



THE NEBRASKA MINORITY JUSTICE COMMITTEE

# PROGRESS REPORT 2011

— *EQUAL JUSTICE BEFORE THE COURTS* —





# History and Mission

The Nebraska Minority Justice Committee (MJC) is a unique statewide collaboration that works to develop and implement just and sustainable policy reforms that will not only improve the system of justice but will also strengthen public trust and confidence in our laws and court system. The Committee is a joint effort of the Nebraska State Bar Association and the Nebraska Supreme Court, appointed by the Supreme Court in May of 2003 in response to a Task Force's two-year investigation of racial and ethnic fairness in Nebraska's court system.

The mission of the Committee is to achieve three primary aims:

- address racial disparities in both the juvenile and adult justice systems
- ensure equal access to justice
- increase the diversity of Nebraska's judicial workforces and legal profession

The Committee is pleased to share these brief descriptions of the progress it made in 2011.

## Recognizing our 2011 Diversity Partners

### **Job Shadowing Program**

- Creighton Law School
- Jackson Lewis, LLP
- Koley Jessen
- Kutak Rock
- Omaha Public Schools Foundation

### **Diversity Summit**

- Baird Holm, LLP
- Baylor Evnen
- Cline Williams Wright Johnson & Oldfather, LLP
- ConAgra Foods Inc.
- Creighton University School of Law
- Fraser Stryker, PC LLO
- Stinson Morrison Hecker, LLP

### **LSAT Prep Scholarship**

- Cline Williams Wright Johnson & Oldfather, LLP
- Dean Marianne Culhane
- Marsha Fangemeyer
- Jackson Lewis LLP
- Koley Jessen PC LLO
- Legal Aid of Nebraska
- Timothy Matas

# Diversity in the Legal Profession and Court System

## LSAT Prep Scholarship Program

In an effort to promote a diverse legal profession, the MJC together with the Nebraska Lawyers Foundation, established a LSAT Prep Scholarship Program. The program provides a scholarship for a Kaplan LSAT Prep Course and covers the costs of registering for the LSAT exam. To be eligible for a LSAT Prep Scholarship, applicants must reside in Nebraska, demonstrate economic need, and be a racial/ethnic minority. To date, 34 LSAT Prep Scholarships have been awarded. On average, students experience a 7-point difference between their first practice exam and their final LSAT score. To donate to the LSAT Prep Scholarship Fund or to apply for a scholarship visit: [www.nelegaldiversity.org](http://www.nelegaldiversity.org) for more information.

## Job Shadowing Program

The Job Shadowing Program was established to provide high school students from diverse backgrounds with information about different careers in the law and the steps to take to become an attorney. The experience provides an inside look at the work of attorneys in firms and organizations—firms often give tours of their facilities or local courthouse and have lunch with the students. Since established in 2009, more than 300 students have participated in the program with the support and participation of a number of attorneys, law firms and judges.

## Legal Diversity Summit

In September of 2011, the MJC hosted its 7th Annual Legal Diversity Summit, bringing together law students of color from the region, individuals interested in attending law school, and Nebraska's legal community for a unique day of education, networking and professional development. In addition to a keynote address by Law School Admissions Council Chair and UN College of Law Professor Steven Willborn, the event offered several continuing legal education programs, and informational sessions for individuals considering law school.

## 2011 Diversity Awards

The MJC established the Nebraska State Bar Association Diversity Award to recognize outstanding efforts made by firms, organizations or individual attorneys in promoting diversity in the legal profession in the state of Nebraska. The 2011 Law Firm Recipient was Fraser Stryker PC LLO, for the establishment and success of its Diversity Scholarship Program, which provides tuition assistance and internships to college-bound students from diverse and low income backgrounds, who are interested in a career in the law. The Individual Recipient was Douglas County Juvenile Court Judge Vernon Daniels, nominated by the Midlands Bar Association for his long standing dedication to mentoring and supporting individuals historically underrepresented in the legal profession in pursuing legal education/careers.



Diversity Committee members Sherman Willis and Isaiah Wilson congratulate 2011 LSAT Prep scholarship recipients.



2011 job shadowing participants at Koley Jessen.



Pictured above from left: Bob Rossiter and Brian Bartels, Fraser Stryker PC LLO, the Honorable Vernon Daniels, Douglas County Separate Juvenile Court, and Sherman Willis, Chair of the MJC's Diversity Subcommittee.

# Criminal and Juvenile Justice

## Pro Se Forms for Sealing Juvenile Court Records

Presumably, once a sentence has been served, an individual has paid their debt to society. Yet the collateral consequences of a conviction and even a juvenile court adjudication are significant and can affect a youth for decades to come, inhibiting opportunities to obtain employment, federal student loans, public benefits, eligibility for military service, and the ability to obtain licensures, etc. Because minority youth are disproportionately represented in the juvenile justice system, they disproportionately suffer the collateral consequences of adjudications and convictions. In an effort to reduce these collateral consequences, the Committee worked on legislative changes in 2010 that allowed for the automatic sealing of certain juvenile court records. In 2011, the Committee, worked with the Nebraska Supreme Court's Committee on Implementation of Assistance to Pro Se Litigants to develop forms to allow people representing themselves to request that their juvenile court record be sealed.

For more information visit: <http://www.supremecourt.ne.gov/self-help/file-motion-seal-juvenile-rec.html>

## Immigration Consequences of Criminal Convictions

In 2010, the United States Supreme Court issued its momentous Sixth Amendment right to counsel decision in *Padilla v. Kentucky*, 559 U.S. (2010). The Court held that, in light of the severity of deportation and the reality that immigration consequences of criminal convictions are inextricably linked to the criminal proceedings, the Sixth Amendment requires defense counsel to provide affirmative, competent advice to a noncitizen defendants regarding the immigration consequences of a guilty plea, and, absent such advice, a noncitizen may raise a claim of ineffective assistance of counsel. Immigration law is a highly specialized area of the law. There are very few immigration attorneys in Nebraska, and few criminal defense attorneys in Nebraska that have the necessary expertise to properly analyze cases for immigration consequences. The MJC together with the Lancaster County Public Defender's Office obtained grant funding to provide free statewide training and resources to criminal defense attorneys on the immigration consequences of criminal convictions. In 2011, trainings, provided by Professor Kevin Ruser, were held in Fairbury, Papillion, Fremont, North Platte, Grand Island, Scottsbluff, and Lincoln. In 2012 trainings will take place in Columbus (August 8), Broken Bow (April 13), Norfolk (June 20), Kearney (March 1) and Omaha at the NSBA Annual Meeting (October 19). Registration for all the 2012 seminars, except for October 19, is available on the Nebraska State Bar Association website: <http://www.nebar.com/>



## Joint Ad-Hoc Committee on Court Appointments

Since 2003, the MJC has examined and made recommendations regarding the quality and delivery of indigent defense services in Nebraska (various reports are available online at: <http://www.nebar.com/>). Based on research provided by the MJC, the Nebraska State Bar Association and the Nebraska Supreme Court established a Joint Ad-Hoc Committee on Court Appointments in November 2011. The Committee is charged with developing rules establishing an objective, transparent and systematic process for court appointments, ensuring effective counsel for those unable to afford an attorney.

## National Juvenile Defender Center Training

In 2011, the MJC partnered with the National Juvenile Defender Center and the Nebraska Criminal Defense Attorneys Association to provide training on the unique characteristics of adolescents in both juvenile or adult court, and how to represent them effectively. After an overview of brain development research, the training focused on competency to assist counsel, competency to waive constitutional rights, various uses of the culpability principles expounded by the U.S. Supreme Court in *Roper and Graham*, and effective arguments in transfer hearings and at sentencing and/or disposition. In 2012, the MJC will partner with the National Juvenile Defender Center to provide training to defense attorneys on advocating for alternatives to juvenile detention.

# Access to Justice

## Impact of Legislation on Nebraska's Jury Compilation Process

State law had provided that master jury lists were comprised by combining the lists of registered voters and registered drivers in Nebraska. There had been anecdotal concerns that because minorities may be less likely to be registered to vote and less likely to be licensed to drive, the current source lists may not effectively achieve a representative master list. A study conducted by the Minority Justice Committee confirmed these perceptions. Based on an examination of nearly 70,000 juror qualification forms from eight of Nebraska's most diverse counties, data indicate that racial and ethnic minorities were significantly underrepresented in the pools of potential jurors. In response to the study in 2009, LB 35 added state identification card holders as a source list for compiling juries.

In 2011, the MJC released a report measuring the extent to which adding state identification card holders as a juror source list has resulted in juries that are more representative of the communities that they serve. Data indicates that the legislative change significantly reduced racial disparities in both the initial and eligible pools of jurors in Nebraska's three most populous counties (Douglas, Lancaster, and Sarpy). Other counties have also seen substantial positive impacts (but not at a statistically significant level). Despite these improvements, Nebraska's Latino population remains underrepresented in the eligible pools of jurors, and this disparity will continue to be examined. The report is available on the Nebraska State Bar Association website: <http://www.nebar.com/>



## Community Outreach on Juror Education

In 2011, the Latino American Commission traveled across the state of Nebraska, providing community outreach and education to more than 80 community leaders and 200 community members. In response to the MJC's research indicating that Latinos are significantly underrepresented in Nebraska's initial and eligible juror pools, the Latino American Commission elected to provide information during these visits on the importance of jury service among Latino populations.

## Perceptions of Fairness: Measuring Change from 2002-2010

In 2010, the MJC re-administered the surveys it sent to attorneys, judges, court personnel and probation officers during the original Task Force study in 2002. Survey data indicated significant improvements in the provision of language interpreter services, and the availability and quality of education for the Judicial Branch regarding cultural competence. Perceptions regarding the overall fairness of the court system have also improved from 2002 to 2010. The assessment has also provided guidance to the MJC on future areas of examination. For example, there is a strong perception that judges do not release minority defendants on their own recognizance as often as they do white defendants—signaling the need for renewed attention to examining pretrial risk assessments/the bond determination process. Reports are forthcoming on the Nebraska State Bar Association's website: <http://www.nebar.com/>



# National Consortium on Racial and Ethnic Fairness in the Courts

The National Consortium for Racial and Ethnic Fairness in the Courts has selected Omaha as the site for its 24th Annual Meeting. The National Consortium brings together thought leaders and delegates of state justice systems from around the country to share their collective knowledge about best practices within their court systems for achieving fairness and access to justice for all. The 2012 conference will take place at the Hilton Hotel in Omaha on May 9-12, 2012. This is the first time the conference has been hosted in the Midwest, presenting a new opportunity to engage Nebraskans and our neighboring states in addressing these issues. With decades of experience in examining and addressing issues of racial and ethnic fairness in the courts, one of the greatest benefits to conference participants is the Consortium's ability to provide access to experts and information on current activities and reforms taking place across the country. The educational programming for the conference will address a myriad of issues regarding racial and ethnic fairness in Nebraska's justice system including. Register today on the Nebraska State Bar Association's website: [www.nebar.com](http://www.nebar.com)



## 24TH ANNUAL CONFERENCE OF THE

## National Consortium on Racial and Ethnic Fairness in the Courts

WEDNESDAY, MAY 9, 2012 - SATURDAY, MAY 12, 2012

HILTON HOTEL - OMAHA, NEBRASKA

### PLENARY & LUNCHEON SESSIONS

- Unfinished Business: Racial Equality and American History - *Michael Klarman*
- Implicit Bias and the Justice System - *Jeff Rachilinski*
- American Swastika: Inside the White Power Movement's Hidden Space of Hate - *Pete Simi*
- Chief Standing Bear's Journey for Justice - *Joe Starita*

### Addressing Language Barriers

- Coerced Confessions: Bilingual Police Interrogations - *Susan Berk-Seligson*
- Effectively Using Court Interpreters - *Laura Garcia-Hein*
- Language Access Assessment & Planning - *Department of Justice*

### Diversity and Cultural Competence

- Reviewing Applicants: Research on Bias and Assumptions - *Eve Fine*
- Beyond Diversity into Inclusion - *Arin Reeves*
- The Next IQ: Intelligence for 21st Century Leaders - *Arin Reeves*
- Refugee Populations and the Courts - *Mary Willis & Anne Hobbs*
- Panel on State and Tribal Court Collaborations

### Racial Fairness

- Task Force on Domestic Violence and Indian Women - *Department of Justice*
- Race and Reducing Failure to Appear - *UN Public Policy Center*
- ABA Racial Justice Improvement Project - *Panel*
- Hot Spot Policing: How Law Enforcement Uses Data to Define Target Areas - *Panel*
- Juvenile Detention Alternative Initiative (JDAI) - *Casey Foundation*
- Strangers in a Strange Land: Immigration & the Law - *Panel*
- Equal Justice Initiative: Illegal Discrimination in Jury Selection - *Brian Stevenson*

### Building Capacity

- Navigating the Grant Writing Maze - *Monica Miles-Steffens & Toni Ahrendt*
- Framing and Messaging Racial Justice Initiatives - *Opportunity Agenda*
- Report of the States: Innovations and Lessons Learned

**REGISTER AT [WWW.NEBAR.COM](http://WWW.NEBAR.COM)**



## Members of the Minority Justice Committee

### Co-Chairs:

Linda Crump, Equity, Access & Diversity Programs UNL  
Hon. John Gerrard, Nebraska Supreme Court

### Committee:

Daphne Aronson, Kutak Rock	Dean Susan Poser, University of Nebraska College of Law
Hon. Edna Atkins, Douglas County Court	Tom Riley, Douglas County Public Defender
Valorie Bendixen, Clerk of the District Court for Hall County	Harold Rock, Attorney at Law
Judy Beutler, Administrative Office of the Courts	Mohummed Sadden, Attorney at Law
Riko Bishop, Attorney at Law	Susan Sapp, Attorney at Law
Ellen Fabian Brokofsky, State Probation Administrator	Jane Schoenike, Nebraska State Bar Association
Dean Marianne Culhane, Creighton University School of Law	Lt. Col. Tom Schwarten, Nebraska State Patrol
Hon. Vernon Daniels, Separate Juvenile Court Douglas County	Anna Williams Shavers, University of Nebraska College of Law
Judi gaiashkibos, Nebraska Commission on Indian Affairs	Shawntal Smith, Attorney at Law
Becky Gould, Nebraska Appleseed	José Soto, Southeast Community College
John Grant, Attorney at Law	Lazaro Spindola, Latino American Commission
Anne Hobbs, Juvenile Justice Institute	Hon. Robert Steinke, Platte County District Court
Hon. John Irwin, Nebraska Court of Appeals	David Stickman, Federal Public Defender
Dennis Keefe, Lancaster County Public Defender	Hon. Ross Stoffer, Madison County Court
Don Kleine, Douglas County Attorney	Kimberley Taylor Riley, Attorney at Law
Kate Mahern, Milton Abrahams Legal Clinic	Alan Tomkins, NU Public Policy Center
Monica Miles-Steffens, Nebraska Crime Commission	Terry Waite, Attorney at Law
Andrea Miller, Attorney at Law	Janice Walker, State Court Administrator
Carlos Monzón, Attorney at Law	Thomas Warren, Urban League of Nebraska
Dave Pantos, Legal Aid of Nebraska	Linda Willard, Nebraska Attorney Generals Office
	Sherman Willis, Attorney at Law
	Mark Young, Hall County Attorney

### Staff:

Liz Neeley

— Equal Justice Before the Courts —

## Support the Nebraska Minority Justice Committee

The MJC is supported in part by the Nebraska Lawyers Foundation.  
To support the future efforts of the MJC, please make a tax deductible contribution to  
the Nebraska Lawyers Foundation today!

The Nebraska Lawyers Foundation  
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**NEBRASKA**  
*State Bar Association*