

# NATIONAL CONSORTIUM ON RACIAL AND ETHNIC FAIRNESS IN THE COURTS

## Report on the States: North Dakota

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The North Dakota Minority Justice Implementation Committee has been working since 2013 to implement recommendations of the Commission to Study Racial and Ethnic Bias in the Courts. The report presents some highlights of the Committee's work.

### **JURY STUDY**

North Dakota Courts implemented a long-term survey of minority representation in state and county jury lists. The survey began in April, 2014. If data shows disproportion, courts will expand the jury list sources. Data is due to become available in mid-2015.

### **EVIDENCE-BASED TOOLS**

The proportion of minorities incarcerated in North Dakota is substantially larger than the proportion of minorities arrested. The Commission recommended the use of evidence-based tools in decision-making to increase objectivity and help address disproportion rooted in unconscious bias, especially at sentencing and in pretrial stages. The Minority Justice Committee is supporting these efforts, primarily through data collection and analysis. One large county has initiated a pilot program to test an evidence-based sentencing tool. Committee members are monitoring the results of this project.

The Committee invited the court in another large county to initiate a pretrial pilot. However, this county was ultimately unable to participate. Legislation has been proposed for pretrial service pilot programs in three counties with evidence-based assessments provided by the state corrections officers.

### **DRIVING UNDER SUSPENSION PENALTIES**

The Race and Bias Commission study suggested that driving restrictions applied after periods of incarceration often interfere with former inmates' attempts to secure and maintain employment. Evidence indicated that the problem affects both minorities and non-minorities.

The Minority Justice Committee found that recent changes driving under suspension no longer disqualifies individuals for temporary restricted licenses. In addition, driving without insurance has been decriminalized, and does not disqualify a person for a temporary restricted license. These changes appear to be helping to keep former inmates driving and insured.

### **JUVENILE DETENTION TOOL**

The Race and Bias Commission recommended statewide adoption of a validated, objective juvenile detention tool. An assessment tool was implemented statewide in 2014. The instrument has not been validated, but administrators suggest that it provides useful guidance in decision-making. The initial objective is data collection. Minority Justice Committee discussions have focused on validation as a necessary step in the implementation process.

### **PROJECT PASSPORT**

The Minority Justice Committee brought together decision makers and stakeholders from state and tribal courts in an effort to fully implement PASSPORT. This effort led to a re-drafting of sections of the current state protection order to standardize format with the PASSPORT model form.

Prior to the Committee’s investigation, North Dakota lacked an automated method of forwarding protection orders to federal databases. As a result, few state orders became accessible to foreign jurisdictions. State IT subsequently developed a process to automatically forward orders.

The Minority Justice Committee identified a method to include tribal protection orders in the state system. Tribal orders may be registered with county clerks and subsequently passed to federal databases with state orders. State courts and the Spirit Lake Tribe are currently cooperating to implement this process and educate participants. Successful inclusion of Tribal orders in the new system depends on establishing Tribal contacts available to verify and complete information required for federal data requirements.

### **LIMITED-SCOPE AND SELF-REPRESENTATION**

The Race and Bias Commission study suggested that few attorneys offer limited-scope services and few resources are available for education and support. The Minority Justice Committee completed a survey assessing use and understanding of these services among attorneys and judges. The survey found that both groups possess basic knowledge, but confirmed that few attorneys offer limited-scope services because of concerns that judges will not respect limited-scope agreements. The Committee proposed clarifications to rules of court to help address concerns. These proposals are under consideration.

The North Dakota Legal Self-Help Center has developed a variety of forms and an informational web site. The project reports significant contact with minority groups in the state. The Committee has recommended the project increase information on Indian Law, Tribal courts, and limited-scope services.

### **EDUCATION PROGRAMS**

The Minority Justice Committee is cooperating with law school student organizations and the University of North Dakota Law School to develop an education program to encourage minority students to consider legal careers. This program will be provided at tribal colleges throughout the state.

### **MINORITY JUSTICE AND ACCESS TO JUSTICE COMMISSION**

The Minority Justice Committee recently voted to expand its focus to include access to justice as well as minority justice work. Members recognized extensive overlap between access to justice and minority justice issues in North Dakota, and that the Committee’s work has already encompassed many access to justice issues.

With approval from the North Dakota Supreme Court, the new “Minority Justice and Access to Justice Commission” will continue implementation of Race and Bias Commission recommendations and minority justice projects, in both civil and criminal systems. It will also expand its work to incorporate areas such as mental health courts and access to justice for the elderly.

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