The Racial Justice
Organizational Assessment Tool
for Courts

Project Director
Jennifer K. Elek, Ph.D., Principal Court Research Associate

Project Staff
Kathryn Genthon, M.S., Senior Court Research Associate
Andrea L. Miller, Ph.D., J.D., Senior Court Research Associate
Paul X. Houston II, M.A., Court Research Analyst

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Executive Summary

In July of 2020, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) resolved to "intensify efforts to combat racial prejudice within the justice system, both explicit and implicit, and recommit to examine what systemic change is needed to make equality under the law an enduring reality for all, so that justice is not only fair to all but also is recognized by all to be fair."

To conduct the system-wide self-assessments many state court leaders seek, courts need comprehensive guidance on where to begin, what information to collect and how to evaluate it, and what actions they can take next. This is a complex undertaking that encompasses the entirety of the work of the court and must address a wide range of organizational issues that courts may face. With guidance from members of the Blueprint for Racial Justice and a grant from the State Justice Institute, the National Center for State Courts (NCSC) developed the Racial Justice Organizational Assessment Tool for Courts to support courts engaged in this work.

This report explains the purpose of the Racial Justice Organizational Assessment Tool for Courts, provides background on the development of the tool, and outlines suggestions for its use by courts. Also provided are the complete set of assessment questions and corresponding guidance that comprise the Racial Justice Organizational Assessment Tool for Courts, as well as a link to the interactive web version of the tool. The appendix includes a brief on data-driven decision making for courts, which illustrates how courts can use data and evidence to guide policy and practice decisions that promote court ideals of fairness and equal justice.

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*Advisory Group member

We extend our sincere gratitude, too, to the many other court professionals across the country who contributed their time and effort in reviewing or piloting preliminary versions of this tool. Their thoughtful consideration of prior drafts and insightful, constructive feedback were essential to the development of a tool that addresses the needs of courts today. Their input will continue to be critical in efforts to maintain this tool so that it effectively supports the work of courts into the future.

Finally, we are grateful for all of the support at the National Center for State Courts. This project would not have been possible without the vision and leadership of President Mary McQueen, Research Vice President Pamela Casey, and the Director of Racial Justice, Equity, and Inclusion, Edwin Bell. We also thank Keeley Daye, Research Program Specialist, for supporting the administration of this project and keeping us going in the day-to-day; Bree Harris, Data Analyst and Visualization Specialist, for her expert graphic design work; and Shannon Roth, Business Analyst, for her ideas which helped to conceive of the interactive web version of this tool and her support to make the interactive tool a reality. We also extend a special thanks to two outstanding research interns, LaQuana Askew and Briana Paige, who provided research assistance critical to this project in the summer of 2022. They are the next generation of court researchers, and the future is bright.

Foreword

What makes for a credible system of justice? Many believe that it takes the organizations which are responsible for the administration of justice to not only proclaim themselves to be fair, but to show themselves to be fair, while delivering said justice. Individuals' skin color, race, gender, sexual or personal identity and the like, should have no bearing as to how they are treated and their case outcomes. Likewise, for those who work in courts, their growth and promotional opportunities should not be based on how they look or are perceived by the very same court organization that they serve.

The Racial Justice Organizational Assessment Tool for Courts offers a unique opportunity for judicial branch leaders who wish to improve the perception of their courts and who are willing to challenge the status quo. All communities expect fair and equal justice under the law. This extends to the very people who work in and for court systems across the United States and within the territories. Our fundamental obligations to our communities and to ourselves remain steadfast, irrespective of race, color, gender, or personal identity.

Many courts have asked for a tool, one that would guide them through an introspective analysis of themselves – their organizations – to identify whether they are indeed fair. Are their inner workings as transparent as they hope, and do the very people who work within our houses of justice feel as though there is more work to be done on the part of the organization itself?

The Racial Justice Organizational Assessment Tool for Courts was created with courts in mind and with the direct input of court practitioners. Often, the squeaky wheel gets the oil. While efforts to quiet down the squeaky wheel are noble, following that methodology alone may not necessarily be the best course of action. Serving as a compass, the Racial Justice Organizational Assessment Tool for Courts will be instrumental in helping to understand system operations, influencers, navigators and leaders (official and unofficial) as each is critical to effectively assessing and transforming the existing system. The policy and practice of an organization has a compounding effect on how well, or not, the organization is meeting the needs of both its internal and external stakeholders. How are the needs of these often very different groups being met? Is there any effort to address historical concerns or imbalances? Are there any established goals or benchmarks to attain? In any event, direction is needed by court leaders to identify and address any issues that may persist within the system. The Racial Justice Organizational Assessment Tool for Courts will serve as the very tool that all courts will want to utilize as they work to improve fairness and outcomes of all system stakeholders.

Edwin T. Bell
Director of Racial Justice, Equity, and Inclusion
National Center for State Courts

Introducing the Racial Justice Organizational Assessment Tool for Courts

On May 25, 2020, the murder of George Floyd at the hands of law enforcement in Minneapolis, MN reignited public concerns about racial justice in the United States – and for the experiences of Black and Indigenous individuals with the justice system, specifically – prompting calls for action. In the days and weeks following, state judicial leaders issued statements acknowledging biases in the justice system and calling for a critical self-examination of policies and practices to ensure equal justice under the law. In July of 2020, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) resolved to "intensify efforts to combat racial prejudice within the justice system, both explicit and implicit, and recommit to examine what systemic change is needed to make equality under the law an enduring reality for all, so that justice is not only fair to all but also is recognized by all to be fair."[1]

To conduct the system-wide self-assessments many state court leaders seek, courts need comprehensive guidance on where to begin, what information to collect and how to evaluate it, and what actions they can take next.

This is a complex undertaking that encompasses the entirety of the work of the court and must address a wide range of organizational issues that courts may face. With guidance from members of the Blueprint for Racial Justice, a grant from the State Justice Institute, and supplemental funding from the National Center for State Courts (NCSC), the NCSC developed the Racial Justice Organizational Assessment Tool for Courts to support courts engaged in this work.

This report explains the purpose of the Racial Justice Organizational Assessment Tool for Courts, provides background on the development of the tool, and outlines suggestions for its use by courts. Also provided are the complete set of assessment questions and corresponding guidance that comprise the Racial Justice Organizational Assessment Tool for Courts, as well as a link to the interactive web version of the tool. The appendix includes a brief on data-driven decision making for courts, which illustrates how courts can use data and evidence to guide policy and practice decisions that promote court ideals of fairness and equal justice.

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1 Conference of Chief Justices and Conference of State Court Administrators (July 2020). Resolution 1: In support of racial equality and justice for all. Available at https://ccj.ncsc.org/__data/assets/pdf_file/0029/42869/07302020-Racial-Equality-and-Justice-for-All.pdf

What is the Racial Justice Organizational Assessment Tool for Courts?

The Racial Justice Organizational Assessment Tool for Courts is designed specifically for court leaders[2] seeking to ensure a diverse, equitable, and inclusive workplace that delivers on the promise of equal justice for all. It was developed to provide court leaders with a comprehensive framework for (a) assessing the current state of court policies and practices and (b) developing a data-driven plan for learning and improvement in pursuit of these ideals, which are central to the mission of courts and critical to their legitimacy. It is designed to be broadly informative to court leaders at any level and in any type of court, no matter where the court is in its efforts to actively "examine what systemic change is needed to make equality under the law an enduring reality for all, so that justice is not only fair to all but also is recognized by all to be fair."[3] The tool can be revisited at routine intervals to help court leaders identify and plan next steps in ongoing work, and track progress over time.

The Racial Justice Organizational Assessment Tool for Courts is comprised of a self-assessment, current best practice guidance informed by available research, and key resources that may be useful in assisting court leaders or policy teams in their work to define local priorities and action steps. An interactive web version of the self-assessment walks users through a series of questions

about current practices and generates a summary report that connects users with relevant best practice guidance and resources tailored to their responses. The web version of the self-assessment is free to use and can be accessed at https://ncsc2.iad1.qualtrics.com/jfe/form/SV_3PFxbSCG4KX0pRc.

The Racial Justice Organizational Assessment Tool for Courts is designed to support learning, self-assessment and reflection, and local action planning. As such, the tool is designed to be completed anonymously. That is, the tool does not collect information identifying individual respondents or responding jurisdictions. The National Center for State Courts has no way of identifying who has completed the tool and cannot retrieve individual assessment or summary results information on any jurisdiction using the tool.

Finally, it is important to recognize that people, communities, cultures, and society are all constantly evolving. Language is a good example of this: Certain terms can mean different things to different people, across different groups, or within different cultures at different points in time.[4] The language used in this tool today, for instance, may not be the language that resonates best with a specific local court community today. Or certain terms may resonate with a community today but fall out of favor five years from now. For these

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2 The term *court leaders* is used throughout this report and tool to refer broadly to any individual or group of justices or judges, court administrators, human resources officials, Diversity, Equity, and Inclusion professionals, or others in the court who may be cultural or organizational influencers and/or formal authority figures.

3 Conference of Chief Justices and Conference of State Court Administrators (July 2020). Resolution 1: In support of racial equality and justice for all. Available at https://ccj.ncsc.org/__data/assets/pdf_file/0029/42869/07302020-Racial-Equality-and-Justice-for-All.pdf

4 For example, see also the National Center for State Courts Blueprint for Racial Justice (2022). *Establishing a shared language in the state courts.* Available at https://www.ncsc.org/__data/assets/pdf_file/0032/79628/Establishing-a-Shared-Language.pdf.
For more resources from the Blueprint for Racial Justice initiative, see www.ncsc.org/racialjustice.

reasons, court leaders are encouraged to consider the Racial Justice Organizational Assessment Tool for Courts as a resource to inform decision-making about appropriate strategies and next steps that will help the court better serve their communities. It should not be viewed as prescribing a specific change or sequence of changes. The most appropriate strategies and immediate next steps will differ across courts depending on a wide variety of factors and complex dynamics, including but not limited to structural, cultural, financial, staffing, and legal issues.

Development of the Tool

The National Center for State Courts initiated development of the Racial Justice Organizational Assessment Tool for Courts in 2021. The team began the project with a broad literature review. Staff collected and evaluated the available research and guidance on organizational equity, diversity, and inclusion best practices as well as key related resources, such as other existing assessments. Research-informed best practices were distilled and shared with court community stakeholders. These stakeholders were asked for input to help identify all relevant areas of focus to include in a comprehensive tool for courts. In these discussions, staff also sought to identify information gaps and new resources that should be incorporated into the review.

Court community stakeholders informed the development of the tool through the CCJ, COSCA, and NCSC's Blueprint for Racial Justice national initiative. First, in consultation with a project Advisory Group of volunteers from the Blueprint for Racial Justice Fairness and Awareness Working Group, the project team reviewed available best practice guidance to identify court priorities and resource gaps and develop the content of a comprehensive organizational assessment that is designed to address court needs. The project team also sought input from the Increasing Diversity of the Bench, Bar, and Workforce Working Group on what ultimately became Part III of the tool and the Systemic Change Working Group on what ultimately became Part IV of the tool.

With the benefit of community input, the project team developed a preliminary version of the Racial Justice Organizational Assessment Tool for Courts assessment questions and corresponding guidance. This preliminary version was field tested with court community stakeholders through the Fairness and Awareness Working Group and pilot tested in sites identified through a national network of court Diversity Equity, and Inclusion professionals. The experiences of and feedback from these courts and court professionals informed revisions to the tool and accompanying resources, resulting in the version of the tool that is published in this report.

Development does not end with the publication of this report. It is envisioned that this tool will evolve over time to include new guidance and resources as the field matures. To ensure that the Racial Justice Organizational Assessment Tool for Courts reflects the best available information to address courts' needs, the National Center for State Courts will continue to monitor for relevant new research and advances in research-informed best practices for courts to inform future updates to the instrument. Staff also invite, on an ongoing basis, feedback on the tool and input on potential improvements from court professionals who have reviewed or used the tool and from other court Diversity, Equity, and Inclusion experts.

Suggested Uses of the Tool and Suggestions for Its Use

The Racial Justice Organizational Assessment Tool for Courts is designed as a comprehensive but flexible self-assessment to provide courts with relevant information on equity, diversity, and inclusion best practices that can be used to guide statewide or local system review and inform a strategic planning, action planning, or other court improvement process. Court leaders may complete the anonymous tool at their discretion to inform their organizational learning and court improvement efforts.

Some suggested uses of the Racial Justice Organizational Assessment Tool for Courts, and suggestions for its use, are summarized below. This advice for implementing the tool was informed by feedback from court professionals who reviewed or used the tool in their jurisdiction during the field-testing phase of its development.

1. Whose input may be needed to accurately complete the tool?

Court leaders at any level may choose to complete the Racial Justice Organizational Assessment Tool for Courts on their own for educational purposes, or for informational purposes as they consider how best to initiate or proceed with local plans.

Leadership or policy teams, such as task forces or commissions, may use the tool as part of a process for conducting a system-wide review and/or to inform periodic strategic planning or action planning activities. It may be that a team of knowledgeable staff is identified to complete the assessment. Results from the assessment may be reviewed by an oversight body. Courts undertaking this work may benefit from including the following suggested key stakeholders in their assessment and/or review process.

- State justices or local judges with decision-making powers
- State court administrator or local court administrator
- Human resources director
- Court Diversity, Equity, and Inclusion officer
- Education and training department representatives
- Budget/fiscal representatives
- Other court and administrative office leadership, such as leaders from each operational unit

Key comments from field testing:

- "A lot of information can be answered by the executive or administrative office. They may need to consult with human resources and the education department and solicit input from various operational units."

- "It may be that no single person has all the information needed to answer all the questions. It may be that one or two people know all the information about the direction of the court, but if it is not being communicated to the rank and file, it may not be very effective. Getting together and having different people provide input can be helpful."

2. How should the assessment be completed? Can I skip questions that don't seem to apply to my jurisdiction, or complete only the section I am interested in?

It is recommended that jurisdictions new to the Racial Justice Organizational Assessment Tool for Courts complete the entire assessment once to identify the universe of guidance that is relevant to their court(s) today. This experience will provide new users with an initial, baseline system review to inform local priority setting and action planning efforts. In addition, users of this tool may reassess their jurisdiction at periodic intervals as part of a continuous improvement process. By generating a comprehensive initial assessment, court leaders will also be able to track progress over time.

If the issue addressed in a specific question is not relevant to your jurisdiction or does not apply to your court(s), you may skip the question. Skipping questions in the interactive web version of the tool will simply register a "no response" to the question and omit any associated guidance from your summary report. Similarly, users may choose to skip entire sections of the tool and complete only the sections they wish to generate a report on to inform local decisions about next steps in a specific priority area of focus.

Key comments from field testing:

- "Having the structure that the tool offers is very helpful. The challenge is getting people to stick with it. Because these questions are so fundamental and broad in their implications, the answers so broad in terms of what we do, it [can be] overwhelming. But 'the only way out is through.' You just start where you are. Do the assessment, get feedback, and set priorities."

- "If decision-makers find the volume of information [in this tool to be] overwhelming, consider [focusing] on one or two sections at a time. [This] may be more manageable for some courts until those organizations are prepared to digest additional information."

3. Why should courts identify a small set of initial priorities to inform action planning, and revisit this tool on a regular basis to update those priorities and action items?

The Racial Justice Organizational Assessment Tool for Courts was designed to provide a comprehensive framework of the best guidance currently available to courts, presented in a way that addresses court needs at any level. As such, it necessarily contains a lot of information. Decision-makers are encouraged to review the entirety of the tool, and to be prepared to identify one or more initial priority areas for the court. By focusing efforts on a limited number of priority areas, courts can more easily identify a set of immediate action items that represent meaningful improvements in their jurisdiction and that are achievable given the resources currently available. This process can be repeated at regular intervals to achieve incremental gains over time.

Courts leaders who seek to actively work toward the ideal of equal justice recognize that this work is always ongoing. It is never something that is "done" or "completed"

because the community of people the courts serve, and the environment and culture courts operate within, are dynamic and ever-changing. To evolve with society in a way that most effectively serves the local community, courts must be prepared not just to implement a set of changes today, but to create the right permanent structures and processes that will allow the court to sustain the attention and resources needed over time. By attending to these issues on an ongoing basis and supporting a continuous learning and improvement process, courts will be able to make informed decisions that optimize court policies, procedures, programs, and services in real time.

Key comments and paraphrased feedback from field testing:

- "Many of the best practices discussed in the Guidance require the ceding of power, ongoing commitment to creating equitable and inclusive environments, systematic changes, and transparency. If implemented, decision-makers should be prepared to make changes to current policies, practices, and procedures."

- "This isn't about doing everything at the same time. There is some prioritization that will have to happen naturally." Set realistic expectations and understand that some things may take time.

4. What steps would be helpful to prioritize first?

As noted earlier in this report, the Racial Justice Organizational Assessment Tool for Courts was designed to inform decisions, not prescribe specific actions or a sequential order for implementing improvements. Court leaders are encouraged to focus their efforts on what can and should be done today, understanding that because these efforts will continue, more could become possible in the future.

Although there is not a single "right" way to use the tool, court professionals involved in the review and field-testing phase of tool development offered their advice about how colleagues could prioritize their efforts.

Key comments from field testing:

- Develop foundational knowledge.

    o "Judicial participants should have or focus on developing foundational knowledge of DEI best practices and organizational behavior to get the most out of this tool."

- Identify priorities based on data.

    o "Obtaining data should be toward the top of the priority list."

    o "Many questions inquire about data collection and analysis. For courts that do not collect data, they may want to begin their process by developing strategies for collecting data. Courts should consider best practices for data collection specific to their organization and the relationship that decision makers have with most court employees. Power dynamics and trust are strong indicators of how willing and honest court employees will be in filling out surveys and participating in focus groups."

- Secure and mobilize appropriate resources.

  o "If the assessment is taken and the answer to Part 1 Question 4 (*Does the court employ a dedicated racial equity, diversity, and inclusion director, officer, or other professional court position(s)?*) is not A (*Yes, the court employs a dedicated professional position(s) to perform these functions*) or B (*No, the court does not employ a dedicated professional position(s) to perform these functions, but staff persons are formally assigned these responsibilities in addition to their role's primary responsibilities*), I believe addressing this should be among the top things on the priority list. Truthfully, the only answer should be A. Courts need an individual who can make moving this work forward their main focus. A DEI professional can serve as the person who makes sure this work remains a priority. Not saying that this can't be done without a person who focuses solely on this work but it dramatically improves an organization's ability to be successful in its DEI focused initiatives."

  o "Part 1 Question 6 (*Does the court allocate other resources (physical, technological, financial, human resources) to support the court's racial equity, diversity, and inclusion work?*) is important and should be a top priority. Before a court even hires a DEI professional, they should strongly consider how many resources they are willing to allocate [to the work]… It can be very challenging for DEI professionals to create initiatives without the resources listed in Question 6. Consider what you are willing to do to truly support the DEI program/initiatives before you hire a professional. This allows the professional to have an understanding of what is and what is not possible given the resources they have to work with."

5. What if I need more help?

The National Center for State Courts is available to provide users of this tool with ongoing support. Courts may request individualized support with the assessment tool by contacting the National Center for State Courts directly with such request(s). These requests may be sent to the Racial Justice Organizational Assessment Tool for Courts project director, Dr. Jennifer K. Elek, or the Director of Racial Justice, Equity, and Inclusion, Edwin T. Bell.

General questions are encouraged. If specific assistance related to the assessment or companion guidance is being sought, the requesting court should be prepared to share pertinent information related to their request for support with the National Center for State Courts. Because the Racial Justice Organizational Assessment Tool for Courts is anonymous and does not track individual court responses, the National Center for State Courts will not be able to retrieve individual court assessments or summary results.

The Racial Justice Organizational Assessment Tool for Courts:

The Complete Assessment

The complete set of assessment questions in the Racial Justice Organizational Assessment Tool for Courts follows. The interactive web version of the tool is available at https://ncsc2.iad1.qualtrics.com/jfe/form/SV_3PFxbSCG4KX0pRc.

Tips for completing the assessment:

- If the issue addressed in a specific question in the assessment is not relevant to your jurisdiction and does not apply to your court, you may skip the question. Skipping a question in the interactive web version of the Racial Justice Organizational Assessment Tool for Courts will simply register a "no response" to the question and omit any associated guidance from your summary report.

- It is recommended that jurisdictions new to the Racial Justice Organizational Assessment Tool for Courts complete the entire assessment once. This experience will provide new users with an initial, baseline system review to inform local priority setting and action planning efforts.

- Users of this tool may reassess their jurisdiction at periodic intervals as part of a continuous improvement process. By generating a comprehensive initial assessment, court leaders will also be able to track progress over time.

- In reassessments, users may choose to complete only those sections they wish to generate a report on, to inform local decisions about next steps in a specific priority area of focus.

Racial Justice Organizational Assessment Tool for Courts
ASSESSMENT QUESTIONS

Part I. Judicial Commitment, Vision, & Leadership

In Part I, court leaders can assess their leadership and organizational capacity for defining and working toward their racial justice goals. For each question, select the response that most closely describes current practice in your court.

1. **Has court leadership issued a statement that explicitly addresses the judiciary's commitment to racial equity, diversity, and inclusion goals?**

   a. Yes
   b. No [see Guidance I.1]

2. **Has the court established one or more leadership bodies to develop, implement, sustain, and/or update the court's plan for achieving its racial equity, diversity, and inclusion goals?**

   a. Yes, a dedicated committee has been established specifically to perform these functions, staffed by a demographically diverse team of court and community leaders that represent a broad cross-section of community groups and offices, divisions, and positions within the court hierarchy

   b. Yes, a dedicated committee has been established specifically to perform these functions, but broader or more diverse membership is needed [see Guidance I.2]

   c. No, a dedicated committee has not been established to perform these functions, but one or more existing committees have formally assumed these responsibilities in addition to other responsibilities [see Guidance I.2]

   d. No, a dedicated committee has not been established specifically to perform these functions, and no existing committee has formally assumed these responsibilities. If any racial equity, diversity, and inclusion leadership is provided, it occurs informally or on a volunteer basis [see Guidance I.2]

3. **Has the court developed a strategic plan or action plan that explicitly addresses its racial equity, diversity, and inclusion goals?**

   a. Yes
   b. No [see Guidance I.3]

4. **Does the court employ a dedicated racial equity, diversity, and inclusion director, officer, or other professional court position(s)?**

    a. Yes, the court employs a dedicated professional position(s) to perform these functions
    b. No, the court does not employ a dedicated professional position(s) to perform these functions, but staff persons are formally assigned these responsibilities in addition to their role's primary responsibilities [see Guidance I.4]
    c. No, the court does not employ a dedicated professional position to perform these functions, and no other staff persons are formally assigned these responsibilities. If any racial equity, diversity, and inclusion work takes place, it is performed informally or on a volunteer basis [see Guidance I.4; skip 4(a)]

4(a). **Which of the following options best describes the nature of the position responsible for overseeing implementation of the court's racial equity, diversity, and inclusion strategy?**

    a. This position is a high-ranking official in the court's administration with the formal authority needed to make key implementation decisions regarding physical, technological, financial, and human resource needs (e.g., This position reports directly to the State Court Administrator or local court manager)
    b. This position is a lower-ranking official in the court's administration (e.g., One or more layers of administration separate this position from the State Court Administrator or Executive Director) [see Guidance I.4]

5. **Does the court allocate other resources (physical, technological, financial, human resources) to support the court's racial equity, diversity, and inclusion work?**

    a. Yes, the court has formally dedicated physical, technological, financial, and human resources to fully support this work to date
    b. The court has formally dedicated some resources in partial support of this work, but to perform or advance this work, more resources are necessary [see Guidance I.5]
    c. No, the court has not formally dedicated any physical, technological, financial, and/or human resources to support this work. Any work done to date has been done informally, drawing on other existing resources and/or volunteered time [see Guidance I.5]

6. **Do court leaders consistently promote continuous learning? This includes:**
   - …collecting and using data to inform decision making;
   - …communicating with stakeholders and the public about key lessons learned from data analyses and how those lessons inform improvements; and
   - …requiring court staff and community partners to seek out and use data as part of decision making and proposals.

   a. Yes, court leaders consistently do all three of these things
   b. Court leaders do some of these things, or do them inconsistently [see Guidance I.6]
   c. No, court leaders do not do these things [see Guidance I.6]

7. **Do court leaders participate in training and/or engage in other self-development activities specifically to advance the court toward its racial equity, diversity, and inclusion goals? This may include efforts to identify, develop, and model leadership knowledge, skills, and abilities such as but not limited to:**
   - Self-knowledge: Internal reflection and awareness about one's own identity, motivations, biases, and blind spots
   - Cultural competence: Awareness about external and systemic forces (political, economic, environmental, institutional, social, cultural) and how these factors affect different people differently
   - Interpersonal skills: Communication, relationship building, and conflict resolution skills to promote an inclusive work environment

   a. Yes, court leaders engage in self-development activities specifically to advance the court toward these goals
   b. No, court leaders do not all engage in self-development activities specifically to advance the court toward these goals [see Guidance I.7]

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Part II. Capacity for Community-Based Learning & Data-Driven Decision Making

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In Part II, court leaders can assess their organizational capacity to engage in community-based learning and make data-driven decisions. For each question, select the response that most closely describes current practice in your court.

SECTION 1. COMMUNITY ENGAGEMENT

1. **Has the court formally defined community engagement?**

    a. Yes
    b. No [see Guidance II.1.1]

2. **Has the court formally implemented policies and/or practices designed to ensure that communities of color are included as key stakeholders in community engagement activities?**

    a. Yes
    b. No [see Guidance II.1.2]

3. **Has the court established formal partnerships with a strong network of community organizations and leaders?**

    a. Yes, the court has established formal partnerships with a strong network of community organizations and leaders
    b. The court has established some limited formal partnerships but is working to develop a stronger network of community organizations and leaders [see Guidance II.1.3]
    c. No, the court has not established formal partnerships with community organizations or leaders [see Guidance II.1.3]

4. **Are the court's community engagement efforts routinely evaluated?**

    a. Yes, the court's community engagement efforts are always evaluated
    b. No, these efforts are only occasionally evaluated (e.g., on an ad hoc basis) [see Guidance II.1.4]
    c. No, the court's community engagement efforts are not routinely evaluated and there is no plan or resources to support routine evaluation at this time [see Guidance II.1.4]

SECTION 2. ADMINISTRATIVE DATA

In this section, court leaders can assess their data collection practices. Since the means of data collection and the type of data collected often differ across policy areas, this assessment should be completed separately for each specific policy area of interest. Examples of possible policy areas of interest include:

- Understanding the composition of the bench and/or court workforce and the impact of court practices on workforce diversification, e.g.:

  - Judges by position type
  - Court staff by position type

- Understanding the composition of court users (as defined by the court) and the impact of court practices on users served, e.g.:

  - By case type (e.g., civil, adult criminal, juvenile delinquency, juvenile dependency, family, probate)
  - By case outcomes (e.g., plea bargains, diversion pathways, dismissals, defaults, sentences to incarceration)

To complete this section, consultation with the court's data steward(s) or other person responsible for maintaining the data is recommended.

1. **Does the court collect or have routine access to individual-level race and/or ethnicity data for the populations of interest?**

   a. Yes, the court collects race/ethnicity data
   b. The court does not collect race/ethnicity data but has access to individual-level race/ethnicity data from another agency
   c. No, the court does not collect individual-level race/ethnicity data, nor does it have routine access to it from another agency [see Guidance II.2.1 and proceed to the next section]

2. **NODS recommends that courts be able to organize race data into the six high-level categories used by the Census and other federal agencies. Does the race data available to the court include all of the following general categories (even if the terminology used is not identical)?**

   > White
   > Black or African American
   > Asian
   > Native Hawaiian or other Pacific Islander
   > Native American or Alaska Native
   > Other

   a. Yes, the available data include all of these race categories
   b. No, the available data do not include all of these race categories [see Guidance II.2.2]

3. **Can individuals identify more than one applicable race/ethnic identity, or are they limited to a single option (including a single option that says "2 or more races" or "multiracial")?**

    a. Race and ethnicity are combined into one question or data field, and the user can select all options that apply
    b. Race and ethnicity are measured with separate questions or captured as separate data fields, and the user can select all race options that apply
    c. Race and ethnicity are combined into one question or data field, and the user must select only one option [see Guidance II.2.3]
    d. Race and ethnicity are measured with separate questions or captured as separate data fields, and the user must select only one race option [see Guidance II.2.3]

4. **Can the court distinguish whether race/ethnicity data are based on the court user's self-identification (e.g., from the person's driver's license) or an observer's perception of the person's identity (e.g., an arrest report based on the police officer's observation)?**

    a. Yes
    b. No [see Guidance II.2.4]

5. **NODS recommends the use of a standard set of high-level categories for cross-jurisdictional and cross-agency data sharing purposes, but courts may need more detailed race/ethnicity data to account for the unique demographic make-up of their jurisdiction and to accurately understand the impact of court services on the local community. More specific categories may include tribal affiliations, ethnic groups other than Hispanic/Latinx, cultural groups, and/or national origins.**

    Does the court collect data on more specific race/ethnicity categories?

    a. Yes, the court collects data on more specific race/ethnicity categories. These categories were identified with input from community/public stakeholders as the most relevant for our local population
    b. Yes, the court collects data on more specific race/ethnicity categories but has not engaged community stakeholders to assess the relevance of these categories for our jurisdiction [see Guidance II.2.5]
    c. No, the court does not collect data on more specific race/ethnicity categories [see Guidance II.2.5]

6. **Does the court review the race/ethnicity data it collects for quality and completeness?**

   a. Yes, court data experts review these data for quality and completeness
   b. No, court data experts do not review these data for quality and completeness [see Guidance II.2.6]

7. **Does the court analyze its race/ethnicity data to identify opportunities for and inform court improvements?**

   a. Yes
   b. No [see Guidance II.2.7]

Part III. The Bench & Court Workforce

In Part III, court leaders can assess the degree to which their current practices align with best practices for cultivating a diverse workforce. For each question, select the response that most closely describes current practice in your court.

SECTION 1. RECRUITMENT

1. **Does the court collect and analyze demographic data on the court workforce?**

   a. Yes, the court collects these data and analyzes it to understand the demographic composition of the workforce
   b. The court collects these data but does not analyze it to understand the demographic composition of the workforce [see Guidance III.1.1]
   c. The court does not collect these data [see Guidance III.1.1]

2. **When preparing a job description, does the court critically evaluate the skills and competencies needed to perform the actual day-to-day work of the position?**

   a. Yes, the court engages in a formal job analysis to determine the skills and competencies needed for the position
   b. The court evaluates the skills and competencies needed for the position in an informal way [see Guidance III.1.2]
   c. No, the court does not perform any kind of job analysis when preparing job descriptions [see Guidance III.1.2]

3. **Do job descriptions for court positions emphasize or primarily rely on minimum education and experience requirements?**

    a. No, the job descriptions emphasize the skills, competencies, and capabilities needed to perform the work of the position over education or experience
    b. The job descriptions place equal weight on minimum education and experience and on substantive skills, competencies, and capabilities [see Guidance III.1.3]
    c. Yes, the job descriptions use minimum education and experience requirements as a key means of screening applicants for suitability [see Guidance III.1.3]

4. **Does the court take intentional steps to advertise open positions in ways that help the court achieve their workforce diversity goals?**

    a. Yes, the court advertises position openings to reach a broad pool of potential candidates that intentionally includes groups that are historically underrepresented in the court workforce
    b. The court advertises open positions in a variety of ways but does not intentionally advertise to groups that have been underrepresented in our workforce [see Guidance III.1.4]
    c. No, the court relies on one or two means of advertising open positions and does not take diversity of audience into account [see Guidance III.1.4]

5. **Does the court frequently practice referral hiring (i.e., candidates are identified by recommendations from current or past staff)?**

    a. No, we do not use referral hiring as a frequent means of identifying applicants
    b. Yes, we often identify applicants through recommendations from current or past court staff or members of the bench [see Guidance III.1.5]

SECTION 2. HIRING

1. **Has the court embedded the following practices in the resume review process?**
   - o Use of a grading rubric *(a scoring tool that lists the explicit criteria to be considered when determining scores)*
   - o Grading by more than one person with averaged results
   - o Requirement of a written explanation when criteria are waived

   a. Yes, the court has embedded all of these practices in our resume review process
   b. The court has embedded some, but not all, of these practices in our resume review process [see Guidance III.2.1]
   c. No, the court has not embedded any of these practices in our resume review process [see Guidance III.2.1]

2. **Does the court consider the following factors in the resume review process?**
   - o Extracurricular activities
   - o Prior salary
   - o "Gaps" in a resume *(when the candidate was unemployed for a time)*
   - o Culture fit

   a. No, the court does not consider any of these factors in the resume review process
   b. Yes, the court considers all or some of these factors in the resume review process [see Guidance III.2.2]

3. **Are expectations for the hiring process documented and clearly communicated to candidates and staff involved in the interview process?**

   a. Yes, staff and candidates are each given a written document explaining what to expect from the hiring process
   b. Yes, staff and/or candidates are verbally informed of the expectations for the hiring process [see Guidance III.2.3]
   c. No, the court does not inform staff and/or candidates of what to expect from the hiring process [see Guidance III.2.3]

4. **Are interviewers and other individuals involved in the hiring process trained and empowered to spot and interrupt bias?**

   a. Yes, interviewers and other individuals involved in the hiring process are required to complete training in how to identify and interrupt bias in the hiring process.
   b. Interviewers and other individuals involved in the hiring process receive general bias training as part of our staff, but do not receive bias training specific to hiring [see Guidance III.2.4]
   c. No, individuals involved in the hiring process do not receive any training in identifying and interrupting bias [see Guidance III.2.4]

5. **Has the court embedded the following practices in the interview process?**
    o Structured interviews *(a predefined set of questions asked of each candidate)*
    o Performance-based questions *(designed to elicit information about the skills deemed necessary for the job. For example, asking "If you were faced with conflicting deadlines from different managers, what would you do?" or asking a candidate for a data analysis position to work with a dataset and share their key findings)*
    o Behavioral interviewing *(questions about past behavior in academic or employment settings. For example, "Describe a conflict you have had with a coworker and how you addressed the matter")*
    o A consistent ratings scale *(A grading rubric used across candidates)*

    a. Yes, the court has embedded all of these practices in our interviewing process
    b. The court has embedded some, but not all, of these practices in our interviewing process [see Guidance III.2.5]
    c. No, the court has not embedded any of these practices in our interviewing process [see Guidance III.2.5]

6. **Does the court collect and routinely review data from all stages of the hiring process?**

    a. Yes, the court collects data on the hiring process and reviews it on a set schedule or routine basis
    b. The court collects data on the hiring process but does not review it on a set schedule or routine basis [see Guidance III.2.6]
    c. No, the court does not collect data on the hiring process [see Guidance III.2.6]

SECTION 3. DEVELOPMENT

1. **Does the court conduct regular assessments of training and educational needs for all personnel?**

    a. Yes
    b. No [see Guidance III.3.1]

2. **What forms of training do court personnel receive related to race and ethnicity?**

    a. The court provides regular and ongoing education and training to the court workforce to equip personnel with the tools needed to achieve the court's racial justice goals
    b. The court provides some training on race related topics (e.g., implicit bias, systemic racism, cultural competency), but this training is optional and/or intermittent [see Guidance III.3.2]
    c. The court does not provide any training or education related to race [see Guidance III.3.2]

3. **What form of mentoring does the court provide to personnel?**

    a. The court uses a structured mentorship program that provides equitable professional development for all personnel in a given role (*Structured* means that each employee in a certain job title or role is connected with a mentor, and all mentors are trained and given clear expectations for their involvement)

    b. Employees are assigned mentors and mentees, but they are not told how to structure their mentoring relationship [see Guidance III.3.3]

    c. Employees may form informal, ad hoc mentoring relationships, but these relationships are not overseen by the court [see Guidance III.3.3]

    d. Court personnel do not have mentors [see Guidance III.3.3]

4. **Has the court conducted an internal assessment of performance evaluation procedures to ensure that: 1) evaluations measure aspects of performance that are most relevant to the key components of the job and are not grounded in cultural stereotypes, and 2) evaluations use metrics that are transparent, objective, structured, and consistent across personnel?**

    a. Yes

    b. No [see Guidance III.3.4]

SECTION 4. RETENTION

1. **Does the court conduct regular assessments of employees' workplace experiences and perceived organizational climate that include a focus on racial equity?**

    a. Yes

    b. No [see Guidance III.4.1]

2. **How does the court receive reports of race-related discrimination and harassment from employees?**

    a. The court provides multiple formal channels for reporting incidents, and these reporting procedures were designed with input from a diverse team of line staff

    b. The court provides at least one formal channel for reporting incidents, and these reporting procedures were designed by court leadership or administrators, without input from line staff [see Guidance III.4.2]

    c. The court does not provide any formal channels for reporting incidents [see Guidance III.4.2]

3. **Does the court conduct regular assessments of the physical and virtual working environment to identify architectural and design choices, signage, art, and other cues that communicate unintended signals of belongingness or exclusion?**

    a. Yes

    b. No [see Guidance III.4.3]

4. **Does the court regularly analyze compensation data to monitor for and correct disparities, including racial and ethnic disparities?**

    a. Yes
    b. No [see Guidance III.4.4]

SECTION 5. PROMOTION

1. **How are employees identified for promotion?**

    a. When a promotion is available, all eligible employees are informed about, and considered for, the position
    b. When a promotion is available, supervisors individually identify employees that they think are suitable, and only those employees are considered [see Guidance III.5.1]
    c. It is up to individual employees to seek out and ask for promotions [see Guidance III.5.1]

2. **Has the court embedded the following practices in the promotion decision-making process?**
    o Use of a grading rubric *(a scoring tool that lists the explicit criteria to be considered when determining scores)*
    o Grading by more than one person with averaged results
    o Requirement of a written explanation when criteria are waived
    o Structured interviews *(a predefined set of questions asked of each candidate)*
    o Performance-based questions *(designed to elicit information about the skills deemed necessary for the job. For example, asking "If you were faced with conflicting deadlines from different managers, what would you do?" or asking a candidate for a data analysis position to work with a dataset and share their key findings)*
    o Behavioral interviewing *(questions about past behavior in academic or employment settings. For example, "Describe a conflict you have had with a coworker and how you addressed the matter")*
    o A consistent ratings scale *(A grading rubric used across candidates)*

    a. Yes, the court has embedded all of these practices in the promotion decision-making process
    b. The court has embedded some, but not all, of these practices in the promotion decision-making process [see Guidance III.5.2]
    c. No, the court has not embedded any of these practices in the promotion decision-making process [see Guidance III.5.2]

Part IV. Court Services

In Part IV, court leaders can assess whether their current practices promote the creation and sustainability of court services and programs that (1) are accessible and responsive to all those who need them and (2) deliver equitable outcomes. For each question, select the response that most closely describes current practice in your court.

SECTION 1. ACCESSIBLE & RESPONSIVE COURT SERVICES FOR YOUR COMMUNITY

1. **What forms of training do court personnel receive related to trauma-informed practices and race-based trauma?**

    a. The court provides regular and ongoing education and training to the court workforce on trauma-informed practices, including a specific focus on race-based trauma
    b. The court provides some training related to trauma-informed practices, but this training is optional and/or intermittent [see Guidance IV.1.1]
    c. The court provides some training related to trauma-informed practices, but it does not include content on race-based trauma [see Guidance IV.1.1]
    d. The court does not provide any training or education related to trauma-informed practices [see Guidance IV.1.1]

2. **Has the court conducted an internal assessment of court policies, rules, procedures, and practices to ensure that they are trauma-informed?**

    a. Yes
    b. No [see Guidance IV.1.2]

3. **What forms of training do court personnel receive related to cultural responsiveness?**

    a. The court provides regular and ongoing education and training to the court workforce on cultural responsiveness
    b. The court provides some training related to cultural responsiveness, but this training is optional and/or intermittent [see Guidance IV.1.3]
    c. The court does not provide any training or education related to cultural responsiveness [see Guidance IV.1.3]

4. **Has the court conducted an internal assessment of court policies, rules, procedures, and practices to ensure that they are culturally responsive?**

   a. Yes
   b. No [see Guidance IV.1.4]

5. **Has the court conducted an internal assessment of court facilities and court services to ensure that the court is fully accessible to all court users (including removing physical, language, financial, and technology barriers to access)?**

   a. Yes
   b. No [see Guidance IV.1.5]

SECTION 2. EQUITABLE COURT OUTCOMES

In this section, court leaders can assess their ability to determine whether court services and programs are equitable across racial and ethnic groups. Since the means of data collection and the type of data collected often differ across policy areas, this assessment should be completed separately for each specific policy area of interest. Note that although this assessment focuses on race and ethnicity, the assessment described in this section can also be applied to equity analyses across other demographic characteristics, such as age, gender, sexual orientation, and more.

1. **Has the court engaged in a mapping process to identify the case processing steps that take place for this case type or policy area?**

   a. Yes, the court has engaged in process mapping to sequence and identify the processing steps
   b. The court has engaged in some informal process mapping but has not engaged in a purposeful identification and sequencing of steps [see Guidance IV.2.1]
   c. No, the court has not engaged in any process mapping in this policy area [see Guidance IV.2.1 and skip to Question 2]

   1(a). Has the court identified decision points in the process (i.e., places where individuals can either continue on the path toward a specific outcome or divert away from that outcome)?

   a. Yes, the court has examined the process map and identified decision points
   b. No, the court has not identified decision points on the process map [see Guidance IV.2.1(a)]

1(b). **Has the court evaluated each decision point to determine whether aggregate or individual-level data are appropriate to use in evaluations of that point?**

    a. Yes, the court has evaluated each decision point to determine if aggregate or individual-level data are more appropriate to use in evaluations of that point

    b. No, the court has not evaluated each decision point to determine if aggregate or individual-level data are more appropriate to use in evaluations of that point [see Guidance IV.2.1(b)]

2. **Does the court periodically review aggregate race/ethnicity data to determine the demographic composition of the court user population (for example, Census data about the local population or arrest rates by race/ethnicity)?**

    a. Yes, the court monitors sources of aggregate population data to identify the demographic composition of the court user population

    b. No, the court does not monitor sources of aggregate population data to determine the demographic composition court user population [see Guidance IV.2.2]

3. **Does the court collect or have access to individual-level race/ethnicity data at all decision points where those data are appropriate?**

    a. Yes, the court collects or has access to race/ethnicity data for all decision points where those data are appropriate

    b. The court collects or has access to individual-level race/ethnicity data for some, but not all decision points where those data are appropriate [see Guidance IV.2.3]

    c. The court does not collect or have access to individual-level race/ethnicity data for any of the decision points where those data are appropriate [see Guidance IV.2.3]

4. **Does the court perform analyses at each decision point to identify whether racial or ethnic disparities or disproportionalities may be occurring?**

    a. Yes, the court performs analyses at each decision point to determine where racial or ethnic disparities or disproportionalities may be occurring

    b. No, the court does not perform analyses at each decision point to determine where racial or ethnic disparities or disproportionalities may be occurring [see Guidance IV.2.4]

5. **If disparities or disproportionalities are identified, is the court able to determine why they may be occurring? That is, does the court collect data on the reasons individuals are not proceeding to the next decision point on the process map?**

    a. Yes, the court has comprehensive data on the universe of possible reasons why a person may not proceed past each decision point, and collects individual-level data on the reasons people do not proceed
    b. The court does not have comprehensive data on the reasons why people do not proceed past key decision points, but staff provides anecdotal information about why people do not proceed [see Guidance IV.2.5]
    c. No, the court does not have comprehensive data on reasons why people do not proceed past key decision points and is unable to determine why people do not proceed [see Guidance IV.2.5]

6. **If disparities or disproportionalities are detected, does the court follow a routine, formal process to systematically identify actionable reasons why they are occurring, identify appropriate remedies to those issues, and propose corresponding policy or procedure changes?**

    a. Yes, the court follows a routine, formal process for systematically addressing detected disparities or disproportionalities that results in proposed policy or procedure changes
    b. No, the court does not have a routine, formal process to address identified disparities or disproportionalities. Any proposed changes occur on an ad hoc basis [see Guidance IV.2.6]

7. **Does the court perform a Racial Equity Impact Analysis (REIA) before a new policy is implemented?**

    a. Yes, the court performs a REIA before implementing a new policy
    b. The court sometimes performs a REIA before implementing a new policy [see Guidance IV.2.7]
    c. No, the court does not perform a REIA before implementing a new policy [see Guidance IV.2.7]

8. **After implementing a new policy, program, initiative, or court rule, does the court reevaluate the case type or policy area for disparities to determine if the new policy has been successful in ameliorating or reversing the disparity?**

    a. Yes, the court repeats the equity analysis to determine if the new policy has had a beneficial impact
    b. No, the court does not repeat the equity analysis after implementing the new policy [see Guidance IV.2.8]

The Racial Justice Organizational Assessment Tool for Courts:

The Complete Guidance
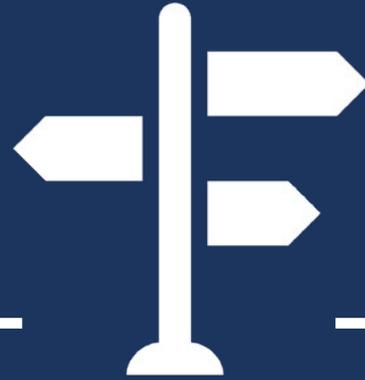
The complete guidance upon which the assessment component of the Racial Justice Organizational Assessment Tool for Courts is based follows. This guidance may benefit court leaders by providing them with a comprehensive framework for thinking about their court's racial justice work, and which may assist them in planning their local efforts.

There are two main categories of suggested uses of this Guidance.

1. Court leaders may choose to review the guidance in part or in full for informational purposes only, and not complete the assessment.

2. Court leaders may choose to complete the entire assessment to identify the universe of guidance that is relevant to their court(s), or a portion of the assessment to identify only the guidance that is relevant to the immediate priorities already identified by the court, to inform local planning decisions.

If opting to use the Racial Justice Organizational Assessment Tool for Courts to inform efforts under category #2, it is recommended as an initial step that court leaders complete the entire interactive web version of the assessment tool to identify the universe of guidance that is relevant to their court(s) today. Court leaders may find it helpful to identify a smaller set of immediate priorities to guide their focus; a complete initial assessment may be helpful in identifying or revisiting those priorities and as a baseline for future reference.

Racial Justice Organizational Assessment Tool for Courts
GUIDANCE FOR COURTS

Part I. Judicial Commitment, Vision, & Leadership

Part I addresses leadership actions and organizational capacity for defining and working toward racial justice goals.

1. **Communicate a leadership vision grounded in the court's mission that explicitly addresses the judiciary's commitment to racial equity, diversity, and inclusion goals.**

   ### KEY POINTS

   - Communicate to the public the court's commitment to racial justice by improving racial equity, diversity, and inclusion in the courts.
   - Provide a vision for racial equity, diversity, and inclusion that connects these principles with the court's mission and with the roles and responsibilities of all justice professionals.
   - Promote a court culture that embraces continuous improvement, informed by data, analysis, and community-based learning.

   ### DESCRIPTION

   "Leaders create vision."[5] This vision sets the tone for the organization, communicating the court's mission, values, and priorities.

   An important early step for court leadership seeking to improve racial justice in the work of the court is communicating that commitment to the court community and public. A variety of tools may be used to emphasize this commitment, including public statements and resolutions. When messages from leadership shine a light on the importance of racial equity, diversity, and inclusion, they can help guide members of the court and community toward a shared understanding of the connection between racial justice, the court's mission and operations, and the roles and responsibilities of all justice professionals.[6]

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5 National Association for Court Management (2016). *NACM CORE: Leadership.* Available at https://nacmcore.org/competency/leadership/

6 National Association for Court Management (2016). *NACM CORE: Purposes and responsibilities.* NACM CORE. Available at https://nacmcore.org/competency/purposes-and-responsibilities/

In addition, through mission statements or other leadership statements, court leadership can begin to advance a vision for the court as an organization that values knowledge gathering, data-driven decision making, and continuous learning.[7] For example, court leaders can emphasize the importance of asking questions about whether court policies, practices, and programs effectively (or disparately) serve the public; listening to community perspectives and developing an understanding of community needs, to help identify the right questions and how they can best be answered; developing a learning agenda that involves the collection and use of quantitative and qualitative data to answer those questions; and using accumulated evidence to drive decision making. These values can help prepare the court for the road ahead.

RESOURCES

- National Center for State Courts (2020). *State court statements on racial justice.* Available at https://www.ncsc.org/newsroom/state-court-statements-on-racial-justice

- Conference of Chief Justices and Conference of State Court Administrators (2020). *Resolution 1: In support of racial equality and justice for all.* Available at https://ccj.ncsc.org/__data/assets/pdf_file/0029/42869/07302020-Racial-Equality-and-Justice-for-All.pdf

- Bell, E. (2022). Helping courts address diversity, equity, and inclusion. *Judicature*. Available at https://judicature.duke.edu/wp-content/uploads/2022/09/BriefsNCSC_Summer2022.pdf

- Proper management of communications about court activities related to racial justice, equity, and inclusion plays a critical role in maintaining public trust and confidence. To assist courts with public information and communication, the Blueprint for Racial Justice has developed a PIO Hotline. The "hotline" is a resource for courts requiring both routine and rapid response assistance with crisis communications, media relations, community outreach and more. This committee of experienced communications professionals includes members of the Conference of Court Public Information Officers and Florida Court Public Information Officers. To request assistance or for more information, contact PIOHotline@ncsc.org.

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7 Pew-MacArthur Results First Initiative (2017). *How states engage in evidence-based policymaking: A national assessment.* Pew Charitable Trusts. Available at how_states_engage_in_evidence_based_policymaking.pdf (pewtrusts.org)
Dube, S. (2021). *How states can develop and sustain evidence-based policymaking: Lessons from Minnesota and New Mexico.* Available at https://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2021/03/how-states-can-develop-and-sustain-evidence--based-policymaking
National Conference of State Legislatures (2020). The ABCs of evidence-informed policymaking. Available at https://www.ncsl.org/research/labor-and-employment/the-abcs-of-evidence-informed-policymaking.aspx
Reynolds, K., & Ramakrishnan, K. (2018). Evidence-based policymaking at the state level: A guide for governors. Available at https://www.urban.org/sites/default/files/publication/99293/evidence-based_policymaking_at_the_state_level.pdf
Kentucky Court of Justice (2022). *A guide for identifying, addressing, and reducing racial, ethnic and equity disparities.* Available at https://kycourts.gov/Court-Programs/Family-and-Juvenile-Services/Pages/Reducing-Racial-and-Ethnic-Disparities.aspx

- National Center for State Courts (2023). *Data-driven decision making.* See the Appendix of this report.

2. **Establish a diverse leadership team or other internal structure to develop, implement, sustain, and update the court's plan for achieving its racial equity, diversity, and inclusion goals.**

KEY POINTS

- Create a demographically diverse leadership team of court and community leaders that represents a broad cross-section of community groups and offices, divisions, and positions within the court.
- Empower the leadership team with clear authority and responsibility to develop, implement, sustain, and update the court's plan for achieving its racial equity, diversity, and inclusion goals.
- Establish inclusive processes for team communication and decision making.

DESCRIPTION

To develop, implement, sustain, and update the court's racial equity, diversity, and inclusion plan, court leadership must establish an organizing structure and mechanisms for performing this work. There is no single model for what this looks like. Each court has a different formal organizational structure and informal ways of getting things done.[8] Court leaders consider these dynamics to inform decisions about a governing framework that will enable and empower staff to meaningfully improve the way the court serves the public. Court improvement efforts have traditionally involved but not been limited to the creation of commissions, task forces, or other policy bodies.[9]

To better serve the needs of the community, court leaders may seek to assemble a demographically diverse policy body of court and community leaders that represents a broad cross-section of community groups, as well as court stakeholders from the traditional array of offices, divisions, and positions within government.[10] Court leaders

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8 See the National Center for State Courts' Court Statistics Project (CSP) at https://www.courtstatistics.org/state-courts, including State Court Organization (SCO), a component of CSP and a joint project with COSCA, at https://www.ncsc.org/sco.
Ostrom, B. J., & Hanson, R. A. (2010). *Understanding court culture is key to successful court reform. Future Trends in State Courts.* Available at https://cdm16501.contentdm.oclc.org/digital/api/collection/ctadmin/id/1611/page/0/inline/ctadmin_1611_0

9 For example, see the list of state commissions on the National Consortium on Racial and Ethnic Fairness in the Courts website at https://www.national-consortium.org/state-efforts.

10 American Council on Education (2022). *Shared equity leadership.* Available at https://www.acenet.edu/Research-Insights/Pages/Diversity-Inclusion/Shared-Equity-Leadership.aspx

can reduce the risk of power imbalances, promote more inclusive group dynamics, and avoid the appearance of tokenism by involving a critical mass of representatives from each type of stakeholder group. Once the group is established, group processes for communication and decision making can be designed to encourage thoughtful contributions from a diversity of perspectives and to ensure that those perspectives are heard – such as by the adoption of unanimity rules.[11]

However it is established, the leadership team will need to have clear authority and responsibility to develop, implement, sustain, and update the court's plan for achieving its racial equity, diversity, and inclusion goals. Questions to consider in composing this team or teams may include:

1. Who will drive strategy and develop the plan?
2. Who will oversee implementation?
3. Who will translate the plan into everyday operations, and provide the feedback loop to inform updates to the plan? Core functions may include but are not limited to: data collection and analysis, education and development, and internal and external communications.
4. Who will focus on internal policies and practices to strengthen the court workforce?
5. Who will focus on external policies and practices to deliver a continuum of court services that effectively serve the public?

RESOURCES

- National Association for Court Management (2016). *NACM CORE: Court governance.* Available at https://nacmcore.org/competency/court-governance/

- For a list of state commissions, see the National Consortium on Racial and Ethnic Fairness in the Courts website at https://www.national-consortium.org/state-efforts

- Race Forward (2018). *Racial equity CORE teams*. Available at RaceForward_CORETeamsToolGuide_Final.pdf (racialequityalliance.org)

- For resources on shared equity leadership, see the American Council on Education (ACE) website at https://www.acenet.edu/Research-Insights/Pages/Diversity-Inclusion/Shared-Equity-Leadership.aspx, including:
  - ACE (2022). *Shared responsibility means shared accountability: Rethinking accountability within shared equity leadership.* Available at https://www.acenet.edu/Documents/Shared-Equity-Leadership-Accountability.pdf
  - ACE (2022). *Shared equity leadership toolkit.* Available at https://www.acenet.edu/Documents/Shared-Equity-Leadership-Toolkit.pdf

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11 Bohnet, I. (2016). *What works: Gender equality by design.* Cambridge, MA: Belknap Press of Harvard University Press.

3. Develop the court's plan for addressing racial equity, diversity, and inclusion.

KEY POINTS

- Develop a plan that explicitly names equal justice as a strategic imperative; identifies specific racial equity, diversity, and inclusion goals for the court; and establishes accountability mechanisms for achieving those goals.

DESCRIPTION

To further communicate the leadership vision for the court and link that vision with operational reality, court leaders must lay out a strategic course of action for the court. This may be incorporated as a formal component of the court's overarching strategic plan, or it may be accomplished via an action plan or list of action items. For example, since the Conference of Chief Justices and the Conference of State Court Administrators passed a 2020 resolution in support of racial equality and justice for all, several courts have developed or updated equal justice action plans or incorporated such goals into their state strategic plans. These plans have addressed a wide range of topics and issues, including but not limited to the creation of dedicated racial equity, diversity, and inclusion positions within the court; launching studies to identify disparities across the system and recommendations for possible next steps; conducting targeted bench and court staff training and development activities; reviewing and improving policies and practices to ensure a diverse and inclusive workforce; examining and improving access to court programs and services for historically underserved community groups; and examining, evaluating, and/or improving specific strategies for ensuring equitable court outcomes.

RESOURCES

- National Center for State Courts (2022). *Lessons learned on the path to creating a Racial Justice Blueprint*. Available at https://www.ncsc.org/__data/assets/pdf_file/0021/86034/CIWebinarResource_12-13-22.pdf
- National Center for State Courts (2022). *State court strategic plans*. Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/racial-justice/state-activities/state-court-strategies. For example, see also Carey, P., Capachietti, A., & Alvarez, J. R. (2022). *Action steps to eliminating racism and bias in the courts*. Trends in the State Courts. Available at https://cdm16501.contentdm.oclc.org/digital/collection/accessfair/id/972
- National Center for State Courts (2022). *State information on racial justice.* Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/racial-justice/state-activities
- National Center for State Courts (2022). *State Commission.* Available at: https://www.national-consortium.org/state-efforts

- Curren, R., Nelson, J., Marsh, D., Noor, S., & Liu, N. (n.d.). *Racial equity action plans: A how-to manual.* Government Alliance on Race and Equity. Available at https://www.racialequityalliance.org/resources/racial-equity-action-plans-manual/
- National Association for Court Management (2016). *NACM CORE: Strategic planning.* Available at https://nacmcore.org/competency/strategic-planning/

4. **Establish a dedicated professional position(s) within the court with the formal responsibility to oversee implementation of court's racial equity, diversity, and inclusion plan and formal authority needed to make key implementation decisions.**

KEY POINTS

- Establish a dedicated position(s) within the court with the formal responsibility to oversee implementation of the court's racial justice strategy. Ensure sufficient and appropriately skilled staff are assigned key functions.
- Ensure the dedicated position has the formal authority needed to make key implementation decisions.

DESCRIPTION

Many courts today are establishing a dedicated position(s) within the court that is assigned the formal responsibility to oversee implementation of the court's racial equity, diversity, and inclusion plan. Individuals selected to fill these positions should demonstrate the competencies and expertise needed to implement the strategy effectively. Roles and responsibilities should be documented in court policy and staff should be aware of the responsibilities of each position.[12] Assigning these responsibilities to a dedicated position, rather than adding them to a staff person's existing responsibilities, helps to ensure that responsible staff have the time and workload capacity necessary to conduct the work. This demonstrates that the court's racial justice work is valued by leadership and a priority for the organization.

A lead officer should wield sufficient authority and resources within the court's administration to effectively implement the court's plan. Work may be done more effectively and efficiently when this lead officer position is empowered to make decisions as needed to implement the plan, without requiring extensive monitoring, review, and authorization from layers of higher-ranking officials in the court's administration. This position should also have the authority and resources

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12 e.g., see Montgomery County. (2019). (publication). *Racial equity and social justice community engagement tool-kit*. Available at https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/English_RESJ_ToolKit.pdf.

to delegate work to appropriately skilled staff. If recognized by the court and by other branches of government as the court's principal point of contact for this work, individuals in these positions may be better able to coordinate, develop, and manage resources to support local initiatives.

RESOURCES

- The National Center for State Courts operates a national listserv of court diversity, equity, and inclusion (DEI) professionals. To inquire about joining this listserv, contact Edwin Bell at ebell@ncsc.org.

5. **Allocate the resources necessary to effectively implement the court's racial equity, diversity, and inclusion plan.**

KEY POINTS

- Provide financial, physical, technological, and human resources needed to advance the court's racial equity, diversity, and inclusion plan.

- Ensure sufficient and appropriately skilled human resources are assigned to support effective implementation. As with leadership positions, consider the total workload of support staff, their skill level to execute the work, and other competing responsibilities.

- Designate resources specifically to address barriers to effective community partnerships and public participation, which could otherwise limit the impact of the court's racial justice work. This may include but is not limited to: identifying and securing welcoming and accessible public meeting spaces, compensating community-based partners and non-profits for their work, and providing community members with token incentives and/or other supports to facilitate their participation.

DESCRIPTION

To implement the court's racial equity, diversity, and inclusion plan, court leadership must align available resources, including financial, physical, technological, and human resources, with the court's strategic goals.

Human resources. Dedicated staffing resources must be available to support and sustain implementation of the court's plan. In assessing staffing capacity, leadership should consider not only workload availability but also whether available staff are appropriately trained and possess the competencies and expertise needed to effectively execute the work.[13] As noted in **Guidance I.4**, roles and

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13 National Center for State Courts (2022). *Workload assessment.* Available at https://ncscworkload.org/

responsibilities should be documented in court policy and staff should be aware of the responsibilities of each position. This helps to reinforce other leadership communications indicating that the work to improve racial justice is a priority for the court, and illustrates how it is prioritized relative to other court work assignments.

Physical and technological resources. Dedicated physical and technological resources can include workspaces, meeting spaces, hardware, software, supplies, materials, and more as needed to effectively implement the court's racial justice plan. This may also include investments in the court's data infrastructure, to create or expand data access or improve data quality needed to support data-driven decision making.

For example, to support community-based learning, identifying and designating meeting spaces that are accessible to community members specifically to host community engagement events can demonstrate to the public that the court values their contributions. Designating the right physical spaces, spacious enough to comfortably accommodate the size of the group and allow for interactive exercises, can also help to create a welcoming environment that builds trust and connections between community members and the court.[14] There may be virtual alternatives to organizing in-person events or existing community or neighborhood activities that provide the court with meaningful opportunities for community-based learning. The materials needed to facilitate activities and inform evaluation activities should also be accounted for in planning for successful implementation, including office materials, online platforms, custom forms or other data collection tools, media equipment, and more.

Financial resources. Dedicated fiscal resources provide for all other resources required for successful implementation of the court's racial justice plan. By dedicating sufficient fiscal resources to the work, leadership communicates to staff and the public that the work is a priority for the court; provides for sufficient capacity to execute the work as planned; and establishes accountability for implementation. In community-based learning efforts, dedicated fiscal resources can enable or help strengthen community partnerships and remove barriers to public participation that would otherwise limit the impact of the work.[15] For example, providing community members with compensation, incentives, and/or other supports (such as serving food, providing childcare during the event, and/or offering gift cards as a token of appreciation for participation) may help the court secure the level of public engagement needed to meaningfully inform and propel the court's strategy.

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14 McCloskey, D., Aguilar-Gaxiola, S., & Michener, J. L. (2011). *Principles of community engagement.* Available at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf.
National Center for State Courts (2022). *ENGAGE! Toolkit.* Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/communications,-civics-and-disinformation/community-engagement/toolkit

15 McCloskey, D., Aguilar-Gaxiola, S., & Michener, J. L. (2011). *Principles of community engagement.* Available at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf.

RESOURCES

- Everyday Democracy (2022). *Organizing for change: Authentic community engagement toolkit.* See https://everyday-democracy.org/ for more information on their Dialogue to Change process.

- Lohrentz, T. (2015). *Contracting for equity: Best local government practices that advance racial equity in government contracting and procurement*. Government Alliance on Race and Equity. Available at https://www.racialequityalliance.org/resources/contracting-equity-best-local-government-practices-advance-racial-equity-government-contracting-procurement/

- McCloskey, D., Aguilar-Gaxiola, S., & Michener, J. L. (2011). *Principles of community engagement.* Available at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf. See especially:

  o *Chapter 4. Managing organizational support for community engagement.* Available at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_Chapter_4_SHEF.pdf
  o Table 4.1. Know the community, its constituents, and its capabilities
  o Table 4.2. Establish positions and strategies to guide interactions

- Public Agenda (2017). *Strengthening and sustaining public engagement: A planning guide for communities.* Available at https://www.publicagenda.org/wp-content/uploads/2019/09/PublicAgenda_StrengtheningAndSustainingPublicEngagement_2018.pdf

6. **Actively model data-driven decision making and continuous learning.**

KEY POINTS

- Visibly collect and use data to inform organizational decision making.
- Communicate with stakeholders and the public about (a) key findings from community-based learning and data analyses and (b) the action steps informed by those findings.
- Require court staff and community partners to use data to inform decision making and proposals.

DESCRIPTION

As noted in **Guidance I.1**, through mission statements or other leadership statements, court leaders can begin to advance a vision for the court as an organization that values knowledge gathering, data-driven decision making, and continuous learning. Knowledge gathering activities can inform organizational learning and, when used to inform decisions, help court leaders ensure that they are

addressing the issues that are most urgent, that policies are having their intended effects, and that there are not unforeseen consequences impeding reform.[16]

Court leaders can further instill these values in the culture of the court by modeling data driven decision making and continuous learning behaviors for the workforce and public. This can be done by making data collection efforts visible, sharing findings from community-based learning activities and administrative data analyses, identifying and communicating plans for next steps based on that evidence, and acknowledging and celebrating progress using evidence. Court leaders can also encourage staff and community partners to use data to inform their decision making and proposals to the court, such as by implementing racial equity impact assessments.[17] At the beginning, this may require a significant investment of effort to create new data, connect with new sources of data, and/or improve existing data.[18] Consistency in collecting and using data to inform decisions, and visibility by communicating how data are used, will help to establish organizational culture that embraces data-driven decision making and continuous learning. This mindset and these practices will benefit the court in any court improvement effort.

RESOURCES

- See also **Guidance II** and **Guidance IV**.
- National Center for State Courts (2023). *Data-driven decision making.* See the Appendix of this report.
- Bernabei, E. (2017). *Racial equity: Getting to results.* Government Alliance on Race & Equity. Available at https://www.racialequityalliance.org/wp-content/uploads/2017/09/GARE_GettingtoEquity_July2017_PUBLISH.pdf
- Government Alliance on Race & Equity (2018). *GARE communications guide*. Available at https://www.racialequityalliance.org/wp-content/uploads/2018/05/1-052018-GARE-Comms-Guide-v1-1.pdf
- Proper management of communications about court activities related to racial justice, equity, and inclusion plays a critical role in maintaining public trust and confidence. To assist courts with public information and communication, the Blueprint for Racial Justice has developed a PIO Hotline. The "hotline" is a resource for courts requiring both routine and rapid response assistance with crisis communications, media relations, community outreach and more. This committee of experienced communications professionals includes members of the Conference of Court Public Information Officers and Florida Court Public Information Officers. To request assistance or for more information, contact PIOHotline@ncsc.org.

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16 National Center for State Courts (2023). *Data-driven decision making.* See Appendix of this report.

17 See **Guidance IV.2**.

18 See **Guidance II.2**. See also the clearinghouse of resources available from the National Center for State Courts on the National Open Court Data Standards (NODS) website at https://www.ncsc.org/consulting-and-research/areas-of-expertise/data/national-open-court-data-standards-nods

7. **Actively develop the knowledge, skills, and abilities needed to advance the court toward its racial equity, diversity, and inclusion goals.**

   ### KEY POINTS

   - Identify and grow the specific leadership knowledge, skills, and abilities needed to advance the court toward its racial equity, diversity, and inclusion goals.
   - Make your own learning visible to normalize the process of continuous learning.
   - Model leadership behaviors that promote racial equity, diversity, and inclusion in the organization.

   ### DESCRIPTION

   Court leaders can face many challenges in identifying their own educational needs and developing the skills to advance the court toward its racial equity, diversity, and inclusion goals. They may be daunted by the magnitude of the work, uncertain where or how to begin. They may lack awareness of the personal or systemic biases that perpetuate structural inequities. At times, it may feel as though every step forward is followed by two steps backward; they may grow impatient with the investment of time and resources required to build an equitable, diverse, and inclusive court.

   To meaningfully improve racial justice in the courts, court leaders will be called upon to develop and model the array of skills they are asking of their workforce. This may include steps to identify and learn the history and context of structural inequities in the United States and in their local jurisdictions, and how those inequities have affected and continue to affect communities of color; to listen to the lived experiences of those directly impacted by the justice system; to reflect on their role, the role of court leadership, and the role courts have played and continue to play in perpetuating those inequities; to examine the impact of bias on the everyday work of the court as an organization, including workforce decisions, court culture, and communication or other messaging with staff, stakeholders, and the public. Because of the nonlinearity of this challenging work, developing a personal strategy for sustainability may be especially important. How will court leaders care for themselves through discomfort and setbacks to enable them to do what is needed to sustain the work?

RESOURCES

- National Center for State Courts (2022). Leadership and governance. Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/court-leadership

- National Association for Court Management (2016). *NACM CORE: Leadership.* Available at https://nacmcore.org/competency/leadership/

- National Association for Presiding Judges and Court Executive Officers (n.d.). *NAPCO leadership guides.* Available at https://napco4courtleaders.org/napco-leadership-guides/

- JustLead Washington (2020). *Washington Race Equity & Justice Initiative organizational race equity toolkit, 2nd ed.* Available at https://justleadwa.org/learn/rejitoolkit/ - :~:text=The%20Washington%20Race%20Equity%20%26%20Justice%20Initiative%20%28REJI%29,understand%20and%20incorporate%20race%20equity%20into%20their%20work.

- Nelson, J., Spokane, L., Ross, L., & Deng, N. (2015). *Advancing racial equity and transforming government: A resource guide to put ideas into action.* Government Alliance on Race & Equity. Available at https://www.racialequityalliance.org/resources/advancing-racial-equity-and-transforming-government-a-resource-guide-to-put-ideas-into-action/

- Leadership Learning Community (2010). *Leadership & race: How to develop and support leadership that contributes to racial justice*. Available at http://leadershiplearning.org/system/files/Leadership and Race FINAL.pdf

- Anti-Defamation League (2016). Anti-bias education: the power of social-emotional learning. Available at https://www.adl.org/news/op-ed/anti-bias-education-the-power-of-social-emotional-learning. See also the Anti-Defamation League's personal self-assessment of anti-bias behavior, available at https://www.utcourts.gov/courts/juv/cip/summit/2020/docs/Personal Self-Assessment of Anti-Bias Behavior.pdf

Part II. Capacity for Community-Based Learning and Data-Driven Decision Making

Part II addresses institutional capacity for community-based learning and data-driven decision making to help advance the court's racial justice goals.

SECTION 1. COMMUNITY ENGAGEMENT

1. **Adopt a formal definition for community engagement and use it consistently in all communications about court-community engagement activities.**

   KEY POINTS

   - Community engagement is a method of community-based learning that can inform data-driven decision making about court policies and practices.
   - When community engagement is clearly defined, stakeholders are better able to develop specific, measurable goals for engagement activities and design the appropriate form(s) of engagement for achieving those goals.

   DESCRIPTION

   Different forms of community engagement may be useful in achieving different types of objectives. When the purposes of community engagement are well understood and engagement activities are aligned with the court's goals, these efforts can be more productive, resulting in better policy, strengthened civic life among members of the public, enhanced collaboration in the community, and more equitable outcomes overall.[19]

   When stakeholders are provided with clear, formal definitions for community engagement that describe engagement in the language of the court's mission and values, it can aid the court in setting and achieving specific, measurable goals for its racial justice work. Such definitions can help all stakeholders better understand what is meant by "community engagement," why it is important for the court to engage with the community, who should be engaged as part of the community, and when and how the community should be engaged in the work. This can also help to strengthen collaboration among public officials, community leaders, community members, and the court team.

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19 Advancing Pretrial Policy & Research (2020). *Strengthening and sustaining public engagement.* Available at https://cdn.filestackcontent.com/security=policy:eyJleHBpcnkiOjQwNzg3NjQwMDAsImNhbGwiOlsicGljayIsInJlY-WQiLCJ3cml0ZSIsIndyaXRlVXJsIiwic3RvcmUiLCJjb252ZXJ0IiwicmVtb3ZlIiwicnVuV29ya2Zsb3ciXX0=,signature:9d-f63ee50143fbd862145c8fb4ed2fcc17d068183103740b1212c4c9bc858f63/NO0eDBcfQKB66K4pnC0t

RESOURCES

- Advancing Pretrial Policy & Research (2020). *Strengthening and sustaining public engagement.* Available at https://cdn.filestackcontent.com/security=policy:eyJleHBpcnkiOjQwNzg3NjQwMDAsImNhbGwiOlsicGljay-IsInJlYWQiLCJ3cml0ZSIsIndyaXRlVXJsIiwic3RvcmUiLCJjb252ZXJ0IiwicmVtb-3ZlIiwicnVuV29ya2Zsb3ciXX0=,signature:9df63ee50143fbd862145c8fb4ed2fc-c17d068183103740b1212c4c9bc858f63/NO0eDBcfQKB66K4pnC0t

- Advancing Pretrial Policy & Research (2020). *Glossary of racial equity and community engagement terms*. Available at https://cepp.com/wp-content/uploads/2021/04/Glossary-of-Racial-Equity-and-Community-Engagement-Terms-2020.pdf

- National Center for State Courts (2022). *ENGAGE! Toolkit*. Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/communications,-civics-and-disinformation/community-engagement/toolkit

- National Center for State Courts' *Community Engagement in the State Courts* initiative at https://www.ncsc.org/consulting-and-research/areas-of-expertise/racial-justice/resources/community-engagement-initiative. See especially https://www.ncsc.org/__data/assets/pdf_file/0027/28467/overview.pdf and https://www.ncsc.org/__data/assets/pdf_file/0028/28468/appendix-b.pdf

- McCloskey, D., Aguilar-Gaxiola, S., & Michener, J. L. (2011). *Principles of community engagement.* Available at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf

2. **Implement formal policies and/or practices to regularly include communities of color as key stakeholders in community engagement activities.**

KEY POINTS

- Formal policies and practices can help courts ensure that all those affected by the system or problems being discussed—including communities of color—are routinely included as key stakeholders in community-based learning activities. Depending on the focus of the work, this may include representatives from communities of color among the bench and court workforce, court users, other stakeholders, and/or broader public.

- When conducted on an ongoing basis, engagements can provide a valuable feedback loop for the court and can help to establish the mutual trust needed for productive long-term relationships.

DESCRIPTION

Community engagement activities designed for community-based learning and court improvement can help the court better understand the complexities of the culture(s)

being served, the different vantage points of court and community stakeholders and groups, and ultimately, the array of community issues that must be considered and addressed by a court that seeks to serve all members of the public equally well.[20] The court can better identify the issues and potential solutions specific to communities of color by creating a space for these communities to express their concerns and needs. This can be done more consistently and effectively when court policies and practices include explicit strategies for ensuring that communities of color are actively engaged in information gathering, planning, and decision-making activities of the court.

When engagements occur on an ongoing basis, they can provide a valuable feedback loop for the court that helps the court operationalize racial equity for the community in a way that is informed by the community. This may help to normalize constructive court-community conversations about race, equity, and bias over time and establish the mutual trust necessary for productive long-term relationships (see **Guidance II.1.3**).

RESOURCES

- National Center for State Courts (2022). *ENGAGE! Toolkit*. Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/communications,-civics-and-disinformation/community-engagement/toolkit

- National Center for State Courts' *Community Engagement in the State Courts* initiative at https://www.ncsc.org/consulting-and-research/areas-of-expertise/racial-justice/resources/community-engagement-initiative. See especially https://www.ncsc.org/__data/assets/pdf_file/0027/28467/overview.pdf and https://www.ncsc.org/__data/assets/pdf_file/0028/28468/appendix-b.pdf

- Public Agenda (2017). *Strengthening and sustaining public engagement: A planning guide for communities.* Available at https://www.publicagenda.org/wp-content/uploads/2019/09/PublicAgenda_StrengtheningAndSustainingPublicEngagement_2018.pdf

- Local examples:
    - City of Madison, Wisconsin (2020). *Racial Equity & Social Justice Initiative public participation resource guide*. Available at https://www.cityofmadison.com/civil-rights/documents/RESJI_PublicParticipationResourceGuide.pdf
    - Massachusetts Court System, Trial Court Office of Diversity, Equity, Inclusion, & Experience (2022). *Diversity, equity, inclusion, and experience activities guide*. Available at https://www.mass.gov/guides/diversity-equity-inclusion-and-experience-activities-guide - -internal-listening-sessions-. See especially information on listening sessions, community conversations, and virtual town halls.

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20 McCloskey, D., Aguilar-Gaxiola, S., & Michener, J. L. (2011). *Principles of community engagement.* Available at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf

- o Multnomah County, Oregon case study
  - Justice System Partners (2018). *Multnomah County judicial listening sessions offer promising model of judicial community engagement*. Available at https://justicesystempartners.org/multnomah-county-judicial-listening-sessions-offer-promising-model-of-judicial-community-engagement/
  - Justice System Partners (2018). *The Multnomah County judicial listening sessions: a case study.* Available at https://multco-web7-psh-files-usw2.s3-us-west-2.amazonaws.com/s3fs-public/MultCo Judicial Listening Sessions Case Study Final.pdf
  - Multnomah County (2017). *Multnomah County judges' response to listening sessions and suggested next steps.* Available at https://multnomah.granicus.com/MetaViewer.php?view_id=3&meta_id=117491

3. **Establish formal partnerships with a strong network of community organizations and/or leaders.**

   KEY POINTS

   - Strong court-community partnerships can improve community engagement outcomes for the court and the public.
   - The right partners or types of partnerships may differ depending on the topic or focus of the work.

   DESCRIPTION

   Formal partnerships with a network of community organizations and community leaders can provide the court with an improved ability to implement and sustain community engagement efforts that are productive in identifying and addressing local community issues, concerns, and needs.[21] When community engagement activities are productive, it facilitates several mutually beneficial outcomes. For example, the court is equipped with information needed to improve services for the public; the public informs court improvements to the services intended for

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21 McCloskey, D., Aguilar-Gaxiola, S., & Michener, J. L. (2011). *Principles of community engagement.* Available at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf.

Advancing Pretrial Policy & Research (APPR) (2022, November). *Guide to Community Engagement Part 1.* Available at https://cdn.filestackcontent.com/security=policy:eyJleHBpcnkiOjQwODAxNDY0MDAsImNhbGwiOisicm-VhZCIsImNvbnZlcnQiOjX0=,signature:bf9d04ed62530c164d6fed395e4f74c04e606b95f4b72448ff976857a1e3a5f5/vdH2EKDJTzyplTr3OwnB

Public Agenda (2017). *Strengthening and sustaining public engagement: A planning guide for communities.* Available at https://www.publicagenda.org/wp-content/uploads/2019/09/PublicAgenda_StrengtheningAndSustainingPublicEngagement_2018.pdf

them, ensuring that changes address what the community itself says it needs; and relationships between the court and community networks are strengthened, setting the stage for productive collaborations to continue in the future.

There are many different types of formal partnerships and collaborations. Different community partners or types of formal partnerships may be needed depending on the topic or focus of the work.[22] However, regardless of the specific issue being addressed, effective local partners have strong ties within the community, which can improve efforts to identify the diversity within the community, bring the right people to the table for community engagement activities, and evaluate the effectiveness of those activities. They may be able to offer supplementary resources or tools to facilitate productive community engagement in ways that would not otherwise be achievable given the court's limited human resource capacities. Effective local partners are also experts in many of the problems and potential solutions for the communities served, and as such may be able to help the court identify the right opportunities for community-based learning to inform the work at hand.

RESOURCES

- National Center for State Courts (2022). *ENGAGE! Toolkit*. Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/communications,-civics-and-disinformation/community-engagement/toolkit

- National Center for State Courts' *Community Engagement in the State Courts* initiative at https://www.ncsc.org/consulting-and-research/areas-of-expertise/racial-justice/resources/community-engagement-initiative. See especially https://www.ncsc.org/__data/assets/pdf_file/0027/28467/overview.pdf and https://www.ncsc.org/__data/assets/pdf_file/0028/28468/appendix-b.pdf

- Advancing Pretrial Policy & Research (2021). *Community engagement self-assessment.* Available at https://cepp.com/wp-content/uploads/2023/01/APPR-Community-Engagement-Self-Assessment-2022Nov.pdf

- Everyday Democracy (2022). *Organizing for change: Authentic community engagement toolkit.* See https://everyday-democracy.org/ for more information on their Dialogue to Change process.

- Public Agenda (2017). *Strengthening and sustaining public engagement: A planning guide for communities.* Available at https://www.publicagenda.org/wp-content/uploads/2019/09/PublicAgenda_StrengtheningAndSustainingPublicEngagement_2018.pdf

- McCloskey, D., Aguilar-Gaxiola, S., & Michener, J. L. (2011). *Principles of community engagement.* Available at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf

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22 National Center for State Courts (2019). *Building trust by building trustworthiness: A toolkit for public engagements addressing disparities in the courts.* Available at https://www.ncsc.org/__data/assets/pdf_file/0027/28467/overview.pdf

4. Evaluate community engagement efforts to determine effectiveness and impact.

KEY POINTS

- Courts seeking to make culturally relevant, data-driven decisions about court policies and practices should evaluate community engagement activities.
- Evaluations can help to determine the effectiveness and impact of community engagement activities as they were implemented. This can inform further improvements to court programs as well as to the court's policies and practices governing community engagement activities.

DESCRIPTION

When courts regularly evaluate their community engagement activities, they are modeling a data-driven approach to court improvement. Evaluation helps the court determine the effectiveness and impact of their community engagement activities for achieving the court's goals, which can in turn inform further improvements to court programs and the court's policies and practices governing community engagement work. Evaluations are not only useful to court leadership in answering key questions such as these; they also benefit every other party who is involved in, invested in, and/or motivated by these activities.

Are the court's community engagement efforts producing changes to court programs, policies, and practices to better address the needs of communities of color? Is the court identifying, securing, and using resources effectively in implementing those changes? Are those changes resulting in more equitable outcomes for the communities served? Different types of evaluations (process, outcome, cost-effectiveness, and more) are appropriate for answering different types of questions. Building the court's research and evaluation capacity, whether through the creation or expansion of internal skill positions or the cultivation of external relationships with trusted research partners, can help the court plan a learning agenda, collect the right data, and answer these questions as they arise so that court leaders can make data-driven decisions in charting the path forward.

RESOURCES

- National Center for State Courts (2022). *ENGAGE! Toolkit*. Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/communications,-civics-and-disinformation/community-engagement/toolkit
- National Center for State Courts' *Community Engagement in the State Courts* initiative at https://www.ncsc.org/consulting-and-research/areas-of-expertise/racial-justice/resources/community-engagement-initiative. See especially https://www.ncsc.org/__data/assets/pdf_file/0027/28467/overview.pdf and https://www.ncsc.org/__data/assets/pdf_file/0028/28468/appendix-b.pdf
- McCloskey, D., Aguilar-Gaxiola, S., & Michener, J. L. (2011). *Principles of community engagement.* Available at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf. See especially Chapter 7 at https://www.atsdr.cdc.gov/communityengagement/pdf/PCE_Report_508_FINAL.pdf

SECTION 2. ADMINISTRATIVE DATA

1. **Establish routine access to individual-level race/ethnicity data for analysis.**

   KEY POINTS

   - Courts are charged with providing equal justice for all.
   - Courts that are evidence-based and learning organizations will collect and analyze data to:
     - assess where they are meeting their responsibilities or falling short
     - identify areas for improvement
     - inform decisions about the most promising strategies forward
   - To achieve this, courts need routine access to individual-level race/ethnicity data.

   DESCRIPTION

   Courts are charged with providing fair and equitable treatment across racial and ethnic groups. This task can best be accomplished through *data driven decision making*. Race and ethnicity data are key to monitoring for inequities and making evidence-based policy decisions to address them when they are found. The ability to use these data to the court's best advantage requires *routine access* to *individual-level data*.

   Routine access means that the court can access the data consistently on a repeated basis. The court does not rely on a data request that may be refused or delayed, thereby impeding the repeated, timely analysis of race/ethnicity data. If the court collects and stores its own data, routine access should be assured. However, if the court receives the data from a separate agency, a formal understanding should be in place ensuring the court can access those data consistently and repeatedly without significant barriers.

   Access to *individual-level data* means that the data the court collects or receives includes race/ethnicity information for each person represented in the dataset (whether or not the data contain personally identifiable information such as name or contact information; see Table 1 below for an example). Aggregate or summary data provide only high-level information (see Table 2 below) and are not sufficient to support the necessary analyses.

Table 1. Illustration of individual-level demographic data:

	A	B	C	D	E
1	**Name**	**Race**	**Ethnicity**	**Age**	**Gender**
2	Person 1	Black	Hispanic/Latinx	66	Male
3	Person 2	White	Hispanic/Latinx	27	Female
4	Person 3	Asian	Not Hispanic/Latinx	26	Non-binary
5	Person 4	American Indian or Alaska Native	Not Hispanic/Latinx	36	Female
6	Person 5	Native Hawaiian or other Pacific Islander	Not Hispanic/Latinx	45	Male

Table 2. Illustration of aggregate or summary race data:

Out of 100 people:

- 30 are Black or African American
- 60 are White
- 5 are Asian
- 3 are American Indian or Alaska Native
- 2 are Native Hawaiian or Other Pacific Islander

RESOURCES

- National Center for State Courts (2023). *Data-driven decision making.* See the Appendix of this report.

- National Center for State Courts (2019). *Court Statistics Project Data governance policy guide*. Available at https://www.courtstatistics.org/__data/assets/pdf_file/0031/23899/data-governance-final.pdf.

- National Center for State Courts (2020). *Collecting race & ethnicity data: Court Statistics Project data governance special topic*. Available at https://www.ncsc.org/__data/assets/pdf_file/0019/42256/Race_special_topic_final.pdf

2. **Ensure that race/ethnicity data are collected in a manner that is compatible with a comprehensive set of standard high-level categories.**

KEY POINTS

- NODS and CSP recommend compatibility with a standard set of general or high-level categories used by federal agencies. Consistency in categories allows for data-sharing and comparisons across jurisdictions and agencies.

- A more nuanced set of race/ethnicity categories can be combined into higher-level categories for this purpose.

DESCRIPTION

NODS and the Court Statistics Project (CSP) recommend that, at a minimum, courts collect data for the high-level categories used in the U.S. Census and by other federal agencies. This recommendation addresses the goal of NODS and CSP to encourage the collection and formatting of court data in a way that will allow for cross-jurisdictional and cross-agency data sharing and analysis.

Although the terminology used to refer to racial and ethnic groups - and the definitions of these groups - can change over time, the categories recommended by NODS and CSP currently include:

☐ Race:	☐ Ethnicity:
☐ White	☐ Hispanic/Latinx
☐ Black or African American	☐ Non-Hispanic/Latinx
☐ American Indian or Alaska Native	
☐ Asian	
☐ Native Hawaiian or other Pacific Islander	
☐ Other	

It is important to note that while alignment with these high-level categories is essential for effective data sharing and analysis, these categories may not provide the level of detail the jurisdiction needs to ascertain the impact of court services on all racial and ethnic groups in the community. That is, depending on demographic makeup of the population in one's jurisdiction, the court may need to collect more granular race/ethnicity data. If a court collects more granular race/ethnicity data, those more detailed categories should clearly map on to the higher-level categories used to support effective cross-jurisdictional and interagency data sharing and analysis.

RESOURCES

- See the National Center for State Courts' National Open Court Data Standards website at https://www.ncsc.org/services-and-experts/areas-of-expertise/court-statistics/national-open-court-data-standards-nods.
- National Center for State Courts (2020). *Collecting race & ethnicity data: Court Statistics Project data governance special topic*. Available at https://www.ncsc.org/__data/assets/pdf_file/0019/42256/Race_special_topic_final.pdf

3. **Collect individual-level data in a manner that allows for all applicable race/ ethnicity identities to be captured.**

    KEY POINTS

    - A single-select "multi-racial" or "two or more races" category is too broad and does not provide the court with meaningful information to allow unique needs of different groups to be identified.

    - A "select all that apply" approach to collecting race/ethnicity data allows people of mixed racial and ethnic heritages to accurately self-identify. It is a more inclusive data collection practice that can generate actionable information for improving court policies, procedures, programs, and services.

    - Although NODS uses a two-question approach to obtain race and ethnicity, a single field for race and ethnicity is acceptable (and in some ways preferable) as long as there is an option to select all that apply.

    DESCRIPTION

    The number of multiracial individuals is increasing at a rate three times that of the population as a whole in the United States.[23] One in four of these adults "have felt annoyed because people have made assumptions about their racial background" and one in five say "they have felt pressure from friends, family, or 'society in general' to identify as a single race."[24] Their experiences and identification can play out differently for different mixed-race groups. A single-select race/ethnicity data field forces individuals with mixed race/ethnic heritages to choose one identity or select an "other," "multi-racial," or "two or more races" category. Neither option adequately describes this rapidly growing subset of the population.

    The best way for courts to allow for accurate racial and ethnic self-identification is to ensure that, at a minimum, all of the high-level racial and ethnic categories are represented in the court's data (see **Guidance II.2.2**). These, and any more granular categories included in the court's data, should allow users to select all races and ethnicities that apply.

    Some data frameworks use a separate "multi-racial" or "two or more races" category to denote a multi-racial heritage. These categories are overly broad and do not allow for analyses of the unique experiences of people of different racial combinations. A select-all approach has the dual benefit of allowing for inclusionary data collection practices and the ability to conduct detailed analyses.

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    23 Parker, K., Horowitz, J. M., Morin, R., & Lopez, M. H. (2020). *Multiracial in America: Proud, diverse and growing in numbers.* Pew Research Center. Available at https://www.pewresearch.org/social-trends/2015/06/11/multira-cial-in-america/

    24 Parker, K., Horowitz, J. M., Morin, R., & Lopez, M. H. (2020). *Multiracial in America: Proud, diverse and growing in numbers.* Pew Research Center. Available at https://www.pewresearch.org/social-trends/2015/06/11/multira-cial-in-america/

NODS and CSP recommend a two-question approach to the collection of race and ethnicity data wherein one question addresses race and a separate question addresses ethnicity. The key idea inspiring this approach is the idea that Hispanic/Latinx is not a race, but an ethnicity, and that people of Hispanic/Latinx ethnicity should be encouraged to select a racial identity in addition to their ethnic identity.

However, cultural differences in the way race is viewed in Latin American countries and the United States has led to confusion in the way ethnicity and race data are collected as compared to the way people of Hispanic/Latinx ethnicity racially identify. While some individuals may identify as, for example, Latinx and White, or Latinx and Black, other people, often of what would be considered mixed-race heritage in the US, identify racially and ethnically as Hispanic/Latinx.[25] The two-question approach to race and ethnicity data collection leaves people in the latter situation without an applicable race option.

One option gaining popularity is to combine race and ethnicity into one category and allow users to select all options that apply.[26] This "select all that apply" option ensures that people of mixed racial/ethnic heritage or who identify as ethnically Hispanic/Latinx and racially with another group can accurately report their racial and ethnic identities. It also allows individuals who identify both ethnically and racially as Hispanic/Latinx to choose only that option. A second method is to retain the two-question approach and add Hispanic/Latinx as a race option for those who also identify ethnically as Hispanic/Latinx.

Although NODS and federal data collection guidance still use the two-question approach, it is likely that in the near future this approach will shift to one of the more inclusive options described above. Courts can ensure that their data have sufficient flexibility to respond to changing definitions of race and ethnicity by collecting detailed, inclusive race and ethnicity data.

RESOURCES

- See the National Center for State Courts' National Open Court Data Standards website at https://www.ncsc.org/services-and-experts/areas-of-expertise/court-statistics/national-open-court-data-standards-nods.

- National Center for State Courts (2020). *Collecting race & ethnicity data: Court Statistics Project data governance special topic*. Available at https://www.ncsc.org/__data/assets/pdf_file/0019/42256/Race_special_topic_final.pdf

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25 Gonzalez-Barrera, A., & Lopez, M.H. (2015). I*s being Hispanic a matter of race, ethnicity or both?* Available at https://www.pewresearch.org/fact-tank/2015/06/15/is-being-hispanic-a-matter-of-race-ethnicity-or-both/

26 Kaplowitz, R., & Laroche, J. (2020). *More than numbers: A guide toward diversity, equity, and inclusion (DEI) in demographic data collection.* Available at https://www.schusterman.org/more-than-numbers-a-guide-toward-diversity-equity-and-inclusion-dei-in-data-collection

4. **Identify and understand the method used for collecting race/ethnicity data.**

   KEY POINTS

   - Identify the source of your data and the methods used to collect it.
   - There are two general methods for capturing race/ethnicity data: Self-identified and observed.
   - Each method offers its own benefits and may be used to answer different questions.
     - Self-identified: allows individual the agency to self-define (within the confines of the categories provided), which can provide a more accurate record for assessing local community needs
     - Observed: others' perceptions of individuals' race and ethnicity may be more useful for evaluating disparities in treatment
   - Discrepancies between self-identified and observed race are most likely to occur for people of multi-racial heritage and/or of Hispanic/Latinx ethnicity.

   DESCRIPTION

   Knowing where the data are coming from can provide important insights about how the data are collected and their quality (**Guidance II.2.6**). The National Open Court Data Standards (NODS) recommends that the courts identify and record the source of all court user data. These sources include data collected directly by the court, other criminal justice agencies, or other government entities. (For a full list, see the NODS website). Although NODS does not address workforce data, it is important to identify the source of these data as well. For example, the only race/ethnicity data available for the court workforce may come from that collected for the U.S. Equal Employment Opportunity Commission (EEOC). If this is the case, it is important to note that the data will be limited to the categories and selection options requested by the EEOC. (This may or may not best serve local needs. Other configurations of categories may be more relevant for identifying, understanding, and responding to the needs of the local community; see **Guidance II.2.3** and **Guidance II.2.5** for more information).

   Race and ethnicity data may be obtained through two general means: self-identification or observation. Self-identified race and ethnicity data is based on the individual's description of their own racial and ethnic identity as permitted by the racial and ethnic categories provided for selection. (As described in **Guidance II.2.3**, people of mixed-race heritage may be unable to accurately describe their racial and ethnic identity if not given the opportunity to select all identities that apply from a comprehensive set of categories). Observed race and ethnicity data is based on another person's classification of the individual's race and ethnicity. For example, the race data associated with a traffic citation may be based on the person's self-reported race on their driver's license, or the ticketing officer's perception of the individual's race.

It is important to identify the court's race and ethnicity data as either self-identified or observed, since each type has different benefits and limitations and can be used to answer different questions. Self-identified data allows individuals the agency to select their own racial and ethnic identity within the confines of the categories provided, and will be more objectively accurate when selecting from a comprehensive list of racial and ethnic identities with the ability to select all that apply. Observed race and ethnicity data may better capture disparities in treatment based on visual or other observed cues. In practice, this means that observed race is generally more useful for identifying systematic differences in the treatment that people experience based on how they are perceived by others. For example, questions about equitable sentencing outcomes may benefit from the use of observed race and ethnicity data. Self-identified data is generally the better option for management of individual cases. For example, assignments of defendants to culturally responsive treatment programs should rely on self-identified race and ethnicity data.

In most cases, observed race and self-identified race will be consistent. In cases where someone's race or ethnicity is ambiguous or not readily apparent to an observer, self-identified race will be more likely to capture the individual's actual racial or ethnic heritage while observed race and ethnicity will capture the assumptions others make based on a person's appearance and other factors. People of Asian, American Indian, or multi-racial heritage and people of Hispanic/Latinx ethnicity are the groups most likely to experience disparities in their self-identified and observed race and/or ethnicity.[27]

RESOURCES

- See the National Center for State Courts' National Open Court Data Standards website at https://www.ncsc.org/services-and-experts/areas-of-expertise/court-statistics/national-open-court-data-standards-nods.

- National Center for State Courts (2020). *Collecting race & ethnicity data: Court Statistics Project data governance special topic*. Available at https://www.ncsc.org/__data/assets/pdf_file/0019/42256/Race_special_topic_final.pdf

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27 Beale, A.C., Chou, S.C., Palmer R.H., Testa M.A., Newman C., & Ezhuthachan S. (2006). The changing face of race: Risk factors for neonatal hyperbilirubinemia. *Pediatrics, 117*(5), 1618-25. doi: 10.1542/peds.2005-1203; McAlpine, D. D., Beebe, T. J., Davern, M., & Call, K. T. (2007). Agreement between self-reported and administrative race and ethnicity data among Medicaid enrollees in Minnesota. *Health Services Research, 42*(6p2), 2373–2388. https://doi.org/10.1111/j.1475-6773.2007.00771.x; Saperstein, A. (2006). Double-checking the race box: Examining inconsistency between survey measures of observed and self-reported race. *Social Forces, 85*(1), 57–74. https://doi.org/10.1353/sof.2006.01416

5. **Define race/ethnicity in data collection using categories that meaningfully describe the composition of your local community.**

   KEY POINTS

   - To make informed decisions that are responsive to community needs, courts may benefit from collecting more detailed race and ethnicity data than the high-level categories recommended by NODS.

   - More detailed categories may include tribal affiliation, national origin, ethnic group (beyond Hispanic/Latinx), or cultural group.

   - More specific definitions will allow for nuanced analyses that may uncover opportunities for improvement that would otherwise have been lost by only using high-level race/ethnicity categories.

   - Census data on your local community and input from local community leaders and other court community stakeholders can help the court refine the race/ethnicity categories used in data collection.

   - Be aware that including groups with too few members will pose risks to group member privacy and the accuracy of any conclusion drawn from analysis of the group.

   DESCRIPTION

   NODS requires the high-level race and ethnicity categories used by the federal government to support data sharing and analysis across agencies and jurisdictions. However, as noted in **Guidance II.2.2**, it is crucial that courts collect race and ethnicity data using categories that accurately reflect the demographic makeup of the local population. If the court collects more granular racial and ethnic categories for their jurisdiction, these can be combined into the high-level categories recommended by NODS.

   For example, NODS recommends the use of a general "Asian" category. However, if the court's jurisdiction contains a large, culturally diverse Asian population, collection of more granular data on country of origin or specific ethnic groups may provide meaningful insights for potential court improvements that would have been missed if relying on analyses using only high-level categories. Similarly, areas with large Native American populations may benefit from collecting more granular data on tribal affiliation. Collecting such detailed data will allow courts to identify community needs with greater precision, which can lead to a better understanding of the court workforce and court users and more culturally responsive policies and services.

   While Census data on your community can provide a starting point, courts should work with community leaders to determine which racial and ethnic categories should be captured in court data. When determining how race/ethnicity should be defined in data collection, courts should keep in mind that the population sizes for each category

should be large enough to support group analysis. Moreover, the population size of a category should not be so small as to risk identifying individual members.

RESOURCES

- See the National Center for State Courts' National Open Court Data Standards website at https://www.ncsc.org/services-and-experts/areas-of-expertise/court-statistics/national-open-court-data-standards-nods.
- National Center for State Courts (2020). *Collecting race & ethnicity data: Court Statistics Project data governance special topic*. Available at https://www.ncsc.org/__data/assets/pdf_file/0019/42256/Race_special_topic_final.pdf

6. **Ensure data quality and completeness before use.**

KEY POINTS

- A court data expert should follow standard protocols for reviewing data to ensure accuracy and completeness of race/ethnicity data fields.
- Data quality determines the accuracy of results. Analyses based on incomplete or poor-quality data can produce results that are not actionable, and increase the risk that resources are wasted on the wrong strategies for the community.

DESCRIPTION

According to the NCSC Court Statistics Project (2019) Data Governance Policy Guide:

> Best practices in data quality involve the people, processes, technology, and the data itself. Data quality must be integral to the business rules/standard operating procedures of the court. Preventing data quality problems is always preferable to finding them later, but strategies must be in place to ensure data quality throughout the life cycle of the data. Frequent and active use of court data helps to ensure data quality. Regular review of information can expose data quality issues and help determine if those issues are systemic or the result of a simple data entry error. Identifying and correcting data quality issues is a process of continuous learning and improvement on the part of the court.

Courts should have standard protocols in place for reviewing the accuracy and completeness of their data in all areas, and race and ethnicity data are no exception. A court data expert should review these data to determine their quality and their utility in analyses. It is important to remember that the accuracy of any analysis is dependent on the accuracy of the data used. Poor quality data will return inaccurate results, possibly leading to the implementation of unhelpful, or harmful, strategies and the misuse of court and community resources.

Examples of questions to ask when assessing race and ethnicity data quality include:

- What percent of individuals do not have any information for their race or ethnicity?
  A high rate of nonresponse reduces the utility of the data field.

- What percent of individuals declined to disclose their race or ethnicity, or chose an "Other" option?
  Courts with a large proportion of "other" responses may improve the utility of their data by reexamining the relevance of categories they use to define race/ethnicity in their data for their population.

- Are the percentages of each racial or ethnic group represented in the data realistic, given the racial and ethnic makeup of the area? (For instance, are there 100% White respondents in the data, even though the court is located in a multicultural area?)
  Unrealistic descriptive results indicate an issue with data quality that should be investigated and resolved.

RESOURCES

- National Center for State Courts (2019). *Court Statistics Project: Data governance policy guide*. Available at https://www.courtstatistics.org/__data/assets/pdf_file/0031/23899/data-governance-final.pdf.

7. **Analyze race/ethnicity data as part of routine court improvement efforts.**

KEY POINTS

- The goal of collecting race/ethnicity data is to use those data to monitor and improve performance.
- Data should be used to assess policies and practices, to identify which are effective at achieving court goals and which are not, and to inform decisions about court improvements.

DESCRIPTION

Data are a critical tool in state court efforts to promote racial equity, diversity, and inclusion. Making policy decisions that are informed by evidence helps the courts ensure that they are addressing the issues that are most urgent, that policies are having their intended effects, and that unforeseen consequences are not impeding reform. Race and ethnicity data can be used to describe programs and outcomes, identify disparities and policy priorities, communicate problems with stakeholder audiences, evaluate program effectiveness, and track changes over time.

RESOURCES

- National Center for State Courts (2023). *Data-driven decision making.* See the Appendix of this report.

Part III. The Bench & Court Workforce

Part III addresses best practices for cultivating a diverse, inclusive, and equitable court workforce.

SECTION 1. RECRUITMENT

1. **Collect and analyze demographic data on the court workforce.**

   KEY POINTS

   - Access to accurate data is necessary to assess the current state of diversity on the bench and in the court workforce.
   - These data should be tracked by position.

   DESCRIPTION

   Collection and analysis of demographic data are key steps in increasing diversity in the court workforce. Without these data, the court will not be able to identify the specific groups for which representation is lacking within the court workforce as compared to the community served by the court. This information is a key part of *data-driven decision making* and can be used to identify areas of concern in the recruitment and hiring process by applying it to an *equity pathway analysis* (see **Guidance IV.2**)*.* For more information on collecting race and ethnicity data, see **Guidance II.2**.

   It is also important to track these data by position type. Diversity should be sought at all levels of the organization. Organizations that have not achieved diversity may have individuals from marginalized groups in lower paid and lower influence positions, but lack proportionate representation at higher levels, particularly among the leadership team.

   RESOURCES

   - National Center for State Courts (2023). *Data-driven decision making.* See the Appendix of this report.
   - National Association for Court Management (2015). *The core in practice: A guide to strengthen court professionals through application, use and implementation*. Available at https://nacmnet.org/wp-content/uploads/TheCoreGuide_Final.pdf.

2. **Perform a formal job analysis to determine the skills and competencies needed for the position.**

   KEY POINT

   • Base job descriptions on the results of a formal job analysis.

   DESCRIPTION

   A formal job analysis is a key step in developing a job description that supports diversity in hiring by moving away from emphasizing qualifications that may favor privileged groups over others. The analysis should determine what tasks the job involves, and what skills or competencies are required to perform those tasks. These substantive skills and competencies should comprise the main focus of the job description instead of education or experience requirements (see **Guidance III.1.3**). The results of the formal job analysis should be used to intentionally define qualities sought in a new hire and design criteria that will identify those qualities in a candidate.

   RESOURCES

   • Institute for the Advancement of the American Legal System (2021). *Foundations hiring guide: Cut through bias.* Available at https://iaals.du.edu/publications/foundations-hiring-guide.
   • National Association for Court Management (2015). *The core in practice: A guide to strengthen court professionals through application, use and implementation*. Available at https://nacmnet.org/wp-content/uploads/TheCoreGuide_Final.pdf.

3. **Emphasize skills, competencies, and capabilities over minimum education and experience requirements.**

   KEY POINTS

   • A focus on minimum education and experience requirements unnecessarily limits the applicant pool.
   • People of color and people of lower socioeconomic status are disproportionately excluded due to these requirements.

   DESCRIPTION

   As noted by the American Bar Association, "a single-minded focus on traditional credentials like (school) attended or grade point average significantly diminishes the hiring pool at the outset, disproportionately excluding people of color from the

candidate pool."[28] The substantive skills and competencies needed to perform the day-to-day work in a specific position should be the focus of the position's job description (see **Guidance III.2**). If included at all, minimum education and experience requirements should be directly applicable to the position. The purpose of the job description should be to invite people in rather than screen them out. This approach helps to increase diversity by lessening the emphasis on areas where some groups are disproportionately negatively impacted by structural factors and family income.

The American higher education system remains bifurcated, with students enrolled in "competitive" four-year colleges (as defined by Barron's) overwhelmingly coming from families in the upper 50% of the economic spectrum.[29] Low-income students are disproportionately women, Black and/or Latinx, the first generation of their family to attend college, and recent immigrants to the United States who may not speak English as their primary language.[30] While working in college, these groups endure different experiences than students from higher income households. Affluent students are more likely to work in positions that give them skills and experience that are directly applicable to desirable entry-level career positions; conversely, low-income students are more likely to be employed in positions that do not offer those directly applicable skills and experience.

Low-income students also often work for more hours per week than higher income students which sometimes leads to decreased academic performance.[31] Thus, employers requiring minimum GPA requirements in job descriptions generally favor socioeconomically advantaged groups. Similarly, the requirement of a bachelor's degree when a certificate or associate degree would meet the needs of the position excludes potential applicants from lower-income families who are more likely to enroll in two-year or certificate programs.

By focusing on the substantive needs of the position, rather than defaulting to education and experience as the main markers of position suitability, the court can expand and increase the diversity of its applicant pool while still hiring the appropriate individual for the job.

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28 American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.

29 Carnavale, A.P., & Strohl, J. (2011). Our economically polarized college system: Separate and unequal. *Chronicle of Higher Education, 58*(6), B32–B35.

30 Carnavale, A.P., & Smith, N. (2018). *Balancing work and learning: Implications for low-income students.* Georgetown University Center on Education and the Workforce. Available at https://1gyhoq479ufd3yna29x7ubjn-wpengine.netdna-ssl.com/wp-content/uploads/Low-   Income-Working-Learners-FR.pdf

31 Carnavale, A.P., & Smith, N. (2018). *Balancing work and learning: Implications for low-income students.* Georgetown University Center on Education and the Workforce. Available at https://1gyhoq479ufd3yna29x7ubjn-wpengine.netdna-ssl.com/wp-content/uploads/Low-   Income-Working-Learners-FR.pdf

RESOURCES

- American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.
- Institute for the Advancement of the American Legal System (2021). *Foundations hiring guide: Cut through bias*. Available at https://iaals.du.edu/publications/foundations-hiring-guide.
- National Association for Court Management (2015). *The core in practice: A guide to strengthen court professionals through application, use and implementation*. Available at https://nacmnet.org/wp-content/uploads/TheCoreGuide_Final.pdf.

4. **Create a strategy to communicate job openings to a broad audience, intentionally including underrepresented groups.**

KEY POINTS

- Analyze data on the court workforce to determine which groups are underrepresented.
- Identify ways to reach out to those groups.
- Consider whether the court is representing itself as an attractive place for diverse candidates to work.

DESCRIPTION

Increasing diversity in the court workforce requires a thoughtful, targeted communication strategy for advertising open positions. After assessing the demographic composition of the court's workforce and determining where representation is lacking when compared to the demographic composition of the community of court users (see **Guidance III.1.1**), create a plan to advertise job openings to better reach those underrepresented groups. Identify networks, associations, and training programs that have a focus on the members of groups underrepresented in your court workforce and open a line of communication with them to improve how the job advertisements are circulated. In addition, consider the messaging around employment with the court. This includes the language of the job advertisement, messaging in associated recruitment activities (e.g., career fairs), and in general public outreach (e.g., social media presence, who represents the organization in public talks and outreach activities). Does it promote your organization as a good place for diverse candidates to work? Does it present a career with the court as an exciting opportunity to serve their community? Intentional, targeted advertising through multiple modes is key to increasing the diversity of your applicant pool.

RESOURCES

- American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.
- National Association for Court Management (2015). *The core in practice: A guide to strengthen court professionals through application, use and implementation*. Available at https://nacmnet.org/wp-content/uploads/TheCoreGuide_Final.pdf.
- National Center for State Courts (2022). *Court opportunity recruitment for all (CORA).* Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/racial-justice/resources/workforce/cora

5. Limit or discontinue the use of referral hiring.

KEY POINT

- Referral hiring sustains or exacerbates an existing lack of diversity.

DESCRIPTION

If the diversity of the court workforce is an area of concern, referral hiring is not an effective way to address it and will likely sustain or exacerbate the existing lack of diversity.[32] Referrals coming from current staff are likely to mirror the characteristics of that current staff, rather than bringing in qualified candidates of different backgrounds. Since White men are an overrepresented demographic in the current labor market, referrals benefit this group more than any other. For example, based on current demographics, if you have 100 referrals, 40% of them will be White men and 30% will be White women.[33] Given that women, specifically women of color, face more obstacles than their male counterparts, out of those 100 referrals, only 13% of them will be women of color.[34]

RESOURCE

- American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.

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32 McLaren, S. (2018). Why referrals might be hurting your diversity efforts (and what you can do to change that). Available at https://www.linkedin.com/business/talent/blog/talent-acquisition/why-referrals-might-be-hurting-your-diversity-efforts; Zhang, J. (2021). *A diversity blind spot: The limits of employee referrals.* Available at https://www.glassdoor.com/research/referral-candidate-diversity/

33 Payscale. (2018). *Payscale - salary comparison, salary survey, search wages.* Available at https://www.payscale.com/content/whitepaper/wp_ImpactofJobReferrals.pdf

34 Payscale. (2018). *Payscale - salary comparison, salary survey, search wages.* Available at https://www.payscale.com/content/whitepaper/wp_ImpactofJobReferrals.pdf

SECTION 2. HIRING

1. **Use grading rubrics, averaged results from more than one person, and the requirement of a written explanation when criteria are waived.**

    ### KEY POINTS

    -   Embedding structure and consistency in employment-related decisions is one of the most effective ways to reduce unintended bias.
    -   Use a grading rubric, with clearly defined criteria for evaluation and clear definitions for scores.
    -   Average the scores for multiple evaluators.
    -   Require written explanations when criteria are waived.

    ### DESCRIPTION

    One of the most consistently effective interventions against unintended biases in employment decisions and disparities in the composition of the workforce is to embed structure and consistency in employment-related decisions. When candidates for employment are reviewed using ambiguous or subjective criteria, hiring decisions are more likely to reflect the (often unintentional) stereotypes and biases of the reviewer. This can result in problems such as holding candidates to different standards depending on their race, gender, and other characteristics.

    The use of a grading rubric with clear, predetermined criteria ensures that candidates are assessed in a consistent manner. Ensuring that multiple people assess each candidate and using the averaged result keeps any one person from having an outsized influence in the decision-making process. Any departures from predetermined criteria should be documented with a written explanation. These departures and their explanation should be periodically reviewed to determine if there is any bias at work in these decisions, or if the criteria on the grading rubric or job description need to be changed.

    ### RESOURCES

    -   Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.
    -   American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.
    -   Institute for the Advancement of the American Legal System (2021). *Foundations hiring guide: Cut through bias.* Available at https://iaals.du.edu/publications/foundations-hiring-guide.

2. Do not consider factors that do not affect suitability for a position and may unnecessarily penalize some groups.

KEY POINTS

- When reviewing resumes, do not consider:
  - Extracurricular activities
  - Prior salary
  - "Gaps" on the resume
  - "Culture fit"

DESCRIPTION

Taking extracurricular activities into account when reviewing resumes can penalize lower income candidates, as extracurricular activities are associated with a monetary cost and a cost in time that they may not be able to afford. There are also stereotypes associated with different activities that may lead to bias – for example, a candidate listing "golf" as an activity may be assessed differently (even at an unconscious level) than one who lists "basketball" or another who enjoys "line-dancing," even if they have the same work and education experience. To avoid this issue, extracurricular activities should be redacted from the resume before it is distributed to reviewers.

Prior salary should not be included in the resume review process or in determinations of future compensation to avoid perpetuating inequity from position to position. For example, the gender pay gap is a well-documented phenomenon.[35] If a woman is paid less than her male counterparts in one position, and her new employer bases her new pay on that prior salary, despite the new employer not directly making a salary determination based on her gender, the new employer is perpetuating a gap in pay due to gender.

"Gaps" in employment history may occur for a variety of reasons that can have nothing to do with a candidate's professional competence or reliability. Women, for example, not only face wage gaps, but they are also underrepresented in the workplace and often face forms of harassment that can make it difficult to remain at a workplace.[36] Women also may be more likely to take time from their careers to care for family members.[37]

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35 Dowell, E. (2022). *Women consistently earn less than men.* Available at https://www.census.gov/library/stories/2022/01/gender-pay-gap-widens-as-women-age.html; Wisniewski, M. (2022). *In Puerto Rico, no gap in median earnings between men and women.* Available at https://www.census.gov/library/stories/2022/03/what-is-the-gender-wage-gap-in-your-state.html

36 Hutto, C. (2020). *Introduction to intersectionality: 8 ways identity affects employment.* Available at https://www.inhersight.com/blog/allyship/how-intersectionality-affects-employment

37 Fuller, J. B., Raman, M., Sage-Gavin, E., & Hines, K. (2021). A look inside hidden workers: Untapped talent. *The Seybold Report, 21*(17), 2-5.; Sandstrom, H., & Chaudry, A. (2012). 'You have to choose your childcare to fit

However, while women of all racial and ethnic groups are affected by these factors, the intersection of gender and race puts women of color at even more of a disadvantage than their White counterparts. For example, research has shown that companies are more than twice as likely to call applicants of color for interviews if they "whitened" their resume and removed any references to their race and ethnicity.[38] While this one example of how a candidate's intersecting identities can impact their employment history, it does not only apply to gender and race. While a candidate's race and gender may be important, other identities, such as their socioeconomic status, age, ability, sexual orientation and gender identity, weight, and parenthood, have proven to affect employment. When it comes to parenthood, for example, lower income candidates and women may be more likely to take time from their careers to care for family members, and this societal difference should not be used to penalize those candidates when making hiring decisions.[39]

Ideally, the characteristics being evaluated will correspond to the core functions of the job that are described in the job description and any functions of the job that are considered when promotion decisions are made. The characteristics that are being evaluated should not be grounded in group stereotypes (e.g., characteristics like cultural "fit" or personality traits).

RESOURCES

- American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.
- Institute for the Advancement of the American Legal System (2021). *Foundations hiring guide: Cut through bias*. Available at https://iaals.du.edu/publications/foundations-hiring-guide.

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your work': Childcare decision-making among low-income working families. *Journal of Children and Poverty, 18*(2), 89–119. https://doi.org/10.1080/10796126.2012.710480

38 Hutto, C. (2020). *Introduction to intersectionality: 8 ways identity affects employment.* Available at https://www.inhersight.com/blog/allyship/how-intersectionality-affects-employment

39 Asher, L., Frye, J., & Ju, S. (1999). *Detours on the road to employment: Obstacles facing low-income women.* Available at https://www.nationalpartnership.org/our-work/resources/more/economic-security/detours-road-employment.pdf; Fuller, J. B., Raman, M., Sage-Gavin, E., & Hines, K. (2021). A look inside hidden workers: Untapped talent. *The Seybold Report, 21*(17), 2-5.; Sandstrom, H., & Chaudry, A. (2012). 'You have to choose your childcare to fit your work': Childcare decision-making among low-income working families. *Journal of Children and Poverty, 18*(2), 89–119. https://doi.org/10.1080/10796126.2012.710480

3. **Clearly inform interviewers and candidates of the expectations for the interview process.**

   ### KEY POINT

   - Provide clear information about the interview process to all staff and candidates involved.

   ### DESCRIPTION

   Interviewers and candidates should all be informed of the expectations for the interview process. This information should be communicated in written form, through a hand-out provided to all interviewers and candidates.

   ### RESOURCE

   - American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.

4. **Ensure that the people involved in the hiring process are trained and empowered to spot bias.**

   ### KEY POINTS

   - Bias can impede the impartiality and fairness of the judicial system.
   - Everyone involved in the hiring process should receive information about recognizing and interrupting bias.
   - Specific individuals who receive more intensive training on bias should be involved at every step of the hiring process.

   ### DESCRIPTION

   State courts pride themselves on impartiality and fairness. However, because hiring decisions are made by individuals and groups of people, they are just as susceptible to conscious and unconscious biases that can be accumulated through social learning, cultural knowledge, and life experiences as hiring in any other sector. Bias is defined as the unintended influence of factors that are not meant to be considered on a final decision or result.[40]

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40 Evans, J. (2008). Dual-processing accounts of reasoning, judgment, and social cognition. *Annual Review of Psychology, 59*, 225-278.

Biases can be conscious and explicit, where a person is generally aware of their personal beliefs and cultural stereotypes and are voluntarily expressing those beliefs.[41] However, unlike these biases that are easily identifiable, especially in a judicial setting, unconscious and implicit biases are harder to detect. Unconscious and implicit bias are often used synonymously to refer to an attitude, stereotype, or prejudice that a person is unaware of possessing but which may operate automatically to influence thinking or behavior.[42] While people may be able to accurately predict the pattern of their implicit biases, they may lack the awareness of how they developed this knowledge and how it influences their everyday thinking and behavior.[43]

Individuals involved in the hiring process should receive information on common types of bias in hiring, and how they manifest. Specific individuals (HR professionals or other staff members) who have received additional training on bias should be involved at every step in the hiring process.

RESOURCES

- Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.
- American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.

5. Embed structure in the interview process.

KEY POINTS

- Embedding structure and consistency in employment-related decisions is one of the most effective ways to reduce unintended bias.
- Embed the following practices in the interview process:
  - Structured interviews

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41 Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

42 Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

43 Hahn, A., Judd, C., Hirsh, H., & Blair, I. (2014). Awareness of implicit attitudes. *Journal of Experimental Psychology: General, 43*, 1369-1392.; Gawronski, B. (2019). Six lessons for a cogent science of implicit bias and its criticism. *Perspectives on Psychological Science, 14*, 574-595.

- Performance-based questions
- Behavioral interviewing
- Consistent ratings scale

DESCRIPTION

One of the most consistently effective interventions against unintended biases and disparities in the workplace is to embed structure and consistency in employment-related decisions. When candidates for employment are reviewed using ambiguous or subjective criteria, hiring decisions are more likely to reflect the (often unintentional) stereotypes and biases of the reviewer. This can result in problems such as holding candidates to different standards depending on their race, gender, and other characteristics. Structured interviews and a consistent rating scale provide that structure in the interview process.

Performance-based questions are designed to elicit information about the candidate's possession of the skills and competencies deemed necessary for the position (see **Guidance III.2.2**), and can cover issues like time management, balancing of competing priorities, or skill-based assessments. Behavioral interviewing is used to elicit descriptions of behavior in prior work environments, which provide a better indication of future performance than unstructured questions.

RESOURCES

- Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.
- American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.
- Society for Human Resource Management (2018). *7 practical ways to reduce bias in your hiring process*. Available at https://www.shrm.org/resourcesandtools/hr-topics/talent-acquisition/pages/7-practical-ways-to-reduce-bias-in-your-hiring-process.aspx.

6. **Collect and routinely review data from all stages of the hiring process.**

KEY POINTS

- Data collection must occur to allow for analysis.
- A pathway analysis will help to pinpoint where inequities are occurring.
- Analysis will allow the court to see if changes in their process results in increased diversity of their workforce.

DESCRIPTION

The collection and routine review of hiring data is a crucial part of ensuring that your hiring practices are not interfering with your goal to increase the diversity of your workforce. The court can follow the logic used in the equity pathway analysis (see **Guidance IV.2**): identify decision points, collect data at all of those decision points, and analyze that data to look for disproportionalities at each point in the process to determine if and where your process is negatively impacting efforts to increase workforce diversity.

RESOURCES

- Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.
- American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.
- Institute for the Advancement of the American Legal System (2021). *Foundations hiring guide: Cut through bias.* Available at https://iaals.du.edu/publications/foundations-hiring-guide.

SECTION 3. DEVELOPMENT

1. **Conduct regular assessments of training and resource needs for all personnel.**

   KEY POINTS

   - When employers rely on individual personnel to advocate for their own training, resources, and development, the needs of underrepresented groups, including employees of color, may be overlooked.
   - Conduct assessments of employees' needs, including training, resources, and career development, at regular intervals. The data from these assessments can be used to inform budgetary and policy decision making to ensure positions are adequately supported and resourced and personnel are supplied with equitable opportunities for career development.

   DESCRIPTION

   When employers rely on individual personnel to advocate for their own training, resources, and development, the needs of employees from underrepresented groups, including employees of color, may be overlooked. Courts can systematically gather information on employee's needs by conducting assessments at regular

intervals. These assessments should include the training and resources that staff need to perform their jobs effectively, as well as to support their career development.

At an individual level, personnel needs might be addressed through specialized training or continuing education, through the purchase of equipment or supplies, or through conversations with their mentors. At the aggregate level, the court should also examine the overall pattern of resources that personnel request and take these needs into consideration when making budgetary decisions. By disaggregating this needs analysis by employee race, courts can ensure that employee resources and training are distributed equitably, and positions staffed disproportionately by people of color, for example, are not systematically under resourced.

RESOURCES

- American Bar Association (2006). *Best practices standards for the recruitment, retention, development, and advancement of racial/ethnic minority attorneys*. Available at https://www.nycbar.org/images/stories/diversity/bpguide.pdf (see Best Practice Standard No. 5).
- National Association for Court Management (2015). *The core in practice: A guide to strengthen court professionals through application, use and implementation*. Available at https://nacmnet.org/wp-content/uploads/TheCoreGuide_Final.pdf.

2. **Provide regular and ongoing education and training to the court workforce to equip personnel with the tools needed to achieve the court's racial justice goals.**

KEY POINTS

- Members of the court workforce come to their jobs with a wide variety of educational backgrounds and life experiences. To have productive conversations about racial justice in the workplace requires both: (a) a shared understanding of key racial justice concepts and issues and (b) upskilling core racial justice competencies among staff.
- Conduct an initial review of all formal and informal training and educational content that the court provides. As part of the review process, identify whether and what changes to the curriculum are needed to ensure that personnel are equipped to help the court meet its racial justice goals.
- Review and update curricula at regular intervals.

DESCRIPTION

In addition to the professional training and education discussed in **Guidance III.3.1**, it is important for courts to consider what knowledge, skills, abilities, and other competencies employees will need to help the court meet its racial justice goals.

Chief among these is to develop a shared understanding among staff about what the court's racial justice strategy or action plan is, and what the racial justice concepts central to those efforts mean.

Court professionals come to the workplace with different educational backgrounds and life experiences. To create workplace environments in which productive conversations about race/ethnicity, access, fairness, and equal justice are possible and useful in implementing the court's racial justice strategy or action plan, it is important for members of the workforce to have a shared understanding of the relevant racial justice terms and issues.[44]

Providing the court workforce with thoughtful racial justice educational programming is a critical step toward creating a shared understanding about the key racial justice terms and issues in the court's jurisdiction. For example, educational content on historical policies with racially disparate impacts, as well as the court's role in the creation, implementation, and enforcement of such policies, can help to create a shared understanding of key issues for constructive discussion. Understanding these issues can be helpful in addressing challenges related to the implementation of the court's racial justice plan - for example, by facilitating greater collective understanding about issues related to local community and court user perceptions of and trust in the courts, or barriers to diversification of the bench and court workforce. Embedding this educational content in the regular, ongoing training and professional development process promotes a workplace environment in which people are more comfortable discussing issues related to race and a workforce that is more capable of delivering on the court's mission.

One way that courts can begin this process is by conducting an initial review of all formal and informal training and educational content that the court provides. As part of this process, courts should identify whether and what changes to the curriculum are needed to effectively develop the shared knowledge, skills, abilities, and other racial justice competencies needed among its personnel, paying special attention to research on effective educational practices in each domain. This racial justice and related training should be required of all personnel, delivered by skilled experts with strong credentials in the subject matter being addressed, and provided at regular intervals. The goals for these educational programs should be clear, and they should be evaluated for effectiveness in achieving those learning objectives (which may include increasing knowledge, increasing collaborative discussion, changing attitudes, and changing behavior). Evaluations disaggregated by employee race will help to ensure that each program is effective for all and not, for example, less effective for either White personnel or personnel of color. Finally, reviewing these

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44 National Center for State Courts Blueprint for Racial Justice (2022). *Establishing a shared language in the state courts.* Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

curricula at regular intervals is strongly recommended. New curricula will likely need refinement, and key racial justice issues and court goals may evolve over time.

RESOURCES

- American Bar Association (2006). *Best practices standards for the recruitment, retention, development, and advancement of racial/ethnic minority attorneys*. Available at https://www.nycbar.org/images/stories/diversity/bpguide.pdf (see Best Practice Standard No. 9).

- Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

- National Center for State Courts Blueprint for Racial Justice (2022). Establishing a shared language in the state courts. Williamsburg, VA: Authors. Available at https://www.ncsc.org/__data/assets/pdf_file/0032/79628/Establishing-a-Shared-Language.pdf.

3. **Develop a structured mentorship program that provides equitable professional development for all personnel in a certain role.**

KEY POINTS

- Unstructured, informal, or ad hoc mentoring relationships can lead to the neglect and underdevelopment of employees of color.

- To ensure equitable professional development for the entire workforce, create a structured mentorship process for each job class.

DESCRIPTION

Providing employees of color with a broad network of role models, mentors, and sponsors helps them feel valued by their organization and helps them advance to leadership roles. Research in social psychology shows that same-race mentors can attenuate otherwise identity-threatening cues in the workplace environment, such as underrepresentation, and equip mentees with strategies to overcome obstacles within the organization. [45]

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45 Avery, D. R., McKay, P. F., & Wilson, D. C. (2008). What are the odds? How demographic similarity affects the prevalence of perceived employment discrimination. *Journal of Applied Psychology, 93(2),* 235–249. https://doi.org/10.1037/0021-9010.93.2.235
Kirby, D., & Jackson, J. S. (1999). Mitigating perceptions of racism: The importance of work group composition and supervisor's race. In A. J. Murrell, F. J. Crosby, & R. J. Ely (Eds.), *Mentoring dilemmas: Developmental relationships within multicultural organizations* (pp. 143–155). Lawrence Erlbaum Associates Publishers.

Relying on senior personnel to form their own informal, ad hoc mentoring relationships with junior personnel can lead to the neglect and underdevelopment of employees of color, particularly women of color.[46] This is especially likely to happen in workplaces with little racial diversity, as senior personnel tend to select mentees who share their race and gender identities. Accordingly, courts should establish structured mentorship programs to ensure that all personnel in a particular job class receive equitable professional development.

Structured means that all employees in a certain job title or role are provided with mentors, and all mentors are trained and given clear expectations for their involvement. Ideally, employees of color should be given the option to be paired with same-race mentors, as research suggests that same-race mentors are more effective (however, same-race mentors should be an option, not a requirement). [47] Finally, mentorship programs should be evaluated for effectiveness at regular intervals, including an analysis disaggregated by employee race and gender, to ensure that they are not less effective for certain groups.

RESOURCES

- American Bar Association (2006). *Best practices standards for the recruitment, retention, development, and advancement of racial/ethnic minority attorneys*. Available at: https://www.nycbar.org/images/stories/diversity/bpguide.pdf (see Best Practice Standard No. 7).
- National Association for Court Management (2015). *The core in practice: A guide to strengthen court professionals through application, use and implementation*. Available at https://nacmnet.org/wp-content/uploads/TheCoreGuide_Final.pdf.
- Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

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46 Coqual (2019). *The Sponsor Dividend*. Available at https://coqual.org/wp-content/uploads/2020/09/CoqualTheSponsorDividend_KeyFindingsCombined090720.pdf

47 Avery, D. R., McKay, P. F., & Wilson, D. C. (2008). What are the odds? How demographic similarity affects the prevalence of perceived employment discrimination. *Journal of Applied Psychology, 93(2),* 235–249. https://doi.org/10.1037/0021-9010.93.2.235
Kirby, D., & Jackson, J. S. (1999). Mitigating perceptions of racism: The importance of work group composition and supervisor's race. In A. J. Murrell, F. J. Crosby, & R. J. Ely (Eds.), *Mentoring dilemmas: Developmental relationships within multicultural organizations* (pp. 143–155). Lawrence Erlbaum Associates Publishers.

4. **Examine performance evaluation processes to ensure that they assess aspects of performance that are most relevant to the job, using metrics that are transparent, objective, structured, and consistent across personnel.**

    ### KEY POINTS

    -   Unstructured performance evaluation processes and procedures can allow racial and other disparities to emerge in how employees are evaluated. These disparities can then have downstream impacts on employees' compensation, job assignments, and promotions.

    -   To promote consistency in evaluations, conduct an internal assessment of performance evaluation procedures to ensure that the right characteristics are being evaluated and that they are being evaluated with the right metrics. The right characteristics are those aspects of performance that are most relevant to the key components of the job, and the right metrics are measures that are transparent, objective, structured, and consistent across personnel.

    ### DESCRIPTION

    One of the most consistently effective interventions against unintended biases in employment decisions and disparities in the composition of the workforce is to embed structure and consistency in employment-related decisions.[48] When candidates are reviewed using ambiguous or subjective criteria, employment decisions are more likely to reflect the (often unintentional) stereotypes and biases of the reviewer. This can result in problems such as holding candidates to different standards depending on their race, gender, and other characteristics. Disparities that exist in performance evaluations can have downstream impacts on employees' compensation, job assignments, and promotions.

    An internal assessment of performance evaluation procedures can help to ensure that the right characteristics are being evaluated and that they are being evaluated with the right metrics. The right characteristics are aspects of performance that are most relevant to the key components of the job. Ideally, the characteristics being evaluated will correspond to the core functions of the job that are described in the job description and any functions of the job that are considered when promotion decisions are made. The characteristics that are being evaluated should not be grounded in group stereotypes (e.g., characteristics like cultural "fit" or personality traits). Core functions should be measured using metrics that are transparent, objective, structured, and consistent across personnel. These metrics should be observable and objective enough that multiple evaluators observing the same

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    48 Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

employee would arrive at the same evaluation. Many of the same recommendations that promote structure in hiring decisions (see **Guidance III.2**) also apply when evaluating employee performance.

RESOURCES

- JustLead Washington (2020). *Washington Race Equity & Justice Initiative organizational race equity toolkit, 2nd ed.* Available at https://justleadwa.org/learn/rejitoolkit/ - :~:text=The%20Washington%20Race%20Equity%20%26%20Justice%20Initiative%20%28REJI%29,understand%20and%20incorporate%20race%20equity%20into%20their%20work.

- National Association for Court Management (2015). *The core in practice: A guide to strengthen court professionals through application, use and implementation*. Available at https://nacmnet.org/wp-content/uploads/TheCoreGuide_Final.pdf.

- Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

SECTION 4. RETENTION

1. **Conduct regular assessments of workplace experiences and organizational climate, with a focus on racial equity.**

   KEY POINTS

   - By conducting regular assessments that allow employees to share their experiences safely and confidentially, court leaders can gain greater insight into the day-to-day experiences of their employees, including negative experiences such as racial discrimination, harassment, and other forms of biased treatment.

   - Be prepared to promptly review and share assessment findings with staff. Also be prepared to address feedback about negative experiences by identifying and developing substantive improvements to better support people of color in the workplace. Such actions demonstrate to staff that their responses (as well as their time and honesty) were valued, their concerns are heard, and meaningful action is being taken in response to feedback, which will help to build and preserve trust and promote a more positive organizational climate.

DESCRIPTION

Leaders with decision-making power in an organization often experience an entirely different workplace climate than those of their employees. As a result, leaders may be unaware of many of the day-to-day experiences of their staff – including negative experiences such as discrimination, harassment, and other forms of biased treatment.[49] This problem is especially compounded, and can contribute to racial inequities, in organizations where most of the leaders and key decision-makers are White. In these circumstances, it is important for the employer to make careful, intentional efforts to understand the workplace climate in which their employees are working.

To address these common blind spots and promote a more informed leadership, court leaders can conduct regular assessments of workplace experiences and organizational climate, with a focus on racial equity. These assessments can be accomplished through multiple means, ideally working in tandem: 1) an anonymous survey in which employees report their experiences and their perceptions of the workplace climate, 2) individual interviews or small-group focus groups in which employees can discuss their experiences confidentially with an independent interviewer or facilitator. The right approach will be informed by research best practices as well as an understanding of local relationships and power dynamics. These assessments can help to answer questions about the perceived level of diversity and inclusion in the organization, the extent to which employees of different races have the tools and resources they need to do their jobs, policies and practices that may have unseen disparate racial impacts, and experiences with racial discrimination, harassment, and other forms of biased treatment. To permit a focus on racial equity, assessments should also include a measure of employee race, so that the analysis of the findings can be disaggregated by race.

Finally, after conducting this type of assessment, it is important that court leaders promptly review and share the findings with their employees and respond to feedback about negative experiences with substantive and transparent improvements. Such actions demonstrate to staff that their responses (as well as their time and honesty) were valued, their concerns are heard, and meaningful action is being taken in response to feedback. It can be disheartening for staff, and employees of color, in particular, to take the risk of sharing their honest thoughts and experiences with their employer, only to see no findings or follow-up actions occur as a result. Accordingly, conducting regular assessments and responding to feedback about negative experiences with meaningful, transparent changes can help build and preserve an organizational climate of shared understanding, trust, and employee engagement.

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49 Alludo (2022). *A leadership crisis is threatening the future of work*. Available at https://www.alludo.com/static/all/pdfs/newsroom/data-insights/work3-leadership-report/2022-alludo-work3-report.pdf

RESOURCES

- National Center for State Courts. *CourTools measure 9: employee satisfaction survey*. Available at https://www.courtools.org/.
- National Association for Court Management (2016). *NACM CORE: Workforce Management*. Available at https://nacmcore.org/competency/workforce-management/.

2. **Provide safe reporting mechanisms for incidents and substantive, transparent responses to problems that are reported.**

KEY POINTS

- Be proactive about learning when there are problems that need addressing. Channels for reporting race-related incidents as they arise allow for individualized, time-sensitive interventions with specific employees.
- To ensure that reporting procedures are viewed by employees as safe and accessible, involve employees in their design. These reporting procedures should include multiple different channels.
- To build trust with employees, ensure timely responses to and communication about the status of incident reports. Ensure that resolutions include substantive, transparent action (while protecting the identities of those reporting and being reported).

DESCRIPTION

To promote a racially equitable organizational climate, it is important that court leaders are proactive about learning when there are problems that need addressing. Regular assessments of organizational climate, as discussed above, are useful for learning about overall patterns that exist and assessing the extent to which those patterns improve over time. However, because these assessments are anonymous and analyzed in the aggregate, they do not allow for individualized, time-sensitive interventions with specific employees.

Accordingly, courts should ensure that there are safe mechanisms through which employees can report race-related problems as they occur. *Safe* means that there are multiple channels for reporting, and individuals have the option to identify themselves or remain anonymous. To develop or assess and improve upon existing reporting mechanisms and how they are communicated with staff, employee input should be prioritized for two reasons. First, people in leadership positions within an organization may believe that the existing reporting channels are adequate and that employees feel comfortable reporting, while employees do not feel safe and keep incidents to themselves. Second, employees may not know what the available reporting options are, even if they have been provided with that information at some

point (such as during onboarding). Ideally, a diverse group of employees from all levels of the organization will help to design the procedures and communications. It is also important to ensure that employees understand what will happen after they make a report. Describing the process clearly and transparently in a place where employees can easily, and anonymously, access the information, is crucial.

Finally, employers should respond to incident reports promptly and provide clear, transparent communication about the status of their report, so employees are not left in the dark about whether their incident report was received or how it is advancing through the steps of the response procedure. To build and preserve trust, it is important for employers to issue substantive, transparent responses to problems that are reported. When employees feel that reporting is unlikely to lead to any improvement, they are unlikely to make a report. To the extent possible while protecting the identities of both the reporter and the person being reported, employers should make clear to those involved what actions have been taken as a result of the report. When incidents occur that are widely known to many personnel, this might necessitate an organization-wide statement, so that all employees know how the organization addresses problems.

RESOURCES

- National Association for Court Management (2015). *The core in practice: A guide to strengthen court professionals through application, use and implementation*. Available at https://nacmnet.org/wp-content/uploads/TheCoreGuide_Final.pdf.

3. **Conduct regular assessments of the court workplace to identify and eliminate racialized cues in the physical environment.**

KEY POINTS

- Environmental cues within an organization can be a source of implicit or explicit racialized messages that create unwelcoming working environments for people of color.
- Regular assessments of the working environment, ideally with the help of an independent, external assessor, can help identify architectural and design choices, signage, art, and other features of the environment that communicate unintended signals of belongingness or exclusion.

DESCRIPTION

Cues in the physical environment of an organization can be another source of implicit or explicit racialized messages that create unwelcoming working

environments for people of color.[50] For example, a series of portraits on the wall showing that leadership positions in the court have historically been held by White men can signal to employees of color that they do not belong and are unlikely to advance in their careers. Conversely, physical environments can also signal inclusion or belongingness to employees of color.

Courts should ensure that their physical and virtual working environments signal an appreciation of diversity and a welcoming environment for people of color. Regular assessments of the working environment, ideally with the help of an independent, external assessor, can help identify architectural and design choices, signage, art, and other features of the environment that fall short of this goal. Many visible features of the environment can signal how much an employee's work is valued or how much prestige the employee has. These signals can lead to racial inequities if, for example, employees of color are disproportionately located in the basement of the building, are more likely to have a smaller workspace, park their cars in a less desirable location, have to walk farther to the bathroom or break room, or are working in a visibly older and more run-down area.

Finally, research shows that inclusion cues can transfer between groups, so a cue designed to promote a sense of belongingness for one group may have benefits for other groups as well.[51] For example, research shows that women and people of color report greater procedural fairness and a more positive climate in organizations with gender-inclusive bathrooms for transgender and non-binary personnel. Accordingly, an assessments of the physical and virtual working environment should aim to promote identity safety for both people of color and other marginalized or minoritized groups.

RESOURCE

- National Consortium on Racial and Ethnic Fairness in the Courts (2020). *Resolution on the removal of Confederate monuments from judiciary spaces*. Available at https://www.national-consortium.org/__data/assets/pdf_file/0020/51752/Resolution-In-Support-of-Removal-of-Confederate-Monuments.pdf.

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50 Cheryan, S., Meltzoff, A. N., & Kim, S. (2011). Classrooms matter: The design of virtual classrooms influences gender disparities in computer science classes. *Computers & Education, 57(2),* 1825–1835. Available at https://doi.org/10.1016/j.compedu.2011.02.004

Murphy, M. & Taylor, V. (2011). The role of situational cues in signaling and maintaining stereotype threat. In M. Inzlicht & T. Schmador (Eds.) *Stereotype Threat: Theory, Process, and Application.* Oxford: Oxford University Press. Available at https://academic.oup.com/book/1444/chapter/140817619?login=true

Kruk, M.& Matsick, J. L. (2021). A taxonomy of identity safety cues based on gender and race: From a promising past to an intersectional and translational future. *Translational Issues in Psychological Science*. Online ahead of print. Available at https://doi.org/10.1037/tps0000304

51 Chaney, K. E., Sanchez, D. T., & Remedios, J. D. (2016). Organizational identity safety cue transfers. *Personality and Social Psychology Bulletin, 42(11),* 1564–1576. Available at: https://doi.org/10.1177/0146167216665096.

Chaney, K. E., Sanchez, D. T., & Remedios, J. D. (2021). Dual cues: Women of color anticipate both gender and racial bias in the face of a single identity cue. *Group Processes & Intergroup Relations, 24(7),* 1095–1113. Available at https://doi.org/10.1177/1368430220942844

4. **Conduct regular analyses of compensation data to monitor for and correct disparities.**

    KEY POINTS

    - Without intentional and system-wide examinations of compensation data, small pay disparities can become magnified over time.
    - Regular analyses of compensation data help to ensure that people doing the same work receive the same pay, regardless of their social group identities.

    DESCRIPTION

    Pay disparities based on race, gender, and other social categories can grow quickly over the course of a person's career. Although pay disparities are often the unintended result of a series of individual decisions about salary negotiations, raises, and promotions, they can accumulate into large and systematic differences in pay between members of different social groups. In most organizations, it takes regular, intentional, system-wide analyses of compensation information to detect and interrupt these patterns.

    By conducting regular analyses of compensation data to determine whether there are disparities in pay along racial and gendered lines, courts can monitor for and correct disparities. This analysis will require that courts collect relevant demographic data about their employees (see **Guidance II.2**). Courts may elect to work with independent experts who can ensure that job-relevant characteristics (such as tenure and cost-of-living adjustments) are adequately accounted for in the analysis. This internal assessment process can help to ensure that employees doing the same work receive the same pay. For some courts, the findings might suggest that a standardized pay scale for judicial branch employees would be beneficial.

    RESOURCES

    - National Association for Court Management (2015). *The core in practice: A guide to strengthen court professionals through application, use and implementation*. Available at https://nacmnet.org/wp-content/uploads/TheCoreGuide_Final.pdf.

SECTION 5. PROMOTION

1. Consider all eligible employees for any open promotion.

KEY POINTS

- Unstructured, informal, or ad hoc promotion decisions (for example, procedures that rely on individual employees taking the initiative to inquire about and express interest in promotion opportunities or asking individual supervisors to identify employees who may be suitable for a given promotion) can lead to the systematic underpromotion of employees, particularly women, of color.

- Announcing promotion opportunities to all eligible employees and considering all eligible employees as a default helps to ensure equity in promotion decision-making.

DESCRIPTION

Unstructured, informal, or ad hoc promotion decisions can lead to the systematic underpromotion of employees, particularly women, of color.[52] Examples of unstructured processes include, for example, procedures that rely on individual employees taking the initiative to inquire about and express interest in promotion opportunities, or procedures that involve simply asking individual supervisors to identify employees who may be suitable for a given promotion. Research shows that when people in leadership positions begin to think about whom they might want to promote, they are more likely to think of White employees and men. Furthermore, women who speak up to advocate for themselves in the workplace (for example, by asking for a raise or a promotion) are more likely to be viewed negatively in terms of their personalities and likeability, which can make them less likely to be promoted.[53] By making promotion opportunities known to all eligible employees and routinely considering all eligible employees when a promotion is available, courts can ensure that each employee's candidacy receives equivalent consideration.

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52 Miller, A. & Borgida, E. (2016). The separate spheres model of gendered inequality. *PLOS ONE, 11(1)*. Available at https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0147315 (see Study 2d).
Biernat, M. (2003). Toward a broader view of social stereotyping. *American Psychologist, 58,* 1019-1027. doi: 10.1037/0003-066X.58.12.1019
Biernat, M., Fuegen, K., & Kobrynowicz, D. (2010). Shifting standards and the inference of incompetence: Effects of formal and informal evaluation tools. *Personality and Social Psychology Bulletin, 36(7),* 855-868. https://doi.org/10.1177/0146167210369483

53 Bowles, H. R., Babcock, L., & Lai, L. (2007). Social incentives for gender differences in the propensity to initiate negotiations: Sometimes it does hurt to ask. *Organizational Behavior and Human Decision Processes, 103(1),* 84–103. https://doi.org/10.1016/j.obhdp.2006.09.001

RESOURCES

- American Bar Association (2006). *Best practices standards for the recruitment, retention, development, and advancement of racial/ethnic minority attorneys*. Available at: https://www.nycbar.org/images/stories/diversity/bpguide.pdf (see Best Practice Standard No. 5).
- Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

2. **Adopt promotion decision-making procedures that are transparent, objective, structured, and consistent across candidates.**

   KEY POINTS

   - Unstructured decision-making processes and procedures, especially those that allow for substantial individual decision-making discretion, can allow racial and other disparities to emerge in promotion decisions.
   - Adopt promotion decision-making procedures that are transparent, objective, structured, and consistent across candidates

   DESCRIPTION

   One of the most consistently effective interventions against unintended biases in employment decisions and disparities in the composition of the workforce is to embed structure and consistency in employment-related decisions.[54] When candidates are reviewed using ambiguous or subjective criteria, employment decisions are more likely to reflect the (often unintentional) stereotypes and biases of the reviewer. This can result in problems such as holding candidates to different standards depending on their race, gender, and other characteristics.

   To embed structure and consistency in promotion decisions, specify the decision process to be followed, and the criteria to be used, in writing. This should be provided to all supervisors for use in upcoming promotion decisions before specific candidates are considered. The criteria used to make promotion decisions should be clearly related to the skills required for the job and measured as objectively as possible. Many of the same recommendations that promote structure in hiring decisions (see **Guidance III.2**) also apply when selecting employees for promotion.

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54 Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

RESOURCES

- American Bar Association (2006). *Best practices standards for the recruitment, retention, development, and advancement of racial/ethnic minority attorneys*. Available at: https://www.nycbar.org/images/stories/diversity/bpguide.pdf (see Best Practice Standard No. 7).

- American Bar Association (2018). *You can't change what you can't see: Interrupting racial & gender bias in the legal profession*. Available at: https://www.americanbar.org/groups/diversity/women/initiatives_awards/bias-interrupters/.

- Institute for the Advancement of the American Legal System (2021). *Foundations hiring guide: Cut through bias.* Available at https://iaals.du.edu/publications/foundations-hiring-guide.

- Elek, J. & Miller, A. (2021). *The evolving science on implicit bias: An updated resource for the state court community*. Williamsburg, VA: National Center for State Courts. Available at https://ncsc.contentdm.oclc.org/digital/collection/accessfair/id/911.

Part IV. Court Services

As courts work toward the goal of racial equity, it is critical that they consider whom the courts are designed to serve. At the core of the state courts' mission are court users.

As part of the process of identifying policies and practices that will move the courts toward racial equity, it is important to understand the barriers and disparities that court users of color routinely face and how those barriers came to be. Historically, the law and courts have played important roles in defining race and shaping what role race would have in American society. Achieving racial equity for all court users will require courts to actively dismantle barriers and disparities that people of color routinely face, so that all court users may enjoy quality court experiences and equal court outcomes.

Part IV addresses evidence-based practices for building accessible and responsive court services that deliver fair and equitable court outcomes.

SECTION 1. ACCESSIBLE & RESPONSIVE COURT SERVICES FOR YOUR COMMUNITY

1. **Provide regular and ongoing training on trauma-informed practices, including specific training on race-based trauma, for all personnel.**

   KEY POINTS

   - Race-based trauma refers to the stressful impact or emotional pain of one's experience with racism and discrimination.

   - People come to their jobs with a wide variety of educational backgrounds and life experiences. To effectively serve court users from all racial and ethnic backgrounds, it is crucial that judges and court personnel have a shared understanding of the fundamentals of trauma-informed practices, particularly race-based trauma.

   - Conduct an initial review of all formal and informal training and educational content that the court provides. As part of this review process, identify whether and what changes to the curriculum are needed to effectively address key concepts and issues.

   - Review and update curricula at regular intervals.

DESCRIPTION

Trauma-informed practices are an approach to engaging individuals with histories of trauma that recognizes symptoms and acknowledges the role trauma has played in their lives.[55] This promotes a recognition of the role trauma plays in shaping people's behavior, and it prioritizes approaches most likely to address the underlying processes that have led to the maladaptive behavior.[56] Without adequate training, court personnel are at risk of failing to recognize the potential that behaviors are influenced by past trauma, instead assuming that litigants are being lazy, uncooperative, or disrespectful.[57]

A specific subset of trauma-informed practices recognizes the role that race-based trauma plays in the lives of people of color. Race-based trauma refers to the stressful impact or emotional pain of one's experience with racism and discrimination.[58] Race-based trauma can stem from many sources, including experiences with systemic racism, everyday racial discrimination in interpersonal interactions, chronic fear of racist events, and the intergenerational transmission of historical trauma. Common traumatic stress reactions that can stem from race-based trauma include increased vigilance and suspicion, increased sensitivity to threat, sense of a foreshortened future, and maladaptive responses to stress such as aggression or substance use. Race-based trauma can also have a negative impact on physical and mental health.[59]

It is important for courts to be deliberate about the training and education they provide employees related to trauma-informed practice. Court professionals come to the workplace with different educational backgrounds and life experiences. Some may have benefited from more education than others on the role of race-based

55 Day, A., Somers, C., Baroni, B., West, S., Sanders, L., & Peterson, C. (2015). Evaluation of a trauma-informed school intervention with girls in a residential facility school: Student perceptions of school environment. *Journal of Aggression, Maltreatment & Trauma, 24(10),* 1086-1105. doi:10.1080/10926771.2015.1079279

56 Ezell, J., Richardson, M., Salari, S., & Henry, J. (2018). Implementing trauma-informed practice in juvenile justice systems: What can courts learn from child welfare interventions? *Journal of Child & Adolescent Trauma, 11(4),* 507-519. doi: 10.1007/s40653-018-0223-y

57 Sarai Sook (August 19, 2021). *Promoting access to justice through trauma-informed courts*. Policy Research Associates. Available at https://www.prainc.com/gains-promoting-justice-trauma-informed-courts/.

58 Meghan Resler (2019). *Systems of trauma: Racial trauma*. Family & Children's Trust Fund of Virginia. Available at https://www.fact.virginia.gov/wp-content/uploads/2019/05/Racial-Trauma-Issue-Brief.pdf.

59 Clark, R., Anderson, N., Clark, V., & Williams, D. (1999). Racism as a stressor for African Americans. *The American Psychologist, 54(10),* 805-816. doi: 10.1037//0003-066x.54.10.805
Goosby, B., & Heidbrink, C. (2013). The transgenerational consequences of discrimination on African-American health outcomes. *Sociology Compass, 7(8),* 630-643. doi: 10.1111/soc4.12054
Polanco-Roman, L., Danies, A., & Anglin, D. (2016). Racial discrimination as race-based trauma, coping strategies, and dissociative symptoms among emerging Adults. *Psychological Trauma, 8(5),* 609-617. doi: 10.1037/tra0000125
Pryce, D., Olaghere, A., Brown, R., & Davis, V. (2021). A neglected problem: Understanding the effects of personal and vicarious trauma on African Americans' attitudes toward the police. *Criminal Justice and Behavior, 48(10),* 1366-1389. https://doi.org/10.1177/00938548211006756

trauma in the lives of people of color in the U.S., and some will have more lived experience with race-based trauma. In order to effectively serve court users from all racial and ethnic backgrounds, it is crucial that court personnel have a shared understanding of the fundamentals of trauma-informed practices, particularly race-based trauma.

One way that courts can begin this process is by conducting an initial review of all formal and informal training and educational content that the court provides. As part of this process, courts should identify whether and what changes to the curriculum are needed to effectively address key concepts and issues, paying special attention to research on effective educational practices. Training on trauma-informed practices, with a special focus on race-based trauma, should be delivered by skilled experts with strong credentials in the subject matter and provided at regular intervals. The goals of these educational programs should be clear, and they should be evaluated for effectiveness in achieving those learning objectives (which may include increasing knowledge, changing attitudes, changing behavior, and changing policy). Evaluations disaggregated by employee race will help to ensure that the program is effective for all and not, for example, less effective for either White personnel or personnel of color. Finally, reviewing these curricula at regular intervals is strongly recommended. New curricula will likely need refinement as the science of trauma-informed practices evolves.

RESOURCES

- Crosby, S. (2016). Trauma-informed approaches to juvenile justice: A critical race perspective. *Juvenile & Family Court Journal*. Available at https://static1.squarespace.com/static/59a7762f2994ca11765ff510/t/5bfae7c5032be4911015ed69/1543169989908/Crosby%2C+2016+Juvenile+and+family+court+journal.pdf.

- Meghan Resler (2019). *Systems of trauma: Racial trauma*. Family & Children's Trust Fund of Virginia. Available at https://www.fact.virginia.gov/wp-content/uploads/2019/05/Racial-Trauma-Issue-Brief.pdf.

- Sarai Sook (August 19, 2021). *Promoting access to justice through trauma-informed courts. Policy Research Associates*. Available at https://www.prainc.com/gains-promoting-justice-trauma-informed-courts/.

- National Council of Juvenile and Family Court Judges. *Trauma-informed courts*. Available at https://www.ncjfcj.org/child-welfare-and-juvenile-law/trauma-informed-courts/.

- Substance Abuse and Mental Health Services Administration. *Trauma training for criminal justice professionals*. Available at https://www.samhsa.gov/gains-center/trauma-training-criminal-justice-professionals.

- National Child Traumatic Stress Network (2013). *Bench card for the trauma-informed judge*. Available at https://www.nctsn.org/resources/nctsn-bench-cards-trauma-informed-judge.

- Substance Abuse and Mental Health Services Administration (2019). *How being trauma-informed improves judicial decision-making*. Available at https://www.jcjc.pa.gov/Program-Areas/AnnualConference/Documents/2019%20Conference%20Documents/How%20Being%20Trauma-Informed%20Improves%20Judicial%20Decision%20Making.pdf.

2. **Adopt evidence-based trauma-informed policies and practices to serve court users who experience race-based trauma.**

KEY POINTS

- The specific trauma-informed practices that are most effective depend on the policy area or type of court in question.
- To serve court users who experience race-based trauma, ensure alignment between current court policies and practices and trauma-informed practice for each type of court. This may be accomplished by establishing a task force to review the relevant literature and recommend specific policy and practice changes.

DESCRIPTION

In addition to providing training on race-based trauma (see **Guidance IV.1.1**), courts should evaluate their policies and practices and ensure that they are consistent with trauma-informed practice. In many cases, the specific trauma-informed practices that are most effective depend on the type of court in question. They can include practices such as making court user interactions with judges more conversational and informal, adjusting lighting in courtrooms, and changing court procedures. There exist many resources on building trauma-informed courts in specific areas, such as courts that address juvenile, family, and child welfare issues; behavioral health and treatment courts; courts that serve veterans; and courts that serve people who have been trafficked. To effectively serve court users who experience race-based trauma, there should be clear alignment between court policies and practices and trauma-informed practice. Courts may, for example, establish a task force for each court in their jurisdiction to review the relevant literature, review current practices, and recommend appropriate changes.

RESOURCES

- Crosby, S. (2016). Trauma-informed approaches to juvenile justice: A critical race perspective. *Juvenile & Family Court Journal*. Available at https://static1.squarespace.com/static/59a7762f2994ca11765ff510/t/5bfae7c5032be4911015ed69/1543169989908/Crosby%2C+2016+Juvenile+and+family+court+journal.pdf.

- National Council of Juvenile and Family Court Judges. *Trauma-informed courts*. Available at https://www.ncjfcj.org/child-welfare-and-juvenile-law/trauma-informed-courts/.

- Office of Justice Programs, Office for Victims of Crime. *Trauma-informed courts*. Available at https://www.ovcttac.gov/taskforceguide/eguide/6-the-role-of-courts/63-trauma-informed-courts/.

- National Child Traumatic Stress Network (2013). *Bench card for the trauma-informed judge*. Available at https://www.nctsn.org/resources/nctsn-bench-cards-trauma-informed-judge.

- Substance Abuse and Mental Health Services Administration (2013). *Essential components of trauma-informed judicial practice*. Available at https://www.nasmhpd.org/sites/default/files/DRAFT_Essential_Components_of_Trauma_Informed_Judicial_Practice.pdf.

- Substance Abuse and Mental Health Services Administration (2022). *Creating a trauma-informed criminal justice system for women: WHY AND HOW.* Available at https://ndcrc.org/wp-content/uploads/2022/01/Creating_a_Trauma-Informed_Criminal_Justice_System_for_Women_Why_and_How.pdf.

- Fuhrmann, M. (2022). *The urgency to address trauma in our treatment courts: What It means to be trauma-informed*. American University - Justice Programs Office. Available at https://ndcrc.org/wp-content/uploads/2022/01/The_Urgency_to_Address_Trauma_in_Our_Treatment_Courts_What_it_Means_to_be_Trauma-Informed.pdf.

3. **Provide regular and ongoing training on cultural responsiveness for all personnel.**

KEY POINTS

- Cultural responsiveness requires that we understand that the logic by which we make sense of the world is not (as it often feels) objective or neutral, but rather a particular lens that is grounded in our cultural upbringing.

- To effectively serve all court users, thorough and ongoing cultural responsiveness training is important.

- Conduct an initial review of all formal and informal training and educational content that the court provides. As part of this process, identify whether and what changes to the curriculum are needed to effectively address key concepts and issues.

- Review and update curricula at regular intervals.

DESCRIPTION

Culture refers to the "commonly shared, largely taken for granted assumptions about goals, values, means, authority, ways of knowing, and the nature of reality and truth, human nature, human relationships, and time and space, that a group has learned throughout its collective history."[60] Race and ethnicity are important components of culture, as are other aspects of a person's identity, such as gender, class, age, geographic region, and more. Cultural responsiveness requires that we understand that the logic by which we make sense of the world is not (as it often feels) objective or neutral, but rather a particular lens that is grounded in our cultural upbringing. For example, whereas court culture in the U.S. typically dictates that written and oral communication should be on-point, organized, and concise, many cultures value story-telling and other modes of expression in resolving disputes or redressing harms.

All court users bring their own cultural lenses into the courts, including:

- views about the desirability and feasibility of change;
- definitions of appropriate outcomes;
- definitions of child, juvenile, adult, elder, and parent, (and the duties and rights of each);
- notions of guilt and contrition, and personal and collective responsibility;
- views about appropriate appearance and demeanor in court and other official settings;
- meanings of rewards and punishment;
- views about the meaning of facts, ways to know and gain knowledge, and the sources of knowledge; and
- views about appropriate time-frames, the capacity to structure time, and definitions of timeliness.

To be culturally responsive, courts should take active steps to ensure that they are serving court users from all cultural backgrounds equitably. When courts are culturally responsive, they incorporate an understanding of the various cultures that exist in their jurisdictions into policy and practice[61]; they provide services that are appropriate, respectful, and accommodating of court users' cultural backgrounds.[62]

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60 Martin, J. Reinkensmeyer, M. Rodriguez Mundell, B. & Guillen, J. (2007). *Becoming a culturally competent court*. Available at https://www.courts.ca.gov/partners/documents/CultComp.pdf.

61 Thier, M., Martinez, C., Alresheed, F., et al. (2019). Cultural adaptation of promising, evidence-based, and best practices: A scoping literature review. *Prevention Science, 21(1),* 53-64. doi: 10.1007/s11121-019-01042-0

62 National Reentry Resource Center. *Assessing and enhancing cultural responsiveness in reentry programs through research and evaluation.* Available at https://nationalreentryresourcecenter.org/resources/assessing-and-enhancing-cultural-responsiveness-through-evaluation.

A key component of building culturally responsive courts is through education. Court professionals come to the workplace with different educational backgrounds and life experiences, as well as their own cultural lenses. To effectively serve all court users, it is crucial that all court personnel, whether they interact with court users or they work behind-the-scenes to shape policies and practices, receive thorough and ongoing cultural responsiveness training.

One way that courts can begin this process is by conducting an initial review of all formal and informal training and educational content that the court provides. As part of this process, courts should identify whether and what changes to the curriculum are needed to effectively address key concepts and issues, paying special attention to research on effective educational practices in these domains. Training on cultural responsiveness should be mandatory, delivered by skilled experts with strong credentials in the subject matter, and provided at regular intervals. Learning objectives of cultural responsiveness training should be to increase individuals' awareness of their own cultural worldviews, promote positive attitudes toward cultural differences and diversity, increase knowledge of different cultural practices and worldviews (while avoiding applying stereotypes to court users), and teach skills relating to effective cross-cultural communication. Programming should be evaluated for effectiveness in achieving these learning objectives. New curricula will likely need refinement as the research on cultural responsiveness evolves and as different cultures emerge within the jurisdiction.

RESOURCES

- Martin, J. Reinkensmeyer, M. Rodriguez Mundell, B. & Guillen, J. (2007). *Becoming a culturally competent court*. Available at https://www.courts.ca.gov/partners/documents/CultComp.pdf.

- Center for Court Innovation. *Cultural responsiveness and the courts*. Available at https://www.courtinnovation.org/sites/default/files/documents/Cultural_Responsiveness_0.pdf.

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4. **Adopt culturally responsive policies and practices that are tailored to the cultural diversity of the jurisdiction.**

KEY POINTS

- Specific culturally responsive practices will vary by geographic location and by the type of court in question. However, there are some practices that are generally useful in any court.

- Assess the extent to which the court has culturally responsive practices and identify policies and practices in need of reform. This may be accomplished by establishing a task force whose research and decision making is guided by direct communication with community leaders and trusted voices from different cultural groups in the jurisdiction.

DESCRIPTION

In addition to providing training to court personnel on cultural responsiveness, courts should ensure that policies and practices are responsive to the diverse cultures that exist in their jurisdictions. In many cases, specific culturally responsive practices will vary by geographic location and by the type of court in question. However, there are some practices that are generally useful in any court:

- Ask court users for (and consistently use) preferred names, correct pronouns, prefixes/personal titles & honorifics

- Use signage that is respectful and clear

- Translate signage, websites, court forms, and orders into major languages of the jurisdiction; hire multilingual staff; make it easy for court users to access interpreter services

- Assess and eliminate unnecessary rules and restrictions (e.g., rules for structure and formatting in pleadings that aren't necessary for clear communication)

- Create multiple avenues for court user feedback and regularly act on feedback

Court leaders may establish a task force to assess the extent to which the court has culturally responsive practices and identify policies and practices in need of reform. Direct communication with community leaders and trusted voices from different cultural groups in the jurisdiction will be important to guide the task force's research and decision-making (see **Guidance II.1**).

RESOURCES

- National Center for State Courts (2022). *Establishing a shared language in the state courts.* Available at https://www.ncsc.org/__data/assets/pdf_file/0032/79628/Establishing-a-Shared-Language.pdf.

- National Center for State Courts (2022). *How to use inclusive communication to advance equity in the administration of justice.* Available at https://vimeo.com/761922635.

- Martin, J. Reinkensmeyer, M. Rodriguez Mundell, B. & Guillen, J. (2007). *Becoming a culturally competent court*. Available at https://www.courts.ca.gov/partners/documents/CultComp.pdf.

- Center for Court Innovation (n.d.). *Cultural responsiveness and the courts*. Available at https://www.courtinnovation.org/sites/default/files/documents/Cultural_Responsiveness_0.pdf

- Florida Courts (n.d.). *Enhancing cultural responsiveness in the courts overview*. Available at https://www.flcourts.org/content/download/216080/file/Enhancing-Cultural-Responsiveness-in-the-Courts-Overview-Final.pdf.

- National Reentry Resource Center (2021). *Assessing and enhancing cultural responsiveness in reentry programs through research and evaluation*. Available at https://nationalreentryresourcecenter.org/resources/assessing-and-enhancing-cultural-responsiveness-through-evaluation.

5. Conduct an assessment of facilities and court services to ensure that the court is fully accessible to all court users.

KEY POINTS

- Although accessibility is often discussed as a separate issue from racial equity, circumstances such as disability, limited English proficiency, indigency, and the digital divide have a disproportionate impact on people of color in the U.S.

- Building an equitable and accessible court requires court leaders to examine and actively dismantle barriers to access, including physical, language, financial, and technology barriers. This may be accomplished by establishing a task force, whose research and decision making is guided by court user input and feedback.

DESCRIPTION

An important component of building a racially equitable court is ensuring that court facilities and services are fully accessible to all court users. Although accessibility is often discussed as a separate issue from racial equity, circumstances such as disability, limited English proficiency, indigency, lack of representation, and the digital divide have a disproportionate impact on people of color in the U.S. For example, Black and indigenous children of color who have disabilities are more likely than their White classmates, as well as classmates without disabilities, to be disciplined in

school for behavior that other children are not disciplined for.[63] They are more likely to experience suspension, expulsion, and contact with school police officers, creating a school-to-prison pipeline that disproportionately funnels these students toward criminal justice involvement.[64]

Building a racially equitable and accessible court requires court leaders to examine and actively dismantle barriers to access, including physical, language, financial, and technology barriers. Specific barriers and policy solutions will vary across jurisdictions, but there are some practices that will generally promote accessibility in most courts:

- Ensure that the courthouse is accessible through public transportation and/ or partner with transportation services in the community; collaborate with community resources where necessary to fill gaps in accessibility (e.g., co-located court and community services)

- Ensure that all entrances and exits are physically accessible; ensure that signage is abundant, clear, and readable

- Ensure that remote court proceedings are accessible and easy to navigate regardless of internet access, language, or disability

- Consider work and family caregiving needs when scheduling cases

- Explain court procedures, forms, and orders in plain language, verbally and in writing

- Assess and eliminate unnecessary rules and restrictions (e.g., restrictions on cell phones in courtrooms)

- Translate signage, websites, court forms, and orders into major languages of the jurisdiction; hire multilingual staff when possible

- Provide interpreters for litigants with limited English proficiency and those who are Deaf or hard of hearing

- Designate a court ADA/504 coordinator to handle requests for accommodations, including auxiliary aids and services

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63 Forsyth, C., Biggar, R., Forsyth, Y., & Howat, H. (2015). The punishment gap: Racial/ethnic comparisons in school infractions by objective and subjective definitions. *Deviant Behavior, 36*, 276-287. https://doi.org/10.1080/01639625.2014.935623

Krezmien, M., Leone, P., & Achilles G. (2006). Suspension, race, and disability: Analysis of statewide practices and reporting. *Journal of Emotional and Behavioral Disorders, 14(4)*, 217-226. https://doi.org/10.1177/10634266060140040501

Whitford, D. & Levine-Donnerstein, D. (2017). Office disciplinary referral patterns of American Indian students from elementary school through high school. *Behavioral Disorders, 39(2)*, 78-88. https://doi.org/10.1177/019874291303900204

Okonofua, J. & Eberhardt, J. (2015). Two strikes: race and the disciplining of young students. *Psychological Science, 26(5)*, 617-624. https://doi.org/10.1177/0956797615570365

64 Monahan, K., VanDerhei, S., Bechtold, J., & Cauffman, E. (2014). From the school yard to the squad car: School discipline, truancy, and arrest. *Journal of Youth and Adolescence, 43(7)*, 1110-1122. doi: 10.1007/s10964-014-0103-1

- Conduct an assessment of interpreter resources to ensure:
    - o availability of interpreters when needed with little delay
    - o adequate and consistent training for interpreters to provide quality service
    - o adequate and consistent training for judges and court staff to use interpreters effectively
- Review the court's website for useability and accessibility (e.g., is it compatible with screen readers?)
- Adopt access-to-justice measures such as process simplification, accommodations for self-represented litigants, and regulatory reform
- Create multiple avenues for court user feedback and regularly act on feedback

Court leaders may establish a task force to assess and remove barriers to access in their courts. Court user input and feedback will be important to guide the task force's research and decision-making (see **Guidance II.1**).

RESOURCES

- National Center for State Courts (2023). *Needs of persons with disabilities*. Available at https://www.ncsc.org/courthouseplanning/needs-of-persons-with-disabilities.
- National Center for State Courts (2023). *Remote hearings and services*. Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice/remote-and-virtual-hearings.
- National Center for State Courts (2023). *Access to justice*. Available at https://www.ncsc.org/consulting-and-research/areas-of-expertise/access-to-justice.
- American Bar Association (n.d.). *State court accessibility resources*. Available at https://www.americanbar.org/groups/diversity/disabilityrights/resources/state_court_accessibility/.
- National Center for State Courts (2022). *Systemic change guiding principles*. Available at https://www.ncsc.org/__data/assets/pdf_file/0029/76574/Systemic-Change-Guiding-Principles.pdf.
- National Center for State Courts (2022). *Directory of systemic change initiatives*. Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-Systemic-Change-Initiatives-First-Edition_updated.pdf.

SECTION 2. EQUITABLE COURT OUTCOMES

1. Map the processes involved in access and outcomes for each policy area.

KEY POINT

- Mapping the process is the first step of an equity analysis.

DESCRIPTION

Courts are charged with providing fair and equitable treatment across racial and ethnic groups. Equity assessments are a useful means of determining if that goal is being met, and if not, where inequities are occurring. The first step of an equity assessment involves a purposeful mapping of the process. This can include any court process where there is a need for equitable access and equitable outcomes. The process may involve external court users (for example, referral, admission, and successful completion of a drug treatment court) or the court workforce (for example, the hiring, retention, and promotion of a diverse workforce). Process, or system, mapping will not only lay the foundations for an equity analysis, but can also help to identify overly complicated processes, bottlenecks, and redundancies.

Advancing Pretrial Policy & Research's Guide to Pretrial System Mapping provides an overview of approaches to system mapping using the pretrial policy area. The general guidance contained in this resource can also apply to other court policy areas.

RESOURCES

- Advancing Pretrial Policy & Research (2021). *Guide to pretrial system mapping*. Available at https://cepp.com/wp-content/uploads/2021/11/Guide-to-Pretrial-System-Mapping.pdf.
- LexisNexis Practical Guidance (2022). *Civil litigation process map: Pre-litigation (Federal)*. Available at https://www.lexisnexis.com/community/insights/legal/practical-guidance-journal/b/pa/posts/civil-litigation-process-map-pre-litigation-federal.

1(a). Identify and understand the decision points in the process.

KEY POINTS

- Decision points are places where a person may exit the process. They are the focus of the equity analysis.
- Use decision points to pinpoint when disparities and disproportionalities are occurring.

DESCRIPTION

"Decision points" are the steps in the process map where a person can either begin on, or proceed on, the path represented by the map. For example, the process to access the desired outcome of a successful completion from a drug court program begins with an arrest for an eligible offense. Individuals who continue on the path to a successful drug court completion must then be referred to the program. After referral, they must be admitted to the program, and only after admission do they have the ability to successfully complete the program.

The process map for successful drug court completion can be simply rendered as:

Arrest Referral → Admission → Successful Completion

Similarly, the process to become a court employee can be displayed as:

Application → Interview → Offer of Employment → Hire

At any of these decision points, an individual may exit the path by not successfully proceeding past the step. For example, a person arrested for a drug court eligible offense may not be referred to drug court. Or, a person who completed an interview with a potential employer may not be offered employment.

These decision points are the focus of the equity analysis and allow the court to pinpoint when disparities or disproportionalities are occurring in their process.

RESOURCES

- Advancing Pretrial Policy & Research (2021). *Guide to pretrial system mapping*. Available at https://cepp.com/wp-content/uploads/2021/11/Guide-to-Pretrial-System-Mapping.pdf.
- Kentucky Court of Justice Response (2022). *A guide for identifying, addressing and reducing racial, ethnic and equity disparities*. Available at https://kycourts.gov/Court-Programs/Family-and-Juvenile-Services/Pages/Reducing-Racial-and-Ethnic-Disparities.aspx.

1(b). Evaluate each decision point to determine the level of data to use.

KEY POINTS

- Collecting individual-level data may not be feasible at each decision point.
- Aggregate data may be used at early stages of the process.

DESCRIPTION

Although every attempt should be made to collect individual data at each decision point, in some early stages of the process it may be necessary to use aggregate data. For example, each equity analysis should start with a comparison of the general population to the first step in the process (see **Guidance IV.2.4**). Aggregate data fill this need, and there is no need to seek individual-level data on the local population.

There may also be decision points in the process where it is not feasible for the court to collect individual-level data. For example, courts may not be able to access individual-level arrest data for all arrests made in the court's jurisdiction. In this case, the decision points for successful completion of drug court use aggregate data for the local population and arrests, and individual-level data for the referral, admission, and successful completion decision points.

Population   →   Arrest   →   Referral   →   Admission   →   Successful Completion
(Aggregate)   (Aggregate)   (Individual)   (Individual)   (Individual)

RESOURCE

- Missouri Juvenile Justice Association (n.d.). *How to calculate a relative rate index*. Available at: https://mjja.org/images/resources/dmc/how-to-calculate-relative-rate-index.pdf.

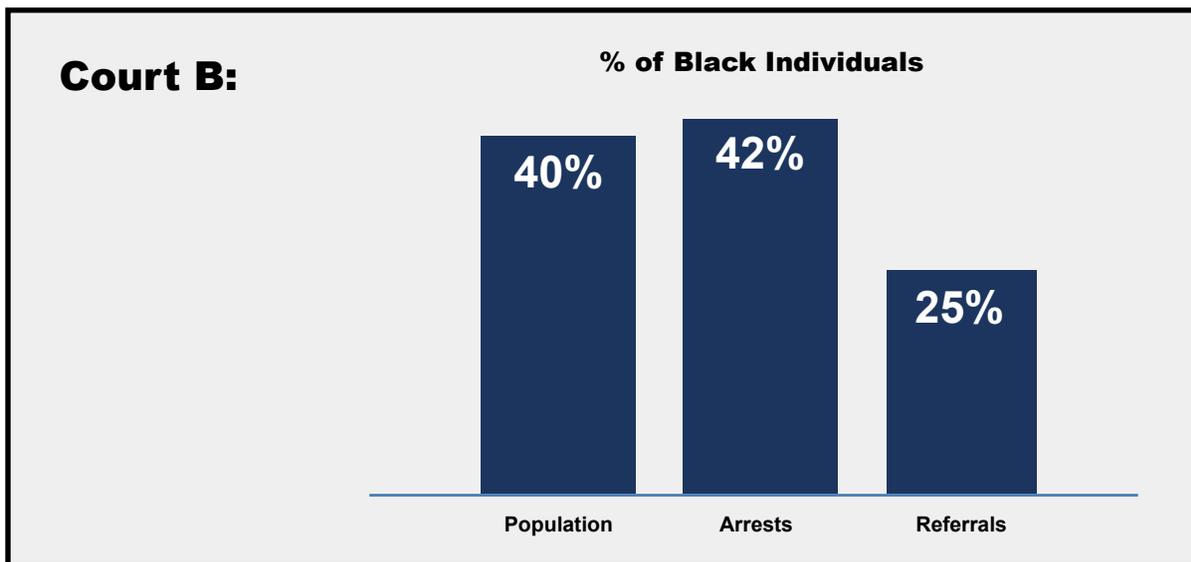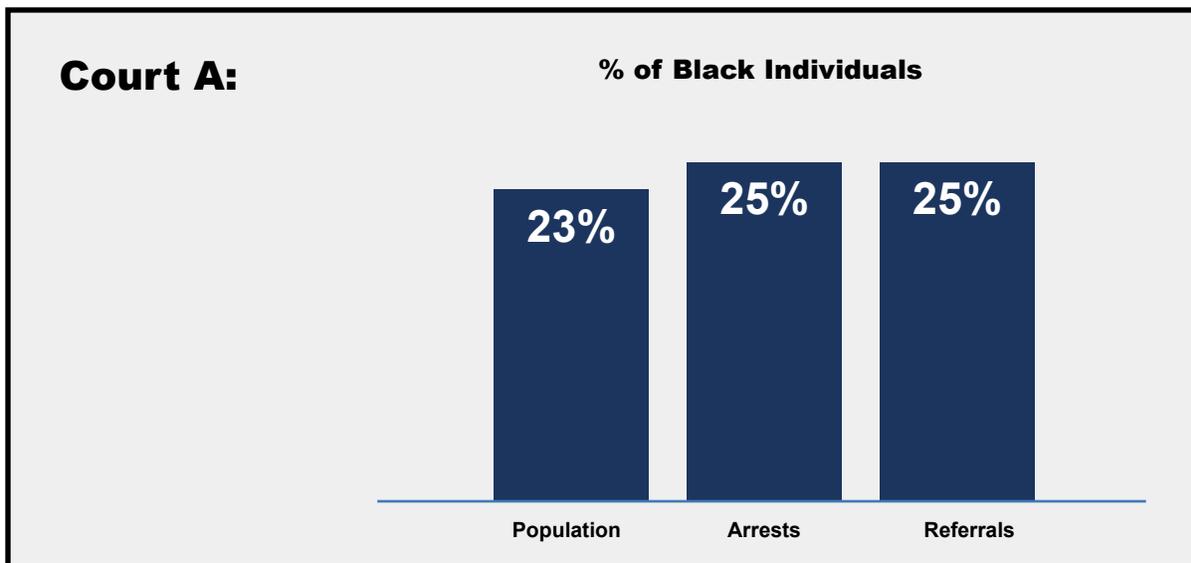2. **Review sources of aggregate data to identify the demographic composition of the court user population.**

KEY POINTS

- Aggregate data at early stages provides context for findings at later stages in the process.
- Without these data to use in comparison, it is not possible to determine if there is a disproportionality.

DESCRIPTION

Although the demographic composition of the population and some early stages of the process may not be under the court's influence, it is important to examine these stages as they provide the context needed to determine if court services are being accessed in an equitable manner. The goal of aggregate data in the equity assessment is to monitor for disproportionalities at decision points. A disproportionality occurs when a group is either overrepresented or underrepresented when compared to the general population or preceding decision points in the process.

For example, if a drug court program determines that 25% of the referrals to their program are Black, how do they know if that figure means there is a racial disparity in their referrals? Without the context of the arrest and population data, there is no way to know. In the following examples, the proportion of Black referrals to both programs is 25%. However, within the context of the population and arrest data, only Court B shows an equity concern.

Court A:

% of Black Individuals

23% Population — 25% Arrests — 25% Referrals

Court B:

% of Black Individuals

40% Population — 42% Arrests — 25% Referrals

Tracking aggregate data from stages before the court's part in the process begins also helps the court to identify disproportionalities that begin earlier in the process and may impact equitable access to the court in later stages.

RESOURCES

- Kentucky Court of Justice Response (2022). *A guide for identifying, addressing and reducing racial, ethnic and equity disparities*. Available at https://kycourts.gov/Court-Programs/Family-and-Juvenile-Services/Pages/Reducing-Racial-and-Ethnic-Disparities.aspx.

- National Drug Court Institute and National Center for State Courts. *Equity and Inclusion Assessment Tool user guide*. Available at http://www.ndci.org/wp-content/uploads/2020/07/EIAT-User-Guide_final.pdf.

- Missouri Juvenile Justice Association (n.d.). *How to calculate a relative rate index*. Available at https://mjja.org/images/resources/dmc/how-to-calculate-relative-rate-index.pdf.

3. **Collect or access individual-level data at appropriate decision points.**

KEY POINTS

- Collect individual-level data at the earliest decision point possible. These data can be used in succeeding decision points.
- Collection at multiple points may be necessary if there is more than one way to enter the process.

DESCRIPTION

Once past the contextual, early decision points in the process (for example, local population data), the court should collect individual-level data on the people involved in the court process. This data collection should occur at the earliest feasible point in the process and may require collaboration with other government agencies to achieve. Once individual-level data collection has been implemented at one decision point, that data can be used as the individual proceeds through succeeding points.

It is important to note, however, that it may be necessary to collect individual-level data at multiple points if there are multiple ways to enter a process. For example, Advancing Pretrial Policy & Research's Guide to Pretrial System Mapping identifies two possible ways people may enter their process map: a citizen complaint or a law enforcement investigation. Individual-level data would need to be collected for both of these points and can then be applied to subsequent decision points.

For guidance on collecting race and ethnicity data, see **Guidance II.2**.

RESOURCE

- Kentucky Court of Justice Response (2022). *A guide for identifying, addressing and reducing racial, ethnic and equity disparities*. Available at https://kycourts.gov/Court-Programs/Family-and-Juvenile-Services/Pages/Reducing-Racial-and-Ethnic-Disparities.aspx.

4. Perform analyses at each decision point to diagnose disparities or disproportionalities.

KEY POINTS

- Analyze the data at each decision point.
- Mathematical approaches to the analysis vary but provide similar information.

DESCRIPTION

Analyze the data at each decision point and compare the findings at each point to determine where inequities are occurring. There are different mathematical approaches to conducting these analyses. Two possible approaches are the transition probabilities used by the Equity and Inclusion Assessment Tool and the Relative Rate Index.

Analyses should address both disproportionalities and disparities. Disproportionalities occur when a group is overrepresented or underrepresented at a decision point when compared to their proportion of the general population or preceding decision points. Disparities occur when one group is overrepresented or underrepresented compared to another group within the same decision point. A disproportionality does not necessarily indicate a disparity and vice versa.

RESOURCES

- Children's Bureau (2021). *Child welfare practice to address racial disproportionality and disparity*. Available at https://www.childwelfare.gov/pubpdfs/racial_disproportionality.pdf.
- National Drug Court Institute and National Center for State Courts (2020). *Equity and Inclusion Assessment Tool user guide*. Available at http://www.ndci.org/wp-content/uploads/2020/07/EIAT-User-Guide_final.pdf.
- Kentucky Court of Justice Response (2022). *A guide for identifying, addressing and reducing racial, ethnic and equity disparities*. Available at https://kycourts.gov/Court-Programs/Family-and-Juvenile-Services/Pages/Reducing-Racial-and-Ethnic-Disparities.aspx.
- Missouri Juvenile Justice Association (n.d.). *How to calculate a relative rate index*. Available at https://mjja.org/images/resources/dmc/how-to-calculate-relative-rate-index.pdf.

5. **Identify and collect the reasons an individual may not proceed past each decision point using individual-level data.**

   KEY POINTS

   - Identify and implement data collection of the reasons people do not proceed past each individual-level decision point.
   - This process allows for data-driven policy response to address identified reasons.

   DESCRIPTION

   Performing equity analyses at all decision points in a process can help to pinpoint *when* disparities or disproportionalities occur, but they do not provide information on *why* they are occurring. To help determine why disparities or disproportionalities are occurring, courts should assess each decision point and identify a list of reasons why an individual may not successfully proceed past that point.

   For example, referrals to drug court may not gain admission to the program for many reasons. They may decline to participate, be found clinically ineligible, legally ineligible, or otherwise inappropriate for program participation. The following table from the EIAT User Guide provides an example of these reasons.

TABLE 2: Primary Reason for Non-Admission				
Present Offense	**Offense History**	**Clinical**	**Legal**	**Participant-Related**
Offense Involved Weapon	History of Weapon	Not High Enough Criminogenic Risk	Charges Dropped or Found Not Guilty	Declined to Participate
Offense Involved Drug Distribution/Trafficking	History of Prostitution	Criminogenic Risk Level is Too High	Pending Charges in Another Jurisdiction	Not a Resident of Jurisdiction
Offense Involved Violent Crime	History of Drug Distribution/Trafficking	No Substance Use Diagnosis	Outstanding Warrant(s)	Unable to Pay Fines, Fees, Costs
Offense Involved Sex Offense	History of Violent Crime	Severe Mental Illness	Previous Participation in Drug Court	Lack of Housing Resources
Offense Involved Prostitution	History of Sex Offense	Not Motivated or Ready for Treatment	Previous Participation in Other Diversion Program	No Transportation
		Serious Medical Illness		
		Referred to Mental Health Court		
		Referred to Other Treatment Court		
		Referred to Another Non-Custodial Rehabilitative Program		
		Needed Treatment Resources Not Available		

For the hiring process, the evaluation of an individual's resume or interview should be documented on grading rubrics (see **Guidance III.2.1 and III.2.5**). These rubrics can help to define the reasons people do not proceed past those points.

Once the court has identified and defined the reasons an individual may not proceed past each individual-level decision point, they must collect data on those reasons for each person. This may require the assignment of staff to complete data collection and entry.

For the drug court context, the EIAT provides a means for drug court staff to record those data through an Excel-based tool. Another possible means of recording those data may be an alteration to existing case management systems or other databases. For more information about this and other considerations related to data collection and data governance, see the NCSC Court Statistics Project Data Governance Policy Guide.

RESOURCES

- National Drug Court Institute and National Center for State Courts (2020). *Equity and Inclusion Assessment Tool user guide*. Available at http://www.ndci.org/wp-content/uploads/2020/07/EIAT-User-Guide_final.pdf.
- Kentucky Court of Justice Response (2022). *A guide for identifying, addressing and reducing racial, ethnic and equity disparities*. Available at https://kycourts.gov/Court-Programs/Family-and-Juvenile-Services/Pages/Reducing-Racial-and-Ethnic-Disparities.aspx.
- National Center for State Courts (2019). *Court Statistics Project Data governance policy guide*. Available at https://www.courtstatistics.org/__data/assets/pdf_file/0031/23899/data-governance-final.pdf.

6. **Address disparities or disproportionalities where they are detected.**

KEY POINTS

- The means of addressing disparities or disproportionalities will differ based on the policy area, what disparity or disproportionality is detected, and what are the reasons associated with the disparity or disproportionality.
- The court can develop a formalized process to address disparities or disproportionalities wherever they occur.

DESCRIPTION

If disparities or disproportionalities are detected at any of the decision points, the court should consider how to address them based on the information provided by the analysis, including which groups are seeing inequitably negative outcomes and what reasons are most frequently associated with those outcomes.

Since these analyses can be conducted for many court processes spanning several policy areas, it would benefit the court to develop a formalized process to address racial and ethnic disparities or disproportionalities when and where they occur, regardless of the policy area. A committee of people with expertise in issues of race and ethnicity, those with subject matter and policy expertise in the area at question, other agency stakeholders, and members of the community (see **Guidance II.1**) may be able to develop proposed changes to address the issue.

The Kentucky AOC developed *A Guide for Identifying, Addressing and Reducing Racial, Ethnic and Equity Disparities,* which provides the process they recommend for addressing racial and ethnic disproportionalities and disparities.

RESOURCE

- Kentucky Court of Justice Response (2022). *A guide for identifying, addressing and reducing racial, ethnic and equity disparities*. Available at https://kycourts.gov/Court-Programs/Family-and-Juvenile-Services/Pages/Reducing-Racial-and-Ethnic-Disparities.aspx.

7. Perform a Racial Equity Impact Analysis before implementing new policies.

KEY POINTS

- Racial Equity Impact Assessments (REIAs) are formal processes with the goal of avoiding disproportionately negative policy impacts on communities of color.
- REIAs should be conducted before implementing new policies or practices.

DESCRIPTION

A Racial Equity Impact Assessment (also known as Racial Equity Impact Analysis) is a formal process in which a city, county, school, or agency analyzes how a budgetary or policy decision is likely to impact different racial and ethnic groups. While the use of REIAs in the United States is a new practice, applying them to any standard practice and/or decision-making process is crucial.

The goal of using a REIA is to identify what populations are likely to be adversely affected by a proposed policy/decision and taking steps to minimize unintended negative consequences. Before implementing the use of a REIA, city leaders and decision makers must set clear equity goals and have government and agency leaders who are willing to support the planning, design and execution of the assessment process. Additionally, community engagement is extremely important and a process in which members and residents of the potentially impacted racial/ethnic groups should not only be heard, but their opinions and concerns should be considered (see **Guidance II.1**).

When racial equity is not consciously addressed, racial inequality is often unconsciously replicated. Using a REIA is important in preventing institutional racism because it requires those who make policy changes to pause and think about how their decision making might have a lasting impact on certain communities. Preventing institutional racism and identifying new options to remedy long-standing inequities is the goal of REIAs.

RESOURCES

- RaceForward (2009). *Racial Equity Impact Assessment Toolkit*. Available at https://www.raceforward.org/practice/tools/racial-equity-impact-assessment-toolkit.
- All-In Cities (n.d.). *Racial Equity Impact Assessments*. Available at https://allincities.org/toolkit/racial-equity-impact-assessments.
- edJustice (2017). *Racial equity impact assessments*. Available at https://neaedjustice.org/social-justice-issues/racial-justice/racial-equity-impact-assessments/.

8. **Repeat the equity analysis after implementing a new policy and periodically.**

KEY POINTS

- Repeat the analyses after implementing new policies to see if they had the intended effect.
- Repeat the analyses on a periodic basis to monitor for developing disparities or disproportionalities.

DESCRIPTION

After a new policy is implemented, repeat the equity analysis to determine whether the policy change has had the intended effect. The analyses should also be repeated at periodic intervals even if no disparities or disproportionalities are initially found to ensure that processes continue to be equitable in access and outcomes.

RESOURCE

- National Center for State Courts (2023). *Data-driven decision making.* See the Appendix of this report.

Data-Driven Decision Making for Courts

This brief illustrates how courts can use data and evidence to guide policy and practice decisions that promote court ideals of fairness and equal justice.

Data-Driven Decision Making for Courts

February 2023

Data are a critical component in court community efforts to promote racial justice in the legal system.[1] Racial justice in the legal system can include both issues that are internal to the courts (e.g., racial equity in court workforce experiences and outcomes) and issues related to external court users (e.g., racial equity in court user experiences and case outcomes). Making policy decisions that are informed by evidence helps court leaders ensure that they are addressing the issues that are most urgent, that policies are having their intended effects, and that there are not unforeseen consequences impeding reform.

This brief summarizes various ways that the courts can use data to guide policy decision-making to promote racial justice. The quantitative and qualitative data that courts use to guide their decision-making can take many forms, including case management system data, employment and personnel information, and input from critical stakeholders—including the communities that the court serves. Sometimes the data come from the court's own systems (such as in case management systems), and sometimes courts must collaborate with justice partners to gather the data they need.

There are a wide variety of ways that courts can use data to inform their decision-making. In this brief, we summarize five of these applications, but there are potentially many more. These include:

1. **Describing problems, processes, and outcomes**
2. **Identifying priorities**
3. **Communicating problems and successes**
4. **Evaluating what works**
5. **Tracking changes over time**

This brief highlights a few examples of how state courts have harnessed data to make policy and program decisions. For more examples of how the courts are using data to promote racial equity, see the National Center for State Courts' Blueprint for Racial Justice *Directory of Systemic Change Initiatives*.[2] Each entry in the *Directory* summarizes the roles that data played in the highlighted initiative.

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1 National Center for State Courts, Blueprint for Racial Justice (2022). *Systemic Change Guiding Principles*. Available at https://www.ncsc.org/__data/assets/pdf_file/0029/76574/Systemic-Change-Guiding-Principles.pdf

2 National Center for State Courts, Blueprint for Racial Justice (2022). *Directory of Systemic Change Initiatives, First Edition*. Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-Systemic-Change-Initiatives-First-Edition_updated.pdf

1. Describing problems, processes, and outcomes

The first use of data in evidence-based decision-making is to simply describe the state of things. It can be useful for courts to periodically examine their data to better understand the communities they serve, the types of cases they process and people they employ. A simple summary of case data or employment data can point to disparities and potential equity issues that should be examined further.

For example:

- In a study of language translation needs in the state courts, about one third of respondents reported that their courts sometimes use family members or friends, advocates, and other non-credentialed individuals to interpret for litigants with Limited English Proficiency.[3] For languages other than Spanish, this frequency was even higher. This straightforward observation about the prevalence of unmet translation needs points to a potential problem of racial, ethnic, and national origin disparities in access to justice.

- The Ohio Courts use data to ensure that their specialized dockets are operating as intended.[4] Although research generally supports the effectiveness of specialized dockets and problem-solving courts, research also shows that racial disparities may exist when it comes to who has access to such programs, program completion rates, the administration of sanctions and incentives across participants, and recidivism outcomes.[5] To address this concern, the courts collect detailed data on processes and outcomes, including race and ethnicity data. Court leaders regularly examine the data to ensure that there are no racial and ethnic disparities in access to these programs.

- Finally, the Michigan Courts are undertaking an initiative to identify potential racial disproportionality in the composition of juries.[6] Although there is concern

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3 National Center for State Courts and Center for Court Innovation (2012). Effective Court Communication: Assessing the Need for Language Access Services for Limited English Proficient Litigants in Domestic Violence, Sexual Assault, Dating Violence, and Stalking Cases. Available at https://www.courtinnovation.org/sites/default/files/documents/LEP%20Needs%20Assessment%20Report_FINAL.pdf.

4 The Supreme Court of Ohio (n.d.), *Specialized Dockets.* Available at https://www.supremecourt.ohio.gov/courts/services-to-courts/specialized-docket-section/. See also National Center for State Courts, Blueprint for Racial Justice (2022). *Directory of Systemic Change Initiatives, First Edition* (see Initiative 20). Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-Systemic-Change-Initiatives-First-Edition_updated.pdf. For general guidance on how to determine whether specialized programs provide equivalent access and outcomes, see the National Center for State Courts and National Drug Court Institute's Equity and Inclusion Assessment Tool (EIAT) User Guide (July 2020) available at https://www.ndci.org/wp-content/uploads/2020/07/EIAT-guide-fnl-w-grant.pdf.

5 The Supreme Court of Ohio, *Racial and Ethnic Disparities Guidance for Specialized Dockets.* Available at https://www.supremecourt.ohio.gov/docs/JCS/specDockets/certification/SDGuidance/RacialEthnicDisparities.pdf

6 National Center for State Courts, Blueprint for Racial Justice (2022). *Directory of Systemic Change Initiatives, First Edition* (see Initiative 19). Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-System-

about a lack of racial diversity on juries, courts could not identify jurors' (or prospective jurors') race prior to the launch of this recent project. The Court is working with a university partner to collect and analyze data on the racial composition of its juries for the first time. When the analysis is complete, the Court will be equipped to identify precisely what disparities exist and in which jurisdictions within the state.

2. Identifying priorities

Another use of data is to identify the areas that are most in need of change. There are many ways to promote racial justice in the courts, and courts must choose how to spend their limited resources. Data can help the courts identify which needs are greatest or most urgent. The data that courts rely on to identify these needs can include their own case management data and employment data, as well as feedback and insights that the court hears from the community and court stakeholders.

For example:

- A recent report from the Washington Courts Gender and Justice Commission reviews an extensive study on racial and gendered disparities in court experiences and court outcomes.[7] In areas where the commission had access to high-quality, individual-level data on gender, race, and ethnicity, the Commission was able to identify important issues needing to be addressed. These included the costs of accessing the courts, growing and disproportionate incarceration rates for women of color, underrepresentation on juries, and pay disparities in the legal professions.

- The New Mexico Courts have also used data to identify priorities for reform. While the court was developing plans for the New Mexico Family Advocacy Program (NMFAP),[8] it mined its own case data for insights on which aspects of case processing and case outcomes (e.g., times to permanency, permanency outcomes, levels of reentry into care) showed the greatest disparities and issues.[9] The court then made sure that its new program addressed those specific issues. Because the court used data early on to develop the program, it is now also equipped to use data to examine program effectiveness about five years into implementation.

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7 Washington State Supreme Court Gender and Justice Commission (2021). *How Gender and Race Affect Justice Now: Final Report*. Available at https://cdm16501.contentdm.oclc.org/digital/collection/accessfair/id/928/rec/1.

8 See New Mexico Courts (n.d.), *New Mexico Family Advocacy Program.* Available at https://nmfap.nmcourts.gov/

9 National Center for State Courts, Blueprint for Racial Justice (2022). *Directory of Systemic Change Initiatives, First Edition* (see Initiative 13). Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-System-ic-Change-Initiatives-First-Edition_updated.pdf

- Finally, Michigan used data extensively to inform its recent bail reform efforts.[10] Data collected by the Court's research partner on arrests, jail custody, and court processes and outcomes allowed the Court to identify specific points in the criminal justice process that were most important to target in new legislation. As a result, at least eight bills were proposed in the state legislature to address specific issues, such as pretrial release decision-making, time between arrest and first appearance before a judge, and the use of cash bail.

3. Communicating problems and successes

Another use of data is to communicate a problem in a way that will persuade stakeholders to act. Important systemic reforms often depend on the support of multiple audiences (e.g., court leadership, state legislatures, community organizations), and the data can tell a story in a way that helps everyone see the importance of the issue. Effective communication can lead to the courts receiving more funding and resources to support their programming.
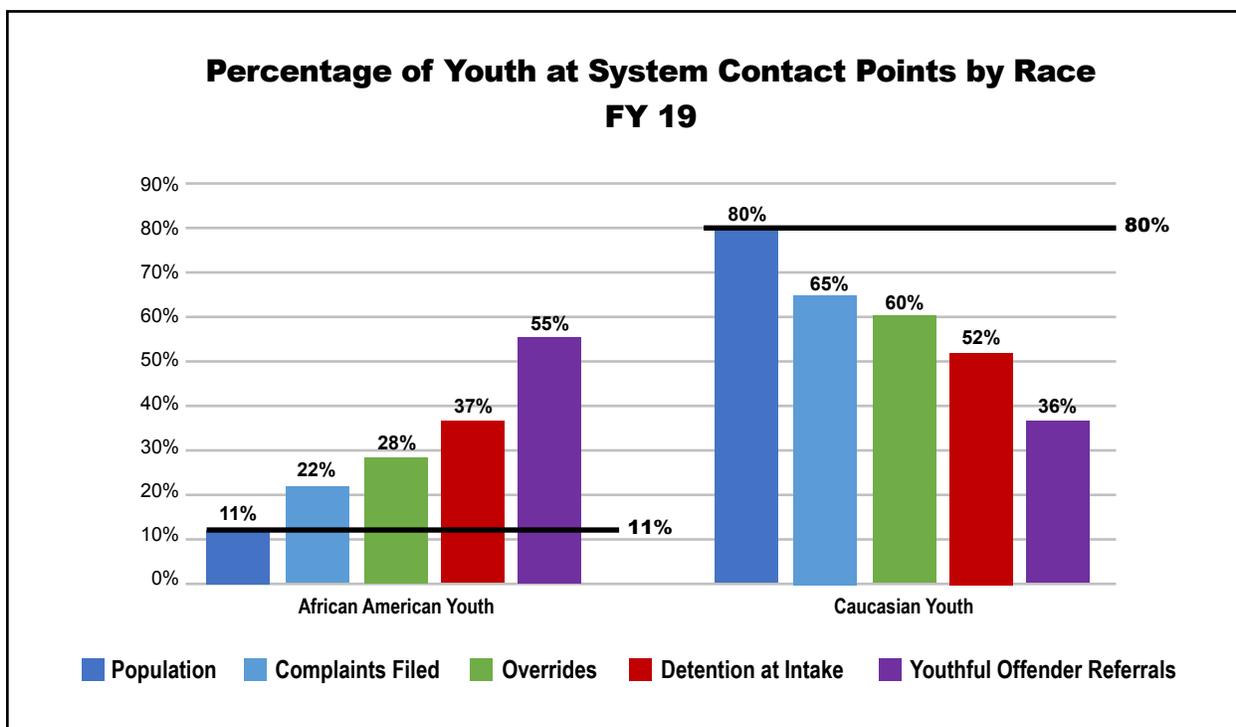
For example:

- The Kentucky courts examined racial disproportionality across decision points in the juvenile justice system.[11] Researchers were able to show that as young people progressed through more punitive contact points in the system, Black participants became more and more overrepresented. By visualizing these data for its audience, the Court was able to communicate in a compelling way how racial disproportionality grows as young people progress through the system. The following graphic is one of the figures used in the report.

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10 National Center for State Courts, Blueprint for Racial Justice (2022). *Directory of Systemic Change Initiatives, First Edition* (see Initiative 18). Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-Systemic-Change-Initiatives-First-Edition_updated.pdf

11 Kentucky Court of Justice Response (2020). *A Guide for Identifying, Addressing, and Reducing Racial and Ethnic Disparities*. Available at https://kycourts.gov/Court-Programs/Family-and-Juvenile-Services/Pages/Reducing-Racial-and-Ethnic-Disparities.aspx.

**Percentage of Youth at System Contact Points by Race
FY 19**

- The Texas Judicial Branch has also had success using data to obtain needed support for its language access programming.[12] After launching its remote interpretation and translation initiative to help Spanish-speaking litigants participate fully in court proceedings, the program began collecting data on requests for services, populations of jurisdictions where services are provided, and more. With this information, the program can now specify for court leaders and other stakeholders how much money the remote interpreting program saves the state. This has allowed the program to receive the funding it needs to grow and meet a greater proportion of the demand for services.

- Finally, the Pennsylvania courts have used data dashboards as communication tools to improve outcomes in the child welfare and dependency court.[13] Using the dashboards, judges who are not familiar with data can easily view and understand how case outcomes differ depending on the race of the child in each case. Access to this information has allowed court leaders to have more productive and successful conversations with judges about the need to address systemic and implicit racial biases.

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12 National Center for State Courts, Blueprint for Racial Justice (2022). *Directory of Systemic Change Initiatives, First Edition* (see Initiative 15). Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-Systemic-Change-Initiatives-First-Edition_updated.pdf

13 National Center for State Courts, Blueprint for Racial Justice (2022). *Directory of Systemic Change Initiatives, First Edition* (see Initiative 12). Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-Systemic-Change-Initiatives-First-Edition_updated.pdf

4. Evaluating what works

Another way that courts can use data to inform policy decision-making is to evaluate the effectiveness of different programs and interventions. For example, courts can compare case outcomes before and after the onset of a new program or compare case outcomes between litigants who opt into or out of a program. Courts can also use data to determine whether a successful program in one jurisdiction has been effectively replicated in a new jurisdiction. It sometimes happens that common sense suggests that a particular reform will be effective and data then reveal that it is not (see, for example, the body of research on *Scared Straight* programs[14] or research on efforts to replicate the HOPE probation model in other jurisdictions).[15] At the very least, continuing to spend time and money on approaches that don't work is a waste of limited court resources and public funds. At worst, programs that are not evaluated can backfire and cause real harm. Courts can ensure program effectiveness by incorporating high-quality data collection and program evaluation into their racial justice efforts.

For example:

- The Ohio courts recently conducted a study to examine the effectiveness of their Online Dispute Resolution (ODR) program.[16] By comparing case outcomes between litigants who participated in the ODR program and litigants who did not, the researchers were able to determine that the ODR program had a positive effect on case outcomes: voluntary case dismissals grew and became more common than default judgments. Furthermore, because the researchers had access to individual-level demographic data, they were able to conclude that positive case outcomes were equally distributed across racial groups and income categories.

- Another example is the new text message notifications initiative in the New Hampshire Judicial Branch.[17] The court is testing the use of text notifications to individuals charged with criminal offenses to reduce the number of failures to appear. The court took the time to collect detailed data on failure-to-appear rates

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14 Petrosino, A., Petrosino, C., & Buehler, J. (2004). *"Scared Straight" and Other Juvenile Awareness Programs for Preventing Juvenile Delinquency.* Available at https://files.givewell.org/files/DWDA%202009/Scared%20Straight/Campbell%20Scared%20Straight%20review.pdf.

15 Lattimore, P., et al., (2018). *Rigorous Multi-Site Evaluation Finds HOPE Probation Model Offers No Advantage Over Conventional Probation in Four Study Sites.* Available at https://nij.ojp.gov/topics/articles/rigorous-multi-site-evaluation-finds-hope-probation-model-offers-no-advantage-over.

16 Sanchez, A. & Embley, P. (2021). Access Empowers: How ODR Increased Participation and Positive Outcomes in Ohio. *2020 Trends in State Courts,* 14-19. Available at https://www.ncsc.org/__data/assets/pdf_file/0018/42156/Trends_2020_final.pdf. Underlying data from the project can be accessed at https://sites.google.com/view/fcmcdata-project/.

17 National Center for State Courts, Blueprint for Racial Justice (2022). *Directory of Systemic Change Initiatives, First Edition* (see Initiative 22). Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-Systemic-Change-Initiatives-First-Edition_updated.pdf

prior to launching the program, so that it will be equipped to measure whether the program successfully reduces those rates. After the program has launched, the court will be able to use its data to determine the extent of the program's effectiveness and whether maintaining the program is a good use of court resources.

5. Tracking changes over time

Another way to use data to inform policy decision-making is to establish a baseline and track changes over time. Periodic monitoring allows the courts to ensure that they will become aware of any changes in case processing or case outcomes that occur as a result of societal events and trends (e.g., the pandemic) or system changes (e.g., staff turnover, new programming). This type of analysis often requires courts to collect the same type of data at repeated intervals; it is relatively common for research and policy questions to arise that cannot be answered unless the court had collected the appropriate data earlier (often years before). Accordingly, it is important to collect high-quality individual-level race and ethnicity data to set baselines that can be referenced later.

For example:

- A recent analysis of case filings across the U.S. shows that most types of case fillings decreased dramatically during the pandemic.[18] However, some specific types of case filings known to be characterized by racial disparities, such as mental-health-related cases, increased. This type of analysis was made possible by the fact that the researchers had regularly collected filing data each year prior to the pandemic and therefore had a baseline against which to make comparisons.

- The Iowa Judicial Branch uses data to monitor changes in outcomes for youth of color in its juvenile justice system.[19] In addition to establishing new diversion and screening procedures, the court began to collect extensive data on the overall population, school suspensions and expulsions, complaints, diversions, detention, and more, all disaggregated by race and ethnicity. By examining these reports quarterly, the court is able to monitor changes in outcomes over time and compare outcomes across districts. Each jurisdiction also sets yearly goals in response to the trends that they have observed in the data.

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18 Court Statistics Project (2022). 2020 Incoming Cases in State Courts, https://www.courtstatistics.org/__data/assets/pdf_file/0020/72254/CLHL_2020_Incoming_Cases-.pdf.

19 National Center for State Courts, Blueprint for Racial Justice (2022). *Directory of Systemic Change Initiatives, First Edition* (see Initiative 7). Available at https://www.ncsc.org/__data/assets/pdf_file/0023/86054/Directory-of-Systemic-Change-Initiatives-First-Edition_updated.pdf

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