

Community  
Listening  
Session

November 3

2016

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**MINNESOTA  
JUDICIAL BRANCH**

Third Judicial District  
Equal Justice Committee

# Community Dialogue Session

## INTRODUCTION

In 2008, the Racial Fairness Committee, along with the Equal Justice Committees from each judicial district, developed a community dialogue plan with the purpose of creating a public forum for community members to describe their experiences and discuss ideas for advancing racial equality and fairness in the courts.

In 2010, the Minnesota Judicial Council established the Committee for Equality and Justice, a statewide committee charged with advancing the 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 protected by law.

The Third Judicial District Equal Justice Committee (EJC) sponsored this community dialogue with the dual purpose of educating identifiable minority populations on the purpose and operation of the courts and listening to the perspective of local minority populations in order to learn what they believe the court can do better with respect to understanding minority populations.

## COMMUNITY DIALOGUE DETAILS

Following an initial Listening Session in April 2016, the Third Judicial District Equal Justice Committee held a Community Dialogue with a focus on the African American/Black population in Rochester in support of the Community Dialogue Plan and the goals of the Minnesota Judicial Branch statewide Committee for Equality and Justice. The session was conducted on November 3, 2016, from 6:00 p.m. – 8:00 p.m. at John Adams Middle School in Rochester, Minnesota.

Approximately 25 people attended, with representation primarily from the African American/Black community. The attendees were of various ages, and represented a variety of backgrounds and experiences. A slight majority of attendees were women.

### **Moderators**

- Judge John Cajacob (EJC Chair)
- Torres Hodges (Diversity Council)
- Vangie Castro (Diversity Council)

### **Table Hosts**

- John Buhta (EJC member)
- Karrie Espinoza (EJC member)
- Angie Hutchins (Deputy District Administrator)
- Judge John Cajacob (EJC member)
- Dee Sabol (Diversity Council)
- Nikki Niles (EJC Member)
- Muhamad Elrashidi, M.D. (EJC Member)

### **Others Present**

- Sue Bublitz (EJC member)
- Shelley Ellefson (Judicial District Administrator)
- Judge Kathy Wallace (Olmsted County)
- Judge Pam King (Olmsted County)
- Nitaya Jandragholica (EJC Member)
- Judge Terry Walters (Wabasha County)

## **COMMUNITY DIALOGUE SUMMARY**

Torres Hodges reviewed the concerns and expectations that emerged from dialogue with attendees of the listening session, which were translated into action areas informing the work of the Third Judicial District Equal Justice Committee. Judge Cajacob gave participants an overview of the Equal Justice Committee and the role of the judicial system. Panel members and others from the court system addressed ten issues of concern that were raised at the initial listening session:

### **Follow Up to Suggestions Made By April 2016 Attendees**

#### **1. Updates on Drug Court and Equal Justice Committee**

It was reported that Olmsted Drug Court has launched and has received more than a dozen referrals. There are no persons of color in the current case load. Changes in drug laws should increase eligibility and sentencing discretion. Drug Court did receive a federal grant to fund an additional 10 cases.

#### **2. Lack of People of Color on Juries**

Minnesota has three qualifying pools for jury service: driver's license, state ID, or voter registration. There are roughly 4 million residents in MN with driver's licenses. 5%, 180,000, are called. 45% of those are qualified to serve. 45,000 individuals statewide actually report for jury duty – 1% of the 4 million. In Olmsted County, juror demographics indicate of the 1,300+ qualified jurors, 25 were African America/Black, 1.84%. Total eligible African American/Black citizens were 3.9%. There is a disparity in representation.<sup>i</sup>

According to the Research Unit of the Minnesota Judicial Branch, from a sampling of felony cases in Olmsted cases that went to trial, 486 jurors were sent to court. 1.4% of those were African American/Black, versus the 3.9% of the eligible population. A question regarding the race of jurors stricken by prosecution or defense was posed, and those figures are not available yet, though the EJC continues to look into this issue.

### **3. Implicit/Unconscious Bias**

The Third Judicial Branch offers a variety of classes and trainings including quarterly Cultural Perspectives, quarterly Why Diversity Matters sessions, and other diversity and inclusion trainings for judges, court administrators and court employees. There is also an Implicit Bias bench guide for judicial officers to use during court proceedings. The court has discrimination and harassment policies in place as well.

### **4. Include Law Enforcement in Listening Session**

Law enforcement is part of the executive branch of government. The executive branch and judicial branch are separate and independent of each other. As a result, the courts will focus its efforts on our own responsibilities within the Minnesota Judicial Branch. This does not rule out some type of joint session with law enforcement in the future.

### **5. Transport of Juveniles**

The concern of the public over transporting youth offenders in shackles was taken up by the Third Judicial District EJC. This is a widespread practice throughout the district, regardless of race, etc. A communication was sent out to judges by Judge Cajacob asking them to adopt the practice of bringing youth offenders into the courtroom without shackles unless there are specific reasons which are communicated to the judge.

### **6. Plea Bargaining vs. Trial**

Plea bargaining is an important part of resolving criminal cases. We do not have enough courtrooms or judges to try all cases. Plea bargaining helps the courts to resolve cases in a timely fashion.

### **7. Sentencing Guidelines**

Sentencing guidelines are charted and ranked by offense and criminal history. Judges have discretion in disposition and length of sentence within the Minnesota Sentencing Guidelines.

### **8. Public Defenders vs. Private Attorneys**

In his personal experience, Judge Cajacob has found no difference in the quality of representation between public defenders and paid defense attorneys as suggested by the April 2016 Listening Session attendees. Two differences he noted between the types of defense were the ability to establish trust and the investment of the client when defense is paid.

## **9. Disproportionate Number of Ethnic Minorities Working in the Court System**

A Third Judicial District EJC member shared her personal story of how she came to work in the justice system. Originally from Flint, Michigan, her mother was a social worker for juvenile delinquents and often took her along on client visits. She also had a cousin who was chief of police in Flint. Her family background gave her early exposure to and positive experiences with criminal justice work. She majored in Biology at Michigan State University, but a forensics class her senior year inspired her to change her major to Criminal Justice. While in school, she worked at the Michigan State University Police Department and as a police cadet at the East Lansing Police Department, where she often had opportunities to ride along with officers. She later participated in an internship with the probation department. These opportunities gave her further positive experiences with the criminal justice system.

After graduation, she worked for ten years as a police officer with the East Lansing Police Department, including two years in liquor law enforcement and three years with an undercover drug team. She moved to Minnesota in 2012. Not wanting to start her police career over from scratch in a new state, she applied to the probation department and currently works as an Adult Probation Officer for Olmsted County. Her story illustrates how early and repeated positive contacts and experiences with the criminal justice system influenced her to work in that field.

The Minnesota Judicial Branch is working to increase the diversity of its workforce by attending more job fairs and reaching out to community organizations to better reflect the communities we serve. This increased visibility will help to dispel the myth that the courts consist of just judges and attorneys.

## **10. Racial Disparities**

Currently, it is unclear if there are racial disparities within the Third District Judicial, specifically in Olmsted County. When trying to research and gather the data, the numbers that we were able to gather were inconclusive and did not give a clear picture of whether African American/Blacks or other people of color received disproportionately longer or harsher sentences than their white counterparts who committed similar crimes.

Judges use sentencing guidelines; however, judges are given some leeway to use their own discretion in sentencing based on the defendant's previous criminal record and on whether the defendant chooses to do time in custody versus pay fines or enter into a treatment program if the crime is drug-related.

### **Suggestions Made by November 2016 Attendees**

After the panel's report was reviewed, attendees divided into small groups and discussed the following three questions that were provided by the Equal Justice Committee. Attendees' responses are included in the bulleted list.

1. We shared with you that potential jurors are drawn from the list of people with a valid driver's license, valid state ID, or who are registered, voters. This process is governed by a court rule. We could recommend additional sources for drawing our list of jurors to the state for consideration. Do you have suggestions for other sources we should submit for consideration?
  - Student IDs
  - Phone # lists
  - Divide the list of minorities eligible to a separate list to draw from instead of including in large Caucasian database
  - Valid passport
  - Revise age limit of those that can serve, even if it's a 5-year difference
  - Employer responsibility – pay? Time off?
  - Filed tax return, social security lists
  - Rochester Public Utility bills
  - Department of Health for people on state assistance
  - County social services/welfare lists
  
2. How can you as a community member become more engaged in helping to create equity in the court system?
  - Go to court and listen: drug court, public hearings
  - Not enjoy the news that has mug shots of people of color
  - Be more vocal when you hear things that are disturbing
  - Show up to observe, a lot don't know they can
  - Something that goes into the community to recruit
  - Education piece, more high schoolers
  - Change sentencing for low-level offenders
  - Public/private school classes
  - Volunteer (crime victim resource center)
  - Retired court positions
  - Recruit, marketing
  - Organizations that make referrals
  - Churches of color (all races)
  - An Equal Justice Committee member's story is compelling
  - Find others who are involved to engage community groups
  - More mentorships/internships

- Education & outreach on jury and court system
  - Career tracks: job shadows, visits to courtrooms
  - Going and observing court
  - Educating myself and others, tackling immediate problems, while mapping out and strategically tackling the roots caused that produce gross disparities in the court system. Many people don't know how the court system works and citizen education and civic engagement on the part of the court system and advocates for equity in the court system are vital.
3. Now that we have provided the report and updated you on actions we are taking, what do you think are the next steps?
- Better publicity/communication with the community about listening sessions
  - Monitoring of court system similar to how women's shelter is assessing or court watching
  - Email to remind others to comment on the report
  - Push ourselves
  - Each one brings one
  - Outreach, be more proactive
  - Not as much time between sessions
  - Boots to ground
  - Do something different
  - Attend court sessions (mandated?)
  - Reach out to African American/Black church – Rochester Community Baptist Church? Through minister, community, or committee
  - Local NAACP more involved
  - Jury numbers were disturbing, needs to be addressed
  - System has so many moving parts – state, courts, law enforcement, attorneys
  - Olmsted County building was deemed to be the most dangerous – built security system. Seems that this is the only place where “old white guys” are dealing with people that are in trouble.
  - Need to be friendly with the public – effective/respectful communications, relatable. R&R respectful regardless.
  - I think it would be important to do more direct outreach to the local Somali and African migrant community. Due to heightened Islamophobia, the criminalization of immigrants and Muslims, the experiences of Black immigrants and particularly Black Muslim immigrants definitely overlap with that of African Americans in the justice system, but they are also distinct. What are those similarities and distinctions? I also think it would be important to create some meaningful cross-cultural dialogue with our local Latino, Asian-American (particularly Southeast Asian), and Native communities because we might find the common thread of combined institutional racism, bias, and

poverty at work across these communities to help mobilize and build stronger coalitions based on shared experiences, solidarity, and allyship for the unique mix of communities of color in our city.

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<sup>i</sup> Data is based on voluntary basic background information furnished by jurors pursuant to Jury Management Rule 807, General Rules of Practice for District Courts.