

University of Nebraska - Lincoln

DigitalCommons@University of Nebraska - Lincoln

Publications of the University of Nebraska
Public Policy Center

Public Policy Center, University of Nebraska

2004

The Nebraska Minority and Justice Implementation Committee Progress Report

Follow this and additional works at: <https://digitalcommons.unl.edu/publicpolicypublications>



Part of the [Public Policy Commons](#)

"The Nebraska Minority and Justice Implementation Committee Progress Report" (2004). *Publications of the University of Nebraska Public Policy Center*. 105.
<https://digitalcommons.unl.edu/publicpolicypublications/105>

This Article is brought to you for free and open access by the Public Policy Center, University of Nebraska at DigitalCommons@University of Nebraska - Lincoln. It has been accepted for inclusion in Publications of the University of Nebraska Public Policy Center by an authorized administrator of DigitalCommons@University of Nebraska - Lincoln.

The Nebraska Minority and Justice Implementation Committee



Progress Report
February 2005

The Nebraska Minority and Justice Implementation Committee



Progress Report
February 2005

Table of Contents

	Page
Table of Contents	ii
Minority and Justice Implementation Committee	iv
Chairs.....	iv
Members	iv
Project Staff.....	x
Chapter 1: Introduction by the Committee Co-Chairs	1
Chapter 2: Access to Justice	2
Juries in the Nebraska Court System.....	2
Summary of Findings	2
Progress Report	2
Future Efforts	2
Interpreter Services in the Nebraska Court System.....	3
Summary of Findings	3
Progress Report	3
Future Efforts	4
Immigration Issues	5
Chapter 3: Criminal and Juvenile Justice	6
Bail/Bond Reform	6
Summary of Findings	6
Progress Report	6
Future Efforts	7
Disproportionate Minority Confinement	8
Summary of Findings	8
Progress Report	8
Future Efforts	8
Diversion Services.....	10
Summary of Findings	10
Progress Report	10
Future Efforts	10
Indigent Defense.....	12
Summary of Findings	12
Progress Report	12
Future Efforts	13
Information and Data Systems	14
Summary of Findings	14
Progress Report	14
Future Efforts	14
Multicultural Education.....	15
Summary of Findings	15
Progress Report	15
Future Efforts	15

Chapter 4: Court Personnel.....	16
Summary of Findings	16
Progress Report	16
Future Efforts	16
Chapter 5: Legal Profession	18
Summary of Findings	18
Progress Report	18
Future Efforts	20
Chapter 6: Community Outreach	21
Town Hall Meetings	21
Resource Referral Guide	22
Raising Awareness	22
Appendices	
Appendix A: Task Force Findings.....	23
Appendix B: Revised Recommendations	30
Appendix C: Feedback Form.....	40
Appendix D: Contact Information Sheet.....	42
Appendix E: Selected Media Coverage in 2004.....	44

The Nebraska Minority and Justice Implementation Committee

Implementation Committee Chairs

(listed alphabetically)

Linda R. Crump, J.D., is the Assistant to the Chancellor for Equity, Access, and Diversity Programs of the University of Nebraska-Lincoln. She has served on the Nebraska State Bar Association House of Delegates for three terms and as chair in 2000. She is currently serving as the chair of the Nebraska State Bar Association Standing Committee on Professionalism.

John M. Gerrard, J.D., is a judge on the Nebraska Supreme Court. He was appointed by Gov. Ben Nelson in April 1995. Judge Gerrard has served as chair of the Supreme Court's Gender Fairness Implementation Committee since 1996 and is the court's representative on the state's Judicial Branch Education Advisory Committee. Prior to his appointment, Judge Gerrard was a partner in Gerrard, Stratton & Ptak, P.C., in Norfolk, where he was in private practice for 14 years.

Implementation Committee Members

(listed alphabetically)

Edna R. Atkins, J.D., is a Douglas County Court judge. She serves on the Judiciary Committee of the NSBA. She is co-chair of the Public Trust and Confidence Subcommittee of the NSBA Judiciary Committee.

Valorie Bendixen was elected as the Hall County Clerk of the District Court in November 2002. After graduating from the University of Nebraska-Lincoln her professional career has included 11 years with the Nebraska Supreme Court as a probation officer, four years with the Nebraska Department of Correctional Services and several years of employment as a certified drug and alcohol counselor.

Judy Beutler, M.P.A., is an associate administrator in the Administrative Office of the Courts. She served on the Nebraska Supreme Court Task Force on Gender Fairness and is a current member of the Nebraska Supreme Court Gender Fairness Implementation Committee and the Nebraska Legal Services State Planning Group "Equal Access to Justice." She is a Fellow of the National Center for State Courts' Institute for Court Management.

Edward C. Birkel, M.S., was appointed the Probation Administrator for the Nebraska Supreme Court in 1998. Prior to that, he had served both as a probation officer and chief probation officer in the Nebraska probation system since 1978.

Riko E. Bishop, J.D., is a partner with Perry, Guthery, Haase & Gessford, P.C., L.L.O. She serves on the Nebraska Supreme Court Committee on Practice and Procedure and is presently on the Board of Trustees of the Lincoln Bar Association. She was appointed to the Nebraska Affirmative Action Committee and presently serves as chairperson; she is a member of the Nebraska Association of Trial Attorneys; and is a member and past president of the Nebraska Council of School Attorneys.

Patrick J. Borchers, J.D., is the Dean of Creighton University School of Law. He serves on the Law School Admission Council's Test, Development, and Research Committee. He is the author or co-author of four books and approximately 35 professional journal articles in several fields, including the most widely cited empirical study on the conflict of laws.

Vernon Daniels, J.D., is a judge of the Separate Juvenile Court of Douglas County. Previously, he served as supervisor of the juvenile division of the Douglas County Attorney's Office. He was with that office from December 1993 to September 2002.

Judi M. gaiashkibos, an enrolled member of the Ponca Tribe of Nebraska, is the Executive Director of the Nebraska Commission on Indian Affairs. She serves on the U.S. Civil Rights State Advisory Committee. She is a board member of the Governor's Interstate Indian Council and was an American Indian Law Resource Center NGO attending the 2001 World Conference on Racism in Durban, South Africa.

Frank E. Goodroe was appointed State Court Administrator by the Nebraska Supreme Court on January 1, 2004. He previously served as District Court Administrator for the Douglas County District Court. Goodroe has extensive experience working in federal court administration, having served as the Clerk of Court for the U.S. Bankruptcy Courts in St. Louis and Los Angeles, and as the Court Executive Officer of the U.S. District Court, Central District of California.

John P. Grant, J.D., is the president of the Nebraska State Bar Association. He serves on the NSBA's Executive Council and has been a member of the House of Delegates since 1990, serving as chair in 1999. He is a former General Counsel for the Nebraska Department of Insurance and has served as special prosecutor for Douglas County District Court grand juries. He is a general practice attorney in Omaha.

Robin W. Hadfield, M.A., J.D., is a career law clerk for Judge John F. Wright of the Nebraska Supreme Court. She is a member of the Nebraska State Bar Association's Access to the Profession Committee and was previously chair of the NSBA Human Rights Committee. She has also worked as an administrative attorney and appellate attorney for the Nebraska Commission on Public Advocacy.

Cecilia Olivarez-Huerta is the Executive Director of the Nebraska Mexican American Commission. She is an advocate for Hispanics and serves on many task forces and committees dealing with Hispanic issues.

John F. Irwin, J.D., has served as the Chief Judge of the Nebraska Court of Appeals since 1998 and has been on the Court of Appeals since its inception in 1991. He is an officer of the Council of Chief Judges. He also chairs the Nebraska Supreme Court Judicial Education Advisory Committee and serves as vice-chair of the Judicial Ethics Committee.

Dennis R. Keefe, J.D., is the elected Public Defender for Lancaster County, Nebraska. He is a member of the Bar Information Program of the ABA Standing Committee on Legal Aid and Indigent Defense, and a member of the National Legal Aid and Defender Association, the National Association of Criminal Defense Lawyers, and the Nebraska Criminal Defense Attorneys Association.

Richard G. Kopf, J.D., has been Chief United States District Court Judge for the District of Nebraska since November 1999. He was appointed a United States District Judge by President Bush in May 1992. From February 1987 through May 1992, he served as a United States magistrate judge.

Catherine M. Mahern, J.D., is a professor of law and director of the Milton R. Abrahams Legal Clinic at Creighton University School of Law. She also is holder of the Connie Kearney Chair in Clinical Legal Education and has acted as a legal education consultant in Bosnia and Croatia with the Central and Eastern Europe Law Initiative of the American Bar Association. In 2002, she was awarded the Omaha Bar Association Bob Spire Award for outstanding community service.

Natalie A. Malmberg, originally from Venezuela, has lived in Nebraska for the past 16 years. She has been interpreting in state courts for the past 11 years and was among the first to become certified as a court interpreter in Nebraska in 2000. She is a member of the National Association of Judiciary Interpreters and Translators and the Nebraska Association for Translators and Interpreters.

Marilyn McGary, MS-HCA, RN, is the first woman ever to be appointed as the President and Chief Executive Officer of the Urban League of Nebraska, Inc. She holds a Bachelors of Science in Nursing and a Masters of Science in Health Care Administration. She was appointed by Governor Mike Johanns to serve on the State of Nebraska Judicial Committee and the Women's Advisory Committee, she currently serves on the NAACP Executive Committee, Nebraska Minority Public Health Association Board, UNMC Mobile Nursing Unit Board, Peoples Community Health Center Executive Committee, Creighton Women's Community Health Center Advisory Board, the University of Nebraska at Omaha-African American Cabinet, and the Omaha Public Schools Community Learning Center and Student Placement and Assignment Advisory Committees.

Carlos Monzón, J.D., is an Assistant Federal Public Defender. He received his J.D. from the University of Nebraska College of Law in 1994. He is a member of the Nebraska Criminal Defense Attorneys Association and the National Criminal Defense Attorneys Association.

D. Milo Mumgaard, J.D., is the Executive Director of the Nebraska Appleseed Center for Law in the Public Interest. He is a past chair of the Poverty Law Section of the Nebraska State Bar Association, and has served on several legislative and Governor-appointed task forces addressing the civil, immigration, employment, and other legal rights of Nebraska's newcomer populations. He received his J.D. from the New York University School of Law in 1988, where he was Editor-in-Chief of the NYU Review of Law and Social Change.

Nicole Neesen, J.D., is a Staff Attorney for the Milton R. Abrahams Legal Clinic at the Creighton University School of Law. Prior to joining Creighton she served as a Douglas County Public Defender from 1993-2001. She is a member of the Board of Directors of the Concord Mediation Center and the Federation of Catholic School Board Parents.

James E. Rembolt, J.D., M.A., is former president of the Nebraska State Bar Association. He serves on the Association's Executive Council and House of Delegates. He is a former president of NCLE, Inc., the association's continuing legal education organization, as well as Executive Council liaison to the association's Budget and Audit; Ethics; Ways, Means and Planning Committees, and the Women and the Law Section.

Harold L. Rock, J.D., is a founding partner of Kutak Rock, L.L.P. He is a member of the American Bar Association President's Advisory Council on Diversity; former chair of the Nebraska Bar Commission; member of the ABA Legal Education Law School Accreditation Committee; past member of the American Bar Association Immigration Pro Bono Projects Committee and the National Equal Justice Library Board of Directors; chair, Nebraska Indigent Defense Task Force; and president, Omaha Legal Aid Society.

Mohammed Sadden, J.D., has been in private practice as a solo practitioner in South Sioux City, Nebraska, for 35 years. He is a past member of the Educational Equity Committee for the Sioux City public school system which monitors compliance with civil rights legislation. He is a member of various organizations advocating rights for minorities combined with a law practice predominately representing minorities.

Jane L. Schoenike, J.D., is the Executive Director of the Nebraska State Bar Association. She serves on the Supreme Court Gender Fairness Implementation Committee and provides staff support to the NSBA Access to the Profession Committee. She is a member of the National Association of Bar Executives Diversity Committee, ABA, and Minnesota State Bar Association.

Anna Williams Shavers, J.D., has been a law professor at the University of Nebraska College of Law in Lincoln, Nebraska, for 16 years where she serves as co-adviser to the Black Law Students Association and the Multicultural Legal Society. After graduation from the University of Minnesota Law School, she practiced with the law firm of Faegre and Benson in Minneapolis before joining the faculty of the University of Minnesota.

Jose J. Soto, J.D., is Vice President for AA/Equity/Diversity for Southeast Community College. He is a 1984 graduate of the University of Nebraska College of Law. Over the past 25 years, he has served Nebraska's judicial, legal, and law enforcement communities as a Spanish language interpreter/translator, diversity/cultural competence trainer, and consultant on working with Hispanic populations.

Cassia Spohn, Ph.D., is professor of criminal justice at the University of Nebraska at Omaha. She is the author of *How Do Judges Decide? The Search for Fairness and Justice in Sentencing* and *The Color of Justice: Race, Ethnicity and Crime in America* (with Samuel Walker and Miriam DeLone). Her research interests include the effect of race and gender on court processing decisions, the effect of victim characteristics on sexual assault case outcomes, and charging and sentencing decisions under the federal sentencing guidelines.

Robert R. Steinke, J.D., is a Nebraska district court judge for the Fifth Judicial District in Columbus. He chairs the governmental and public relations committee of the Nebraska District Judges Association and is a member of the Nebraska Supreme Court Committee on Practice and Procedure. He also is a former board member of the Legal Aid Society.

David R. Stickman, J.D., is Federal Public Defender for the District of Nebraska. He is president of the Nebraska Criminal Defense Attorneys Association and immediate past president of the National Association of Federal Defenders. He is an adjunct professor of law at Creighton University School of Law and a member of the Nebraska, Maryland and District of Columbia bars.

Robert Thorson is the Lieutenant Colonel of the Nebraska State Patrol. He has been a member of the Nebraska State Patrol for the past 28 years and was recently named assistant superintendent. Prior to this position he headed up the investigative services divisions within the patrol as Major. He is a licensed polygraph examiner and former statewide polygraph coordinator. He chairs the Citizens Advisory Committee for the patrol and is involved in various other committees and organizations.

Alan J. Tomkins, J.D., Ph.D., is the Director of the University of Nebraska Public Policy Center and is a professor in the UNL Law/Psychology Program. He consulted with the National Center for State Courts on the Hearst Corporation's national study in 1999 of public trust and confidence, "How the Public Views the State Courts." He is the author of several articles on public opinion of the courts and co-edited a special issue of *Behavioral Sciences & the Law* on "Public Trust and Confidence in the Courts" published in 2001.

Susan M. Ugai, J.D., is in private practice as a solo practitioner in Lincoln, Nebraska. She currently serves on the boards of Friendship Home, Goodwill Industries, Nebraska Community Foundation, Nebraska Lawyers Trust Account Foundation, and the Woods Charitable Fund.

Ken Vampola, J.D., is Chairman of the Nebraska Board of Parole and formerly the presiding judge of the Winnebago Tribal Court. He is a member of the Nebraska Community Corrections Council and the Governor's Substance Abuse Work Team. He was a member of the Governor's Task Force on Whiteclay and continues to consult at the state and federal levels concerning Native American issues.

Terrance O. Waite, J.D., is a partner with Waite, McWha and Harvat, a five-lawyer firm in North Platte, Nebraska. He is a Fellow of the Nebraska State Bar Foundation and the Legacy of Liberty Project and a member of the Defense Research Institute and the Trial Lawyers Association.

Alfonza Whitaker, J.D., is the Executive Director of the Nebraska Equal Opportunity Commission. He received his J.D. in 1982 from Creighton University School of Law. After graduation from law school he was engaged in private practice where he focused on civil rights litigation. From May 1989 to December 1996, he was employed as an assistant attorney general with the State of Nebraska Department of Justice.

Eric L. Whitner, J.D., is owner of Whitner Law Firm, P.C., L.L.O. He is past president of the Midlands Bar Association and was elected to serve three terms on the Board of Governors of the National Bar Association, the largest organization of African-American judges and lawyers in the world, with over 17,000 members.

Linda L. Willard, J.D., is an Assistant Attorney General for the State of Nebraska and is chief of the Inmate Litigation Section. She received her J.D. from the University of Nebraska College of Law. She has served as a Commissioner on the Lincoln Human Rights Commission since 1999. She served on the Supreme Court Pro Se Litigation Committee and is a past president of the Lincoln Bar Association.

Steven L. Willborn, J.D., is Dean of the University of Nebraska College of Law. He is a member of the NCAA's Data Analysis Research Committee, a member of the Law School Admission Council's Test, Development and Research Committee, and a member of the ABA Committee on Bar Admissions.

Mark J. Young, J.D., was appointed Hall County Attorney in December, 2004. Prior to his work with the County Attorneys Office, Young practiced in the firm of Anderson, Vipperman, Kovanda, Wetzel, and Young. In addition, Young has served on the Nebraska Legal Services merger board.

Project Staff

Elizabeth Neeley, Ph.D. is a Project Director with the University of Nebraska Public Policy Center for the Minority and Justice Implementation Committee. She has assisted with several of the Public Policy Centers research efforts, most notably the Minority and Justice Task Force and Indigency Screener Projects. She has written several articles examining race and gender discrimination in the justice system.

Tarik Abdel Monem, J.D., joined the Public Policy Center as a Research Specialist in January 2003. In addition to coordinating the Minority and Justice Implementation Committee's Town Hall Meetings and *Resource Referral Guide*, he coordinates the Thomas C. Sorensen Policy Seminar Series, and is currently working with the MacNeil/Lehrer News Hour on its "By the People" project.

Derek Kieper, * has been a research assistant for the Minority and Justice Implementation Committee since January 2004. He will graduate in May 2006 with a B.A., majoring in Economics, Political Science, Sociology, Psychology, and History. He plans on attending law school or graduate school upon completion of his undergraduate degree.

*Derek Kieper was tragically killed in a car accident on January 4, 2005. Derek had recently been awarded a grant through the University of Nebraska's UCARE program to assist the Implementation Committee with a project to examine the extent to which non-English speakers and low-income individuals faced barriers to participating in diversion. Derek made significant contributions to the work of the Implementation Committee and his commitment and spirit will be missed.

Chapter 1: Introduction

By Hon. John Gerrard and Linda Crump



The Nebraska Minority and Justice Task Force was formed in 1999 by the Nebraska Supreme Court and the Nebraska State Bar Association (NSBA) to examine issues of racial and ethnic fairness within the Nebraska court and legal systems. Through two substantial grants from the State Justice Institute (SJI), administered through the University of Nebraska Public Policy Center, the Minority and Justice Task Force undertook a two-year research project, which culminated in a 200-page final report (the *Final Report* is available on-line at www.nebar.com and www.unl.edu/ppc). The report investigated topics as diverse as potential bias in criminal prosecution, sentencing, jury composition, court personnel hiring, law school admissions, and any number of other related issues over four comprehensive areas of the system of justice: access to the courts, personnel and employment practices in the courts, the legal profession in the state of Nebraska, and criminal and juvenile court processes. Approximately a dozen U.S. state Supreme Courts have undertaken similar projects approaching this scale, but no other project has been as comprehensive.

The major recommendation of the *Final Report* was to establish a standing committee to implement the Task Force recommendations. The Minority and Justice Implementation Committee, consisting of a racially and ethnically diverse group of judges, lawyers and community leaders, was formed in 2003 and continues its work of implementing the Task Force recommendations.

In addition to summarizing the major findings made in the *Final Report*, this Report discusses the progress made by the Implementation Committee and other justice agencies and organizations since the release of the *Final Report*. The Implementation Committee is at the beginning stages of a long-term effort. While it may take years to fully implement many of the recommendations, the Implementation Committee is developing long-term plans to promote change. To provide feedback or suggestions to the Implementation Committee please use the form provided in Appendix C and return it to the NSBA. Or click on the contact link provided on the NSBA's website at www.nebar.com/publicinfo/minority_justice.htm

Interest in the Minority and Justice Implementation Committee's mission and activities is appreciated and encouraged. To receive continual information on the Implementation Committee's efforts and events, please print your contact information on the form provided in Appendix D and return it to the Nebraska State Bar Association.

Chapter 2: Access to Justice

The recommendations made in the *Final Report* by the Access to Justice Subcommittee were revised and reorganized into two primary areas: juries and interpreter services. Although not specifically addressed in the *Final Report*, the Subcommittee has also taken an interest in and acted upon immigration concerns. Action on the recommendations on public perception will be addressed secondarily to action on juries and interpreter services. It is the Subcommittee's position that focusing on improvements in jury selection and interpreter services is a stepping stone to improving public perceptions. The Subcommittee will review whether any specific action steps on public perception should be taken at a later time. A brief summary of the findings relating to these three issues are provided below.

Summary of Findings for Juries

The jury system is a fundamental element of the justice system. The assurance that a defendant will receive a trial by a representative group of his or her peers is essential to maintain confidence in the court system. Perceptual data gathered by the Task Force indicate that the majority of Nebraskans believe that it is important that juries reflect the racial and ethnic makeup of the community. However, many respondents, especially minority respondents, believe that juries in general are not representative of their communities. Data support this perception; although minorities in Nebraska are slightly more likely than whites to have been in a Nebraska court of law as a defendant or witness, whites are substantially more likely to have been called for and served on Nebraska juries.

In its *Final Report*, the Task Force identified several structural factors which may inhibit racial and ethnic minorities' participation on juries: how jury pool lists are compiled, juror qualification guidelines, counties that have not periodically updated their jury pool lists, and payment for jury service.

Progress Report

- LB 19: Major progress was made toward making jury pools more representative of their communities when an amendment to LB19 (the Civil Procedure Bill) was passed on May 19, 2003. Amendment 1527 requires that jury pool lists be updated on an annual basis. The Implementation Committee has received anecdotal evidence that this legislative change has already made a significant impact on diversifying Nebraska's juries.
- Uniform Jury Questionnaire: To investigate the extent to which juries are representative of their community and whether the current system of jury compilation systematically excludes racial and ethnic minorities, data need to be collected at each stage of the jury selection process. In response, the Subcommittee has developed a uniform jury questionnaire, which would collect race and ethnicity data on a detachable portion for research purposes. The Subcommittee proposed an amendment to Neb. Rev. Stat. § 25-1629, which would allow the Nebraska Supreme Court authority to adopt a statewide uniform jury questionnaire.
- Research Exemption: In order to investigate the extent to which juries are representative of their community and whether the current system of jury compilation systematically excludes racial and ethnic minorities, the Implementation Committee or other designated agent will need access to the proposed uniform jury questionnaires, which contain

demographic data collected about jury pools, venires and impaneled juries. In response, the Subcommittee proposed a statutory change to Neb. Rev. Stat. § 25-1635 to authorize the Nebraska Supreme Court or its agent, access to jury questionnaires for research purposes. All information shall be treated as confidential and no identifying information about jurors will be released.

Future Efforts

- Expanding Jury Source Lists: One way the state can ensure that all racial and ethnic groups have an equal chance of being called to participate on juries is to expand the source lists from which juries are compiled. Currently, Neb. Rev. Stat. §25-1628 (Reissue 1995) requires Nebraska counties to combine both voter registration lists and driver's license registration lists to create the master list from which prospective jury pools are made. Several other states' research efforts have concluded that various groups within the population are not equally likely to be registered to vote or drive, thereby systematically excluding minorities from the opportunity to serve on juries. In the future, the Subcommittee will investigate the utility of including additional source lists to compile the prospective jury pool. However, it is the Subcommittee's position at this time that the impact of Amendment 1527 should be evaluated after a reasonable period of time to determine whether the required annual refreshing of jury pool lists has sufficiently accomplished the goal of creating jury pools representative of the community.
- Juror Hardships: The Subcommittee is also investigating several options to reduce the burden of jury service on low-income jurors for childcare or elder care expenses.

Summary of Findings for Interpreter Services

Through surveys of Nebraska's court personnel and the NSBA's membership, and through testimony obtained through public hearings across the state, the Task Force assessed the current state of interpreter services in Nebraska's court system. Nebraska's demographics are quickly changing, causing an increase in the demand for interpreter services in the courts. At the time of the Task Force's investigation, Nebraska had only six certified court interpreters for 93 county and district courts. The demand is heightened by the need for interpreter services throughout the legal process including probation and diversion services. Among others, additional testimony revealed concerns with: the availability and quality of interpreter services and translated documents; interpreters not being required to take an oath; and whether interpreter services should be paid for by the state or county.

Progress Report

- Translated Documents: The Administrative Office of the Courts (AOC) has translated protection order forms into Spanish and Vietnamese.
- Bail/Bond Information: The Implementation Committee has produced a translated packet of information to be shared with misdemeanor defendants which includes: a *Notice of Rights of an In Custody Defendant*, *Notice of Right to Post Bond*, and *Affidavit In Support of Personal Recognizance Bond*. The packet is currently

available in Spanish. More information about this initiative is available in Chapter 3 on pages 6 and 7.

- Court Interpreter Training Programs: In order to provide qualified interpreters, the AOC has taken steps to establish an interpreter certification program in conjunction with Southeast Community College and has provided workshops and training programs for current court interpreters. Additionally, the Nebraska Association of Translators and Interpreters conducts an annual training session.
- Increased Number of Certified Interpreters: At the time of the Task Force investigation, Nebraska had only 6 certified court interpreters. Later that year, six additional interpreters passed the exam, raising the total to 12. Two additional interpreters passed the exam in 2004, raising the total to 14. All of the certified court interpreters are certified in Spanish.
- Age limit: *The Nebraska Supreme Court Rules Relating to Court Interpreters* was amended in September 2003 to discourage individuals under the age of 19 from serving as court interpreters.
- Interpreter Oath: *The Nebraska Supreme Court Rules Relating to Court Interpreters* was amended in September 2003 to require interpreters to have read the *Code of Professional Responsibility for Interpreters*, and to take the *Interpreter Oath* prior to interpreting in the Nebraska courts or the Nebraska State Probation System.
- Updated Register: The AOC has updated the Court Interpreter Register. The Register now denotes certified, registered and other court interpreters by judicial district. The languages available and contact information for interpreters are also available. For a copy of the Court Interpreter Register contact the Administrative Office of the Courts at (402) 471-3730.
- Education: An educational seminar on, “Using Interpreters in Nebraska’s Courtrooms” was presented at the Nebraska State Bar Association’s 2004 Annual Meeting in Omaha Nebraska. The seminar and materials provide guidelines for lawyers and judges to more effectively use court interpreters. Seminar materials are available upon request. Contact the Nebraska State Bar Association at 1-800-927-0117.

Future Efforts

- Legal Interpretation Services via Technology (LIST): The Subcommittee is developing a proposal to establish a Nebraska-based legal telephone interpreting service. By establishing a Nebraska-based legal telephone interpretation service, Nebraska can not only overcome the geographic challenges of providing interpreter services but it can also ensure free access to qualified court interpreters in many languages.

- Translation of Court Documents: The AOC will continue to assess the accuracy of its translated documents and compile a list of standardized forms that need to be translated. Newly translated documents will be disseminated to the courts.
- Community Education: A working group has been established to address issues of community education. The group will develop initiatives to inform the public about court systems and processes.
- The Legal Community: As a resource for lawyers and judges, The Nebraska State Bar Association will begin include a listing of certified court interpreters in their annual Bar Directory.

Summary of Immigration Issues

Although not specifically addressed by the *Minority and Justice Task Force Final Report*, the Implementation Committee identified a problem with the unauthorized practice of law by “Notarios” – individuals who hold themselves out as Notary Publics and specifically advertise that they provide immigration related services. It has been reported that some Notarios have helped immigrants complete applications for a green card or work permit, even though that individual may not be qualified and have taken fees regardless of the likelihood of success on the application.

Progress Report

- LB 315: Effective July 16, 2004 an amendment to LB 315 prohibits the unauthorized practice of law by notary publics. The amendment specifically prohibits notary publics from consulting on immigration matters and from advertising that they provide immigration related services.
- Education: The Nebraska Secretary of State’s office provided workshops for Notary Publics regarding the legislative changes. Additionally, *The Nebraska Official Notary Public Handbook*, published by the Nebraska Secretary of State, explains the regulations set forth by LB 315 to notary publics and is available on line at: http://www.sos.state.ne.us/business/notary/pdf/notary_handbook.pdf
- Awareness: The Subcommittee published an article in the Nebraska State Bar Association magazine, *The Nebraska Lawyer*, regarding a study that reveals the disproportionate numbers of immigrants being detained in Nebraska county jails, many without legal representation. The article discusses the volunteer services in Nebraska available to immigrants. This article is included in Appendix E.

Chapter 3: Criminal and Juvenile Justice

The Criminal and Juvenile Justice section of the *Final Report* was the most expansive. The recommendations made in the *Final Report* were revised and reorganized into six general categories: Bail/Bond Reform; Disproportionate Minority Confinement; Diversion; Indigent Defense; Information and Data Systems; and Multicultural Education. In order to accomplish its goals, the six areas are being addressed by separate working groups. Each working group consists of at least two members of the Criminal and Juvenile Justice Subcommittee, and is augmented by other individuals who have expertise in a given area. A brief summary of the findings relating to each working group, the progress made to this point, and the future efforts of each working group are provided below.

Bail/Bond Reform

Summary of Findings

The bond system currently used by the state of Nebraska depends on the ability to pay. In the state of Nebraska, 1 out of every 19 whites falls below the poverty line. By contrast, 1 in 5 blacks, 1 in 5 Native Americans, and 1 in 10 Asians falls below the poverty line. Hence, in general, racial and ethnic minorities have fewer resources with which to post bond.

One of the recommendations of the *Final Report* was that Nebraska investigate the advisability of fully implementing a system based not on monetary bond but on conditions of pretrial release that would reasonably assure the appearance of the defendant and the safety of the community. A working group has been established to develop the concept of a pilot pretrial program which is not based on a monetary bond.

In its investigation of the current bail/bond system, the working group identified an additional access issue. More specifically, there is a concern that in smaller counties, where judges and interpreters are not available on a daily basis, non-English speaking misdemeanor defendants are sometimes detained until arraignment without being advised of available scheduled bonds. This results in unequal access to scheduled bonds. The problem is exacerbated if non-English speaking defendants are encouraged to plead guilty for “time-served,” which affects defendants’ criminal histories and, thus, may affect future sentencing decisions.

Progress Report

- The Packet: In an effort to ensure equal access to bonds, the working group has developed a translated packet of information to be shared with defendants. The packet includes the following documents in a bilingual format (English and Spanish): *Notice Of Rights of An In Custody Defendant*, *Notice of Right To Post Bond*, and *Affidavit In Support of Personal Recognizance Bond*. This packet of information is intended to serve an informative purpose; non-English-speaking defendants may or may not be familiar with the United States’ justice system and its processes. Moreover, if non-English-speaking detainees are advised of the bond schedule and can post bond or contact someone to post bond for them, this procedure has the potential to relieve jail overcrowding. If defendants are not able to post bond they can use the financial affidavit to request a personal recognizance bond. Finally, implementation of these procedures is expected to reduce the proportion of racial minorities who believe that they are treated differently in regards to bonds and pretrial detention.

This packet of information was reviewed by a sample of nine county court judges in August of 2004 and by federal- and state-court-certified interpreters for accuracy. In November, 2004 the Criminal and Juvenile Subcommittee made a formal request to the Nebraska Supreme Court to adopt the use of the translated *Notice Of Rights Of An In Custody Defendant*, *Notice Of Right To Post Bond*, and *Affidavit In Support Of Personal Recognizance Bond* as an important step in improving access to justice. To address the high rate of illiteracy in the defendant population, the Subcommittee recommended that these documents be made available in an audio format (tape, CD, or video). The Subcommittee also recommended that that these forms be translated into additional languages as needed and as feasible and that each county court work with its sheriff's department to provide these documents to all bondable inmates.

Future Efforts

- Pilot Project: One of the recommendations of the *Final Report* was that Nebraska investigate the advisability of fully implementing a system based not on monetary bond but on conditions of pretrial release that would reasonably assure the appearance of the defendant and the safety of the community. In the future, the Bail Bond Working Group will develop the concept of a pilot pretrial program which is not based on monetary bond.

Disproportionate Minority Confinement

Summary of Findings

An examination of arrest and incarceration data from both state and federal agencies, led to the preliminary conclusion that members of racial and ethnic minorities are disproportionately charged, convicted, and incarcerated in Nebraska compared to their white counterparts. A working group has been established to identify and address the causes that lead to disproportionately high minority incarceration.

Progress Report

- The Nebraska Racial Justice Initiative (NRJI): In its *Final Report*, the Task Force stated that racial minorities were overrepresented as defendants in the criminal and juvenile justice systems. The members of the Task Force also noted, however, that data limitations prevented them from conducting a comprehensive analysis of the treatment of racial minorities by the criminal justice system. To remedy this, the Task Force recommended that the “Nebraska justice system commit itself to a morally searching, permanent, institutional effort to study, address and change those practices and procedures that may disadvantage minorities, whatever the cause of those practices.” The Nebraska Racial Justice Initiative (NRJI), which is a collaborative effort involving scholars from the University of Nebraska at Omaha’s Department of Criminal Justice and Creighton University’s School of Law, is being developed to implement this recommendation.

The mission of NRJI will be to conduct research and engage in policy analysis designed to advance the cause of racial/ethnic justice in the State of Nebraska. Faculty and staff affiliated with NRJI will evaluate the impact of criminal justice policies and programs on racial minorities and will conduct research designed to identify and address disparities in the treatment of racial and ethnic minorities by the criminal justice system. NRJI researchers will disseminate the results of their research to government agencies and community stakeholders and will work with government and community leaders to develop fair and equitable policies and programs. Although the Nebraska Racial Justice Initiative will work closely with the Nebraska Minority and Justice Implementation Committee to address the research needs identified by the Minority and Justice Task Force, the mission of NRJI will extend beyond the court system to include law enforcement and corrections.

NRJI’s Future Research Projects:

The Nebraska Racial Justice Initiative has prioritized the following research projects:

1. **Judges Sentencing Decisions:** An analysis of judges’ sentencing decisions to determine if racial and ethnic minorities are sentenced more harshly than whites.
2. **Prosecutorial Discretion:** An analysis of prosecutors’ charging and plea negotiating decisions to determine if racial and ethnic minorities are more likely to be formally prosecuted or receive less favorable plea agreements than whites.

3. Jury Pools: Research on jury selection procedures and the representation of racial/ethnic minorities in the jury pool and on juries; research designed to determine if prosecutors use their peremptory challenges in a way that reduces participation by racial minorities.
4. Bail/Bond: Evaluation of the pilot program to reform Nebraska's bond system; the Minority and Justice Implementation Committee is working to develop a pilot program which is not based on a monetary bond but on conditions of pretrial release that would reasonably assure the appearance of the defendant and the safety of the community.
5. Racial Profiling: Research on the extent of racial profiling by law enforcement agencies, including the Nebraska State Patrol.
6. Diversion: An analysis of juvenile and adult pretrial diversion programs (including drug treatment courts) designed to determine if there is equal access to these programs.
7. Definition of Race and Ethnicity: An analysis of the way in which race and ethnicity are defined by criminal justice agencies throughout the state: What categories are used? How is an individual's race/ethnicity determined (i.e., self-report, determined by official on the basis of appearance, determined on the basis of official record).
8. Indigent Defense Services: An analysis of indigent defender services, coupled with research designed to determine (1) if racial minorities are more likely than whites to be represented by public defenders and (2) if defendants represented by public defenders are treated differently (e.g., in terms of plea negotiating and sentencing) than defendants represented by private attorneys.
9. Employment and Law School Admissions: Research monitoring the employment of racial and ethnic minorities in the criminal justice system and the admission of racial and ethnic minorities to the state's law schools. Evaluate programs designed to increase minority employment/admissions.
10. Perceptions of Justice: An annual or biannual "State of Criminal Justice in Nebraska" survey that focuses on citizens' experiences with the criminal justice system and their beliefs about the fairness of the system.
11. Police Complaints: Research on citizen complaints about the police and the resolution of these complaints.

Diversion

Summary of Findings

In the *Final Report*, there were three major findings regarding diversion services in the State of Nebraska. First, the study found that not all Nebraska counties offer diversion and, among those that do provide diversion, these services vary. Second, few diversion programs keep records of participants' race and ethnicity. Finally, there is inconsistent and inadequate recordkeeping of diversion programs and no centralized database to collect information on those offered diversion.

Progress Report

- LB 43: All of the Task Force's findings were addressed to some extent in 2003 with the passage of Legislative Bill 43. LB 43 provides standards for the establishment of juvenile pretrial diversion programs and requires every juvenile pretrial diversion program to report information to the Nebraska Crime Commission. Among other things, programs are required to report the following types of data in a uniform fashion: the race and ethnicity of those referred and those enrolled in juvenile pretrial diversion programs, reasons why referred youths did not enroll, the offense for which a juvenile was referred, and when and how the case was closed.
- Revised Letter: Data from Lancaster County's juvenile justice system show that minority juveniles are less likely to enroll in pretrial juvenile diversion programs. Although there are many potential reasons for not enrolling in diversion programs, one reason may be that the process of enrolling is unclear. Lancaster County has rewritten the letter it sends to juveniles who are referred to pretrial diversion in easy-to-understand language. The working group would encourage similar efforts be made across the state.
- Statement of Interpreter Services: In an effort to ensure that non-English-speaking juveniles are not discouraged from enrolling in juvenile pretrial diversion programs, a postcard providing a phone number to call if the juvenile needs interpreter services will be included with the letter sent to all juveniles referred to diversion in Lancaster County. The statement will be translated into 4-5 languages. The working group hopes that similar efforts can be made across the state.
- Data Collection: In collaboration with the Nebraska County Attorneys Association, the working group has obtained data on adult diversion programs across the state. These data include: screening criteria, the demographic profiles of those being referred to adult diversion programs, the demographic profiles of those enrolling in adult diversion programs, whether and how often language interpreters are needed/used, the costs of diversion and whether or not payment plans are available for low-income referrals, etc. The working group is currently analyzing the data and formulating recommendations to improve equal access to diversion programs.

Future Efforts

- Program Standards: Pending the results of data collection efforts, the working group will investigate the utility of working with the Nebraska County Attorneys Association to develop legislative standards for adult diversion programs.

Indigent Defense

Summary of Findings

Public defenders and assigned counsel hold a unique position in the state's criminal justice system. They serve as lawyers for defendants unable to afford a private lawyer. Because a higher percentage of minorities than whites are poor and thus unable to afford a private attorney, minorities are more likely than whites to need the services of a public defender or assigned counsel. The quality of the legal services provided by public defenders or assigned counsel thereby affects how minorities are treated in the criminal justice system.

In a 1993 study of Nebraska's indigent defense system there were three major findings regarding the quality of indigent defense services in the state of Nebraska. First, the study found a lack of uniformity and consistency in the delivery of indigent defense services. Second, funding primarily at the county level was inadequate to meet indigent defense needs. Finally, there was a lack of written standards and guidelines for the operation of indigent defense programs.

The American Bar Association has enumerated 10 principles for a public defense system. In short, the ABA states that public defenders should be well-educated, be independent, have access to adequate resources, have reasonable caseloads, and have the time to effectively defend those without means to fund their own defense. In 2001, the Nebraska legislature created a mechanism and provided funding for the development and implementation of standards for county indigent defense systems. The standards were developed for felony cases, but no other standards were agreed to before the Nebraska Legislature defunded the project in 2002.

Progress Report

- Updated Report: Nebraska's Minority and Justice Implementation Committee released a report in October 2004 entitled, "The Indigent Defense System in Nebraska: An Update." This report is an assessment of the progress Nebraska has made since the Spangenberg Group's original 1993 study of "Indigent Defense Systems in Nebraska". The analysis begins with a report card for Nebraska which assesses Nebraska's compliance with the "ABA Ten Principles of A Public Defense Delivery System." The updated report also provides the most recent data available on county indigent defense costs and caseloads and compares these data to the information reported in the 1993 study conducted by the Spangenberg Group. Third, the findings and recommendations from the 1993 report are revisited; the updated report identifies the findings that appear to still apply and the recommendations that have been implemented. Finally, the Spangenberg Group, national experts on the issue of indigent defense and the authors of the original 1993 study, offer their assessment of Nebraska's progress. Copies of the report were disseminated to policy makers in hopes of renewing a commitment to improving Nebraska's indigent defense systems and to highlight the areas where Nebraska needs the most improvement. Hard copies of the report are available at the Nebraska State Bar Association. The report is also available on-line at http://www.nebar.com/pdfs/public_info/FINAL%20COPY-PDF.pdf
- Standards for Juvenile Representation: Several studies and recent media coverage document the lack of quality legal representation for juveniles in Nebraska, especially in child abuse and neglect cases. To address these issues, the Minority and Justice Implementation Committee, in collaboration with the Nebraska State Bar Association, Nebraska's Administrative Office of the Courts, and the Court Improvement Project, received funding from Woods Charitable Fund to create a Commission charged with:

- 1) developing standards for the representation of juveniles, including law and status violation cases as well as the abuse and custody cases handled by guardians ad litem;
- 2) developing training protocols and curricula for guardians ad litem and lawyers representing juveniles; and
- 3) developing an implementation plan to enforce the standards.

By accomplishing these objectives, Nebraska will have the potential to increase the quality of legal representation for juveniles by ensuring that those who provide legal representation for children and youth will receive adequate training, have caseload standards, meet with clients in a timely manner, and receive cases for which they are qualified.

Future Efforts

- Pilot Project: In order to prove the efficacy of the developed standards for indigent defense systems, the working group has partnered with the Commission on Public Advocacy to develop a 2-3 year pilot project. The project will compensate counties 40% for fully implementing the developed standards for indigent defense systems. The working group is currently seeking grant money to fund the pilot project.

Information and Data Systems

Summary of Findings

One of the difficulties encountered by the Task Force in its two-year investigation was the lack and incompatibility of data across the justice system (law enforcement, the courts, and corrections). For instance, some agencies collect race and ethnicity data separately, others collect only race data, and still others collect a combination. It is, therefore, difficult to use available data sets in tandem to illustrate the likelihood that an arrest will end in incarceration as a function of race and ethnicity. A working group has been established to address the complete and consistent collection of data on race and ethnicity in the justice system.

Progress Report

- LB 1068: LB 1068 authorizes the Nebraska Supreme Court, or its agent, to have access to presentence reports for the purpose of research. Access to presentence reports will allow the Supreme Court to periodically direct an analysis of the services provided by the courts of this state and by probation (such as setting of bond, sentencing, probation revocations, etc.) to determine if there are any effects on the delivery of those services caused by race or ethnicity.
- Criminal Cover Sheets: To address the lack of data on race and ethnicity gathered by the court system the working group is developing “criminal cover sheets” to be filled out by prosecutors in all county and district court cases. Cover sheets will be standardized to include the demographic profile of the defendant as well as information useful to the prosecutors and clerks such as: the case number, the original charge or charges, whether charges were filed in county or district court, etc.

Future Efforts

- Uniform Definition of Race and Ethnicity: To address the incompatibility of data, the working group will be pressing for the adoption of a uniform definition of race and ethnicity across justice institutions. Adopting a uniform definition will not only allow Nebraska to obtain more accurate data on race and ethnicity but may enable the state to make accurate regional and national comparisons.
- Information Sharing: The working group will continue to analyze the current systems of data collection across justice agencies to determine if changes can be made to provide for complete and consistent collection of data with respect to race, ethnicity, gender, age and other demographic data. Formal recommendations will be made to Nebraska’s Criminal Justice Information Systems (NCJIS) Advisory Committee, which coordinates data sharing and use of information technology among criminal justice agencies.

Multicultural Education

Summary of Findings

Data collected through public hearing testimony and through surveys of Nebraska court personnel and NSBA members documents instances of inappropriate conduct by judges, lawyers, court personnel and probation employees. Furthermore, survey data indicate that minority court personnel and Bar members have markedly different perceptions of bias in the Nebraska justice system. These findings indicate a need for multicultural education throughout the court and legal system. A working group has been established to develop and administer training to improve multicultural competence.

Progress Report

- Public Awareness: One of the primary goals of the working group is to raise awareness about the *Final Report* and the Implementation Committee's efforts. In addition to the 2003 and 2004 town hall meetings, the Task Force and Implementation Committee have received substantial media coverage over the past year, bringing broad exposure to these important issues (see Appendix E).
- Awareness among the Legal Community: In our efforts to raise awareness among Nebraska's legal community, representatives of the Minority and Justice Implementation Committee have made presentations to: the Nebraska Association of Translators and Interpreters, the Nebraska County Attorneys Association, and Nebraska's judiciary. Members of the Implementation Committee have also published several articles in various legal professional magazines/newsletters discussing the various efforts of the Implementation Committee (see Appendix E).
- 2005 Diversity Summit: In collaboration with Legal Professions Subcommittee, the working group is helping to coordinate the 2005 Legal Diversity Summit. More information about this initiative is available in Chapter 5 on pages 18 and 19.

Future Efforts

- Awareness: Efforts to educate the public, the court system and the legal profession about the *Final Report* and its findings will continue.
- Education: The working group will develop targeted diversity education programs directed toward the judiciary, court personnel and attorneys.
- Indian Law Issue: In an effort to raise awareness among legal professionals about Native American issues, a special issue of the Nebraska State Bar Association magazine, *The Nebraska Lawyer*, will be devoted to issues specific to Native Americans.

Chapter 4: Court Personnel

Summary of Findings

In an effort to determine to what extent court staffs reflect the racial and ethnic diversity of the communities which they serve, the Task Force examined the demographic profile of the Nebraska state court system. Additionally, the Task Force explored the hiring, retention and promotion patterns for minorities in the state as well as instances of inappropriate conduct by judges, lawyers, court personnel, and probation employees. Data revealed that across virtually every level of employment, minorities are underrepresented in Nebraska's courts. Minorities are also more concentrated in support staff positions with little autonomy, less compensation, and are more likely to hold part-time positions than their white counterparts. Finally, court personnel and Bar members report having witnessed or being aware of inappropriate comments or jokes of a racial or ethnic nature, racial or ethnic slurs, and disrespectful and discourteous treatment of minorities.

Progress Report

- The Implementation Committee critically reviewed and revised the recommendations made in the *Final Report* and presented its formal recommendations to the Administrative Office of the Courts, the Nebraska Juvenile Court Judges Association, the Nebraska County Court Judges Association, and the Nebraska District Court Judges Association (see Appendix B for Revised Recommendations).
- The Nebraska Juvenile Court Judges Association unanimously voted to adopt the Minority and Justice Implementation Committee's recommendations.
- The Administrative Office of the Courts has expanded its efforts to publicize open court positions to Nebraska's Hispanic/Latino population and encourages bilingual applicants to apply.
- The Nebraska Supreme Court has a Workplace Harassment Policy which includes a complaint process for employees, and officers of the courts, as well as those who receive the courts' services. This policy has and will continue to be used in efforts to correct problems relating to complaints of racial and ethnic bias.

Future Efforts

- The Subcommittee has pledged its support to the AOC, the Nebraska County Court Judges Association, the Nebraska District Court Judges Association and the Nebraska Juvenile Court Judges Association in implementing the formal recommendations it made in February 2004.
- To increase clerkship opportunities for racial and ethnic minorities, the Nebraska courts will become involved with the American Bar Association's Judicial Clerkship Program. The program is designed to bring judges and minority law students together through structured networking activities. Students are able to demonstrate their knowledge and research skills in a small group setting while interacting with the judges in a team building effort.

- The Subcommittee will investigate the extent to which the Administrative Office of the Court's Workplace Harassment Policy, which includes a complaint process for employees, officers of the courts, and those who receive the courts' services, is being used and is effective in following-up on complaints.

Chapter 5: Legal Profession

Summary of Findings

The Task Force examined opportunities for minorities in Nebraska's legal profession by collecting data from Nebraska's law schools, administering a survey of NSBA members, and conducting focus groups with affected parties.

Results show that Nebraska's legal profession is not reflective of the state's racial and ethnic diversity. Additionally, minority and white members of the NSBA have noticeably different perceptions of career opportunities in the state, including those related to mentoring, retention and promotion. More specifically minority Bar members believe that there are fewer opportunities in private firms for minority law school graduates, and that there are fewer mentoring, networking and professional advancement opportunities for minority legal professionals. Finally, data indicate that racial and ethnic minorities are underrepresented in Nebraska's judicial system and that Nebraska's judicial nominating commissions are not reflective of the diversity of the legal community.

The *Final Report* concludes that Nebraska is facing a "pipeline" issue. In short, the law schools' ability to recruit, admit, and graduate minority students directly affects the likelihood that Nebraska's legal community will be reflective of the growing diversity in the state. By extension, the success of the law schools to diversify likely will lead to more minority lawyers and ultimately more minority judges in the state.

Progress Report

- The University of Nebraska College of Law Pre-Law Institute: Through a grant from the Law School Admissions Council, the University of Nebraska College of Law developed a summer Pre-Law Institute in 2003. The Institute targets students who are traditionally underrepresented at the University of Nebraska College of Law and within the legal profession in Nebraska. A total of 29 diverse students attended the four-week summer program in 2003 and 30 students attended in 2004. The Pre-Law Institute provided students with an introduction to legal study and its analytical and writing demands; exposure to the many roles of the law and lawyers in society; and instruction on the process of applying to law school and obtaining financial aid. The general goal of the program is to orient students to the special nature of legal study and to excite them both about law school itself and about life in the law beyond law school. In addition, the program established two mentoring relationships for each student, one with a lawyer involved in academics and one from outside academics. Students' first year evaluations showed general satisfaction with the program. Moreover, pre- and post-session evaluations showed improvements (although not statistically significant) in students' LSAT and writing scores. In addition to nurturing and developing interest in the law among a broadly diverse group of students, the Pre-Law Institute was also developed in hopes of increasing the diversity of the University of Nebraska College of Law and ultimately the legal profession in Nebraska. Although it may take some time to adequately assess to what extent the program is successful in increasing diversity, the program shows promise in accomplishing this goal. In fact, the Law School Admissions Council has extended funding for the Pre-Law Institute for the next three years.
- 2005 Diversity Summit: On April 11, 2005, Nebraska will be holding its first Legal Diversity Summit in Omaha Nebraska for Nebraska's legal employers and minority law

students from the region (Nebraska, Iowa, Kansas, Missouri and South Dakota). The Summit will feature keynote speaker, Dennis Archer. Archer is the first African American president of the American Bar Association, a former Michigan Supreme Court Justice, former mayor of Detroit, and has been named one of the United States' "most powerful attorneys" by the *National Law Review*. The Legal Diversity Summit is designed to promote diversity in Nebraska's legal profession by:

- 1) Creating awareness in Nebraska's legal profession about the value of diversity.
 - 2) Educating legal employers on how to increase their efforts in recruiting and retaining attorneys of color.
 - 3) Providing minority law students from Nebraska and surrounding states with the opportunity to learn more about legal employment opportunities in Nebraska.
 - 4) Encouraging legal employers to develop and implement goals to diversify.
- Legal Diversity Website: The Subcommittee is working to develop a website that would not only showcase the growing diversity in Nebraska but would also provide prospective and current minority law students and lawyers with information about: living in Nebraska, attending law school in Nebraska, scholarship opportunities, voluntary Bar Associations, information on networking opportunities and events, job postings from firms and organizations seeking minority applicants, an on-line mentoring program and more. The development of and a publicity campaign for this website is expected to be a significant addition to the Implementation Committee's current efforts to promote diversity in Nebraska's legal profession, by providing prospective and current law students and attorneys with information and resources to help them build relationships in Nebraska and by providing law schools and legal employers with the resources to reach out to minority candidates. The website will be launched at the 2005 Legal Diversity Summit.
 - Nebraska Hispanic Bar Association: Nebraska's Hispanic attorneys have joined forces to create the Nebraska Hispanic Bar Association in order to address the needs of Hispanic communities across the State of Nebraska. The purpose of this newly formed organization is to:
 - 1) Advance and develop Hispanics in the legal profession.
 - 2) Promote equal justice and opportunity for all Hispanics.
 - 3) Educate the Hispanic community about relevant legal issues.
 - 4) Promote the professional development of Hispanic lawyers and law students in Nebraska.
 - 5) Encourage Hispanics to enter the legal profession.
 - 6) Promote the appointment of Hispanics to leadership positions in federal, state and local governments, the judiciary and in other leadership positions.

The Implementation Committee looks forward to working closely with this important new Association.

Future Efforts

- Continuum Plan: There are currently several programs designed to attract minority youth to pursue a career in the legal profession in Nebraska. The Subcommittee would like to build a continuum among the various programs (those sponsored by the NSBA, the Bar Foundation, Upward Bound programs, the law colleges' "Law Day" events, etc.) which would track minority involvement in these programs from middle school through law school. The purpose of tracking is 1) to evaluate how programs are working and 2) to nurture the interest minority youth have expressed in pursuing a career in the law. The idea is that students involved in middle school programs can later be invited to junior high and high school events and programs, while maintaining contact through periodic newsletters.
- Minority Clerkship Program: The Subcommittee will develop a program to provide judicial clerkship opportunities to first-year minority law students at the two Nebraska law schools. Many other states have developed similar programs. The Subcommittee believes that by providing these types of opportunities, minority law students may be more likely to view Nebraska as a viable place to practice after graduation, and would illustrate that the Nebraska Bar values diversity and is willing to take measures to encourage diversity in the profession.

Chapter 6: Community Outreach

Town Hall Meetings

As part of its three-year investigation of Nebraska's justice system, the Task Force traveled to communities across Nebraska, soliciting testimony from the public on issues relevant to race and ethnicity in the courts. The testimony gathered at these public hearings played a critical role in illustrating minority's perceptions of the justice system. Among others, public testimony identified problems such as: a lack of quality interpreter services, court systems that are not representative of the communities they serve, and perceived sentencing disparities.

As a follow-up to the 2002 public hearings, the Implementation Committee returned to many of the communities from which the Task Force solicited information (see table 1). The Implementation Committee used these town hall meetings as an opportunity to: share the findings of the *Final Report*; discuss the future plans of the Implementation Committee; and to solicit feedback from the public.

Table 1: 2003 and 2004 Town Hall Meeting Schedule and Locations

City	Date	Location
Omaha	October 7, 2003	Teacher Administrative Center
Lincoln	October 16, 2003	The Malone Center
Grand Island	November 2, 2003	Walnut Middle School Auditorium
Lexington	November 10, 2003	St. Ann's Parish Center
North Platte	November 12, 2003	Mid-Plains Community College
Omaha	November 17, 2003	Guadalupe Center
Norfolk	December 1, 2003	Norfolk High School Little Theater
South Sioux City	December 4, 2003	St. Michael's Church
Chadron	March 24, 2004	Chadron Native American Center
Scottsbluff	March 25, 2004	Our Lady of Guadalupe Parish
STOP Club	May 15, 2004	Lincoln Correctional Center
NATI 5 th Annual Conf	August 13, 2004	College Park, Grand Island

The town hall meetings were very informative. Among other things, the Implementation Committee received comments and suggestions on: how to improve interpreter services, the need for diversity training among court personnel and legal professionals, concerns with police discretion, concerns with the quality of indigent defense systems, concerns with prosecutorial discretion, and the need to increase diversion opportunities and prevention programs. Additionally, the Implementation Committee also received several requests that communities continue to be involved in the reform process and that the Implementation Committee itself diversify and have better representation from the western half of the state. The Implementation Committee will continue its community outreach efforts through presentations to various groups.

Resource Referral Guide

In response to the numerous requests that the Implementation Committee receives that are beyond the scope of our purview, the Committee produced a *Resource Referral Guide* to assist citizens with their requests. The Guide provides a compilation of contact information for various groups and agencies. The Guide is available to inform citizens where they can direct discrimination complaints, receive community support, and/or obtain legal representation. The *Resource Referral Guide* is available via the internet at http://www.nebar.com/pdfs/public_info/MJTF_Referral%20List.pdf and http://ppc.nebraska.edu/program_areas/documents/mjtf/MJTFFReferralList-2004.doc

Raising Awareness

Members of the Implementation Committee have also reached out to the community through the media via radio interviews, newspaper articles, and magazines and journals (see selected media coverage in Appendix E). The Committee hopes that continual media coverage will bring broad public exposure to these important issues.

Appendix A: Minority and Justice Task Force Findings

Minority and Justice Task Force Findings

I. Access to Justice

Public Perception

1. Minority group members tend to believe relatively uniformly that members of other minority groups receive unfair treatment. This is especially the case among black respondents, who are more negative about court fairness toward any minority group. Generally speaking, Native American and Hispanic perceptions closely parallel one another, with Hispanic respondents being somewhat more positive.
2. Nebraska respondents tend to have different views than the national sample. Specifically, white respondents in the Nebraska sample are less likely to believe that minorities receive unfair treatment than are whites in the national pool. Conversely, a substantially higher percentage of blacks in the Nebraska pool believe they and members of other racial and ethnic groups are treated unfairly.

Interpreter Services

1. Data indicate that Nebraska's demographics are quickly changing, causing an increase in the demand for interpreter services in the courts.
2. There is a shortage of qualified interpreters in the state. Since Nebraska joined the Consortium for State Court Interpreter Certification in 1999, six individuals have passed the certification test. There is also a need to increase and improve interpreter training courses in preparation for the certification tests.
3. Nebraska courts do not always make an attempt to first appoint a court-certified interpreter as is required by rule of the Nebraska Supreme Court.
4. Some confusion exists as to when interpreter services should be paid for by the state or county.
5. Nebraska does not pay for interpreter services for diversion. Some individuals may not have the means to pay for such services.
6. Translation of documents are not consistent across the state.

Nebraska Juries

1. The majority of Nebraskans believe that it is important that juries reflect the racial and ethnic makeup of the community. However, many respondents, especially minority respondents, believe that juries in general are not representative of their communities.
2. The majority of Nebraska court personnel believe that jury pools represent the community at large. Minority court personnel were less likely to agree that jury pools

represent the community at large and much less likely to believe that racial and ethnic minorities are adequately represented on jury panels.

3. Minority lawyers and lawyers from diverse counties (Lancaster County, Douglas County, Sarpy County, etc.) of the state are substantially more likely to believe Nebraska's jury pools underrepresent racial and ethnic minorities.
4. Although minorities in Nebraska are slightly more likely than whites to have been in a Nebraska court of law as a defendant or witness, whites are substantially more likely to have been called for and served on Nebraska juries.
5. Nebraska's current method for compiling jury lists may have an adverse effect on minority participation.
6. Nebraska state statutes do not require periodic refreshing of jury lists.
7. Although Nebraska state statutes ensure that employees' wages are protected, there are currently no efforts to reimburse low-income jurors for child care or elderly care expenses incurred because of jury service.
8. Minorities in Lancaster County were underrepresented in the venires and on impaneled juries for both civil and criminal trials in the summer of 2002.
9. A majority of jurors from Douglas, Lancaster, and Hall Counties feel that juries should be reflective of the community.

II. Criminal and Juvenile Justice

Criminal

1. In Nebraska and elsewhere, minorities are disproportionately arrested in relationship to their percentage in the general population and compared to their white counterparts.
2. In Nebraska and elsewhere, minorities are disproportionately incarcerated in relationship to their percentage in the general population and compared to their white counterparts.
3. In Nebraska, the disparity between minority and white narrows from arrests to incarceration so that Nebraska incarcerates adult minorities at about the same rate as surrounding states.
4. Nebraska law enforcement agencies arrest blacks at a disproportionately higher rate than is found nationally or in any of the states in Nebraska's region.
5. Nebraska's county and district courts do not collect and maintain sufficient computerized demographic data to allow for statistical analysis of racial and ethnic minorities in the court system.
6. Nebraska does not maintain a database to study the discretion of Nebraska's prosecutors as it relates to race and ethnicity.

7. Over half of Nebraska's counties have no public defender.
8. Nebraska's minorities are substantially more likely than whites to use a public defender or assigned counsel.
9. Not all Nebraska counties offer diversion and, among those that do provide diversion, these services vary.
10. Few diversion programs keep records of race and ethnicity.
11. There exists inconsistent and inadequate recordkeeping of diversion programs and no centralized database to collect information on those offered diversion.
12. Nebraska's law enforcement agencies have no established policy for recording race and ethnicity.

Juvenile

1. Minority youth are disproportionately detained in the state of Nebraska, regionally, and nationally in relationship to their percentage in the general population and compared to their white counterparts.
2. Minority youth are disproportionately placed in out-of-home placement in the state of Nebraska in relationship to their percentage in the general population and compared to the white counterparts.
3. Due to a number of factors, including those related to language and resource barriers, minority youth are less likely to participate in juvenile diversion services.
4. Not all Nebraska counties offer diversion and, among those that do provide juvenile diversion, these services vary.
5. Few juvenile diversion programs keep records of race and ethnicity.

Perceptions

1. There exists a perception that juvenile diversion programs are not as available for minority youth as they are for white youth.
2. Minority and white Nebraska State Bar Association members and court personnel have markedly different perceptions regarding the treatment of racial and ethnic minorities by prosecutors and judges and in the overall court environment.
3. A substantial number of Nebraska State Bar Association members and court personnel believe that minority defendants are more likely to be charged, convicted, and sentenced to longer terms than white defendants.

4. Minority Nebraska State Bar Association members are more likely than their white counterparts to believe that judges are more abrupt with minority counsel than with white counsel.
5. A substantial number of Nebraska State Bar Association members are more likely to believe that whites receive better treatment from the courts than do minorities.
6. Minority Nebraska State Bar Association members and court personnel are more likely than their white counterparts to believe that bias in the Nebraska justice system has remained the same or gotten worse over the past five years.
7. A substantial number of both white and minority court personnel and Nebraska State Bar Association members agreed that minorities receive different, potentially discriminatory, treatment in Nebraska's courts; however, most Bar members and court personnel believe that Nebraska's justice system treats minorities fairly.

III. Court Personnel

1. In obtaining data, the decentralized nature of the Nebraska district courts made it difficult to collect data regarding the number of minority employees employed by the district courts, the grievance procedures, the number of complaints filed in the past year, and the hiring policies and procedures for each district court.
2. In obtaining data, the centralized nature of the Nebraska county courts allowed for the thorough and timely collection of data regarding the number of minority employees employed by the county courts across the state, the grievance procedures in place, the number of complaints filed in the past year, and the hiring policies and procedures for each county court.
3. Nebraska's racial and ethnic minorities are either absent or substantially underrepresented as employees at every level of the state's court system.
4. Minority candidates are more likely to seek and learn of job opportunities through friends, networking and multiple means than through advertising or other traditional means.
5. There is no regular review to evaluate the diversity of the state's court employees.
6. There is no uniform method in the Nebraska district courts for the processing of discrimination complaints and there exists no uniform affirmative action or equal employment opportunity policies.
7. Significant differences in perception exist between white and minority court personnel concerning the nature of the hiring process and the likelihood of minorities receiving preferential or discriminatory treatment, both in hiring and while on the job.
8. Court personnel and Bar members report having witnessed or that they were aware of inappropriate comments or jokes of a racial or ethnic nature, racial or ethnic slurs, and disrespectful and discourteous treatment of minorities.

IV. Legal Profession

Law Schools

1. Too few Nebraskans who are members of minority groups take the LSAT.
2. Too few members of minority groups apply to Nebraska's law schools.
3. Too few Nebraskans who are members of minority groups matriculate at law schools in Nebraska.
4. Too few members of minority groups matriculate at Nebraska's law schools.
5. Any effort to diversify Nebraska's legal community must be a long-term effort that begins with enlarging the minority applicant and matriculate pools at Nebraska's law schools.
6. Minority and white members of the Nebraska State Bar Association have noticeably different perceptions of the law schools' efforts to diversify their student bodies.
7. There is a perceived and actual need for more diversity in the profession and the law schools. The law schools are a prerequisite for that diversification.
8. It would be beneficial to recruitment and education if the law schools hired more minorities as faculty and administration.

Hiring, Retention, and Promotion

1. Minority and white members of the Nebraska State Bar Association have noticeably different perceptions of career opportunities in the state, including those related to mentoring, retention, and promotion.
2. Nebraska's legal profession is not reflective of the state's racial and ethnic diversity.
3. White and minority members of the Nebraska State Bar Association have differing experiences in finding and retaining employment, which could be reflective of racial and ethnic hiring bias.
4. Minority Bar members believe that there are fewer opportunities in private firms for minority law school graduates and that little effort is made to recruit and retain those minority Bar members who are hired.
5. Minority Bar members believe they have fewer opportunities for mentoring than their white counterparts.
6. Minority Bar members are less satisfied with networking opportunities than their white counterparts.
7. Minority Bar members are less likely to be satisfied with their professional advancement

opportunities. Minority lawyers are also far less likely to believe that equal opportunities exist for advancement within the Nebraska legal profession.

Judicial Selection Process

1. Racial and ethnic minorities are underrepresented in Nebraska's judicial system.
2. There is no regular review to evaluate the diversity of the state's judicial nominating commissions.
3. Nebraska's judicial nominating commissions are not reflective of the diversity of the legal community.
4. There exists no data to assess the diversity of the governor's judicial nominating commission appointments.

Appendix B: Revised Recommendations

Revised Recommendations

The Implementation Committee's first task was to critically review, revise and prioritize the recommendations made in the *Final Report*. The revised recommendations for each subcommittee are provided below.

I. Access to Justice: Revised Recommendations

Juries

Recommendation 1: Juries should be more reflective of the diversity of the community, and source lists for juries should be expanded to ensure such diversity.

Recommendation 2: Reimbursements should be made to low-income jurors for childcare or elder care expenses incurred because of jury service.

Recommendation 3: The Nebraska Secretary of State should require that all persons registering to vote identify their race and ethnicity so that proper records can be kept of jury pool composition.

Recommendation 4: Jury commissioners should be required to collect and preserve racial and ethnic information on all persons selected for jury duty. This data should be reported yearly to the Administrative Office of the Courts.

Recommendation 5: Jury commissioners should be required to collect and preserve racial and ethnic information on all persons granted excuses and deferrals, reporting for jury duty, selected for voir dire panels, and seated on juries at both the county and district level. This data should be reported yearly to the Administrative Office of the Courts.

Recommendation 6: County and district court clerks should be required to collect and preserve racial and ethnic information on all impaneled jurors. This data should be reported yearly to the Administrative Office of the Courts.

Recommendation 7: Nebraska statute should require that jury pool lists be refreshed annually on a set date determined by the Administrative Office of the Courts.

Interpreters

Education and Training

Recommendation 1: The AOC should collaborate with schools of higher education to design a curriculum appropriate for pre- and post-certification education for interpreters.

Recommendation 2: The AOC should seek additional funds for training through Federal and nonprofit granting institutions.

Recommendation 3: Interpreters should be encouraged to acquire an understanding of cultural variations that accompany language differences, so as to better assist non-English-speaking clients.

Recommendation 4: The AOC should provide training and educational materials to judges, court staff, attorneys, and other entities on how, when and how many qualified interpreters should be used.

Interpreter Testing

Recommendation 1: The AOC should create a “screening phase” for certification applicants, so as to increase the likelihood of passage before extensive funds are spent on testing.

Recommendation 2: The AOC should actively encourage those desiring to take certification tests in languages not currently offered in Nebraska, to take those tests in other National Consortium states that offer those particular tests so as to reduce costs in Nebraska

Recommendation 3: The AOC should create a review system to rate frequently used uncertified interpreters and periodically make unannounced reviews of uncertified interpreters in the courtroom setting.

Administration of Interpreters

Recommendation 1: The AOC should require records to be kept and summarized as to the number of requests made for interpreter services in each Nebraska County along with a breakdown of the number of times each language is requested.

Recommendation 2: A policy should be adopted requiring that forms and documents frequently used by the public be drafted in English and translated into such additional languages and the AOC approves. All such translations shall be made by qualified translators and approved by the AOC.

Recommendation 3: The Nebraska Supreme Court and the AOC should consider hiring interpreters on a full time basis, where appropriate, in order to attract more and better interpreters.

Recommendation 4: The AOC should actively seek to partner with other governmental agencies to hire full time or to “share” language interpreters, where a need justifies such a partnership.

Recommendation 5: The AOC should continue to actively recruit bilingual staff and compensate them accordingly.

Recommendation 6: A simple explanation of both civil and criminal court processes should be prepared in Spanish and other appropriate languages. This could be in written or video form.

Recommendation 7: The AOC should develop a process for use by the courts to determine the qualifications of an uncertified interpreter prior that person’s entrance into the court system, and an oath that should be administered at trial.

Recommendation 8: Establish a mechanism that discourages individuals under the age of 19 from serving as court interpreters.

Recommendation 9: Update the list of court interpreters.

Recommendation 10: Adopt a rule of reciprocity with other consortium states.

Courtroom Interpreting

Recommendation 1: Judges should be required to ask non-certified interpreters if they have read and agree to adhere to the Code of Professional Responsibility for Interpreters.

Recommendation 2: The Nebraska Supreme Court should require that county and district courts provide interpreter services to indigents outside the court in order to facilitate communication with lawyers.

Recommendation 3: A study should be commissioned to investigate the feasibility of using audio recordings to determine if errors or omissions are occurring in interpretation within the court system.

Recommendation 4: Establish a tier system to ensure that the most qualified interpreters are being utilized and that less qualified interpreters can receive training experience (also provides incentives to become certified).

II. Criminal and Juvenile Justice: Revised Recommendations

Bail/Bond Reform

Recommendation 1: Nebraska should investigate the advisability of fully implementing a system based not on monetary bond but on conditions of pretrial release that would reasonably assure the safety of the community and the appearance of the defendant.

Disparate Minority Confinement

Recommendation 1: The Nebraska Supreme Court and other courts should periodically direct an analysis of the decisions, disposition, and delivery of services provided by the criminal and juvenile courts of this state and by probation (such as setting of bond, sentencing, probation revocations, etc.) to determine if there are any effects on the decisions, disposition, or delivery of those services associated with treatment of race, ethnicity, gender, age or other demographic characteristics.

Recommendation 2: Nebraska should continue efforts to identify and eliminate the causes that lead to disproportionately high minority arrests and incarceration relative to their percentage in the population and compared to their white counterparts.

Diversion

Recommendation 1: The Nebraska Legislature should establish guidelines to ensure equal access to adult and juvenile diversion programs and to assure the confidentiality of information concerning participants in diversion programs.

Information and Data

Recommendation 1: The Nebraska Supreme Court and other applicable courts should adopt policies that maximize the use of age, race, ethnicity, gender and other demographic data in criminal and juvenile court and probation records systems so that decisions, disposition, and the delivery of services provided by the courts and probation can be analyzed to determine whether there are any effects on the delivery of those services associated with treatment of race, ethnicity, gender, age, or other demographic characteristics.

Recommendation 2: To the maximum extent possible, automated systems operating in law enforcement, prosecution, courts, probation, corrections, and throughout the juvenile justice system, should be designed so that data can be shared with other systems. In places where that integration of automated systems is not yet possible, the prosecutor should be required to prepare a "criminal cover sheet" for all county and district court criminal cases. A similar cover sheet should be used for juvenile cases. These cover sheets should be standardized to include such information as the race, ethnicity, gender, age, and other demographic data of the defendant, and the original charge or charges.

Recommendation 3: The Administrative Office of the Courts should coordinate the collection of data, educate court participants, and continue to research areas of potential bias in the courts, in order to create continuous oversight of the Nebraska criminal and juvenile court system.

Indigent Defense Standards

Recommendation 1: Nebraska should adopt and enforce mandatory standards for the operation of county indigent defense systems that comply with the American Bar Association's "Ten Principles of a Public Defense Delivery System."

Multicultural Competence and Training

Recommendation 1: The Nebraska Supreme Court and the Nebraska State Bar Association should develop and administer training to improve multicultural competence and recognition of differences for judges and all other court personnel. In addition, other agencies not under the management or control of the Nebraska Supreme Court should develop and conduct similar training. These agencies would include, but not be limited to, public defenders, prosecutors, and law enforcement agencies.

III. Personnel: Revised Recommendations

Recommendation 1: The court systems and all individuals hiring court personnel should adopt aspirational goals to have a workforce that is reflective of a diverse community. Responsibility for attaining such objectives should be delegated to appropriate administrators and job performance evaluations should include a review of individual performance in attaining such goals.

Recommendation 2: The court systems should adopt, publish and enforce comprehensive policies for assuring equal opportunity and recruitment of minority employees. Monitoring systems should be established at all levels and administered to assure adherence to such policies to ensure that diversity commensurate with that of the community is being achieved.

Recommendation 3: A formal discrimination complaint procedure should be developed by all court systems and communicated to all employees of the court systems in personnel manuals given to all employees and on announcements posted in court offices.

Recommendation 4: A formal education process should be designed, developed, and repeated periodically by the Nebraska Supreme Court to address differences in perception between white and minority employees, and additional educational opportunities to promote diversity training and other educational opportunities as developed by the Judicial Education Committee.

Recommendation 5: All Nebraska court employment specifications and policies should be reviewed and updated to encourage bilingual skills and multicultural knowledge where such capabilities would better serve the public, and such skills should be appropriately compensated.

Recommendation 6: The Nebraska court systems should have, as a performance goal, an ongoing effort to recruit qualified minority applicants for managerial and supervisory positions.

Recommendation 7: A variety of means should be used to inform minority candidates of employment opportunities. These means should include, but not be limited to, multilingual advertisements placed in ethnic centers, churches, and other locations where minorities will be reached. All advertisements should emphasize that the court systems are equal opportunity employers.

IV. Legal Profession: Revised Recommendations

Law Schools

Recommendation 1: While the pool of potential minority law school students for Nebraska's law schools is relatively small, the law schools should continue and increase efforts to attract minority applicants.

Recommendation 2: The Nebraska State Bar Association and the two law schools in Nebraska should make every effort to identify high school and college students from Nebraska's minority population or those graduating from a Nebraska higher education institution, to inform them about the opportunities available with legal training, and to encourage them to apply to one of the state's law schools.

Recommendation 3: The Nebraska State Bar Association should work with the law schools, Creighton and UNL alumni, minority practitioners, and other appropriate groups to attract more minority students.

Recommendation 4: The Nebraska State Bar Association, the Bar Foundation, Nebraska's two law schools, and the region's ethnic bar associations should work together to provide a coordinated and targeted campaign to minority students of various ages to encourage pursuit of a career in the legal profession.

Recommendation 5: The Nebraska State Bar Association, the Nebraska State Bar Foundation, and the law schools in Nebraska should make an effort to identify minorities who have been out of college for a period of time and may be interested in a legal career, to inform them about legal education and the legal profession, and to encourage them to apply to one of the state's law schools.

Recommendation 6: The Nebraska State Bar Foundation should consider assisting in efforts to supplement scholarships and assistance already provided by the law schools to minority students.

Recommendation 7: Among other factors, each Nebraska law school should consider applicants with diverse backgrounds and life experiences that could contribute to a multicultural student body.

Recommendation 8: The Nebraska State Bar Association and Nebraska Supreme Court should continue to work with the law schools to provide effective orientation, mentoring, and academic support programs.

Recommendation 9: The Nebraska State Bar Association and Nebraska Supreme Court should work more closely with the law schools to promote adequate clerking opportunities for minority law students.

Recommendation 10: Law school classes should cover racial and ethnic bias and discrimination as they affect law practice, treatment of fellow professionals, and treatment of court participants.

Recommendation 11: The law schools, the Nebraska State Bar Association, the Bar Foundation, and the Nebraska Supreme Court should include a fair representation of minority participants in law school, Bar and court activities, events and programs.

Recommendation 12: Law schools in Nebraska should annually evaluate the graduation and retention rates following matriculation among minority law students in determining the scope and effectiveness of the school's academic support programs.

Recommendation 13: Entities that affect access to the profession, such as the law schools, Nebraska State Bar Association, and Nebraska State Bar Commission, should collect and maintain appropriate statistics delineated by race and ethnicity (i.e. placement and employment data).

Recommendation 14: Nebraska's law schools should continue efforts to increase the diversity of their teaching faculty and administration.

Hiring, Retention & Promotion

Recommendation 1: Law firms and other employers of lawyers should broaden their recruiting and hiring criteria to weigh measures of a candidate's ability in an attempt to increase the likelihood of hiring minority candidates.

Recommendation 2: Law firms and other employers of lawyers should strive to eliminate behaviors that might be perceived as discriminatory or otherwise offensive to minority persons.

Recommendation 3: When possible, law firms and other employers of lawyers should include minority lawyers on interview, selection, and hiring teams.

Recommendation 4: Law firms and other employers of lawyers should participate in clerkship programs that seek to place minority law students as summer associates, with the goal of expanding the range of criteria upon which the law firm may judge the likelihood of the student's ultimate success with the firm.

Recommendation 5: The Nebraska State Bar Association should create a section to address race and ethnicity in the law. Among other activities, this section should develop, maintain, and disseminate a voluntary directory of practicing minority lawyers.

Recommendation 6: The Nebraska State Bar Association should encourage the further development of mentoring programs for lawyers.

Recommendation 7: The Nebraska State Bar Association should consider recommending equal employment opportunity policies for all lawyers in Nebraska.

Recommendation 8: Nebraska court clerks or court administrators should collect and maintain court appointment records delineated by the type of appointment, race and ethnicity of the lawyer or appointed party, and the judge who made the appointment. This data should be reported to the Supreme Court on a periodic basis.

Judicial Selection Process

Recommendation 1: Judicial nominating commissions and the governor should take proactive steps to ensure a state judiciary that is reflective of the communities it serves.

Recommendation 2: The Nebraska Supreme Court and the Nebraska State Bar Association should encourage diversity on the judicial nominating commissions and require that records be kept of the race and ethnicity of commission members.

Recommendation 3: The Supreme Court and the Nebraska State Bar Association should develop and administer training to improve multicultural competence and recognition of differences for those lawyers and laypersons who serve on judicial nominating commissions.

Recommendation 4: The governor should consider factors such as race and ethnicity when making appointments to the judicial nominating commissions.

Recommendation 5: The Nebraska State Bar Association, the judicial nominating commissioners, and community legal organizations and leaders should strive to identify, encourage and support qualified minority judicial applicants.

Appendix C: Feedback Form

**Minority and Justice Implementation Committee
The Nebraska State Bar Association
635 South 14th Street
P.O. Box 81809
Lincoln, NE 68501-1809
(402) 475-7091
(800) 927-0117**

FEEDBACK FORM

Please use this form to provide us with any written feedback and suggestions for the Minority Justice Implementation Committee.

Appendix D: Contact Sheet

**Minority and Justice Implementation Committee
The Nebraska State Bar Association
635 South 14th Street
P.O. Box 81809
Lincoln, NE 68501-1809
(402) 475-7091
(800) 927-0117**

To receive continual information on the Implementation Committee's activities and events please print your contact information below:

Name and Mailing Address:

Phone:

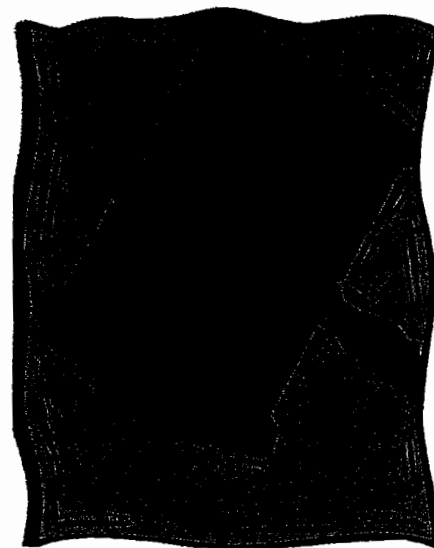
Email:

Please briefly describe any occupational affiliation you might have: (i.e. student, teacher, attorney, retired, etc.):

Appendix E: Media Coverage

Minority and Justice Implementation Committee Releases Update on Nebraska's Indigent Defense Systems

by Elizabeth Neeley, PhD and Dennis Keefe



Dennis R. Keefe



Dennis R. Keefe, J.D., is the elected Public Defender for Lancaster County, Nebraska. He is a member of the Bar Information Program of the ABA Standing Committee on Legal Aid and Indigent Defense, and a member of the National Legal Aid and Defender Association, the National Association of Criminal Defense Lawyers, and the Nebraska Criminal Defense Attorney Association.

Elizabeth Neeley, PhD



Elizabeth M. Neeley, PhD, is the professor for the Minority and Justice Implementation Committee, a doctoral student at the University of Nebraska-Lincoln. She worked as the Research Coordinator for the Minority and Justice Task Force. She also worked with the Nebraska Criminal Defense Research Association on the

In 1993, the Spangenberg Group, a national research consulting firm from west Newton MA, conducted an extensive statewide study of indigent defense systems in Nebraska at the request of Nebraska's Administrative Office of the Courts. Their report, *The Indigent Defense System in Nebraska* (December, 1993) includes numerous findings regarding Nebraska's various systems of indigent defense (elected public defenders, contract public defenders and assigned counsel), indigent defense caseloads, funding issues, a review of Nebraska's standards and guidelines for indigent defense, how counties handle capital cases, and more. The report also outlined numerous recommendations and steps that Nebraska should take to improve indigent defense.

Renewed interest in Nebraska's indigent defense system was raised in 2003. As part of their two-year investigation of racial and ethnic bias in Nebraska's justice system, the Minority and Justice Task Force traveled to communities across Nebraska, soliciting testimony from the public on perceptions and experiences of racial and ethnic bias in the courts. One of the main concerns voiced at these public hearings was the quality of indigent defense services across the state of Nebraska. Because a higher percentage of minorities than whites are poor and thus unable to afford a private attorney, minorities are more likely than whites to need the services of a public defender or assigned counsel. The quality of the legal services provided by public defenders and assigned counsel, thereby affects how minorities, new immigrants and refugees perceive and are treated in the criminal justice system.

This sentiment was strong enough that the Minority and Justice Implementation Committee, appointed a working

INDIGENT DEFENSE

group to further examine and address the quality of indigent defense systems in Nebraska. The work of this group culminates in a new report entitled, "The Indigent Defense System in Nebraska: An Update"

The analysis begins with a report card for Nebraska which assesses Nebraska's compliance with the "ABA 10 Principles of a Public Defense Delivery System." Second, they update information about county indigent defense costs and cases by reporting the most recent data available and comparing it to the information reported in the 1993 study. Third, the findings and recommendations from the 1993 report are revisited noting which findings appear to still apply and which recommendations have been implemented. Finally, the Spangenberg Group, the original authors of the 1993 study, offer their assessment of Nebraska's progress.

According to the Report, there are several areas where Nebraska has made progress in indigent defense since 1993. For example, the Nebraska Legislature established the Nebraska Commission on Public Advocacy (NCPA) in 1995 to provide direct representation in capital and some drug and violent crime cases when requested by the court. However, the other responsibilities recommended by the 1993 Report

have not been given to the NCPA (i.e. ensuring adequate funding for county indigent defense systems; developing standards and guidelines, and overseeing statewide data collections).

In 2001, legislation was passed establishing the Nebraska Indigent Defense Standards Advisory Council, charged to develop standards and guidelines for the NCPA. Under this legislation, if counties voluntarily met the standards, they could be reimbursed for up to 25% of the costs of their felony indigent defense programs. The Council was created and appointed, standards for felony cases were developed, and they were officially adopted by the NCPA. Unfortunately, when the state experienced its recent budget crisis, the money, which had been budgeted to reimburse the counties, was taken away.

Finally, progress has been made in regards to the promulgation of written standards and guidelines to ensure that only the truly indigent receive court appointed counsel. In 2000, the Nebraska Supreme Court approved a court rule for the county and district courts in Lancaster County regarding how to determine if someone was eligible to receive court appointed counsel. This was part of a pilot project

Table 1: Summary Report Card for Nebraska's Indigent Defense Systems

ABA 10 Principles of a Public Defense Delivery System	Nebraska's Compliance
1. The public defense function, including the selection, funding, and payment of defense counsel, is independent.	POOR
2. Where the caseload is sufficiently high, the public defender delivery system consists of both a defender office and the active participation of the private bar.	POOR
3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel.	POOR
4. Defense counsel is provided sufficient time and a confidential space in which to meet with the client.	FAIR
5. Defense counsel's workload is controlled to permit the rendering of quality representation.	FAIR
6. Defense counsel's ability, training, and experience match the complexity of the case.	FAIR
7. The same attorney continuously represents the client until completion of the case.	GOOD
8. There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.	FAIR
9. Defense counsel is provided with and required to attend continuing legal education.	POOR
10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.	POOR

implemented by Lancaster County whereby the county hired an eligibility screener to fill out the forms and present them to the court. This program is still in existence in Lancaster County past the original three-year term of the pilot project. However, there still is no system, uniform rule or statewide procedure for determining indigence.

Despite these improvements, the new Report's overall assessment is bleak. Nebraska fails to meet many of the national standards for indigent defense systems (see table 1). Linda Crump, Co-chair of the Minority and Justice Implementation Committee emphasizes the importance of meeting the national standards developed by the ABA, "These standards were developed by the American Bar Association to ensure a just and equitable system of justice. Nebraska should use these standards to move towards that goal."

The Spangenberg Group (TSG), the original authors of the 1993 study, agrees with the Minority and Justice Implementation Committee's assessment and offered the following recommendations to the state:

1. A statewide structure and standards are needed to ensure the consistency and quality of indigent defense services.

There continues to be great variability in the quality and provision of indigent defense services across the state. This is in part due to the fact that Nebraska does not currently have standards and guidelines for: qualifications for court-appointed counsel, determination of reasonable compensation, standards for conflict representation, caseload limitations, adequate supervision and oversight, minimum regular training requirements and minimum performance standards for court-appointed counsel.

2. Indigent defense funding needs greater state contributions and reform.

Nebraska is one of only seven states that provides little to no state funding for indigent defense. As TSG explains in the report, "When funding lies completely on the back of the counties, there is a great risk that rural, often poorer counties, will be simply unable to sufficiently fund increasing caseloads and expenditure needs and to provide adequate indigent defense services."

3. Data on indigent defense caseloads and expenditures needs to be uniform, complete and accurate statewide.

Currently Nebraska lacks a comprehensive and centralized system for indigent defense data. Among its data problems, Nebraska does not have a uniform method for tracking expenditures and caseloads, and data do not differentiate between juvenile cases (e.g. law violation vs. abuse/neglect, and status cases) or misdemeanor cases (for which there is no right to counsel). As TSG explains in the report, "Tracking of


accurate, reliable, and uniform data is necessary for Nebraska, to understand and predict future indigent defense caseloads, expenditures, and resource needs."

4. Nebraska should adopt uniform standards and procedures for determining indigency.

Nebraska's current statutes provide insufficient guidance to counties as to how and when to decide if a person is indigent, therefore, there is considerable variability in what qualifies a person as indigent across the state. Lancaster County is an exception. As part of a pilot project, Lancaster County developed a rule for determining indigence. A recent examination conducted by the University of Nebraska Public Policy Center (January, 2003) indicates that Lancaster county's indigency rule has in fact, resulted in greater uniformity and consistency in indigency appointments.

5. There is a strong need for independence in systems where the courts and the counties select and oversee court-appointed counsel and make compensation and resource determinations.

Nebraska's counties utilize three basic types of systems: the elected public defender system, the assigned counsel system, and the contract system. Some counties have all three types of systems operating at the same time, with one system considered the primary system. Elected public defenders would certainly not meet the standard of being independent from political influence, more could it be said that this system selects attorneys on the basis of merit. The assigned counsel system including the selection and payment of counsel, is completely controlled by the judiciary. While some of the contract public defenders have local "policy boards" that are supposed to provide independence for the program, there is anecdotal information indicating that these policy boards are ineffective in providing this independence. Moreover, there are many contracts for indigent defense services in Nebraska that are entered into directly between the county board and the contractor, with no attempt to provide independence. The selection, funding, and payment in most of these situations are influenced by considerations of costs rather than quality of services.

According to Lancaster County Public Defender, Dennis Keefe, "Nebraska has a long way to go to meet the national standards. It is my hope that the legislature and courts can use this report as a base from which to move forward and improve the system." The report has been disseminated to policy makers in the hopes of renewing a commitment to improving Nebraska's indigent defense systems and to highlight the areas where Nebraska needs the most improvement. The report is available on-line at: www.nebar.com or www.unl.edu/ppc. 

Update

(Continued from page 1)
with the "ABA Ten Principles of A Public Defense Delivery System."

Second, they update information about county indigent defense costs and cases by reporting the most recent data available and comparing it to the information reported in the 1993 study.

Third, the findings and recommendations from the 1993 report are revisited noting which findings appear to still apply and which recommendations have been implemented. Finally, the Spangenberg Group, the original authors of the 1993 study, offer their assessment of Nebraska's progress.

According to the Report, there are several areas where Nebraska has made progress in indigent defense since 1993. For example, the Nebraska Legislature established the Nebraska Commission on Public Advocacy (NCPA) in 1995 to provide direct representation in capital and some drug and violent crime cases when requested by the court. However, the other responsibilities recommended by the 1993 Report have not been given to the NCPA (i.e. ensuring

adequate funding for county indigent defense systems; developing standards and guidelines, and overseeing statewide data collections).

In 2001, legislation was passed establishing the Nebraska Indigent Defense Standards Advisory Council, charged to develop standards and guidelines for the NCPA. Under this legislation, if counties voluntarily met the standards, they could be reimbursed for up to 25% of the costs of their felony indigent defense programs. The Council was created and appointed, standards for felony cases were developed, and they were officially adopted by the NCPA. Unfortunately, when the state experienced its recent budget crisis, the money, which had been budgeted to reimburse the counties, was taken away.

Finally, progress has been made in regards to the promulgation of written standards and guidelines to ensure that only the truly indigent receive court appointed counsel. In 2000, the Nebraska Supreme Court appointed a court rule for the county and district courts in Lancaster County regarding how to determine if someone was eligible to receive court appointed counsel. This was part

of a pilot project implemented by Lancaster County whereby the county hired an eligibility screener to fill out the forms and present them to the court. This program is still in existence in Lancaster County past the original three-year term of the pilot project. However, there still is no system, uniform rule or statewide procedure for determining indigence.

Despite these improvements, the new Report's overall assessment is bleak. Nebraska fails to meet many of the national standards for indigent defense systems (see table 1). Linda Crump, Co-chair of the Minority and Justice Implementation Committee emphasizes the importance of meeting the national standards developed by the ABA, "These standards were developed by the American Bar Association to ensure a just and equitable system of justice. Nebraska should use these standards to move towards that goal."

The Spangenberg Group

(TSG), the original authors of the 1993 study, agrees with the Minority and Justice Implementation Committee's assessment and offered the following recommendations to the state:

1. A statewide structure and standards are needed to ensure the consistency and quality of indigent defense services.
2. Indigent defense funding needs greater state contributions and reform.
3. Data on indigent defense caseloads and expenditures needs to be uniform, complete and accurate statewide.
4. Nebraska should adopt uniform standards and procedures for determining indigence.
5. There is a strong need for independence in systems where the courts and the counties select and oversee court-appointed counsel and make compensation and resource determinations.

According to Lancaster County Public Defender, Dennis Keefe, "Nebraska has a long way to go to meet the national standards. It is my hope that the

legislature and courts can use this report as a base from which to move forward and improve the system". The report is being disseminated to policy makers in the hopes of renewing a commitment to improving Nebraska's Indigent Defense Systems and to highlight the areas where Nebraska needs the most improvement. The report is available on-line at: www.nebar.com or www.unl.edu/ppc.

For more information about the Minority and Justice Implementation Committee, contact: Justice John Gerrard, Co-Chair, Nebraska Supreme Court, (402) 471-3736; Linda Crump, Co-Chair, University of Nebraska-Lincoln, (402) 472-3417; or Liz Neeley, PhD, Project Director, Nebraska State Bar Association, (402) 475-7091.

For more information about the Report contact, Dennis Keefe, Lancaster County Public Defender, (402) 441-7631; or Jim Mowbray, Commission on Public Advocacy, (402) 471-7778.

Minority and Justice Implementation Committee Releases Update on Nebraska's Indigent Defense Systems

A working group of the Minority and Justice Implementation Committee has completed a study and issued a report on the quality of indigent defense systems in Nebraska, entitled, "The Indigent Defense System in Nebraska: An Update."

In 1993, the Spangenberg Group, a national research consulting firm from West Newton, Mass., conducted an extensive statewide study of indigent defense systems in Nebraska at the request of Nebraska's Administrative Office of the Courts.

Their report, *The Indigent Defense System in Nebraska* (December, 1993) includes numerous findings regarding Nebraska's various systems of indigent defense (elected public defenders, contract public defenders and assigned counsel), indigent defense caseloads, funding issues, a review of Nebraska's standards and guidelines for indigent defense, how counties handle capital cases, and more. The report also outlined numerous recommendations and steps that Nebraska should take to improve indigent defense.

Renewed interest in Nebraska's indigent defense system was raised in 2003. As part of their two year investigation of racial and ethnic bias in Nebraska's justice system, the Minority and Justice Task Force traveled to communities across Nebraska, soliciting testimony from the public on perceptions and experiences of racial and ethnic bias in the courts. One of the main concerns voiced at these public hearings was the

Table 1: Summary Report Card for Nebraska's Indigent Defense Systems	
ABA Ten Principles of a Public Defense Delivery System	Nebraska's Compliance
1. The public defense function, including the selection, funding, and payment of defense counsel, is independent.	Poor
2. Where the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar.	Poor
3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel.	Poor
4. Defense counsel is provided sufficient time and a confidential space in which to meet with the client.	Fair
5. Defense counsel's workload is controlled to permit the rendering of quality representation.	Fair
6. Defense counsel's ability, training, and experience match the complexity of the case.	Fair
7. The same attorney continuously represents the client until completion of the case.	Good
8. There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system.	Fair
9. Defense counsel is provided with and required to attend continuing legal education.	Poor
10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.	Poor

quality of indigent defense services across the state of Nebraska. Because a higher percentage of minorities than whites are poor and thus unable to afford a private attorney, minorities are more likely than whites to need the services of a public defender or assigned counsel. The quality of the legal services provided by public defenders and assigned counsel, thereby affects how minorities, new immigrants and refugees perceive and are treated in the criminal justice system.

This sentiment was strong enough that the Minority and Justice Implementation Committee appointed a working group to further examine and address the quality of indigent defense systems in Nebraska. The work of this group has culminated in the new report: "The Indigent Defense System in Nebraska: An Update."

The analysis begins with a report card for Nebraska which assesses Nebraska's compliance. See UPDATE, page 4

State's Indigent Defense Still Has Long Way to Go

By Lorraine Boyd
The Daily Record

What's next for those working to implement the recommendations laid out in the report of the Minority and Justice Implementation Committee on the quality of indigent defense systems in Nebraska?

In 2001, the legislature established the Nebraska Indigent Defense Standards Advisory Council, which was charged to develop standards and guidelines for the Nebraska Commission on Public Advocacy (NCPA). Under this legislation, if counties voluntarily met the standards, they could be reimbursed for up to 25 percent of the costs of their felony indigent defense programs.

It is my personal opinion that the legislature should try to make improvements not by mandating, but by making it in the economic "best interest" of those involved.

The price tag is currently about \$1 million a year for reimbursement of counties, he said.

Some steps have been taken. The Nebraska Legislature established the Nebraska Commission on Public Advocacy in 2001.

Indigent

(Continued from page 1)
reinstated the funding, but, he says, "in the experience of [the state of] Indiana, when that amount was increased to 40 percent, they saw quite a bit of improvement."

To have a long-term, consistent program, state money is necessary, he said. "Our hope is that the state will invest in the system without taking it over. More than 20 programs [nationally] are state-funded now."

That's not feasible now, he said, but the state needs to be partners with counties in this. Only felony cases are being addressed at present. "It's an economic issue at this point," Keefe said.

Defendants in felony cases have a constitutional right to counsel, but Keefe said indigent defendants in other cases, while not enjoying a constitutional right, certainly have a "dire need."

Eligibility

In 2000, the Nebraska Supreme Court approved a court rule for the county and district courts in Lancaster County regarding how to determine if someone was eligible to receive court-appointed counsel. A pilot project enabled Lancaster County to hire an eligibility screener to fill out the forms and present them to the court.

The pilot program in Lancaster County is still continuing to function, Keefe said, beyond its original three-year term. But a system, uniform rule or statewide procedure for determining indigence has not yet happened, more than a decade after the 1993 report by the Spangenberg Group, a national research consulting firm hired by the Nebraska's Administrative Office

of the Courts, urged Nebraska to provide a recommendation for a statewide system.

Recommended in 1993
The following needed improvements were cited in the 1993 report:

1. A statewide structure and standards are needed to ensure the consistency and quality of indigent defense services.

2. Indigent defense funding needs greater state contributions and reform.

3. Data on indigent defense caseloads and expenditures needs to be uniform, complete and accurate statewide.

4. Nebraska should adopt uniform standards and procedures for determining indigence.

5. There is a strong need for independence in systems where the courts and the counties select and oversee court-appointed counsel and make compensation and resource determinations.

"It [a statewide system] has not happened at this point," Keefe said. "But it's not that easy or simple. [For one thing] it would require additional personnel, especially in larger population centers."

There's an effort underway simultaneously, he said, to establish standards in juvenile cases.

Lancaster County spent almost as much on juvenile cases as on felony cases," he said. "It's the hottest growing area of indigent defense. It's probably about the same [story] in Douglas County."

Forty percent of indigent defense dollars go to felony cases, 40 percent to juvenile cases and the remainder to misdemeanor and mental health cases. Juvenile cases are "very resource-consuming," he said. "In the long term, standards will be developed

in all areas of practice. I hope that state and county can partner and not create another bureaucracy."

Legislation

Sen. Ray Aguilar of Grand Island introduced Legislative Resolution 368, which called for a study of current county spending on indigent defense, whether that spending is rising, and the impact of those costs on the counties' overall budgets. It also asked if there are constitutional considerations in setting financial guidelines for requesting a public defender, and what other states are doing.

Implementation

Still needed are actual operational standards, including workload, salaries, hourly rates, and perhaps some performance standards, Keefe said. How those standards would be implemented and what force would be behind them is still a question mark.

"My work on the committee has been extraordinarily interesting and worthwhile," Keefe said. And time-consuming as well for him and the rest of the committee members. "The leadership from the Supreme Court and the hard work of Liz [Neeley, project director of the Nebraska State Bar Association], have

been invaluable."

Neeley said that the recent report really is a "to do list." This past session, legislation introduced by Sen. Aguilar, proposed to research the indigent defense system in Nebraska, including a cost-benefit analysis, she said. "We believe that legislation will be reintroduced in the next legislative session."

"We need to share information now with policymakers. We need to focus on quality."

"We're just one small part of the whole pie," Keefe said. "In 10 years, I hope we have standards written and a state-county partnership. We'll see."

UNIVERSAL

Daily Record
Omaha, NE
Cir. D. 1,110

NOV 15 2004

Universal Information Services, Inc.

Report: Indigent defendants need funds

By The Associated Press

GRAND ISLAND — Nebraska has come a long way in ensuring the poor receive fair legal representation — but it also has a long way to go, according to a report recently issued by the Nebraska Minority and Justice Task Force.

Specifically, Nebraska's system for representing those who can't afford to hire an attorney needs more money, the report said.

Indigent defense was completely funded by the individual budgets of Nebraska's 93 counties until 1995, when the Nebraska Commission on Public Advocacy was created.

Since then, the state has picked up about 4 percent of indigent defense costs. The Nebraska Commission on Public Advocacy is funded by filing fees and court costs in the state.

"The Legislature will have to be involved in becoming a financial part of funding the indigent defense system," said Dennis Keefe, Lancaster County public defender.

The commission provides a base of experienced criminal defense attorneys to help indigent defendants anywhere in the state, the report said.

But it also said cuts in the commission's funding make it difficult to ensure impoverished defendants get experienced, trained attorneys.

About \$850,000 initially was put in the commission's incentive fund to reimburse participating counties up to 25 percent of their indigent expenses, but the funding was cut two years ago amid state budget woes.

Hall County Public Defender Gerry Piccolo said if the fund had been left intact, his county would have been eligible for between \$50,000 and \$75,000 annually.

That money could be used to increase the hourly pay for court-appointed attorneys — an issue that the report said is keeping some experienced attorneys from representing impoverished defendants.

The report also suggested Nebraska implement a minimal representation fee for impoverished defendants to pay. It's believed the fee — suggested to be a \$40 waivable fee — could help in the psychology of representation.

"I'm 100 percent for it," Piccolo said. "If you don't pay me anything, I'm not worth anything."

Other suggestions in the report included requirements for continuing legal education and a more formalized method of determining if a defendant is truly indigent.

While at least one Nebraska county, Lancaster, does have staff to conduct indigence tests on defendants, Hall County Judge David Bush said he feels the practice most courts use — simply asking about indigence — works well.

Bush said he asks about income, number of dependents, outstanding debt and other assets. In some cases, he requires a defendant to fill out an indigence form just to make sure taxpayer dollars are being wisely spent.

"But in most cases, I can do this from the bench," Bush said.

Keefe, the Lancaster County public defender, said he thinks the state offers good representation for impoverished defendants overall. But he is often reminded of horror stories of those who needed representation and didn't get it.

"When you're dealing with people's lives and people's freedoms, you don't want holes there," Keefe said.

JUL 12 2004

Universal Information Services, Inc.

Pre-Law institute ends after weeks of legal education

By MARK KARPf
DN Staff Writer

After four weeks of enduring the smell of yellow legal pads and the grueling hours spent pouring over legal briefs, the University of Nebraska-Lincoln College of Law 2004 Summer Pre-Law Institute is finally over.

The Nebraska College of Law hosted the Institute's culminating banquet Friday evening where lawyers, educators, future lawyers and family members watched as the 30 Pre-Law Institute participants received their certificates of completion.

"The second year of the program went very well; the students worked hard and were able to meet a lot of Nebraska's private practice attorneys and attorneys in academia," said Denice Archer, admissions coordinator.

The UNL College of Law was one of only eight universities in the country selected by the Law School Admissions Committee to offer such a program.

Upon seeing the strong support in 2003 from the state of Nebraska, including state and federal judges, private practitioners and educators, the Law School Admissions Council, the entity that administers the Law School Admissions Test, renewed the grant for four years at \$100,000 per year.

The institute's goal is to prepare undergraduates for law school and the application process, but it also introduces the students to a cross-section of Nebraska's legal community while encouraging the establishment of individual mentoring relationships.

Perhaps most importantly, the Summer Pre-Law Institute has attracted a wide diversity of racial, ethnic, economic and geographic undergraduates to Nebraska who are interested in law after overcoming hardships while earning their Bachelor's degree.

The Honorable Vernon Daniels, a juvenile court judge in Omaha and 1983 UNL Law College alum, was the keynote speaker for the banquet. Daniels applauded the Nebraska College of Law for their commitment to diversity and thanked all those in attendance for their support of the Pre-Law Institute students.

Steven Willborn, dean of the Law College, then presented the certificates of completion as well as seven awards; two each for outstanding performance in Legal Writing, Race, Crime and the Law, and in Discrimination Law - as well as the Outstanding Student Award.

"So far 59 students have participated in the two years the Institute has been put on; eight of which have enrolled in the UNL Law College," said Administrator Coordinator Denice Archer.

Three core classes made up the Institute, including Employment Discrimination Law, showing students a typical law school classroom and traditional evaluations, Legal Writing focusing on writing and analysis, and Law in Society, a two-week course on law's role in social problems of our society.

"Each student was given a transcript consisting of a descriptive paragraph from their professors and a grade with which to evaluate themselves; although no credit is given," Archer said.

The majority of those in attendance were starting their junior years of college in the fall of 2004, although some were starting their sophomore years or starting law school in the fall of 2004.

The grant presented to the College of Law covers the costs of participation for most of those in attendance, including round trip economy airfare or mileage, room and board and local transportation costs. Students are also able to earn a \$1,000 stipend to cover incidental expenses and loss of summer income as long as they are not employed or taking outside classes during the four-week course.

Marcos Flores of Provo, Utah, and institute participant was accepted to the law college. Flores, a Utah State graduate, said his first contact with UNL Law came through Nebraska football.

"My first experience with Nebraska was with the 2001 Rose Bowl, when I received tickets from a friend of a friend to the game in Pasadena, Calif.," Flores said. "I was impressed by the sea of red; such support from so far away. And nothing bad was ever spoken of Nebraska from any of the alumni I talked to."

"After seeing the Nebraska booth a few months later at a Law Fair at Brigham Young University and talking to Denice Archer, I applied."

Not only did Flores complete the Pre-Law Institute but he also received the award for the Nebraska State Bar Association in Outstanding Performance in Race, Crime and the Law. Flores began his legal studies at UNL in August and plans on studying corporate and tax law.

"The institute helped a lot with immersing us in law writing and law briefs while giving us great support," Flores said.

Minority Students Get Taste of Law School Stress

By Julien R. Fielding
The Daily Record

Thanks to a \$100,000 grant from the Law School Admissions Council, in 2003 the University of Nebraska College of Law, which was only one of eight schools selected to participate, was able to develop a Pre-Law Institute. Offered for one month in the summer, the Institute targets students who are traditionally underrepresented at the University of Nebraska, the College of Law and within the legal profession in Nebraska.

"The goal is to increase the pipeline of minority students and get them to go to school in Nebraska and stay in Nebraska," said Justice John Gerrard, co-chair of the Implementation Committee. "We want to reach minority students as early as possible."

"The program is aimed at undergraduates, primarily sophomores, who have an interest in the law," said Prof. Steve Willborn. "We hope to expose them to the law and to legal culture."

During its inaugural summer, 29 students went through the four-week program, which provided them with an introduction to legal study and its analytical and writing demands; exposure to the many roles of the law and lawyers in society; and instruction on the process of applying to law school and obtaining financial aid. At the end of the session, Willborn said that a report was submitted to LSAC, which was pleased enough with the results to extend funding to UNL so that the Pre-Law Institute could continue for four additional years.

Although the program will change slightly from year to year, he said, the class size will always be kept to about 30 students. On the schedule for the



UNL College of Law Dean Steve Willborn is working with Justice John Gerrard, co-chair of the Implementation Committee of the Pre-Law Institute.

month-long program this year is coursework on employment discrimination, which Willborn will teach; Native American law, legal writing and LSAT preparation. The academic component is supplemented with a professional series. For instance, the students get to visit the courts, they will go to Omaha to meet the legal staff at Union Pacific, and various lawyers will visit. "They are very busy, because we want them to have a sense of how stressful law school is," he said.

To find students to participate in the program, Willborn said that UNL has an association with a number of historically black colleges in the South, including Dillard University in New Orleans, Alcorn State in Mississippi and Florida A&M. Daniel Dawes was one of those who went through the inaugural program. At the time he was a senior who came from Miami to participate. Although he said he didn't have a dream to go to law school, he said that he believed it would help him should he go into hospital administration. "A lot of that deals with the law,"

he said. "Civil Rights law really piqued my interest, though." What he said he appreciated most about the Pre-Law Institute was that he didn't have to pay anything to do it, and that he also received a \$1,000 stipend; and had his supplies, room and board and transportation paid. Because of this program, this year Dawes is a UNL College of Law student; he has a degree in business administration and a minor in psychology from Nova Southeastern University in Fort Lauderdale, Fla.

During its first year, the Pre-Law Institute's class size was proportionally more female students, but as Willborn said, that makes sense, because traditionally more African-American women pursue a university degree. The next Pre-Law Institute begins June 14, and Willborn is in the process of selecting the 30 students.

Even though the LSAC grant covers many of the costs, the Pre-Law Institute has a number of additional financial supporters, including UNL, the State Bar, Judge Richard Kopf, and Union Pacific.

Search LJS Archives

journalstar.com

Click here for 2 Weeks Free

LJS Alerts Sub

70° Wed

Full Forecast

[Home](#) | [News](#) | [Sports](#) | [Huskers](#) | [Features](#) | [Opinion](#) | [Classifieds](#) | [The Record](#)

Monday Sept. 20, 2004

ASK THE EXPERT
Local: Crime maps | Obituaries | Police Blotter | Public Record | Legal Notices | Realty Transfers
STOCK QUOTE
[Home](#) | [Email this story](#) | [Printable Version](#)
Stock/Fund Quotes

Enter Symbol

Detailed

Go

Symbol Lookup

InterLine**Woods Fund names grantees**

Lincoln Journal Star

Woods Charitable Fund Inc., a private foundation, announced the approval of new and in Lincoln, totaling \$226,630.

Fourteen tax-exempt organizations will benefit from these awards. This brings Woods' a \$449,630 for 2004 with a December funding cycle still remaining.

Grant awards and program-related investments paid in 2003, to date, total \$1,166,880. announced Wednesday are:

Nebraska State Bar Charitable Funds Inc., \$12,090: To develop quality legal representation standards for juveniles in Nebraska, a training protocol and curricula for guardians ad litem and lawyers representing juveniles and an implementation plan to enforce the standards.

Center for People in Need Inc., \$15,000: Second-year support to continue and expand a Web site and database facilitating communication between organizations working with legislative issues affecting low-income and under-represented people.

University of Nebraska-Lincoln Center on Children, Families and the Law, \$22,612: Two-year support toward the Nebraska Family Impact Seminar which provides state policymakers with non-partisan, solution-based research on family issues.

Center for People in Need Inc., \$15,000: Second-year support to continue to develop a Web site and database facilitating communication between organizations working with issues affecting low-income and under-represented people.

City of Lincoln-Department of Parks and Recreation, \$17,928: Salary for the position of coordinator for the new inner-city Youth Involvement Center at Park Middle School.

Friends of the Haymarket Theatre, up to \$26,500: Support for the position of executive this theater organization providing professional theater productions and comprehensive training for children and young adults and for organizational strategic planning consulta

Good Neighbor Community Center, \$10,000: For the position of part-time development coordinate fund-raising, grant writing and public relations activities for the center which

Advertisement

SPARE TIME?

■ 19 to 55 years old

■ smokers and nonsmokers

■ availability: variety of schedules

MDS
 Pharma Services
 321 Rose Street, Lincoln
 www.mdsph.com
EAR TO A D

CALL 801

AS MED RESE**Advertising features:**

Local advertisers

Books

Mortgage Rates

Featured web sites:

Fremont Tribune

Columbus Telegram

Beatrice Daily Sun

Midwest Messenger

clothing and basic needs to low income people.

Home Services for Independent Living Inc., \$10,500: To provide gap funding for service clients who wish to live in their own homes as an alternative to living in an assisted living nursing home.

Lighthouse Inc., \$10,000: For support of the year-round After-School Program providing diverse and low-income youth with academic support, evening meals, enrichment and activities during non-school hours.

Lincoln Children's Museum, \$45,000: Three-year support for the full-time director of development to support the museum which stimulates the adventure of learning for children, adults.

Mourning Hope, \$6,000: Salary support for the position of center coordinator for this community-based grief support network for children, teens and families.

Nebraska Advocacy Services, Inc., \$10,000: For technical assistance to hire a resource coordinator to create and implement a resource development plan for this organization for people with disabilities.

Nebraska State Bar Association Charitable Funds Inc., \$12,090: To develop quality legal representation standards for juveniles in Nebraska, a training protocol and curricula for judges and lawyers representing juveniles and an implementation plan to enforce the standards.

Nebraska Sustainable Agriculture Society, \$15,000: For the part-time position of co-director of Immigrant/Refugee Farmers Initiative to increase food security of immigrant and refugee farmers in Southeast Nebraska.

OASIS Inc., \$20,000: To support OASIS Restorative Justice programming through work groups and Web site.

UNL-Center on Children, Families and the Law, \$22,612: Two-year renewal support toward Nebraska Family Impact Seminar which provides state policymakers with non-partisan, based research on family issues.

UNL-College of Fine and Performing Arts, \$6,000: For the opera production "Amahl and the Night Visitors," in partnership with Lincoln Public Schools, to familiarize Lincoln youth and the community with the cultural medium of opera.

Related Advertising Links

Online Business Degree

Get your Associate, Bachelor's or Master's Diploma A.S.A.P!
www.AlamedaCollege.org

Web Hosting

Complete web hosting services. Get Yourself on the World Wide Web!
www.be-web-hosting-smart.com/

Also in Local:

- Woods Charitable Funds boosts charitable organizations
- Woods Fund names grantees
- Don Walton: Thoughts from Omaha for us to chew
- Racing wingtip to wingtip
- L. Kent Wolgamott: Concerto mirrors Lewis, Clark journey

Volume 40, Issues 3 & 4
Winter 2004

Court Review

THE JOURNAL OF THE AMERICAN JUDGES ASSOCIATION

SPECIAL DOUBLE ISSUE

**A Focus on
Smarter
Sentencing:
Crime Reduction**

**Racial and Ethnic
Bias in the Courts**

**Problem-Solving
Probations:
Defendants with
Mental Illness**

**Art, Architecture,
and Diversity at the
U.S. Supreme Court**

**Aggressive Driving Laws:
An Early Assessment**

Racial and Ethnic Bias in the Courts:

Impressions from Public Hearings

Elizabeth Neeley

Attitudes toward the courts can affect the way individuals perceive their role in the justice system: their willingness to comply with laws, report crimes, file legal suits, serve as jurors, and so on.¹ In short, a positive public perception of the courts is "critical to the maintenance and operation of the judicial system."² Given the import of these perceptions, a substantial body of research has examined the factors that explain differing levels of support for the court system.³

Although many of these studies examine national samples or examine attitudes toward the U.S. Supreme Court, it is beyond the scope of those findings to measure attitudes toward state and local courts. Prior research shows that there is often an aura of remoteness concerning the U.S. Supreme Court, whereas state and local courts are not only more visible, but have a direct effect on citizens' everyday lives.⁴ This is consistent with research by Tom Tyler, who found that personal experiences with legal authorities affect an individual's evaluations of those entities.⁵ Additionally, state-level data can improve on nationally aggregated data, which can mask important differences and issues between states.

Of primary interest to this article is the role that race and ethnicity play in explaining varying levels of support. Research has shown that racial and ethnic minority groups in the United States hold more negative perceptions of the justice system than do whites.⁶ Although these studies have been successful at identifying different perceptions toward the courts (in terms of fairness, differential treatment, access to services, etc.) between whites and minority group members, the quantitative nature of these studies fails to provide insight into why these perceptions exist.

The present study expands upon past research on minority's perceptions of the justice system by employing a qualitative methodology, allowing participants to explain in their own words their lived experiences and to express their perceptions of the justice system without the confines of a survey instrument.

In 2002, the Nebraska Minority and Justice Task Force, an organization established by the Nebraska State Bar Association and the Nebraska Supreme Court, conducted a comprehensive examination of racial and ethnic bias in Nebraska's justice sys-

Footnotes

The author expresses her appreciation to the Nebraska Minority and Justice Task force for the use of their data and to Judd Choate, the Hon. John Gerrard, Jane Schoenike, and Alan Tomkins for their reviews of a draft of this article.

1. See Sara Benesh & Susan Howell, *Confidence in the Courts: A Comparison of Users and Non-Users*, 19 BEHAV. SCI. & LAW 199 (2001); Timothy Flanagan, Edmund F. McGarrell, & Edward J. Brown, *Public Perceptions of the Criminal Courts: The Role of Demographic and Related Attitudinal Variables*, 22 J. RES. CRIME & DELINQ. 66 (1985).
2. See Flanagan, et al., *supra* note 1, at 66.
3. See Benesh, et al., *supra* note 1; Flanagan, et al., *supra* note 1; Gregory Caldeira, *Neither the Purse nor the Sword: Dynamics of Public Confidence in the Supreme Court*, 80 AMER. POL. SCI. REV. 1209 (1986); Tom Tyler, *Public Trust and Confidence in Legal Authorities: What Do Majority and Minority Group Members Want for the Law and Legal Institutions*, 19 BEHAV. SCI. & LAW 215 (2001).
4. See Benesh and Howell, *supra* note 1.
5. See Tyler, *supra* note 3.
6. An excellent overview of the differing views of whites, African-Americans, and Hispanics on the court system, based on a 1999 survey of 1,826 U.S. residents, is found in David B. Rottman & Alan J. Tomkins, *Public Trust and Confidence in the Courts: What Public Opinion Surveys Mean to Judges*, COURT REVIEW, Fall 1999, at

24. For other resources, see Richard Brooks & Haekyung Jeon-Slaughter, *Race, Income, and Perceptions of the U.S. Court System*, 19 BEHAV. SCI. & LAW 249 (2001); Caldeira, *supra* note 3; Flanagan, et al., *supra* note 1; Rodolgo O. de la Garaza & Louis DeSipio, *A Satisfied Clientele Seeking More Diverse Services: Latinos in the Courts*, 19 BEHAV. SCI. & LAW 237 (2002); NATIONAL CENTER FOR STATE COURTS, *HOW THE PUBLIC VIEWS THE STATE COURTS: A 1999 NATIONAL SURVEY* (1999) [hereinafter, 1999 NATIONAL SURVEY]; DAVID ROTTMAN & RANDALL HANSEN, *HOW RECENT COURT USERS VIEW THE STATE COURTS: PERCEPTIONS OF WHITES, AFRICAN-AMERICANS, AND LATINOS* (2002) [hereinafter, *Recent Court Users*]; ROTTMAN, DAVID, ET AL., *PERCEPTIONS OF THE COURTS IN YOUR COMMUNITY: THE INFLUENCE OF EXPERIENCE, RACE, AND ETHNICITY* (2002); Tyler, *supra* note 3; BRYAN VARGUS, ET AL., *PRELIMINARY REPORT FOR THE NATIONAL CENTER FOR STATE COURTS* (2000).

These findings have also been confirmed for the state in question, Nebraska. See NEBRASKA MINORITY & JUSTICE TASK FORCE, *FINAL REPORT* (2003) [hereinafter, *FINAL REPORT*]. In 2002, Nebraska's Minority and Justice Task Force replicated a study conducted by the National Center for the State Courts, see Rottman & Tomkins, *supra*, and 1999 NATIONAL SURVEY, *supra*, examining Nebraskan's perceptions of the courts. Findings showed that in Nebraska, blacks, Native Americans, Hispanics, and non-English speakers were perceived to receive worse treatment by the courts than white Nebraskans. Additionally, minority groups were less likely to agree that courts were fair to minority Nebraskans. *FINAL REPORT*, *supra*.

tem. As part of their research program, the task force held eight public hearings in five cities across Nebraska between January and May of 2002 to obtain public perceptions about the courts. Data for this article are based on testimony obtained from these public hearings.

Public-hearing participants were asked to provide testimony related to their experiences, perceptions, and concerns with racial and/or ethnic bias or discrimination in Nebraska's court system. Participants were also encouraged to suggest recommendations for correcting racial and/or ethnic bias or discrimination in Nebraska's court system.⁷

Persons not willing to make public statements were encouraged to give private, one-on-one testimony, also provided for at each public hearing site. In addition to verbal testimony, written testimony also was solicited. The task force publicized the opportunity to submit written testimony in mainstream and nontraditional publications as well as noting it in the promotional campaign for each public hearing.

I. THE CONCERNS OF MINORITY RESIDENTS IN NEBRASKA

Several issues emerged as significant concerns across all nonwhite racial and ethnic groups. These concerns are differential sentencing and acquiring quality legal services. Other issues were of concern only to specific minority groups.

CONSISTENT CONCERNS OF NONWHITES

Differential Sentencing

One of the dominant themes to emerge from the public hearings was the perception that minorities receive harsher sentences than whites. This belief was held for all sorts of decisions made in the legal process, including the decision to prosecute, the setting of bail/bonds, length of sentence, and so on. One woman from eastern Nebraska described her observations this way:

When I sit through criminal trials—and I started when I was in college and I continually do it—do you want to know who is prosecuted, who gets bail, who is convicted and how long the sentence is? Each one of you know that. You know that it's the people of color who receive the longest sentence, most likely to be convicted, either get excessive bail or no bail, because half the time they're not able to make it, and who are prosecuted.

Some participants believed that differential treatment initially occurs when charges are filed (prosecutorial discretion). For example, several respondents reported the perception that due to the vagueness of the habitual criminal charge this charge is arbitrarily used against minorities. Similarly, one Nebraskan also described how the second-degree murder statute is misused:

The law allows an arbitrary choice between conviction for the crime of second-degree murder and manslaughter

upon a sudden quarrel....The effect this problem has is to arbitrarily choose between convicting someone for second-degree murder or only for manslaughter. It is possible for the authorities to choose to prosecute and convict minorities of second-degree murder (with its greater punishment) and prosecute and convict non-minorities only of manslaughter.

One of the dominant themes to emerge from the public hearings was the perception that minorities receive harsher sentences than whites.

It is statements such as these that suggest that prosecutorial discretion is perceived as a mechanism of discriminatory treatment.

According to testimony, differential treatment also plays out in the setting of bail and/or bond. Several participants believed that judges give larger bonds to minorities than they do whites:

One of the things that I'm really concerned with here in Hall County is bonds and bails with the court system. It seems that frequently Latinos will get picked up for crimes—and I'm not making excuses for anybody's crimes or trying to stand up for those in that way. But it just seems that often people are getting bonded out or bailed out of jail with really excessive, excessively high bails. And comparing it to crimes that are committed by Anglos that live in the community and the bonds are much, much less.

Additionally, differential sentencing was also a primary concern across nonwhite racial and ethnic groups. To one man from Omaha, differential sentencing was evident not by examining specific cases but by the disparate incarceration of individuals of color:

There are two types of profiling: Police and judicial. Well, how can there be—what is it now—about 70 percent, of the African-American population at the penitentiary in Nebraska? About 75 percent in Douglas County. Now, isn't it strange that you have, for a state with less than 4 percent [black] population, but in the penitentiary, 65 to 70 percent. Now, are we to believe that African-Americans are that bad in Nebraska? I don't think so. I think that's why we are hearing that the court system would have that one person commits a crime, is African-American, gets a sentence, the white person doesn't.

There was also a specific concern with differential outcomes in juvenile court. Differential sentencing at this age has the potential to profoundly impact juveniles by establishing a crim-

7. Spanish language interpreters were available at each public hearing so that testimony in both Spanish and English could be obtained.

A second dominant theme . . . was dissatisfaction with legal services.

inal record that will follow them into adulthood. This is especially the case for juveniles tried in adult court, one citizen argued:

Juveniles of Afro-American or Hispanic, Latino are more apt to be sent to a correctional facility than any white youth. And you can take two cases, and the same situation, and you can know which one is going and which one is staying because this one will need—"Let's give him some assistance, let's give him some inpatient care, let's do this." When you have cases which is determined should it be as a juvenile or an adult, as many as 99.9 percent of the time, if it is a young person of color, you know how they are going to be judged, in the adult court.

Legal Services

A second dominant theme to emerge from public-hearing testimony was dissatisfaction with legal services. Issues of concern included the availability of low-income services; the reliance on public defender services; and dissatisfaction with the plea-bargaining system.

Testimony suggests that there are not sufficient resources in Nebraska to provide legal aid to low-income individuals. A representative of Nebraska Legal Services⁸ described the lack of available legal help for low-income groups:

At Legal Services I spend most of my time telling people, no, I'm sorry, I can't help you. We've just become this huge rejection line. And that's because we have the funding and the staff and the resources to serve about 15 percent of the need. So I spend my time turning 85 people out of a hundred away who all have legitimate legal problems where a remedy at law or in equity exists for them but there's just no time, no money, not enough money to represent them. And when that number of people get turned away they have two choices, you know, they can just do nothing or they can try to defend themselves. If they do nothing, what happens generally is people become very hopeless and they give up on the system and huge amounts of potential are lost. If they try to represent themselves, you're going to see frustration . . . because they can't do it. They just don't have the training, the experience, the ability to do it themselves.

Cost appears to be a significant barrier to gaining access to legal representation. For instance, many participants hold the perception that quality legal services are directly affected by one's ability to pay. So, when arrested and charged in a criminal matter, many low-income minorities must rely on the services of public defenders. Unfortunately, the task force

received many comments voicing minority-group dissatisfaction with public defender services:

I have been to many, many people who have public-appointed attorneys, and almost 90 percent walk away feeling that they have not been served. We have a problem in terms of feeling that we are being treated justly.

An individual from eastern Nebraska elaborates on this sentiment toward public defenders:

I have sat through those court trials and I have seen our county prosecutor go up and make their comments, and a defending public defender, which, when it comes to people of color . . . it is so poor that they should be ashamed to even call it defending. You have inadequacy, you have those who have no compassion, and their purpose is—and I have heard them say, "He's guilty," and you are talking about the person you are supposed to be defending.

Several minorities of limited income relayed their specific dealings with court-appointed counsel. They believed that their court-appointed counsel did not work for their best interest or care about their case outcomes:

She assured me that if I pleaded guilty to two zero-to-five [year] felonies and eight zero-to-one [year] misdemeanors that I would receive no more than four to eight years due to the fact that they were not violent crimes. Well, on sentencing day I received 20 months to five years on each felony and six months to a year on each misdemeanor, all to be ran consecutive to one another. When I looked at my attorney she didn't look one bit surprised and packed up her briefcase and left without saying one word to me. I know that if I had money to obtain a prestigious lawyer I wouldn't have received that sort of sentence and if I was white I would not have received that sort of sentence.

Other individuals felt trapped by the insistence of lawyers to plea-bargain rather than devote time to their case. There is a general belief that the court is more concerned with closing cases quickly than in the administration of justice.

Many recommendations to improve the situation were offered. Solutions centered on increasing the amount of services available to low-income individuals. Participants suggested that this could be accomplished, in part by providing public defenders and other attorneys who dedicate themselves to a life of public service with competitive salary and retirement benefits and a loan forgiveness program. Additionally, participants argued that resources should be made available to aid individuals who choose to represent themselves pro se.

GROUP-SPECIFIC CONCERNS

A number of the themes emerged that were concerns specific to certain racial and/or ethnic groups. It is likely that minority

8. Nebraska Legal Services (NLS) is a nonprofit organization that provides free civil legal assistance to low-income Nebraskans.

NLS does not take criminal cases, so all references to NLS regard civil remedies.

groups' different views of the court system are based on group-specific experiences. For instance, a dominant theme to emerge from Latino/Latina populations was interpreter services. For Native Americans, jurisdictional issues were of primary concern. In addition to an overwhelming amount of testimony concerning the police (which is beyond the scope of this project on the courts), blacks were particularly concerned with the justice system's workforce being representative of the population (from justice system employees to representative juries). Descriptions of these group-specific concerns are revisited here.

Latinos/Latinas: Interpreter Services

Hispanics who took part in the public hearings expressed great dissatisfaction with interpreter services in Nebraska, including a lack of certified interpreters, the prevalence of misinterpretations, the lack of interpreter services both prior to and following court appearances, how interpreter services are compromised by an insistence on moving cases quickly, and a general lack of knowledge about courts and legal proceedings among new immigrants.

At present, there are only 11 certified court interpreters in all of Nebraska, making it nearly impossible for courts to utilize certified court interpreters in all cases. When certified interpreters are not available, respondents expressed concern about the quality:

When I first came here, anybody could be an interpreter in the court, and many times the court didn't bother to get qualified people for the court. And anybody that could, just because they spoke a little Spanish, was considered a competent translator or interpreter. And many times none of these people had any idea what they were doing.

It was not uncommon for people to report that children were providing interpreter services. As a Macy resident reported being told:

"I don't care, bring your friend, your cousins. Don't your kids speak both languages? Bring one of them." Well, what if the child is eight years old? How many of you would like to find yourself having violated a law in another country and have your eight-year-old child interpreting for you what's going on?

Additionally, the lack of available interpreters for certain languages—combined with an increasing number of dialects being spoken in the state—leads to situations in which more than one interpreter is needed. Not only is this process time consuming, it is likely that meaning is sometimes lost in translation:

I recently heard that in Hall County they needed—they had to go find a person that spoke Mayan and Spanish and then another person to speak Spanish and English to relay the information. So [as] anyone . . . who has worked with an interpreter or through an interpreter [knows], it is very true when you hear that something is lost in the translation.

Many incidences of incorrect translations were also reported across multiple public-hearing sites. As an individual from

western Nebraska explained:

I think that judges and all others involved in the judicial process should be more conscientious about this issue. I think that if they were able to understand the interpreters and what they were saying they would be appalled. I feel that if the transcribed

recordings were to be played back and a competent interpreter were to listen to the interpretations he would find a lot of shocking misinterpretations and misstatements and it just appears that people just don't care.

It was not uncommon for people to report that children were providing interpreter services.

Several individuals believed that courts simply were not concerned with providing quality interpreter services. One court interpreter reported a particularly egregious situation:

And he [the judge] yelled at me right there in front of the court and he said, "I don't care if she doesn't understand what's going on. I don't have time to piss around with this." That's exactly how he said it. He said, "If she doesn't understand, that's her problem. I need to move my cases in a hurry." And I remember that because I was very upset, because that told me that the judge did not care if this lady knew what was going to happen to her or not, he just wanted to move the cases.

Native Americans: Jurisdiction over Sovereign Nations

Many Native American respondents were concerned about cross-jurisdictional problems related to sovereign lands. Nebraska has two sovereign territories in northeastern Nebraska (as well as another in northwest Nebraska that, unfortunately, was not visited in the public hearings). Citizens of these nations argued that often law enforcement officers as well as the courts use jurisdictional differences as reason to hold Native Americans for charges unworthy of bond. One Native American participant described the potential for conflict:

I am not sure about the judges. There has always been a jurisdictional problem here in this county with regards to who has jurisdiction over what area and where, whether it be the county roads, whether it be the state roads or whether it be private property or trust land. I know there seems to be a big division on that interpretation right now. Although it has not really come to a head yet.

Jurisdictional issues have extended into the justice system, creating barriers to access, particularly for Native Americans. For example, jurisdictional disagreements have created situations where criminals go uncharged. Additionally, jurisdictional disagreements sometimes have impacted a prosecutor's willingness to proceed with charges even in the most severe situations.

Blacks: Representation in the System

A significant justice issue for blacks in Nebraska is their rep-

Several black participants expressed the importance of having black judges in their community

representation as court employees and legal professionals. The lack of representation of minorities as employees and administrators of the justice system leads to a perception of injustice. As one African-American woman who has worked in the court system for over thirty years explained:

People's perceptions are that when they go in to any system and they do not see anybody that looks like them, and that's whether they are African American, Native American, Hispanic, Latino, Asian, when they come in that system, if they don't see people that look like them administering those systems, working in those systems, then I think the perception automatically [is] that they're not going to get fair treatment. But when people come in and they are talking to me or they come into the office and they see other people in that office that are people of color, I think it kind of gives them a different notion, and so then they're at least more open to looking at their own behavior, as opposed to where you come in or when you come into a courtroom and when you don't see anybody else but whites in the system, and, I mean from the time you walk in the door to the clerk's office to the bankruptcy court to, you know, the judge's office and everybody in there, and those people are making decisions, well, it really for that person I think starts with their perception of am I getting a fair trial, am I getting a fair shake? And how can I possibly because, you know, the entire system's already set up against me.

Explanations such as these emphasize the need for increasing the number of people of color working for the system both as court employees and legal professionals. Several black participants expressed the importance of having black judges in their community:

And for a number of years, I think we only had one, which was Judge [name of Judge] for years and years, and then she retired. A lot of people liked her, a lot of people didn't, but the fact that she was a sitting black female judge was important to people.

Several participants explained that having a court system with a workforce that is representative of the community is important not only for the perception of justice but because a diverse workforce is likely to be a more accepting community, sensitive to racial and ethnic issues and the unrecognized biases of those in the majority.

To achieve a more diversified legal profession and court system participants advocated unbiased recruitment procedures, not preferential treatment:

And I'm not just saying, hire an attorney because they are of color, I'm saying hire attorneys of quality. But judge them, when you look at them and say, do they meet your standards, judge them on the same basis that

you judge you. That's what you ought to be looking at. Those are the changes and they should be mandated.

II. A WORD ABOUT METHODS

Before concluding with a discussion of the policy implications of comments made by minorities in Nebraska, I will review the process through which the underlying data was collected. Those more interested in conclusions than methodology can skip ahead to the next section.

Participants

Approximately 175 people gave public testimony and 25 attendees provided private testimony at a public-hearing site. Several tactics were employed to publicize the public hearings in an attempt to attract target populations (racial and ethnic minorities). First, press releases (in English and Spanish) were sent to city newspapers as well as radio and television stations in each region where a hearing was planned. Several news outlets held interviews with task force representatives to discuss the mission of the hearings and explain the logistics for testifying. The task force also sent invitations to community leaders and relevant groups throughout the state in an attempt to inform the largest possible constituency about each upcoming hearing. This list included all district and county court employees, members of the Nebraska State Bar Association and the Midlands Bar Association, Nebraska Legal Services Corporation, Nebraska Appleseed Center for Law and the Public, the Nebraska state senators, city council members, university groups and professors, members of the business community (including Hispanic and black business owners), clergy of minority-populated churches, local NAACP chapters, the Urban League of Nebraska, the Mexican American Commission, the Commission on Indian Affairs, and local chambers of commerce, among others.

Hearing Locations

Public hearing sites were selected based on the size and diversity of the population (see Table 1). The state's most populated city, Omaha, was site to three public hearings at three separate locations over a 75-day period. One hearing was held in both Lincoln and Grand Island, the state's second and fourth

TABLE 1: HEARING SITES AND PERCENTAGE MINORITY

City	Total Population	Minority Population	Percentage Minority
Omaha	390,007	96,131	24.7%
Lincoln	225,581	127,494	12.2%
Grand Island	42,940	8,980	18.6%
Scottsbluff	14,732	4,184	28.4%
Lexington	10,001	5,394	53.9%
Macy	956	942	98.5%

most populated cities. Scottsbluff, Lexington, and Macy were selected for their racial and ethnic diversity and their location in the state.

In order to create a comfortable and non-threatening atmosphere, great care was taken to hold the public hearings at sites within the cities that were considered "friendly" to minority populations. For example, minority-dominated schools, churches, and community centers were used at all eight sites.

Data Collection

Hearings were transcribed verbatim by professional court reporters and carefully read by the author for a full comprehension of the content. Cross-case thematic analysis was used to identify themes across hearings and racial groups. Although participants were asked to provide testimony concerning their experiences and perceptions of racial and ethnic bias in the court system, several participants made contributions outside the scope of the project.⁹ Testaments such as these were not included for analysis.

IV. POLICY IMPLICATIONS AND STUDY LIMITATIONS

Public perception of the courts is important.¹⁰ It affects both the actual work of the court and the perceptions of those within and outside the court. Existing research documents that racial and ethnic minority groups in the United States hold more negative perceptions of the justice system.¹¹ This research explores the root of these perceptions qualitatively through public-hearing testimony, where individuals of varying minority status were given the opportunity to explain their experiences and perceptions of the courts.

Minority group members discussed a number of topics relative to the courts, most notably their perceptions of differential sentencing, on the disproportionate number of incarcerated minorities within the state, differential treatment in terms of prosecutorial discretion, bail/bond amounts, being tried in juvenile vs. adult court, and actual sentences imposed by judges. Many minority-group members also commented on the issue of obtaining adequate legal services.

Further analysis reveals that many of the perceptions discussed here may be based on group-specific experiences and are not necessarily similar across groups. For instance, the Hispanic population in Nebraska was primarily concerned with the availability and quality of interpreter services. Native Americans' perceptions, on the other hand, centered on jurisdictional issues, and blacks were particularly concerned with issues of representation within the system (as employees, lawyers, judges, etc). Since research suggests that individuals' evaluations of the courts are affected by their personal experiences with the courts,¹² it seems less likely that the concerns identified in this article would even be identified as problematic by a white sample. In other words, whites do not face the same language, jurisdictional, or representational issues that

Hispanics, Native Americans, and blacks face in the state courts.

These findings have several policy implications. First, efforts to improve minority's perceptions of racial and ethnic bias in the court system should be centered on the issues that they have identified as problematic. In other words, efforts should focus on the concerns of communities of color, rather than solely rely on the perceptions of fairness held by whites (which may be the concerns reflected in overall opinion surveys, given whites' numerical majority in quantitative samples). More specifically, to improve Hispanic's perceptions of fairness in the court system, efforts should be made to address the inadequacies in interpreter services. Similarly, working to solve jurisdictional issues and making court systems more representative of their respective communities will improve the perception of procedural and symbolic justice.

Second, this article demonstrates the utility of public hearings as a research method. Public forums are often held on local and state issues, but remain an untapped source of rich qualitative data. In researching concerns of racial and ethnic bias, public hearings serve as a valuable tool—one that can differentiate the real and complex issues between states or jurisdictions, issues that are often not brought to light through quantitative instruments. At the same time, these forums may provide participants with an outlet and a sense of agency.

There are several limitations to this study. First, there appears to be a lack of representation from the Asian community in the public hearings. According to the 2000 U.S. Census Bureau figures, 1.3% of Nebraska's population is Asian. However, very few public-hearing participants identified themselves as Asian. Additionally, with the exception of needing interpreter services for an increasing Asian population, no specific concerns regarding the Asian community were expressed. It is not the intent of this article to ignore this population or suggest that their concerns with the legal system are nonexistent or of less importance. Future research should attempt to specifically gather data from this population.

Second, several public-hearing participants stated that some hesitation within the community was held concerning testifying at the public hearings. This hesitation stemmed from a fear of backlash—that judges, lawyers, police officers, and/or other court employees would find out who said what at the hearing and take action against those who spoke against them or their practices.

Finally, since this data was collected in a public-hearing setting, it is certainly possible that the positions of those responding are not representative of the public's opinions or even those

[T]he Hispanic population in Nebraska was primarily concerned with the availability and quality of interpreter services.

9. The majority of these contributions were related to law enforcement. Research indicates that individuals often interpret "legal system" as including law enforcement. See Brooks & Jeon-Slaughter, *supra* note 6.

10. See Benesh & Howell, *supra* note 1; Flanagan, *et al.*, *supra* note 1; Caldeira, *supra* note 3; and Tyler, *supra* note 3.

11. See sources cited and discussed in note 6, *supra*.

12. See Tyler, *supra* note 6.

of the specific racial or ethnic group of the respondent. This in no way affects the overall point of the study however, which is to illustrate how the one-dimensional picture of racial and ethnic dissatisfaction with the courts can be illuminated through an analysis of those participants suitably upset and/or motivated to give public testimony. It is unlikely that the concerns of these minority communities could have been as thoroughly expressed using a quantitative instrument.

In conclusion, this research supplements much of what is commonly inferred from court-related surveys of public trust and confidence. By attempting to demonstrate the basis for these differing attitudes through an analysis of public hearing testimony, this project illustrates the deep-seeded distrust of the courts held by many minority group members. It also demonstrates that what might appear monolithic in its dissatisfaction is actually contextual in nature. While blacks, Hispanics, and Native Americans may have some shared concerns and a shared lack of trust in the legal system, there are significantly different attitudes that underlie these feeling of dissatisfaction for each group.



Elizabeth Neeley is a project director at the University of Nebraska Public Policy Center for its Minority and Justice Implementation Committee. She has worked on several additional Public Policy Center projects, most notably the Minority and Justice Task Force and the Lancaster County Indigency Screener Evaluation. She will graduate in August 2004 with a Ph.D. in sociology from the University of Nebraska-Lincoln.



Online

www.ncsconline.org Click on Bookstore

Call

888.228.6272

Fax

802.864.4672

E-mail

ncsc.orders@ndcvt.com

Mail

NCSC Fulfillment Dept.

P.O. Box 20, Williston, VT 05495-0020

Order your copy
of NCSC's most popular publication,
now in its 3rd Printing with Revised Layout

Caseflow Management

The Heart of Court Management
in the New Millennium

by

David C. Steelman

with John A. Goerdt and James E. McMillian



Minorities don't trust state's legal system, report says

Tuesday, March 30, 2004

By JOSHUA R. RUSSO Record Staff Writer

The Declaration of Independence states that all men are created equal. However evidence is mounting that this principle doesn't always apply in the Nebraska justice system, according to participants at a conference in Chadron last week.

According to a 2003 report drafted by a task force created by the Nebraska State Bar Association and the Nebraska Supreme Court: minority members of the Nebraska public have substantially less trust in the state's court system than do white citizens; there is a shortage of certified language interpreters in the courts; and evidence suggests that Nebraska juries are not reflective of the state's racial and ethnic diversity. The report also addresses the minority in legal professions.

Speakers from the task force spoke to an audience of about 80 people in Chadron March 24 about the disparity in the system, and what may be done to remedy the situation. The report they presented covered four areas of minority issues: access to justice, criminal and juvenile justice, court personnel and legal personnel.

Adult and juvenile racial and ethnic minorities are disproportionately arrested and detained in relationship to their percentage in the general public. According to Terry Waite, a former Sheridan County attorney and a member of the report's implementation committee, there are close to 68,000 African Americans in Nebraska and close to 18,000 are arrested at some point. At 27 percent, the arrest rate is higher than any other state in the region.

The report also found that the state's racial and ethnic minorities are substantially under represented at every level of the court system.

Waite said the legal profession is not reflective of the state's racial and ethnic diversity. He spent part of his presentation talking about breaking the barriers for minorities to get into law school. He said seven percent of students at the University of Nebraska College of Law are from minority groups.

Minority and white court personnel and lawyers have markedly different perceptions regarding the treatment of racial and ethnic minorities by prosecutors and judges, and different perceptions of career opportunities.

The task force report was received well by some, but others were skeptical.

An advisor to the White Buffalo Club at Chadron State College told Waite that the report is likely to be another in a series of broken promises to minorities. She said previous studies have not been acted on.

"How do we move a society to equitable representation when the systems to implement justice are deaf and blind," she said.

Waite disagreed. He said the report may lead to more access to diversion programs, improvement in the quality of data relating to minorities, more interpreters in the court system and a diversity summit this summer.

"We're serious about making changes," said Waite. "This is not a report that will sit on the shelf."

Tom Cook, a member of the Nebraska Commission on Indian Affairs, said the area is seeing a greater influx of Native Americans, but they still feel unwelcome. Cook said Native Americans feel they have no opportunity and no support services in the area, which causes resentment.

"I do not want to see an increase in that racism because of that influx," Cook said.

Cook also said that public defenders listen less to minorities with legal problems. Waite said that attorneys are not excused for this behavior and it is a concern heard in other areas of the state.

Joe Simmons, director of the Chadron Native American Center, said that better representation of minorities in the courts begins with the local legal personnel. He said he contacted several attorneys and judges but none were present at the presentation. He said those voices needed to be heard at the meeting. However, Simmons said he was pleased with the turnout and the interest displayed.

"I would like to thank the Nebraska Supreme Court for looking over the community's interests," Simmons said.

The recommendations for change in the report include publication of the report, the implementation committee, provisions for funding of implementation actions, coordination of community outreach initiatives, increased communication against perceived bias and some court and bar sponsored programs.

Content © 2004 The Chadron Record
Software © 1998-2004 1up! Software, All Rights Reserved

coop' on ner Teenagers

Owner No. 1: "You've got to make sure they're not lying about their age. A girl came in here yesterday looking for work. She said she was a college student and looked to be in her early 20s, and I almost hired her. But as we were chatting by the cash register, she let it slip that she was just about to get her learner's permit to drive a car. Now, in this state, you get that when you turn 16, and I don't know a kid who would wait more than a week after their 16th birthday to get their permit, let alone five years. She admitted her real age when I pressed the issue. Its a shame — I still could have legally hired her at age 16, but I won't work with someone I can't trust to tell the truth."

See TEENAGERS, page 4

nework Will lit Card Debt

costs — if he wanted to.

Aside from how he constantly overuses his cards, the problem is two-fold:

- Consumers, either because they don't take the time or just don't care, rarely bother to read the fine print on their credit card contract. Few realize they can be hit with a fee of up to \$35 and see their rate soar to 24 percent if they're only one day late with a payment. Or that they'll pay as much as \$100 if they transfer their balance from one card to another.

- Not enough of them aggres-

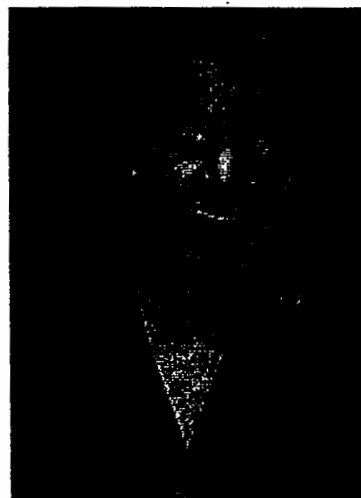
Task Force Has Made 17 Months of Progress

By Julien R. Fielding
The Daily Record

The Minority and Justice Task Force was formed in mid-2001 to see where Nebraska was in comparison to other states with regard to access to justice. Not only did the Nebraska Supreme Court want assurance that when a person on trial receives a decision it is rendered by his or her peers, but it also wanted to investigate racial and ethnic bias in the court system and legal profession.

The comprehensive final report was completed in January 2003, and covered a variety of issues, including interpreter services, jury composition, the state courts employee diversity, judicial diversity, law school diversity, and the conduct of judges, lawyers, court employees and probation officials. With so much data to draw upon, it was now time to begin making some changes. To do that the Minority and Justice Implementation Committee, which consists of a racially and ethnically diverse group of judges, lawyers and community leaders, was formed.

Even though it has only been about 17 months, substantial progress has already been made, said Liz Neeley, project director. "The major thing is the passage of LB 19 [the Civil Procedure Bill, which passed on May 19, 2003], which requires that jury pools are updated on an annual basis. When you have an influx of anyone [into a city or town] that's going to change the diver-



Judge Edna Atkins (left) and Linda Crump said while they are pleased with the task force's headway, there remains much work to be done.

sity of the area." Prior to this, several counties hadn't updated their jury pools for anywhere from five to 20 years. In some areas of the state, the Latino population grew from 0 percent to 30 percent. "That affects due process; that isn't a jury of their peers," said Justice John Gerrard, co-chair of the Implementation Committee. Judge Edna Atkins, who is on the Implementation Committee, said that there is some discussion of expanding the jury pools by using motor vehicle registration. There also is some talk about adding welfare rolls, she said.

Another significant change is that the University of Nebraska-Lincoln's College of Law got a grant to form the Pre-Law Institute, which is a one-month-long program that is targeted to minority college students. Neeley

said, "It develops mentoring relationships and gets them ready for the LSAT." And the third major change was that a few months ago the state of Nebraska got five additional court-certified interpreters, taking the state to 11. "Given the financial situation in the state, [the committee] asked what can we start on now," she said. "We will develop other initiatives I'm seeking more funding for that through grants. This has really been a group effort and I'm excited to be a part of it."

"We've made great headway," Atkins agreed. "I'm proud of what's been done."

"I'm pretty excited that a lot of things are happening," said Justice John Gerrard, co-chair of the Implementation Committee. "Several members of the original task force are still active. See TASK FORCE, page 4

Task Force

(Continued from page 1)

nal Task Force wanted to be sure that many of their recommendations would be implemented on a timely basis, and I am pleased that the original report is not sitting on a shelf gathering dust. The Unicameral has promptly responded to requests for legislation, and there have been timely changes to court procedures that affect due process."

One of these is LB 1068, which was introduced by Sen. Ernie Chambers in January. The bill authorizes the Nebraska Supreme Court, or its agent, access to pre-sentence reports for the purpose of research. Access to pre-sentence reports will allow the Supreme Court to periodically direct an analysis of the service provided by the courts of

this state and by probation (such as setting of bond, sentencing, probation revocations, etc.) to see if there are any effects on the delivery of those services caused by race or ethnicity. "We've had excellent cooperation from the legal community and legislature," Gerrard said. "They've helped get this baby off the ground."

Community outreach also has been important to the process, he said. While the information was being compiled for the Minority and Justice Task Force Report, a series of public hearings were scheduled to get citizen input. "We went back and held town hall meetings in Chadron, Lexington, Norfolk and Scottsbluff and told them our report findings," he said. "We received even more input and found out what more could

be done."

Although Linda Crump, co-chair of the Implementation Committee, is pleased with their progress, she stresses that the Committee's work has just begun. "Our efforts are directed at ways we can move from an assessment of the issues we face to actual changes in how we operate," she said. "Some actions have already resulted in change, however, we know that all the recommendations cannot

be realized overnight. Some of the issues still need additional exploration to be fully understood and others are part of a longer process. We are a part of a very complex system that goes beyond the actions of the courts and the Bar Association. We hope that other entities that impact the system will realize that they can also be active participants in creating a fair and open system of justice for all the citizens of Nebraska."

"We have some longer term goals that aren't quite as immediate; many of the changes are incremental," Gerrard said. "But it's been very effective, and we've had excellent cooperation beyond our wildest expectations."

The Nebraska Minority and Justice Implementation Committee 2004 Progress Report is available at <http://www.nebar.com/publicinfo/minorityjustice.htm>.

Too Rich

(Continued from page 2)

whose life Kerry saved, turned up unannounced in Iowa to volunteer for his campaign. Nominally a Republican, he's incredulous that anybody would question the man's courage. In Douglas Brinkley's book *Tour of Duty: John Kerry and the Vietnam War* (HarperCollins, 2004), Kerry's former shipmates all but unanimously praise his leadership. To them, he was no snob at all. Interestingly, nobody mentioned his hair.

The effort to sully Kerry's war record failing, attention was next directed to his activities as a protester. To a noisy minority, exercising democratic rights

War medals?" One of its authors was Chris Vlaso, a producer who also got a lot of exclusives during Kenneth Starr's heyday as GOP leak-in-chief. After some questioned whether ABC had ever used the "L-word" to describe President Bush, the headline was discreetly altered to read: "Medal Dispute, EXCLUSIVE: Why did Kerry change story about Vietnam medals?"

At issue were some ambiguous remarks Kerry made during a 1971 TV interview. Had he thrown away all his medals during a dramatic protest by Vietnam Veterans Against the War, or only some ribbons? And so what? One might ask more than 30 years later. Rather than quib-

Patriot Act

(Continued from page 2)

from mischief by the chains of the Constitution."

Bradley criticized the Patriot Act because it "dramatically expands federal government powers of surveillance, search, and arrest," that set "harmful precedents for future encroachments on personal liberty." And he objected to the act's reduction of the "judicial oversight in the gathering of evidence." But what harm, Hatch asks, has the Patriot Act done?

Bradley answers that "many of the areas which could be abused are kept secret by the provisions of the act."

Frank Mylar of the Utah Grassroots, a conservative caucus, testified that "of crucial importance among conservatives is not how the Patriot Act powers might be employed by President Bush, but how it could be co-opted to stifle conservative voices in this country under a liberal administration." After all, there is no telling how long this war against this deadly enemy

'good' until we are no longer free people. Certain provisions of the Patriot Act constitute an unacceptable erosion of our unalienable rights that have been recognized in this country before its birth."

The debate about renewing

Debt

(Continued from page 1)

cardweb.com, profits of the three biggest issuers - Citigroup, MBNA and Bank One - increased by more than 27 percent to \$1.6 billion.

The bucks add up. Even if Joe or Jane cut their credit card spending by \$3,000 a year, the most they'd probably save is about \$220.

Let's pretend they make late payments four times a year (at \$35 per penalty), use the card 10 times a year to take \$300 cash advances from ATMs (3 percent fee per withdrawal), transfer a \$2,000 balance one time (also a 3 percent fee), and exceed their credit limit three times (at \$30 per). That's another \$380. Plus,

sections of the Patriot Act is certainly needed, and will become much more intensely educational to the citizens at large, despite the president's repeated insistence that it remain intact. ©2004, Newspaper Enterprise Assn.

\$100 in fees on the high end.

Strangely, only an estimated three out of every four cardholders know what interest rate they're paying. They skip over the tiny flyspeck-sized fees and charges on a card issuer's literature because it's so hard to read, although by federal law in 2001 issuers have been required to use bigger type.

Some tips: Card outfits often won't reveal their terms and conditions until you formally apply for a card, so beware. Never apply until you're shown ALL the rates, fees and penalties. They may dangle a lowball rate and then, after you apply and they check your credit record, jack up the rate to the heavens. Plus, if you miss a payment during an introductory

Race and Justice in Nebraska— Why Prosecutors and Criminal Defense Lawyers Should Care

by Mark Young and Dennis Keefe



This article originally appeared in *Habeas Corpus*, the newsletter of The Nebraska Criminal Defense Attorneys Association. Reprinted with permission.

"And now it's just as bad for young black women or women of color as it is for men . . . to . . . have a public defender who is so unprepared, uncaring, and really, unsuitable, to stand before a judge, and then you have a prosecutor who comes in . . . and they sit at

their table and the snickering, the way the attitude that they go and handle a case (shows) no respect for the individual or for the system."

The above quote comes from public hearing testimony before the Nebraska Minority and Justice Task Force preceding the issuance of their final report. Similar comments were heard at a number of public hearings around the state.

At first, for those of us who are prosecutors and criminal defense attorneys and members of the Task Force, such comments (as well as some of the task force findings) made us feel uncomfortable at the very least, and sometimes downright defensive. Eventually, we came to realize that, as difficult as it is to talk about race and justice in America, it is vitally important that we do so for a number of reasons. This is especially true for those of us who hold a public trust as prosecutors and those of us who are appointed to act as zealous advocates for individual clients to fulfill the promise of their constitutional right to the effective assistance of counsel. In this article, we will provide you with background on the Minority and Justice Task Force, outline some of their key findings and explain why prosecutors and criminal defense attorneys should not only care about the issues but should become active in addressing solutions to the problems.

Background

The Nebraska Minority and Justice Task Force was created as the joint initiative of the Nebraska State Bar Association and the Nebraska Supreme Court in October of 1999 to examine issues of racial and ethnic fairness within the Nebraska Court and legal systems. The Task Force focused on four priority areas: Access to Justice, Court Personnel, Criminal and Juvenile Justice, and the Legal Profession.

Dennis R. Keefe

Mark J. Young

RACE AND JUSTICE IN NEBRASKA

The results of the Task Force investigation were published in January of 2003 and may be found at http://ppc.unleedu/reports_publications/mjtf_final_report.pdf or you may order a hard copy by contacting Liz Neeley at the Nebraska State Bar Association. Although we will summarize the key findings and recommendations in all areas, given the audience for this article, we shall focus on the criminal and juvenile justice section of the report.

Findings

ACCESS TO JUSTICE—Minority Nebraskans believe that they receive substantially worse treatment in the courts than the white majority believes minorities receive.

There is a serious lack of qualified interpreters in the Nebraska court system and a lack of adequate interpreting services throughout the legal process including probation and diversion services.

The Task Force examined how the jury selection process, the qualifications established for jurors, the failure to periodically update jury lists, and the payment arrangements for jurors may all contribute to juries that are not representative of the community. In an investigation of the specific jury selection process in Lancaster County, results showed that minorities were underrepresented in the venires and on impaneled juries for both civil and criminal trials in the summer of 2002.

CRIMINAL AND JUVENILE JUSTICE—Black, Hispanic, and Native American Nebraskans are more likely to be arrested and incarcerated than are white Nebraskans. This finding extends across data collected by national entities as well as state and local agencies in this and regional states. Given the data available at the time of the study, it cannot be determined if these differences result from the fair application of neutral policies or the uneven or prejudicial application of the law.

Minority juveniles are disproportionately represented compared to whites among those arrested and incarcerated in Nebraska. Minority youth also have special difficulty fulfilling some of the requirements of diversion programs. When surveyed, Nebraska's minority bar members and minority court employees consistently reported that court actions were more biased and that the environment for the court was less hospitable than did white members of the bar and white employees who were asked the same questions.

A sizeable percentage of minority bar members surveyed believe that prosecutors are more likely to file criminal charges when the defendant is a minority or when the victim is white, that favorable plea bargains are less likely when the defendant is a minority or where the victim is white, and that minorities are less likely to be offered diversion.

COURT PERSONNEL—Across virtually every level of employment, minorities are underrepresented in Nebraska's courts.

Significant differences in perception exist between white and minority court personnel concerning the nature of the hiring process and the likelihood of minorities receiving preferential or discriminatory treatment, both in hiring and while on the job.

When surveyed, both court personnel and bar members report having witnessed or were aware of inappropriate comments or jokes of a racial or ethnic nature, racial or ethnic slurs, and disrespectful and discourteous treatment of minorities.

THE LEGAL PROFESSION—Nebraska's legal profession is not reflective of the state's racial and ethnic diversity. Racial and ethnic minorities are underrepresented in Nebraska's judicial system.

The Nebraska Supreme Court accepted the Minority and Justice Task Force's final report (January 2003) and endorsed the creation of an Implementation Committee to critically review and implement the recommendations made in the final report. The Nebraska State Bar Association House of Delegates also unanimously adopted the final report. The implementation committee has been formed and is active at the current time. Members of the Implementation Committee are seeking assistance from those outside the committee in implementing some of the recommendations. You may be asked to help.

Why Should You Care

As members of the Bar generally, and as prosecutors and criminal defense attorneys, we can respond to the Minority and Justice Task Force work in a number of ways. We can ignore it. We can argue that the report does not clearly establish bias or prejudice in the justice system or that people's perceptions do not equate to reality. We can throw up our hands and say that the whole problem is just too big to take on. Or, we can decide that it is each of our responsibilities to try to correct the problems that do exist and to try to have a positive influence on other's perceptions of the justice system.

At the most fundamental level, we each have a responsibility to fulfill our oaths as attorneys and as public officials to uphold the Federal and State Constitutions. Due process, equal protection of the laws, and impartiality in the justice system are key principles enunciated in those documents. Our system of justice must be blind to issues such as race or ethnicity or the defendant or victim and the community must accept this fact and perceive the system as fair, or there can be no justice. We need to remember that

justice is not just a goal but a process and that process must not only be fair, it must be perceived as being fair.

As attorneys, our code of professional responsibility also addresses our responsibilities in relation to these issues.

Among other things, the code admonishes:


"The responsibility of a public prosecutor differs from that of the usual advocate; his or her duty is to seek justice, not merely to convict."
EC 7-13

"A lawyer should assist in improving the legal system." *Canon 8*

"Changes in human affairs and imperfections in human institutions make necessary constant efforts to maintain and improve our legal system. This system should function in a manner that commands public respect." *EC 8-1*

"A lawyer should avoid even the appearance of professional impropriety." *Canon 9*

"Continuation of the American concept that we are to be governed by rules of law requires that the people have faith that justice can be obtained through our legal system. A lawyer should promote public confidence in our system and in the legal profession." *EC 9-1*

Finally, on a very personal level, we all owe it to ourselves to make sure that racism and ethnic prejudice are not tolerated in our society. This type of personal commitment by each of us in our personal lives will surely spill over into our professional lives and will have a positive impact on the larger community by way of our example, implementing the recommendations of the Minority and Justice Task Force will not be easy and it certainly will not end racism in our society. While the road ahead may be difficult, we cannot shirk our responsibilities as attorneys to make sure that "Due process of law," "Equal protection of the law," and impartiality in the administration of the criminal and juvenile justice systems are not just empty phrases. 

ABA Prevails in Privacy Ruling

The latest precedent when the United States District Court for the District of Columbia agreed to grant the ABA's request for enforcement of the Federal Trade Commission's privacy provisions in the case of attorneys who provide electronic mail services. The District Court's ruling came in the wake of a previous ruling by the ABA against the Federal Trade Commission, which was decided by the United States Supreme Court in the New York State Bar Association v. ABA. The ABA's lawsuit arose from its contention that the FTC's requirement that lawyers and other workers in their offices was unnecessary and that such regulation of the legal profession and would create misunderstanding about the more confidential relationship that can govern the traditional lawyer-client relationship.

Supreme Court Rules Change

Admission Rule—After the 2004 Amendments to the Nebraska Supreme Court Rules for Admission of Attorneys, and in order to make the rules more uniform and consistent with the classification of the rules, the Nebraska Supreme Court adopted the following amendments to the rules for the NEBE and NLE.

Admission Rule—After the 2004 amendments to the Nebraska Supreme Court Rules for Admission of Attorneys, and in order to make the rules more uniform and consistent with the classification of the rules, the Nebraska Supreme Court adopted the following amendments to the rules for the NEBE and NLE.

Admission Rule—After the 2004 amendments to the Nebraska Supreme Court Rules for Admission of Attorneys, and in order to make the rules more uniform and consistent with the classification of the rules, the Nebraska Supreme Court adopted the following amendments to the rules for the NEBE and NLE.

The Nebraska Supreme Court adopted the proposed Nebraska Rules of Professional Conduct and the proposed Nebraska Code of Professional Responsibility. Proposed rules for the Nebraska Supreme Court were adopted by the Nebraska Supreme Court on July 16, 2004. The proposed rules were adopted by the Nebraska Supreme Court on July 16, 2004. The proposed rules were adopted by the Nebraska Supreme Court on July 16, 2004. The proposed rules were adopted by the Nebraska Supreme Court on July 16, 2004.

The Nebraska Supreme Court adopted the proposed Nebraska Rules of Professional Conduct and the proposed Nebraska Code of Professional Responsibility. Proposed rules for the Nebraska Supreme Court were adopted by the Nebraska Supreme Court on July 16, 2004. The proposed rules were adopted by the Nebraska Supreme Court on July 16, 2004. The proposed rules were adopted by the Nebraska Supreme Court on July 16, 2004.

Immigration Detainees in Nebraska: An Opportunity to Welcome Our Newest Neighbors¹

by Milo Mumgaard

Nebraska is a state of immigrants. From the time of its early settlement to the present day, this great state is full of people from all over the world. It's easy to see, as every summer Nebraskans have a rich smorgasbord of local festivals and events to choose from commemorating our immigrant heritage. Today, Nebraskans are in the midst of one of history's great demographic moments, just like we saw 100 years ago. Today, Spanish-speaking newcomers from Mexico, Guatemala, and other parts of Central and South America, coming here with dreams of a better life for their families, are positively transforming towns and communities all across the state—just like waves of immigrants before them.

These families, though, have significantly different ethnic and language backgrounds than the majority of Nebraskans today. These families also have members with a wide mixture of legal status under present immigration law. According to census data, 85% of immigrant families with children are

"mixed legal status" families—that is, families where at least one parent is a non-citizen and one child is a citizen. Nebraska, with one of the nation's fastest-growing foreign born populations in the country, is seeing this first hand.²

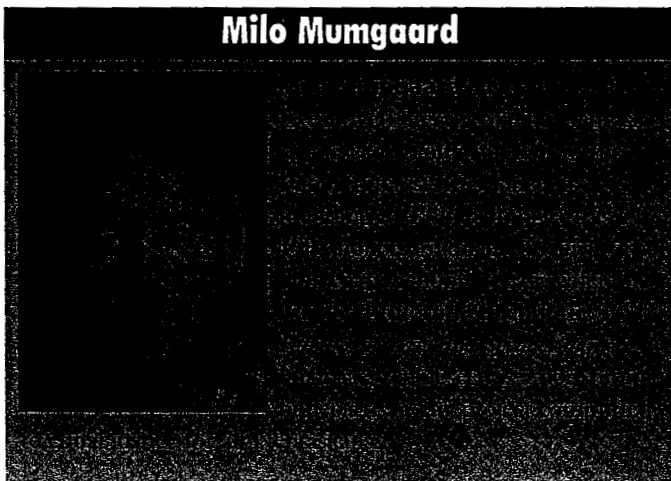
These mixed status families, given present federal immigration policy, experience significant legal complexities. In our experience at Nebraska Appleseed, where we are dealing with the legal rights of non-citizens across a wide range of issues, including public benefits, education, employment rights, and child welfare, we work with mixed status families who, every day, make life changing decisions based upon a family member's immigration status. These decisions are made even more critical when a non-citizen family member is undocumented, and there is a risk this person may be deported. It is estimated that over 40% of the foreign-born residents in Nebraska are undocumented, which includes parents, children, and other working family members in communities all across the state.³

Given this demographic reality, policies that disadvantage non-citizens are likely to have broad spillover effects on the citizens that live with them in the great majority of immigrant families. More specifically, policies to remove or deport illegal- and legal- immigrants with long connections to their communities have the impact of dividing mixed-status families and generating significant community problems.

Admirably, state and local leaders in Nebraska have acted to insure Nebraska is a welcoming state, focused on how best to have policies that do not disadvantage these newest Nebraskans and try to keep families together. Recognizing that the future of much of the state largely rests on ensuring these newcomers are treated fairly and have equal



Milo Mumgaard



opportunities in life, there have been various initiatives to ensure our state provides a welcoming legal and policy environment. These efforts include the Nebraska Legislature's Task Force on the Productive Integration of the Immigrant Workforce Population, which led to the introduction of legislation to create a state "Newcomer Welcoming Policy." Modeled on the state's family and juvenile justice policies, this policy would require state and local governments "to consistently welcome newcomers, to lower barriers to participation, and provide equal opportunity for newcomers."⁴ In addition, the Supreme Court's Minority and Justice Task Force, and now its Implementation Committee, have taken huge steps forward in identifying and addressing barriers to justice.

Another important positive development over the last few years has been the creation of several legal clinics to assist low-income immigrants with their legal problems, including immigration. These include the Justice for Our Neighbors program, the Interfaith Immigration Clinic, and bilingual clinics targeting new immigrants sponsored by Nebraska Legal Services, the Volunteer Lawyers Project of the NSBA, and Creighton School of Law. In combination, these programs have vastly expanded our state's capacity to provide basic legal help to our newest Nebraskans.⁵

Nevertheless, our state's progress in treating immigrant families equitably is frustrated by the number of non-citizens detained for immigration law violations without legal representation. According to the Bureau of Immigration and Customs Enforcement (BICE) (formerly known as the Immigration & Naturalization Service) district for Nebraska and Iowa, there were over 4,300 aliens arrested for the Fiscal Year of 2002. For that same fiscal year, over 3,200 were removed from the United States. For FY 2003, 2,013 individuals were removed. At the end of May 2003, there were 2,189 in BICE custody in Nebraska and Iowa.⁶ As the percentage of mixed status families confirms, the number of parents detained and deported from our area is traumatic for these families.

A significant number of these detainees have some legal claim to residing in the United States with their families, but face a unique set of legal circumstances: they do not have the same right to appointed legal counsel as those who are charged with criminal violations. While a detainee is allowed the right to legal representation if there are removal (deportation) proceedings started against them, it must be either at his or her own expense or provided *pro bono*.⁷

Nebraska Appleseed, working with the VLP, has sponsored trainings and posted information on the Equal Justice Clearinghouse website at www.NeEqualJustice.org to boost the ability of *pro bono* attorneys to represent these detainees, most of whose only "crime" is to be here working

and supporting their families. Further, the VLP has received a grant from the Nebraska Commission on Public Advocacy and now has staff to provide direct representation and develop *pro bono* assistance for these detainees.

The need for representation, however, continues to outstrip the need, leaving thousands of new Nebraskans without basic legal help and deported from the country, leaving behind children, spouses, and jobs.

Nebraska Appleseed recently asked two questions related to this issue: How does our problem compare nationwide or to other areas of the country? What is the status of the detainees who are being held in county jails, in our legal backyards all across the state?

The simple truth is that legal representation for immigration detainees continues to be sorely lacking in Nebraska compared to the rest of the country. According to the Executive Office for Immigration Review (EIOR), for the fiscal years between 1998 through 2002, less than half of those aliens whose proceedings were completed were represented.⁸ While disconcerting, this still far outstrips Nebraska and Iowa. In fiscal year 2001, for example, only 53 respondents of 796 were represented in hearings in the area—less than 7%.⁹

Yet, if you go down the road, to Kansas City, MO, you find that an amazing 76% of the detainees at that location were represented (981 of 1,292 in FY 2001). A combination of concentrated presence by a legal service provider and *pro bono* commitment has made this possible.¹⁰

It is thus possible for more people to have more representation. Unfortunately, although representation does not depend entirely on where these detainees are held, in our experience this is the major hurdle. In Nebraska, there is a significant reliance by BICE on holding detainees in county jails across the state.¹¹ For most lawyers across the state, it is literally possible to travel to the county jail and see, mixed with those charged with crimes and awaiting sentencing, non-citizen parents who until a few days before were working and supporting their families right there in town but had the misfortune to be detained for immigration violations.

In order to gain a clearer picture of where detainees were being held, under what conditions, and for how long without representation, in 2003 Nebraska Appleseed began an informal fact-finding investigation of local county jails throughout Nebraska and Iowa. Our goal was to obtain a "snapshot" of who was being detained in county jails in the Nebraska and Iowa immigration district by calling the dozens of jails at which BICE confirmed they held detainees, ask a series of questions as to how many immigration detainees were being held, and document their responses. Our intern

IMMIGRATION DETAINEES


carefully contacted each jail and recorded the information he received. There was a mixed reaction to our queries, ranging from very open and forthcoming to unreserved suspiciousness. It also included many anti-immigrant references from some of the public officials. Many jails were also unwilling to provide this information, so we were required to write open records requests demanding the information.

The end result was a multi-layered picture of the thousands of non-citizens languishing in Nebraska's and Iowa's county jails because they had come to the U.S. to work and support a family. Some jails hold hundreds of detainees over the course of a year, others just a few. Some hold them for long periods of time, others honor the law and release the detainees if the BICE does not deal with them within 72 hours. We also learned of overcrowding and the reliance of some counties on federal detention payments to run their jails.

This "snapshot" also confirmed there was little uniform process being used by county jail officials in handling immigration detainees and informing them of their right to legal counsel. Even among counties, the respect paid to this right ranged greatly, from those that described themselves openly as "a major detention center" and talked about how they provided information to detainees, to jails that barely knew they had immigration detainees mixed in among their "Mexican" or "Spanish" inmates. No jail seemed familiar with any process to locate *pro bono* counsel for detainees. One jail official helpfully explained the county provides a lawyer that advises the detainees "to plead guilty."

Nebraska Appleseed intends to revisit these county jails in the coming months to determine what has changed for immigration detainees with respect to opportunities for legal representation. We all know these detainees are often the primary breadwinners for families that are part of the historic demographic change we are now experiencing, and are part of families that represent the future of our state. We must, as those committed to a more equitable legal system in Nebraska for these newcomers, do better. Legal rights do not end at the border, and they should not end once someone is detained for an immigration violation in a Nebraska county jail.

Endnotes

- ¹ This article was researched and drafted by Gustavo Gutierrez, 2004 graduate of UNL College of Law and law clerk at Nebraska Appleseed, and Jonathan Jones, intern at Nebraska Appleseed and recent recipient of Truman Fellowship, under the direction of Milo Mungaard, Executive Director, Nebraska Appleseed.
- ² "The Integration of Immigrant Families in the United States," *Urban Institute* (July 2001), at 15.
- ³ "Undocumented Immigrants: Facts and Figures," *Urban Institute* (January 2004), at 2.
- ⁴ This legislation passed out of committee but died at the end of the 2004 legislative session.
- ⁵ A listing of these clinics and their services is available at www.NeEqualJustice.org.
- ⁶ Numbers provided to Nebraska Appleseed by the BICE office in Omaha, Nebraska in August of 2003.
- ⁷ See 8 U.S.C. § 1362.
- ⁸ Executive Office for Immigration Review, FY 2002 Statistical Year Book, at page G1.
- ⁹ Executive Office of Immigration Review, Statistical chart for FY 2001, Immigration Court Review.
- ¹⁰ Interview with Western Missouri Legal Services, March 2004.
- ¹¹ BICE typically uses three types of facilities to hold detainees: (1) government-owned Service Processing Centers (SPC), which are operated by the detention and deportation branch of BICE; (2) privately operated "contract facilities"; and (3) state, local, and county jails, in which BICE rents bed space as needed. 



**Ex-Cel
Solutions, Inc.**

Your Technology Partner

No matter what it is you're looking for to meet your technology needs, Ex-Cel Solutions is the best place to get what you want, when you want it.

The following are just some of the services we offer

- * Document Management
- * Imaging
- * Network Consulting & Installation
- * Servers
- * Printers
- * Software & License Renewals
- * Hardware Maintenance

**We want to be your technology partner!
Look for us on the NSBA website under member benefits
www.nebar.com**

Wendy Benjamin
wendyb@excels.com
(402) 827-8327

Dan Miner
danm@excels.com
(402) 827-8317

Diversity in the Legal Profession

by Elizabeth Neeley

According to the 2000 U.S. Census, 12.7% of Nebraska's population is African American, Hispanic, Native American, Asian American, or another minority group defined by the U.S. Census. According to both the 2000 U.S. Census and the Nebraska State Bar Association, only 2.4% of the state's attorneys identify themselves as ethnic or racial minorities. In fact, of the 4,800 attorneys in the state of Nebraska, only 115 identify themselves as ethnic or racial minorities and none of the attorneys that identified themselves as ethnic or racial minorities live west of Lincoln, (in the eastern third of the state). These factors have led to fears on the part of many of Nebraska's leaders that the state's minority court consumers, both civil and criminal, face a court system that is unrepresentative and likely perceived as hostile.

Data collected by the Minority and Justice Task Force indicates that these perceptions have basis in fact. In 2002, the



Minority and Justice Task Force traveled to communities across Nebraska soliciting testimony from the public on issues relevant to race and ethnicity in the courts. One of the primary problems identified across the state was the lack of diversity in the legal profession and court system:

"I did not see anybody of any color, black or Hispanic, they were all white, they were all elderly men. All of them had gray hair. They were just, you know—I do not feel comfortable there."

—Testimony from 2002 Public Hearing

"People's perceptions are that when they go in to any system and they do not see anybody that looks like them, and that's whether they are African American, Native American, Hispanic, Latino, Asian, when they come in that system, if they don't see people that look like them administering those systems, working in those systems, then I think the perception automatically [is] that they're not going to get fair treatment."

—Testimony from 2002 Public Hearing

"I know that I never met a Hispanic lawyer until I got to college and I sought one out. I mean, it's just pretty ridiculous that you have to look for one to find one."

—Testimony from Minority Law Student Focus Group

Statements such as these illustrate that diversity in the legal profession is critical to the public's confidence in and the success of our judicial system.

Given the substantial disparity and the concerns this disparity has raised across Nebraska's communities, the

Elizabeth Neeley

Elizabeth M. Neeley is the former president of the Nebraska State Bar Association and a past president of the Nebraska Judicial Branch Council. She is currently a partner in the Omaha office of the law firm of Stinson, Spivey & Fierman, P.C. She is also a past president of the Nebraska State Bar Association and a past president of the Nebraska Judicial Branch Council. She is currently a partner in the Omaha office of the law firm of Stinson, Spivey & Fierman, P.C. She is also a past president of the Nebraska State Bar Association and a past president of the Nebraska Judicial Branch Council.

DIVERSITY IN LEGAL PROFESSION

Minority and Justice Task Force conducted a study to understand the barriers that inhibit Nebraska's legal community from reflecting the racial and ethnic breakdown of Nebraska's population. More specifically, the Task Force examined trends in the current recruitment, hiring, retention, and advancement opportunities available in Nebraska, as perceived by those working in the legal profession.


Results show that minority Bar members are more likely to believe that there are fewer opportunities in private firms for minority law school graduates and that little effort is made to recruit and retain those minority Bar members who are hired. Moreover, minority Bar members are more likely to believe that they have fewer opportunities for mentoring and networking and are less likely to be satisfied with their opportunities for professional advancement. Given these perceptions it is not surprising that few minority attorneys stay in Nebraska to practice. As one minority attorney succinctly explains the situation:

It is true that minorities leave the state because there are no opportunities and no one is making an effort to give opportunities.

—An anonymous Nebraska attorney

Nebraska State Bar Association to address issues of racial and ethnic bias in the state's court and legal systems, hopes to change this perception by establishing efforts to expand employment opportunities for minorities interested in pursuing a career in law in the state of Nebraska.

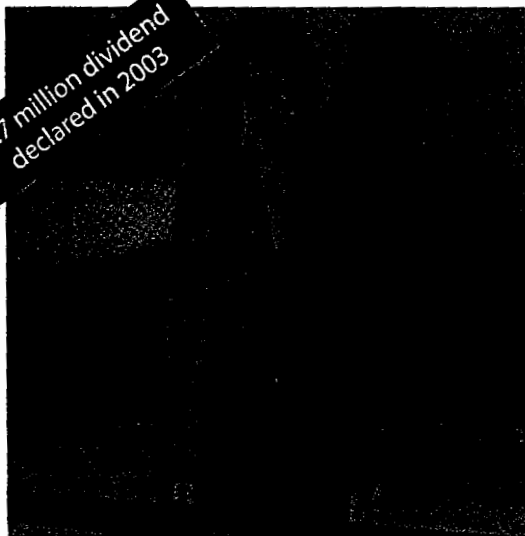
The Implementation Committee will be hosting a 2004 Diversity Summit for regional minority law students and legal employers in Nebraska. The half-day event will be held on ~~Friday October 22, 2004 in Omaha at the Hilton, 1005 Dodge Street.~~ **Apr 11, 2005** The Summit will offer concurrent and joint sessions for both legal employers in Nebraska as well as minority law students attending law schools in Nebraska, Iowa, Kansas, Missouri and South Dakota.

In addition to raising awareness about the value of diversity among Nebraska's legal community, the 2004 Diversity Summit offers legal employers the opportunity to learn best practices in the hiring and retention of minority attorneys, while providing minority law students from Nebraska and surrounding states with the opportunity to learn more about legal employment opportunities in Nebraska. 

The 2004 Diversity Summit

The Minority and Justice Implementation Committee, established by the Nebraska Supreme Court and the

**\$1.7 million dividend
declared in 2003**



**"Minnesota Lawyers Mutual
is my choice for malpractice insurance."**

When I began practicing law and needed to purchase malpractice insurance I asked a number of my colleagues where to look. Their responses were invariably Minnesota Lawyers Mutual.

I took their advice and have never regretted it. MLM has always been there for me. When I was starting out their knowledgeable staff was helpful with advice in setting up my practice. The new online purchase option makes renewing my policy quick and easy. The annual dividend checks I have received prove I am receiving the best value for my money. Minnesota Lawyers Mutual has earned my loyalty.

Now whenever I am asked to recommend a legal liability insurance company, I always suggest Minnesota Lawyers Mutual. It comes as no surprise to me that other lawyers feel the same way.



MINNESOTA LAWYERS MUTUAL

THE PROLEGIA® PROGRAM

www.mlmins.com

800.422.1370

State-certified Court Interpreters Key to Justice

By Julien R. Fielding
The Daily Record

Jose Soto, vice president for affirmative action, equity and diversity at Southeast Community College-Lincoln and an activist, has for a long time recognized the need for Spanish language interpreters.

"When I graduated from law school [in 1984] there were few bilingual persons," he said. And when he came to Lincoln, the Latino population was small. Statewide that's no longer the case. In the last decade alone, it has grown tremendously – about 155 percent – and yet there are only a handful of trained people who can make sure that justice is dispensed to them.

"I have witnessed the problem of not having trained and competent interpreters," he said. When the person who is translating isn't knowledgeable of the legal process or the principles involved, it's an injustice, he said; justice is not being fully served. Soto has been an interpreter for about 20 years, and he said he's being called into situations in which it would have been nice for the accused to have had an interpreter early on. "I've been involved at the tail end of the process," he said.

Soto earned his bachelor's degree from the Interamerican University in his native Puerto Rico, a master's degree from Emporia State University in Kansas and a juris doctorate from the University of Nebraska College of Law. Coupled with his background in law, he is proficient in Spanish and English, and he can read and write at the university level, which means he's a rarity.

But being proficient in Spanish and English isn't enough when it comes to translating in the courts.

"It's best when they understand the processes and principles of what the law is based

on," he said. "Then they are better able to serve the best interests of the defendant."

When it comes to the legal arena, you're dealing with basic freedoms, he said. A misunderstanding could mean the difference between going to jail or not. It also could be the difference between getting several months in jail or several years.

"When the consequences are critical, such as in the medical field, where there's the potential of life or death, and in the legal field, where it's go to jail or not, then you need highly trained, highly competent and highly ethical people," he said. "I've been at this for a long time. If we believe in equality and justice for all then you need people who are proficient in the language of the court, otherwise the system doesn't work. I have seen progress [in this area], and it's been excellent."

Part of the progress that he's referring to has been the state's recent increase in court-certified language interpreters. In fact, the Administrative Office of the Courts has taken steps to establish an interpreter certification program in conjunction with Southeast Community College and has provided workshops and training programs for court interpreters. At the beginning of this year five individuals successfully passed the National Center for State Courts' Court Interpreter Consortium's oral certification exam in Spanish, raising the number of court certified interpreters in Nebraska to 11.

Janet Bonet, president of the Nebraska Association for Translators & Interpreters, said that her organization has rattled cages for many years, trying to get this situation taken seriously. "Here in Nebraska the wave is getting bigger," she said. "The need for Spanish translators has

See INTERPRETERS, page 4



The "Lord of the Rings" law firm of Erickson & Sederstrom Professional of the Year, Kim Lausterer-Moreland (left); administration; and Oscar Award winner Mary Baker.

Bosses, Members Applaud At OLPA's Seventh Annual

By Lorraine Boyd
The Daily Record

Early spring can be tricky weatherwise, but the night of the Omaha Legal Professional Association's Seventh Annual Awards and Boss Appreciation Night at the Omaha Field Club was picture perfect for the nearly 100 members and guests who attended.

After a reading of the group's mission statement, President Marcy Mortensen began the program by thanking the outgoing officers and acknowledging the firms that supported the organization in 2003: Baird Holm Law Firm; Biggs & Stoehr; Blackwell Sanders Peper Martin; Erickson & Sederstrom; Fitzgerald Schorr Barnettler & Brennan; Fraser Stryker Muesey Olson Boyer & Bloch; William Gast, HDR Inc.; Kutak Rock; Lamson Dugan & Murray; the law offices of Michael Goodman, Michael O'Brien, Kiely and Velasquez, Ronald J. Palagi; Richard K. Lydick, Chapter 12 Bankruptcy Trustee; McGrath

they did, the attorneys shouting out the answers such quips as "How many years does it take to screw in a lightbulb?" Answer: many can you afford? were stumped by "What call a lawyer gone berserk?" Answer: "Senator."

And how about, "How many lawyers does it take to screw in a lightbulb?" Answer: One to climb the ladder, shake it, and one to screw in the company."

Ex-banker Found Guilty

New York (AP) – An investment banker Frazer Trone was depicted at his trial as a skilled multitasker juggling several major deals at the same time and firing off e-mails the dozen.

In the end, jurors said Trone was too sharp. They have been thinking about investigations into his



...such as ... able in allowing us to ge those resources and the nges. The Omaha Legal ssionals Association has 's been an invaluable re e to Erickson and Seder-, both for its membership or all the employers," Ham-said.

m really honored to receive ward tonight, not only be- of the value that I place the recognition but be- : of who it is coming from. d this organization in such esteem, it means much coming from you."

Scholarship

Emily Tisinger, a senior at vue West High School, presented OLPA's \$750 larship by Bonnie Kudron. is the daughter of Steve and Tisinger. Her school ac- es have included Mock , Teen Court, Key Club, onal Honor Society as well and. Chosen over 30 appli- ;, Emily will be pursuing a e at the University of Ne- ca at Lincoln. After gradua- she hopes to attend law ol and become a child advo- lawyer.

Professional of the Year st year's winner Laurie is, PLS, the systems ad- strator at Blackwell Sanders r Martin, presented the t-2004 Legal Professional of Year Award to Kim Laus- Moreland, legal secretary at kson & Sederstrom, PC.

Interpreters

(Continued from page 1)

quadrupled in the last 10 years."

But Spanish isn't the only language in need. She said there is a call for about 27 languages in Nebraska, including Arabic, Bosnian, Serbo-Croatian, Russian, the Sudanese tribal languages - Dinke and Nuer; Hmong, and Vietnamese. She said that she's even had a call from Western Nebraska for someone who could translate Mayan.

When a need arises for a translator, the call comes to NATI, which relies on an e-mail network to contact its members. The chain of messages invariably begins with "does anybody know X language?" NATI has been around for six years and actually triggered the formation of an Iowa association, she said. "It's neat to see that happening," she said.

The reason it's important to have court certified interpreters is because they undergo a rigorous test, thus proving proficiency. In Nebraska, "a certified court interpreter will be able to interpret simultaneously and consecutively and provide sight translation from English to the language of the non-English-speaking person or from the

language of that person into English."

In 1999 Nebraska joined the Consortium for State Court Interpreter Certification. When the Spanish certification test was given in 2000, of the 50 people who took it only five passed and in 2001 only one of the 27 did. The original six certified Spanish interpreters live in the Eastern part of the state - three in Omaha, one in Aurora, one in Lexington and one in Norfolk. Those who recently received certification live in Mitchell, Eustis, Columbus, Humphrey and Lexington.

To help prepare interpreters for the test, Nebraska Supreme Court sponsored two court interpreter training programs in 2003, both at Southeast Community College. The first program was an introductory workshop for interpreters of all languages and was offered Sept. 24 and 25, 2003. The second program was a skills building program for regularly employed Spanish interpreters. The sessions were conducted by two federally-certified court interpreters.

"The most basic test is state certification," Bonet said. "If you couldn't pass that, you shouldn't be in a courtroom." Those who want to progress

beyond the state level can take exams for national and federal certification. Bonet, who earned her state certification in 2001, said that she would like to attempt the national test.

To hold everyone to a high standard, Bonet said that it would be beneficial for everyone with certification to be required to complete a certain number of classes or attend so many conferences to retain certification. "We want to work on that," she said. "In our desperation to get certified court translators, I hope that we don't lower the passing rate."

One of the outcomes of the Minority and Justice Task Force was the recognition that the courts were significantly lacking in state-certified translators. Although the state certification exam resulted in five new translators, there also were others who were very close to passing. "We're doing a lot of education with them that we didn't do in the past," said Justice John Gerard, co-chair of the Implementation Committee. "We'll have a six-week session, May through June, to help those who were close to passing." Of the 20 to 25 interpreters in the system, he said that he's optimistic that out of those, six to eight more can get certified. "The test is very difficult," he said.

Public Notices

The Daily Record, May 5, 2004

Boyer Young Equities I, res at 3926 S 191 Ave (Janke Plbg, contr) Mary C Boyd; res at 3926 S 191 Ave (Janke Plbg, contr) Saratoga

NEBRASKA SUPREME COURT



Office of Public Information

Contact: Janet Bancroft | (402) 471-3730 | jhammer@nsc.state.ne.us

January 4, 2005

FOR IMMEDIATE RELEASE

TWO SPANISH COURT INTERPRETERS TO BE CERTIFIED BY THE NEBRASKA SUPREME COURT

LINCOLN – The Nebraska Supreme Court announces that two interpreters have successfully passed the oral certification court interpreter exam sponsored by the Consortium of the National Center for State Courts. Irma Watt of Hooper, Nebraska and Dale H. Taylor of Norfolk, Nebraska will become Nebraska Supreme Court Spanish Certified Court Interpreters.

The two interpreters will receive their certification and take their oath as Certified Court Interpreters in a ceremony to be held in the Madison County Courtroom in Madison, Nebraska, on January 21, 2005, at 1:30 p.m. Members of the public are invited to attend.

Justice John M. Gerrard of the Nebraska Supreme Court will preside over the ceremony and will speak of the need for providing equal access to the courts for all participants. County Judges Richard W. Krepela, Donna Farrell Taylor and Philip R. Riley from the 7th Judicial District, will also participate in the ceremony.

"It is crucial to the overall fairness of the system that judicial proceedings are completely and accurately interpreted for non-English speaking participants. The Nebraska Supreme Court is pleased with these interpreters who have worked so hard to become certified and for all of the other interpreters who are working toward certification," said Justice Gerrard.

Irma Watt, born in Odessa, Texas, was a migrant field worker as a young woman. She came to Nebraska where she received an Associate of Arts degree from Nebraska Western Community College in Scottsbluff, Nebraska. She worked for the State of Nebraska Department of Health and Human Services in Norfolk as a Family Support Worker and a Protection and Safety Worker. One of her duties for the Department of Health and Human Services was to work with the Spanish speaking families involved with Child Protective Services. Since 2000 she has been a freelance Spanish interpreter for the courts and attorneys in Dodge, Cuming, Saunders, Dakota, Madison, Stanton and Wayne counties. She is very active in her church where she volunteers 70 hours per month in Bible education work for the Spanish community. For the last three years she has been an Attitudinal Dynamics of Driving Spanish instructor for the Nebraska Safety Council. Irma and her husband Michael have three children: Elia Soto, Eloy Watt, and a deceased son, Omar Soto.

Dale Taylor was born in Cochabamba, Bolivia in 1957 to missionary parents. His mother is Canadian, and his father is a U.S. citizen with Portuguese as his first spoken language. He graduated from a private boarding school on the banks of the Amazon River in 1975. He went on to study Theology, Applied Anthropology, Rural Medicine, and Language Acquisition Principles under New Tribes Mission International and went to Mexico in September of 1981. Initially he directed a Spanish language course and four years later moved into the village of Caborachi in the Sierra Madre Mountains of Mexico where he studied the Tarahumara Indigenous culture and learned their language. He served as a missionary leader, teacher, and

community health spokesman until he and his wife moved to Nebraska in October of 2000. Since then he has worked as a court interpreter in northeast Nebraska. He also works with the Community Character Development Coalition (CCDC) under which he developed a program called 'No Regrets' given to minors on probation and diversion. The course is being taught in group homes and at the juvenile detention center in Madison County. Dale and his wife Lori have four children: Ben, Crystal, Jay and Melissa.

These two interpreters join eleven other previously certified Nebraska court interpreters who have successfully passed the National Center for State Court's Court Interpreter Consortium's oral certification exam. Nebraska is one of thirty-one states who have joined the Consortium whose sole purpose to create court interpreter certification exams and administer those exams in order to provide for professional court interpreters for the member states. The oral exams were given in Lincoln on October 15 and 16, 2004.

Contact Kenneth Wade at the Office of the State Court Administrator, 402-471-3730, concerning any aspect of the certification ceremony or the state interpreter program.

###

Administrative Office of the Courts | P. O. Box 98910 | Lincoln, NE 68509-8910

Monday Mar. 29, 2004

STOCK QUOTE




Stock/Fund Quotes

Enter Symbol

Detailed 

Symbol Lookup

Local:

 Home |  Email this story |  Print this story

Task force: Changes are ongoing

by butch mabin



There's no question the Minority and Justice Task Force has had an impact on Nebraska's justice system in the year since the group released its report on racial and ethnic bias.

Among the changes brought about by the two-year study released in January 2003:

- n Creation of a pre-law institute summer program in the University of Nebraska Law College, aimed at recruiting minority law students.

- n Passage of a bill last year that has helped make jury pools more representative of communities.

- n Five additional court-certified interpreters.

Significant strides, to be sure. But, said Nebraska Supreme Court Judge John M. Gerrard, much more needs to be done.

"This is an ongoing process," he said Friday. "This report is not sitting on someone's desk gathering dust."

Gerrard is co-chair of the Implementation Committee, created by the task force to turn into reality the report's recommendations. This week, the committee released its first-year progress report on some of the issues the task force identified.

Comprising 40 lawyers, judges, agency directors and lay people, the group issued a number of findings and recommendations in the 2003 report. Among them:

- n Minority people have less trust than white people in the justice system.

- n Juries are not representative of the racial and ethnic diversity of their communities.



Advertising features:

Local advertisers

Books

Mortgage rates

Featured web sites:

Fremont Tribune

Columbus Telegram

Beatrice Daily Sun

Midwest Messenger

n Minorities have arrest rates up to 5.5 times higher than whites.

n Nebraska's law schools and legal profession should do more to recruit and hire qualified minority applicants.

Gerrard pointed to gains made on some of those goals.

The Legislature in May passed a bill requiring counties to annually update jury pool lists. The task force found some counties had not updated the lists in 15 years, thus excluding residents - many of them Hispanic - who had since moved to the communities, the judge said.

"That's appalling," he said. "Some of these counties had a 30 to 40 percent increase in Hispanic population."

No statistical study has been done on the law's impact, but anecdotal information suggests the requirement has led to greater racial diversity in jury pools, Gerrard said.

In law school recruitment, Gerrard noted the Nebraska Law College's Pre-Law Institute, a summer program geared toward interesting minority college students in law careers. Twenty-nine students attended the four-week program last summer.

In addition to attracting minority law students, the implementation committee also wants Nebraska's law firms to do a better job of keeping them in the state after graduation.

"It's fine that we get them to come here - but let's retain a good number of them in the state," Gerrard said.

Liz Neeley, the implementation committee's project director, said roughly 2.5 percent of the state's lawyers are racial minorities. And only four judges are minorities, she said.

Minority enrollment at the Nebraska Law College rose from 7.8 percent in 2002 to 13 percent in 2003, she said, and Creighton's figures climbed from 6.5 percent in 1994 to 10.5 percent in 2003.

This summer, she said, the implementation committee will host a diversity summit to educate law firms and other legal employers on the value of diversity and how to achieve it.

Despite progress made one year after the report's release, a number of questions remain unanswered, Gerrard said.

The reason behind the disparity in arrest rates is still unclear, he said, and would take cooperation from law enforcement agencies to answer.

Disparities in incarceration rates along racial lines is another area open for more exploration. The question here, he said, is what to focus on.

Gerrard doubted racially biased judges were the problem.

"I'm not sure what kind of study to do," he said. "I truly don't believe we have district judges that would sentence a black man to prison, but not a white man with a similar (criminal) record."

Perhaps, he said, the differing incarceration rates are rooted in defendants' experiences in the criminal justice system.

For instance, he asked, are courts more likely to offer diversion programs to white offenders?

Diversion programs allow defendants to keep a criminal case off their records.

"If you have two 14-year-olds out joy riding, one a poor Hispanic kid, the other a white suburban kid, and the white kid gets diversion - if they reoffend (as adults), which will get probation and which will go to prison?"

Gerrard said a bill pending before the Legislature could help the committee answer those questions.

The bill would make available to the Supreme Court for research the pre-sentence investigation reports judges use in deciding sentences.

"Prior records are so significant to judges," he said. "We as a system have to look at access to the system, if there are any barriers."

Reach Butch Mabin at 473-7234 or bmabin@journalstar.com.



Also in Archives:

- Scout parents told what to watch for
- Goodall offers hope, for animals and people
- Task force: Changes are ongoing
- Legislators delay major decisions
- Golf major more than chips, putts
- Downtown revitalization may be the next step for Fairbury
- three-car accident closes 70th Street
- David City man killed in collision
- Officials take action over student's list of names
- Ruehle says tax cuts are top priority

