

**Report on the Unified Court System's
Implementation of the Recommendations
of the New York State
Judicial Commission on Minorities**

**New York State
Unified Court System
Equal Employment Opportunity Division**

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I. Introduction

This report on implementation by the New York State Unified Court System of the recommendations of the Judicial Commission on Minorities was prepared by the Equal Employment Opportunity Division of the court system. The report is the first of what will be ongoing annual reports on the court system's efforts to ensure that the courts in New York are free from even the perception of bias.

The New York State Judicial Commission on Minorities ("Minorities Commission") was established in 1987 to undertake a comprehensive review of the treatment of minorities within the legal system, focusing on three areas: How the public and court participants perceive the treatment of minorities in the courts; the representation of minorities in judicial and nonjudicial positions in the courts; and the representation and treatment of minorities within the legal profession. The Minorities Commission issued its report in April 1991, containing over 70 recommendations for improving the legal system in New York State with regard to minorities. The recommendations are organized into just over a dozen categories. The categories that the Commission considered are:

- A. Implementation of the Commission's Recommendations
- B. Perception, Court Facilities, Treatment and Utilization
- C. Legal Representation
- D. Pretrial Processing and Criminal Penalties
- E. Civil Case Outcomes

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- F. Language Interpretation in the Courts
- G. Minority Representation on Juries
- H. Native Americans and the Court System
- I. Legal Education
- J. Admission to Practice: The Bar Examination
- K. The Legal Profession
- L. The Judiciary
- M. Nonjudicial Officers, Employees and Minority Contractors

This report of the Unified Court System, which is the first of what will be annual reports, discusses the court system's efforts and achievements in implementing the recommendations of the Minorities Commission.

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II. Implementation by the Unified Court System

Chief Judge Judith S. Kaye and Chief Administrative Judge E. Leo Milonas undertook as one of their first acts to meet with the members of the commission established to oversee implementation of the Minorities Commission, the Franklin H. Williams Judicial Commission on Minorities ("Williams Commission"), to ensure the vitality and priority of the court system's diversity initiatives. The Chief Judge brought to her position a first-hand sensitivity to diversity issues, noting in remarks to the Tribune Society that her own career was influenced by prejudice that she had encountered as a woman lawyer.

Chief Judge Kaye and Chief Administrative Judge Milonas pledged to renew the courts' commitment to creating a court system that was free from even the perception of bias. Toward this end, they immediately provided new leadership and an expanded role for the UCS Equal Employment Opportunity Office, undertook a comprehensive review of the court interpreter program, and established updated hiring and promotional goals and timetables for nonjudicial positions based on newly available occupational data from the 1990 census.

The court system's initial response to suggestions made by the Minorities Commission had begun even prior to the issuance of the Commission's report. In 1989, the Minorities Commission recommended that a utilization analysis be undertaken to determine whether and to what extent minorities were underrepresented in non-judicial jobs throughout the UCS workforce. A comprehensive utilization analysis examining minority and female representation in the courts by specific job group and location was issued by the Office of Management Support in 1989. The study, which identified

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underrepresentation in some job groups in some locations, formed the basis for the court system's Workforce Diversity Program, issued in 1990.

The UCS Minority and Women-owned Business Enterprise program was started in 1990. The program, which is run by a coordinator who oversees its implementation statewide, is aimed at ensuring that minority contractors and vendors have full and equal opportunity to bid on UCS contracts for goods and services. The program coordinator ensures that minority- and women-owned businesses are included in the court system's procurement process and that the courts' purchasing agents are fully apprised of these purchasing opportunities.

Notably, a number of the recommendations of the Minorities Commission do not directly relate to the administration of the courts, but rather address areas such as legal education, legal representation and matters of judicial discretion. The vast majority of the relevant recommendations in the Minorities Commission's report have been implemented or have been addressed and are in the process of being implemented. The court system's initiatives with regard to the relevant recommendations of the Minorities Commission are discussed in this report.

A. Establishment of an Implementation Commission

The establishment of a commission to oversee the implementation of the work of the Minorities Commission was one of the primary recommendations contained in the report of the Judicial Commission on Minorities. The implementation commission was established by the Chief Judge in 1991, designated the

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Franklin H. Williams Judicial Commission on Minorities in memory of Ambassador Franklin H. Williams, the first Chairman of the Judicial Commission on Minorities. The Williams Commission is chaired by Hon. Lewis L. Douglass and includes members appointed by Chief Judge Kaye--Christopher E. Chang, Esq.; Hon. Yvonne Lewis; and Rene Myatt, Esq.--as well as those appointed in 1991--Hon. William J. Davis; Hon. Nicholas Figueroa; Lenore Kramer, Esq.; Hon. Cesar H. Quinones; Ms. Maria Ramirez; Mr. Robert Reaves; Hon. Rose H. Sconiers; Hon. Peter Tom; and Hon. Charles L. Willis. Joyce Hartsfield, Esq., serves as Executive Director to the Commission. Funding for the Commission's work, including staffing, travel and equipment, is provided by the court system.

Since its establishment, the Williams Commission has addressed many of the most pressing issues facing the court system and has issued two annual reports, in 1992 and 1993. The most recent report includes updates on the efforts of the Commission with regard to creation of a Speakers' Bureau, the results of a survey of Commissioners of Jurors concerning minority participation in jury pools, efforts to increase public awareness of the need to serve on juries, and an ongoing review of the court system's diversity efforts. The Commission's work has focused to a great extent on increasing minority representation on juries, enhancing access to the courts for non-English speaking litigants, identifying alternatives to incarceration and reviewing the court system's progress in diversifying its workforce.

The Commission developed posters and brochures targeted to the minority community that explain and encourage jury service. The posters have been displayed extensively on buses and subways in New York City and in other metropolitan areas in the State. The Commission also arranged for Chinese-language versions of

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pamphlets on Small Claims Court to be created and for key Family Court forms and notices to be available in Spanish to litigants. A Speakers' Bureau was developed by the Commission, with minority judges, Commission members and the Executive Director of the Commission speaking to a variety of organizations throughout the State.

Commission Chair Hon. Lewis L. Douglass has overseen these and other Commission efforts, working closely with Chief Judge Kaye and Chief Administrative Judge Milonas. Among the most significant initiatives are the presentations of programs that increase sensitivity to issues of concern to minorities at each of the annual Judicial Seminars, which reach hundreds of State-paid judges, and efforts to upgrade the availability and quality of court interpreting services for non-English speaking litigants.

B. Implementation Efforts in the areas of Perception,
Court Facilities, Treatment and Utilization

The recommendations made in the report of the Minorities Commission relating to perception, court facilities, treatment and utilization flow from a significant statement in the report: Minorities often perceive that they are stripped of their human dignity, their individuality and their identity in their encounters with the court system. To address this underlying issue, the Minorities Commission recommended improved court facilities in New York City; sensitivity training for judges and nonjudicial personnel; the addition of an identified ombudsperson in each court to assist litigants; informational brochures on the courts in a variety of languages; expanded judicial outreach to local communities; and an enhanced court tours program able to accommodate the non-English speaking public.

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Facilities

There is no question that New York City's courthouses are among the most seriously deficient in the country. The legislative scheme in New York provides that local governments, rather than the State, are responsible for providing and maintaining the courthouses. New York City has attempted to fulfill its responsibilities in this area by developing a Capital Plan designed to provide 32 major projects over 15 years in all five boroughs and with the sale in December 1993 of \$417.2 million in bonds issued by the State Dormitory Authority. The bond sale allows the City to proceed with 16 renovation and construction projects over the next five years.

The first major project, a new Criminal Court in Queens, is essentially completed, and a new Housing Court for the Bronx is under construction. Upcoming projects include two new buildings in the Bronx (for the Criminal Court and the Civil Term of the Supreme Court), a second new Criminal Court in Queens, a new Family Court in Brooklyn, expansion of the Family Court in Queens, two Criminal Court annexes in Brooklyn and conversion of a State-owned office building at 80 Centre Street in Manhattan. Longer-range plans call for a third new Criminal Court in Queens, a new Supreme Court (Criminal Term) complex in Brooklyn and a new judicial complex on Staten Island.

While New York City is beginning to address the major facilities issues, the day-to-day maintenance of the courts is one of the highest priorities of the court system. In the last legislative session, the Chief Judge and Chief Administrative Judge sought legislation that would allow the court system to contract for maintenance of the courts, thereby providing much-

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needed direct control over those actually cleaning and maintaining the facilities. This measure did not pass the Legislature.

Until recently special efforts were being made to upgrade the maintenance of the New York City courts that are used the most by New Yorkers -- the Family, Criminal and Civil Courts. The City provided "swat teams" of maintenance personnel to clean, paint and make minor repairs to the courthouses. In 1990, approximately 100 cleaning staff were added by the City for the courts as a result of a special agreement between the City and the court system. The quality of the maintenance began to deteriorate noticeably at the end of 1994, with the result that the court system has been forced to withhold reimbursement of maintenance funds to the City. It is vital to everyone who works in and uses the courts that a minimum level of cleanliness is maintained.

Other steps are ongoing to supplement the ongoing maintenance by the City, including community sentencing of defendants to clean courthouses, a night-cleaning program that provides training to individuals on public assistance, and strict enforcement of maintenance standards in courts housed in privately-owned buildings. Another particularly successful program provides for parolees to clean courthouses within New York City. The program has been so successful that the court system will introduce legislation to institutionalize the pilot throughout the State, allowing for supplemental cleaning of courts through contracts between localities and the New York State Division of Parole.

These steps are being overseen by a new UCS Office of Court Facilities Management, headed by a director devoted entirely to implementation of Capitol Plans and the maintenance and operations of the courthouses. In addition, the staff of the Deputy Chief

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Administrative Judge for New York City Courts now includes an employee with extensive experience in facilities management who works full time in the area of New York City court facilities.

The Minorities Commission correctly concluded in its report that the courthouses themselves must reflect respect for the justice system and for all of those who enter the system. The conditions in too many facilities in New York City are intolerable; no one should have to confront them to receive justice. With the ongoing support of the Williams Commission and cooperation of the City, all litigants can look forward to clean and decent courthouses.

Sensitivity Training

Cultural sensitivity training has been provided on a system-wide basis for nonjudicial employees of the court system. The training program was created for the courts by professionals in the area of diversity training, who were hired to develop an appropriate, meaningful training program that could be delivered throughout the court system.

The program developed for the courts included a component for high-level managers on managing a diverse workforce as well as a two-part format for all employees. The format for all employees consisted first of a one-half day segment on "Effective Delivery of Public Service in a Multicultural Community" and a second half-day segment on "Intercultural Understanding." The first part of the program was designed specifically for the court system to sensitize participants to the diversity of the clientele they serve, to make them aware of the cultures that surround them and to understand how cultural values influence behavior. The second

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part of the program focused on how cultural values influence one's own behavior and the behavior of those with whom they work.

The program was required for all nonjudicial employees. Following the initial sessions, ongoing UCS training programs, including Mission and Organization, which is the statewide orientation program for all new employees, and the Court Officer Training Academy curriculum, have incorporated the sensitivity training programs.

In its 1992 Annual Report, the Williams Commission discussed its review of the multicultural training offered to new court officers. The Commission stated that it found the training "to be of high quality for incoming court officers." The court system currently is in the process of developing the next phase of sensitivity training for its employees.

The focus of cultural sensitivity for judges has been a presentation at each of the statewide Judicial Seminars. With the exception of 1991, when the seminars were canceled due to fiscal reasons, every seminar since 1988 has included as a vital part of the curriculum a component on minority issues. The 1988 seminar led with a session on the Minority Commission and its findings, which was conducted by Ambassador Williams, then-Chairman James Goodale, Basil Paterson, Esq., and the Executive Director of the Commission.

The 1993 seminar featured an evening program entitled "Embracing Diversity Issues in the Courts," presented by Hon. Lewis Douglass and Hon. Yvonne Lewis. The program consisted of a performance by Plays for Living, a group of professional actors who depict bias-related scenarios, followed by a discussion of

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diversity in the courts that was led by a noted authority from Cornell University, assisted by the actors.

In addition to this major annual program, education and training programs for new judges and for Town and Village Justices include components on workforce diversity and bias issues.

Beyond the more traditional sensitivity training, the court system has created a special "Public Awareness" program to focus on providing quality service to those who use the courts. All court and administrative employees, beginning in September 1994, participated in full-day training sessions that included in-depth discussions of service to the public and skills development exercises to provide employees with the necessary tools. The goal of the program is to ensure that the courts' "customers" are treated with the appropriate dignity and respect. Training was completed at the end of the year.

Training targeted for managers and supervisors on their responsibilities with regard to maintaining bias-free workplaces is in its final stages of development. Once completed, the program will be given to all UCS managers and supervisors.

Public Access to the Courts

The Minorities Commission, in its report, recommended that the court system become more "user friendly" with the addition of an ombudsperson in each court and by providing informational brochures in a variety of languages and dialects. The report also included the recommendations to expand the current judicial outreach program and to offer court tours that take into account the needs of language minorities.

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With regard to the addition of an ombudsperson position in each court, it appears that the functions of such a position are in fact being performed by the clerks' offices. The Commission recommended that the ombudsperson's function would be to assist all persons in understanding the court process, to secure interpretation services and to locate offices--all services now provided through the clerks' offices. Improved signage and the availability of a multilingual information officer at the entrance of the courthouse are currently under development to improve public access.

Under the leadership of the Permanent Judicial Commission on Justice for Children, the courts took a major step toward public accommodation with the recent opening of six children's centers that provide children with a "safe haven" while their caregivers are attending to court business. Centers are open in the New York City Civil Court building, serving the Civil, Criminal and Housing Courts, in the Richmond County Family Court and in Yonkers, Rochester, Buffalo and Albany. All are staffed by trained personnel. The centers are noteworthy in that they provide a supervised environment for young children and offer information about health care and other available social services. Funding for the centers came from grants from the New York State Department of Social Services. Additional centers will be opened this year following a bid and review process.

Informational brochures about the New York City Family Court and the New York City Civil Court have been developed and are being printed in English and Spanish. Access to information about those courts in both English and Spanish currently is available by telephone. Callers have access to court-related information about

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the Civil Court, including housing, small claims and commercial small claims, and the Family Court throughout New York City.

In addition, the court system has created two explanatory publications, "Structure of the Courts" and "Guide to Small Claims." Both are available in English and Spanish. Information about the Housing Court in New York City is made available through brochures published by the Association of the Bar of the City of New York.

Through the efforts of the UCS Communications Office, the court tours program has expanded throughout the State, with every location able to provide language and sign interpretation for participants. The court tours program has been extremely successful, with dedicated staff providing over 2300 tours Statewide to well over 50,000 participants since the program began in October 1990. In addition to court tours, community forums on the courts and justice system are sponsored by the court system. The Speakers' Bureau, which includes many judges interested in working with local groups, actively seeks to increase public awareness of the courts and how they work.

C. Pretrial Processing and Criminal Penalties

The Minorities Commission's recommendations for the court system regarding criminal proceedings center on providing judges with information concerning bail statutes and alternatives, alternatives to incarceration and the publication of sentencing statistics on the race of the victim, defendant and complainant.

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Judicial training long has included components on bail statutes and alternatives to incarceration. The program for newly elected and appointed judges, given annually, covers these topics. Town and Village Justices, who must receive certification following training programs given by the court system, also are provided with both materials and lectures on these topics. A brochure prepared by the Williams Commission on alternatives to incarceration within New York City was distributed by the court system to judges throughout the City.

A major accomplishment this year in the criminal justice area was the passage of the court system's proposed legislation on interim supervision. The bill amends the criminal procedure law to authorize as part of a pre-sentence condition of probation that a case be adjourned after conviction but prior to sentencing to allow court referral to certain programs, including drug treatment. This provision is intended to preserve the use of drug treatment as an alternative to sentencing for drug users who are otherwise jail-bound. Copies of the legislation have been provided to all judges.

The report of the Commission included the recommendation that proof of exoneration in a criminal matter should result in the automatic return of cash to the rightful party. In fact, this is already provided for by statute. Upon the judge signing an order of exoneration, the locality is required to return cash.

D. Civil Case Outcomes

The single recommendation contained in the report regarding civil proceedings is that the court system collect racial data in civil cases to prepare a study on the subject and to distribute

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the results of the study to all judges. The Williams Commission undertook such a study in 1992, with the full cooperation and assistance of the court system. The study included New York City and Erie County, comparing civil damage awards to minorities and non-minorities. The 1992 annual report of the Williams Commission states that data from the study was being collected. No further discussion of the study or its results are included in the 1993 annual report.

It should be noted that data on the race and ethnicity of civil litigants is not maintained. Any mandatory study that required litigants to disclose their race would raise real issues concerning access to the courts. Voluntary studies in related areas have, in the past, yielded little information.

E. Language Interpretation in the Courts

The Minorities Commission and the Williams Commission both urged the court system to upgrade the availability and quality of court interpreters. In its report, the Minorities Commission noted that "[t]he absence of competent language interpreters in court proceedings inevitably contributes to the perception of racial bias held by many minorities." Chief Judge Kaye and Chief Administrative Judge Milonas met early in their administration with the Chairman and members of the Williams Commission to address this issue.

As a result of the input from the Williams Commission, as well as the Committee on the Legal Needs of the Poor of the Association of the Bar of the City of New York, the Joint Committee on Access to the Courts of the Committee on Legal Issues Affecting People with Disabilities of the Association of the Bar

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of the City of New York, and the Committee on the Elderly and the Disabled of the New York Women's Bar Association and other interested groups, the UCS court interpreter program was thoroughly reviewed and revised. In June 1994, the court system's interpreter program was announced, aimed at improving the delivery of court interpreting services to members of the non-English speaking, hearing-impaired and deaf communities. The program includes a new position of Coordinator of Court Interpreting Services to ensure uniform administration on a statewide basis. The Coordinator is responsible for developing and implementing policies and procedures for prompt, accurate and consistent oral, written and sign interpreting services, for setting professional standards, monitoring and evaluating compliance with standards, policies and procedures, and for coordinating training initiatives.

The number of Senior Court Interpreter positions has been expanded, as has the range of duties of the position. Senior Court Interpreters now are assigned to all courts that have at least eight full-time interpreters and are responsible for overseeing quality control for all interpreters, both full-time and per diem. Senior Court Interpreters review the work of interpreters, evaluate the quality of the interpretation and provide feedback to interpreters on their performance. They also coordinate work assignments so that interpreters are used as efficiently as possible.

Issues of compensation and staffing were addressed in the new program. The titles of Court Interpreter and Senior Court Interpreter were upgraded, with the Court Interpreter salary grade allocation raised from the level of JG 16 to JG 18 and the Senior Court Interpreter allocation raised from JG 18 to JG 21. In

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addition, the per diem rate for court interpreters was raised from \$80 to \$125 as part of an effort to attract more qualified candidates. The number of full-time interpreter positions in the courts also will be increased based on the results of a system-wide assessment of the need for full-time positions, in Spanish or other languages.

A new title of Court Interpreter (Sign), allocated to salary grade JG 18, has been adopted and was filled initially in New York City. Calendars and scheduling will be coordinated by the administrative offices so that the sign interpreters can be assigned among the Citywide courts, as needed.

The process for qualifying both full-time and per diem interpreters also has been reviewed, beginning with a comprehensive job analysis of the court interpreter title. The results of the analysis were used for the December 1994 competitive examination for full-time interpreters. The examination was developed by an advisory committee that included Senior Court Interpreters and language experts from the United Nations and from academic institutions, and was given on December 3, 1994. Also in place are screening tests for per diem interpreters in a dozen languages and dialects. Effective May 1, 1994, per diem interpreters were required to qualify through successful performance on a language proficiency test. The Coordinator of Court Interpreting Services will develop guidelines for the qualification of interpreters in languages for which no test is available. A State Registry of Per Diem Interpreters, which lists all of the qualified interpreters, has been established and is updated regularly. The Registry is distributed to all administrative offices for statewide use.

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A comprehensive training program for all levels of interpreting experience is an important component of the program. An orientation and training video has been completed for presentation to all new interpreters, whether full time or per diem. The video and a newly revised Court Interpreter Manual and additional on-site training programs provide a thorough, decentralized orientation to the Court Interpreter position. The materials also will be presented to judges and court employees to provide a better understanding of the interpreter's function in the courts. The first Court Interpreter Manual was issued in 1992 and now has been revised to make sure that it is current and accurate. The Manual includes legal terminology and carefully sets forth the professional and ethical standards expected of all interpreters. Finally, a comprehensive program for current interpreters, which was deferred during the courts' fiscal crisis, is planned for the coming year.

As the court system makes further progress in implementing the interpreter program, continued collaboration with the Williams Commission, the Committee on the Legal Needs of the Poor of the Association of the Bar of the City of New York and others will prove extremely beneficial.

F. Minority Representation on Juries

The representativeness of the jury pools in New York was addressed in the report of the Minorities Commission and has been of ongoing concern to the Williams Commission. In its report, the Minorities Commission recommended a series of administrative initiatives designed to increase minority representation: using additional source lists to identify potential jurors; developing

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public service announcements to emphasize the importance of jury service; expanding the use of telephone call-in for jurors; and asking potential jurors to identify their race coupled with special efforts to correct identified racial imbalances in jury pools. The Williams Commission has been instrumental in developing an effective public awareness campaign that includes wide distribution of posters and brochures that encourage jury duty.

In mid-1993, the Chief Judge and Chief Administrative Judge established The Jury Project, made up of 30 leading lawyers, business people, judges and jury commissioners, to examine and recommend reforms for New York's jury system. The Jury Project was asked to review every aspect of jury operations and service, specifically considering ways to make the system more representative of the communities, ensure effective and efficient operations and improve the conditions under which jurors serve.

The Project members were divided into three groups to study (1) summoning and qualification, (2) selection and utilization and (3) the jury experience. Public hearings were held in New York City, Buffalo and Albany to receive input from former jurors on their experiences. A toll-free telephone line also was provided to New Yorkers so that they could discuss jury service and the jury system. In addition, Project members toured jury facilities in representative areas across the State.

The report of The Jury Project was issued in April 1994, containing over 80 recommendations for improvement. Some of the recommendations require legislative action, some involve adoption of court rules, the issuance of administrative directives or operational changes. The recommendations include expanding and

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updating the source lists of potential jurors; reducing the term of jury service to one trial or one day; increasing juror compensation to \$40 per day (equivalent to the federal rate); and reducing wasted time for jurors by streamlining the jury selection process and limiting the time attorneys have to question jurors for civil trials. A 90-day comment period followed publication of the report.

In October 1994, Chief Judge Kaye and Chief Administrative Judge Milonas announced a comprehensive program of jury reform for New York based on the Jury Project's recommendations. Approved by the Administrative Board, the program addresses all aspects of the jury system and is aimed at enlarging the jury pools to include all who are qualified, making more efficient use of jurors' time, and improving the juror experience by upgrading accommodations and amenities.

The courts' jury program includes a series of initiatives aimed at creating jury pools that are as inclusive as possible and that are more representative of the communities. Toward that end, the long-standing use of permanent lists of jurors who already have been qualified is being eliminated and replaced with a non-permanent system. Under the new non-permanent system, a juror is dropped from the jury rolls after completing jury service and is ineligible to serve again for a period of years. The ineligibility period is four years in most counties, although in a number of counties it currently is two years. (Part of the effort to eliminate the permanent qualified list will be to move all counties to a minimum ineligibility period of four years.) The individual is called again for jury service only if reselected at random by computer and requalified for service.

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At the same time, a voluntary question on a potential juror's race and ethnicity is being added to the jury questionnaire, with the resulting data captured on the computer by April 1995. The information will be of great assistance to the court system in determining the number of potential minority jurors who are receiving and responding to jury questionnaires.

A number of the technological enhancements to the jury system that are being made will improve the delivery of the jury questionnaires to all citizens. New software for the mainframe computer has been purchased that will standardize the address formats and assign zip codes to the names and addresses in the computer files. The existing address information is being updated using change of address data provided by the U.S. Postal Service. Moreover, the three principal source lists--the voter list, the tax rolls and the motor vehicles list--are being updated. The voter list, which had been obtained locally from each of the 62 counties in New York, will be purchased from a vendor as a single, statewide list. Recent legislation authorizes the use in the master source lists of individuals who receive public assistance or unemployment benefits. The court system has begun the process of obtaining that data.

The technological advancements to the jury system include the introduction of scanning equipment to speed the entry into the computer of juror information. Qualification questionnaires now being pilot-tested in several counties contain bar codes. When the questionnaires are completed and returned by citizens, scanners read the identification number contained in the bar code into the computer. This scanning ability allows for more effective follow-up of failure to respond to the jury questionnaire. In some counties, the non-response rate exceeds

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50%. Under a new, uniform procedure, if a citizen fails to respond to a questionnaire within six weeks, a second questionnaire will be sent. If no response to the second questionnaire is received within six weeks of mailing, the citizen will be called by a "subpoena" to appear and qualify in person.

These efforts to ensure that all who are qualified are included in the jury process, coupled with proposed legislation to eliminate the statutory exemptions from jury service, should result in increasingly inclusive and broad-based jury pools that more accurately reflect the communities.

Under the courts' jury program, efforts are being made to make more effective use of jurors' time when citizens do serve. A pilot program will begin January 30, 1995, in four locations in the State to experiment with new measures for jury selection in civil cases. The measures being tested include judicial supervision of attorney questioning of jurors, timely settlement conferences and time limits on voir dire. The practice of "jury stacking" has been curtailed by limiting the number of juries that can be picked at one time and authorizing the discharge of jurors if a trial does not begin within five days of selection. Further, legislation will be introduced to reduce the number of peremptory challenges available to attorneys during jury selection and to encourage early settlements of civil cases.

Other initiatives are included in the program to encourage participation in the jury system. The term that jurors serve will be reduced to one day or one trial in most counties in the State, with the largest counties in New York City reducing the term of service incrementally. Legislation will be introduced to increase juror payment over a two-year period to \$40 per day, equal to that

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paid by the federal courts, from the current rate of \$15 per day. Efforts will be made to eliminate the statutorily required sequestration of criminal juries by changing the law.

Both the Minorities Commission and The Jury Project spoke profoundly about the need for improved court facilities. A special effort toward this end was begun in March 1994, when the court system provided for upgraded facilities and maintenance and authorized special purchases of furnishings and equipment for juror areas. Throughout New York City, plans were approved for renovation projects aimed at significantly improving juror accommodations. In addition, local monies allocated for juror facilities were used to replace furniture, repaint courtrooms and jury assembly rooms and make other necessary repairs to juror areas. Court system funds were used to purchase equipment and furnishings needed by the local courthouses, including items such as tables, chairs, water coolers, air conditioners, assistive listening devices and benches.

At the same time, a statewide initiative was begun to directly address an issue that was raised in public hearings and letters from former jurors--the treatment of jurors by court employees. The court system completed a comprehensive study of ways in which the delivery of public service in the courthouse can be improved and by the end of the year completed a mandatory training program designed to ensure that everyone coming to the courts, including jurors, is treated in a polite and appropriate manner.

Exit questionnaires have been developed and are being distributed for completion by jurors and everyone who uses the courts. The benefits of the exit polling will be two-fold: Court managers will be able to target problem areas for improvement and

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encourage all court employees to continue practices that jurors comment favorably upon.

G. Native Americans and the Court System

The report of the Minorities Commission noted that Native Americans share the problems of other disadvantaged minorities, seeking greater participation in the institutions of mainstream society. The report also stressed the Commission's findings that those living on Indian lands have a unique set of concerns stemming from their goal of self-governance, including court-related proceedings. The recommendations with regard to Native Americans and the court system are that a formal commission be established to address issues relating to Native Americans and the justice system; educational materials and seminars be developed for judges on the sovereignty of Indian nations; alternative methods be explored for increasing employment of Native Americans within the court system; the Chief Judge notify State court judges of the need to abide by the provisions of the Indian Child Welfare Act; bail alternatives for Indian nation residents be developed; efforts be taken to increase the number of Native American attorneys in the State; and that guidelines be formulated to permit attorneys and advocates certified to practice in Indian nation court systems to be called as friends of the court in the State courts.

The court system currently addresses these concerns through a number of processes. At the local level, District Administrative Judges have developed effective mechanisms for incorporating issues regarding Native Americans into the court process. On a more system-wide level, relevant information has been incorporated into judicial educational materials. For example, the sovereignty

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of Indian nations is addressed in training received by Town and Village justices. Further, all Family Court judges and Surrogates have been notified of the provisions of the Indian Child Welfare Act, and UCS rules and forms have been modified accordingly.

Employment opportunities for Native Americans have been an ongoing part of the UCS Workforce Diversity Program. This year, the Fourth Judicial District sponsored a paid summer internship program for both law students and other students, the majority of whom were Native Americans. As part of the program, the students visited the Court of Appeals in Albany and spoke at length with Chief Judge Kaye. The students also toured the Capitol and visited with local legislators. The Administrative Judges in judicial districts with Native American populations have undertaken special employment outreach efforts to those communities.

H. The Legal Profession--Admission to Practice: The Bar Examination

The Minorities Commission reviewed the New York State Bar Examination and the passage rate of minorities. With regard to the New York State Board of Law Examiners, the recommendations were four-fold. The Commission recommended that the Board begin maintaining race data to determine minority pass rates and that applicants who fail the bar examination be informed by the Board that repeat takers have an increased chance of passing. Also recommended were an evaluation of the bar examination for cultural and economic bias and job relatedness and an increase in the diversity of the staff and membership of the Board.

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During the period since the issuance of the Commission report, the State bar examination was evaluated by independent consultants for job-relatedness. The evaluation, which included an analysis of race data collected by the Board, concluded that the examination was valid and job-related. In addition, there is a clear awareness of the need for diversity among the Board and staff members, and efforts in this regard are ongoing.

I. The Legal Profession

The court system employs approximately 1200 attorneys, approximately 10% of the UCS nonjudicial workforce, both as law clerks to individual judges and as court attorneys in pool arrangements. The recommendations of the Minorities Commission aimed at increasing minority representation in the legal profession therefore are relevant to the court system as a legal employer.

The Commission recommended that employers adopt strategies to increase minority representation within their organizations, including structured outreach and recruitment, ensuring that hiring practices are job-related and bias-free and the use of mentoring and evaluation programs to encourage the advancement of minority attorneys.

The court system's efforts to increase the diversity of attorneys in the courts fall within its general workforce diversity initiatives, discussed in detail in Section K, below. The hiring and promotional goals and timetables developed for local courts and offices include attorney titles for each location. This year, the paid Summer legal internship program was reinstated, providing opportunities for law students to work

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with judges for eight weeks in the Summer in every Judicial District and New York City court. The goal of the program is to make students aware of employment opportunities in the courts and to familiarize them with the workings of the courts. A total of 179 students participated this year, 36% of whom were minority students. The current rate of minority participation in attorney positions in the courts is 9.2%.

J. The Judiciary

The Minorities Commission called for greater representation of minorities on the bench, with several recommendations relating to judicial administration. Included in the recommendations are the following:

- more minorities should be involved in the judicial nominating and screening panels;
- all judicial personnel should receive mandatory diversity training to enhance their cross-cultural competence;
- minority judges in New York City should be recruited, where feasible, for temporary service in upstate counties;
- more minority judges should be appointed to supervisory and administrative positions within the judicial system;
- information regarding the availability of quasi-judicial positions should be routinely disseminated to the minority bar;
- judges should be randomly selected to preside over all criminal cases.

All determinations made by the Chief Judge and Chief Administrative Judge that impact on judicial selection and

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assignment take cognizance of diversity issues. The Chief Judge, the Governor and the legislative leaders all appoint members to judicial nominating panels. The panels recommend judicial candidates for the Governor's consideration for appointment to the Court of Appeals and the Appellate Divisions. The Chief Judge has ensured diversity among her appointments to the panels--two of the three appointments by the Chief Judge to the New York State Commission on Judicial Nomination, which nominates candidates for Court of Appeals judgeships, are members of minority groups.

Similarly, appointments of judges to administrative positions within the court system include considerations of diversity. The Deputy Chief Administrative Judge for New York City Courts, appointed January 1994, is a minority judge who was the supervising judge of the Queens County Family Court prior to this most recent appointment. Within New York City, the Criminal Term of the New York County Supreme Court in 1993 named its first woman Administrative Judge. This same judge was recently appointed to the position of Administrative Judge of the New York City Criminal Courts, again the first woman to hold this position. A new Administrative Judge for the Criminal Term of the New York County Supreme Court, a minority judge who is a woman, was appointed in January 1995. For the courts outside of New York City, the recently-named Administrative Judge for the Fourth Judicial District is of Native American descent and the Administrative Judge for the Courts in Suffolk County, appointed in 1994, is a woman. The Administrative Judge for the Sixth Judicial District, appointed in 1994, is of Hispanic descent. In 1994, an Hispanic judge was appointed to the position of Supervising Judge Of The New York City Civil Court, New York County.

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The Commission reiterated in its recommendations relating to the Judiciary that all judges should receive diversity training to enhance their cross-cultural competence. As noted above, every judicial seminar since 1988, prior to the issuance of the Minority Commission's report, has included diversity programs focusing on issues relating to minorities and to women.

In the area of judicial administration, the Commission recommended that minority judges in New York City be recruited, where reasonable, for temporary service in upstate counties and that criminal cases be assigned to judges on an entirely random basis. The distribution of judicial resources within the court system is essentially caseload-driven. That is, the volume of cases in a county dictates to a large extent the number of judges to be assigned to the county. The highest volume of cases over the last decade has been in New York City. To ease the demand on judicial resources, upstate judges have routinely been assigned to courts in New York City. The Deputy Chief Administrative Judges for New York City Courts and for Courts outside New York City are having ongoing discussions about the concept of assigning New York City judges to upstate courts, bearing in mind the court system's obligation to the public to handle cases in an efficient and expeditious manner. This obligation also means that complex criminal cases in rare instances may be assigned to a specific judge rather than being assigned randomly. Such method of assignment is the exception rather than the rule and is an integral part of the discretionary authority necessary for efficient case processing.

Within New York City, the position of Housing Court Judge is used in the Housing Court of the New York City Civil Court. Statewide, Family Court Hearing Examiners handle support matters

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in the Family Courts. The Commission recommended that information on quasi-judicial positions be routinely disseminated to the minority bar. In fact, the courts and the UCS Equal Employment Opportunity Office ensure that minority bar associations receive announcements of such positions whenever vacancies occur and positions are being filled. Since early 1993, the minority participation rate among both Housing Court Judges and Family Court Hearing Examiners has increased. Of the 33 Housing Court Judges appointed as of January 1993, seven (or 21.2%) were minorities. There currently are 34 Housing Court Judges, 12 of whom are members of minority groups--a participation rate of 35.3%. Family Court Hearing Examiners are located throughout the State. As of January 1993, 13.9% of the incumbents were minorities. By January 1995, the participation rate had risen to 16%, with 15 of the 94 Hearing Examiners being minority group members. The continuing efforts to include the minority bar in the court system's recruitment efforts for quasi-judicial positions will increase their diversity.

K. The Nonjudicial Workforce

The Minorities Commission made a number of recommendations for increasing the diversity of the UCS nonjudicial workforce, citing a dearth of minorities in court and administrative positions within the court system. The Commission's recommendations, set forth in detail in Appendix A, call for oversight of UCS diversity efforts by the implementation commission (the Williams Commission); the use of discretion by judges to hire minority law clerks and other employees; the adoption by the court system of a system to deal with complaints of discrimination; the inclusion of cross-cultural competence in evaluation of a candidate for employment; the monitoring of the

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UCS testing system to ensure fairness; the adoption of procedures to ensure fairness in the filling of vacant nonjudicial positions; and the use of measures to increase minority contracting opportunities within the court system.

UCS Workforce Diversity Program

The court system formally began its program to increase the diversity of its workforce in 1989, with a comprehensive utilization study that included racial/ethnic and gender analyses of specific job groups and court locations. The study used census data and other appropriate workforce data to compare the numbers of minorities and women in the relevant labor force or, in certain circumstances, in the general population, with the numbers of minorities and women in UCS jobs. The study identified specific job groups and locations in which minorities or women, or both, were underrepresented; job groups and locations in which minorities were represented in equal proportions to the relevant labor force and there was no finding of underrepresentation; and a system-wide comparison to the State labor force finding moderate underrepresentation in terms of the UCS nonjudicial workforce as a whole.

The findings of the 1989 utilization study led to the establishment of a UCS committee to recommend management strategies and initiatives designed to increase the participation of minorities and women in job groups and locations in which underutilization had been identified. Following an intensive period of study and review of strategies that were being used in public and private sector organizations, the committee issued the UCS Workforce Diversity Program in December 1989. The program devised by the committee included management strategies and

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initiatives that fell into two categories: (1) strategies designed for system-wide application to improve the diversity of the nonjudicial workforce within the court system as a whole and (2) strategies aimed at improving minority and female participation in specific job groups and locations

The steps included in the program that had system-wide application had the result of significantly altering the court system's recruitment and hiring processes and procedures. At the same time, the program called for the establishment of locally-based hiring and promotional goals and timetables that would take into consideration specific locations and job groups in which underrepresentation had been identified as well as the appropriate local workforce and availability data. The use of such goals and timetables gave local managers concrete information on the numbers and types of hiring decisions that needed to be made in order to eliminate the underrepresentation. To support managers in this effort, "Diversity Liaisons" were included in the program, responsible to the Chief Clerk, in New York City, or the Executive Assistant, outside of New York City, to coordinate the outreach and recruitment activities.

As one means of assuring that the goals and timetables were given the serious attention that they deserved, the program called for the annual performance evaluation of the managers to include their achievement in meeting the goals for their courts or districts.

The Minorities Commission recognized that the UCS Equal Employment Opportunity Office could be restructured in a way that would provide additional support to the courts and would be a more visible and meaningful management presence. The Workforce

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Diversity Program included a proposal for a revamped EEO Office designed to work as a central resource for court managers, providing them with information and expertise in the field of equal employment opportunity. The Office also would serve as a central resource for the most up-to-date information in the area and would ensure that the local managers received it in a timely manner. Finally, the program anticipated that the EEO Director would have policy-level input, advising the Deputy Chief Administrator and the Chief Administrator regularly on EEO issues such as outreach, recruitment, hiring, training, promotion, record-keeping and bias claim resolution.

The program also addressed the issue of employment bias, which impacts on hiring and promotion in the courts and also affects the perception of the courts by the public. Thus, cultural sensitivity training for all employees, including managers, was included in the program as a vital tool for employees.

Other procedural changes set forth in the program aimed at improving the hiring and recruitment processes throughout the court system include the eliminating of then-existing geographical promotion units and unit lists, replaced by a single statewide promotional unit; the installation of a statewide automated employment telephone line for information about employment and examination announcements; and the mandated inclusion of minorities and women on all interview panels.

The Diversity Program targeted specific job groups which had identified underrepresentation. In particular, a series of strategies was developed with the goal of increasing the diversity of the officials and administrators job group. Within this area,

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the committee sought to broaden the more traditional perspective that the top court managers necessarily must come from the ranks of the court's employees, recognizing that managerial skills often are transferable. The committee also developed a set of selection strategies for filling vacancies in the officials and administrator job groups. The strategies include the adoption of structured interview formats with job-related questions and an objective criteria for rating the candidates; the use of a diverse interview panel; the submission of a report of efforts to hire a minority or a woman (depending on the underrepresentation) when a court or agency is filling a job in an underrepresented noncompetitive job group and careful scrutiny of such reports; and outreach and recruitment for managerial and professional positions, including advertising for job openings.

The program also tracked key jobs in the system and determined the "feeder" positions that often led to higher level titles in the officials and administrators category. Two primary job series emerged--Court Officer and Court Clerk. It was determined that many of the successful high-level clerks in the courts entered the system in security titles and worked their way up through the court clerk ranks. Both are competitive series requiring written examinations. The committee recommended that the court system develop examination preparation materials to help candidates learn the skills necessary for the entry-level security and the court clerk examinations. Other job groups addressed in the program are attorneys and other professionals, such as librarians, data processing experts, court reporters and office clerical jobs.

Employment goals and timetables first were developed in conjunction with the local managers in 1990. Using occupational

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data from the census, information on law degrees issued and other relevant availability data, teams of managers and members of the UCS Personnel Department met to review local hiring information, locally relevant availability data and job turnover data to establish meaningful goals and timetables. A set of goals and timetables was developed for each Judicial District outside of New York City, for the Court of Claims, for each Supreme and City-wide court in New York City, for the Office of Court Administration and, in aggregate, for the New York City Surrogate's Courts and for the New York City County Clerks Offices. (The Surrogates' Courts in New York City were combined because the small sizes of the individual courts made calculating goals and timetables virtually impossible. The same was true for the New York City County Clerks Offices.) The Administrative Judges, Deputy Chief Administrator for Management Support and the NYC Surrogates and NYC County Clerks forwarded their goals and timetables for approval by the Chief Administrator.

The goals identified the job groups in the location in which there was underrepresentation of minorities and/or women in comparison to the availability data and, based on historical turnover patterns, targeted the time periods that it could reasonably be expected to take to meet the goals. The local managers, assisted by Diversity Liaisons, focused their efforts on the jobs that had been identified to be filled during the coming year.

Beginning in 1990, the annual performance evaluation of each court or district manager included an in-depth review of the goals and timetables and the jurisdiction's efforts and achievements in meeting the goals. Those reviews were conducted by the Deputy Chief Administrative Judge, either for courts within New York City

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or for courts outside New York City, and the Deputy Chief Administrator for Management Support. Also included in the review were local implementation of other aspects of the Workforce Diversity Program, including the cultural sensitivity training for all current and new employees.

Effective January 1990, procedural changes were put into place to implement the strategies outlined in the Workforce Diversity Program. In all locations, managers were required to submit with nominations of appointment to jobs for which there were hiring goals a statement of efforts to recruit women or minorities for the position. A single, statewide promotional unit was established as a method of making sure that employment opportunities were made available on a statewide basis. A toll-free telephone line was installed to provide a central source of information about upcoming examinations for competitive-class positions and about current vacancies in noncompetitive titles. Job postings also were disseminated statewide, rather than solely within the immediate area where the vacancy occurred.

All interview panels were required to be diverse, including at least one woman and one member of a minority group. Moreover, the panel members were advised to conduct interviews using as basic guidelines objective, job-related questions that were developed by the Personnel Division based on the duties and responsibilities of the title. The panel also was required to complete a consensus form indicating both the recommended nominee for the position and the gender and racial/ethnic make up of the group of candidates interviewed for the position.

Under the auspices of the Diversity Program, competitive jobs in the system that have been proven to be key to future

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promotional opportunities were targeted and comprehensive examination materials were developed and distributed. Written materials on taking written examinations were created for the Court Assistant and Court Officer examinations--two titles that to a great degree feed into higher level court clerk titles. All applicants received the written materials by mail and, in some locations, court Diversity Liaisons held classes for applicants. A comprehensive set of materials, including a videotape and written information, were developed for the Senior Court Clerk examination. A diverse group of experienced clerks volunteered to appear on the videotape to present information and study materials that would assist those taking the examination. Copies of both the videotaped and written materials were provided to every Administrative Judge's office for use by court employees interested in preparing for the examination. (The Senior Court Clerk title is not an entry-level title, and the examination is not open to applicants from outside of the court system.)

For noncompetitive jobs, a law student summer intern program was begun in 1990 on a pilot basis in New York City, Buffalo, Albany and Nassau County to introduce law students to the court system. The program was particularly successful, providing the students, approximately one-half of whom were minorities, with an inner view of the workings of the courts and of possible career opportunities in the courts.

With the implementation of the Workforce Diversity Plan, the then-current UCS competitive examinations and examination practices were examined to ensure that they were free of bias and were job-related. While no evidence of bias was found, a renewed emphasis was placed on ensuring diversity within the advisory committees, made up of court employees with particular expertise

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in the subject being tested, that develop the questions that are included in the examinations. The professional industrial psychologists overseeing the court system's examination program also considered the concept proposed by the Minorities Commission of including cross-cultural competence within the examinations. It was determined that cross-cultural competence was indeed an important part of successful performance of the duties of court employees, but was not necessary to qualify initially for a position. Cross-cultural competence more appropriately should be included in an on-the-job training program. Accordingly, the cultural sensitivity program became incorporated into the Mission and Organization program given to new employees, into the Court Officer Academy curriculum for all new Court Officers, and was given to current employees.

An important part of the diversity efforts, although not a formal part of the program, was the development and establishment of Anti-Discrimination Panels. The panels provide employees with a mechanism to try to resolve complaints of discriminatory treatment in the workplace without having to file a formal complaint with the EEO Office or without having to discuss the matter with their supervisors or managers. The court system adopted for its own use a model that had worked in university and corporate settings--the use of informal panels that work with the employees to try to resolve such complaints in a low-profile, confidential manner. The program was created with the assistance of the Cornell University EEO Studies Program, which provided vital advice on the elements of the program and trained the panel members.

Each administrative jurisdiction, Judicial Districts outside of New York City, major courts in New York City and OCA, has a

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panel of individuals that includes both judges and nonjudicial employees who are available to listen to complaints. The panel member is trained to act on the complaint if the complainant wants action to try to resolve the issue in a confidential way. The panel member also is trained to just listen, if that is all the employee wants, or to recognize allegations of such a serious nature that administrative intervention is necessary.

The early successful implementation of the Workforce Diversity Program was disrupted to some extent in 1991, with the onset of the UCS fiscal crisis. During that year, a freeze was placed on new hires and promotions, hundreds of employees were laid off, and programs such as the legal internship and the development of examination preparation materials were curtailed.

Recent Initiatives

The court system renewed its diversity efforts in 1993. At that time, the occupational data from the 1990 U.S. census became available, and new, updated local goals and timetables were developed, again in conjunction with the local Administrative Judges and managers. The updated goals, which replaced the former goals and timetables, were approved by the Chief Administrative Judge.

Chief Administrative Judge Milonas wrote to all of the Administrative Judges in 1993, exhorting them to rejuvenate their efforts to eliminate underrepresentation and to be proactive in contributing to the court system's goal of a diverse workforce. The Chief Administrative Judge outlined a number of central initiatives that would be forthcoming, including the following:

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- The establishment of UCS management training programs in conjunction with graduate schools of public administration;
- The creation of comprehensive test preparation programs targeted to key competitive titles;
- Participation by each NYC court and Judicial District in adopt-a-school or similar programs to work with students on a regular basis;
- The dedication of full-time staff for the UCS Court Tours program;
- Reinstitution of the law clerk summer internship program under the auspices of the EEO Office;
- The establishment of a central telephone number for students and applicants to receive information on programs and to be directed to local courts for employment opportunities.

The memorandum from the Chief Administrative Judge reiterated the employment processes and procedures that were an important part of the diversity effort and directed the Administrative Judges to report directly to him on a quarterly basis on the program-related initiatives in their jurisdictions.

In an effort to ensure that the courts had the vital support that they needed in this area, the UCS Equal Employment Opportunity Office gained new leadership. Individuals with great depth of knowledge about EEO issues and practices, and with knowledge of the courts, were hired to run the office. It was clearly established from the outset that the new leadership would have direct and regular dialog with the Chief Administrative Judge and the Deputy Chief Administrator for Management Support on issues impacting on the diversity of the workforce. In addition, the staffing of the EEO Office was reviewed, with the result that appropriate upgrades took place and additional staff were hired.

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Since the Fall, the head of the office has visited every court in New York City and every Judicial District outside of New York City on an ongoing basis and has become an invaluable resource for court managers.

The EEO Office developed a plan for the coming year outlining central initiatives that should be undertaken to enhance the diversity program. The Diversity Liaisons in the courts, which were working independently, were consulted as to their needs regarding local outreach and related efforts. The EEO Office and Liaisons determined that regular quarterly meetings that included all of the liaisons would be helpful, as would a newsletter that would include appropriate articles. The quarterly meetings were instituted, with each meeting attended by Liaisons from the courts and districts and by legal experts who give presentations on issues such as recruitment, hiring, racial and sexual harassment.

At the direction of Chief Administrative Judge Milonas, the EEO Office became a real partner in the process of evaluating the local managers concerning their diversity efforts and progress. For the first time, in 1994 the Chief Administrative Judge and the head of the EEO Office participated in every performance evaluation, which included a comprehensive review of progress in meeting goals and timetables and other outreach and related initiatives.

1994--Diversity Achievements

The results of those evaluations clearly demonstrated that the local managers recognized the commitment by the Chief Judge and Chief Administrative Judge to the goal of ensuring a diverse workforce. During the first year of the updated goals and

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timetables a total of 56% of the goals and timetables for minority hiring and promotion were achieved on a statewide basis and a total of 76% were met within New York City. Notably, the specific job titles for which goals were met included Deputy Chief Clerk, Principal Court Attorney, Associate Court Clerk, Senior Court Clerk and other positions of authority within the court system. In comparison, the statewide total for meeting the 1991 and 1992 minority hiring goals was 46.7%. Continued careful monitoring of this progress will follow.

One of the most important and consistent messages from Chief Judge Kaye and Chief Administrative Judge Milonas is the need to pay particular attention to high-level positions. That message has been heard. The October 13, 1993 memorandum from the Chief Administrative Judge to the Administrative Judges underscored this message. In response to this continued attention and concern, the rate of minority participation in the category of jobs designated as Officials and Administrators now has steadily risen in the last two years from the 5.7% (1993) and 5.1% (1992) set forth in the 1993 State of the Judiciary.

The increase is the result of careful and focused efforts, including the early identification of talented court employees capable of holding managerial positions and concentration on matching positions with applicants. As the court system becomes more adept in the area, it has come to recognize that in many instances the "feeder" jobs are as important as the top jobs in developing diversity and in real input into policy-making. Thus, minority candidates have been hired into important Deputy Chief Clerk positions in the courts, particularly outside of New York City, and into Assistant and Deputy Director positions in administrative offices. The New York City Criminal Court has a

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new Chief Clerk, who is a minority, and the New York City Civil Court recently named an Hispanic employee to the position of First Deputy Chief Clerk.

This trend is evident statewide in positions that have been found to lead to management responsibilities, all of which have steadily increased minority participation since the first measurement in 1989: As of 1994, 13.7% of the Associate and Principal Court Clerks are minorities; 14.9% of the security supervisors are minorities; and 11.7% of the senior-level Attorneys are minorities. These are the upcoming leaders of the system who are gaining invaluable understanding of the courts in their current positions. These increases do not mean, however, that the very highest level positions can or should be ignored. Clearly, the court system must remain vigilant in its efforts to continue to diversify the top management titles.

It is noteworthy that under the current court leadership the growth of minority representation in the court system has outstripped either growth of the total workforce or the increase in non-minority participation. Since 1986, the total UCS nonjudicial workforce has increased by 14%. During that period, minority representation in the court system nonjudicial workforce increased by 39% and the non-minority representation increased by 8%.

The enhanced diversity of the UCS workforce is evident in key job titles in the courts, all of which have increased rates of minority participation since the initial study of individual job groups and titles in 1989: Chief Clerk and Deputy Chief Clerk; Court Attorney (entry and senior level); Court Analyst; Management Analyst; Computer Analyst; Librarian; Court Reporter; Senior Court

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Reporter; Court Assistant; Court Clerk; Senior Court Clerk; Associate Court Clerk; Principal Court Clerk; and Court Officer/Senior Court Officer Supervisors.

To place the above listing into the appropriate context of the available labor pool, the table below sets forth specific job titles, the rates of minority participation and the rates of availability of minorities in key job titles in the court system. Measures of availability used by the courts are occupational data from the 1990 census, applicable to jobs that are open to external candidates from outside of the UCS workforce, other data on external candidates (e.g., J.D. degrees awarded) and internal data, used for jobs that must be filled with current court employees (such as promotional court clerk titles).

UCS Job Title	Minority Participation	Minority Availability Source
Management (Chief Clerks, Dep. Chief Clerks, Exec. Asst., Dir., Dep. Dir.)	8.8%	18.2% (Census)
Senior Attorneys	11.7%	7.5% (Census)
Entry Attorneys	10.3%	9.4% (J.D. Degrees)
Principal, Associate Court Clerk	13.7%	23.9% (Ct. Cl. & Sr. ranks)
Court Clerk, Senior Court Clerk	24.1%	22.6% (UCS Workforce)
Management Analysts	14%	11.5% (Census)
Court Analysts	30.2%	19.4% (B.A. degrees)
Court Assistants	27.2%	26% (some college)
Court Officer	20.7%	25% (eligible lists)

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Despite such recent achievements, underrepresentation in key job groups within the court system continues to exist. The court system's EEO Office is in the process of instituting programs designed to address the specific issue of underrepresentation in the highest levels of job titles, including a skills development program that will encompass all promotional competitive examinations; a management training initiative that will be available to employees who have demonstrated managerial potential; the development of a professional management candidate pool to pre-screen individuals for employment in the court system; and a method of providing career counseling and skills assessment for office clerical employees.

The renewed focus on workforce diversity includes updated training. The EEO Office is working, again with Cornell University, to provide all members of the Anti-Discrimination Panels with refresher training to ensure that they are knowledgeable about the applicable law and the procedures involved. The Office staff also is discussing a second phase of cultural diversity training for the court system as an effective method of reinforcing the initial training.

The Minorities Commission, in its report, recommended that efforts be made to increase and ensure minority contracting opportunities for goods and services purchased by the court system. A newly-named Coordinator of the UCS Minority and Women-owned Business Enterprise Program is developing a comprehensive methodology for all of the courts and agencies to be informed of minority contracting opportunities. The Coordinator also will

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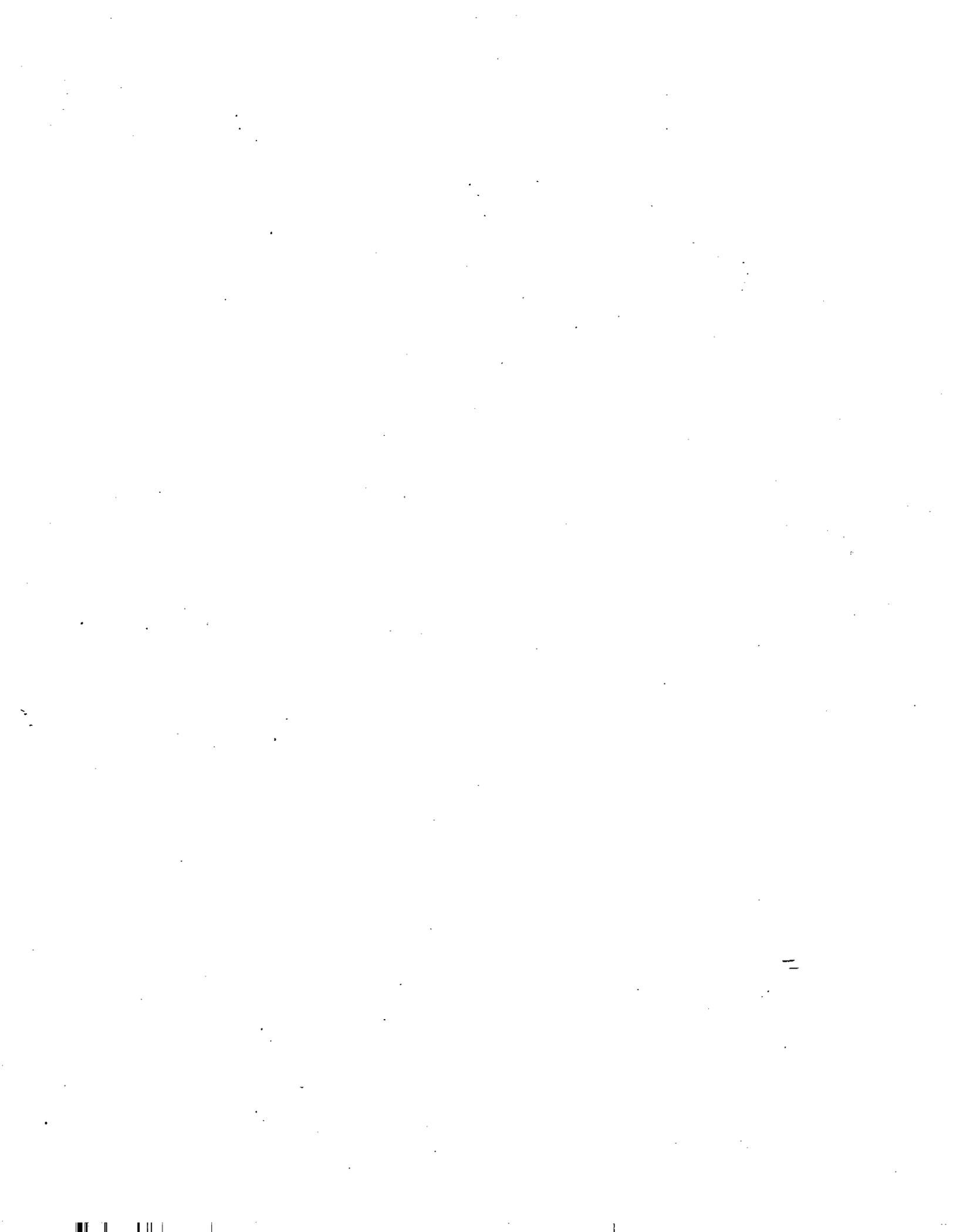
monitor such usage by the courts and agencies and will provide advice on increasing the minority participation in this area.

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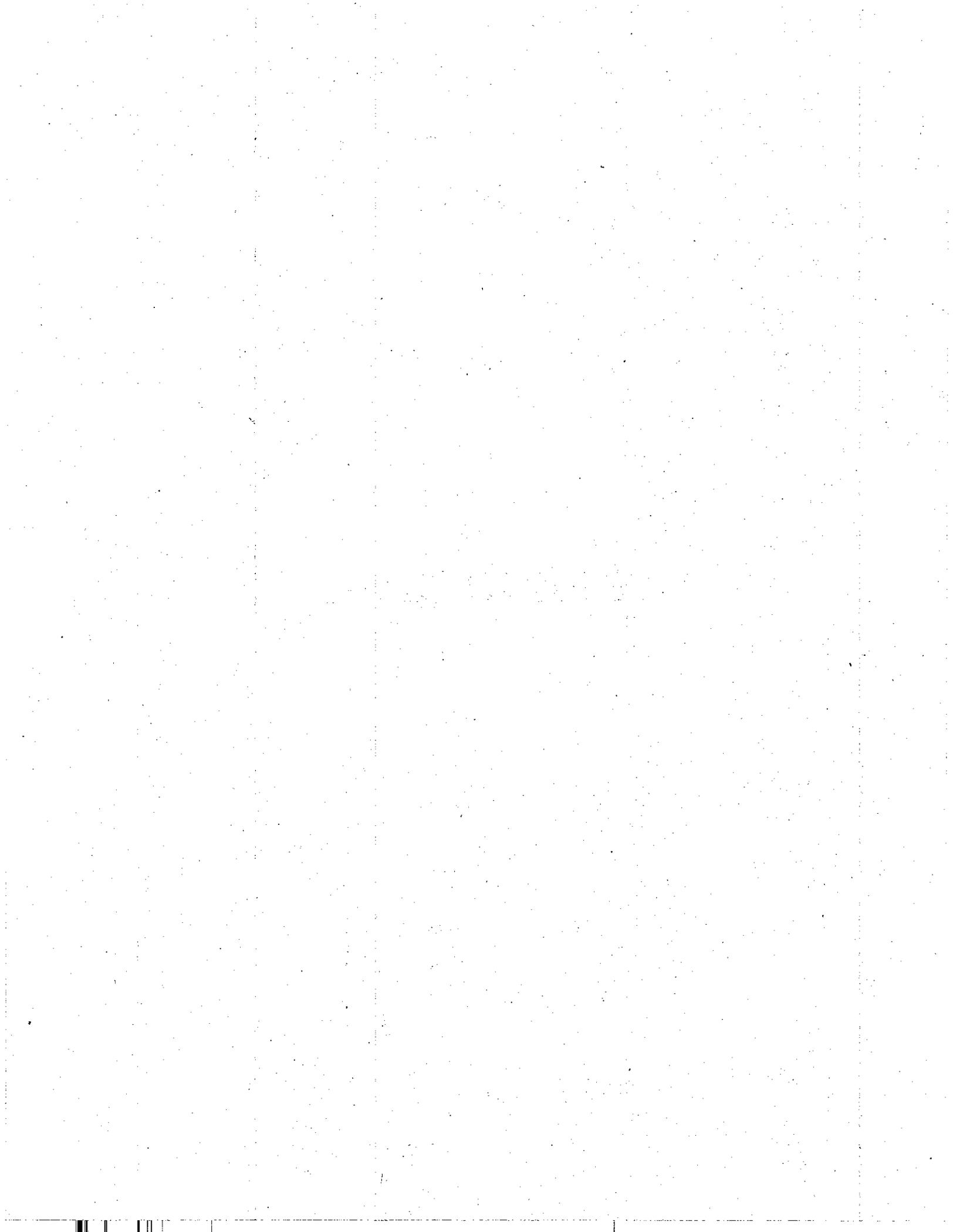
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III. Other Recommendations

The Report of the Minorities Commission included recommendations that do not touch on judicial administration and involve either issues of judicial discretion or institutions outside of the Judiciary. Clearly, there is a necessary and important distinction between administration of the court system and the judicial decision-making process and the practices or procedures of non-judicial bodies, such as law schools. The Judiciary can, however, be a model to others, play an appropriate role providing moral leadership and work as partners with those in the justice community to ensure that the community serves all who need its services. The court system enthusiastically and wholeheartedly accepts that role.



APPENDIX A



Recommendations of the Judicial Commission on Minorities

A. Implementation of the Commission's Recommendations

1. The Commission recommended that a new commission be appointed for a five-year period to ensure effective implementation of the initiatives recommended by the Judicial Commission on Minorities. The mandate of the new commission would be:

- to monitor the implementation of the various programs recommended by the Commission, thereby ensuring that they are put into and remain in effect;
- to collect and analyze race data pursuant to the recommendations of the Commission. Where these data reveal racial inequality or disparate treatment of minorities, to suggest methods for correcting the problems;
- to serve as a clearinghouse for statewide data for programs relating to the treatment of minorities within the judicial system. This would allow each county within the state to learn of programs and procedures implemented in other counties. In appropriate circumstances, some programs could be standardized and/or centralized under the authority of the commission;
- to review the hiring criteria of the agencies within the judicial system, as well as the hiring of contractors;
- to collect and monitor complaints of racial bias within the judicial system. Where appropriate, these complaints would be forwarded to the commission or agency with jurisdiction to discipline (e.g., the Chief Administrator of the Unified Court System, State Human Rights Commission, attorney disciplinary committees, Commission on Judicial Conduct). In addition, the commission could propose overall remedies designed to ensure against repetition of the offending conduct;
- to signify to minorities and to all participants in the legal system that the policy of this state is to eliminate racial bias within the legal system and that there is genuine concern that there should be equal justice for all;
- to review existing and pending legislation affecting minorities and the state court system, to comment

thereon and to recommend new legislation, where appropriate and necessary;

- to participate in the work of the National Consortium of Commissions and Task Forces on Racial/Ethnic Bias in the Court, which was spearheaded by the late Chairman. The successor commission would continue to exchange information about programs and work to foster a national policy which seeks to eliminate racial and ethnic bias in the courts;
- to interact with local bar associations, law schools and community groups in an effort to develop educational and other programs designed to address racial and ethnic bias in the legal profession;
- to report annually to the Chief Judge on the condition of the legal system from the standpoint of minorities.

B. Perceptions, Court Facilities, Treatment and Utilization

1. The City of New York must take prompt action to cure the crisis regarding the deteriorated facilities of the "ghetto courts" by implementing the 1989 Master Plan. The City should avail itself of funding mechanisms authorized by statute. At the very least, the crisis regarding the physical condition of deteriorated "ghetto courts" must be addressed by the avoidance of space allocations that crowd "ghetto court" facilities.

2. To the extent that the Office of Court Administration has not implemented programs of sensitivity training for judges and nonjudicial personnel, it should implement them. Training should include, as a critical component, a program of "cross-cultural competence," which would include: (a) the capacity to understand and appreciate different values, languages, dialects, cultures and life styles; (b) a capacity for empathy that transcends cultural differences; (c) avoidance of conduct that may be perceived as demeaning, disrespectful, discourteous or insensitive to persons from other cultural groups; and (d) a critical understanding of stereotyped thinking and a capacity for individualized judgment.

3. The court system should be made more "user-friendly" by at least two means.

(a) First, there should be an Office of Ombudsperson in each court to assist all persons in understanding court processes, to secure interpretation services

and to locate facilities (such as childcare facilities, where they exist). The Office of Ombudsperson would also notify all users of a court (i) that complaints about the court or about court personnel can be made to that office, and (ii) that the office would attempt to resolve all complaints expeditiously.

(b) Second, informational brochures, written in easily understandable English, and translated into Chinese dialects, Haitian Creole, Korean and Spanish, should be published and made available in each clerk's office and Office of Ombudsperson. These brochures should contain information relating to dispute-resolution entities other than the courts.

4. The judicial outreach program that is being conducted by the Office of Court Administration on a pilot basis to communities, and the voluntary judicial mentoring of high school students, should be continued and expanded.

5. Existing court-tour programs sponsored by the Office of Court Administration should be expanded, taking into account the needs of "language minorities," including Asian Americans, Haitian Creoles and Hispanics.

C. Legal Representation

1. Attorneys who represent the indigent on an ongoing basis -- public defenders, the Legal Aid Society and 18-B attorneys -- should be certified for this representation. Certification would require completion of specified courses, including courses in criminal procedure and general litigation. A course in diversity sensitivity training should also be required. Commercial organizations, such as the Practicing Law Institute, should be encouraged to provide these courses at reduced rates for those seeking certification, and for those who have been certified and who are seeking renewal.

D. Pretrial Processing and Criminal Penalties

1. Judges should review their bail and sentencing decisions to ensure that they are fair and not influenced by racial or ethnic stereotypes.

2. The Office of Court Administration should adopt a judicial training program that reviews the bail statute, to highlight the available alternatives to money bail.

3. Proof of exoneration should result in the automatic return of cash to the rightful party.

4. Judicial training programs should include a review of alternatives to incarceration, especially with respect to circumstances common among minority defendants.

5. Sentencing statistics concerning the race of victim, defendant and complainant should be maintained along with case outcome and should be published by the Unified Court System in cooperation with the New York State Division of Criminal Justice Services.

E. Civil Case Outcomes

1. The Commission recommends that the Office of Court Administration collect racial data on litigants in civil cases, (a) to prepare a study on this subject to determine whether there is a disparity in civil case outcomes and damage awards based on race, and (b) to consider distribution of the study to judges for the monitoring of the consistency of awards to minority and nonminority litigants in civil cases.

F. The Availability and Quality of Language Interpretation in the Courts

1. The Chief Judge should encourage and the Legislature should enact a comprehensive statute that ensures that linguistic minorities have access to interpreters in court proceedings.

2. The Office of Court Administration should require local court administrators to maintain the data necessary to determine the interpreter needs of minority litigants within their respective jurisdictions and to allocate resources accordingly.

3. There should be a state office to prescribe the qualifications of full-time and per-diem interpreters; to ensure a uniform certification process; and to administer their training.

4. There should be a code of ethics to govern all persons who interpret court proceedings.

G. Minority Representation on Juries

1. Additional lists (e.g., utility bills, library address lists, high school graduates lists) should be used to

identify potential jurors in order to insure that minorities are included on master juror source lists in proportion to their numbers in the population.

2. The OCA should encourage appropriate entities to make public service announcements emphasizing the importance of jury service.

3. Jury commissioners should expand or adopt a practice which permits jurors to be "on call" by telephone to encourage jury service.

4. Commissioners of jurors should inquire about race in the questionnaires they send to identify citizens who qualify for jury duty. Data compiled from these questionnaires should be monitored to determine minority representation on the master juror source list. If minority representation falls below levels roughly proportionate to their numbers in the community, special initiatives should be undertaken to correct the imbalance.

5. Judges should exercise heightened scrutiny to ensure that peremptory challenges are not used improperly in the voir dire process.

6. Judges should be discouraged from engaging in group questioning of potential jurors regarding their racial feelings, and rather than doing it themselves, they should be encouraged to permit counsel to conduct this questioning.

H. Native Americans and the Court System

1. A formal commission should be established and provided with a broad mandate to study and develop ways to address issues of concern that arise between the state judicial system and Native Americans.

2. Educational materials and seminars should be developed for judges and other appropriate judicial personnel regarding the historical and legal bases of the sovereignty of Indian nations located in New York State.

3. Alternative methods should be explored for increasing the employment of Native Americans within the court system, methods sensitive to concerns held by certain Native Americans regarding the taking of an oath of office.

4. The Chief Judge should notify all state court judges of the absolute necessity of abiding by all provisions of the Indian Child Welfare Act. Judicial seminars on the Act also are recommended. In addition, a system of monitoring custody proceedings involving Indian children should be established to ensure that there is full compliance with the requirements of the Act.

5. A proposal should be developed, in consultation with Indian nation governments, for bail alternatives for Indian nation residents. Once developed, this proposal should be circulated to judges and to the governments of the nations for their approval.

6. Concerted efforts should be undertaken to increase the number of Native American attorneys in the state. These efforts should include the recruitment and encouragement of high school and college level Native Americans to consider legal careers; and assisting Native Americans engaged in legal study to complete successfully the process leading to bar admission. Qualified Native American candidates for judicial appointments should be identified and recommended.

7. Proposals and guidelines should be formulated to permit attorneys and advocates certified to practice in Indian nation court systems to be called on by state court judges as "friends of the court" when matters of Indian law or custom may be involved in a case. The Commission believes that, where appropriate, the use of persons trained in Native American court systems is needed to ensure that the requisite expertise on Native American issues and concerns will be adequately presented in New York courts faced with specific Native American legal questions.

I. Legal Education

1. A Model Program: A model program would be one that combines the best practice solutions developed at different schools. Such a program would have two overriding, key features:

(1) A mechanism which would ensure a systematic approach to minority issues so that all policies, activities, and initiatives at the law school are reviewed with an eye toward minority input and a concern for minority impact.

(2) Ongoing and routine data collection and analysis regarding minority applications, acceptances,

admissions, placement, and bar passage. Only through such systematic data collection and analyses can a law school conduct ongoing self-assessments regarding how well it is meeting its goal of improving minority education.

In addition to the above two overriding features, a model program would have the following components:

(1) Outreach to high schools, including visitation programs, big brother/sister programs, and special presentations to encourage minority student interest.

(2) Outreach to other audiences (e.g., paralegals) which have large minority populations.

(3) Use of Candidate Referral Service lists to contact all minorities who take the LSAT. Such mailings should include a brochure that is specific about the minority experience at the law school.

(4) Contacts with college advisory offices and minority student organizations, which make it clear that the law school is interested in recruiting minority students.

(5) Visits to historically black colleges and other colleges with high minority representation.

(6) Sponsoring of minority law forums to which accepted students are invited, as well as systematic outreach through telephone calls and mailings to encourage enrollment of those who have been accepted.

(7) Administrative support for minority student organizations to make it possible for them to be involved in all aspects of recruitment, admission and enrollment including making funds available for brochures, travel, telephone calls, receptions, other special events.

(8) Prelaw summer programs should be offered.

(9) Curriculum review that creates a climate in which all professors understand the importance of an "inclusive" curriculum. American law is, in central and crucial respects, a product of racial and ethnic conflict and an accommodation to racial and ethnic differences. Students should be taught about these matters because it is impossible to understand American law without exploring these issues. All faculty should receive assistance in developing materials that illuminate the effects of race and ethnicity upon legal decision-making and the effects of legal decisions upon racial and ethnic minorities. Some faculty may need assistance in understanding that race-blind

discussions are often factually misleading, and may leave minorities feeling invisible or alienated. Other faculty may need assistance in becoming comfortable with race-conscious discussions. These issues should be the subject of faculty retreats, seminars or extended meetings.

(10) Review of law school programs to ensure that there are no unjustifiable barriers to minority participation and that minority students are actively sought out for inclusion. Minority student organizations should receive timely information regarding openings and submission deadlines for all such programs and should do special mailings and hold special forums and workshops to encourage minority student participation and to provide substantive assistance where needed.

(11) Development, by the placement office, working with the office of minority affairs and with the minority student organizations, of a series of mechanisms and activities designed to assist minority students.

(12) Networking by faculty hiring committees with minority alumni, other minority professionals and minority organizations in order to identify potential law teachers. More assertive outreach will not only identify a wider pool of potential teachers but will also convey to the minority community the seriousness and sincerity of the effort. This in turn will eventually encourage more minority lawyers to apply for teaching positions. There should be a particular effort to increase the number of minorities in adjunct positions.

J. Admission to Practice: The Bar Examination

1. The New York Board of Law Examiners should begin maintaining race data to determine minority pass rates, especially now that it is a participant in a national study on bar passage being conducted by the Law School Admissions Council.

2. The Commission recommends that law schools in New York State assume some responsibility for their students' passing the bar examination in New York State.

3. Schools should create a special tutorial program for graduating students who may be likely to have difficulty in passing the bar examination. The program should aim to create a relationship between the school and these students that will last until the bar examination is taken. An excellent model is

the tutorial program conducted by the Association of the Bar of the City of New York as a supplement to regular bar review courses. The program focuses on improving essay-writing and test-taking skills rather than concentrating on substantive legal concepts.

4. The state and/or the legal profession should make financial resources available to eligible bar examination candidates so that they will not have to be employed while they study for the examination.

5. Applicants who fail the bar examination should be informed by the New York State Board of Law Examiners, at the time results are communicated, that repeat takers have been found to have an increased chance of passing.

6. The New York State Board of Law Examiners should have the bar examination evaluated for cultural and economic bias and for job relatedness.

7. The New York State Board of Law Examiners should adopt a more active program of hiring minority staff and recruiting minority board members.

K. The Legal Profession

1. Organizations which employ lawyers, e.g., law firms, corporations and government agencies, should adopt strategies to increase minority representation within their respective firms/organizations. The Commission recommends expansion of initiatives such as the PALS program in New York City, described in the full report, to facilitate access to this employment.

2. Legal employers should adopt structured outreach and recruitment to (a) increase their visibility in the minority legal communities through a structured outreach program; (b) consider, in making hiring decisions, a broader range of skills and predictors of success; and (c) create environments supportive to minorities.

3. (a) Information regarding attorney positions in both private industry and in government should be widely disseminated. (b) Since minority law graduates are likely to continue, for some considerable time, to enter into or function in the profession as solo practitioners or members of small minority firms, law schools should consider adding courses to the curriculum which seek to inform and educate students about

the managerial, business and ethical problems of solo or small firm practice.

4. Firms/organizations should increase the number of minority attorneys in their employ. They should review their interviewing processes to purge them of any techniques which may discourage minority applicants, and reevaluate their hiring criteria which would result in a more diverse work force. Firms should make direct and explicit statements that qualified minorities are actively desired as members of the firm so that minority candidates do not deselect themselves from firms with few minority attorneys. Firms/organizations should avoid reliance on hiring criteria, such as LSAT scores and grades.

5. Law firms should consult with minority partners and organizations composed of minority lawyers with respect to the hiring and employment practices of the firm.

6. Mentoring processes for minorities who are currently employed in firms/organizations should ensure that minorities are receiving as much support as their white counterparts in the competition for professional advancement.

7. The work environment of minority attorneys employed by government should be improved through a program that would include mentors, standardized evaluations, feedback, diversity training and a review of promotional practices to assure there is no operative bias against minorities ascending to supervisory positions.

L. The Judiciary

1. The Commission makes no recommendation about which method of judicial selection -- appointive or electoral -- should be preferred.

2. Appointed officials and political leaders have the power to and should achieve increased representation of minorities on the bench.

3. More minorities should be included on judicial nominating and screening panels. These panels should actively strive to inform all potentially qualified minority attorneys of judicial vacancies and encourage their interest and application. Persons screened should be examined for racial and ethnic biases and for cross-cultural sensitivity. A prior record of superior service to minority communities should be viewed as a positive factor in assessing a candidate's qualifications for judicial office.

4. A concerted effort should be made to sensitize all persons with responsibilities in the judicial selection process to the importance of greater racial and ethnic diversity in the state judiciary.

5. All judicial personnel should receive mandatory diversity training to enhance their cross-cultural competence.

6. Minority judges in New York City should be recruited, where feasible, for temporary service in upstate counties.

7. More minority judges should be appointed to supervisory and administrative positions within the judicial system.

8. Information regarding the availability of quasi-judicial positions should be routinely disseminated to the minority bar.

9. The commission recommends the adoption of random selection of judges to preside over all criminal cases.

10. The New York State Commission on Judicial Conduct should enhance its recruitment of minority staff members, as well as commissioners.

11. The Commission on Judicial Conduct should give complaints of racial bias high priority and keep records of its investigations and disposition of charges in a manner permitting analysis of whether there were any patterns of racial or ethnic discrimination.

M. Nonjudicial Officers, Employees and Minority Contractors

1. The implementation commission recommended by this Commission should monitor the EEO efforts of the Unified Court System (among other things).

2. The judges within the Unified Court System should use their discretionary ability to hire employees to diversify their own work force, for example, in connection with the hiring of law clerks.

3. The Unified Court System should adopt a complaint system to deal with complaints of discrimination within the

Unified Court System, and promulgate and publicize a system of sanctions for this behavior.

4. The Unified Court System should continue to review and develop alternatives to testing in job classifications requiring testing and to allow for the consideration of an individual's past performance. Whether nonjudicial employees are selected on the basis of written examinations or on the basis of other measures, cross-cultural competence should be one of the skills for which candidates are tested.

5. The Unified Court System should monitor its testing system in job classifications requiring these tests on a continual basis to ensure that it is fair to all applicants and inclusive of all eligible minorities.

6. To the extent that the following measures have not already been adopted by the Unified Court System, the following procedures should be adhered to: job opportunities in the Unified Court System should be made available to all; notices of vacancies should be disseminated state-wide; all eligible employees for particular jobs should be notified; no job vacancy should be filled until the time for application has expired and, where appropriate, the closing date should be extended; a statement should accompany each notice that no informal choices will be made; and finally, the EEO unit of OCA should monitor this process.

7. Increasing and ensuring minority contracting opportunities should be made an integral part of the UCS "Workforce Diversity Program" and a specific aspect of the EEO Director's job. This program sets forth a series of management initiatives aimed at broadening the pool of qualified candidates for positions in the court system. The goal of the Program is to achieve a truly diverse nonjudicial work force. The Program requires each judicial district, court or OCA office to appoint an EEO Staff Liaison to assist in conducting outreach and recruitment efforts to implement the Program.

8. To the extent the OCA Minority and Women-owned Business Enterprises policy does not so provide, the following should be adopted:

a) An information campaign should be instituted in minority business circles to apprise prospective bidders of contracting opportunities. Extensive use should be made of trade publications accessible to minority enterprises.

b) Diversity training should sensitize UCS contractors to the need for minority participation and encourage

them to include minority businesses on lists of potential contractors when bids are being solicited.

c) Goals and timetables should be established, similar to those required under the "Workforce Diversity Program," including both annual and longer range goals based on the degree of underutilization of minority contractors. The EEO office should assist in providing information necessary to establish these goals and timetables. The EEO Director should gather statistics and other information providing evidence of past discrimination to justify a compelling interest in applying whatever remedies are deemed appropriate.

d) Executive Order No. 21 should be adopted. This articulates the state policy regarding the opportunity for full participation in our free enterprise system by traditionally, socially and economically disadvantaged persons, which is essential if we are to obtain equality and improve the functioning of our state economy. The order encourages the greatest possible participation of minority businesses in all state contracts and directs efforts to provide technical and management assistance to minority owned enterprises.

e) There should be a monitoring of the diversity program of all subcontractors whether private or municipalities and a "best efforts" requirement to diversify when contracting for security outside the New York City area.

f) The OCA should identify and utilize minority-operated banks for monies received by UCS in the first instance.

g) Officials should seek out minority professionals for consultation and personnel services contracts.

h) OCA should actively solicit the participation of minority contractors in the construction of court facilities.

