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TO: Hon. Glenn A. Grant, J.A.D., Acting Administrative Director of the Courts

FROM: Jennifer V. Shultis, Chair, Ombudsman Statewide Committee
Vannessa Ravanelle, Co-Chair, Ombudsman Statewide Committee
Janie Rodriguez, Chair, Professional Development Sub-Committee for Ombudsman

RE: Submission for Public Comment on the Superior Court Committee on Minority Concerns 2013-2015 Biennial Report

DATE: April 7, 2015

This memorandum, written on behalf of the statewide Ombudsman Committee, is being submitted as public comment on the Supreme Court Committee on Minority Concerns 2013-2015 Biennial Report (Report) that references the Ombudsman Program. The following comments relate to sections in the Report that reference the New Jersey Judiciary Ombudsman Program, specifically, Recommendation 15:03.2, Recommendation 15:03.3, and text contained in Chapter III, Section III(E), beginning on page 115.

Introduction

As acknowledged in the Report, the Ombudsman Program presents a unique opportunity for the public to connect with the court, receive assistance, and learn about services provided by the courts. The program follows statewide standards promulgated by the Judicial Council and the Administrative Council. At the same time, the program is structured to allow local flexibility to allow vicinage discretion in customizing the services of the Office of the Ombudsman to meet the needs of the community.

The program remains a national model, and the delivery of quality customer service provided by ombudsmen meets the broad ideals and core values of the Judiciary. In 2013, ombudsmen provided essential services to 52,385 court users, a majority (45,665 or 87% of court users) of which were self-represented litigants.

The inception of the program dates back to recommendations made in 1992 by the Supreme Court Task Force on Minority Concerns and the Supreme Court Task Force on Women in the Courts.

The Supreme Court Task Force on Women in the Courts recommendation envisioned an office of the ombudsman that monitored problems (i.e., the enforcement of judicial orders in domestic violence cases) and collaborated with community organizations, such as rape crisis centers and battered women's shelters (as referenced in footnote 79, page 115 of the Report).

The recommendations made by the Supreme Court Task Force on Minority Concerns were to establish a citizen complaint mechanism at the Administrative Office of the Courts and at each vicinage (Recommendation 30) and to establish ombudsman offices at the state and vicinage levels to provide information about the courts and to receive and investigate complaints about abuses in the judicial process (Recommendation 31).

However, the statewide Ombudsman Program, implemented in 2005, differed substantially in scope from the concepts outlined in the above 1992 recommendations. Judge Carchman's memorandum dated May 2, 2005 promulgated statewide implementation of the program and set forth the duties and responsibilities of the ombudsman as follows:

- Assisting court users by explaining court procedures, programs and services;
- Assisting self-represented (pro se) litigants (without, of course, providing legal advice);
- Serving as an informal information resource for the public;
- Collaborating with the divisions as a centrally located court customer service liaison with the public;
- Participating in the design and preparation of local brochures and other informational material;
- Developing and coordinating court tours, speaker's bureaus, and other community outreach programs;
- Coordinating public reception service areas such as court user service kiosks and information centers;
- Assisting in the development and maintenance of public information sources, including vicinage Internet home pages;
- Receiving complaints from court users and either resolving them or referring the matter to the appropriate forum for resolution; and
- Participating in a statewide committee of ombudsmen.

The role of the ombudsmen thus is focused on providing direct assistance to court users, primarily to those who are self-represented.

Biennial Report Recommendation 15:03.2

Recommendation 15:03.2 recommends that ombudsmen gather information at intake on race and ethnicity, as well as any other demographic factors that would be beneficial to the Judiciary in better understanding the diverse constituencies receiving services from the program. It is not clear from the Report how this data would ensure continued quality service, nor what would be done with the data once collected.

Most ombudsmen have received opposition from court users as to the collection of any identifying data, including demographic information. Specific concerns noted by ombudsmen include:

- Victims of domestic violence being fearful of revealing information that may be accessed by the abusive partner or shared with that person;
- Undocumented court users being wary of court personnel asking for information that may reveal their immigration status or be relayed to immigration officials;
- Court users with active warrants being reluctant to provide information that would lead to their arrest;
- Court users with limited English proficiency, being distrustful of courts and other governmental bodies, especially when they do not understand the process or procedures involved; and
- Court users with mental illness being confrontational when asked for information they do not wish to provide.

Apart from the above instances, there are many court users who routinely refuse to provide basic information that is currently requested from them such as their name and docket number. They fear that providing any information could identify them and could lead to negative repercussions in court.

A push to collect racial/ethnic data will thus have a chilling effect on many court users who seek services from ombudsmen. In fact, the groups most impacted would very well be the minority populations of interest.

Further, almost half of all court users contacted ombudsmen via phone or in writing (25,009 or 47% of court users) in 2013. Seeking demographic information in these instances presents logistical challenges and can elicit a negative response from court users. The Ombudsman is specifically defined as a neutral staff person, as stated in the ombudsman brochure and the Judiciary web pages which provide information about the program. To properly serve court users, ombudsmen must create a safe environment, in which the court user is sufficiently comfortable to reveal relevant personal information, state concerns, and present complaints. Therefore, seeking demographic information at intake or at any other point in the communication is likely to create a barrier to open communication with the ombudsman and negatively impact the court user's experience.

In fact, at the inception of the Ombudsman Program, draft intake forms were submitted to Counsel's Office for review; that office concluded that any reference to demographic information was inappropriate in this context and must be removed from the intake forms.

Finally, such information is already collected by the Judiciary through the EEO/AA Program, human resources divisions, and most recently through the Access and Fairness Public Survey Project. Judiciary data is routinely compared to available U.S. Census data to better understand our court communities.

The responsibility of the ombudsman is to serve the diverse population of court users throughout the state, regardless of race, ethnicity, gender, sexual orientation, or other such criteria.

Therefore, collection of such data is in no way useful for the growth and ongoing success of the program. The members of the Ombudsman Committee remain committed to serving all court users and working to enhance open access to the courts.

Biennial Report Recommendation 15:03.3

Recommendation 15:03.3 recommends that a comprehensive critical self-assessment (program review) of the Ombudsman Program be undertaken as a means of assessing the structure and services provided at the program level. Further, it suggests that the assessment would be achieved through a self-study process to be designed collaboratively by the Supreme Court Committee on Minority Concerns (SCCMC) and the Ombudsman Committee.

The Ombudsmen Committee is certainly in agreement that the 10th anniversary of statewide promulgation of the program is an appropriate time for self-assessment. In fact, the committee has already engaged in the first phase of a self-assessment with the development of a comprehensive Ombudsman Guide, which has been endorsed by the Judicial Council. This first phase of self-assessment includes the standards set forth in Judge Carchman's 2005 memorandum as a baseline and sets forth expansion of the program from that point to present, and also includes the creation of a Best Practices Working Group.

The Ombudsman Committee is confident that its self-study process is comprehensive and will include essential program evaluation components. The Ombudsman Committee welcomes suggestions from the SCCMC as to such essential components, and will seek input from various sources for this self-evaluation process.

Additional Comments: Chapter III, Section III (E)

With regard to Chapter III, Section III (E) of the Report, the Ombudsman Committee offers the following comments.

Page 115, Section E (1) of the Report states that the statewide Ombudsman Program is housed in the Office of Communications and Community Relations Litigant Services Unit. In fact, the Ombudsman Program is not managed by a Litigant Services Unit: rather, the Litigant Services Manager serves as a Liaison between the Ombudsman Program and the Administrative Office of the Courts. One of the vicinage trial court administrators also serves as a Liaison between the program and the Administrative Council. The Ombudsman Program is managed locally, with most ombudsmen reporting directly to the vicinage trial court administrator.

Page 118, notes to Table 3-7 should be amended to reflect that the Hudson Vicinage resource center was not implemented until 2014 and that the ombudsman in Monmouth Vicinage has full-time rather than part-time staff. In addition to the Atlantic/Cape May Vicinage, three other vicinages share Volunteer Services responsibilities.

Page 123, Table 3-9 refers to the year of 2012 and should be amended to reflect that the data comes from the 2013 Ombudsman Statewide Statistical Report.

Page 124, Section E (2) (d) of the Report references constituent complaints. The report acknowledges that ombudsmen track complaints, but suggests it be done in more detail.

Complaints are recorded in a consistent manner following specific standards, ensuring confidentiality. Complaint details, records kept, and resolution of such complaints vary by local policy, as set by the assignment judge and trial court administrator.

Ombudsmen track local complaints and discuss such with the assignment judge and trial court administrator to resolve all vicinage concerns. Ombudsmen also consult and collaborate as a committee to present any matters of statewide concern to the Litigant Services Manager.

Conclusion

Thank you for the opportunity to comment on the Supreme Court Committee on Minority Concerns Biennial Report for 2013-2015. Should you have any questions or require additional information, please feel free to contact me. In the spirit of collaboration, we would also be pleased to provide a brief presentation at a future meeting to highlight our program.

- c: Winnie Comfort, Director, Office of Communications and Community Relations
- Steven D. Bonville, Chief of Staff, Administrative Director's Office
- Sue Regan, Administrative Council Liaison to the Ombudsman Statewide Committee
- Laura A. Simoldoni, Trial Court Administrator, Bergen Vicinage
- Kelly A. Law, Trial Court Administrator, Camden Vicinage
- Rashad Shabaka-Burns, Trial Court Administrator, Morris/Sussex Vicinage
- Vicinage Ombudsmen