fully capture the issues as presented in LSNJ's report.

- Lower income people were less likely to obtain a lawyer.
- Lower income people had to go to court more often.
- Lower income people were less likely to act on their own when they did not have a lawyer.
- Lower income people were less satisfied with [justice] outcomes especially when they did not have a lawyer.

These needs continue without a realistic end in sight. Poverty Benchmarks 2014:

Assessing New Jersey's Progress in Combatting Poverty, the annual report of LSNJ's Poverty Research Institute, includes several findings relevant to the services provided by the courts:

- Poverty remained at record high levels in 2012.
- Poverty remains especially high among vulnerable and at-risk population groups and in urban and certain southern counties.
- Unemployment remains relatively high.
- Unemployment rates are highest for the population groups and places with the highest poverty rates.
- New Jersey employment has not recovered, and the [lack of] recovery is greater in lower wage jobs.
- Wages have eroded over the last decade.
- Since the onset of the most recent recession, almost 400,000 additional people live in households with an income below 250% of the federal poverty level. During this same period, an additional 83,000 children are living in households with incomes below 250% of the federal poverty limit.
- Children are disproportionately represented among people living in poverty. Poverty rates are much higher for children than for working-age adults or the elderly.

These findings related to poverty are striking. The extensive legal needs of New Jersey's poor and working class residents remain and in some ways are growing. The Committee is pleased to note that the recently revised court fee schedule anticipates generating additional revenues that will be allocated to Legal Services of New Jersey to address the civil legal needs of

its clients. The Committee believes that access to this supplemental funding will enable LSNJ to work towards filling a significant gap in available services. The Committee also believes that recent changes to the Pro Bono Rules will also provide those in need of quality legal representation with access to the services of licensed attorneys.

2. Advancing Access to Justice through the New Jersey Courts

The Committee is very pleased with the chronology of the development of institutionalized efforts to advance systematically and continuously access to justice through the New Jersey Courts. To address the service needs of increasing numbers of self-represented court users, Judge Grant appointed an Advisory Group on Self-Representation in the New Jersey Courts in December 2008. Nancy Manuele, Esq., then Manager of Litigant Services, chaired the advisory group. The mandate of the advisory group was to enhance and improve court services and programs for litigants who are without access to legal representation by ensuring that these court users have the support that they need to bring their cases to court. The work of the advisory committee resulted in the publication of a report in 2009 entitled: *Ensuring an Open Door to Justice: solutions for enhancing access to the courts for self-represented litigants*.⁶⁴

Following a review of the advisory committee report, a Supreme Court Advisory Committee on Access and Fairness was appointed. The new committee, which has a mission related to but distinct from the SCCMC, includes judges, court managers, and representatives from external organizations who are tasked to collaborate on ways to assure procedural fairness in the

⁶⁴ <http://www.judiciary.state.nj.us/pressrel/Ensuring%20an%20open%20door%20to%20justice%20Oct%202009.pdf>

Courts.⁶⁵ In announcing the formation of the committee and naming Judge Grant as its chair, Chief Justice Rabner stated:

The millions of litigants who come to the courts each year for a just resolution of their cases are entitled to believe that they have been treated respectfully and fairly in a neutral forum ... All people regardless of income, language barriers, or cultural or educational background must have full access to the Courts. This Committee will look at ways to improve our operations so that we can meet those needs in every case.⁶⁶

The SCCMC is very pleased to learn that among its first major projects the Supreme Court Advisory Committee on Access and Fairness undertook massive statewide public survey on access and fairness. The Committee looks forward to reviewing the survey findings and sharing its feedback. The Committee would be pleased, should the opportunity present, to participate actively in the review of the survey outcomes and development of a related implementation plan.

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

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

Access, however, is only the first step to equal justice. Unrepresented litigants, unfamiliar with court rules, procedures, and substantive law, are not on a level playing field with represented litigants. Judges and other court personnel should be trained to address the needs of the unrepresented and give the unrepresented guidance on the most effective and efficient ways to process their cases. It is imperative that judges and court personnel understand that treating unrepresented and represented litigants exactly the same does not result in fairness and equal justice. In order to achieve justice, unrepresented litigants should be provided with information and tools necessary to have the

⁶⁵ The mandate and membership of the Supreme Court Advisory Committee on Access and Fairness (SCACAF) is similar to the blue ribbon study group proposed by the SCCMC in the 2004-2007 Report with one notable exception: the SCACAF committee has no sunset clause.

⁶⁶ Press Release, Administrative Office of the Courts, February 14, 2011

facts presented to the court and have their stories told. This is not to say that unrepresented litigants should be exempt from the same rules of evidence and standards of proof as represented litigants but rather that unrepresented litigants need to be provided with explanations and the assistance necessary to understand the rules and the law so they can present their cases in such a way that the Court has all the information required to render just decisions.

The Judiciary is once again to be commended for its current initiatives and continuing efforts to institute new and innovative programs and operations to address the legal needs of self-represented court users and other marginalized constituents. Opportunities still remain for the Court to enhance its training efforts for judges, administrators/managers, and court staff. To that end, the Committee reaffirms its previous recommendations:

The Supreme Court Committee on Minority Concerns recommends offering a three hour seminar at Judicial College to commence in November 2011 (once in the morning and once in the afternoon) to address the topic of procedural fairness and how to prepare for and manage one's courtroom to ensure equal access for self-represented litigants. 1) To accommodate jurists who, due to scheduling conflicts, are unable to attend the course at Judicial College and to provide an opportunity for the presentation to be tailored to address specific topical issues, the seminar should also be offered at the practice area judges' retreats; 2) a similar course addressing procedural fairness and access should also be available for managers and frontline staff at the annual staff college; and 3) the court should develop teams of judges and practice area managers and provide them with the necessary extensive training so that this cadre of in-house faculty will be available to offer in-service training on access and procedural fairness along with external consultants on an as needed basis once the basic training has been rolled out. (Recommendation 11:03.1)

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

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

A marketing component targeting court users should be an integral part of this court-user education initiative. (Recommendation 11:03.2)

The Committee remains of the view that these recommendations as stated remain relevant and should be considered for implementation along with a host of other related initiatives being considered and developed by the AOC.

As a complement to locally produced programs, a statewide calendar of free regional public education programs presented by the New Jersey Judiciary continues to be made available on the Judiciary website.⁶⁷ In the press release announcing the inaugural online calendar of public education events, Administrative Director Grant shared these insights:

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

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

The Judiciary continues to take affirmative steps to enhance existing programs and offer new training opportunities focusing on how best to assure access and fairness for increasing numbers of self-represented litigants. While the Court is aware that these sustained efforts are not a panacea for all the ills that face court users, inaction is not an option. The Court's own efforts

⁶⁷ The calendar is accessible online at http://www.judiciary.state.nj.us/ombuds/public_events_1.htm.

to fill emergent and long-term gaps in services continue to be evidenced through a plethora of public education and community outreach initiative

C. Access to Justice through Language Services

**Table 3-1. Languages Appearing in the New Jersey Superior Court,
(Unit of Count = Number of Discrete Interpreted Events), July 1, 2012 – June 30, 2013**

Language	# of Events	Language	# of Events
Spanish	66,949	Thai	16
Portuguese	1,538	Macedonian	15
Korean	1,425	Mandinka	15
Haitian	1,137	Chinese, Northern Fukienese/Minbei: Foochow/Fuzhou	12
Polish	996	Khmer, Central	10
American Sign Language	979	Akan	10
Chinese, Mandarin/Guoyu, Huayu, Putonghua	930	Croatian	9
Arabic, Egyptian Colloquial	698	Malayalam	9
Russian	633	Slovak	9
Turkish	419	Mongolian, Halh	8
Vietnamese	379	Yoruba	7
Panjabi, Eastern	305	Telugu	7
Bengali	231	Romanian	7
Hindi	231	Bulgarian	7
Arabic, Levantine Colloquial	217	Georgian	6
Urdu	195	Bosnian	6
Gujarati	186	Nepali	6
Idiosyncratic Gesturing System ⁶⁸	183	Ilocano, Ilokano, Iloko	6
French	163	Czech	5
Tagalog	155	Chinese, Shangahi/Wu	5
Hebrew	122	Burmese	5
Panjabi, Western	115	Armenian	4
Chinese, Cantonese/Yue: Guangzhou, Zhongshan	94	Mixtec, Alacatlazala	4
Italian	94	Swahili	4
Greek	89	Cebuano	3
Hungarian	61	Mixtec, Pinotepa Nacional	3
Albanian, Gheg	49	Indonesian	3
Albanian, Tosk	45	Thai, Northeastern	2
Farsi, Western	39	Amheric	2
Serbian	38	Pashto, Southern	2
Japanese	33	Mixtec, Ocotepec	2
Igbo	32	Lithuanian	2
Arabic, Arabian Peninsula	32	Adyghe	2
Ukranian	28	Finnish	2
Tamil	22	LANGUAGES WITH ONE EVENT EACH: Dinka, Dutch, Ewe, German, Krumen, Lao, Sinhala, Tigrigna	
Farsi, Eastern	20		
Twi	17		
Tibetan	17	TOTAL NUMBER OF DISCRETED INTERPRETED EVENTS: 79,135	
Arabic, North Africa	16	TOTAL NUMBER OF LANGUAGES INTERPRETED: 81	

⁶⁸ The category “Idiosyncratic Gesturing System” is used for deaf persons whose primary mode of communication is through gestures and other signs developed among a very small number of persons, usually family members, and not through a recognized sign language.

Table 3-1. Languages Appearing in the New Jersey Superior Court presents the volume of work accomplished by both staff interpreters and the outside agency and freelance interpreters contracted by the various vicinages from the approved directory compiled by the AOC's Language Services Section.

A consistent pattern has emerged throughout the course of decades of years of collecting, compiling, and analyzing the languages appearing in New Jersey Superior Courts. Of the 81 languages for which an interpreter was provided during fiscal year 2013, Spanish consistently ranks first as the language for which an interpreter is most frequently provided. This is no surprise given that six New Jersey's counties and 77 municipalities reported having Hispanic/Latino populations in excess of 13.3% in 2000.⁶⁹ Between July 1, 2012 and June 30, 2013, 66,949 (84.6%) of the 79,135⁷⁰ discrete interpreted events in New Jersey Superior Court involved the Spanish language. The overall number of discrete interpreted events increased since the Committee's previous report as did the representation of Spanish language events.

Table 3-2. New Jersey Judiciary: Number of Events Interpreted By County and Primary Context provides data on the number of events interpreted by county and primary context or court proceeding type. Of the 79,135 interpreted events in the 21 counties between July 1, 2012 and June 30, 2013, 56,901 (71.9%) were before a judge or grand jury, a slight numerical increase and slight percentile decrease from the previous report period; 11,760 (14.9%), a slight numerical and percentile decrease, were before a hearing officer or in complementary dispute resolution (CDR)

⁶⁹ U.S. Census. *Table B.1: New Jersey 2000 Census: Selected Counties and Municipalities with a Total Hispanic Population of 13.3+%*.

⁷⁰ The total number of reported discrete interpreted events for fiscal year 2013 (79,135) represents an increase of 4.6% from the number of discrete interpreted events for fiscal year 2011 (75,620) reported in the 2009-2011 biennial report.

proceedings; and the remaining 10,474 events (13.2%) were in various court support services, reflecting a notable numeric and percentile increase (+3.6 percentage points).

Table 3-2. New Jersey Judiciary: Number of Events Interpreted by Vicinage (& County) and Primary Context, July 1, 2010 – June 30, 2011

Vicinage/County	Primary Contexts			Vicinage Totals
	Before a Judge or Grand Jury	Before a Hearing Officer or in a CDR Proceeding	Any Court Support Service	
I. Atlantic	1,770	159	767	2,696
I. Cape May	646	23	316	985
II. Bergen	5,293	383	1,014	6,690
III. Burlington	879	451	319	1,649
IV. Camden	3,519	641	334	4,494
V. Essex	4,713	894	1,088	6,695
VI. Hudson	11,120	2,200	496	13,816
VII. Mercer	3,669	675	171	4,515
VIII. Middlesex	5,393	1,382	2,473	9,248
IX. Monmouth	1,617	241	471	2,329
X. Morris	1,604	322	334	2,260
X. Sussex	91	2	9	102
XI. Passaic	6,169	2,840	1,199	10,208
XII. Union	5,054	731	108	5,893
XIII. Somerset	1,646	233	209	2,088
XIII. Hunterdon	265	26	26	317
XIII. Warren	229	17	18	264
XIV. Ocean	1,455	271	905	2,631
XV. Gloucester	207	19	12	238
XV. Cumberland	1,335	229	138	1,702
XV. Salem	227	21	67	315
GRAND TOTAL	56,901	11,760	10,474	79,135
TOTAL PERCENT	71.9	14.9	13.2	100.0

Data Source: Language Services Section, Court Year 2012-2013 Report (downloaded from the Judiciary InfoNet)

Hudson (13,816), Passaic (10,208) and Middlesex (9,248) counties in descending rank order again rank first, second and third with respect to the total number of events interpreted in the Superior Court. As reported in previous reports, currently there are no statistics collected statewide on the use of interpreters in Municipal Courts.

The selected data highlight here once again affirm the breadth and depth of need of persons with limited English proficiency and underscore the commitment of the New Jersey Judiciary to facilitating access to justice for these court users through its model language services program. The established program standards and the professional expertise of the interpreters are what maintains the language services program as a national model. The Committee encourages the court to continue to share widely, both at the regional and national level, information about the breadth of services and depth of quality of its longstanding language services program.

The Committee learned that on April 7, 2014, the U.S. Department of Justice (DOJ) closed its review of allegations that the Judiciary failed to provide appropriate language assistance services in two vicinages in violation of Title VI of the Civil Rights Act of 1964. The Committee notes that the Judiciary cooperated fully with the Department of Justice's review, responded to the concerns that were the subject matter of the review, and provided the Department with detailed information regarding the enhancement of the Judiciary's policies and initiatives with respect to interpreter services, some of which were already underway before the review began. In closing its review, the DOJ acknowledged the "New Jersey Judiciary's continued commitment to compliance with the non-discrimination provisions of Title VI language access obligations as they relate to access to court proceedings and operations by LEP individuals." The Committee views the collaborative resolution to the concerns raised as yet further evidence of the Judiciary's institutional commitment to ensuring access to justice for limited English proficient court users and to ensuring the high standards of the language service program are consistently applied across the fifteen vicinages and not only meet the requirements of Title VI but also reflect the Judiciary's core values and key pillars of the longstanding access and fairness programs of the New Jersey Courts.

Thanks to the leadership of each Chief Justice and Administrative Director, the New Jersey Judiciary has a reputation for being proactive in engaging in self-critical analysis of its programs, services, and operations. In the view of the Committee, it is a very valuable effort to assess programs periodically from the perspective of those persons directly served by the programs. As part of this culture of continuous improvement, the Committee anticipates during the next term working with the Language Services Unit to develop a sample evaluation instrument to ascertain the experiences of court users served by the Language Services Program.

D. Judiciary Volunteer Services Program

The Volunteer Services Program⁷¹ enables community members across the State of New Jersey to assist courts in delivering a variety of court services to a growing number of court users. The program represents a longstanding court-community partnership that dates back to the 1940s. As of December 2014, 4,210 individuals participate in the statewide volunteer program comprising nineteen (19) distinct court volunteer programs. Through the diverse programs, court volunteers distinctively complement the work of full-time court employees—in every vicinage of the Superior Court and in the municipal courts—in resolving disputes. It is through the direct participation of these community members in the judicial process that the public remains engaged in the day-to-day workings of New Jersey Courts, which promotes public awareness and contributes to the public's confidence in the court system.

All court volunteers are screened, appointed, and trained to serve local court users within the prescribed scope of their assigned volunteer duties—from helping court users navigate the court system to reviewing certain types of cases and making recommendations to judges regarding how cases may be resolved. Whether one's role in the process of resolving disputes is direct or

⁷¹ The data and discussion in this section relate to case-related and operational volunteers and do not include people serving in appointed positions such as to Supreme Court Committees and other advisory bodies.

indirect, court volunteers help to extend the court's ability to deliver access to justice despite enduring fiscal constraints.

As a condition of appointment, Judiciary volunteers must complete volunteer orientation and program-specific training. Annual continuing education is mandatory for volunteers in some programs, and strongly encouraged for all others. Vicinages address diversity/cultural competency issues in their initial volunteer training programs and/or as part of continuing education programs. Judiciary policies such as Equal Employment Opportunity/Affirmative Action and Anti-Discrimination are also covered.

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

The Committee is pleased to highlight selected program data provided by the AOC's Volunteer Services Unit. *Table 3-3. New Jersey Judiciary, Volunteer Programs: Count of Active Volunteers by Program* (December 15, 2014) illustrates that the Family, Civil, Municipal, Probation, and General Operations Divisions benefit from volunteer services. According to the data reported from the Judiciary's Volunteer Management Information Systems (VMIS),⁷²

- 78.0% of volunteers (3,283) serve in the Family Part.
 - 46.2% of the volunteers (1,944) serve on Juvenile Conference Committees (JCC), making recommendations to judges regarding cases of alleged juvenile delinquency.
 - 24.0% of the volunteers (1,007) serve as Court Appointed Special Advocates (CASA), assisting courts in obtaining objective information to ensure appropriate permanency plans for children in foster care due to abuse and neglect.
- 11.1% of the volunteers (466) serve as mediators for the Municipal Courts, assisting other community members in resolving their disputes.

⁷² Due to various program reporting dates and timelines, information culled from various sources, including the tally of court volunteers, may not match. The Committee limits its discussion in this chapter to the court volunteer census data downloaded from VMIS on December 15, 2014.

Table 3-3. New Jersey Judiciary: Volunteer Programs,⁷³ Count of Active Volunteers by Program, December 15, 2014

Name of Program	Number	Percentage of Total
Family Court Volunteer Services		
Child Placement Review Boards (CPR) ⁷⁴	257	6.1
Court Appointed Special Advocates (CASA) [as of December 31, 2010]*	1,007	23.9
Domestic Violence Court Assistance Program	2	<0.0
Juvenile Auto Theft Prevention Program (JATPP) – Essex only	3	0.1
Juvenile Conference Committee (JCC) *	1,944	46.2
Supervised Visitation Program (SVP)	70	1.7
Civil Practice Volunteer Services		
Guardianship Monitoring Program (GMP) *	103	2.4
Complementary Dispute Resolution (CDR) Volunteer Services		
Municipal Court Division		
Municipal Court Mediation (MCM) *	466	11.1
Civil Practice Division – Special Civil Part		
Landlord Tenant Settlement	15	0.4
Small Claims Settlement (\$3000 limit and \$5000 for Return of Security Deposit)	21	0.5
Special Civil Settlement (\$15000 limit)	150	3.6
Family Court Division		
Parenting Mediation	18	0.4
Probation Services Volunteer Services		
Intensive Supervision Program (ISP) ⁷⁵	n/a	n/a
Juvenile Intensive Supervision Program (JISP) ⁷⁶	n/a	n/a
Volunteers In Education (VIE) – Passaic only; cooperative effort between the Family and Probation Divisions	17	0.4
Volunteers in Probation (VIP)	16	0.4
General Volunteer Services		
Courthouse Services Assistance (CSA)	76	1.8
Courthouse Visitors Assistance (CVA)	39	0.9
Municipal Court Service Program – Morris/Sussex Only	6	0.1
Total Volunteers⁷⁷	4,210	100.0

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

⁷³ Unless otherwise noted, programs are active in one or more counties but not statewide.

⁷⁴ Program is implemented statewide. Also indicated by *.

⁷⁵ JISP volunteers are aligned with a northern or southern regional office of probation services, versus any particular vicinage, and are not yet tracked in VMIS; statistical profile data for this category are not available for this reporting cycle.

⁷⁶ ISP volunteers are also not yet tracked in VMIS; statistical profile data for this category are not available for this reporting cycle.

⁷⁷ The total volunteers figure corresponds to the volunteer headcount by program such as program participation headcount and includes a number of volunteers who serve in more than one program.

The following describes a few noteworthy programmatic changes that have recently occurred and a recommendation regarding the administration of the Volunteer Services Program.

3. Guardianship Monitoring Program

The New Jersey Judiciary Guardianship Monitoring Program (GMP) is a comprehensive volunteer-based court program established to monitor court appointed guardians in their handling of the affairs of incapacitated individuals. Guardianship monitoring, which is supported by New Jersey law, is a natural extension of a court's role to protect those who are legally unable to act on their own behalf. "The Guardianship Monitoring Program is a volunteer initiative that grows out of the need to ensure that friends, neighbors and family members who are incapacitated are treated with the dignity and integrity they deserve," said Chief Justice Rabner (January 30, 2013). Although a number of County Surrogates' Offices in New Jersey maintained county-based volunteer guardianship monitoring programs over the past several decades, the need for guardianship monitoring existed statewide. The initiative was launched by Chief Justice Stuart Rabner in January 2013 and led by the Civil Practice Division at the AOC in collaboration with the each Vicinage and county Surrogate's Office. The statewide implementation of the GMP was completed as of July 1, 2014.

A guardianship is established when a Superior Court, Chancery Division, Probate Part judge declares a person incapacitated and appoints a guardian to oversee the incapacitated individual's well-being and/or financial affairs. Incapacitated individuals are adults impaired by mental illness or deficiency, physical illness or disability, chronic use of drugs, chronic alcoholism, developmental disability or other cause, to the extent that they cannot govern themselves and manage their affairs. Court appointed legal guardians make decisions for incapacitated people about personal and medical care, meals, transportation, and even where they live. Guardians may

also make financial and investment decisions for the people they assist. The GMP provides a two-way relationship between guardians and the court to act in the best interests of incapacitated individuals.

As of December 15, 2014, there are 103 active GMP volunteers who were screened, trained and appointed to assist the courts with examining guardianship cases files. GMP volunteers must complete two days of classroom training, including an overview of the court system, detailed training on analyzing guardianship case files and annual reports, and instruction on the use of a program-specific application as well as at least one half-day of onsite training at the county Surrogate's Office to which they are assigned. On average, approximately 5 to 7 volunteers are appointed to work in each county Surrogate's Office, where guardianship case files are maintained. While volunteer schedules are generally flexible, the volunteers are expected to contribute about 6 to 12 hours per month during business hours to the program.

In particular, GMP volunteers examine documents contained in guardianship case files and enter information about the guardianships into the Guardianship Monitoring System (GMS)—a new statewide computer application comprising a report review tool. In addition, the volunteers closely examine inventories and annual reports filed by guardians which provide the court with information about the affairs of incapacitated persons to ensure that they are being handled properly and in their best interest, and verify whether the guardians comply with statutory or court-ordered reporting requirements. Using GMS, the volunteers record their findings, including errors or discrepancies in guardians' reports, and make recommendations about follow-up action for court staff or Probate Part judges.

The Civil Practice Division at the AOC hired additional professional level staff members to serve as Central Office Program Coordinators (COPCs). These staff members have overall

responsibility for the implementation and ongoing administration of the program, including recruitment, training, onsite support, and general supervision of the volunteers and their work product. The COPCs routinely monitor GMS to ensure quality control of the volunteers' work, to address concerns about guardian reports raised by volunteers that require enhanced review, and to coordinate appropriate follow up action with court staff or Probate Part judges. Enhancements to GMS to support programmatic activities, such as communication with guardians with regard to reporting compliance and other necessary follow-up as well as refinement to case recordkeeping are also being planned in collaboration with the Information Technology Office and the Automated Trial Court Services Unit.

4. Child Placement Review (CPR) Boards

Panels of trained judicial volunteers called Child Placement Review (CPR) boards, appointed by the assignment judge, assist the court in certain categories of cases regarding children placed in out-of-home placements by the Division of Child Protection and Permanency (DCP&P) in the Department of Children and Families. There are 257 CPR volunteers as of December 15, 2014. Pursuant to Administrative Directive #04-10, "Better Protection for Children-Improved Oversight of Abused and Neglected Children in Foster Care," CPR boards conduct an enhanced "45 day review" for all cases that they review. In litigated cases for children in foster care, which include a pending child abuse/neglect case (FN docket) or a guardianship case (FG docket, termination of parental rights), the CPR boards will only conduct the enhanced 45 Day Review. At this review, the CPR board gathers information vital to obtaining a permanent home for the child. Because of the judge's direct oversight role, the CPR boards do not conduct subsequent reviews in litigated cases.

In addition to the CPR boards' specified role in litigated cases, CPR boards conduct reviews regarding children involved in "voluntary placement cases." Voluntary placement cases

are situations where DCP&P has placed a child in an out-of-home placement pursuant to a voluntary agreement signed by the parent where there is no allegation of abuse or neglect and DCP&P has not filed a child abuse or neglect complaint against the parent. In both categories of cases, CPR boards prepare case-specific recommendations for consideration by the judge overseeing the case.

In 2013, the Judiciary promulgated Administrative Directive #04-13, "Child Placement Review (CPR) Program – Revised Standards," to provide statewide program uniformity and to clarify existing policies and best practices. The CPR Standards were originally promulgated in 2004. The revised Standards establish procedures that are consistent with Directive #04-10 ("Better Protection for Children -- Improved Oversight of Abused and Neglected Children in Foster Care") and clarify existing policies and best practices. The previous 16 standards have been restructured by consolidating common topics into a total of 13 standards which describe more clearly the composition of CPR boards, and the recruitment, training and supervision of CPR board volunteers. This includes a new standard which sets forth the contents of the CPR manual for Board members. Finally, the revised set of CPR Standards now includes, as an appendix, the Code of Conduct for Judiciary Volunteers which was promulgated in 2006 (by Directive #19-06) and is applicable to all court volunteer program participants.

Statewide Administration of Judiciary Volunteer Services Program

Effective July 1, 2009, the full-time equivalent position assigned to perform the Vicinage Volunteer/CDR Coordinator function was eliminated. The related duties were dispersed in a variety of ways to various divisions at different staffing levels, at the discretion of local management. At this time, for example, the duties are performed by an EEO/AA Officer, Administrative Specialist, Training Coordinator, Ombudsman, Jury Manager, Clerk to Grand Jury, or Judiciary Coordinator. In this capacity, for ease of communication, these individuals are

informally referred to as Vicinage Volunteer Liaisons. These staff members have other full-time and time-consuming priorities with their primary assignments in various work units such as the Human Resources Division, Operations Division, Municipal Division, Family Division, or the Trial Court Administrator's Office. Depending on fluctuations to local staffing levels, the volunteer coordination duties can be reassigned to other individuals at any time. While most core volunteer coordination functions such as screening and training continue to be performed, the staffing adjustment has made both local and statewide volunteer program administration more challenging. Some lack of efficiency, policy compliance, and even dissatisfaction from volunteers has been recognized.

Based on this context, coupled with the continuing evolution of the headcount and demographical profile of the Volunteer Services Program, it is an opportune time to conduct a structured, statewide program needs analysis. A comprehensive needs analysis for the Volunteer Services Program will allow the Judiciary to examine the extent to which programmatic goals are being achieved and to determine what steps should be considered to achieve, revise, measure, and monitor program objectives. Overall, this type of analysis offers a purposeful approach to reflecting on past program successes as well as to moving beyond the status quo.

A program needs analysis, encompassing all 19 court volunteer programs throughout the State, will require dedicated leadership from the AOC in collaboration with Vicinage management, local Vicinage Volunteer Liaisons, and local program coordinators. A well-defined project scope and plan must be developed and approved. The suggested areas of analysis include, but are not limited to, the following elements:

- volunteer demographics (e.g., race/ethnicity, gender, age, years or service);
- volunteer satisfaction;

- program capacity (i.e., sufficiency of volunteers);
- staffing levels for program coordination;
- standards and procedures;
- program coordination training;
- community outreach and public awareness;
- volunteer recruitment;
- volunteer training;
- volunteer retention;
- the Volunteer Management Information System (VMIS); and
- program performance measures.

RECOMMENDATION 15:03.1

The Supreme Court Committee recommends, in light of the importance of the Volunteer Service Program that a structured statewide program needs analysis be conducted in order to allow the Judiciary to examine the extent to which programmatic goals are being achieved and to determine what steps should be considered to achieve, revise, measure, and monitor program objectives and outcomes.

As the Judiciary continues to examine and refine court services to meet new demands from rapidly changing communities and court users, the services and experiences of court volunteers as well as the means through which they are realized should also be examined and refined to ensure they are in synch with contemporary methods.

a. Profile of Active Volunteers

There are 4,210 active Judiciary volunteers statewide.⁷⁸

⁷⁸ The statistical information presented in this report is based on current data drawn from VMIS.

Gender and County

Table 3-4. New Jersey Judiciary: Volunteer Programs - Active Volunteers by Gender and County, December 15, 2014

County	Female		Male		Total
	#	%	#	%	#
Atlantic	168	77.8	48	22.2	216
Bergen	234	69.9	101	30.1	335
Burlington	129	67.2	63	32.8	192
Camden	118	67.0	58	33.0	176
Cape May	51	75.0	17	25.0	68
Cumberland	49	80.3	12	19.7	61
Essex	288	67.6	138	32.4	426
Gloucester	85	67.5	41	32.5	126
Hudson	173	74.2	60	25.8	233
Hunterdon	28	80.0	7	20.0	35
Mercer	180	71.4	72	28.6	252
Middlesex	178	66.9	88	33.1	266
Monmouth	250	67.8	119	32.2	369
Morris	202	63.3	117	36.7	319
Ocean	175	66.0	90	34.0	265
Passaic	175	65.8	91	34.2	266
Salem	42	79.2	11	20.8	53
Somerset	82	68.9	37	31.1	119
Sussex	89	67.9	42	32.1	131
Union	199	73.2	73	26.8	272
Warren	24	80.0	6	20.0	30
Total	2,919	69.3	1,291	30.7	4,210

Data Source: Judiciary Volunteer Services Unit

An examination of *Table 3-4. New Jersey Judiciary Volunteer Programs by Gender and County* indicates that the proportion of active female volunteers has remained virtually stable at its current rate of 69.3% contrasted to 69.2% (January 2011). The proportion of active male volunteers has also remained virtually stable at 30.7% compared to January 2011 after decreasing from 31.1% in October 2008. Nine counties currently report representation of male volunteers at

less than 30% whereas in the 2009-2011 biennial report eleven counties reported male volunteers comprising 30% or less of the local volunteer corps.

Race/Ethnicity

Table 3-5. New Jersey Judiciary: Volunteer Programs - Statistical Summary Report by Race/Ethnicity, December 15, 2014

Race/Ethnicity	Number	Percentage of Total
White	2799	66.5
Black	729	17.3
Hispanic or Latino	228	5.4
Asian/Pacific Islander/American Indian	103	2.4
Multi-racial	24	0.6
Other	6	0.1
Did not Answer	321	7.6
Total Volunteers	4,210	100.0

Data Source: Judiciary Volunteer Services Unit

As illustrated in *Table 3-5. New Jersey Judiciary Volunteer Programs, Statistical Summary Report by Race/Ethnicity*, the proportional representation of all major racial/ethnic categories have remained virtually stable when comparing the current data (December 2014) to the data reviewed for the previous biennial report (January 2011) with one exception: there has been a slight increase, nearly one percentage point, in the representation of Asian/Pacific Islanders among court volunteers. These data show that 25.9% of all court volunteers reporting race/ethnicity classify themselves in a minority race/ethnicity category, which is virtually the same proportional representation as reported in the 2009-2011 biennial report. The percentage of volunteers who declined to report race/ethnicity or for whom this information was not recorded in VMIS has decreased significantly from 24.0% in 2006 to 18.8% in 2008 and to 8.4% in 2011 to 7.6% in 2014. The Committee appreciates this improvement in the collection and availability of these data.

Table 3-6. New Jersey Judiciary, Volunteer Programs, Active Volunteers by Race/Ethnicity and County (December 15, 2014) shows some noteworthy dynamics: Some efforts have been made to achieve greater diversity within the volunteer pool at the vicinage level. In contrast to the previous biennial report where one county had no racial/ethnic diversity among its volunteers at all, all 21 counties have some degree of racial/ethnic diversity within their volunteer corps. However, five counties – Cape May, Hunterdon, Salem, Somerset, and Warren, report having no Hispanic/Latino court volunteers. In the 2009-2011 biennial report, the Committee noted only three counties with no Hispanic/Latino representation among court volunteers.

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

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

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

Table 3-6. New Jersey Judiciary, Volunteer Programs - Active Volunteers by Race/Ethnicity and County, December 15, 2014

County	White		Black		Hispanic/ Latino		Asian/Pacific Islander and American Indian		Multi-racial		No Response		Other		Total #
	#	%	#	%	#	%	#	%	#	%	#	%	#	%	
Atlantic	138	63.9	61	28.2	9	4.2	4	1.9	3	1.4	1	0.5	0	0.0	216
Bergen	267	79.7	21	6.3	31	9.3	7	2.1	2	0.6	7	2.1	0	0.0	335
Burlington	147	76.6	31	16.1	1	0.5	3	1.6	1	0.5	7	3.6	2	1.0	192
Camden	95	54.0	59	33.5	14	8.0	0	0.0	2	1.1	5	2.8	1	0.6	176
Cape May	62	91.2	6	8.8	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	68
Cumberland	30	49.2	19	31.1	8	13.1	0	0.0	1	1.6	3	4.9	0	0.0	61
Essex	168	39.4	156	36.6	14	3.3	6	1.4	5	1.2	77	18.1	0	0.0	426
Gloucester	98	77.8	13	10.3	2	1.6	1	0.8	0	0.0	12	9.5	0	0.0	126
Hudson	99	42.5	64	27.5	49	21.0	14	6.0	5	2.1	2	0.9	0	0.0	233
Hunterdon	29	82.9	1	2.9	0	0.0	0	0.0	0	0.0	5	14.3	0	0.0	35
Mercer	165	65.5	65	25.8	7	2.8	12	4.8	1	0.4	1	0.4	1	0.4	252
Middlesex	162	60.9	55	20.7	12	4.5	32	12.0	1	0.4	4	1.5	0	0.0	266
Monmouth	318	85.9	28	7.6	9	2.4	4	1.1	0	0.0	11	3.0	0	0.0	370
Morris	261	81.8	10	3.1	6	1.9	9	2.8	0	0.0	33	10.3	0	0.0	319
Ocean	236	89.1	14	5.3	10	3.8	0	0.0	0	0.0	5	1.9	0	0.0	265
Passaic	101	38.1	41	15.5	35	13.2	1	0.4	2	0.8	83	31.3	2	0.8	265
Salem	45	84.9	6	11.3	0	0.0	0	0.0	0	0.0	2	3.8	0	0.0	53
Somerset	82	68.9	7	5.9	0	0.0	3	2.5	0	0.0	27	22.7	0	0.0	119
Sussex	105	80.2	2	1.5	3	2.3	1	0.8	0	0.0	20	15.3	0	0.0	131
Union	163	59.9	69	25.4	18	6.6	6	2.2	1	0.4	15	5.5	0	0.0	272
Warren	28	93.3	1	3.3	0	0.0	0	0.0	0	0.0	1	3.3	0	0.0	30
Total	2,799	66.5	729	17.3	228	5.4	103	2.4	24	0.6	321	7.6	6	0.1	4,210

Data Source: Judiciary Volunteer Services Unit

b. Sustaining the Volunteer Corps through Ongoing Training

Judiciary volunteers, like judges and court employees, serve an increasingly diverse population in New Jersey. The Committee believes that the Judiciary's ongoing initiatives to maintain a well-trained, culturally competent volunteer corps remain a valuable effort.

E. Statewide Ombudsman Program

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

For the benefit of the readership, this brief background information that was included in the 2007-2009 and 2009-2011 biennial reports is offered here:

In its final report (1992), the Supreme Court Task Force on Minority Concerns amended and revised an earlier recommendation published in the Interim Report of the Supreme Court Task Force (1989, p.29) addressing the establishment of a citizen complaint mechanism at the Administrative Office of the Courts and in each vicinage. Subsequently, both the Criminal Defendant and Minority Access subcommittees submitted separate amended recommendations in the 1994-1996 report calling for enhancements to the original ombudsman recommendations.⁷⁹

Following the completion of the pilot program in Camden (1996), Essex opened its Office of the Ombudsman in 1998 followed by Mercer in 2001. In 2001 the Administrative Council endorsed the statewide expansion of the program and proposed the creation of a statewide Committee of Ombudsman. A directive was issued promulgating the statewide implementation of the Office of the Ombudsman in March 2005, including the filling of positions in each of those vicinages that did not at the time have an ombudsman office. Since that time, recruitments have been made to fill vacancies at the Court Executive 1B level. Management and coordination of the statewide ombudsman program [continues to be] housed in the Office of Communications and Community Relations Litigant Services Unit.

⁷⁹ See Recommendations 30 and 31 (p. 250 and p. 252 respectively) of the New Jersey Supreme Court Task Force on Minority Concerns Final Report (June 1992). Similarly the New Jersey Task Force on Women in the Courts (also in 1989) proposed establishing an Office of the Ombudsman at the Administrative Office of the Courts to promote equal justice. The Task Force on Women in the Courts envisioned the ombudsman as an office that monitored problems, e.g., the enforcement of judicial orders in domestic violence cases, and collaborated and networked with community organizations (such as rape crisis centers and battered women's shelters) to bring community perspectives to the Judiciary.

The availability of the ombudsman office presents a unique opportunity for citizens to interface with the court in non-adversarial and problem-solving interactions while affording the court user the opportunity to learn firsthand that the services provided by the court extend beyond adversarial court trials.

2. Current Ombudsman Statistics

a. Modes of Contact

Table 3-7. Office of the Ombudsman: Modes of Contact by Vicinage, Calendar Year 2013 provides data on the modes of contact that court constituents use to initiate contact with an ombudsman office. In 2013 there were a total of 52,385 contacts by court users, representing an overall statewide increase of 60.4% compared to calendar year 2009 (32,659). More than half (52.3%) of the court users who contacted the ombudsman offices in 2013 did so in person and 41.5% made contact via the telephone. Statewide in-person contacts decreased by 2.3 percentage points while telephone contacts increased by 2.6 percentage points. Contacts via e-mail (5.4%), fax (0.1%), and letter/memo (0.6%) remained virtually unchanged. These data again suggest that constituents show a clear preference for non-written personal contact with an ombudsman while, they continue to choose email over fax or letter/memo from among the more convenient modes of contact.

The numbers summarized on *Table 3-7* alone do not tell the story of the extent of service provided at the vicinage level through the Judiciary's Ombudsman Program. To enhance the numbers it is valuable to note also several significant percentage changes during the time period covered in the report: Hudson Vicinage experienced a 302% increase in contacts from 2012 to 2013 and Ocean Vicinage experienced a 324% increase in contacts for the same time period. While the overall contacts at the vicinage level in these selected examples may seem low compared to other vicinages, the percentage changes reflect immensely successful efforts by the vicinages to

service the needs of the court user community locally. These selected increases in contacts cannot be underestimated in terms of their importance and value. In addition, the thirteen percentage point increase in contacts statewide from 2012 to 2013 reaffirms the breadth and depth of court user needs and the value of the Judiciary's Ombudsman Program.

Table 3-7. The Office of the Ombudsman - Modes of Contact⁸⁰ by Vicinage, Calendar Year 2013

Vicinage	In-Person		Telephone		E-mail		Fax		Letter/Memo		Total ^a	
	#	%	#	%	#	%	#	%	#	%	#	%
Atlantic/Cape May ^b	728	62.4	311	26.6	97	8.3	0	0.0	31	2.7	1,167	2.2
Bergen	101	6.3	1,132	70.3	351	21.8	10	0.6	17	1.1	1,611	3.1
Burlington	356	26.7	797	59.7	112	8.4	4	0.3	66	5.0	1,335	2.6
Camden	1,322	66.4	616	30.9	53	2.7	0	0.0	0	0.0	1,991	3.8
Cumberland/Salem/Gloucester	219	15.5	98	6.9	143	10.0	1	<0.1	50	3.5	1,411	2.7
Essex ^c	9,112	74.4	2,971	24.3	121	1.0	9	<0.1	28	0.2	12,241	23.4
Hudson ^d	204	35.7	251	44.0	111	19.4	1	0.2	4	0.7	571	1.1
Mercer	194	27.8	414	59.2	79	11.3	3	0.4	9	1.3	699	1.3
Middlesex	867	28.4	2,096	68.6	22	0.7	9	0.2	63	2.1	3,057	5.8
Monmouth ^e	6,961	61.7	3,964	35.2	346	3.1	2	<0.1	3	<0.1	11,276	21.5
Morris/Sussex	206	15.4	996	74.7	123	9.2	1	<0.1	8	0.6	1,334	2.6
Ocean	1,734	50.0	1,500	43.2	216	6.2	5	0.1	14	0.4	3,469	6.6
Passaic	1,610	68.2	598	25.3	148	6.2	1	<0.1	3	0.1	2,360	4.5
Somerset/Hunterdon/Warren	32	5.5	452	77.9	86	14.8	2	0.3	8	1.4	580	1.1
Union	3,730	40.2	4,638	50.0	871	9.4	23	0.2	21	0.2	9,283	17.7
Total Vicinages Combined	27,736	52.9	21,734	41.5	2,879	5.5	71	0.1	325	0.6	52,385	100.0

Data Source: Litigant Services Unit and Committee of Ombudsman, "New Jersey Judiciary Ombudsman Statewide Statistical Report," December 2013 (downloaded)

^a Unless otherwise noted, the contacts reflect those recorded by the Office of the Vicinage Ombudsman in the respective vicinage. ^b In Atlantic/Cape May; the Ombudsman also shares Vicinage Volunteer Services responsibilities. ^c Essex Vicinage data include services provided by the Ombudsman, 2 community relations liaisons (Information Center), and 1 Judiciary Clerk (Family Information Desk). ^d Hudson Vicinage reflects a transition period that included a shift in paradigm of the delivery of Ombudsman services and the design, development and implementation of a court user resource center. ^e Monmouth Vicinage includes Ombudsman and a part-time assistant.

⁸⁰ For purposes of consistency, this table is titled "Modes of Contact" so that it matches the title used in the standardized report, "New Jersey Judiciary Statewide Ombudsman Daily Contacts Report," Calendar Year 2013.

b. Type of Assistance⁸¹

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

- *Court Information* indicates that the ombudsman provided a court publication or court document and/or provided explanation about case status, court procedure, policy, or service.
- *Court Form* indicates that the ombudsman provided a court form and/or answered questions about a form.
- *Internal Referral* indicates that the ombudsman assisted the court user and then provided an internal referral to another court office for additional assistance.
- *External Referral/Non-Court Information* indicates that the ombudsman provided literature or referral information about an outside agency or organization.
- *Research/Investigation* indicates that the ombudsman reviewed a file or computer system and/or conferred with court staff in order to resolve the issue or answer the inquiry.
- *Court Tours/Speakers Bureau* indicates that the ombudsman assisted a court user who had questions about organizing a court tour, arranging a speaking engagement, or observing a court proceeding.
- *Interpreter/Bilingual Employee Needed* indicates that the ombudsman assisted a court user who needed an interpreter or bilingual staff person.
- *Update* indicates that the ombudsman provided follow-up status regarding an ongoing inquiry or issue.
- *Other* indicates assistance provided that is not captured in the other categories.

⁸¹ The mode of contact referenced in Table 3-7 and discussed in the previous section describes the initial interaction that the court user has with ombudsman staff. That number is typically less than the total number of “Types of Assistance” offered to the court user over the course of the office contact as the “type of assistance” refers to the different types of service needs a court user requires and the various types of assistance (usually more than one) provided to resolve the presenting issue(s). While the data presented here correspond to the resolution of the matter addressed to the Office of the Ombudsman, the assistance rendered often is multifaceted and labor intensive, involving substantial interaction over multiple visits and telephone conversations.

Table 3-8. Office of the Ombudsman: Type of Assistance (2013) reveals that statewide most court users continue to receive assistance in the form of court information (42.7%), court forms (22.1%), and research/investigation (17.0%). Assistance in the form of researching/investigation reflects an increase of 2.5 percentage points since these data were last reviewed for CY2012. The categories of assistance that were least frequently provided remain court tours/speakers (0.5%) and updates (2.1%).

One of the details that is not self-evident through the Committee's review of the program's annual report is the degree to which individual offices are consistently categorizing assistance provided specifically as far as general information such as the location of the law library or directions within the court facility. The Committee going forward plans to seek clarification as to how these contacts, particularly in terms of types of assistance, are being recorded and reported. The Committee believes that case-related information and general information are both important and that making the distinction in data recording can prove to be a worthwhile endeavor as far as overall customer service efforts.

Table 3-8. Office of the Ombudsman - Type of Assistance, 2013

Vicinage	Types of Assistance Provided to Resolve Court User Contact									Total
	Court Info	Court Form	Internal Referral	External Referral/ Non-Court Information	Research/ Investigation	Court Tours/ Speakers	Interpreter/ Bilingual Employee Needed	Update	Other	
Atlantic/Cape May	318	562	50	135	129	21	0	10	63	1,288
Bergen	65	456	735	600	317	3	8	133	265	2,582
Burlington	596	41	128	342	104	65	2	30	30	1,335
Camden	944	707	3	89	0	9	46	158	83	2,039
Cumberland/Salem/Gloucester	1,197	788	45	165	268	63	160	15	3	2,707
Essex	10,192	3,003	258	624	6,980	50	1,868	192	399	23,566
Hudson	454	304	56	88	41	1	74	50	11	1,079
Mercer	713	621	343	36	703	1	21	492	32	2,962
Middlesex	2,970	807	533	152	471	22	14	116	73	5,158
Monmouth	10,340	7,021	734	432	1,845	31	121	13	435	20,972
Morris/Sussex	976	170	152	109	0	17	1	16	45	1,486
Ocean	1,299	1,713	244	382	304	69	46	136	279	4,472
Passaic	1,359	547	37	69	0	38	81	215	53	2,399
Somerset/Hunterdon/Warren	50	12	350	49	2	8	0	1	108	580
Union	5,221	2,210	60	90	3,472	60	1,808	236	76	13,233
Totals	36,691	18,962	3,731	3,362	14,636	458	4,250	1,813	1,955	85,858

Data Source: Litigant Services Unit and Committee of Ombudsman, "New Jersey Judiciary Ombudsman Statewide Statistical Report," December 2013

c. Type of Assistance by Division

The Committee received detailed data showing divisional contacts⁸² by vicinage and statewide for calendar year 2013. This information may be helpful in assisting practice areas in pinpointing and addressing discrete case processes/procedures that raise questions or pose challenges for some court users. *Table 3-9. Office of the Ombudsman: Constituent Inquiry by Division* provides an informative overview of these contacts.

Table 3-9 shows the divisional contacts in descending order from greatest to least. The ranking has remained in the same order as the most recent committee report and the percentages have remained similar except as noted:

- Family: 50.9%
- Civil: 20.5%, reflecting a decrease of 1.2 percentage points
- Probation: 11.9%, reflecting a decrease of 1.3 percentage points
- Criminal: 6.5%, reflecting an increase of 1.1 percentage points
- County/Other: 6.3%
- Municipal: 2.3%, reflecting an increase of approximately .5 percentage point
- Operations: 1.2%
- Finance: 0.2%
- Human Resources: 0.1%

⁸² “Divisional contacts” refers to the court division to which the court users’ inquiry to the Ombudsman related or the court division whose assistance was required to resolve the court users’ concern. For this reason, the total number of inquiries by division is less than the total number of contacts for the Ombudsman Offices combined because some inquiries do not relate to one of the listed divisions.

Table 3-9. Office of the Ombudsman - Constituent Inquiry by Division, 2012

Vicinage	Types of Assistance Provided to Resolve Inquiry/Matter									Total
	Civil	Criminal	Family	Probation	Municipal	Operations	Finance	Human Resources	County/Other	
Atlantic/Cape May	285	90	647	23	28	5	0	0	125	1,203
Bergen	566	48	375	203	38	9	7	28	337	1,611
Burlington	362	117	501	144	42	3	0	3	163	1,335
Camden	303	135	1,354	2	4	8	0	0	185	1,991
Cumberland/Salem/Gloucester	239	120	868	172	53	16	2	1	114	1,585
Essex	2,318	519	4,766	3,875	83	393	12	18	660	12,644
Hudson	173	16	281	17	20	5	3	0	56	571
Mercer	232	36	315	33	7	0	0	0	76	699
Middlesex	315	102	2,065	122	322	17	0	2	156	3,101
Monmouth	1,701	322	9,054	223	22	35	34	0	370	11,761
Morris/Sussex	423	96	512	39	30	15	1	4	214	1,334
Ocean	1,134	255	1,661	53	35	56	4	1	319	3,518
Passaic	777	511	616	78	56	21	1	3	297	2,360
Somerset/Hunterdon/Warren	222	40	120	16	22	9	0	1	151	580
Union	1,945	1,098	4,157	1,349	483	67	20	10	154	9,283
Totals	10,995	3,505	27,292	6,349	1,245	659	84	70	3,377	53,576

Data Source: Litigant Services Unit and Committee of Ombudsman, "New Jersey Judiciary Ombudsman Statewide Statistical Report," December 2013

d. Constituent Complaints

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

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

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

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

As reported in its 2009-2011 report, the Supreme Court Committee on Minority Concerns is pleased to learn that the Ombudsmen have begun to track “constituent complaint” data in a separate category as the recommendation approved by the Court so stipulated. Of these 52,385 contacts statewide during calendar year 2013, 97.2% were categorized as an inquiry with 2.8% categorized as a complaint. The Committee feels that tracking contacts by these categories is very valuable and would like in the future to be able to consider more detail with regard to the subsets of types of complaints in order to understand more fully the scope of service provided by the Office of the Ombudsman and the breadth and depth of court user concerns. The Committee is of the view that by reviewing the court user complaint data it will be able to learn more about the kinds of issues that court users are bringing to the attention of the Judiciary, how the complaints are processed and resolved, what the timeline for resolution of court user complaints is, whether and how court users and litigants participate in the complaint resolution process, and how the anecdotal information and outcomes are utilized to inform court operations, training, policies and procedures and case

processing. The Committee looks forward to commencing its review of these data during the forthcoming next term.

e. Accessing the Ombudsman Services: Status of Court Users

The Ombudsman Offices continue to record detailed data showing the status of court users⁸³ served by each vicinage. As has been noted previously, knowledge of the constituency served is helpful insofar as this knowledge provides information that assist the Judiciary in determining how well it is meeting its goal of assuring access to the courts regardless of the nature of one’s legal representation and the data provide valuable planning information relevant to the design and delivery of public education seminars. *Table 3-10 Office of the Ombudsman: Status of Court User, Calendar Year 2013* provides an informative overview of these contacts.

Table 3-10. Office of the Ombudsman - Status of Court User, 2013

Vicinage	Self-Represented Litigant	Attorney-Represented Litigant	Attorney	N/A	Total
Atlantic/Cape May	934	46	65	122	1,167
Bergen	997	48	44	522	1,611
Burlington	1,137	74	28	96	1,335
Camden	1,823	2	6	160	1,991
Cumberland/Salem/Gloucester	1,258	19	40	94	1,411
Essex	10,104	843	119	1,175	12,241
Hudson	503	11	5	52	571
Mercer	620	26	2	51	699
Middlesex	2,761	12	14	270	3,057
Monmouth	10,434	65	146	631	11,276
Morris/Sussex	1,122	25	16	171	1,334
Ocean	2,870	57	100	442	3,469
Passaic	1,769	11	15	565	2,360
Somerset/Hunterdon/Warren	394	25	28	133	580
Union	8,943	10	195	135	9,283
Totals	45,665	1,274	823	4,619	52,385

Data Source: Litigant Services Unit and Committee of Ombudsmen, December 2013.
 Note: “Represented” and “N/A” were added as of September 2009.

As *Table 3-10* shows, 87.2% of constituents served by the Ombudsman Offices statewide continue to be self-represented litigants. These data once again affirm a very significant dynamic

⁸³ “Status of court users” refers to whether a court user is self-represented, is represented by an attorney, or is an attorney.

and underscore the critical importance the Ombudsman Program fulfills statewide in facilitating self-represented litigants' access to the courts and the vital services they offer to self-represented litigants as far as information and resources needed to conduct their cases before the New Jersey Courts.

f. Ombudsman Program – Court Users Serviced by Race/Ethnicity and Other Demographics

The scope of statistics collected on a routine basis by the Ombudsmen Offices across the state is valuable and much appreciated. Race/ethnicity data, however, are not collected or reported. One of the original bases for this Committee's proposal of an ombudsman program was because the Committee viewed such a service as a means to improve access to justice for racial/ethnic minorities, so it remains a concern that to date this information is not captured on a routine basis. The Committee continues to hold the view that there are efficient and appropriate ways to collect racial/ethnic identification information at some point in the constituent services process. With the development of a simple one sentence explanation of why court users are invited to provide the information on a voluntary basis, namely so the Judiciary can serve court users better and in a culturally competent manner, the Committee believes that most court users will share that information without concern especially when they understand that it is part of a deliberate ongoing effort to ensure top quality service. The reality is this: Given that part of the basis for promoting the establishment of the Ombudsman Program was to improve access to justice for racial/ethnic minorities, it is, without data on the race/ethnicity of persons served via the Ombudsman Program, impossible to assess whether the program is reaching those for whom it was originally conceptualized to improve access to justice. It is clear that overall the program is a success and it is reasonable to infer that the program services broadly diverse constituencies, but it is also, in the view of the Committee, reasonable and beneficial to take the added step of validating this inference by adding the routine collection of the race/ethnicity – and likely other general demographic

characteristics – of people served by the Ombudsman program so that the Judiciary has a quantitative, rather than qualitative means to ensure that the original needs and the broader current purposes are both well-met. The SCCMC with the Court’s approval, will participate in developing a sample demographic profile inquiry that can be considered for adoption by the Ombudsman Program.

RECOMMENDATION 15:03.2

The Supreme Court Committee on Minority Concerns recommends the Ombudsman Program be directed to begin to include as part of the constituent intake information gathered race/ethnicity so that there is a quantitative measure of the degree to which the program services racial/ethnic minorities in addition to other demographic factors that would be beneficial to the Judiciary in order to better know the breadth and depth of the diverse constituencies seeking service through this program. The SCCMC is poised to provide, for the Court’s consideration, a sample demographic profile inquiry that can be used by the Ombudsman in a way that court users will understand the purpose and benefits of the brief questions and will be more likely to self-report the data.

g. Ombudsman Program – Successes, Challenges, and Opportunities

The Committee remains an unequivocal advocate for the New Jersey Judiciary’s Ombudsman Program. Without a doubt, as these selected data confirm, the Ombudsman Program provides essential services to a significant number of court users statewide, particularly but not exclusively self-represented litigants.

In its review of the New Jersey Judiciary Ombudsman Statewide Statistical Report for 2013, the Committee with great interest read the summary of vicinage ombudsman program models detailed in Appendix A of the annual report. This narrative provided valuable insight into the daily operations and structure of the statewide program at the vicinage level. The unique character of each vicinage’s program reflects a valuable responsiveness to the needs of the local community. The Committee is encouraged by the ability of the program to possess statewide standards and common elements while at the same time being structurally customized to the character of the

vicinage, the local community, and local court user needs. The information provided on staffing, facilities and other resources, and key program outreach initiatives offers valuable insights into the qualitative dimensions of the program.

The New Jersey Judiciary adopted a statewide program, and as far as the Committee is aware the program design remains a national model. The continued success of the Ombudsman Program is an essential component of the Judiciary's Access and Fairness Program. With the ten year anniversary of statewide promulgation approaching, the Committee believes it is an appropriate and beneficial moment to go beyond the routine data provided in the annual report and conduct a comprehensive program assessment of the New Jersey Judiciary's Ombudsman Program. As Administrative Director Grant observed in his introduction to the 2014 Report on the Access and Fairness Public Survey,

The New Jersey Judiciary continues to be a national leader in effective and efficient court operations. But our focus is not just on efficiencies. We also are a Judiciary that endeavors to treat everyone with respect and dignity, to ensure that all who come into contact with our system have their voices heard and receive quality customer services. To put it simply, we are always striving as an organization to match our performance to our ideals.

The SCCMC is convinced of the professionalism of the fifteen Ombudsmen and feels that the team of 15 professional Ombudsmen should be recognized for the scope of services and expertise they provide to court users. The SCCMC also recognizes that as far as the delivery of customer service the program's performance meets the broad ideals and core values of the New Jersey Judiciary. The Committee, however, is also of the view, suggested by Judge Grant's visionary leadership statement quoted above, that a comprehensive critical self-assessment of programs of such great importance and that are so far-reaching is a necessary and advisable step. A comprehensive program assessment, which in the case of the Ombudsman Program could easily be achieved through a standardized self-study developed collaboratively between the Committee on Minority Concerns and the Committee of Ombudsman. This collaboration may also include identified in-house professionals who would

provide valuable insights into the core components of the program's successes and an opportunity to measure the numerous performance factors and outcomes measures including but not limited to how the standards of the program, in contrast to the original design concepts proffered by the SCCMC and the Supreme Court Committee on Women in the Courts, have been applied or modified and what the results of those applications/modifications have been at the program level, e.g., staffing design and staffing level, support resources, goals and purposes of the program. The Committee wholeheartedly believes that this review would prove to be a very beneficial undertaking at this point in time and under separate cover will be pleased to provide the Court and Administrative Director's Office with more detailed thoughts on the design and substance of the recommended program assessment.

RECOMMENDATION 15:03.3

The Supreme Court Committee on Minority Concerns recommends that a comprehensive critical self-assessment (program review) of the New Jersey Judiciary's Ombudsman Program be undertaken as means of assessing the structure and services provided at the program level. The Committee recommends that this program assessment be achieved through a self-study process to be designed collaboratively by the SCCMC and the Committee of Ombudsmen. The study would include but not be limited to identifying the goals and purposes of the program, measuring the degree to which the current program reflects the original program proposal and promulgation, and assessing a number of selective performance factors and outcomes measures such as how the standards of the original program proposals have been applied or modified and what the results of those applications/modifications have been at the program level, e.g., staffing design and staffing level, support resources, goals and purposes of the program. The Committee wholeheartedly believes that this review would prove to be a very beneficial undertaking at this point in time and under separate cover will be pleased to provide the Court and Administrative Director's Office with more detailed thoughts on the design and substance of the recommended program review.

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

Ongoing education and training for judges, managers, and staff play a vital role in advancing access and fairness initiatives. During the 2013-2015 term the Committee did not have the opportunity to look at training offerings across the practice areas relating to access issues. To gauge the extent of course offerings and the ways in which these courses impact the delivery of services to the public and the community's access to the courts, the Committee anticipates looking at training in further detail during the forthcoming term.

IV. Conclusion

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

Chapter IV

SUBCOMMITTEE ON MINORITY PARTICIPATION IN THE JUDICIAL PROCESS

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I. Introduction and Mandate

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

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

The New Jersey Judiciary has made substantial progress over the course of the last 25 years in its efforts to ensure fair and equitable access to employment opportunities. The Judiciary's progress in implementing the court-approved recommendations of the Minority Concerns Committee and other human resource systems improvements positions the Judiciary to meet the continuing challenges of the State's changing population demographics. This chapter focuses on how the Judiciary since the Committee's 2009-2011 biennial report has addressed particular concerns raised and recommendations made in that and other prior biennial reports.

The Committee addressed in detail the following subjects: the “availability data” and the self-critical findings of underutilization of racial and ethnic minorities in the Judiciary workforce, as set forth in the Judiciary EEO/AA Master Plan; a demographic overview of the judiciary workforce with separate breakouts for judges, law clerks, AOC/Central Clerks’ Offices and vicinages; demographic distribution within job bands and within compensation levels with particular attention to court executives and career progression; recruitment outreach; the demographics of hiring and separations; the nature and handling of discrimination complaints within the Judiciary; equal employment and diversity training; minority vendors; and the demographics of Supreme Court committees and other related committees.

II. Overview of the Judiciary Workforce

The Judiciary’s workforce statistics provide a "snapshot" of the Judiciary full-time workforce⁸⁴ for the time period specified in each data run. The Committee reviewed data on race/ethnicity,⁸⁵ gender, job band, band level, and division. The data provided the AOC’s EEO/AA Unit were presented in the charts that included data on number and percentage of females, total minorities, Blacks/African Americans, Hispanics/Latinos(as), and Asians, Native

⁸⁴ The self-identification of one’s race/ethnicity is voluntary and an employee is free to opt out of doing so. However, all employees must be accounted for when submitting race/ethnicity data to the EEOC. In the FAQ section this question was posed: “What should an employer do if an employee refuses to self-identify using the new race and ethnic categories? A: An employer may obtain the necessary information from existing employment records or visual observations if an employee declines to self-identify. Employment records and visual identification may be used only if an employee refuses to self-identify.” <http://archive.eeoc.gov/eeo1/qanda-implementation.html>

⁸⁵ The race/ethnicity categories as defined by the Equal Employment Opportunity Commission (EEOC) were used in the preparation of the self-critical workforce analysis. Judiciary workforce data prior to 2010 used the former EEOC race category “*Asian/Pacific Islander*.” As of 2010, Judiciary workforce data reflects the EEOC revised race categories of “*Asian*” and “*Native Hawaiian/Other Pacific Islander*.”

Hawaiians/Other Pacific Islanders (NHOPI), and American Indians/Alaska Natives.⁸⁶ The tables reviewed also included availability numbers, availability percentages, and utilization numbers.

The availability data used in the Judiciary's workforce analysis is the percentage of minorities and/or women in the external labor force who reside within the Judiciary's labor market area and who possess a job title relevant to a specific Judiciary job group.⁸⁷ The Judiciary establishes the availability for each job group by taking the equivalent (relevant) civilian labor force (ECLF) from U.S. Census analogous occupational job code for each Judiciary job group within reasonable geographical areas of recruitment based on commuting patterns.

Each Judiciary job group is matched up with analogous Census Occupational titles/categories depending on the job title. The Judiciary EEO/AA Unit then assigns a specific geographical reasonable recruiting area to each job group at each location based on the normal recruiting area for a particular level or position. To do this, the Judiciary EEO/AA Unit examined the commuting patterns of employees in each job group at each worksite location and in some cases where job applicants for those job groups reside. Each reasonable recruiting area has its own ECLF.

No ECLF/availability has been established for judges as currently race/ethnicity and other demographic data is not collected from members of the New Jersey Bar. For judicial law clerks, the availability data for law clerks is based on the graduation rate of minorities and women from the three New Jersey law schools⁸⁸ for the previous academic year.

⁸⁶ American Indians/Alaska Natives comprise less than 0.01 % of the Judiciary workforce and thus are combined with Asians and Native Hawaiians/Other Pacific Islanders, abbreviated in the charts and corresponding narrative as NHOPIs.

⁸⁷ For data prior to 2013, the availability is based on the 2000 U.S. Census data. For data from 2013 forward, the availability is based on the 2010 U.S. Census data.

⁸⁸ The three New Jersey law schools are Rutgers-Camden, Rutgers-Newark, and Seton Hall.

The utilization analysis of women and minorities is determined by comparing their representation in the Judiciary workforce with their availability in the labor market based on U.S. Census data. Based on the difference in percentages between the Judiciary's current workforce and availability in the labor market, the Judiciary calculates the number of women and minority positions needed to reach parity utilizing the *Whole Person Rule*.⁸⁹

The workforce data provided to the SCCMC had been prepared with information contained in the Judiciary Human Resources Personnel Management Information System (PMIS), Peopleclick database, and personnel transaction information housed in MS Excel files.

Table 4-1: New Jersey Judiciary Employees by Race/Ethnicity and Gender, 2013 and 2000 makes apparent that there has been a dramatic increase in minority participation in the AOC/Central Clerks' Offices and the vicinages. However, when examining the participation rate for particular minority groups, the picture is less dramatic and calls for further analysis.

⁸⁹ According to the whole person rule, a race/ethnicity group is considered underutilized where the underrepresentation in a given job band equals at least one person.

Table 4-1. New Jersey Judiciary: Employees by Race/Ethnicity (Excluding Judges, Bar Examiners, and Part-time Employees), AOC/Central Clerks' Offices and Vicinages, 2013 and 2000^a

2013	Total	Whites		Total Minorities		Blacks		Hispanics/Latinos		Asians/Amer. Indians/NHOPIs	
		#	%	#	%	#	%	#	%	#	%
AOC/Central Clerks' Offices	1,418	956	67.4	462	32.6	280	19.7	91	6.4	91	6.4
Vicinages	7,152	4,057	56.7	3,095	43.3	1,821	25.5	1,039	14.5	235	3.3
Total Judiciary	8,570	5,013	58.5	3,557	41.5	2,101	24.5	1,130	13.2	326	3.8
U.S. Census 2000^b											
NJ Experienced Civilian Labor Force ^c		61.6%		38.4%		12.5%		16.7%		8.6%	
NJ Total Population	8,414,350	72.6%		32.8%		13.6%		13.3%		5.9%	
2000	Total	Whites		Total Minorities		Blacks		Hispanics/Latinos		Asians/Amer. Indians/NHOPIs	
		#	%	#	%	#	%	#	%	#	%
AOC/Central Clerks' Offices	1,301	941	72.3	360	27.7	268	20.6	62	4.8	30	2.3
Vicinages	7,510	5,146	68.5	2,364	31.5	1,626	21.7	615	8.2	123	1.6
Total Judiciary	8,811	6,087	69.1	2,724	30.9	1,894	21.5	677	7.7	153	1.7
U.S. Census 2000^b											
NJ Experienced Civilian Labor Force		68.3%		31.7%		11.9%		12.1%		6.5%	
NJ Total Population	8,414,350	72.6%		32.8%		13.6%		13.3%		5.9%	

^a Data Source: AOC Central Clerks' Offices, EEO/AA Unit

^b In order to match the available census data to the data categories currently in use by the Judiciary, calculations for the New Jersey Experienced Civilian Labor Force and the New Jersey Total Population were drawn from using the totals listed for White, Black/African American, and American Indian/Alaskan Native and Asian (combined) under one race and Hispanic/Latino of any race from *Table 1. Population by Race and Hispanic Origin for All Ages and for 18 Years and Over for New Jersey, 2000*. The ECLF includes only those 16 years of age and older; the total population includes all ages. (<http://www.census.gov/acs/www/UseData/Def/Employme.htm>) Data Source: U.S. Census, 2000

^c ECLF for 2013 is based on 2006-2010 U.S. Census data, and ECLF for 2000 is based on Civilian Labor Force per 2000 U.S. Census.

The overall 2013 ECLF is 12.5% for Blacks/African Americans, 16.7% for Hispanics/Latinos and 8.6% for Asians/American Indian/NHOPIs. The participation rate for particular minority groups in the AOC/Central Clerks' Offices is reported at 19.7% for Blacks/African Americans and 6.4 % for Hispanics and Asians/American Indians/NHOPIs,

respectively. The participation rate for particular minority groups in the vicinages is reported at 25.5% for Blacks/African Americans, 14.5% for Hispanics/Latinos and 3.3% for Asians/American Indians/NHOPIs. These statistics evidence a clear participation gap for Hispanics/Latinos and Asians/American Indians/NHOPIs. These gaps are noticeable in the AOC/Central Clerks' Offices where the participation rate for Hispanics/Latinos is reported at 6.4% compared to an ECLF of 16.7% while the vicinages reported a Hispanic/Latino participation rate of 14.5%. The reverse picture is presented for Asians/American Indians/NHOPIs as the AOC/Central Clerks' Offices report a 6.4% participation rate contrasted to the ECLF of 8.6% while the vicinages participation rate for Asians/ American Indians/NHOPIs is shown as 3.3% contrasted to the ECLF of 8.6%. Although these data reflect an increase in representation since 2000, the underutilizations persist.

In order to identify the operational units where these shortfalls exist, the Committee reviewed additional data provided by EEO/AA which was very instructive.⁹⁰ For the data for 24 operational units, there is little underrepresentation of Blacks/African Americans as compared to the ECLF. In contrast, Hispanics/Latinos are underrepresented in 22 of the 24 divisions and Asians/ American Indians/NHOPIs are underrepresented in 19 divisions. Viewing the utilization data by practice division units, of the 12 divisions reported, only one division reflects underutilization for Blacks/African Americans while for Hispanics/Latinos 6 divisions reflect underrepresentation and for Asians/American Indians/NHOPIs 9 divisions reflect underrepresentation. Upon examining utilization data by vicinage, the Committee observed that as far as the twenty-one counties Blacks/African Americans are underrepresented in 1 county, Hispanics/Latinos in 12 counties, and Asians/American Indians/NHOPIs in 19 counties.

⁹⁰ The additional data were presented by EEO/AA via *Table 25: NJ Judiciary AOC/Central Offices Employees by Race/Ethnicity Within Division*, *Table 26: NJ Judiciary Summary of Vicinage Employees by Race/Ethnicity Within Division*, and *Table 27: NJ Judiciary Vicinage Employees by County and Race/Ethnicity*.

The underrepresentation of Hispanics/Latinos and Asians⁹¹ within the Judiciary workforce remains a longstanding phenomenon. The Committee recognizes the ongoing direct efforts made by the Administrative Office of the Courts under the leadership of Administrative Director Grant to improve the recruitment and retention of Hispanics/Latinos and Asians and to remedy this ongoing gap. The Committee urges the Judiciary to continue these efforts so that the Judiciary will be an employer of choice for Hispanic/Latino and Asian workers in New Jersey.

Data for the twelve year period from 2001-2013 reflect a steady growth of minority participation notwithstanding declining numbers of total employees and a similar pattern of growth in minority participation in both the AOC/Central Clerks' Offices and vicinages except for Blacks/African Americans whose participation rate declined slightly in the AOC/Central Clerks' Offices over the twelve year period.

The Committee received and reviewed separation⁹² and new hire data for the period of July 1, 2012 through June 30, 2013. Both sets of data show a pattern of hiring more racial/ethnic minorities than number of racial/ethnic minorities separated. The AOC/Central Clerks' Offices hired 24 racial/ethnic minorities while 17 separated, and the vicinages combined hired 161 while 110 separated. The AOC/Central Clerks' Offices hired 15 Blacks/African Americans while 11 separated, 2 Hispanics/Latinos while 5 separated, and 7 Asians/American Indians/NHOPIs while one separated. This pattern reflects a similar pattern seen at the vicinage level where the data for Blacks/African Americans show 55 new hires with 60 separations, for Hispanics/Latinos 95 new

⁹¹ In this case, the Committee's reference is to Asians specifically rather than the new EEOC grouping of Asians/American Indians/NHOPIs as the issue of underrepresentation in the long-term has been specific to Hispanic/Latinos and Asians.

⁹² "Separation" is an umbrella term that refers collectively to members of the workforce whose employment with the Judiciary has concluded. "Separations" include terminations, retirements, resignations, and transfer to another branch of State government.

hires and 38 separations, and for Asians/American Indians/NHOPIs 11 new hires and 12 separations.

For those divisions and counties reflecting underrepresentation of Hispanic and Asians/American Indians/NHOPIs, emphasis on outreach and recruitment efforts must be sustained. For FY 2013 there were 371 new hires in both the AOC/Central Clerks' Offices and vicinages. With a separation rate of 4.2%, the opportunity to reach the ECLF rate is limited but must be prioritized. Access to additional data similar to the supplemental data charts provided by EEO/AA for further review and analysis would prove useful in identifying the nature and persistence of such patterns. Such an analysis will enable the Committee to identify and remedy systemic trends.

One of the more significant findings since the last biennial report is that **despite a general decline in the number of employees within most of the individual job categories, the percentage of racial/ethnic minorities overall within individual job categories has increased across the board.** *Table 4-2: New Jersey Judiciary, Employees by Race/Ethnicity and Job Band (Excluding Law Clerks), AOC/Central Clerks' Offices and Vicinages Combined, October 2013.* However, notwithstanding the slight increase in the overall percentage of minorities within individual job categories, some of the issues discussed in previous biennial reports – such as the disproportionate distribution of minorities among specific job categories and the disparity in compensation as compared to Whites – still remain.

**Table 4-2. New Jersey Judiciary: Employees by Race/Ethnicity and Job Band
AOC/Central Clerks' Offices and Vicinages Combined (Excluding Judges, Law Clerks,
Bar Examiners, and Part-time Employees), October 2013**

	Total	Whites		Total Minorities		Blacks		Hispanics/Latinos		Asians/Amer. Indians/NHOPIs	
		#	%	#	%	#	%	#	%	#	%
Court Executive	491	344	70.1	147	29.9	88	17.9	45	9.2	14	2.9
Professional Supervisory	812	578	71.2	234	28.8	149	18.3	64	7.9	21	2.6
Support Staff Supervisory	90	41	45.6	49	54.4	41	45.6	7	7.8	1	1.1
Legal (Attorneys)	68	55	80.9	13	19.1	5	7.4	3	4.4	5	7.4
Official Court Reporter	35	32	91.4	3	8.6	2	5.7	0	0.0	1	2.9
Court Interpreter	52	16	30.8	36	69.2	1	1.9	34	65.4	1	1.9
Information Technology	311	187	60.1	124	39.9	40	12.9	29	9.3	55	17.7
Administrative Professional	738	495	67.1	243	32.9	146	19.8	66	8.9	31	4.2
Case Processing	2,581	1,357	52.6	1,224	47.4	737	28.6	439	17.0	48	1.9
Judge's Secretary	434	340	78.3	94	21.7	47	10.8	46	10.6	1	0.2
Support Staff	2,484	1,181	47.5	1,303	52.5	812	32.7	374	15.1	117	4.7
Total	8,096	4,626	57.1	3,470	42.9	2,068	25.5	1,107	13.7	295	3.6

Data Source: AOC Central Clerks' Offices, EEO/AA Unit

In 2009, the number of AOC/Central Clerks' Offices employees (excluding Law Clerks) was 8,410. However, in 2013, that number declined to 8,096 employees. Despite this decrease in the AOC/Central Clerks' Offices workforce, most of the job categories showed a proportional increase in minority representation. For instance, in 2013, the percent of overall minorities in the Court Executive job category rose to 30% from 26%, in 2009. Similarly, the percentage of minorities identified as Professional Supervisory jumped to 29% from 26% in 2009. Further, minorities in the Support Staff Supervisory category increased from 44% in 2009 to 54% in 2013. Such increases continued throughout each job category in 2013 as compared to minority representation in 2009. These are interesting observations and worth further exploration. It will

be informative to see if these increases, particularly in the supervisory and managerial job bands, continue or even increase as time progresses, which would raise some potentially beneficial observations about retention.

Although there seems to have been a slight increase in the overall percentage of minorities in the individual job categories, some categories showed a disproportionality in representation among specific racial/ethnic minority groups. Where the overall percentage of minorities in the AOC/Central Clerks' Offices in 2013 was roughly 43%, the Support Staff category was comprised 52.5% of minorities, but functions such as Legal (Attorneys) were comprised of 19%, and Official Court Reporter was comprised of only almost 9% minorities. As previously reported, Blacks/African Americans occupy about 25% of the overall Judicial population, but account for only 7% of the Attorneys and only 6% of the Official Court Reporters. In contrast, almost 33% of the overall Support Staff are Black/African American. As previously mentioned, one significant change from prior reports is that despite the overall decrease in employment in the Judiciary, the percentages of Black/African American, Hispanic/Latinos and Asians/American Indians/NHOPIs increased. Although the increase might not be significant on a grander scale, it does mark a shift since previous reports, particularly when one considers the overall decrease in employment. The Committee will require more detailed data from Human Resources to assess the basis for such trends. Although the statistics illustrate increased representation of minorities within the Judiciary, the overall trends demonstrating disparity in compensation, as detailed and discussed above, indicate that many of the issues raised in previous reports still remain.

In its review of workforce data, the Committee noted that none of the data provides information on people of color who are also LGBTQI or people who are LGBTQI generally. For the same reasons that the Committee reviews the routine data that it does, the Committee believes it is crucial for the Judiciary to collect and provide such workforce data and recommends that these

data be collected and shared with the SCCMC. This information is important in regard to both recruitment and retention.

RECOMMENDATION 15:04.1

The Committee recommends to the Court that the Judiciary expand its workforce data collection to include self-reported information on sexual orientation and that these data be shared with the SCCMC. Access to this information will enable the SCCMC to continue its intersectional analyses by being able to examine data on race/ethnicity and sexual orientation in the same way that the Committee routinely reviews data on race/ethnicity and gender. This information is particularly important in regard to both recruitment and retention. The Committee proposes that this information be collected for the workforce populations for which data routinely are reviewed by the SCCMC, which would include jurists, managerial and non-managerial staff, and law clerks. The Committee is prepared to assist the Court in developing and designing the means by which to collect this data effectively and appropriately.

During the forthcoming term, the Committee plans to delve more deeply into this recommendation and looks forward to providing the Court with more detailed suggestions for implementing this recommendation in the most expedient manner possible.

III. Compensation

Table 4-4: New Jersey Judiciary Salary Comparison by Race/Ethnicity and Gender of Employees, AOC/Central Clerks' Offices and Vicinages Combined, October 2013. shows the distribution of salaries across nine salary ranges. The nine compensation ranges presented in this table can be separated into tiers, categorizing the lowest wage ranges, the middle wage ranges, and the highest wage ranges. Inequity and disproportionality extends into compensation levels, as mentioned in previous reports, as the percentage of overall racial/ethnic minorities earning over \$100,000 (25%) is starkly less than the percentage of racial/ethnic minorities (43%) in the overall workforce. A similar imbalance in distribution is seen for employees making \$90,000-\$99,999, where only 36% of employees compensated in this range are racial/ethnic minorities, and on the other end of the spectrum in salary categories \$20,000-\$29,999 and \$30,000-\$39,999, where

racial/ethnic minorities represent 56% and 54%, respectively, compared to their representation in the overall workforce.

Table 4-3. New Jersey Judiciary: Salary Comparisons by Race/Ethnicity of Employees AOC/Central Clerks' Offices, October 2013

AOC	Total	Whites		Total Minorities		Blacks		Hispanics/Latinos		Asians/Amer. Indians/NHOPIs	
		#	%	#	%	#	%	#	%	#	%
Over \$100,000	503	371	73.8	132	26.2	74	14.7	28	5.6	30	6.0
\$90,000-\$99,999	86	59	68.6	27	31.4	11	12.8	6	7.0	10	11.6
\$80,000-\$89,999	150	101	67.3	49	32.7	26	17.3	10	6.7	13	8.7
\$70,000-\$79,999	139	92	66.2	47	33.8	29	20.9	10	7.2	8	5.8
\$60,000-\$69,999	143	88	61.5	55	38.5	39	27.3	9	6.3	7	4.9
\$50,000-\$59,999	241	147	61.0	94	39.0	61	25.3	15	6.2	18	7.5
\$40,000-\$49,999	108	74	68.5	34	31.5	26	24.1	4	3.7	4	3.7
\$30,000-\$39,999	29	15	51.7	14	48.3	5	17.2	8	27.6	1	3.4
\$20,000-\$29,999	19	9	47.4	10	52.6	9	47.4	1	5.3	0	0.0
Total	1,418	956	67.4	462	32.6	280	19.7	91	6.4	91	6.4

Data Source: AOC Central Clerks' Offices, EEO/AA Unit

The stark difference in salaries becomes all the more clear when examining the imbalanced compensation of White employees in the top salary category. For instance, at the AOC/Central Clerks' Offices, 503 employees were compensated over \$100,000 in 2013. This represents 6% of the overall AOC/Central Clerks' Offices population. However, 371 White employees were compensated over \$100,000, representing 74% of the category but 4.6% of the overall population. Such illustrations beg the question asked in previous reports: *Is there a possible racial/ethnic component to salary distribution?* The Committee consistently has made similar observations in

prior biennial reports and will request additional detailed data from the Human Resources Division to facilitate a more detailed study.

IV. Court Executives

The Committee reviewed detailed data relative to Court Executives in the AOC/Central Clerks' Offices and vicinages for previous biennial reports. The Court Executives job band includes seven levels with Court Executive 1 as the entry level and Court Executive 4 as the highest level. As noted in the 2009-2011 biennial report, "the Court Executive job band is extremely significant in that it is the highest level within the judicial workforce, and in particular at the Central Office, as it includes those positions that have the greatest influence over administrative policy and procedures as well as hiring within the administrative units that form the AOC/Central Clerks' Offices.

As shown in *Table 4-4: New Jersey Judiciary Court Executives at the AOC, Vicinages Combined and Total Judiciary By Race/Ethnicity and Band Level, October 30, 2013*, the seven Court Executive 4 positions at the AOC/Central Clerks' Offices⁹³ do not include any racial or ethnic minorities. This dynamic at uppermost level of Court Executive job band has remained essentially unchanged since the 1970s. White female representation at the Court Executive 4 level remains at 42.9%.

⁹³ The Court Executive 4 title is located only at the AOC/Central Clerks' Offices. The highest vicinage executive title is Court Executive 3B (Trial Court Administrator).

**Table 4-4(a). New Jersey Judiciary: Court Executives at the AOC/Central Clerks' Offices
October 2013**

AOC		Whites		Total Minorities		Blacks		Hispanics/Latinos		Asians/ Amer. Indians/NHOPIs		Total #
		#	%	#	%	#	%	#	%	#	%	
Court Exec 4	Females	3	42.9	0	0.0	0	0.0	0	0.0	0	0.0	3
	Males	4	57.1	0	0.0	0	0.0	0	0.0	0	0.0	4
	Total	7	100.0	0	0.0	0	0.0	0	0.0	0	0.0	7
Court Exec. 3B	Females	5	29.4	2	11.8	1	5.9	1	5.9	0	0.0	7
	Males	8	47.1	2	11.8	1	5.9	1	5.9	0	0.0	10
	Total	13	76.5	4	23.5	2	11.8	2	11.8	0	0.0	17
Court Exec. 3A	Females	3	15.0	4	20.0	1	5.0	2	10.0	1	5.0	7
	Males	11	55.0	2	10.0	2	10.0	0	0.0	0	0.0	13
	Total	14	70.0	6	30.0	3	15.0	2	10.0	1	5.0	20
Court Exec. 2B	Females	22	36.1	5	8.2	3	4.9	1	1.6	1	1.6	27
	Males	30	49.2	4	6.6	2	3.3	1	1.6	1	1.6	34
	Total	52	85.2	9	14.8	5	6.2	2	3.3	2	3.3	61
Court Exec. 2A	Females	16	44.4	5	13.9	4	11.1	1	2.8	0	0.0	21
	Males	10	27.8	5	13.9	4	11.1	0	0.0	1	2.8	15
	Total	26	72.2	10	27.8	8	22.2	1	2.8	1	2.8	36
Court Exec. 1B	Females	4	80.0	1	20.0	1	20.0	0	0.0	0	0.0	5
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
	Total	4	80.0	1	20.0	1	20.0	0	0.0	0	0.0	5
Court Exec. 1A	Females	2	66.7	1	33.3	1	33.3	0	0.0	0	0.0	3
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
	Total	2	66.7	1	33.3	1	33.3	0	0.0	0	0.0	3
All Court Executives	Females	55	36.9	18	12.1	11	7.4	5	3.4	2	1.3	73
	Males	63	42.3	13	8.7	9	6.0	2	1.3	2	1.3	76
Grand Total		118	79.2	31	20.8	20	13.4	7	4.7	4	2.7	149

Data Source: AOC EEO/AA Unit

Racial/ethnic minorities did make some gains at the AOC/Central Clerks' Offices in the Court Executive 3 job band with an increase of 2 minorities at the 3B level and no change at the 3A level. As far as the Court Executive 2 job band, there was a very slight decrease at the Court Executive 2B level from 10 in July 2009 to 9 in October 2013 and no change for the Court

Executive 2A level. There was also no change in either the Court Executive 1B or the Court Executive 1A levels, each of which report one. Since July 2009, the number of racial/ethnic minorities in Court Executive positions at the AOC/Central Clerks' Offices has remained virtually stable with there being 30 (20.3%) in July 2009 and 31 (20.8%) in October 2013.

Table 4-4(b). New Jersey Judiciary: Court Executives –Vicinasges Combined October 2013

VICINAGES		Whites		Total Minorities		Blacks		Hispanics/Latinos		Asians/ Amer. Indians/ NHOPIs		Total #
		#	%	#	%	#	%	#	%	#	%	
Court Exec 4	Females	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
	Total	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Court Exec. 3B	Females	3	20.0	0	0.0	0	0.0	0	0.0	0	0.0	3
	Males	10	66.7	2	13.3	2	13.3	0	0.0	0	0.0	12
	Total	13	86.7	2	13.3	2	13.3	0	0.0	0	0.0	15
Court Exec. 3A	Females	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
	Total	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Court Exec. 2B	Females	51	37.0	29	21.0	17	12.3	9	6.5	3	2.2	80
	Males	50	36.2	8	5.8	2	1.4	5	3.6	1	0.7	58
	Total	101	75.2	37	26.8	19	13.8	14	10.1	4	2.9	138
Court Exec. 2A	Females	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
	Males	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
	Total	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0
Court Exec. 1B	Females	63	38.9	53	32.7	34	21.0	15	9.3	4	2.5	116
	Males	33	20.4	13	8.0	7	4.3	5	3.1	1	0.6	46
	Total	96	59.3	66	40.7	41	25.3	20	12.3	5	3.1	162
Court Exec. 1A	Females	12	44.4	9	33.3	5	18.5	4	14.8	0	0.0	21
	Males	4	14.8	2	7.4	1	3.7	0	0.0	1	3.7	6
	Total	116	59.3	11	40.7	6	22.2	4	14.8	1	3.7	27
All Court Executives	Females	129	37.7	91	26.6	56	16.4	28	8.2	7	2.0	220
	Males	97	28.4	25	7.3	12	3.5	10	2.9	3	0.9	122
Grand Total		226	66.1	116	33.9	68	19.9	38	11.1	10	2.9	342

Data Source: AOC EEO/AA Unit

Table 4-4(b): New Jersey Judiciary – Court Executives by Race/Ethnicity, Gender, and Band Level Summary of All Vicinages Combined, October 30, 2013 shows that the underrepresentation of racial/ethnic minorities among top level Court Executives (Court Executive 4, Court Executive 3A/3B) at the AOC/Central Clerks’ Offices is paralleled at the vicinage levels. Overall, however, racial/ethnic minorities are better represented in Court Executive positions in the vicinages at 33.9% contrasted to 20.8% at the AOC/Central Clerks’ Offices. The representation at the vicinage level is a substantial increase from 28.6% as was reported in the Committee’s 2009-2011 biennial report. The difference in minority representation in the Court Executive job band for the vicinages combined compared to the AOC/Central Clerks’ Offices is likely attributable to the strong minority representation in Court Executive 1B and 2B titles in the vicinages,⁹⁴ which skews upward the total proportion of minority representation in the vicinages.

When comparing Court Executive demographics at the vicinage level in July 2009 with the numbers available in October 2013, the total number of racial/ethnic minorities has increased from 102 (28.6%) to 116 (33.9%). This increase in numbers and percentage has occurred even though in July 2009 there were 357 total executive positions in the vicinages combined and in October 2013 there was a reduction of the executive workforce to a total of 342 positions. The increase in representation is not a happenstance of the reduction in number of positions as the numbers of Court Executive position held by racial/ethnic minorities have increased. In addition, Asians/American Indians/NHOPIs have seen a small increase within the Court Executive job band at the vicinage level. In July 2009, Asians/American Indians/NHOPIs held 6 positions in all the vicinages combined or 1.7% of the executive workforce and as of October 2013 increased to 10 (2.9%).

⁹⁴ In the vicinages, the functional titles of Court Executive 2B is Division Manager; Court Executive 1B is Assistant Division Manager, EEO/AA Officer, or Ombudsman.

When looking at the total picture for Court Executives for the AOC/Central Clerks' Offices and the vicinages combined it is clear the Judiciary is heading in the right direction but deliberate attention must be paid still. In July 2009 there were 132 minorities holding executive positions compared to 147 in October 2013. This represents an increase of 15 positions or an increase of 11.4%. For Asians/American Indians/NHOPIs there has also been an increase in the total amount of Court Executives from 6 (1.7%) in July 2009 to 14 (2.9%) in October 2013, a 133.3% increase.

Since the Court Executive 4 position, unlike the lower levels within the court executive job band, may be filled by appointment rather than by an open competitive application process, the Committee urges the hiring authorities to continue to seek out and consider qualified minority candidates to fill the upper level Court Executive vacancies.

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

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

Indeed, it is widely understood that for an organization to increase the representation of minorities in its workforce and to retain minorities within its workforce, it is critical for minorities to hold highly visible leadership positions. Arguably, the lack of minorities at the top of the Court Executive job band could undercut recruitment and retention of minorities at lower levels throughout the Judiciary. It is also important that the career paths of both minorities and non-minorities be thoroughly explored, an issue that the Committee has raised in previous biennial reports and which it looks forward to developing a more detailed proposal for in the forthcoming term.

V. Jurists

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

The Supreme Court should consider presenting to the Governor and the State Legislature the finding of the Task Force that there is a widespread concern about the underrepresentation of minorities on the Supreme, Superior, and Tax Court benches. Task Force Recommendation 39 (Final Report, 1992, p. 291)
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The New Jersey Constitution vests the authority to make judicial appointments in the Governor with the advice and consent of the New Jersey Senate. The state Judiciary itself is without responsibility for appointments to the bench, except for the Chief Justice's authority to appoint judges from the Appellate Division to temporarily fill long-term vacancies on the Supreme Court, and these are made on an limited as-needed basis based on seniority in the Appellate Division. The Chief Justice is also responsible for elevating Superior Court-Trial judges to the Appellate bench. As one of the three co-equal branches of government, however, the Judiciary routinely shares the findings of the Committee on Minority Concerns describing the diversity of the state court bench with the Executive and Legislative branches. The Committee's discussion of this issue for this biennial report focuses on the profile of judges on the New Jersey Supreme, Superior, and Tax Court benches.⁹⁵

Data for the Supreme, Superior, and Tax Court judges are reported in *Table 4-5. New Jersey Judiciary: Justices and Judges by Race/Ethnicity, and Gender as of December 6, 2014*. These data show that there were 406 total judges on the Supreme Court, Superior Court (Appellate and Trial levels), and Tax Court as of December 6, 2014. Of the cadre of 406 judges, there were 64 racial/ethnic minority jurists who represent 15.8% of the state bench: 8.6% (35) of these judges

⁹⁵ The Committee sometimes reviews data on municipal court judgeships and municipal court judges but has not done so for the current report.

identify as Black/African Americans; 6.2% (25) as Hispanic/Latinos; and 1.0% (4) as Asians/American Indians/NHOPIs.⁹⁶

Table 4-5. New Jersey Judiciary: Justices and Judges by Race/Ethnicity, December 6, 2014

Court	Total Judges #	White		Number of Minority Justices and Judges						Total Minorities # %	
				Blacks/African Americans		Hispanics/ Latinos		Asians/Pacific Islanders/ American Indians/NHOPIs			
		#	%	#	%	#	%	#	%	#	%
Supreme Court	5	4	80.0	0	0.0	1	20.0	0	0.0	1	20.0
Appellate Division ¹	34	27	79.4	3	8.8	4	11.8	0	0.0	7	20.6
Superior Court Trial Division (excluding Appellate Division)	358	303	84.6	32	8.9	20	5.6	3	0.8	55	15.4
Tax Court ²	9	8	88.9	0	0.0	0	0.0	1	11.1	1	11.1
Total	406	342	84.2	35	8.6	25	6.2	4	1.0	64	15.8

Data Source: AOC EEO/AA Unit

¹The Appellate Division total includes one judge on temporary assignment from the Tax Court (1 white female). This individual is not included under the Tax Court section of this table.

²The Tax Court total includes three judges who are on temporary assignment to the Superior Court (3 white males). Those individuals are not included under the Superior Court section of this table.

A comparison of these data with information presented in the 2009-2011 biennial report shows a net increase of 2 racial/ethnic minority judges on the state bench, or 2.9%. This increase contrasts with a decrease of 14 in the number of non-minority jurists on the state bench (from 356 to 342), or 4.1%. Fortunately, this reverses the declining trend in minority representation observed in the 2009-2011 report and reverts to the progressive trend noted in the 2006-2008 report of consistent small gains in the diversity profile of the state bench.

⁹⁶ Since data on the race/ethnicity of attorneys qualified by statute for potential service on the bench are not readily available, the Committee is unable to comment on whether the number and representation of minorities serving as jurists is proportional to the number of practicing minority attorneys in New Jersey's eligible pool of attorneys.

In evaluating the diversity of the bench, as noted earlier in this chapter, there currently is no means of evaluating availability or contrasting representing of the diversity of the bench with the diversity of the Bar generally or the diversity of eligible candidates for appointment. This reality is a result of there not being any mechanism by which race/ethnicity data is collected regarding licensed attorneys in New Jersey. The Committee has returned to this issue on several occasions. In the past the information was collected on the cover sheet of the bar exam and at the time the practice was discontinued it was the result of concerns raised by the specialty bars about race/ethnicity data being available to bar exam reviewers.

Since that time, the specialty bars themselves have informed the Committee of their interest in having such information available once again and the Committee has discussed it and considered various means by which the information could be collected. As a result of these discussions and review of practices in states such as New York and Pennsylvania, and being aware that the specialty bars are in support of this information being collected by the Judiciary, the Committee concludes that the annual attorney registration process is the most appropriate and effective means by which to allow attorneys to submit race/ethnicity data along with any other demographic data that the Judiciary deems mutually beneficial, e.g., gender, sexual orientation, disability status, and other mutually beneficial categories of identity. The Judiciary already has an existing data collection mechanism, i.e., the one used by EEO/AA by which job applicants submit race/ethnicity, gender, disability, and other data, wherein the data are collected but are not linked to the identity/file of the individual submitting the information.

RECOMMENDATION 15:04.2

The Supreme Court Committee on Minority Concerns recommends that the annual attorney registration process include fields in which attorneys can voluntarily submit race/ethnicity information and other demographic data that would be useful in developing a diversity profile of the Bar. The additional demographic information recommended includes but is not limited to primary categories of identity such as gender and sexual orientation as well as disability and veterans status. These data can be used meaningfully and beneficially by the Judiciary, various Supreme Court Committees, and the Bar Associations for a variety of relevant beneficial purposes including but not limited to generating availability data by which the diversity profile of the bench could be more meaningfully evaluated in terms of qualified and eligible candidates for potential judicial appointments at both the Municipal Court level and the Superior Court level. The SCCMC will develop sample language that can be used to inform attorneys of the basis for requesting information, explain the safety and security features that prevent an individual from being personally identified via the information submitted, and provide an explanation of the goals and purposes for collecting race/ethnicity and other demographic information via the attorney registration process.

1. Supreme Court

There is one racial/ethnic minority serving on the Supreme Court: Associate Justice Faustino J. Fernandez-Vina, a Hispanic/Latino male, who was sworn into office on November 19, 2013⁹⁷. There are three White females on the Supreme Court: the Honorable Jaynee LaVecchia, the Honorable Anne M. Patterson, and the Honorable Mary Catherine Cuff (Judge of the Appellate Division temporarily assigned to the Supreme Court by Chief Justice Rabner).

The confirmation of the Honorable Faustino J. Fernandez-Vina to the Supreme Court has allayed only in part the Committee's concern, expressed in its 2009-2011 report, about the possibility of a Supreme Court without any racial/ethnic minority representation. The Committee views the increase in minority representation on the Supreme Court, coupled with the Governor's

⁹⁷ The Committee acknowledges that the Governor had nominated two Asian Americans to the Supreme Court: one who was not confirmed by the State Senate, the other has not appeared before the Senate; and one Black/African American male who also was not confirmed by the Senate.

nomination of several diverse candidates to the Supreme Court, as positive signs of sustaining breadth and depth of diversity for the future of the New Jersey Supreme Court.

2. Superior Court-Appellate Division

Among the court levels considered in this report with respect to the overall representation of racial and ethnic minorities on the bench, the Appellate Division has the highest percentage: As of October 1, 2014, six out of 33 (18.2%) judges on the Appellate bench were minorities. The composition of total racial/ethnic minorities on the Appellate bench is as follows: three Hispanic/Latinos (9.1%)⁹⁸; three Blacks/African Americans (9.1%); and no Asians/American Indians/NHOPIs.

The representation of White female judges on the Appellate Division, also as of October 2014, was nine out of a total of 33 judges (27.2%). There has been a decrease of three White female Appellate judges during the past two years, following on the decrease of one White female on the Appellate Division in the 2009-2011 reporting cycle.

3. Superior Court-Trial Division

Prior to the current Committee report, the consistent long-term trend was towards greater representation of racial/ethnic minorities among Superior Court judges at the trial level. This trend continues despite the overall decline in the number of sitting Superior Court judges. The data show that the total number of Superior Court judges decreased by 8, from 368 in November 2010 to 360 in October 2014, yet during the same period, the number of minority Superior Court judges increased from 53 to 59.

The representation of Blacks/African Americans in the trial courts has consistently outpaced the representation of Hispanics/Latinos and Asians/American Indians/NHOPIs. As of

⁹⁸ Hon. Ariel Rodriguez, P.J.A.D., has since retired.

October 2014, there were 33 (9.2%) Blacks/African Americans on the trial court bench compared to 23 (6.4%) Hispanics/Latinos and 3 (0.8%) Asians/American Indians/NHOPIs. As of November 2010 there were 32 (8.7%) Blacks/African Americans on the trial court bench compared to 20 (5.4%) Hispanics/Latinos and one (0.3%) Asians/American Indians/NHOPIs. The number of Black/African American trial judges has increased by one while the number of Hispanic/Latino judges in the trial division has increased by three since the last report. The number of Asian/American Indian/NHOPI judges in the trial courts has increased by two.

Table 4-6. Representation of Minorities Among New Jersey Justices and Judges, All Levels Combined, 1993-2013

	1993		1997		2001		2005		2009		2013	
	#	%	#	%	#	%	#	%	#	%	#	%
Total Minorities	29	7.1	34	8.4	46	11.0	52	11.8	66	15.5	64	15.8
Blacks	18	4.4	22	5.4	31	7.4	31	7.1	40	9.4	35	8.6
Hispanics	10	2.4	11	2.7	13	3.1	19	4.3	24	5.6	25	6.2
Asians/American Indians/NHOPIs*	1	0.2	1	0.2	2	0.5	2	0.5	2	0.5	4	1.0
Total All Judges	410		404		418		439		427		406	

*NHOPI = Native Hawaiian/Other Pacific Islander

The data in *Table 4-6. New Jersey Judiciary: Representation of Minority Judges at All Court Levels Combined, 1993, 1997, 2001, 2005, 2009, 2013* shows that over the past 20 years the number of Black judges increased from 18 (4.4%) in 1993 to 35 (8.6%) in 2013; the number of Hispanic judges increased from 10 (2.4%) in 1993 to 25 (6.2%) in 2013; and the number of Asians/American Indians/NHOPI's* increased from 1 (0.2%) in 1993 to 4 (1.0%) in 2013. Overall, the number of minority judges has increased from 29 (7.1%) in 1993 to 64 (15.8%) in 2013. However, in terms of recent developments these data also reveal that:

- between October 2009 and December 2013, there was a decline of 2 total minority judges overall;
- the decline in Black/African American jurists was 5 (from 40 to 35; an 8.5% decrease);
- there was an increase of 1 in the number of Hispanic/Latino jurists (from 24 to 25; a 10.7% increase); and
- there was an increase of 2 (from 2 to 4; a 100% increase) in the representation of Asians/American Indians/NHOPIs.

While the overall increases are noteworthy, attention needs to be paid to the recent incremental losses as well.

Additional data reviewed by the Committee on race/ethnicity and gender by county reveals that Hudson (30.3%), Mercer (23.5%) and Middlesex (23.3%) rank first, second and third respectively, in the proportional representation of racial/ethnic minorities on the trial court bench. As of December 6, 2013, there were, according to the categories provided by the U.S E.E.O.C., no minority judges in Cape May, Cumberland, Hunterdon, Salem, Somerset, and Warren counties⁹⁹.

The Committee notes that the reporting of data by the E.E.O.C. categories alone do not fully reflect the diversity of the bench. For many people in the groups listed by the E.E.O.C. as White, their lived social experience in the U.S. is, to some degree, as minorities and/or as people of color. Whether minority experience is as racial/ethnic minorities or for people for whom their social minority status is a result of religious or cultural identities, the incongruence between the narrow definitions of the E.E.O.C. categories and the lived experiences of a range of ethnic communities and other cultural minority groups who tend to be viewed by the majority, systems,

⁹⁹ Hon. Hany A. Mawla, who is assigned to Vicinage 13 and sits in Somerset County, has the historic distinction of being the first Muslim appointed to the Superior Court bench in New Jersey. As a person of Arab descent, he is according to E.E.O.C. definitions instructed to self-identify in terms of workforce data as White.

and even institutions as “Other,” “non-Whites,” or “people of color” renders invisible communities of color and other historically marginalized groups along with new immigrant groups in ways inconsistent with the mission and mandate of this Committee and the Judiciary’s culture of diversity and inclusion.

The Committee recognizes that the New Jersey Judiciary as an employer is required to report its equal opportunity/affirmative action data to the federal government using the race/ethnicity categories specified by the Equal Employment Opportunity Commission (EEOC).¹⁰⁰ However, given the ever-growing demographic diversity within New Jersey, the Committee renews its concern in this regard and looks forward to working during the forthcoming term to identify ways in which demographic data can be collected [periodically] allowing respondents to self-identify from a wider selection of classifications regarding race/ethnicity and other demographics that would be informative and beneficial to the Judiciary.

The operational effect of not recognizing these persons is the risk of denying equal access and fairness to these individuals by rendering them invisible. The Committee deems it a matter of equity and fairness that the Judiciary consider how it will recognize all people who work within or who are served by this organization. Given the presence of numerous growing diverse populations in this State and the reporting disparity stated above, the Committee will include this issue on its action agenda for the next biennial report cycle for research and development of a report to the Court with its recommendations.

4. Tax Court

Since the 2007-2009 report, there has been one minority judge on the Tax Court.

¹⁰⁰ The current EEOC racial/ethnic reporting categories include American Indian/Alaska Native, Asian, Black/African American, Hispanic/Latino, Native Hawaiian/Other Pacific Islander (NHOPI), and White.

B. Minority Judges in Administrative Positions

1. Administrative Director of the Courts

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

2. Appellate Division Presiding Judges

As of December 1, 2014, there are eight Presiding Judges in the Appellate Division. Of these, one is a racial/ethnic minority: the Hon. Carmen H. Alvarez, J.A.D., who is a Hispanic/Latina female. This term also saw the retirement of the Hon. Ariel A. Rodriguez, P.J.A.D., a Hispanic/Latino male, who had served as Presiding Judge for Administration of the Appellate Division and was temporarily assigned to serve on the New Jersey Supreme Court. The Committee also notes the retirement of the Hon. Paulette Sapp-Peterson, the first woman of color and the first Black/African American female appointed to the Appellate Division. At the time of her retirement, she served as presiding judge of her panel. Of the eight Presiding Judges at the Appellate level, currently two (25.0%) are White females (Judges Marie E. Lihotz and Susan L. Reisner).¹⁰¹

3. Trial Court Divisions

a. Assignment Judges - Trial Division

There are 15 Assignment Judges in the Trial Divisions of New Jersey Judiciary. As of December 1, 2014, three (20.0%) were racial/ethnic minorities, an increase of one since the last reporting period. Two are Black/African American (1 female; 1 male); one is Hispanic/Latino (male). Additionally, seven (46.7%) of the 15 assignment judges are female (1 Black/African

¹⁰¹ Historically, Presiding Judge appointments in the Appellate Division are based on seniority.

American; 6 White). Chief Justice Rabner made history this term when he appointed the first female of color as an Assignment Judge, the Hon. Lisa P. Thornton of Monmouth Vicinage. This term also saw the retirement of the Hon. Lawrence M. Lawson, Assignment Judge of Monmouth Vicinage, who holds the historic distinction of being the first person of color and the first Black/African American to serve as Assignment Judge.

b. Presiding Judges - Trial Division

There are 60 Presiding Judges at the Trial Court level as of December 1, 2014. As *Table 4-7. Roster of Minority Presiding Judges in the Superior Court Trial Division (September 1, 2014)* depicts, of the total number of Presiding Judges at the trial court level, eight (13.3%) are racial/ethnic minorities: five (8.3%) are Black/African Americans; two (3.3%) are Hispanic/Latinos; and one (1.7%) is Asian. Of the eight Presiding Judges who are members of minority racial or ethnic groups, one serves in General Equity; one serves in Civil; two serve in Family; and four serve in Criminal.

Table 4-7. Roster of Minority Presiding Judges Superior Court Trial Division, September 1, 2014

Trial Court Division	Black /African American	Hispanic/ Latino	Asian/Pacific Islander/ American Indian	Total Minority Presiding Judges
Civil	0	0	David F. Bauman	1
General Equity	0	Hector Velazquez	0	1
Criminal	Gerald J. Council Wendel E. Daniels Sheila A. Venable	Liliana S. DeAvila-Silebi	0	4
Family	Charles W. Dortch, Jr. Greta Gooden Brown		0	2
Total as % of 60 Presiding Judges	8.3% (5)	3.3% (2)	1.7% (1)	13.3% (8)

White female Presiding Judges comprise 38.3% (23) of the total cadre (60) of Presiding Judges and are represented across the spectrum of court practice areas.

4. Supreme Court Committees

While the Committee has not yet undertaken a full study of leadership assignments for Supreme Court Committees, the Committee does note that Chief Justice Rabner continues to make historic firsts relative to leadership appointments for the Supreme Court Committee on Minority Concerns. In naming the Hon. Octavia Melendez, J.S.C., (now retired serving on recall) as Vice-Chair of the Committee for the 2007-2009 term, Chief Justice Rabner appointed the first Hispanic/Latina female to a committee leadership role on the Supreme Court Committee on Minority Concerns; and in naming the Hon. Susan F. Maven, J.A.D., as Chair of the Committee for the 2009-2011 term, Chief Justice Rabner appointed the first woman of color and the first Black/African American woman to the role of committee chair. In naming the Hon. Hany A. Mawla, J.S.C., the first Muslim appointed to the Superior Court bench in New Jersey, first as Vice Chair for the 2013-2015 term and later as Chair, the Chief Justice continues to recognize and honor the breadth and depth of diversity in the State and in the New Jersey Judiciary. Given the thirty-year history of the Judiciary's Minority Concerns Program in New Jersey, this is another noteworthy appointment.

VI. Representation of Minority Law Clerks

The total number of judicial law clerks at all court levels combined (Supreme Court, Superior Court including the Appellate and Trial Divisions, and Tax Court) for the 2014-2015 court year is 488. Of these, 82 (16.8%) are minority: 30 (6.1%) are Black/African American; 23 (4.7%) are Hispanic/Latino; and 29 (5.9%) are Asians/American Indians/NHOPIs. *Table 4-8. State of New Jersey Judicial Law Clerks Court Year 2014-2015 and Court Year 2013-2014* shows the availability of racial/ethnic minorities based on the graduation rate at the three New Jersey law schools in 2014. The Committee notes that using this graduation rate for defining "availability" of

law clerk applicants is a proxy for a demographic breakdown of the actual “labor force” from which law clerks are recruited and hired, which includes states other than New Jersey.

Table 4-8. State of New Jersey Judicial Law Clerks, Court Terms 2014-2015 and 2013-2014

Court Year 2014-2015	#	%	Availability¹⁰²
Total Law Clerks	488	100.0	---
Total Minorities	82	16.8	23.1
Blacks/African Americans	30	6.1	6.5
Hispanics/Latinos	23	4.7	8.4
Asians/American Indians/NHOPIs	29	5.9	8.2
Total Females¹⁰³	255	52.3	41.3
Court Year 2013-2014	#	%	Availability
Total Law Clerks	474	100.0	---
Total Minorities	87	18.4	25.1
Blacks/ African Americans	33	7.0	6.8
Hispanics/Latinos	23	4.9	8.3
Asians/American Indians/NHOPIs	31	6.5	10.0
Total Females	250	52.7	---

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

In this court term, the percentage of minority law clerks (16.8%) falls below the 23.1% availability. In examining each race/ethnicity category, the reader observes that Hispanic/Latino law clerks at 4.7% are well below their 8.4% availability. Also Asian/American Indian/NHOPI law clerks at 5.9% are below their 8.2% availability. Black/African American law clerks at 6.1% are marginally below their 6.5% availability.

In comparing the data from the last court term (2013-2014), one sees that, while the total number of law clerks increased slightly from 474 in the 2013-2014 term to 488 in the 2014-2015

¹⁰² Availability is based on the demographics of the graduating classes at the three New Jersey law schools (Rutgers University Law School – Camden, Rutgers University Law School – Newark, and Seton Hall University School of Law) for 2009, from which a majority of law clerks are hired (see Table 4-18). These data were provided by the New Jersey Commission on Higher Education (for Rutgers-Camden and Rutgers-Newark) and by Seton Hall.

¹⁰³ Totals for females include minorities and non-minorities.

term, the total number of minority law clerks fell from 87 to 82 in the same time period. The 5.7% decrease (i.e., from 87 to 82) in the number of minority law clerks in the Judiciary is less than the 7.9% decline (i.e., from 25.1% in 2013-2014 term to 23.1% in the 2014-2015 term) in their availability during the same time period. Refer to *Table 31*. Moreover, the overall increase in the total number of law clerks taken together with the decrease in the number of minority law clerks has resulted in a measurable decrease (i.e. from 18.4% to 16.8%) in the percentage representation of minority law clerks among all law clerks. This is a matter that remains a concern to the Committee.

For 2013-2014, Hispanic/Latino law clerks at 4.9% were well below their 8.3% availability. While the availability for 2014-2015 slightly increased from 8.3% to 8.4% the total percentage of Hispanic/Latino law clerks hired dropped from 4.9% to 4.7%. Hispanic/Latino law clerk hires at 4.7% fell well below their 8.4% availability for the 2014-2015 court term. While the percent of Hispanic/Latino law clerks dropped as a proportion of the law clerk population, the raw number of law clerks remained unchanged at a total of 23. It is strongly recommended that greater efforts be made to recruit minority law clerks and, in particular, Hispanic/Latino law clerks in view of the disparity between the availability of Hispanic/Latino law clerks and their proportional representation in the demographics of the law clerks currently employed by the court. This is of extreme concern as New Jersey has one of the highest immigrant populations in the entire country.¹⁰⁴

For the 2014-2015 court term, Black/African Americans represent 6.1% (30) of minority law clerks which is a decrease from 7.0% (33) in 2013-2014. This figure represents a significant

¹⁰⁴ www.immigrationpolicy.org/just-facts/new-americans-new-jersey

9.1% decrease. Likewise, the availability of Black/African American law clerks also decreased from 6.8% in 2013-2014 to 6.5% in 2014-2015.

The percentage of Asian/American Indian/NHOPI law clerks dropped in the 2013-2014 court term from 6.5% (31) to 5.9% (29) in the 2014-2015 court term; this figure represents a 6.5% decrease. Asian/American Indian/NHOPI law clerk availability also decreased from 10% in 2013-2014 to 8.2% in 2014-2015.

Table 4-13. Minority Law Clerk Representation by Court Level and Race/Ethnicity, Court Term 2010-2011 to Court Term 2014-2015

		Supreme Court	Superior-App. Div.	Superior - Trial Div.	Tax	Totals	Availability % (SDU) for Minority Law Clerks
Court Year 2014-2015	Total # of Law Clerks	21	55	402	10	488	Availability = 23.1% SDU = -31
	# of Minorities	1	9	68	4	82	
	% of Minorities	4.8	16.4	16.9	40.0	16.8	
Court Year 2013-2014	Total # of Law Clerks	21	48	397	8	474	Availability = 25.1% SDU = -32
	# of Minorities	2	6	78	1	87	
	% of Minorities	9.5	12.5	19.6	12.5	18.4	
Court Year 2012-2013	Total # of Law Clerks	16	47	395	7	465	Availability = 21.9% SDU = -11
	# of Minorities	4	10	75	2	91	
	% of Minorities	25.0	21.3	19.0	28.6	19.6	
Court Year 2011-2012	Total # of Law Clerks	21	49	388	6	464	Availability = 19.3% SDU = -14
	# of Minorities	3	4	68	1	76	
	% of Minorities	14.3	8.2	17.5	16.7	16.4	
Court Year 2010-2011	Total # of Law Clerks	21	49	386	5	461	Availability = 21.6% SDU = -8
	# of Minorities	4	3	84	1	92	
	% of Minorities	19.0	6.1	21.8	20.0	20.0	

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

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

Table 4-13. Minority Law Clerk Representation by Court Level and Race/Ethnicity, Court Term 2010-2011 to Court Term 2014-2015 presents annual data on law clerks over a five year period. An examination of minority law clerk representation by race/ethnicity categories over a five-year period (from court terms 2010-2011 to 2014-2015) does not reveal a distinctive

longitudinal pattern. The Committee found that the hiring of minority law clerks does not consistently increase across the various measurement periods.

For the total count of minority law clerks, when the data review is extended beyond a ten year period, the percentage of minority law clerks in the 2014-2015 term (16.8%) reflects a decrease from the previous two terms (18.4% and 19.6%, respectively). The data show that the 2014-2015 court term has the second lowest total minority law clerk diversity profile over the ten year period (16.8%); the lowest was 2011-2012 (16.4%).

There is also great concern when one examines the pattern of law clerk decline among Hispanics/Latinos over the same period. Hispanic/Latino law clerk representation has remained relatively constant, at 4.7% in the 2014-2015 court term. In 2005-2006 the diversity profile was around 3.8% and in 2007-2008 it was 5.3%; the Hispanic/Latino diversity profile peaked in 2010-2011 at 6.1% and sharply dropped in the 2011-2012 court term to 3.9%. Between the 2010-2011 and 2011-2012 court term, the Hispanic/Latino law clerk representation decreased by 35.7% (from 28 to 18).

Representation of Asian/American Indian/NHOPI law clerks in the 2014-2015 court term was 5.9%. This represents the second lowest population distribution since the 2005-2006 term. Generally the overall diversity profile for this category of law clerks reveals two distinct clusters of frequently appearing diversity profile ranges. The first cluster represents scores that are in the 7% range, e.g., 7.9% in 2006-2007; 7.3% in 2012-2013; 7.2% in 2007-2008 and 2009-2010. The second most frequently appearing diversity profile is in the 6% range: 6.5% in 2010-2011 and 2013-2014; 6.0% in 2011-2012 and 5.9% in 2014-2015. The highest to lowest percentages of law clerks over the period were 9.4% in 2008-2009 and 5.5% in 2005-2006 respectively.

Over the ten year period from 2005-2015, the most frequently appearing diversity profile of Black/African American law clerks fall within the 7.0-7.8 range (5 scores) followed by the 8.1-8.4 range (3 scores). The peak year (2008-2009) comprised 8.4% of the new law clerk class. The lowest representation of Black law clerks is in the current Court Year 2014-2015 when Black law clerks account for 6.1% of the new court year class.

Table 4-9. New Jersey Superior Court Law Clerks for Court Year 2014-2015 by County, Race/Ethnicity, and Gender as of October 30, 2014

County	Total Minorities		Blacks/African Americans		Hispanics/Latinos		Asians/Amer. Indians/NHOPIs		Female		Male		Total Law Clerks
	#	%	#	%	#	%	#	%	#	%	#	%	
Atlantic	2	11.1	1	5.6	0	0.0	1	5.6	12	66.7	6	33.3	18
Bergen	4	12.9	0	0.0	3	9.7	1	3.2	14	45.2	17	55.8	31
Burlington	0	0.0	0	0.0	0	0.0	0	0.0	11	61.1	7	38.9	18
Camden	4	15.4	2	7.7	2	7.7	0	0.0	14	53.8	12	46.2	26
Cape May	0	0.0	0	0.0	0	0.0	0	0.0	3	60.0	2	40.0	5
Cumberland	2	22.2	1	11.1	0	0.0	1	11.1	4	44.4	5	55.6	9
Essex	8	16.0	6	12.0	0	0.0	2	4.0	32	64.0	18	36.0	50
Gloucester	2	16.7	1	8.3	1	8.3	0	0.0	8	66.7	4	33.3	12
Hudson	9	28.1	1	3.1	4	12.5	4	12.5	16	50.0	16	50.0	32
Hunterdon	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	4	100.0	4
Mercer	2	10.0	1	5.0	0	0.0	1	5.0	10	50.0	10	50.0	20
Middlesex	9	25.0	5	13.9	2	5.6	2	5.6	20	55.6	16	44.4	36
Monmouth	3	11.1	1	3.7	1	3.7	1	3.7	9	33.3	18	66.7	27
Morris	2	10.5	2	10.5	0	0.0	0	0.0	9	47.4	10	52.6	19
Ocean	4	18.2	0	0.0	1	4.5	3	13.6	11	50.0	11	50.0	22
Passaic	5	22.7	2	9.1	2	9.1	1	4.5	12	54.5	10	45.5	22
Salem	0	0.0	0	0.0	0	0.0	0	0.0	1	50.0	1	50.0	2
Somerset	3	23.1	0	0.0	2	15.4	1	7.7	9	69.2	4	30.8	13
Sussex	0	0.0	0	0.0	0	0.0	0	0.0	2	40.0	3	60.0	5
Union	6	25.0	2	8.3	3	12.5	1	4.2	9	37.5	15	62.5	24
Warren	1	33.3	0	0.0	0	0.0	1	33.3	1	33.3	2	66.7	3
Total	82	16.8	30	6.1	23	4.7	29	5.9	255	52.3	233	47.7	488

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

Table 4-9. New Jersey Superior Court Law Clerks for Court Year 2014-2015 by County, Race/Ethnicity, and Gender as of October 30, 2014 provides a detailed view by county. An examination of law clerk appointments by county reveals that in 5 out of 21 counties, the total minority law clerk representation meets or exceeds the 23.1% availability. Minority law clerks are underrepresented in 16 counties; in fact, there are five counties (Burlington, Cape May, Hunterdon, Salem and Sussex counties) where there are no minority law clerks. By way of contrast note that the Committee reported the following finding in the 2009-2010 Report (p.231) on law clerk appointments by county: in 8 out of 21 counties, minority law clerk representation exceeded the 21.7% availability and there were four counties that had no racial/ethnic minority law clerks. Two counties, (Cumberland and Warren) increased minority representation to 22.2% and 33.3%, respectively.

Table 4-10 New Jersey Judiciary Net Changes in Minority Law Clerk Representation shows that there are a total of 82 minority law clerks in the various court levels for the 2014-2015 term. For the 2013-2014 term, there were 87 minority law clerk appointments across the various court levels. While the 82 minority law clerk appointments in the counties for court term 2014-2015 reflects a negative trend, it must be noted that there were 91 minority law clerks in the 2012-2013 court term and 92 in 2010-2011. If the reader looks back further to the 2007-2008 court year there were 96 minority law clerks and the in the 2008-2009 court term there were 105 minority law clerks. In spite of the overall decline of minority law clerk numbers, it is encouraging that 8 out of 21 counties demonstrate a positive net change in minority law clerk representation for the 2014-2015 court term.

Table 4-10. New Jersey Judiciary Net Changes in Minority Law Clerk Representation, 2013-2014 and 2014-2015 Court Years

Court	2013-2014	2014-2015	Net # Change
Supreme	2	1	-1
Superior Court-Appellate Division	6	9	+3
Tax	1	4	+3
Superior Court-Trial Division	78	68	-10
Total	87	82	-5
County	2013-2014	2014-2015	Net # Change
Atlantic	5	2	-3
Bergen	1	4	+3
Burlington	5	0	-5
Camden	4	4	0
Cape May	0	0	0
Cumberland	1	2	+1
Essex	12	8	-4
Gloucester	1	2	+1
Hudson	14	9	-5
Hunterdon	2	0	-2
Mercer	4	2	-2
Middlesex	7	9	+2
Monmouth	3	3	0
Morris	3	2	-1
Ocean	1	4	+3
Passaic	7	5	-2
Salem	0	0	0
Somerset	2	3	+1
Sussex	0	0	0
Union	4	6	+2
Warren	0	1	+1
Total Net Change	76	66	-10

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

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

A review of the data on law clerk appointments by court level for the 2014-2015 court term demonstrates that at the Supreme Court there are a total of 21 judicial law clerks, one (4.8%) of whom is minority (Asian). *Table 4-11. New Jersey Judicial Law Clerks by Court Level for Court*

Term 2014-2015 Court Term. This figure represents a net change of -1 minority law clerk appointments from the 2013-2014 court term. Refer to *Table 29(a)*. In court year 2013-2014, of the 21 Supreme Court judicial law clerks, two (9.5%) were minority: one Hispanic/Latino (4.8%), one Asian/American Indian/NHOPI (4.8%) and no representation of Black/African American law clerks.

Table 4-11. New Jersey Judicial Law Clerks by Court Level for Court Term, Court Term 2014-2015, October 30, 2014

Court	Whites		Total Minorities		Blacks/African Americans		Hispanics/Latinos		Asians/ Amer. Indians/NHOPIs		Total	
	#	%	#	%	#	%	#	%	#	%	#	%
Supreme Court	10	47.6	1	4.8	0	0.0	0	0.0	1	4.8	11	52.4
Females												
Males	10	47.6	0	0.0	0	0.0	0	0.0	0	0.0	10	47.6
Total	20	95.2	1	4.8	0	0.0	0	0.0	1	4.8	21	100.0
Superior Court	27	49.1	7	12.7	2	3.6	0	0.0	5	9.1	34	61.8
Females												
-Appellate Division	19	34.5	2	3.6	1	1.8	0	0.0	1	1.8	21	38.2
Males												
Total	46	83.6	9	16.4	3	5.5	0	0.0	6	10.9	55	100.0
Superior Court	164	40.8	43	10.7	16	4.0	17	4.2	10	2.5	207	51.5
Females												
-Trial Division	170	42.3	25	6.2	9	2.2	4	1.0	12	3.0	195	48.5
Males												
Total	334	83.1	68	16.9	25	6.2	21	5.2	22	5.5	402	100.0
Tax Court	0	0.0	3	30.0	2	20.0	1	10.0	0	0.0	3	30.0
Females												
Males	6	60.0	1	10.0	0	0.0	1	10.0	0	0.0	7	70.0
Total	6	60.0	4	40.0	2	20.0	2	20.0	0	0.0	10	100.0
Grand Total	201	41.2	54	11.1	20	4.1	18	3.7	16	3.3	255	52.3
Females												
-All Law Clerks	205	42.0	25	5.7	10	2.0	5	1.0	13	2.7	233	47.7
Males												
Total	406	83.2	82	16.8	30	6.1	23	4.7	29	5.9	488	100.0

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

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

In the Appellate Division, for court term 2014-2015, there were a total of 55 law clerk appointments of whom nine (16.4%) are minority: three Black/African American (5.5%), six

Asian/American Indian/NHOPI (10.9%), and Hispanic/Latino law clerks are absent. The racial/ethnic minority law clerk representation at the Appellate Division demonstrates a net change of +3 from the 2013-2014 term.

In the Superior Court, Trial Division, there were a total of 402 law clerk appointments in 2014-2015, of which 68 (6.9%) are minority: 25 Black/African American (6.2%), 21 Hispanic/Latino (5.2%), and 22 Asian/American Indian/NHOPI (5.5%). Refer to *Table 29*. This demonstrates a net change of -10.

At the Tax Court, there are a total of 10 law clerk appointments in 2014-2015, with four minority law clerks: two Black/African American (20.0%) and two Hispanic/Latino (20.0%). This demonstrates a net change of +3 from the 2013-2014 term.

Overall there were 82 minority law clerk appointments for the various court levels in the 2014-2015 court term. This is a net change of -5 from the previous term. Refer to *Tables 29 and 29(a)*. Thus while the number of racial/ethnic minority law clerks fell at the Superior Court trial level (-10 net change) and fell slightly at the Supreme Court level (-1 net change), both the Appellate Division and Tax Court added six minority law clerks.

With respect to the representation of female law clerks serving at the various court levels in the 2014-2015 court term there is a strong diversity profile as female law clerks comprise 11 (52.4%) of the 21 clerks serving on the Supreme Court: 10 (47.6%) of the female law clerks are White, and one is Asian. There is only one minority (Asian female) serving on the Supreme Court for the 2014-2015 court term; Black/African Americans and Hispanic/Latinos are absent (female or male).

In the Appellate Division 34 (61.8 %) of the total contingent of 55 law clerks are females: 27 (49.1 %) are White, 2 (3.6%) are Black, and 5 (9.1%) are Asian/American Indian/NHOPI. At

the Trial Court level out of 402 law clerks, 207 (51.5%) are females: 164 are White females (40.8%), 43 are minority females; 16 (4.0%) are Black, 17 are Latinas (4.2%), and 10 (2.5%) are Asians/American Indians/NHOPIs.

In the Tax Court one-third of the 10 law clerks are females: 2 (20.0%) are Black/African American and one (10.0%) is Hispanic/Latina.

VII. Discrimination Complaints

A. Background Information

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

B. Discrimination Complaints Data¹⁰⁵

The last formal report issued by the committee reported on complaints data for the period July 1, 2008 to June 30, 2009. This report will analyze complaints data for fiscal years 2012 and 2013. *Table 4-12(a). New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central*

¹⁰⁵ For the discussion of discrimination complaints, data are presented to the hundredth place rather than to the tenth place as is customary in reporting Economic analyses; the analysis in this section relies on analytical tools from the field of Economics. (Technical note authored by SCCMC member Amy Henderson, Ph.D.)

Clerks' Offices and Vicinages Combined July 1, 2011 to June 30, 2012 indicates that during this twelve month period 97 complaints¹⁰⁶ were filed statewide.

Table 4-12(a). New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2011 to June 30, 2012

Summary	Number	% of Complaints	Complaint Rate as %
AOC/Central Clerks' Offices	9	9.30	0.63
Vicinages Combined	88	9.72	1.22
Total Complaints	97	100.00	1.13
Complaints by Location	Number	% of Complaints	Complaint Rate as %
AOC/Central Clerks' Offices	9	9.3	0.63
Atlantic/Cape May	13	13.4	2.70
Bergen	0	0.0	0.00
Burlington	3	3.1	0.94
Camden	3	3.1	0.52
Cumberland/Salem/ Gloucester	7	7.2	1.30
Essex	19	19.6	2.09
Hudson	7	7.2	1.29
Mercer	7	7.2	2.05
Middlesex	3	3.1	0.57
Monmouth	4	4.1	0.88
Morris/Sussex	6	6.2	1.60
Ocean	6	6.2	1.57
Passaic	5	5.2	1.07
Somerset/Hunterdon/Warren	1	1.0	0.29
Union	4	4.1	0.93
Total Discrimination Complaints Filed *	97	100.00	1.13

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

¹⁰⁶ While previous New Jersey Supreme Court Committee on Minority Concerns Reports refer to "formal" and "informal" complaints, it should be noted that as of the issuance of the April 27, 2004 EEO Complaint Procedures Manual, this distinction is no longer officially used. The Committee does continue to see notations in summary reports from individual vicinages which refer to formal and informal complaints. The Committee's recommendation on this point is discussed later in the chapter.

Following recommendations made in the 2007-2009 report, it is now the Committee's standard practice to examine the number of complaints relative to employment. The Committee noted in the 2007-2009 biennial report: "As a next step, the Committee recommends looking at the number of complaints filed in relation to the size of the respective workforce to gain a better understanding of the prevalence of complaints. It is quite possible that the vicinages showing the largest numbers of complaints may in fact have the lowest proportional complaint rate.

This sound recommendation is of great importance, as a seemingly large raw number of complaints, or even proportion of complaints, can be meaningless if the vicinage in question makes up a large proportion of judiciary employment. To this end, in this report (as in the 2009-2011 report) the Committee presents *complaint rates*, along with the raw number of complaints and "percent of complaints" figures. The *complaint rate* is the number of complaints divided by total employment. For example, the complaint rate within the AOC/Central Clerks' Offices is equal to the 9 complaints filed divided by AOC/Central Clerks' Offices employment of 1426, for a complaint rate of 0.63%.

The Committee notes that the *complaint rate* is the more meaningful measure, and have concerns that the "percent of complaints" figures may mislead the reader. To date the Committee has continued to report "percent of complaints" in order to maintain consistency across reports. It is the committee's intent to cease reporting "percent of complaints" in the next report, as at that time complaint rate will have been provided in two previous rounds of reporting. Our discussion of the data, provided below, focuses on complaint rate, as is analytically appropriate.

A closer examination of these data reveals a higher complaint rate in the vicinages than in the AOC/Central Clerks' Offices, as less than 7 tenths of one percent of employees in the AOC/Central Clerks' Offices filed complaints, while over 1.2% of employees, on average, filed

complaints at the vicinage level. The average complaint rate within the vicinages overall was nearly two times that at the AOC/Central Clerks' Offices. While the *average* complaint rate was higher at the vicinage level, there was considerable variation among vicinages.

The Atlantic/Cape May Vicinage had the highest complaint rate, at 2.70%. Essex Vicinage, which had the highest complain rate in the 2009-2011 report is still experiencing a high complaint rate; at 2.09% Essex has the second-highest complaint rate among the vicinages. Bergen Vicinage had zero complaints filed. System wide, including the AOC/Central Clerks' Offices, the average complaint rate was 1.13%. A statistical analysis of the variation in complaint rates reveals that, while several vicinages appeared to have relatively large complaint rates (Atlantic/Cape May, Essex and Mercer are particularly noteworthy), only the Atlantic/Cape May Vicinage complaint rate was so large as to be statistically significantly outside the norm.¹⁰⁷

¹⁰⁷ The Atlantic/Cape May vicinage was statistically significantly “over-represented” in complaints at the 5% confidence level. This is the standard commonly used in courts for statistical evidence.

Table 4-12(b). New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2012 to June 30, 2013

Summary	Number	% of Complaints	Complaint Rate as %
AOC/Central Clerks' Offices	10	10.75	0.71
Vicinages Combined	83	89.25	1.16
Total Complaints	93	100.00	1.09
Complaints by Location	Number	% of Complaints	Complaint Rate as %
AOC/Central Clerks' Offices	10	10.75	0.71
Atlantic/Cape May	5	5.38	1.04
Bergen	1	1.08	0.20
Burlington	5	5.38	1.50
Camden	9	9.68	1.64
Cumberland/Salem/ Gloucester	6	6.45	1.10
Essex	14	15.05	1.62
Hudson	3	3.23	0.54
Mercer	4	4.30	1.18
Middlesex	4	4.30	0.74
Monmouth	13	13.98	2.92
Morris/Sussex	5	5.38	1.37
Ocean	7	7.53	1.79
Passaic	2	2.15	0.44
Somerset/Hunterdon/ Warren	1	1.08	0.29
Union	4	4.03	0.89
Total Discrimination Complaints Filed *	93	100.00	1.09

Data Source: AOC EEO/AA Unit

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

Table 4-12(b). New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined July 1, 2012 to June 30, 2013 indicates that during this twelve month period 97 complaints were filed statewide. Again the Committee observes that the complaint rate is higher, on average, at the vicinage level than at the AOC/Central Clerks' Offices, though there is significant variation across vicinages. Examining two consecutive fiscal years allows us to see the variability in complaint rates across time as well, and highlights the fact that with relatively small numbers it is easy for seemingly large deviations from the norm to occur. While Atlantic/Cape May Vicinage had a complaint rate that was statistically

significantly above the norm in fiscal year 2012, the fiscal year 2013 data do not reveal the same degree of over-representation, with Atlantic/Cape May Vicinage's complaint rate equal to 1.04%, which is slightly below the 1.16% average complaint rate across vicinages. The complaint rate in the Essex Vicinage again exceeds the vicinage-wide average, as does the complaint rate in Monmouth Vicinage which is 2.92% compared to the vicinage-wide average of 1.16%; this complaint rate is statistically significantly higher than the average across vicinages.¹⁰⁸

The Committee recommends that vicinages with complaint rates that are statistically significantly greater than the norm be tracked over time and, if such over-representation recurs, that a more detailed employment study be conducted in those vicinages. That said, the Committee notes that a relatively high complaint rate may indicate that the procedures for filing complaints are well-publicized and the workforce feels comfortable filing complaints when a concern exists. Conversely, a very low complaint rate could reflect an entirely happy workforce, or it could reflect poorly understood complaint procedures, or a climate where employees are fearful of registering complaints. Hence, vicinages with zero, or near-zero, complaint rates may deserve additional attention as well.

The total of 97 complaints filed during the 2012 fiscal year represents an increase of 8.9% relative to the fiscal-year 2011 period in which 89 complaints were filed. The 93 total complaints filed over the course of the 2013 fiscal year is a 4.5% increase over the base level 2011 complaints. We note, however, that both the number of complaints filed and the complaint rate have fallen compared to the data presented in our earlier report: a total of 142 complaints were filed from July 1, 2007 to June 30, 2008, and 126 complaints were filed over the July 1, 2008 to June 30, 2009 period. When taking this broader view, however, it is important to note that employment in the

¹⁰⁸ Monmouth Vicinage was statistically significantly "over-represented" in complaints at the 5% confidence level. This is the standard commonly used in courts for statistical evidence.

Judiciary has generally been falling, hence at constant complaint rates we would anticipate that the number of complaints would fall.

In *Table 4-13. New Jersey Judiciary: Comparison of Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined, Fiscal Years 2011, 2012, and 2013*, we compare complaint rate data from the latter year of our last term (FY 2011) to fiscal year 2012. Compared to fiscal year 2011 complaint rates in fiscal year 2012 have fallen. The drop in complaint rates is entirely attributable to changes at the vicinage level. The complaint rate at the AOC/Central Clerks' Offices remained the same at .63% in both fiscal year 2011 and fiscal year 2012. Complaint rates at the vicinages, however, fell from 1.57% in fiscal year 2011 to 1.22% in fiscal year 2012; a decrease in the rate at which complaints were filed of 22.3%.

Table 4-13. New Jersey Judiciary: Comparison of Discrimination Complaint Rates at the AOC/Central Clerks' Offices and Vicinages Combined, Fiscal Years 2011, 2012, and 2013

Comparison of Discrimination Complaints Rates (shown as %)				
	2010-2011	2011-2012	2012-2013	Percent Change
AOC/Central Clerks' Offices	0.63	0.63	0.71	+12.7
Vicinages Combined	1.57	1.22	1.16	-26.1
Total Complaints	1.72	1.13	1.09	-23.2

Data Source: AOC EEO/AA Unit

The single most common form of complaint filed over the July 1, 2011 to June 30, 2013 period was on the basis of race. A total of 30 race-related complaints were filed over the 2012 fiscal year, with 3 race-related complaints filed in the AOC/Central Clerks' Offices and 27 race-related complaints filed within the vicinages. Given that complaints filed on the basis of race made up about a third of all EEO complaints filed over the period, we have explored these complaints in more detail. *Table 4-14. New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2011 to June 30, 2012* details the race-related complaints filed during fiscal year 2012, broken out by location.

**Table 4-14(a). New Jersey Judiciary: Discrimination Complaints
Filed at the AOC/Central Clerks' Offices and Vicinages Combined,
July 1, 2011 to June 30, 2012**

Summary	Number	% of Complaints	Complaint Rate as %
AOC/Central Clerks' Offices	3	10.00	0.21
Vicinages Combined	27	90.00	0.38
Total Complaints	30	100.00	0.35
Complaints by Location	Number	% of Complaints	Complaint Rate as %
AOC/Central Clerks' Offices	3	10.00	0.21
Atlantic/Cape May	6	20.00	1.24
Bergen	0	0.00	0.00
Burlington	2	6.67	0.63
Camden	3	10.00	0.52
Cumberland/Salem/ Gloucester	1	3.33	0.19
Essex	5	16.67	0.55
Hudson	3	10.00	0.55
Mercer	2	6.67	0.58
Middlesex	1	3.33	0.19
Monmouth	1	3.33	0.22
Morris/Sussex	1	3.33	0.27
Ocean	0	0.00	0.00
Passaic	0	0.00	0.00
Somerset/Hunterdon/Warren	0	0.00	0.00
Union	2	6.67	0.46
Total Discrimination Complaints Filed *	30	100.00	0.35

Data Source: AOC EEO/AA Unit

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

For the most part, the same pattern the Committee observed when looking at all EEO complaints combined holds true for race-related complaints. Once again there is a higher average complaint rate within the vicinages than is found at the AOC/Central Clerks' Offices. While the combined average complaint rate is higher at the vicinage level, there is considerable variation within vicinages. The Vicinages of Bergen, Ocean, Passaic and Somerset/Hunterdon/Warren

reported no complaints on the basis of race. At the other end of the spectrum, the Atlantic/Cape May Vicinage reported 6 race discrimination complaints.

Once again, the Committee finds that the race-related complaint rate within the Atlantic/Cape May Vicinage is statistically significantly higher than the norm.¹⁰⁹ This finding, an obvious cause of concern, led us to further investigate the Atlantic/Cape May complaints by examining the Atlantic/Cape May Vicinage Year-End Complaint Summary Report. A study of this document revealed that of 15 total complaints,¹¹⁰ nine had been closed and, of those nine, two were recorded as disposition with finding of discrimination. Similarly, as regards to race-related complaints, 5 of the 7 recorded complaints had been closed, and of those five 1 was reported as a disposition with finding of discrimination.

However, much as was the case when we sought to further investigate Essex Vicinage's complaints, the year-end summary raises more questions than it answers. In the column "Remedial Action Taken, if any," a distinction is made between "Formal" and "Informal". Once again, this raises a question as to whether various vicinages may be handling the 2007 change in reporting requirements differently. In other words, is it possible that some of the variation we observe in complaint rates may be due to differences in how the vicinages are now reporting informal complaints and/or "contacts"? This is an issue that warrants further investigation. It is possible that by dropping the distinction between "formal" and "informal" complaints, an important source of data has been lost, and that seeming disparities between vicinages may be due to different reporting practices. The SCCMC again recommends that an investigation into how informal

¹⁰⁹ An examination of national-origin-related claims revealed that the Atlantic/Cape May vicinage complaint rate was statistically significantly higher than the norm in this area as well. Most vicinages reported no national-origin-related complaints, however, so this is not as strong of a finding as those pertaining to the overall complaint rate and the race-related complaint rate. Atlantic/Cape May had no gender-related claims during this period.

¹¹⁰ It is unclear why there are a total of 15 complaints recorded on this document, while our vicinage-level data (reported in Table 41) indicate 13 total complaints.

complaints, or contacts, are being handled at each vicinage be launched. If it is found that there are disparities in how the various vicinages are reporting these types of complaints, a new reporting form should be developed to ensure consistency in reporting practices.

Table 4-14(b). New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2012 to June 30, 2013 presents race-based complaints data for fiscal year 2013.

Table 4-14(b). New Jersey Judiciary: Discrimination Complaints Filed at the AOC/Central Clerks' Offices and Vicinages Combined, July 1, 2012 to June 30, 2013

Summary	Number	% of Complaints	Complaint Rate as %
AOC/Central Clerks' Offices	4	0.28	0.87
Vicinages Combined	25	0.35	0.81
Total Complaints	29	0.34	0.82
Complaints by Location	Number	% of Complaints	Complaint Rate as %
AOC/Central Clerks' Offices	4	0.28	0.87
Atlantic/Cape May	1	0.21	0.64
Bergen	1	0.20	0.68
Burlington	2	0.60	1.82
Camden	3	0.55	1.26
Cumberland/Salem/ Gloucester	0	0.00	0.00
Essex	9	1.04	1.41
Hudson	1	0.18	0.30
Mercer	1	0.30	0.63
Middlesex	0	0.00	0.00
Monmouth	1	0.22	0.83
Morris/Sussex	2	0.55	2.11
Ocean	2	0.51	3.57
Passaic	0	0.00	0.00
Somerset/Hunterdon/ Warren	0	0.00	0.00
Union	2	0.44	0.75
Total Discrimination Complaints Filed *	29	0.34	0.82

Data Source: AOC EEO/AA Unit

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

As the Committee received employment data by race for this year, the Committee presents complaint rates on this table in two ways: complaints as a percent of all employees (shown in column 2) and complaints as a percent of minority employees (shown in column 3). When considering race-based complaints as a percent of minority employees we see that the lower complaint rate within the AOC/Central Clerks' Offices no longer holds, indeed, there is a higher race-based complaint rate within the AOC/Central Clerks' Offices than the vicinage-wide race-based complaint rate. The change in complaint rate when the base is changed from all employees to minority employees occurs because while minorities make up 43% of employees throughout the vicinages, they make up only 33% of employees at the AOC/Central Clerks' Offices.

Examining the complaint rate relative to the number of minority employees highlights vicinages with a relatively small minority employee population, such as Ocean and Morris/Sussex Vicinages. Again, these are vicinages whose complaint rates should be tracked over time, however the small sample sizes do not warrant a recommendation for investigation at this time.

Race and gender-related complaints (encompassing gender and sexual harassment) remain the two most prevalent types of complaints, with national origin complaints the third most common. *Table 4-15, New Jersey Judiciary: Complaints Filed by Nature of Complaint, For the AOC/Central Clerk's Offices and Vicinages Combined, Fiscal Year 2007 to Fiscal Year 2014*, provides greater detail on the nature of the discrimination complaints. An examination of the data reveals that approximately a third of all discrimination complaints filed over the 2001 to 2014 period were race-related (298). The next most common type of complaint was gender related, accounting for about one fourth of all complaints (217). Disability complaints (109) accounted for 12% of complaints over this period and national origin complaints comprised 10% (90). Retaliation complaints (70) were also notable, making up nearly 8% of total complaints.

Complaints related to age (43), religion (40), sexual orientation (12), hostile work environment (8), marital status (2), military status (2) and color (1) were all recorded as well.

**Table 15. New Jersey Judiciary: Complaints Filed by Nature of Complaint
AOC/Central Clerks' Offices & Vicinages Combined
Fiscal Year 2007 to Fiscal Year 2014**

	Race	Color	Sexual Harassment	Gender	National Origin	Religion	Age	Retaliation	Marital Status	Sexual Orientation	Hostile Work Environment	Military Status	Disability	Total
														#
2007	37	0	22	10	17	10	5	15	0	0	4	1	20	141
2008	37	0	22	10	17	10	5	15	0	0	4	1	20	141
2009	49	0	25	7	5	6	8	9	0	0	0	0	17	126
2010	51	0	21	14	6	3	4	10	0	0	0	0	14	123
2011	28	0	13	12	6	5	3	9	0	2	0	0	11	89
2012	30	0	9	18	13	4	5	2	2	2	0	0	12	97
2013	29	0	10	7	14	1	7	10	0	6	0	0	9	93
2014	37	1	9	8	12	1	6	0	0	2	0	0	6	82

Data Source: AOC EEO/AA Unit

An examination of data on discrimination complaints filed, by type of complaint, and action taken, for fiscal years 2012 and 2013, reveals that 36 of the 97 complaints filed during fiscal year 2012 remained open over the period. More complaints were closed over this period than were filed, indicating that open complaints filed in earlier periods were closed during this period. We are unable to specifically identify how many of the 97 complaints filed during fiscal year 2012 were closed over the course of this year. Of the 108 complaints which were closed, there was a “finding” in just 14 cases, reflecting a “finding rate” equal to 13%. This overall finding rate

obscures the fact that there were “findings” in only four complaint areas: Race, Gender, National Origin and Sexual Harassment . None of the other areas in which complaints were filed, including Disability, Retaliation, Religion, Sexual Orientation, Marital Status and Age, resulted in an official “finding”.

With respect to race-related complaints, there was a finding rate equal to 11%, while there was a sexual-harassment related finding rate equal to 45%. These rates are higher than those noted in the last report. With respect to gender-related claims there was a finding rate of 5.2%. This is higher than that noted in the previous report (0%), but lower than the 2007-2008 report (20%). The findings rate for nation-origin-related claims was equal to 40%.

The general pattern remains the same in the fiscal year 2013 data, with an overall “finding” rate of 13%¹¹¹, a race-based complaint finding rate of 15.6% a sexual harassment finding rate of 40% and a gender-complaint finding rate of 0%.

The committee remains seriously concerned by the overall high rate of “no finding” reflected in these data. As noted in the last report, while we certainly acknowledge that not all claims are meritorious, we are concerned that complaints may not be receiving the full attention they are due. We again compare the rate of “No Finding” within the New Jersey Judiciary, to the rate at which the EEOC reports “No Reasonable Cause”. While the New Jersey Judiciary reports “No Finding” in 87% of its complaint cases, the EEOC reported its corresponding “No Reasonable Cause” in 68% of cases in Fiscal Year 2012 and 66% of cases in Fiscal Year 2013, both markedly different than New Jersey.¹¹²

¹¹¹ This figure reflects a finding in 11 out of 83 closed cases.

¹¹² The Committee notes that some portion of those EEOC cases coded as “Administrative Closures” may reflect a lack of merit, however there are a number of reasons for Administrative Closure, many of which are associated with a meritorious claim. It is therefore not possible to combine the two classifications. That said, even if Administrative

VIII. Conclusion

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

Closures were combined with No Reasonable Cause classifications the total rate would still be somewhat less than the "No Finding" rate within the New Jersey Judiciary. See www.eeoc.gov/eeoc/statistics/enforcement.

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Chapter V

PROGRAM PLANNING AND IMPLEMENTATION, TRAINING AND EDUCATION, AND COMMUNITY OUTREACH

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I. Introduction and Mandate

In the 1993 Action Plan for Minority Concerns the New Jersey Supreme Court identified seven overarching goals for the New Jersey Judiciary's Minority Concerns Initiative:

- to enhance competency and awareness of court personnel;
- to assure public accountability and responsiveness;
- to provide equal access for linguistic minorities;
- to improve trial court procedures;
- to heighten public understanding of and access to the judicial system;
- to increase minority representation in the workforce, appointees, Bar, volunteers, and among vendors; and
- to interact with other branches of government.

Fulfilling the New Jersey Judiciary's Minority Concerns mission and mandate places a heavy reliance on communication and collaboration within the Court, between the Court and other governmental agencies, and most significantly, between the Court and the community. For the Court, communication and collaboration are dynamic processes that enable the Court to carry its message to the people it serves and provide the avenues through which the Court can learn about individual and community needs, interests, and concerns. Effective communication and sustained collaboration are essential to the Court's efforts to address issues relating to minority access to justice, minority participation in the work- and volunteer forces, criminal justice and minority defendants, and juvenile justice and the family. Through communication and collaboration, all stakeholders contribute to upholding the rule of law in civil society.

Communication and collaboration are fundamental aspects of the role of the Committees on Minority Concerns at the state and local levels in carrying out the mission of the court and embodying its four core values, independence, integrity, fairness, and quality service. With communication and collaboration as the foundation, program planning and implementation, training, education, and outreach are the principal instruments which the SCCMC engages to fulfill its mission and mandate in the areas of judicial and public education.

The Minority Concerns initiatives in the areas of training, education, and outreach stem from the *Action Plan on Minority Concerns* approved by the Supreme Court in 1993. Twelve of the fifty-three recommendations in this plan address some aspect of training for the court community and the public. Minority Concerns Committee members, Administrative Office of the Courts (AOC) Minority Concerns Unit staff, and vicinage staff liaisons provide valuable training and education to judges, law clerks and court staff at all levels as well as to members of the public. Recognizing the strong dynamic correlation between access to accurate information and access to the services provided by the Courts, this area remains a key component of the work of Minority Concerns at all levels within the New Jersey Judiciary.

During the past thirty years, the subcommittees of the Supreme Court Committee on Minority Concerns have discussed relevant highlights of public education and community outreach programs within the respective chapters. Noting that in many ways and on many levels the court's training, public education, and community outreach initiatives form a bridge between and among the varied Minority Concerns focus areas and priority initiatives, e.g., access and participation, the Supreme Court Committee on Minority Concerns decided beginning with this rules cycle to highlight the expansive breadth and scope of Minority Concerns work on program planning and implementation and training, education, and outreach efforts at the state and local vicinage levels.

II. Court-Community Partnership

The New Jersey Judiciary enjoys a unique and trendsetting model for engaging with the community, meaningfully engaging with the public as a way of demonstrating that persons who are not members of the judicial and legal communities are also stakeholders in sustaining the rule of law. Not only are members of the public invited to attend court-sponsored educational seminars and workshops but also, and in some views more importantly, the community is invited to

participate with the court in the process of ensuring fairness, impartiality, equal access, and full participation in the judicial system and the elimination of all vestiges of bias and discrimination at any level within the New Jersey Judiciary.

The infrastructure and dynamic of the Minority Concerns Program, as approved by the New Jersey Supreme Court in 1993 and still in place today, models best practices in court-community partnerships, communication, and collaboration. The mission and mandate of the Judiciary's Minority Concerns Program, particularly as it is carried out collaboratively and interactively among the Supreme Court Committee on Minority Concerns, the fifteen Vicinage Advisory Committees, and the Minority Concerns Unit, tangibly involves the community -- including legal professionals and general community members equally -- as stakeholders in the rule of law and the fair and equitable exercise of justice and characterizes the court-community partnership in action. The ways in which Minority Concerns-sponsored initiatives and programs are delivered further demonstrate these principles in action. To quote the Ocean Vicinage Advisory Committee on Minority Concerns,

The mission and vision of the New Jersey Courts serve as our mission and vision at the vicinage level. We will earn the respect and confidence of an informed public. To do this, we must educate the public about court programs and services available to them. To demystify court programs and services, we must go into the community as well as invite them into the court to reach the public about programs, procedures, and other services.

III. Program Planning and Implementation

The Supreme Court Committee on Minority Concerns, the fifteen Vicinage Advisory Committees on Minority Concerns, and the Administrative Office of the Courts Minority Concerns Unit support the program's goals by:

- advising the Court on goals, objectives, and implementation timetables;
- advising the Court how the Judiciary may best ensure fairness, impartiality, equal access, and full participation for racial and ethnic minorities;

- reviewing and advising the Court on major emerging policies and procedures;
- monitoring statewide execution of the program and related initiatives; and
- conducting relevant research and studies.

Since the inception of the New Jersey Judiciary's Minority Concerns Program, the SCCMC and the VACMCs have been actively involved in the development of major court policy and procedures such as the EEO/AA Master Plan, the Judiciary's Strategic Plan, and the early development of the Ombudsman Program providing valuable feedback and insight on proposed actions and recommendations on implementation timetables and activities. Today Minority Concerns remains involved in this critical work through a broad range of activities such as the review and comment on various policies and procedures, periodic review of the self-critical workforce analysis and related workforce data, and participation in various internal working groups and interagency initiatives.

IV. Judicial Education & Training

Judicial Education for the New Jersey Judiciary, as it is for most state court systems, is a major undertaking. In New Jersey, these efforts are coordinated by the Judicial Education and Development Unit at the Administrative Office of the Courts, and Minority Concerns plays a valuable role in this formal process through its presentation of seminars, workshops, and training modules for the Comprehensive Judicial Orientation Program and at the annual Judicial College.

During the 2013-2015 term, the SCCMC has continued to be involved actively in the delivery of courses for both of these programs. At the most recent Judicial College, the SCCMC proposed and facilitated a course titled *Race: The Power of an Illusion* presented by Dr. Khyati Joshi, associate professor of education at Fairleigh Dickinson University. This Judicial College course grew out of a similar training Dr. Joshi presented in Somerset/Hunterdon/Warren Vicinage

under the leadership of the Vicinage 13 Advisory Committee on Minority Concerns in partnership with the Somerset County Bar Association. In addition, another section of the course, which awarded 3.0 CLE credits in Ethics, was offered at a special joint session of the Supreme Court Committee on Minority Concerns and the Conference of Vicinage Advisory Committee on Minority Concerns in October 2014. Since the course was approved to award CLE credits, the session was opened to Central Office attorneys, and 50 CLE certificates were issued for the program.

Feedback on the course was exceptional, not only in terms of the experience of the learning experience but even more notably regarding the depth of the substance of the content and the way in which it was presented so that attendees could apply the content to their own professional lives. Many, if not most, people today are familiar with the ample body of literature that presents race as a social construct, disproving the long-held yet misguided understandings of race as a fixed biological feature. Through this course, Dr. Joshi shows how race/ethnicity became constructed under law through U.S. Supreme Court decisions, related case law, and federal housing regulations that defined “Whiteness” and as a consequence created the categories of “Other” and “Non-White” that continue to play a significant part in the structural biases that exist today.

As the late United States Supreme Court Justice Harry Blackmun once said, “To get beyond racism, we must first take into account race. There is no other way.” The Committee believes that learning experiences such as the course developed and presented by Dr. Joshi to several Judiciary audiences need to become part of the institutional approach to these critical issues. Stakeholders at all levels need to have more opportunities to avail themselves of programs such as these that “go to the next level” in understanding the complex social dynamics around structural bias. There are three key learning objectives from Dr. Joshi’s course that this Committee proposes should be

integrated by the Judiciary in the ongoing work of access and fairness. To truly achieve the goals of the Judiciary's access and fairness programs, it is necessary to:

1. develop an understanding of the legal development of the concept of *Whiteness* (distinguished from *White*) throughout the course of U.S. history such as through significant federal court decisions and how *whiteness* and *privilege* have become codified in law and structurally institutionalized in contemporary society's institutions, public policies, and social systems;
2. explore the relationships between social institutions such as the law and the role each plays in sustaining a social structure that marks people according to difference and establishes a hierarchy of social worth both across and within groups; and
3. identify the by-products and unintended consequences of seemingly race neutral laws, recognize the ways in which institutions perpetuate misinformation and promote divisions between groups, and consider the ways in which Courts today contribute to promoting equality and equity, access and fairness, and diversity and inclusion.

The Committee looks forward to continuing to partner with the Judiciary to conceptualize, design, and deliver this and other relevant programming for a broad range of internal stakeholder groups.

V. Public Education and Community Outreach

Training, education, and outreach efforts assist the Court in deeply tangible ways to enhance competency and awareness on the part of court personnel regarding the communities served by the Court, assure public accountability and responsiveness, heighten public understanding of and access to the judicial system, increase minority representation in the work- and volunteer forces, and strengthen collaboration with other branches of government on joint projects. The Vicinage Advisory Committees on Minority Concerns play a significant role in the exchange of information between the court and the community and in the development of local initiatives and educational programs that later become adopted or modified by the Judiciary for statewide implementation.

Public education characterized by community outreach is a shared priority among the Vicinage Advisory Committees on Minority Concerns, providing valuable information to the public regarding court programs and services as well as internship, volunteer, and employment opportunities. Since this Program's inception, the Vicinage Advisory Committees on Minority Concerns have been committed to providing greater access to court services and programs through informative and engaging educational and outreach initiatives developed in response to local needs and interests. Public education coupled with community outreach nurtures the public's confidence in the courts and enhances the court's understanding of the needs of the public.

Activities of the Vicinage Advisory Committees on Minority Concerns are diverse yet often include recruitment of new members as part of the cadre of court volunteers, discussion of juvenile justice issues, and the development of partnerships to offer community education programs aligned with the mission, vision, and core values of the Judiciary and the specific local special needs identified by divisions and programs.

Having assessed and identified questions minorities and the community in general have about their interactions with the court system, committees at the vicinage level devote time and effort to projects specifically designed to educate the community about court processes and legal issues. In order to increase effectiveness in educating the public and to reach targeted audiences, committees frequently collaborate with a broad range of partners both within and outside the court system.

With training, public education, and community outreach as continued priority activities at the vicinage and state levels, the New Jersey Judiciary takes a unique and highly effective approach to these initiatives by bringing the court and community together in interactive partnership, each sharing with the other rich perspective and valuable expertise. At the vicinage level, training,

public education, and community outreach take place in a wide variety of ways. The range, breadth, and scope of program topics and formats are broad and far-reaching, all addressing issues that fall within the reach of the court.

Vicinage Advisory Committee on Minority Concerns members also take an active interest in publicizing professional opportunities with the court. Community outreach not only provides information to the community but also valuable insights to the court.

VI. Conclusion

The Supreme Court Committee on Minority Concerns reiterates its ongoing appreciation for the opportunity to work with the Judiciary in continuing this important work throughout and beyond the remainder of the current rules cycle. In the words of the Passaic Vicinage Advisory Committee on Minority Concerns:

Public education and community outreach are key factors in the success of any Minority Concerns Committee. It is absolutely necessary to reach out to the community to obtain their input, and to understand their perception of the judiciary. Educating the community about court programs and services empowers the public and helps to alleviate any negative perceptions about the Judiciary.

The public education and community outreach efforts of the Supreme Court Committee on Minority Concerns and the fifteen Vicinage Advisory Committees on Minority Concerns provide the Court with a community's view of the justice system and facilitates the opportunity to bring other local agencies and court community members together to discuss changes in the diverse interests and needs of the community and presents possible initiatives that benefit the public in general in its interactions with the courts.

The success of training, public education, and community outreach programs depends on the innovation and hard work of judges, court staff, advisory committee members, and volunteers. Each year the vicinages coordinate programs that are well attended and evaluated highly, often

relying on organizational and community contacts to present programs that address effectively the broad range of community interests and public needs.

The SCCMC looks forward to its ongoing involvement in the planning of future public education programs that will further strengthen the courts relationship with the community. While public education and community outreach are but two aspects of the Minority Concerns mandate, they are significant ones that the Committee and its staff continue to embrace with enthusiasm, energy, and dedication for the benefit of all stakeholders in the judicial system.

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