



COMMITTEE ON RACIAL AND ETHNIC FAIRNESS IN THE RHODE ISLAND COURTS

First Quarterly Report: March 31, 2021

I. Overview

On October 20, 2020, Chief Justice Paul A. Suttell issued Executive Order No. 2020-15 establishing the Committee on Racial and Ethnic Fairness in the Rhode Island Courts. The Committee is charged with identifying and confronting areas where racism, inequality and discrimination may exist in our judicial system and being the driving force of change within the Rhode Island Judiciary. The Chief Justice designated a total of twelve (12) judicial officers, representing each court within the unified judicial system, to be the inaugural members of this important body. The Committee was directed to compose a mission statement informed by the goals identified in the Executive Order and to submit quarterly reports detailing the Committee's activities and accomplishments over the preceding three (3) months. The following constitutes the first quarterly report submitted by the Committee on Racial and Ethnic Fairness in the Rhode Island Courts.

II. Committee Membership

Hon. Paul A. Suttell, Chief Justice (ex officio), RI Supreme Court

Hon. Edward C. Clifton, Associate Justice (ret.), RI Superior Court

Term: October 20, 2020 – October 19, 2023

Hon. Luis Matos, Associate Justice, RI Superior Court

Term: October 20, 2020 – October 19, 2023

Hon. Melissa A. Long, Associate Justice, RI Superior Court*±

*Chair

± The Hon. Melissa A. Long has been elevated to the Supreme Court as an Associate Justice

Term: October 20, 2020 – October 19, 2023

Hon. Lia Stuhlsatz, Associate Justice, RI Family Court

Term: October 20, 2020 – October 19, 2023

Hon. Edward Newman, Magistrate, RI Family Court

Term: October 20, 2020 – October 19, 2023

Hon. Alberto Aponte-Cardona, Magistrate, RI Family Court

Term: October 20, 2020 – October 19, 2023

Hon. Pamela Woodcock Pfeiffer, Associate Judge, RI District Court

Term: October 20, 2020 – October 19, 2023

Hon. Melissa DuBose, Associate Judge, RI District Court

Term: October 20, 2020 – October 19, 2023

Hon. Christopher Smith, Associate Judge, RI District Court

Term: October 20, 2020 – October 19, 2023

Hon. Keith Cardoza, Associate Judge, RI Workers' Compensation Court

Term: October 20, 2020 – October 19, 2023

Hon. Susan Pepin-Fay, Associate Judge, RI Workers' Compensation Court

Term: October 20, 2020 – October 19, 2023

Hon. Alan R. Goulart, Magistrate, Rhode Island Traffic Tribunal

Term: October 20, 2020 – October 19, 2023

Judiciary Staff Assigned to work with the Committee:

J. Joseph Baxter, State Court Administrator

Julie P. Hamil, Esq., General Counsel

Craig N. Berke, Assistant Administrator

Dorca M. Paulino, MPA, Diversity Director

III. Committee Activities

[R]acial bias [is] ... a familiar and recurring evil that, if left unaddressed, would risk systemic injury to the administration of justice. This Court's decisions demonstrate that racial bias implicates unique historical, constitutional, and institutional concerns. An effort to address the most grave and serious statements of racial bias is not an effort to perfect the jury but to ensure that our legal system remains capable of coming ever closer to the promise of equal treatment under the law that is so central to a functioning democracy.

Pena-Rodriguez v. Colorado, ___ U.S. ___, 137 S.Ct. 855, 868 (2017).

Guided by the concerns animating Executive Order 2020-15, which echo the assertions of the United States Supreme Court quoted above, the Committee commenced its work in earnest in early September of 2020. The Committee met eighteen (18) times from September through March, with additional subcommittee meetings taking place in the interim, as further addressed below.

A. Mission Statement

In accordance with the directive contained within EO 2020-15, the Committee developed the following mission statement to guide its work:

To enhance public confidence in the independence, integrity, and impartiality of the Rhode Island Judiciary, and to promote a fair and bias-free justice system by: 1) engaging in self-examination, education, and public outreach; and 2) identifying areas of systemic racism, unconscious bias, disparate impact, and socioeconomic and other inequities; and 3) taking affirmative steps to self-monitor and combat inequities, so as to ensure a system that is accessible to all and treats all persons equally.

B. Creation of Subcommittees

During the Committee's internal discussions about topics to be addressed such as, appropriately identifying qualitative and quantitative race and ethnic data to drive conversations and change within the Judiciary, as well as the need to build a bridge between the bench and the communities we serve, and the imperative need to conduct self-evaluations and begin internal dialogues about policies and procedures, it became clear that this work would be better managed by smaller groups specifically tasked with discreet aspects of the Committee's larger mission, as further addressed below.

IV. **Subcommittees**

A. Public Engagement Subcommittee (PES)

Charge. The first step in meaningful public engagement is listening. To that end, the PES has been engaged in and will continue to participate in bi-directional conversations with community stakeholders.

Activities to date.

- Members of the PES meet bimonthly and engage in separate meetings with community stakeholders upon their request. For example, on February 23, 2021, members of the PES held a WebEx meeting with representatives from the American Civil Liberties Union of Rhode Island, the Rhode Island Commission for Human Rights, and the Rhode Island Community for Justice.
- *This We Believe.* This public statement captures the spirit and guiding principles that are driving the Committee's work. Both a print and audio version will be posted on the judiciary website and released via public media. An unsigned copy of the statement is attached in Appendix 1.
- Partnership with the *Center for Health and Justice Transformation.* With this relationship and funding that they have secured through a grant from the RI Foundation, we are developing the "When Justice Works" campaign. This campaign will serve to introduce members of the of the Judiciary to the public at large. The tentative launch date is May 4, 2021, Rhode Island Independence Day.
- *Town Hall Meetings.* The first policy area that the PES will explore with community stakeholders is the impact of court issued fees and fines. In preparation for the town hall which is tentatively scheduled for July 2021, the committee will participate in a series of listening tours with community groups to draft the agenda. The Committee will thereafter develop recommendations that the courts can employ to address disparate impact.

- The Committee has created an email address where members of the public are welcome to send their thoughts, suggestions, stories and any other input that they wish to be considered in connection with the Committee’s mission: CREF@courts.ri.gov.

Goals. Informed by the foregoing conversations, the PES is planning to reach out more broadly to the public via:

- Facilitating Town Halls, both virtual and in person.
- Issuing multilingual Public Service Announcements/ Media.
- Leveraging relationships with local school departments and institutions of higher learning to broaden outreach.
- Developing a public-facing racial justice and ethnic fairness webpage and resource guide.

B. Data Subcommittee (DS)

Charge. The DS has focused its attention on two areas to date: to explore and understand the status of our current in-house data collection practices and to determine if such data can assist the Committee in fulfilling its overall goals, both now and moving into the future.

Activities to Date. The DS consulted with the Judicial Technology Center and the Supreme Court Planning Unit to familiarize itself with current data and data collection strategies relative to the demographics of court users across the board, in all state courts, both civil and criminal in nature. After extensive review and assessment of the information as it presently exists, and in consideration of the current ability of the court system to extract such data, the DS has concluded that such data is either lacking, incomplete, or, where it does exist, is statistically unreliable for the Committee’s purposes. This is due to a number of issues including the current inability of the court system to capture all demographic categories and questions concerning the manner in which data is collected and recorded by outside sources, particularly in criminal cases. It should be noted that this finding has also been reached in most court systems nationwide at this time.

Goals. Moving forward, the DS will provide recommendations to the Committee and Supreme Court regarding the improvement and overhaul in the manner in which racial and ethnic data is collected in all courts comprising our judicial system. This will require the potential assistance of a consultant and the skills of our Judicial Technology team, working closely with each court’s clerks and administrators. In addition, the DS will explore and integrate any reliable data currently available from sources outside the judicial data collection system (i.e., Department of Corrections, law enforcement, fellow state agencies, community sources and studies), provided it is relevant and consistent with attaining the Committee’s goals. Third, the DS will utilize current resources to shed light on issues of concern to the Committee, the Supreme Court, and the community, which may include areas such as fines and court fees, the imposition of license suspensions, and child custody and support, with the purpose of using such reports to improve the

Judiciary's practices related to fairness and equality, and with the intent of sharing such reports with the community.

C. Self-Examination/Policy Subcommittee (SEPS)

Charge. To engage in thoughtful evaluation and internal conversations to identify areas where changes to Judiciary policies and/or procedures are warranted due to the unintentional but nevertheless very real disparate impact, unfairness or inequity such policies and/or procedures perpetuate on racial and ethnic minority communities.

Activities to Date.

- *Sheriff's Invocation.* One of the first items that the SEPS tackled was outreach to the Division of Sheriffs, coordinated with the Executive Branch, regarding updates to the invocation spoken at the commencement of court proceedings to remove the term "and Providence Plantations" in accordance with the passage of the constitutional amendment approved by Rhode Island voters in the November 2020 election to remove the term from the official state name.
- *Internal Judicial Survey.* The SEPS drafted a confidential survey for distribution to all judicial officers gauging their perception of how implicit bias plays a role in the work of the Judiciary. Feedback received will inform future training and conversations among the bench on this important topic.
- *Rhode Island Foundation Grant.* The SEPS has prepared a draft proposal for submission to the Rhode Island Foundation that will, if awarded, provide funding for one or more consultants who will facilitate internal conversations and trainings on racial and ethnic fairness, equity, inclusion and implicit bias.

Goals.

- Submission of the Rhode Island Foundation grant proposal.
- If the Judiciary is awarded a grant from the Rhode Island Foundation, the SEPS will draft and publish an RFP for one or more consultants who will facilitate internal conversations and trainings on racial and ethnic fairness, equity, inclusion and implicit bias.
- The SEPS will continue to promote internal conversations and policy/procedure reviews based on feedback received from the community through the outreach efforts of the PES.

V. Upcoming Initiatives

The following are initiatives identified by the respective subcommittees that they will be focusing on during the next quarter:

Public Engagement Subcommittee

- Hold at least two (2) community listening sessions with and facilitate participation by multi-lingual voices.
- Celebrate the May 4th, 2021 inaugural launch of the “When Justice Works” Campaign.
- Identify key community stakeholders who will assist in the planning and agenda-setting for the first Community Town Hall on the disparate impact of costs and fines.

Data Subcommittee

- Follow up with the Judicial Technology Center and the Supreme Court Planning Unit to review observations regarding current demographic data collection system and practices and make general recommendations for improvement.
- Identify reliable and relevant extra-judicial data sources.
- Monitor feedback from listening sessions to inform decisions regarding specific areas for future and ongoing analysis and begin identifying potential grant-funded sources to assist in same.

Self-Examination/Policy Subcommittee

- Submit grant proposal to Rhode Island Foundation, followed by issuance of RFP upon award.
- Participate in community conversations in conjunction with the PES to identify areas where policy/procedural reforms are needed.
- Once areas of needed reform are identified, establish a communication and workplan to socialize the needed changes and create implementation strategy.

VI. Conclusion

The Committee wishes to thank the Chief Justice for identifying the need for this important work and his commitment to ensuring that the Committee will succeed in its mission. The Committee looks forward to reporting its progress in the next quarterly report, due on June 30, 2021.

Respectfully submitted,

The Committee on Racial and Ethnic Fairness in the Rhode Island Courts

April 1, 2021

APPENDIX 1

STATE OF RHODE ISLAND



SUPREME COURT
250 Benefit Street
Providence, Rhode Island 02903

March 31, 2021

An open letter to the people of Rhode Island:

THIS WE BELIEVE

On June 5, 2020, more than 10,000 Rhode Islanders of all ages, races, socioeconomic and religious backgrounds assembled on the State House steps engaged in a historic and peaceful protest of the spate of needless deaths of Black Americans at the hands of law enforcement. More broadly, the protest was a passionate display of grief and anger, along with a unified call to end systemic racism and discrimination that continue to plague this nation.

Traditionally, the Judiciary by way of both custom and judicial canons reserves comment and will not make extra-judicial statements regarding civic engagement. But, recognizing that this is a moment of inflection for our state and the nation, it is imperative that we lift our voice and reaffirm our commitment to the just and equal treatment of every person who appears before us. We must not remain silent in the face of such an undeniable truth, lest we risk jeopardizing the very reason we have a voice at all.

From its founding, Rhode Island's story is a twin tale of courage and controversy. It is important that we celebrate the unique contribution that our state's founders played in infusing principles of religious freedom and separation of powers into the formation of our national identity. Championed since Rhode Island's founding in 1636, these principles were boldly codified and beautifully captured in both our state Constitution and the U.S. Constitution. However, it is equally important to recognize and acknowledge the unique and preeminent role that Rhode Island played in the devastating history of slavery in the United States. Our

geographically stunning coastline served as a brutal vertex along the Triangle Trade route resulting in the amassing of tremendous wealth among prominent Rhode Island slavers and unspeakable cruelty to those held in bondage. This nation’s “original sin” of slavery and its progeny, including racial discrimination and institutional racism, have roots in Rhode Island, and we are committed to confronting it within our judicial system.

We want to instill confidence in the Black, Latino, Latina, LGBTQ and all under-represented communities that Rhode Island’s courts are their courts, and we will fulfill our constitutional mandate that they receive equal treatment under the law.

We recognize that the pursuit of justice is not merely an aspirational concept or abstraction; it is a guiding imperative that we, as members of the Judiciary, are duty-bound to seek. This We Believe.

The Committee on Racial and Ethnic Fairness in the Rhode Island Courts:

Paul A. Suttell, Chief Justice
Supreme Court

Melissa A. Long, Justice
Supreme Court

Luis M. Matos, Associate Justice
Superior Court

Lia N. Stuhlsatz, Associate Justice
Family Court

Edward H. Newman, Magistrate
Family Court

Alberto Aponte Cardona, Magistrate
Family Court

Pamela Woodcock Pfeiffer
Associate Judge, District Court

Christopher Smith, Associate Judge
District Court

Melissa DuBose, Associate Judge
District Court

Susan P. Fay, Associate Judge
Workers’ Compensation Court

Keith A. Cardoza, Jr., Associate Judge
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