Final Progress Report
December 2010

Minnesota Judicial Branch

Racial Fairness Committee:

Implementation of the 1993

Race Bias Task Force Report

Recommendations

State Court Administrator's Office
Court Services Division
105 Judicial Center
25 Rev. Dr. Martin Luther King, Jr. Blvd.
St. Paul, MN 55105

Prepared by: Kim Larson
kimberly.larson@courts.state.mn.us
651-282-6769

I. Background

The Minnesota Supreme Court Task Force on Racial Bias in the Courts released its final report on June 10, 1993. On the same day, by order of the court, the Implementation Committee on Multicultural Diversity and Racial Fairness in the Courts (Implementation Committee) was established to put the report recommendations into action. The Supreme Court also established implementation committees, now known as Equal Justice Committees, in each judicial district to assist in these efforts.

In 2006, the Implementation Committee changed its name to the Racial Fairness Committee. The Racial Fairness Committee and the district Equal Justice Committees continued the work of implementing the Race Bias Task Force's final report. Around this time the Racial Fairness Committee was also designated as an Advisory Committee to the Minnesota Judicial Council, the governing body for the Minnesota Judicial Branch.

Prior to 2006 the Implementation Committee published five Progress Reports; in 1994, 1995, 1999, 2002 and 2004. These reports are appended in their entirety to this report in Appendix C. This report provides a final overview of the work of the Racial Fairness Committee over the last four years.

II. Recent Activities

A. Race Data Collection and Analysis

Every court in Minnesota continues to collect self-reported race data at the first court appearance in traffic, criminal and juvenile cases. Although no person is required to provide race data the refusal rate remains very low statewide.

The Racial Fairness Committee (the Committee) persisted in its commitment to review race data that was collected by the courts and other organizations. In October 2009 the Data Collection and Analysis subcommittee was reestablished. The subcommittee met several times to gather and review data regarding adult criminal dispositions by race and gender. The focus of the review was on drug crimes and the subcommittee asked State Court Administrator's Office (SCAO) staff and staff from the Minnesota Sentencing Guidelines Commission (MSGC) to gather data based upon the degree of the drug crime, the type of drug involved, the criminal history of the individual and the disposition of the charges. The reports from SCAO and MSGC are attached as Appendix A.

In addition to reviewing race data another ongoing goal for the Committee was to share race data with each district's Equal Justice Committee. In April 2010, reports containing 2008 dispositional race data specific to each judicial district was sent to the district's Equal Justice Committee. These reports are available to court staff on the court's intranet site, CourtNet, under the heading *Race Data by Filings and Disposition*, and are available to the public upon request.

The Committee was also privileged to receive presentations on a variety of studies related to race from the Institute on Race and Poverty, the Minnesota Sentencing Guidelines Commission, Professor Richard Frase of the University of Minnesota, and the Juvenile Justice Advisory Committee.

B. Community Dialogues

The Committee developed the Community Dialogue Plan in 2008 and began implementing it in the judicial districts in June 2008. The Committee has a strong history of conducting listening sessions throughout the state and has strived over the years to continue to reach out to minority communities. The Community Dialogue Plan continues this commitment to outreach at the local level and in a way that encourages sharing and dialogue among community members and the judicial system.

Since the Community Dialogue Plan provided a new strategy for the Committee's community outreach activities training was provided to the Committee members and the Equal Justice Committee members on how to conduct a dialogue session versus a traditional listening session. Trainers included staff from the SCAO Education and Organization Development Division (EOD) as well as the Brave New Workshop.

The Community Dialogue Plan was piloted in the Second District on June 30, 2008. Since that pilot session three other districts, the First, Third and Tenth have held very successful Community Dialogue sessions. The final reports from each dialogue are available on the court's public website (link available on Resources page).

C. Education and Training Opportunities

A long-standing implementation task for the Committee has been to ensure that education and training opportunities which have a focus on racial fairness and access are offered on a regular basis to judges and court staff.

In 2007 the Committee members participated in the *Facing Race* training program offered by The St. Paul Foundation. Facing Race is a multi-year campaign aimed at positively changing the nature of personal, organizational and institutional relationships in Minnesota.

The Education and Training subcommittee, reestablished in 2009, worked with the SCAO EOD Division to pilot an Implicit Bias training program for Judicial Branch judges and court staff. The Committee piloted the training in July 2010 and strongly recommended that the program be extended beyond the pilot stage and presented to judges statewide. The program was introduced to district and appellate court judges at the annual Judges' Conference in December 2010 and was positively received.

D. Other Activities and Tasks

Over the last few years the Committee kept abreast of various issues that came before the Supreme Court and the Judicial Council, and submitted comments and recommendations as appropriate.

<u>Cameras in the Courtroom</u>
Early in 2008 the Minnesota Joint Media Committee, Minnesota Newspaper Association, Minnesota Broadcasters Association, and the Minnesota Chapter of the Society of

Professional Journalists filed a petition with the Supreme Court seeking a change to the Minnesota General Rules of Practice regarding the inclusion of cameras in Minnesota courtrooms. The Supreme Court held public hearings on the topic and accepted written comments. The Racial Fairness Committee provided written and oral testimony in opposition to the Rule change which focused on the potential adverse effects on communities of color in criminal, juvenile and domestic violence cases. The Supreme Court ultimately approved the use of cameras for civil cases as a pilot project. The pilot project is currently underway and includes reporting requirements for evaluation.

Changes to General Rules of Practice for District Courts, 111.02

In April 2008 the Committee was presented with a request to support a change to Rule 111 of the Minnesota General Rules of Practice for District Courts. The Honorable David Higgs from the Second District brought forth a request that would modify Rule 111, the Court's standard Scheduling Order and Part H. of the Minnesota Civil Trial Handbook by providing requirements for early identification of interpreter needs in civil cases.

The Committee voted to support the proposed Rule changes and submitted written comments to the Supreme Court in August 2008. The Supreme Court promulgated amendments to the Rules requiring parties to provide advance notice to the Court when an interpreter is needed; amendments to Rules 8, 111.02, 111.03, 112, and related forms, and Civil Trial Handbook sections 5 and 11. These amendments went into effect on March 1, 2009.

Court Interpreter Program policies on remote interpreting

The Committee had an opportunity to review and comment on Court Interpreter Program policy amendments in 2010. Of particular importance to the Committee was the proposal to increase the use of remote interpreting throughout the state. Remote interpreting is the use of technology to provide spoken language interpreter services from a remote location. In other words, the interpreter provides his or her services via telephone or video conferencing but is not physically present with the defendant or party for whom he or she is interpreting.

The Committee heard testimony from many different individuals and vigorously discussed the topic. As the proposed policy changes were vetted through the proper review channels the Committee submitted a recommendation to the Judicial Council via the Court Operations and Policy subcommittee. The Committee's recommendation urged the Judicial Council to include language in the remote interpreting policy that would preserve the due process rights of non-English speaking defendants.

Statewide Discrimination and Harassment Complaint Process

A number of years ago two of the District Equal Justice Committees developed a brief process that court users could access if they wanted to lodge a complaint about discriminatory or harassing treatment from local court staff. These processes were shared with the Committee and other districts at a joint meeting held in 2007. A request to develop a process that could be used statewide by each District as desired was submitted to the Committee in 2008.

A subcommittee was formed to review the processes from the two districts and work to draft a comprehensive process was undertaken. The subcommittee developed some proposals which were reviewed by SCAO staff. This process was not completed prior to the Committee's sunset date of December 31, 2010.

III. CONCLUSION

The chair of the Committee, Supreme Court Associate Justice Alan Page and the vice chair Honorable Tanya Bransford, presented the Committee's final work plan report to the Judicial Council on January 21, 2011. A copy of the work plan report is attached as Appendix B.

In June 2010 the Minnesota Judicial Council established a new advisory committee, the Committee for Equality and Justice (CEJ). With the advent of the CEJ, the Committee, along with the Judicial Branch's Gender Fairness Implementation Committee (GFIC), was scheduled to sunset on December 31, 2010.

The CEJ is charged with advancing the Minnesota Judicial Branch's efforts to eliminate from court operations bias that is based on race, gender, ethnicity, age, disability, socioeconomic status, religion, sexual orientation and any other status that is protected by law. The Honorable Tanya Bransford, former vice chair of the Committee, and the Honorable Mary Vasaly, former member of the GFIC, are the CEJ Co-Chairs, and Associate Justice Alan Page is the Supreme Court liaison to the CEJ. The CEJ began meeting in January 2011 and will continue to implement the recommendations of the final reports from both the Race Bias and Gender Fairness Task Forces.

Resources and Links

Minnesota Supreme Court Task Force on Racial Bias in the Judicial System Final Report, 1993,
http://www.mncourts.gov/?page=519

More information about the Minnesota Judicial Council may be reviewed on the court's website,
http://www.mncourts.gov/?page=297

Community Dialogue Plan, District Sessions Final Reports,
http://www.mncourts.gov/default.aspx?page=3249

Most Recent Information on the Cameras in the Courtroom Topic
http://www.mncourts.gov/?page=3862&item=50744

Minnesota Court Interpreter Program webpage
http://www.mncourts.gov/?page=304

For more information on this program please visit the Facing Race website at
http://www.facingrace.org/

APPENDIX A

State Court Administrator's Office and

Minnesota Sentencing Guidelines Commission

Race Data Reports

Presented to the Racial Fairness Committee in July 2010

Data Collection and Analysis Subcommittee Report
July 27, 2010

The Data Collection and Analysis subcommittee met several times to gather and review data regarding adult criminal dispositions by race and gender. We focused on drug crimes and asked State Court Administration staff and staff from the Minnesota Sentencing Guidelines Commission to gather data based upon the degree of drug crime, the type of drug involved, the criminal history of the individual and the disposition of the charges. The reports from SCAO and MSGC are on the Racial Fairness Committee SharePoint site. We also requested data regarding defendants who participate in drug courts in the state, including location of court, level of drug crime and disposition. The Drug Court data is not available yet. SCAO is conducting a statewide evaluation of drug courts and the final report is expected in late 2011.

The data is interesting and complex. Based upon the data, some of the conclusions are listed below.

1. Rates of conviction are highest for first, second and third degree drug crimes.
2. Fifth degree drug crimes have the highest rates of continued dispositions, i.e. probation before conviction, stays of adjudication, etc.
3. There are disparities in dismissal rates for black and white offenders, depending on the degree of the drug crime. There is a much higher and wider disparity among the other racial and ethnic groups.
    a. First degree controlled subs. – white 18.6%; black 16.4%
    b. Second degree controlled subs. – white 13.8%; black 18.2%
    c. Third degree controlled subs. – white 11.4%; black 16.2%
    d. Fourth degree controlled subs. – white 13.8%; black 16.7%
    e. Fifth degree controlled subs. – white 13.8%; black 14.4%
4. The Fourth Judicial District had 53% of all black felony drug offenders and 12% of all white offenders in 2008.
    a. The conviction rate of black offenders is more than 20% greater than white offenders for all drug cases in the Fourth District.
5. MSGC data shows that the distribution of drug offenses between black and white offenders in 2008 is similar to the distribution of felony offenders in the state.
6. The departure rates from the sentencing guidelines are similar between white and black offenders, especially with a criminal history score of zero.
7. There are vast differences between judicial districts in sentencing practices for drug crimes. Mitigated dispositional departures rates are highest in the First, Fifth, Ninth and Tenth Judicial districts. The Fifth and Tenth Districts have a 56% mitigated dispositional departure rate on drug sentences. The lowest mitigated dispositional departure rate is in the Eighth Judicial District (10%).

The Subcommittee recommends the following:

1. Disseminate the pertinent data to each district Racial Fairness Committee and local judges. Suggest that the district or local judges convene a criminal justice workgroup to review the data. Staff of the Sentencing Guidelines Commission and State Court Administration is available to meet with the district committees to review the data

evaluated. Subject to data privacy issues, provide county specific data to the judges assigned to each county.

2. Discuss the implications of the disparities in the level of adherence to the Sentencing Guidelines around the state.
3. The RFC should recommend to the Judicial Council that the judicial branch support legislation to require collection of race/ethnicity data at each step in the criminal justice system, beginning with the initial stop.

MINNESOTA JUDICIAL BRANCH

Disposition Rates by Race and Gender for Felony Drug Cases Disposed in 2008

Presentation to the Racial Fairness Committee

July 27, 2010

Data Provided by: State Court Administrator's Office

Court Services Division, Research & Evaluation Unit

Analysis Notes

- All cases disposed in 2008 with a felony drug statute as the highest level charge on the most serious disposition were included in this analysis (6,679 cases).
- 8.5% of drug cases have missing race data
- 14% are missing gender data
- Analysis excludes cases with missing race or gender data.
- Acquittals or other/unknown dispositions are not shown separately, but these outcomes are reflected in the overall results.

Data and Analysis Requested by Subcommittee

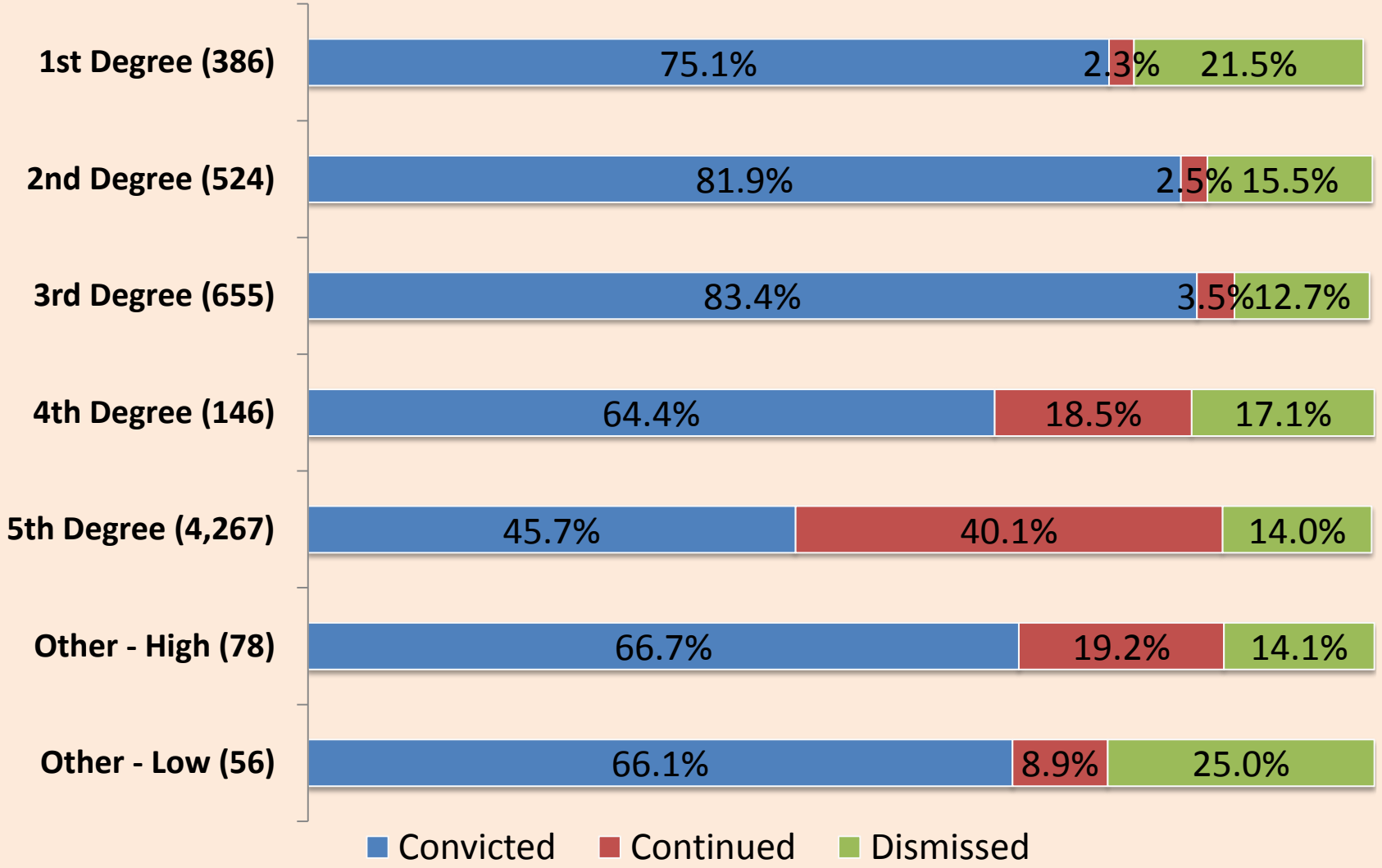
- Degree of Drug Crimes (at disposition)
- Type of drug (based on MOC)
- Type of dispositions within 'continued' category
  - Probation before conviction
  - Adjudication withheld
  - Diversion
  - Continued for dismissal
    - Not included: Continued without adjudication (1.4% of drug cases statewide), Continued without findings (.1% statewide)

Dispositions by Degree

- Rates of conviction are highest for 1st, 2nd and 3rd degree drug crimes.

- Fifth degree drug crimes have the highest rates of continued dispositions, e.g. probations before conviction, stays of adjudication.

2008 Drug Dispositions By Degree



Other – High examples include: Import Cont Substance/State Borders; Store Meth in Presence of Child; Possess Meth Precursors w/intent to Manufacture.

Other – Low example: Represent Non-controlled Substance as Narcotic

Disparities in Dismissal Rates

- Dismissal rates are generally higher for black offenders compared to white offenders. The extent of the disparity between black and white offenders depends on the degree of the drug crime.
- There is greater disparity in dismissal rates between whites and other racial and ethnic groups, especially for higher level drug crimes
  - » The number of cases is small for other racial and ethnic groups

2008 Drug Dispositions By Degree and Race

Degree	Race	Convicted	Continued	Dismissed
1st	White (210)	78.6%	1.9%	18.6%
	Black (67)	77.6%	3.0%	16.4%
	Hispanic (70)	70.0%	.0%	30.0%
	Am. Ind. (13)	53.8%	15.4%	30.8%
	Asian/PacIs (14)	57.1%	7.1%	35.7%
2nd	White (260)	82.3%	3.8%	13.8%
	Black (165)	80.0%	1.2%	18.2%
	Hispanic (59)	89.8%	.0%	10.2%
	Am. Ind. (20)	70.0%	5.0%	25.0%
3rd	White (299)	82.6%	5.7%	11.4%
	Black (247)	81.4%	1.6%	16.2%
	Hispanic (53)	90.6%	1.9%	7.5%
	Am. Ind. (22)	86.4%	.0%	13.6%
	Asian/PacIs (17)	94.1%	.0%	5.9%
4th	White (87)	63.2%	23.0%	13.8%
	Black (30)	66.7%	16.7%	16.7%
	Hispanic (10)	60.0%	10.0%	30.0%
	Am. Ind. (12)	66.7%	.0%	33.3%

Degree	Race	Convicted	Continued	Dismissed
5th	White (2,748)	41.3%	44.6%	13.8%
	Black (988)	57.0%	28.4%	14.4%
	Hispanic (185)	45.4%	37.8%	15.7%
	Am. Ind. (164)	50.0%	33.5%	16.5%
	Asian/PacIs (74)	52.7%	41.9%	5.4%
	Mult Races (56)	42.9%	46.4%	10.7%
	Other (19)	36.8%	52.6%	10.5%
	Refused (33)	48.5%	30.3%	21.2%
Other – High*	White (74)	67.6%	17.6%	14.9%
Other – Low**	White (13)	23.1%	30.8%	46.2%
	Black (38)	84.2%	.0%	15.8%

*Examples include: Import Cont Substance/State Borders; Store Meth in Presence of Child; Possess Meth Precursors w/intent to Manufacture.

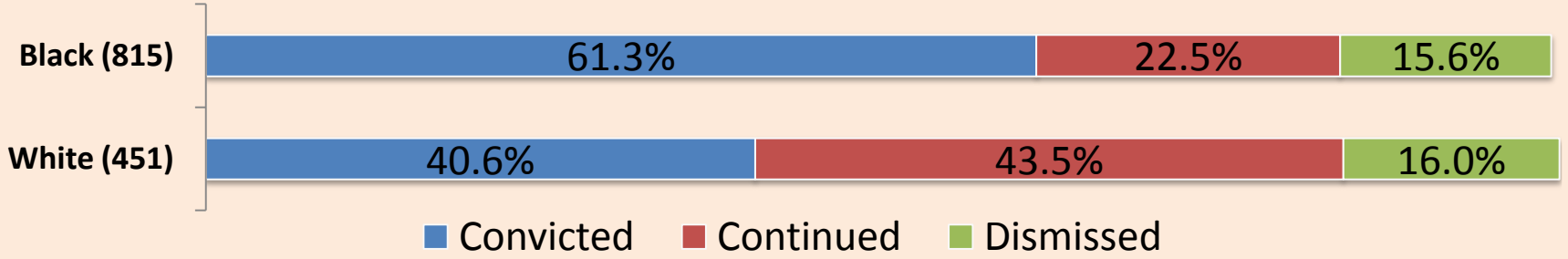
**Example: Represent Non-controlled Substance as Narcotic

Fourth Judicial District (Hennepin Co.) Dispositions

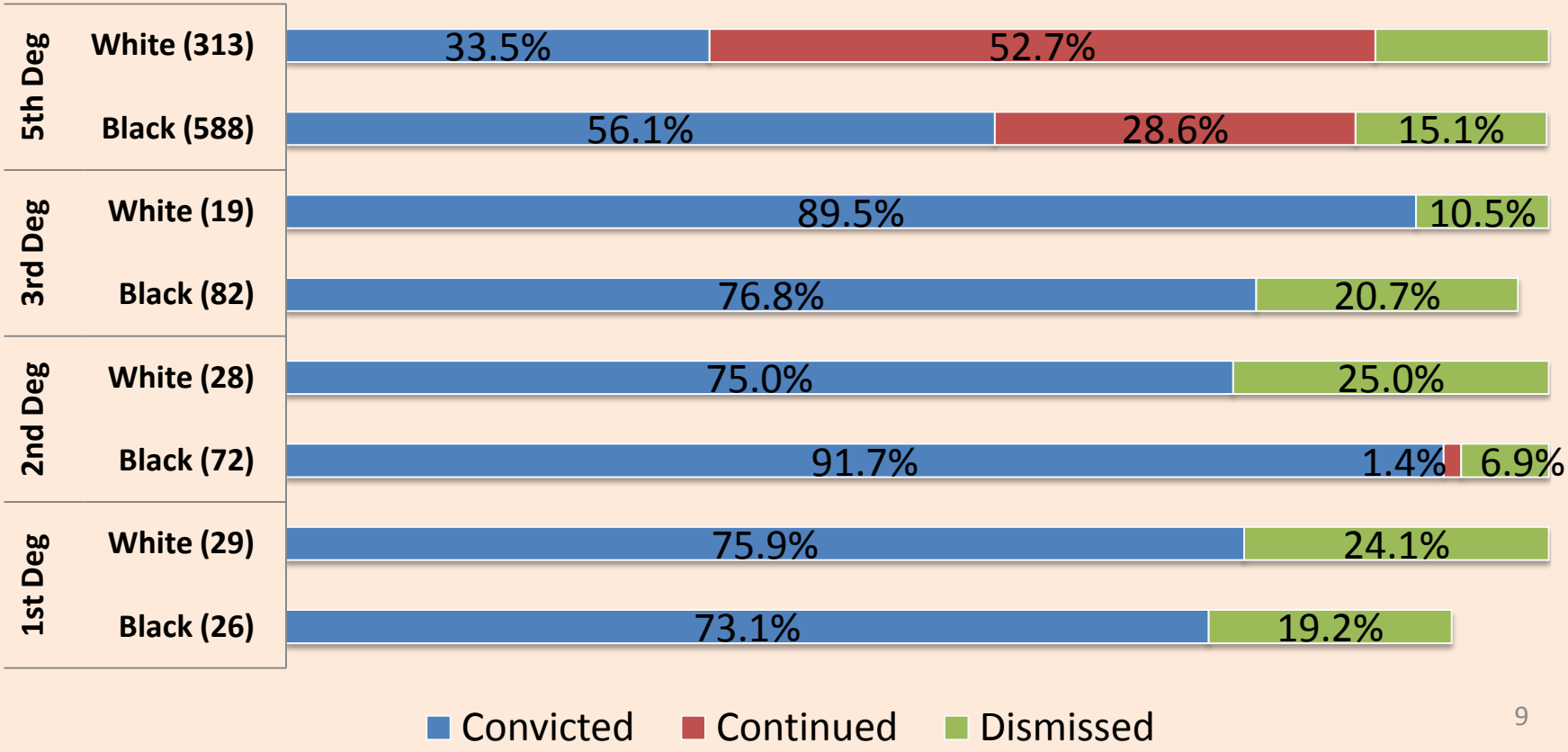
- The Fourth Judicial District has 53% of all black felony drug defendants compared to 12% of all white defendants in 2008.

- The conviction rate for black defendants is more than 20% higher than the rate for white defendants in the Fourth District .
  - » Variation is greatest for 5th degree drug crimes

4th District Felony Drug Dispositions 2008 By Case By Race



4th District Felony Drug Dispositions By Race By Degree



APPENDIX B

Racial Fairness Committee's

Final Work Plan Report to the Minnesota Judicial Council

Presented to the Judicial Council in January 2011

Statewide Committee Annual Report

DRAFT DATE: December 30, 2010

Committee Name:	**Racial Fairness Committee**
Chair:	Justice Alan Page
Vice-Chair:	Judge Tanya Bransford

Please present the following background information about the committee:

Committee members:	Twenty-four Judicial Council-appointed members; seven Ex Officio positions
Term length:	Two or Three Years - staggered
Average number of meetings per year:	Six meetings per year, plus sub-committee meetings in alternating months
Date the committee was initially formed:	June 9, 1993
The basis for committee formation (Supreme Court order, convened by CCJ, etc.):	Supreme Court order – The order charged the committee with working to implement the recommendations of the 1993 Race Bias Task Force Report.
Any additional background information about the committee that may be relevant:	This Committee led important initiatives such as the creation of the Court Interpreter Program and the court collection of race data. The Committee works to coordinate efforts with other Judicial Council and Supreme Court Committees and Work Groups to ensure diversity related issues are considered branch wide. The Committee continues to work with district equal justice committees, focusing on diversity and racial fairness related issues as the district equal justice committees continue to gather information about local racial fairness initiatives.

Statewide Committee Annual Report

DRAFT DATE: December 30, 2010

Project Name, Objectives and Tasks	Annual Activity Summary
20th Anniversary Recognition (2009) Form a sub-committee to: • Plan an event to recognize the creation of the Race Bias Task Force in 1989; • Solicit and secure outside assistance and funding as necessary	The subcommittee met once over the course of 2010. When the plans to develop a new access and fairness committee began the planning for a 20th Anniversary recognition event were put on hold. A celebration event is currently scheduled for January 24, 2011 which will mark the conclusion of the Racial Fairness Committee.
20th Anniversary Report (2013) Form a sub-committee to: • Seek outside sources for funding; if funding is secured then: • Identify report components and methodologies; • Create a work plan for collecting, studying & analyzing info and data for the Report	Rather than a 20th Anniversary Report a final progress report for the Racial Fairness Committee will be drafted and made publicly available. The report will be released at the Committee celebration on January 24, 2011.
Race Data Project 1) Review the following data reports annually: • Adult & Juvenile criminal disposition data • Jury Pool data • Children's Justice Initiative (out-of-home placement, legislative, DHS & Court data); 2) Share race data reports for local jurisdictions with Equal Justice Committees	Access and Fairness Survey data presented Jan. 2009 and 2008 Dispositional Race Data presented July 2009. The 2008 Disposition Data was shared with Judicial Council and statewide around this same time as well. The Data Collection and Analysis subcommittee met regularly during 2009-2010 and reviewed data from the courts and Sentencing Guidelines Commission. They specifically reviewed the data as it related to drug offenses and presented their work to the full Committee in July 2010.
Cultural Competency Training & Education 1) Provide annual training opportunity for Committee members and EJC members; 2) Select two committee members to serve on and report back to the RFC on the EOD Diversity and Cultural Competence Education Committee	The Committee's Training and Education subcommittee worked with EOD in bringing the new Implicit Bias training program to the Committee as the pilot training session in May 2010. The Implicit Bias program was presented at the state judges conference in December 2010 at the request of the Committee.

Project Name, Objectives and Tasks	Annual Activity Summary
Encourage the Judicial Branch to incorporate race fairness considerations into its activities and policies 1) Assign committee members to establish and maintain contact with the following Judicial Council and Supreme Court Committees and Initiatives: Children's Justice Initiative, Drug Courts Initiative Advisory Committee, Gender Fairness, Rules Committees, Court Interpreter Program, and State Court/Tribal Court Forum; 2) Committee contacts report regularly on the on-going work of the above referenced groups; 3) Provide comment on racial justice issues as applicable to policy discussions as they arise (e.g., comment periods for changes to Court Rules, Pre-Trial Bail Evaluation tool; etc.); 4) Assign committee members to draft a proposed edit to the Judicial Council Policy 10.02, to more clearly identify diversity and cultural competency as a priority for Branch	Committee members were assigned as indicated to the left in October 2009. During the course of this reporting period the Committee received information from the Court Interpreter Program (CIP) regarding proposed changes to CIP policies. The Committee provided feedback on the proposed changes, in particular the changes regarding remote interpreter usage. The Committee expressed concern that the due process rights for non-English speaking court users not be compromised by any reduction in the use of in-person, in-the-courtroom interpreters.
Encourage Justice System Partners' Committees and Initiatives to incorporate racial fairness considerations into its activities and policies 1) Assign committee members to establish and maintain contact with the following Justice System Partners' Committees and Initiatives: Juvenile Justice Advisory Committee, Disproportionate Minority Contact sub-committee, Sentencing Guidelines Commission, Juvenile Detention Alternatives Initiative; 2) Committee contacts report regularly on the on-going work of the above referenced groups; 3) Provide comment on racial justice issues as applicable to policy issues as they arise (e.g.: Sentencing Guidelines)	See activity summary above.

Statewide Committee Annual Report

DRAFT DATE: December 30, 2010

Project Name, Objectives and Tasks	Annual Activity Summary
Community Dialogue Plan Implementation 1) Committee members will work with EJC members to co-facilitate and report back as necessary; 2) Committee members will attend at least one Community Dialogue Session each year; 3) Review Community Dialogue Reports to identify and address statewide issues	Community Dialogue events were held in the 1st, 3rd and 10th Districts during this reporting period. One Committee member participated in a Community Dialogue session during this reporting period and helped plan and attended the 3rd District dialogue session. The Committee members have received copies of the Community Dialogue reports.
District Equal Justice Committees 1) Continue to work with EJCs to support efforts in each district; 2) Select committee members to act as liaisons between RFC and each EJC; 3) Hold annual meeting with chairs and staff from all districts	Communications with the District EJCs was on-going during this reporting period.
Annual Progress Reporting 1) Form a sub-committee to: • Review Committee work since last progress report and identify highlights; • Draft and approve annual progress report; 2) Submit annual report to Judicial Council and National Consortium on Racial and Ethnic Fairness; 3) Send one representative to annual National Consortium meeting	This report is the annual report as identified for the Judicial Council. One Committee member attended the National Consortium on Racial and Ethnic Fairness annual meeting and conference and she reported on the activities of the Committee to the Consortium as appropriate at the conference in April-May 2010. It is anticipated that some of the uncompleted tasks of the Committee will be picked up by the Committee for Equality and Justice in the coming months.

APPENDIX C

Implementation Committee on Multicultural Diversity and

Racial Fairness in the Courts

Progress Reports

1994

1995

1999

2002

2004