

**2021 Law School Access to Justice Conference**  
**Fighting Systemic Racism: Law School and Community Partnerships**

**1B. Inspiration, Incentive, and Innovation: Courts, Law Schools, and Community Partners Dismantling Racism in Our Legal System**

Susan Sturm: Hi everyone, I want to welcome you to this session. My name is Susan Sturm and it's my privilege to be facilitating this session entitled: Inspiration Incentive and Innovation: Courts, Law Schools, and Community Partners Dismantling Racism in Our Legal System.

I come to this session by way of collaboration over many years, with two of our panelists, John Bellow and Chief Carry, and as the director of the Center for Institutional and Social Change here at Columbia Law School.

Before we jump into the panel, I just want to get some logistics out of the way. We're going to have a facilitated dialogue with these amazing court leaders, which will be recorded, so we just wanted to let you know that in advance, and we'd appreciate it if you would, if you're not already muted, if you would mute yourselves and remain muted throughout the session. We will welcome your participation through the chat, and if you would like to ask a question, you can just find the "ask a question" participant and text that person who, which will be me, and we will do our best to include questions. We will be taking questions, both at the end of each segment of the of the workshop, as well as at the end.

Just a little bit of context for the conversation we're having. As everyone knows, court systems around the whole country are finally facing up to the challenge of dismantling racism in their own practices. And as they do this, they're really confronting a paradox, a paradox of justice.

On one hand, judicial systems bear the responsibility for addressing the consequences of racism in the larger society. Whether that's in the context of policing, or prosecutors, or education system, or housing, that all of these are problems of

racism that show up in the court systems, and the court systems are really charged with addressing, they cannot avoid. And at the same time, court systems are themselves markers of racism.

As we will hear from our panelists, the reports of court systems show disparities in decisions and outcomes, whether it's charging decisions, bail, sentencing, probation, and parole. And also the reports have shown ways in which micro-level interactions, at every step of the court system, are affecting how people experience justice, and that people of color in particular, experience different treatment that makes them feel less welcome and less confident about their experiences of justice.

So, these systems are all facing this justice paradox; they have to use the systems that they have to address racism when those various systems are themselves needing to learn their way into addressing racism within the court system. And the failure to address that paradox really breeds of the kind of distrust and cynicism that we heard a Chief DiFiore speaking about, and that really threatens the legitimacy of the court system. We have to face these challenges when court systems are led by predominantly white leaders, who have to figure this out, while they also can't place this task on the shoulders of those who've been directly affected by racism. These are tough paradoxes that cannot be avoided.

There are no quick fixes, there are no silver bullets. Racism cannot be dismantled with a single diversity training, even a yearly diversity training, or with a pronouncement of good intentions. This process requires intentional, focused, long term efforts. It requires collaboration across departments that are not used to working together. It requires, in short, culture change, and culture change calls for inspiration, incentives, and innovation.

We're fortunate to have three court leaders who really embody these three practices. I have had the honor of working closely with Chief Paula Carey and John Bello as part of a long-term culture change process within the Massachusetts trial courts. I would like to say, their partnership, which you'll hear about,

really exemplifies what happens when judicial actors really partner with non-traditional leadership within the court systems to make this a systems-change project.

Chief Carey is the Chief Justice of the state-wide system in Massachusetts, and she has made the goal of dismantling racism and building a culture of equity, diversity, inclusion, a centerpiece of her administration and really a focus of what she wants her legacy to be.

John Bellow is the Court Administrator in Massachusetts: a long-time real advocate within the Massachusetts system, who supports the trial operations for all the seven court departments, and is a co-leader of the Strategic Planning Process, and is really focused on bringing diverse actors together throughout the court system to problem-solve together, pulled in everyday interactions and in strategic decision making.

And together, Chief Carey and John Bellow are building the capacity and commitment of the Massachusetts Trial Courts to address racism, as part of improving the overall quality of justice.

Judge Edwina Mendelson has been involved in addressing issues of race and bias long before Jay Johnson issued the report from the Special Advisor on Equal Justice on the New York Court Systems which we heard about today. Judge Mendelson has been guiding the efforts of the New York State Court systems leaders, across the state, to ensure broad based input in developing system-wide initiative, to eliminate racial, and other kind of bias, and promote equal justice. And upon the release of the Special Advisor's report this last October, Chief DiFiore charged Judge Mendelson with the really challenging task of overseeing the day-to-day supervision of the court system's Equal Justice in the Courts Initiative which we will hear more about in a moment.

All three of these leaders have a track record of really trying to take on this work, in collaboration with law schools, and making

that really the heart of the way the system operates. So really excited to hear from them. Our roadmap we're going to start with an origin story from each of them, then we're going to hear about key strategies, then we're going to hear about how they promote collaboration in a fragmented system, and then we'll finally hear about how to navigate the challenges of promoting accountability in the court system, as it tries to dismantle racism. So, let's start with the origin story and let's start with you, Chief Carey, to ask the question; What launched the anti-racism effort that's underway in your court system, what prompted you to take on this work as a culture change process?

Paula Carey:

Thank you Susan. I'm delighted to be here. I have had the great pleasure of working with Judge Mendelson previously on issues of emerging adults, so it's really wonderful to be here with her and with my partner in justice, John Bello, as we talk about, what I consider, the most important issue that we are dealing and facing in our justice systems today. And I think the events of the last year, have only heightened our attention, and of the urgency relative to these issues.

So, in terms of how we got started: I became Chief Justice of the Trial Court in 2013, and in Massachusetts; and at that point we knew that there was racism, we didn't call it racism though. We pussy footing around a little bit and didn't really call it what it was, and you know we tried not to offend people. I'm not sure which people we were worried about, but you know, I think that as we've moved through this work, we become more honest about the work, and honest about what needs to happen.

So, as I was coming into my role, there were concerns raised by judges. We have judicial evaluations in Massachusetts, and judges of color and female judges, were raising concerns about bias, in terms of their judicial evaluations. And we had a social scientist look at our instrument, and lo-and-behold the instrument itself, as well as the people filling it out, really gave indications of bias.

That led me to believe, well if judges were feeling this way and feeling less empower, what must other employees be feeling? What must the public be feeling, individuals of color in the public, individuals of color that work in our court system? So, I said to myself, well how do we address this?

And so I started to do, I'm kind of one of these research geeks so I like to read you know, I like to read a lot. So, we did some research, I had a wonderful partner at the time name, who was preceded John Bello, named Harry Spence, who had done a lot of work, systemic work. And he and I both really talked about it and said, you know we're not sure how to address this, how do we do really attack the issue.

And so, we did a request for proposal and we got a number of folks that bid on. We were looking for an outside consultant to help us do this work, how do we do this work? We had people that did the same old stuff. They were going to come in and they were going to assess the situation, they were going to do seminars across the Commonwealth.

But Susan Sturm and Heidi Brooks from Yale came to us with a very different approach; they wanted to use, they wanted to really do a culture change. They wanted to get in and change the culture of, and use—and I'll get into it later, to talk about the both-end approach - but to essentially look at this more holistically. We had been doing, we had already started to do trainings, experiential trainings. We had something called Signature Counter Experience that a contractor that we had was working on diversity, equity, and inclusion issues in the Trial Court, and that that training was actually designed to be a customer service training, but essentially really did attack issues of culture change and understanding people where they're at, meeting people where they're at, and we did that training courthouse by courthouse so that every single courthouse (we have 90 courthouses but multiple departments within each courthouse. So, each sort of office), trained at the same time.

And we learned over time, that if you didn't include everybody, that it didn't have the same effect and as we've moved forward

since 2013. You know the research really sustains that effort, that if you really want to do this kind of work, you know, you've got to have groups working together towards a common goal. You've got to have, you know, the groups having equal status within the conversation, and allowing individuals to get to know each other as they have these conversations, and then institutional support.

So, Susan and Heidi came in. Susan really ended up finishing the progress, and we went through a number of iterations. Her team looked at some of the data we had. We had done surveys of not only of our users, but we had done surveys relative to our folks, meaning the folks that worked for us. Susan did follow up interviews. We did town halls, including internal folks as well as external folks, to get feedback. And as a result of all that data, and all that information, Susan really built a system.

We initially started with a pilot, where we included a number of leaders, court leaders, teams of leaders. And a few came kicking and screaming. By team leaders, I mean, first judges, clerk magistrates, court officers, and I think we had the chief probation officers as well. And really it was the training and the discussion amongst the team that began to develop, change the culture, and develop capacity.

An example I'll give you is one of the pilot courts. It was a white male judge who have gone through this training. It was towards the end of the training, so he had begun to develop some of the capacity, and he had described to you a situation where an individual of color was before him. And this individual said to him, you are treating me differently because of the color of my skin. And that judge stopped the proceeding and said wait, I need to know more about that, tell me why you feel that way. It was a very engaging dialogue. You could have probably heard a pin drop in that courtroom, and it was a crowded courtroom. But it was, he really wanted to know, he wanted to know what he was doing that caused someone to feel that way.

I think that's an illustration of what we were trying to do, and, ultimately with Susan's help, and this is how she's been doing

this for years and years and has built up the evidence base, the research, to develop a training—which is a two and a half day training that is pretty intensive—and it puts people in a room at all different levels of our organization, and trains for capacity. You have judges in the room, you have case specialists in the room, you have probation officers, you have court officers; everybody is equal when they're in that room, everybody has a voice, everybody can speak, and their voice needs to be heard.

So, I mean that's really, and I don't want to go on and on, but that's really how we got ourselves going. And we're going to talk a little bit later, but I think data is key as well, data and measuring, you know, measuring your points, you know, is a huge piece of it. And we've really built our HR department, and we measure; we keep track of, you know, our employee base, we keep track of who's, you know, what are you know what our demographics are and really pay very close attention.

I'll finish with this, work is not for the faint of heart. This work requires constant dedication, it requires leadership, it requires you're going to step in it. You're going to make mistakes, but you got to pick yourself back up, figure it out, don't be afraid to say help me understand what I did wrong, and, you know, you really just have to sustain the effort. So that's how we got started.

Susan Sturm: Thank you, John, is there anything you want to add to Massachusetts origin story.

John Bello: Yes, thank you Susan. And you know, I came into this later because I started with a trial court in 2013 so the work was already underway. But one thing that I would like to focus on, is the fact that the tone is set at the top. You know, our collaboration both Chief Justice Carey, and I are extremely committed to this work, so we are sending that message out to our leaders, to the entire court system, and also to the stakeholders who are doing business with us and using our courthouses. So again, we do set the tone.

Susan Sturm: Thank you, John. Judge Mendelson, I'm going to share my screen in a moment, with your slides but feel free to, we're really eager to hear, we have some idea already, but your origin story about how the system got involved in the work.

Edwina Mendelson: So, hello everyone, and I have to join Justice Carey in my sincere thanks for the ability to join with her and another life-changing endeavor, and with you all in this most important work, and I thank you for this opportunity to participate in this forum. You know, our origin story, you've heard a bit about it, but I will tell you that, and we can go to the next slide please. In late May of 2020, just a little over a year ago, we were all witnessing on our devices and our screens, the horrors of a life taken away. In a way that challenges all of our notions of racial justice, and the role that is played by the various components of our systems of justice, and of course that includes our courts.

In New York State, this was compounded by reported instances in our very own home. In court, you know, our court turf, of deeply disturbing racist images and messages being displayed and shared on social media by our very own Court employees. And on the very day of George Floyd's funeral, Chief Judge DiFiore said to the theory, and you've heard from her, did something that I feel is remarkable. And many who I've encountered on this equal justice journey, agree that she was quite courageous and unique by engaging a respected attorney, and public servant, an outsider, who was so well respected being a former Obama Administration Cabinet Member, Secretary Johnson, to conduct this equal justice review of all of our court systems policies and practices as they relate to bias in the space of race and ethnicity and fairness in our courts.

And Secretary Johnson, this slide is showing the work that he did and that's our origin story. He and his team did close to 100 interviews, with 300 people, speaking to current and former judges and staff, public and private law practitioners, Bar Association leaders and members, judicial association, civic associations, law school personnel and leaders, and other



community stakeholders. They reviewed numerous submissions, examined our court system policies and practices. They went deep, they assess our workplace conducts and our bias training. We can move to the next slide please.

And he issued that 100-page—I call it that painful-to-read — report. And I've read it a number of times on this journey. He issued it in October of 2020, and he did begin with the welcome news that we in the courts, who are serving in the courts, many of us are working hard to get it right, and those were his words.

But that was immediately followed by what he called the bad news, and it is bad news indeed: Our need to significantly improve the experience of the people who are appearing in our overburdened, high-volume courts in particular, and we know those are the courts that are disproportionately full of people of color and people experiencing poverty; our obligation to combat racial intolerance, wherever and whenever we see it, especially within our own court family; the need to strengthen our courts commitment to diversity and meaningful inclusion in our judicial, as well as non-judicial ranks. So, we're talking about demographics, as well as the need to strengthen and clarify our discrimination policies and improve their enforcement.

And among the 13 recommendations, and I'm not going to review them all with you, but some of the more prominent ones are listed on that slide: commitment from the top, mandatory bias training, transparency, and publication of data -that's important for us- improving our HR human resources practices and, importantly, the trust between court offices, law enforcement for the courts, and our communities that we serve, and the demand that we create a social media policy.

And my final slide on this question of our origin story is my assignment. The assignment, I call it the assignment of my life, and I thought raising the age of criminal responsibility, would be the assignment of my life; there was successful implementation there, and now we have this. And the role, it's

such a privilege and honor, and you've heard from Chief Judge DiFiore, to have been appointed by our Chief Judge and our Chief Administrative, Judge Lawrence Marks, to lead this implementation on the ground.

And so, you know, I oversee our court systems' access to justice program, or juvenile and adult justice, family justice endeavors, child welfare, court improvement. I oversee our 300 plus problem-solving and accountability courts. But of course, morning, noon and night, I'm about the Equal Justice in Courts Initiative. So, I'm so grateful, I have a wonderful team that is making sure all of our other critical important work gets done. But I am living and breathing equal justice in our courts and meeting actively with our judicial managers and executive court system leaders, court managers, clerical staff managers, and staff across the state, and we are planning, as we move along in this Equal Justice in Courts Initiative.

I'm also meeting—I think this is important to say in terms of origin story because we are still at the beginning, we began this work, the report was issued in October, so we're very, very early and I'm so grateful that we have Massachusetts to learn from—but we're meeting with fraternal organizations, affinity groups of court staff, and other stakeholders, including yourselves. I can't wait to hear what we have in store in terms of the role of the law schools in helping us implement this together. And we're spending many times with a high-level executive team developing an ever-changing strategic plan to live up to all of the 13 recommendations. Thank you.

Paula Carey: You're on mute, Susan.

Susan Sturm: Thank you, thank you so much Judge Mendelson.

So, origin stories matter; it's really helpful to have data at the beginning, to have leadership commitment at the top, and to really involve all the different stakeholders throughout the system, to make this not only talk, but talk connected to action, and to have action that includes real thoughtful capacity building and inquiry. And all of that, I'm hearing both

systems really talk about trying to make this initiative different.

This not the first time that each of your systems has confronted the issue of race. But many of these efforts in the past, and many of the efforts across the country, have really not changed the culture, have really not gotten at the systems that are sustaining the disparities and also the sense of unfairness affecting communities of color that are court users. So, what are, we would love to really ask you now to hone in on some of your key strategies that you believe will make this, or have made, what you're doing different, that will make, that will or have made, your efforts really about systems change about culture change.

And so let's again start with you, Chief Carey, and would you like me to share my screen?

Paula Carey:

Sure. Before I get into what I think is on the screen, I would say that it's really about making, getting people to own this, and getting people to be leaders among themselves, and you know really owning this work. And it's interesting, before I get into these modules, when we first started this work, and Susan actually, we had already engaged Susan and Heidi I think at this point, but we had a one-off conference, which is what we used to do, that's you know, it's not like we never talked about race, and diversity, and equity, and inclusion, we did before 2013. But it was interesting, we had an all-court conference, and the evaluations—and it was very good, we have very good speakers and all—but the evaluations weren't all that good. In fact, I had one white, female judge say to me, I was appointed by the Governor of color I don't need to go to this conference. And so it was just, it said to me, we have an awful lot of work to do. So, you know, towards that goal, this is where Susan really helped us hone in. So, if you can go to the modules, Susan, just to give you a flavor of the two and a half days and how we really built this.

And so we engage in, it's an experiential and not only, you know, we start off with series one and it's really a foundation.

Series one is a foundation; you build trust, you make commitments and set the ground rules.

We introduce the Both/And approach which is a great way to approach things. it's not either/or, it really, if you look at things from both ends, you broaden your opportunity to view your system in a more comprehensive way, yet identified challenges, name fears We develop a growth mindset, where we want to be continuously growing, continuously questioning how we look at things, mindfulness and self-awareness, you know, really taking a step back understanding as a judge and as a human being, that when you're really busy sometimes you go into autopilot. And sometimes, you know, micro aggressions might come out. And teaching each of us how to step back and how to prevent some of those things.

Listening, now listen it's such a simple task, but so many people don't do it. Psychological and identity safety, creating a safe space. In doing this we've trained facilitators. Not everyone's geared up to be able to do this, but you know, really putting people in a place where we're creating a safe environment.

Storytelling, really involving identities, you know, most people come to this work, obviously having a history and without asking questions, you know, it brings, you know, asking the questions help bring some of these stories forward and racial and identity literacy now asking questions.

You know, we did some training on transgender issues, and I had many judges asking me, well how do I address someone? And my answer is respectfully and ask them how they'd like to be addressed. Effective communication: you know, feelings and needs, distinguishing between observations and evaluations. We actually went through exercises to help people really make a distinct, you know, and distinguish are we evaluating, are we judging people.

Empathy: how to engage in an empathy practice, you know, making requests, receiving feedback, how to give feedback

and how to receive it, reflection and peer coaching. We actually had folks from all we had a judge team up with our Director of Diversity Equity Inclusion, they did some peer coaching. The difficult conversations framework, involving race and identity, really, we had homework assignments, we read from books, we read from the difficult conversations book, you know, how to be an anti-racist, and then we engaged in difficult conversations around race and identity, and they are difficult to have sometimes.

Obviously, well I'll give you an example, we recently had a report from our Bar, our access to justice group, and they met with our affinity members of the bar, and a report recently came out, within the last few months, and you talk about a difficult report to read it was an extraordinarily difficult report to read, and I became even doubly committed to engaging with it with lawyers from affinity groups. And it mentioned law students as well, and that individuals of color who are in law school are disenfranchised. The same with our Affinity Bar members, they're being treated differently in our courts.

I had a horrifying story of a young woman, African American woman, who was all, you know, geared up to do a moral argument that was really important to her. And as she was walking in the courthouse, the Court Officer said, "Oh, no, you have to go in, you have to go in the door where the public goes," you know, because basically saying she's not she's not a lawyer, probably because of her youth and the color of her skin. So, it was extraordinarily troublesome.

So, all of those things, and being able to have those conversations, we're now engaged with the bar and we are moving forward. We're going to be using our training curriculum so that Bar Members can actually train themselves. We'll do a train the trainer and then engage with law schools. And then, in terms of engaging stakeholders and addressing race and bias, we've had multiple community, we look at stakeholders as internal and external, we've had multiple engagements with our internal stakeholders.

We've also had a number of engagements, two different types: one is what we call neighborhood town halls where we engage with the public and use our community partners to engage with them. It's been particularly important during the pandemic, and because of the events that have occurred across the country. It's been particularly important. And then we've also engaged in specifically race discussions. We've done them in person, but we also continue to do them during the pandemic, and they've been extraordinarily helpful.

We've got a tremendous amount of data in terms of how to move the needle on our work. And what it is, and we are frankly at sort of a crossroads at this point, and we're hoping to develop, we've got groups working on our system generally, which means, how are we set up and are we unintentionally disenfranchising and disproportionately negatively affecting communities of color: looking at our rules, looking at our policies, looking at our procedures, how do we do business, how do we call our cases, how do we schedule our cases, and are we disproportionately affecting people because of their demographics.

And poverty, poverty is a huge piece of it as well. And for those of you that may or may not know, our former Chief Justice Chief Justice Ralph Gants, who, I still tear up when I talk about losing him, but he was a true champion on this work. And he commissioned, a number of years ago, for Harvard to do a study of our criminal justice system and the disproportionality. We have a very low incarceration rate in Massachusetts, but the people who are incarcerated are disproportionately individuals of color and it raises a huge issue. We are now working with the Council of State Governments to look at ways that we can help address some of those. We've done some of the work because we've eliminated certain drug related minimum mandatory sentences, but there's a lots of issues in ways to address it, including engaging our prosecutors related to charging decisions, and we've got some initiatives that were engaged in right now with some of our prosecutor offices that are looking

at police. Before the cases are filed, they're looking at it, so that they potentially can divert the case and not have it filed.

You know, the capacity building and changing culture, we embrace culture. Every year, we have a full week of cultural appreciation week, which is a fabulous event. We started off with one day, but now it's a fabulous event, and we have local leaders. We've empowered local people to run these events and all of our courthouses. We bring that public in. We embrace the culture of the Community. If it's a largely Hispanic community, or Cape Verdean community, we bring in food, Cape Verdean food, and we bring in dancers. So, we really embrace, and people dress up in their ethnic garb. We embrace ethnicities. We bring children into our courthouses.

That's the long-term capacity building. It's working through the very research-oriented work that Susan has done and pushing it out into our system.

Susan Sturm:

Thank you, Chief Carey. And you've described a really powerfully the strategy of capacity building.

John, I know that the work that you've been doing in your role of leading the strategic planning effort, and also leading all the non-judicial aspects of the court system, have been critical to integrate that capacity building into the planning process. So that this is not only about the micro-level interactions, which are important, but also about: How do you make decisions differently? How do you bring different people to the table? How do you engage with communities, not only in cultural appreciation week, which is important, but in figuring out who's going to get recruited to apply to and enter the court system, or to hold the court system accountable when challenging situations emerge?

So, do you want to share a little bit about, and, in the interest of time, I'm not sure we're going to get to all the different questions, do you want to say something here also about how you're promoting collaboration in a fragmented system,

which is so much a part of the work you've been doing with strategic planning. That would be really terrific as well.

John Bello:

Sure. Thank you, Susan. I think that one of the questions is: We're doing all this great work, so how do you make it sustainable, is the number one question.

So, knowing the importance of the work, we embedded that into our strategic planning process. And, you know, there are many reasons for that. One, it shows not only our staff but members of the public, our commitment to this work. But it also signals that, you know, we do care about this work. So, it is a great opportunity because you get not only input from outside stakeholders, but internal stakeholders on all levels of the organization as well. So, you're engaging folks to hear what it is that they're, you know, struggling with. And out of that, that helps inform our strategic plan. So, we have been very intentional about calling out diversity, equity, and inclusion within the plan, which we are on number three strategic plan 3.0. But within that as well, what we did was we included a review of our policies and procedures that could be having an adverse impact on people of color applying for jobs. We're looking at the requirements of the jobs. Some of them are very limited, and it calls for you, you know, you either have this degree or you're not in even for an interview.

We worked with HR to create a diversity recruitment plan, where we totally changed the way we do recruitment. Before you were given in a pool of candidates. You did the interview panel, and then at the end came the review where you are not in compliance with the policies and procedures that we have in place. So, there is a problem that we fixed by doing that review upfront. So, what we do is we ensure that the pool of candidates is diverse and that they represent the communities for which they are have been hired for. So, we look at the demographics. We look at the data. We give the hiring managers the compensation of their office, as well as the interview pool, and also, they need to get approval for an interview panel before they even begin the work. So, it also is accountability, it's transparency, and it ensures that everyone



gets a fair chance when it comes to the recruitment. And we are also in the process of reviewing all of our policies and procedures again just to ensure that we are not unintentionally disadvantaging the people of color.

Susan Sturm: Thank you, John.

And one of the things that I observed that was so exciting about what was happening in Massachusetts was bringing together the four of the leaders of a particular system—like the first justice, you know, the highest-level judicial officer court officer probation, and clerk—and having them work together on a regular basis and learn not only how to take, understand how races operating in the system day-to-day, but also to think about that strategically. And that kind of relationship building really made it possible to do the kind of strategic work that would really address race in the way that John and Chief Carey are talking about.

So, the idea is this is both about policy, about strategy, about capacity, and importantly about relationship building among people who don't have to talk to each other in terms of the existing accountability systems, they all report to somebody else, they all set up the same court system. So how do you get folks who are in a fragmented system to work together? And that is part of the culture change process that I've seen the trial court system undertake.

And I'll say one other thing and then turn it over to you, judge Mendelson, which is humility. A part of what I've heard both Chief Carey and John Bello say over and over again, and you've heard today is: Oh, this doesn't look so good, I'm not going to run from this, I'm going to embrace it and really own up to the challenges and then figure out how we do this differently.

And that sets up one of the challenges I know, Judge Mendelson, that you are struggling with is how do you create a zero-tolerance system that will also enable people to learn their way into doing this really hard work. So that and how do

you use data. There are all of these challenges that I know you have really begun to take on in a really serious way.

So, what are the core strategies, either, that you have already put in place, or that you're contemplating putting in place, to advance this ambitious and really important agenda?

Edwina Mendelson: So, thank you.

I'll say a few things. First of all, you know, to answer the original question about recognizing that this is not our first reckoning with racial justice in our courts. 30 years ago, we created the first of its kind statewide Commission focusing on race, racial justice in the courts, that was led by another amazing leader Franklin Williams. And 30 years later, Secretary Johnson issues a report that is strikingly similar to that issued by the Williams Commission 30 years ago, talking about what we need to do in terms of improving our court system in terms of race.

So, looking at this, having data as a baseline, collecting some of the data is now required by statute in terms of our judicial demographics, but some of it is not; we are voluntarily collecting data regarding our non-judicial demographics for our Court personnel, and having a baseline from which to compare how are we doing as we are throwing these various strategies and improving our court system in the racial justice space.

You know, I take with me to this work, or I bring with me to this work, something I learned when I lead the family courts in New York City, and that is a term called continuous quality improvement—the idea that you identify a problem, you get your data, you think about what might be a great intervention, you throw that intervention at that issue of concern, and you assess. But you're continuously assessing, you're not just doing one thing and then stopping. And if that that intervention doesn't result in what you're hoping for, you don't run away that's information that's data, and then you try something new.

I'm bringing that concept of continuous quality improvement and ongoing assessment to this work that I'm leading.

But we have two incredible entities, and there's a lot that makes this different this time—really knowing that this is not going to be one and done work; that we're not, a year from the issuance of the report, we may be coming out with a report, but it's not going to be a report that's put on a shelf. We are actively planning for the long haul and we don't have an end date to this work, because, quite frankly, we did not come to this place in our society overnight, and it's going to take some time we recognize to reach where we want to reach.

That first recommendation from Secretary Johnson was that there be a commitment from the top to address racial and ethnic fairness in our courts, and to implement zero tolerance for racial bias and discrimination in our courts.

Now that is, and, in reading that interview that you held with another professor about the both/and and the tension between zero-tolerance policies, Professor Sturm, and the concept of wanting people to have open, engaging conversations, and difficult conversations about race.

I can acknowledge that that is a beautiful question, and it is appropriate to identify that as an issue of concern, but we, in order to have the confidence of the people we serve within the Court and the Community we serve, we absolutely have to begin with that zero tolerance and ensure that our actions meet our words. When we say that we don't have a tolerance for racial discrimination and bias in our courts, we have to act accordingly.

And so when you know—I described earlier on the disturbing social media that was displayed of a depiction of President Obama being lynched, and Secretary Hillary Clinton being led to the gallows—that was on social media by an employee of the courts, that employee no longer works for the courts. We had a another, after a due process-driven process. And I have to stress that we're courts of law, so we can't react and

respond in a way that isn't filled with due process and we recognize that. But we are filled with due process, but we're acting swiftly and we're acting directly to issues of concern, because we have to set the standard, and we have to learn and become educated to allow for open conversations: courageous conversations, facilitated conversations in the appropriate settings with the experts helping us with this. But we have to learn how to do the Both/And.

But we are beginning with creating space for the Community to believe that we are serious about this work, because we are, because we've been here before, and people have to learn to trust us and believe in us.

Susan Sturm:

Thank you Judge Mendelson.

It's so powerful; you can have all of the dialogue in the world, but if there are no consequences attached to engaging in a way that is overtly racist, that dialogue will have a hollow ring to it and will not produce the kind of change. So, you're really highlighting something that I think is part of this work, is to think about how you move on multiple tracks simultaneously, how you sequence the work to create credibility and legitimacy before you or as part of trying to do the work of building the capacity to have these tough conversations.

So, I want to just pose one more question to the group - just maybe a quick response from each of you and then open this up, and you can start putting any questions or comments that you have in the chat.

I mean we talked about this as a dialogue. Among the three of you and I'm wondering, you know, either in terms of accountability or strategies, or promoting collaboration, what question or kind of best learning from your experience, thus far, would you have, for your peer in this other system right?

You have New York and Massachusetts, both of which have made these commitments. You've entered the process in both in similar and different ways, and you have a phenomenal

relationship that you've already developed. And so I'm wondering if you just have, you know, one pearl of wisdom or question, that you would love to engage with together if you can going forward. And in the meantime, we'll also open the dialogue up to any questions that that folks have from the zoom room, by putting your questions in the chat to ask a question.

John Bello:

So, Susan, I would like to answer the accountability piece because we have been very intentional about it. We created an office of workplace rights and compliance and that was to implement a new policy on harassment and discrimination.

We work with outside experts in the field, as well as internal cross, you know, a group that was composed of everyone in the organization, you know what's at the table.

And you know, the question of that debate of zero-tolerance—whether that policy covers members of the public and those working out of our courthouses—were very, very tough conversations to have. But we landed on a policy that is inclusive; it covers the court users, it covers those attorneys working out of courthouses, and anyone.

So, you know, we have made tough decisions based on that policy, and if that policy is violated, we will follow through with that just to ensure that everyone is getting the respect that they deserve, whether working out of our courthouses or, you know, doing any type of work, or being a court user, so just wanted to mention that.

Susan Sturm:

One of the things that I've really admired about that process that you're describing is that there's a real collaboration between the people who are doing the compliance-oriented work and the people who are dealing with your change work.

So, they've all been through this capacity building workshop together and there's real attention being paid by the people doing compliance work to the questions: what happens to a particular court or system when they're being investigated?

How do they continue to talk to each other when there is a concern? Because there has been a charge of discrimination, which is currently being investigated. What happens when that investigation is finished; how do you build that out? And when do you have a problem that is serious enough that it cannot only be addressed through dialogue, that really does require more than education and training that it requires some form of investigation, with the possibility of discipline?

So, I see those questions being very explicitly engaged, and without the idea that there's a single right answer, but that this has to be engaged by people who have the capacity and the commitment to figuring this out over the long run.

Paula Carey:

It's usually a follow up. It's a follow up you've got to do the investigation and as Judge Mendelson said, you know, you follow all with due process systems that are in place. But beyond that, you know, we often have to send someone in to have facilitated dialogue afterwards, because I agree with Judge Mendelson that there are certain instances that occur in our system. If it's overt, you know, if it's overt you know we do the investigation. If the findings support it, then you know, the person can't really work in our organization any further.

But you know, there's a nuance because there are other instances. And an example I'll give you is: An attorney of color, who was told by a court officer, you need to sit back and the public section, you can't sit where the members of the bar, lawyers sit.

Now I think there's a way, I would say there's a problem with, that the way in which that court officer acted. Is it a fireable offense? I don't know whether it rises to a fireable offense but certainly that attorney could file a complaint. But more importantly, I think we all could work together. What I've talked to the Bar about is that a colleague could say to the court officer, Officer Smith, you know, let me introduce you to my colleague, and you kind of diffuse the situation, a little bit.

But there needs to be a discussion about the assumptions that people make and those are difficult because those fester. They fester and they undermine the confidence of the people who work in our courts, the people who visit our courts. They undermine the, you know, public perception of our courts as being fair when people are subjected to those kinds of things, even though they might not rise to the level of a fireable offense.

Susan Sturm: Thank you Judge Carey.

Judge Mendelson, this is really up to you, but we did get a question in the chat which you can do or respond in any other way, which is: this is a lab environment; is there anything that you think or would love to experiment with implementing in New York that sounds like it's been successful in Massachusetts? Or anything else that you want to put out there as a question or comment.

Edwina Mendelson: So, one of my to-do list items is to quite frankly study more closely what Massachusetts has done. Massachusetts has issued their diversity reports, so leaving behind a legacy for us to study. So, I will answer that by indicating that I have absolute plans to learn from others who've been on this path, before me.

We are also engaging—here's a challenge you know, in terms of capacity, in terms of the leaders and everyone else—we are creating the structure for our courts, but we also recognize that implementation is local. There will be local, base by court or base by judicial district, community working groups to implement the Equal Justice in Courts initiatives.

So, while we're building this great framework, we're also recognizing that implementation is local. And I have met with so many people, mostly leaders, though, of organizations and bar associations and your judicial associations, and you know, we've had town hall meetings and we're going to have more public town hall meetings. But we need to get, I really want to be involved, and can't wait until we're at the point where we're

working with the folks on the ground who are doing the great work in our courts and beyond, and who are working in our communities that interface with our courts.

I throw out to you: how do we utilize law schools in our New York experience? Massachusetts is using them. You know, we have an expert, Professor Rachel Godsil from the Perception Institute, that has been helping to guide us. We're going to be using and applying for grants to use other experts. But I can't wait to hear from the various law schools, and not within the five minutes that we have now but know that you can reach out to me. Know that we know that we have a rich—I love that law students are on this call hearing us and talking about racial justice because while you're in school and when you graduate and become the lawyers that are impacting our systems, you will be primed to help us grow in this space as well. But how can we in the New York courts, as we implement equal justice, work with the law schools?

Susan Sturm:

That's such an important point, Judge Mendelson, and I will say that, and I think that Chief Carey and John Bello can speak to this, which is that law students have been involved in some of the research and the training work that that has gone into Massachusetts approach, the work with the capacity-building modules. We had a group of law students involved in that work, documenting the signature counter experience process, and also the work that the Harvard Law School study that Chief Gants commissioned involve both law faculty and law students. Folks at the NuLaw Lab at Northeastern, as well as MIT, and people at Stanford in the Design Institute, so there's so many ways in which, I'm just thinking about Massachusetts, has been involved with law schools and law students.

One of the other questions in the chat and then also give each of you a minute to just give some closing remarks. But just if you're interested, Chief Carey or John, which is: how has Massachusetts assessed that your effort is not only enabling people to feel respected, both people who are employed by the Court or court users, but also how it's affecting the outcomes of decisions that court users experience?



I'll give you each just a minute, maybe we'll start with Judge Mendelson, because I know you have an absolutely hard stop at.

Edwina Mendelson: So, I do, I have, I apologize for leaving you early, I do have a hard stop. I'm presenting at a noon program. So, thank you all for this.

My closing remarks are just going to be my sincere thanks and gratitude to you all for being willing to listen to us today and hopefully learn from us, today. We are just beginning in New York State and it's exciting, exciting work. My alarm telling me I need to sign off. It's exciting work that I am privileged to lead, and I know fully that we in the courts can't do this a little, it has to be courts and community. Thank you.

Susan Sturm: Thank you, Judge Mendelsohn. Chief Carey,

Paula Carey: I would just say an answer to the question: we do surveys, we gather our demographics, so we know whether we're meeting the mark, relative to employment, whether we are historically, well you know, whether our numbers are going up in terms of the number of individuals color to work for our court. We also do surveys of internally of our own employees, as well as external surveys. It's been, the externals have been a little bit difficult because of the pandemic, so we'll get back to. And then we compare it, you know, I think there were two or three years apart, our most recent surveys, and we did improve but we are certainly not done.

And what, my final closing remark is simply: thank you all for being here. This requires all of our collective efforts. It really, it can't be just one, it has to be the entire legal community.

For those of you who are law students, you know, we need your help, we need you to be part of this process, we need you to hold us accountable. We're open to being held accountable and again this is this couldn't be more important.

Susan Sturm: Thank you Chief Carey.

John Bello, would you give us the last word here.

John Bello: Yes, just briefly, I want to thank you all for your time and attention this afternoon, well late morning, and like the Chief indicated, I mean this work, never ends, it just continues. We have processes in place to ensure we're making progress, which is looking at data, but also concentrating on the, you know, the areas where we're having the most problem with because we could be diversified at the lowest level of the organization, but not necessarily mid management, and you know top jobs.

So, we're looking at that and looking at where we could troubleshoot. And the more we look into the data, the more we realize, we need law schools, because it begins there. That's where the pipeline into the judicial system begins, and we want to engage, and we want to hear from you to ensure that we're getting it right and that we are doing it the right way, to ensure that we get you in our doors.

So, with that, Susan, thank you for a wonderful conversation, and everyone who made this happen.

Susan Sturm: Thanks so much for, I would say, the inspiration, the incentive, and the innovation that I think we've heard modeled by our three speakers, and we look forward to continuing the conversation.

So, feel free to reach out to me if you have an interest in moving forward with any of these ideas that have been put forward.

And also to Judge Mendelson, to Chief Carey and John Bello, thank you so much for your participation and to the organizers for making this this session possible.