

## **NATIONAL CONSORTIUM ON RACIAL AND ETHNIC FAIRNESS IN THE COURTS**

### **Report on the States: North Dakota**

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The Supreme Court of North Dakota initiated the Minority Justice Implementation Committee in 2013 to implement the recommendations from the two-year study of the Commission to Study Racial and Ethnic Bias in the Courts. Initial study areas included access to courts, criminal and civil processes, the legal profession, court personnel, and public perceptions.

Here are some highlights of the Minority Justice Committee's work to date:

#### **JURY STUDY**

North Dakota Courts have implemented a long-term study to collect state and county level data on the demographics of jury master lists. The initial Commission study found disparities in the master lists, but data was only sufficient to support this conclusion at the statewide level and for one large county.

The Minority Justice Committee follow-up study adds a single demographic question on the juror questionnaire. The question requests self-identification of race and ethnicity from a selection of Census categories. Both paper and online juror response options have been modified to include the survey question, which appears after the signature line at the end of the questionnaire. The survey commenced April 1, 2014 and will run for one year in order to collect sufficient information from smaller counties. Once data becomes available, it will be possible to perform analysis at both state and county levels. If the data shows disproportion on the master lists, the Committee will advocate expanding the sources used to ensure accurate representation.

#### **REFRESHING JURY LISTS/UNDELIVERABLE SUMMONSES**

North Dakota Courts will refresh jury master lists on an annual basis to ensure fewer undeliverable jury summonses. Research indicates that minority status often correlates with more frequent undeliverable mailings. More frequent refreshing should help to address similar correlations in the state population.

#### **EVIDENCE-BASED TOOLS**

The Commission study found that the proportion of incarcerated minorities is clearly and substantially larger than the proportion of minorities arrested. The Commission recommended the use of evidence-based tools in the judicial decision process to increase objectivity in decision making and address any existing bias. Because research supports the conclusion that decision makers can consciously overcome personal implicit bias when they are aware of it, an objective assessment will provide a resource for judges to apply in this respect.

North Dakota Courts are working to implement evidence based assessment tools to help guide decisions and address bias at sentencing and in pretrial stages. The Minority Justice Committee is supporting this effort, primarily through research, planning, and organization. One North Dakota county has initiated a pilot program testing an evidence-based sentencing tool. Committee members are monitoring this project. The Committee plans to initiate a similar pilot program at the pretrial stage.

## **PROJECT PASSPORT**

Current state domestic violence protection orders were influenced by Project PASSPORT models, but North Dakota did not fully adopt the project's recommended content and format. The Minority Justice Committee brought together decision makers and stakeholders from state and tribal courts to cooperate in fully implementing PASSPORT. Full implementation will standardize protection to help ensure enforcement across state, tribal, and state jurisdictions. The need for standardization has increased as people from many states had moved into the Bakken region during the oil boom.

The Committee's work led to a re-drafting of sections of the current protection order to bring format and content in line with the PASSPORT model form. Work has identified a method for including tribal protection orders in state computer systems to allow law enforcement a better means of verification.

Several North Dakota tribes adopted the PASSPORT model in previous years. State courts are currently working to encourage those tribes that have not yet implemented PASSPORT to consider adoption.

## **UNBUNDLING AND SELF-REPRESENTATION**

Both courts and the State Bar of North Dakota (SBAND) have reviewed rules to facilitate unbundling, but there are few resources available for education and support. The Committee is developing a survey to assess the level of familiarity, understanding, and use of unbundled services within the Bar. The survey will help to suggest appropriate areas for state bar education programs. In addition, the Committee is reviewing resources to assist attorneys providing limited-scope services. These include best practices, model forms, and checklists developed by attorneys with experience with limited-scope services.

The newly established North Dakota Legal Self-Help Center fulfills a recommendation calling for a means of providing the public, especially minorities, with guidance and information about the legal system. The Minority Justice Committee met with new the program coordinator to discuss self-help issues, minority needs, and areas in which the Committee can provide assistance. The Center's main priority has been the development of forms, including name change requests and powers of attorney, as well as need samples of wills, settlement agreements, and parenting plans.

## **EDUCATION PROGRAMS**

The Minority Justice Committee is cooperating with law school student organizations to develop an education program for the public, as well as programs to encourage minority students to consider careers in law. The Committee has begun investigating the role of rural practice programs in providing opportunities and incentives to attract and retain new minority law school graduates in the state.

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