



# MINNESOTA JUDICIAL BRANCH

## **2019-2021 Report by the Committee for Equality and Justice for the National Consortium on Racial and Ethnic Fairness in the Courts May 2021**

---

Minnesota experienced difficult and tumultuous events in 2020 that brought to the forefront long-standing issues of racial fairness and equity. During this time, Minnesotans experienced the COVID-19 pandemic and saw the disproportionate impact of the disease on the Black community and other communities of color. We witnessed the tragic death of George Floyd and an ensuing murder conviction of a Minneapolis police officer for his killing. We watched the national and international outpouring of peaceful protesters seeking meaningful, systemic change.

This moment in history demands that Minnesota’s Judicial Branch redouble our efforts to increase access to justice and ensure that “justice for all” is not just a slogan to grace a courthouse wall, but rather a promise that we strive to keep every single day. To ensure public trust and confidence in the judicial system, Minnesotans must believe that our courts will provide fair and impartial resolution of their cases.

Minnesota’s Committee for Equality and Justice plays a critical role in improving how our justice system serves the people of Minnesota. Formed in 2010, the Committee’s mission is “to advance efforts to eliminate bias from court operations, promote equal access to the courts, and inspire a high level of trust and public confidence in the Minnesota Judicial Branch.” The Committee serves as an advisory committee to the policy-making body of the judicial branch called the Judicial Council, and it spearheads efforts to identify specific actions and goals in the court’s purview to promote a more fair and equitable system of justice in Minnesota.

To accomplish its mission, the Committee is charged with:

1. Recommending diversity and inclusion education programs and course materials for judges and Judicial Branch employees;
2. Promoting diversity and inclusion in the Judicial Branch employment and in appointments to Judicial Branch committees and boards to reflect the population served by the Judicial Branch;
3. Making recommendations for improvement in court processes, procedures and policies as they relate to race, gender, ethnicity, age, disability, socioeconomic status, religion, sexual orientation, and any other status protected by law; and
4. Assisting district Equal Justice Committees in their work at the local level, and providing assistance in outreach efforts to the communities they serve.

Membership of the Committee for Equality and Justice reflects the state’s geographic and demographic diversity. Comprised of 28 persons, it includes representation from judges, court staff, justice system partners, and the public we serve. The Committee co-chairs are the Honorable Margaret Chutich, Associate Justice of the Minnesota Supreme Court and the Honorable Leslie Beiers, Judge, Sixth Judicial District Court.

In 2020, the Committee, through its four subcommittees, focused on the following core initiatives:

1. The **Access and Fairness Subcommittee**, chaired by Judge Richelle Wahi (First Judicial District), published the “**2020 Progress Report on the 1989 Gender Fairness Task Force Report.**” The report highlighted achievements since the first report on gender equity was released in 1989, identified what work remains outstanding, and prioritized outstanding items for further action. This report may be viewed at this link. [https://www.mncourts.gov/mncourtsgov/media/scao\\_library/CEJ/2020-Progress-Report-on-the-1989-Gender-Fairness-Task-Force-Report.pdf](https://www.mncourts.gov/mncourtsgov/media/scao_library/CEJ/2020-Progress-Report-on-the-1989-Gender-Fairness-Task-Force-Report.pdf)

Similarly, this subcommittee also reviewed recommendations made from a comprehensive 1993 Race Bias Task Force Report. The subcommittee issued a thorough report detailing what recommendations were undertaken and completed and what areas are still in need of further action. This report entitled “**Minnesota Judicial Branch Action Following the 1993 Minnesota Supreme Court Task Force on Racial Bias in the Judicial System And Recommendations for Minnesota Judicial Branch Action in FY20-21**” can be viewed at this link. [https://www.mncourts.gov/mncourtsgov/media/scao\\_library/CEJ/Racial%20Fairness%20Committee/2019-Progress-Report-ON-1993-RACE-BIAS-TASK-FORCE-AND-RECOMMENDATIONS-UPDATED-4-29-19-WITH-APPENDICES.pdf](https://www.mncourts.gov/mncourtsgov/media/scao_library/CEJ/Racial%20Fairness%20Committee/2019-Progress-Report-ON-1993-RACE-BIAS-TASK-FORCE-AND-RECOMMENDATIONS-UPDATED-4-29-19-WITH-APPENDICES.pdf)

The Access and Fairness Subcommittee was also charged with reviewing available data, provided by our State Court Administrative Office, identifying the race of those who are called for jury service, selected for jury panels, and seated on the juries. In response to this data review, the subcommittee published its recommendations for improvement in court processes, procedures and policies in the “**2020-2021 Committee for Equality and Justice Study on Jury Race Data and Recommendations**” report. This report will be made available on the Minnesota Judicial Branch’s website after it is reviewed and approved by Judicial Council this summer.

Finally, the Access and Fairness Subcommittee reviewed the 2020 Minnesota Sentencing Guidelines Commission Probation Revocation Report (available at <https://mn.gov/msgc-stat/documents/reports/2019/2019MSGCReportProbationRevocations.pdf> ). The subcommittee was asked to meet with various jurisdictions to identify the process used to address disparities at the local level and to determine if those processes could be replicated in other jurisdictions. The subcommittee published its findings and recommendations in the “**2020-2021 Committee for Equality and Justice Study on Probation Revocations and Recommendations Report.**” This report will also be made available on the Minnesota Judicial Branch website later this summer.

2. The **Diversity and Inclusion Education Subcommittee**, co-chaired by Judge JaPaul Harris (Second Judicial District) and Judge Angela Willms (Fourth Judicial District), developed an **Implicit Bias Jury Instruction Guide** and revised the **Implicit/Unconscious Bias Bench Card** (Attachment A) to help judges minimize the impact of implicit bias on court proceedings.

The subcommittee also recommended diversity, inclusion and equity educational courses for Minnesota judges and employees to complete throughout the year. One of the subcommittee's course recommendations was offered at the 2020 Annual Conference of Judges, with over 350 judicial officers in attendance. The course was titled "**Racial Equity, Community Trust and Public Safety – Understanding the Impact of Bias**" by Dr. Philip Atiba Goff from the Center for Policing Equity.

3. Our third subcommittee, the **Community Outreach Subcommittee**, co-chaired by Judge Tracy Smith (Minnesota Court of Appeals) and Kim Mammedaty (Hennepin County Attorney's Office, Minneapolis, MN), assisted district Equal Justice Committees in their work at the local level. The subcommittee developed a **Community Outreach Guide** (available upon request <https://mncourts.gov/Minnesota-Judicial-Council/CEJ/Contact.aspx>) covering outreach topics and resources for community service projects, student focused outreach, community dialogues, and warrant forgiveness events.

Over 30 community dialogues have taken place over a 10-year period, and each judicial district has an active Equal Justice Committee working on local justice issues. These discussions allow us to hear from and respond to members of the public. We believe that these interactions help to build trust and public confidence in the courts. This report entitled "**Community for Equality and Justice Ten-Year Review of Community Dialogues 2008-2018**" is available at [https://mncourts.gov/mncourtsgov/media/scao\\_library/CEJ/2020-Progress-Report-on-the-1989-Gender-Fairness-Task-Force-Report.pdf](https://mncourts.gov/mncourtsgov/media/scao_library/CEJ/2020-Progress-Report-on-the-1989-Gender-Fairness-Task-Force-Report.pdf) .

The subcommittee also developed a resource for court users called, "**Tips for Going to Court in Minnesota**" that is available on the court's public website (<https://www.mncourts.gov/Help-Topics/Going-to-Court.aspx>) and in courthouses throughout the state to help people understand and be better prepared for their court proceeding.

4. A newly formed **Civil Justice Subcommittee**, co-chaired by Judge Juan Hoyos (Fourth Judicial District) and Drew Shafer (Executive Director of Mid-Minnesota Legal Aid) is a collaborative effort of the Minnesota Judicial Branch and the Minnesota State Bar Association. It was charged with increasing the number of low-income and disadvantaged people receiving civil legal assistance and working to reduce barriers to access in Minnesota state courts.

This subcommittee is developing outreach materials regarding the new cy pres requirements in Rule 23 of the Minnesota Rules of Civil Procedure, and educating district court judges about the rule at quarterly district judge meetings and the bar through Continuing Legal Education programs.

The subcommittee also seeks to expand a successful housing court clinic model, including the possibility of remote appearances, to one or more jurisdictions by working in collaboration with civil legal aid (which includes both staffed civil legal aid programs and pro bono attorneys from private firms) and courts outside the Twin Cities metropolitan area.

Another goal of the subcommittee is to increase pro bono coordination between the Minnesota State Bar Association and the Minnesota Judicial Branch. Along with the civil legal aid programs, the bar and judicial branch have launched a one-year pro bono campaign called “Lawyers Step Up for Minnesota” <https://lawyersstepupmn.org/>. This campaign makes it easy for lawyers to volunteer to help low-income Minnesotans in housing, family, and consumer matters, legal areas that are most affected by the pandemic.

For more information on the Committee for Equality and Justice, please visit:  
<http://mncourts.gov/MinnesotaJudicialCouncil/CEJ.aspx>



# MINNESOTA JUDICIAL BRANCH

## Bench Card: IMPLICIT / UNCONSCIOUS BIAS

### Recommended Implicit Bias Practices for Judicial Officers

<b>BE SELF-AWARE</b>	1. Analyze your emotional state. Do the negative or positive emotions you are feeling pertain to the case?
	2. Ask yourself if your opinion of the attorneys, parties, witnesses, or case would be different if the people presenting belonged to a different social/ethnic/religious/racial group.
	3. Be mindful of your decision-making process, not just the resulting decision.
	4. Consider whether you are requiring more or less from a person, based on your implicit/unconscious biases, than you would from others.
	5. Identify sources of stress and reduce them in the decision-making environment.
	6. Recognize your own implicit/unconscious biases.
<b>ACT CONSCIOUSLY AND DELIBERATELY</b>	1. Allow yourself time to critically review your decision-making process and articulate your reasoning before committing to a decision.
	2. Avoid decisions under rushed, stressed, distracted or pressured circumstances whenever possible.
	3. Avoid low-effort decisions or decisions made on auto-pilot.
	4. Engage in thoughtful information processing; objectively and deliberately consider the facts at hand.
	5. There are times when you must respond quickly. To avoid making snap decisions, identify sources of ambiguity and impose greater structure in the decision-making context, and use decision-making criteria tools such as checklists and bench cards.
<b>CREATE PROCESSES TO CHECK BIASES</b>	1. Consider what evidence supports the conclusions you have drawn and how you have challenged unsupported assumptions.
	2. Seek feedback from others. Would others perceive or handle the situation differently?
	3. Study information on implicit/unconscious bias by attending educational gatherings, taking the Implicit Association Test (IAT), and reading relevant research.
	4. Take notes and rely on those notes over memory, as your memory may be affected by your implicit unconscious biases.
	5. Track your decisions and periodically examine them for any pattern of bias.

### Resources

1. [Harvard University Implicit Association Test \(IAT\)](#)
2. [Implicit Bias: A Primer for Courts, Jerry Kang](#)
3. [National Association of Drug Court Professionals Equity and Inclusion Equivalent Access Assessment and Toolkit](#)
4. [National Center for State Courts, Implicit Bias in the Courtroom, Jerry Kang, et. al](#)
5. [National Center for Youth Law, Selected Resources Regarding Implicit Bias](#)
6. [National Council of Juvenile and Family Court Judges and National Defenders Center Addressing Bias in Delinquency and Child Welfare Systems Bench Card](#)
7. [The American Bar Association Implicit Bias Toolbox](#)
8. [The Neuroscience of Unconscious Bias, The ABA Litigation Section](#)
9. [U.S. District Court Western District of Washington, Unconscious Bias Juror Video](#)



# MINNESOTA JUDICIAL BRANCH

## Bench Card: IMPLICIT / UNCONSCIOUS BIAS

### Implicit/Unconscious Bias Jury Instruction

We all have feelings, assumptions, perceptions, fears, and stereotypes about others. Some biases we are aware of and others we might not be fully aware of, which is why they are called “implicit” or “unconscious biases.” No matter how unbiased we think we are, our brains are hardwired to make unconscious decisions. We look at others, and filter what they say, through the lens of our own personal experience and background. Because we all do this, we often see life – and evaluate evidence – in a way that tends to favor people who are like ourselves or who have had life experiences like our own. We can also have biases about people like ourselves. One common example is the automatic association of male with career and female with family. Bias can affect our thoughts, how we remember what we see and hear, whom we believe or disbelieve, and how we make important decisions.

As jurors you are being asked to make an important decision in this case. You must:

1. Take the time you need to reflect carefully and thoughtfully about the evidence.
2. Think about why you are making the decision you are making and examine it for bias. Reconsider your first impressions of the people and the evidence in this case. If the people involved in this case were from different backgrounds -- for example, richer or poorer, more or less educated, older or younger, or of a different gender, gender identity, race, religion, or sexual orientation-- would you still view them, and the evidence, the same way?
3. Listen to one another. Resist and help each other resist, any urge to reach a verdict influenced by bias. Each of you have different backgrounds and will be viewing this case in light of your own insights, assumptions, and biases. Listening to different perspectives may help you to better identify the possible effects these hidden biases may have on decision-making.
4. Resist jumping to conclusions based on personal likes or dislikes, generalizations, gut feelings, prejudices, sympathies, stereotypes, or other unconscious biases.

The law demands that you make a fair decision, based solely on the evidence, your individual evaluations of that evidence, your reason and common sense, and these instructions.

### Jury Selection Implicit/Unconscious Bias Resources

1. [Achieving an Impartial Jury Toolbox, American Bar Association Criminal Justice Section](#)
2. Committee for Equality and Justice Jury Selection Question (add hyperlink)
3. [Jury Selection and Race – Discovering the Good, the Bad, and the Ugly, Jeffery Robinson](#)
4. [Jury Selection and Anti LGBTQ Bias](#)

**Issued by the Committee for Equality and Justice of the Minnesota Judicial Branch,  
April 2015, Updated June 2020**