



SUPREME COURT OF MISSOURI
COMMISSION ON RACIAL AND ETHNIC FAIRNESS
POST OFFICE BOX 104480
JEFFERSON CITY, MISSOURI 65110

May 15, 2021

National Consortium on Racial and Ethnic Fairness
Attn: Nikiesha Cosby, Association Manager
National Center for State Courts
300 Newport Avenue
Williamsburg, VA 23185
Submitted via [Link](#)

Re: Missouri CREF - 2021 State Report

Dear Ms. Cosby:

The Missouri Commission on Racial and Ethnic Fairness (CREF) is pleased to present a report of activities for the period of 2019 – 2021. The Supreme Court of Missouri chartered CREF in 2015 to examine and review current practices, and to recommend measures to ensure fairness, impartiality, equal access and full participation for racial and ethnic minorities in the judicial process and the practice of law.

Under the leadership of an Executive Committee, CREF is comprised of 72 commission members who serve on eight subcommittees relating to Civil Justice, Criminal Justice, Data Collection, Juvenile Justice, the Judicial System, Municipal Justice, the Practice of Law, and Public Engagement, as well as a newly established work group on Systemic Racism. The Commission has published detailed information about its history, activities, and accomplishments in the [2019 Annual Report to the Supreme Court of Missouri](#) and the [2020 Annual Report to the Supreme Court of Missouri](#).

This State Report provides a summary of the Commission's activities and relevant legal developments in Missouri for the period of 2019 – 2021, as organized by the topical areas of continuing interest to Consortium members and conference attendees.

Access to Justice in the Courts

- CREF established a work group to address issues of Systemic Racism, which is defined as “bias or prejudice in an organizational structure where the everyday policies, practices, procedures, and norms have a cumulative adverse effect on certain racial and ethnic populations, without regard for whether the disparate treatment is intentional.” The group works collaboratively with CREF subcommittees, educators, diversity experts, law firms and legal organizations to collect data and recommend institutional changes that will combat systemic racism.
- CREF conducted a virtual training session for Commission members on *Confronting Systemic Racism in Missouri Courts*. The session was recorded and made available to attorneys statewide for continuing legal education (CLE) and elimination of bias credit. Three moderated CLE sessions have been held with good attendance and post-session evaluations.
- Statewide efforts are underway to hold municipal divisions to uniform standards for which there is annual reporting. Municipal divisions are also being brought onto the statewide case management system to facilitate the tracking of case filings and related data.

Civil Justice

- The Supreme Court adopted anti-bias jury instructions for civil cases, based on CREF’s recommendation. The instructions must be read before jury selection and reread as part of the final instructions to the empaneled jury before deliberations.
- The Civil Justice Subcommittee is developing a jury instruction video on implicit bias. The 10-minute video features a diverse group of appellate judges, including the Chief Justice of the Supreme Court of Missouri, explaining how unconscious bias can adversely affect jury deliberations and decision-making. The video will be made available to all state trial courts for use during juror orientation.
- The Civil Justice Subcommittee has recommended changes to the civil eyewitness jury instructions. The proposed changes are currently being studied by a research team at the University of Missouri and are the subject of an application for grant funding on the effectiveness of such jury instructions.

Criminal and Juvenile Justice

- The Supreme Court adopted anti-bias jury instructions for criminal cases, based on CREF’s recommendation. The instructions must be given before jury

selection and must be included with the instructions that accompany the jury into deliberations.

- State funding appropriations are in process to support a new law raising the age of adult prosecution from 17 years old to 18 years old. The funding will clarify that the new law is effective and resourced, thereby eliminating confusion that has resulted in the inconsistent handling of charges involving 17-year old youths.
- Based on recommendations from the Juvenile Justice Subcommittee, CREF is considering rules to require Miranda warnings for juveniles and policy guidelines for the admissibility of statements made by juveniles in custody.
- The Juvenile Justice Subcommittee is studying a best practice model to address the school to prison pipeline.

Judicial and Staff Education, Training and Professional Development

- The Supreme Court revised its CLE rules to include an annual minimum requirement of one credit hour devoted to cultural competence, diversity, inclusion, or implicit bias. This CLE requirement was recommended by CREF.
- CREF supported the publication of a demographic study and report on *Diversity and Inclusion in the Missouri Judiciary*. The report provides statistical data and analytical summaries regarding the gender, race/ethnicity, and age of state judicial employees. As a baseline study, the report will be used by the Judicial Subcommittee to assess disparities, make recommendations, and gauge future efforts to increase diversity in the workforce.
- The Judicial Subcommittee is considering proposals to recommend mandatory annual bias training for court personnel.

Supporting Diverse and Inclusive Juries

- CREF supported efforts to obtain a grant awarded by the State Justice Institute for a master jury list project to study best practices and sources for obtaining diverse jury pool in Missouri courts. The grant-funded project is currently underway.
- CREF supported draft legislation that would lower the minimum age of a juror from 21 to 18 years, and remove impediments to the availability of appropriate government records for use in compiling master jury lists.

Collaborative Partnerships and Emerging Issues

- The Supreme Court authorized CREF to conduct a statewide study of racial bias in the courts through a collaborative partnership with the law firm of Shook Hardy & Bacon and Missouri State University. The six-month study is now proceeding with quantitative and qualitative data collection and will result in a report with recommendations to address disparities resulting from implicit and explicit bias. This study is the first phase of CREF's ongoing assessment of racial equity with the goal of eliminating systemic racism in Missouri courts.
- The Data Subcommittee is evaluating the types of demographic data that should be accessible in the statewide case management system and how to make such data available. The Subcommittee has recommended a pilot to collect civil case data much like that collected in criminal cases and will assess legal impediments to data availability.

Community Outreach and Public Engagement

- The Practice of Law Subcommittee conducted a series of roundtable sessions in Kansas City and St. Louis to identify diversity and inclusion issues affecting attorneys in large law firms and legal organizations. Recommendations from the sessions included requirements for an additional 1-2 hours of CLE credit for diversity, inclusion, or implicit bias training (beyond the current requirement for 1-hour of such training). The Subcommittee is also preparing a survey of attorneys regarding diversity, bias, and retention in the legal profession.
- The Civil Justice and Municipal Justice Subcommittees conducted a listening session in Ferguson, Missouri to discuss community concerns about racial and ethnic fairness in the civil and municipal courts.

CREF is excited to participate in the 2021 NCREF Conference and will be represented by the following Commission members and collaborators: Chief Justice George Draper III, Judge Lisa Hardwick, Professor Mikah Thompson, Judge Susan Block, and Professor Jennifer LaPrade. We look forward to sharing our experiences and learning about the activities and accomplishments of other states, tribal courts, and member commissions.

Sincerely,



Lisa White Hardwick
Co-Chair, Missouri Commission on Racial and Ethnic Fairness
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