



# **Racial and Social Equity Workgroup Report and Recommendations**

Adopted November 2023

**Notice of Disclaimer:**

The Michigan Supreme Court established the Michigan Judicial Council by MCR 8.128 to make recommendations on matters pertinent to the administration of justice and the strategic plan of the Michigan judicial branch. The opinions and recommendations contained in this document are those of the Michigan Judicial Council and do not necessarily represent the official position or policies of the Michigan Supreme Court or State Court Administrative Office.

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## Letter From the Chair

*Dear Colleagues,*

Similarly situated people are not having the same experience in our court system. Race matters. Social identities and class matter. Racial and social inequities are systemic barriers to justice for all, and the Michigan Judicial Council is committed to actions that result in change. Justice is for all.

I want to thank my workgroup members for having, the honest, open and difficult conversations about the experiences of people of color, Native Americans, people who cannot afford attorneys, and other marginalized groups and disenfranchised people. Your diverse perspectives and experiences have been invaluable in shaping our understanding. I appreciate the vulnerability, humility, and respect that you have all demonstrated as we shared our thoughts, even during moments of awkward silence.

Data, and lack of data, has played a crucial role in our work. It helps to identify gaps and frame the recommendations for improving and expanding racial and social equity trainings and educational opportunities for judges and judicial branch employees. Data helps ensure that we have a solid foundation on which to do the work and the measurements to gauge our impact and performance.

The recommendations put forth by our workgroup primarily focus on three areas: awareness, action, and accountability. Action does not happen absent awareness and is meaningless if not measured and reported.

When our justice system addresses long-standing disparities and takes actions to eliminate disparate treatment and assure equity in fairness for all people, public trust and confidence increase and justice works as designed. Justice for all can be more than an ideal. It can become a reality.

Zenell B. Brown, Chair  
MJC – Training and Education on Race and Social Equity Workgroup

## Letter From the Michigan Judicial Council's Project Manager

Dear Colleagues,

A primary way to mitigate social and racial inequities is through education. Education enhances judicial thinking and perspectives. This report only begins the process to expand and recommend improvements in education regarding racial and social inequities. Our justice goal is a justice system without bias. Although this goal may be difficult to achieve, it provides a process of trying to attain a bias free system. This report is fluid, and it is intended to be a living document.

This workgroup's report aims to advance the awareness and understanding of different backgrounds, cultures, ages, races, genders, physical conditions, and beliefs. There is a considerable overlap with the other workgroups, especially procedural due process and workforce excellence. This awareness and understanding will help assure fairness for the public and create a better work environment. By raising awareness and respect through education, inclusive behaviors occur, and systemic change happens. This workgroup supports the work of the Diversity, Equity and Inclusion (DEI) Commission and will continue to collaborate with the Commission to bolster and enhance diversity, inclusion and equity in the Judicial System. We further support the DEI Commission's examination of what systemic change are necessary to make equality under the law enduring.

The members of this workgroup were collaborative, diverse, caring, compassionate and passionate. It has been a rewarding experience for me to be a part of this workgroup and to see the concern members expressed for the public good and the Court employees. We know that public trust increases when court users see Judges and staff reflecting upon the communities which we serve. That was clearly the message this workgroup's members brought to the table, even though the narrow focus was on education.

I want to thank our leader, Zenell Brown for her amazing insights, along with the supportive work of the Councils and Commissions team at the SCAO, especially Troy Evans. John Nizol of MJJ was helpful in outlining current educational opportunities at MJJ and receptive to adding new trainings. Finally, we want to thank the DEI Commission and their co-chairs Supreme Court Justice Elizabeth Welch and Michigan Court of Appeals Judge Cynthia Stephens(ret.) for their input and participation.

Judge Susan Dobrich(ret)  
MJC - Project Manager

## Executive Summary

The Michigan Judicial Council (MJC) is committed to addressing long-standing disparities throughout the judicial system and taking actions that will eliminate disparate treatment and ensure equity and fairness for all people. In its initial Strategic Agenda, the MJC prioritized racial and social equity as a strategic goal. To advance this goal, the MJC charged the Racial and Social Equity Workgroup with developing recommendations on education and training for judges and all employees of the judicial branch “to ensure all people who interact with the judicial system will be treated equitably and with dignity and respect.” Improving and expanding training and educational opportunities to judges and judicial employees is one way to help ensure the system works for all people.

The topic of race and social justice is not new for the judiciary. Access to justice and due process are familiar terms and are the frameworks in which race and social equity may be addressed. The recommendations from the Workgroup will help achieve meaningful data driven action and include the following:

### Recommendations

1. Ensure proper and consistent training to cultivate a more equitable and fair justice system.
2. The Michigan Judicial Institute should function as the provider for the racial and social equity training curriculum.
3. Develop a robust talent pipeline for early intervention and capturing interest in working within the judiciary.
4. SCAO should create a repository for resources to consolidate information and make it easily accessible.

## Introduction

The Michigan Supreme Court took a critical and impressive step in establishing the Michigan Judicial Council (MJC) to examine the Michigan judicial system, identify areas that need improvement, and create a strategic plan to facilitate the systemic change necessary to improve meaningful access to justice. The Michigan Judicial Council then took the critical step in establishing racial and social equity as the third strategic goal of the [2022 to 2025 Michigan Strategic Agenda](#). Progress on this strategic goal is necessary to ensure meaningful access to justice, to enhance public trust in the judiciary, and to ensure court users experience fair and impartial administration of justice.

The MJC has charged the Racial and Social Equity Workgroup (“Workgroup”) with reviewing existing educational resources and making recommendations to increase awareness and foster understanding of issues related to social and racial inequity within the judicial system.

The task of developing a robust curriculum that identifies the needs of individuals from varying backgrounds is complex and requires careful consideration. It is also challenging to create curriculum that remains relevant as the makeup of communities changes over time. We, therefore, create this report as a living document with the commitment to ongoing review that incorporates the change and growth of communities, engagement with marginalized communities, improved understandings of marginalized communities, and staying apprised of newly published information or other educational rationales that offer support to creating an equitable and just judicial branch. Diversity, Equity, and Inclusion (DEI) is often referred to as a journey. As such, the frequent revisiting of recommendations, policies, and strategies in this living document is the foundational commitment of the Michigan Judicial Council to achieving racial and social equity for all court users, recognizing that “all” changes over time.

The workgroup’s recommendations in this report are based on months of research, discussion, and collaboration, but are in no way exhaustive of available information regarding these topics. The workgroup navigated topics with the objective of providing a baseline from which training opportunities may continue to expand.

### **Strategic Goal 3 Racial and Social Equity**

*“The Michigan Judicial Branch will work to eliminate racial and social inequities across the entire justice system, including from initial contact, while cases are pending, and as people exit the system. All people, especially people of color and disenfranchised and marginalized groups, will have similar experiences; they will experience a justice system that is free from bias, equitable, consistent, and predictable.”*

- Michigan Judicial Council  
2023-2025 Strategic Agenda

## Racial and Social Equity Workgroup Activities

The MJC charged the Race and Social Equity Workgroup (“Workgroup”) with reviewing existing educational resources and making recommendations for new and current judicial officers, court administrators, and court personnel in order to increase awareness and foster understanding of issues related to social and racial inequity within the judicial system.<sup>1</sup>

The first step towards meeting our goals was to better understand the current racial and social equity training offerings within our judicial system. Specifically, the Workgroup focused on identifying opportunities that are currently available to determine the needs, resources, and strategies to assist with increasing awareness and understanding.

The Workgroup reviewed both Michigan-based and national resources available to judicial officers. Given the multitude of general organizations and practice-focused organizations, the Workgroup specifically focused on the State Bar of Michigan, Michigan Judicial Institute, National Judicial College, the National Association of Court Administration, and the American Bar Association in its discussions.

Examining the current landscape of racial and social justice training has allowed the committee to identify existing training and gaps in that training. It also has allowed the committee to engage with representatives from several organizations and attend programs that are well positioned to be leaders, partners, and collaborators on developing and implementing trainings for new judges, experienced judges, court administrators, and court personnel on these topics.<sup>2</sup>

## The Current State of Michigan’s Racial and Social Equity Training for Judicial Officers

What individual judges do in their individual courtrooms matters, but the collective actions of court system personnel have an even greater impact on defining the culture of justice, as well as court users’ perceptions and actual experiences within the judicial system. Training and upskilling of the workforce is an omnipresent and ongoing discussion throughout the judiciary as evidenced by the creation of the MJC Workforce Excellence Group, the work of the [Justice for All Training and Outreach Committee](#), and the Michigan Supreme Court’s [recent implementation](#) of mandatory judicial education.<sup>3</sup> Racial and social equity are necessary components of these training strategies.

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<sup>1</sup> Michigan Judicial Council, *2022-2023 Operational Plan*, <https://www.courts.michigan.gov/4a73c8/siteassets/reports/special-initiatives/mjc-strategic-agenda-flipbook/02-2022-2023-mjc-op-plan-final.pdf>

<sup>2</sup> The examination is not exhaustive due to the limitation of time and resources and should be continued and even more methodically structured going forward as discussed in the recommendations section.

<sup>3</sup> [Administrative Order No. 2021-7](#), Adoption of a Mandatory Continuing Judicial Education Program.



There are many reasons why DEI training is important for all judges, administrators and staff. On the administrative side, training assists in increasing diversity and inclusion in hiring so that members of the court and staff are reflective of the community. Leadership hires magistrates, referees and judicial hearing officers. DEI training helps build better relationships, creates better communication, builds empathy and fosters an open work environment. Judges, referees, and hearing officers serve the public more effectively with training. Public trust is enhanced when the public perceives that the treatment in court is fair. An understanding of implicit bias, systemic racism, historical trauma and judicial communication is critical to providing a hearing that is fair and is also perceived as fair and impartial. Assessing the current training offerings provides context as to what is currently available and identifies opportunities for improvements.

## Michigan Judicial Institute (MJl)

The [Michigan Judicial Institute](https://www.courts.michigan.gov/administration/offices/michigan-judicial-institute/about/) (MJl) was created in 1977 by the Michigan Supreme Court with the mission of providing judges and court personnel with resources and training opportunities to develop and enhance their professional skills.<sup>4</sup> Organizationally, MJl is the training division of the State Court Administrative Office.

MJl's training activities include mandatory training for newly elected and appointed judges. MJl shared its current curriculum for New Judges Training with the Workgroup for review. Instruction at New Judges Training is delivered by judges, State Court Administrative Office staff, private attorneys, as well as various state agency representatives, law school professors, and private consultants. The training is organized into three phases: transition to judgeship, details on assigned dockets, and special topics.

**Phase one** is directed at guiding new judges through their transition into their judgeships and emphasizes judicial ethics. Phase one is a hybrid on-demand and virtual live program. The live portion is entitled "Ask Me Anything" in which the newly elected and appointed judges are able to ask an experienced judge questions on any topic.

**Phase two** is a five-day program that includes plenary sessions specific to the judges' docket assignments: Probate, District, Circuit, and Family.

**Phase three** is a two day in-person program with various 1-hour special topic sessions, which include:

- Human Resources Primer for the New Judge
- Tribal Law & State Courts: Working Together Benefits Our Shared Citizens & Communities
- Child Care Fund

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<sup>4</sup> <https://www.courts.michigan.gov/administration/offices/michigan-judicial-institute/about/>

- The Michigan Legal Help Program & Self-Represented Litigants
- Prison Sentencing: Avoiding Common Missteps in Sentencing Orders
- Language Access in the Courts (LEP)
- Employing the Tenets of Procedural Fairness
- Sign Language Interpreters in the Courtroom: Proper Procedures and Best Practices
- An Introduction to Substance Use Disorders and Mental Health Concerns in Parties Appearing Before the Court
- Responding to Individuals Who have Substance Use Disorders and Mental Health Challenges
- Addressing Bias in Judicial Proceedings

Beyond the New Judges training, MJJ has webinars and in-person training sessions that address racial and social equity. Recent trainings have included a webinar on the Elliott-Larsen Civil Rights Act and the current state of LGBTQIA+ issues. MJJ also has courses related to managing diversity and cultural competency, which it is incorporating into its online learning management system.

As newly elected and appointed judges are required to attend New Judges Training, MJJ can introduce racial and social justice education early in judges' careers. MJJ offers learning opportunities designed to meet the changing professional needs of all those responsible for the administration of justice in Michigan. MJJ is a key player in designing and implementing racial and social justice training for not only new judges, but for experienced judges, court administrators, and court personnel.

## State Bar of Michigan

The State Bar of Michigan does not offer trainings specifically for new judges, but as members of the State Bar, all judges are afforded opportunities to attend trainings. Training opportunities have included implicit bias trainings directly through the State Bar, as well as through sections of the bar, such as the Alternative Dispute Resolution Section, Young Lawyers Section, and Indian Law Section.

In addition to training opportunities, the State Bar offers a multitude of resources related to diversity and inclusion. On the State Bar's website, Diversity and Inclusion has a [landing page](#) with resources. Among those resources are the Diversity Pledge and the work of the Diversity and Inclusion Advisory Committee (DIAC). The jurisdiction of the DIAC is to support the diversity goals of the SBM Strategic Plan by:<sup>5</sup>

- Identifying strategies to promote a diverse and inclusive voice in all State Bar of Michigan work and communications.

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<sup>5</sup> Diversity & Inclusion Advisory Committee, <https://www.michbar.org/generalinfo/diversityinclusion>

- Recommending practices, tools and strategies to advance diversity and inclusion at the SBM staff level, section and committee levels, and throughout the justice system.
- Encouraging examination of the status of diversity and inclusion efforts of Michigan law firms, courts, and law schools.
- Suggesting methods for celebrating successful diversity and inclusion efforts.
- Identifying the need for any workgroups to support the jurisdiction of the committee.
- Identifying possible collaborations to support the committee's jurisdiction.

The State Bar and DIAC can collaborate to offer needed racial and social equity training. With the experience of convening the affinity and specialty bars, coordinating and delivering pipeline projects with local organizations and working with national organizations like the National Association of Women Judges, the State Bar DIAC can support and promote racial and social equity training for judges and lawyers.

## The National Judicial College

The [National Judicial College](#) (NJC) is the national leader in judicial education and offers trainings to a wide variety of judges at all stages of their judicial careers. The NJC has even developed a [Judicial Academy](#) for lawyers who aspire to become judges.

The NJC has offerings and resources that specifically address racial and social justice and equity. In 2022, the NJC debuted “The Anti-Racist Courtroom: Theory & Practice.” The four-day course, held in Memphis, Tennessee, “taught not only how to identify sources of systemic bias within the judiciary but [offered] concrete, actionable steps to combat it. The curriculum included history, experiential learning, cognitive science, and psychological and sociological research.”<sup>6</sup> The course has been marketed to judges, court administrators and lawyers. The 2023 Course will be held in Montgomery, Alabama. One entire day of the course will take place at the Equal Justice Initiative Museum and Memorial. Participants will also visit Selma, Alabama.

As racial and social equity continue to be at the forefront of justice, NJC continues to move forward on these important issues. In October 2022, the NJC announced<sup>7</sup> that it received a \$1 million dollar grant to support a program aimed at addressing racial disparities in youth incarceration. The NJC launched programs to educate the judiciary about best practices for alternative sentencing of youth offenders and mentoring.

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<sup>6</sup> National Judicial College, *Annual Report to Stakeholders 2022*, p5, available at [https://www.judges.org/wp-content/uploads/2023/07/NJC-AR\\_2022.pdf](https://www.judges.org/wp-content/uploads/2023/07/NJC-AR_2022.pdf)

<sup>7</sup> National Judicial College, *The National Judicial Council receives \$1 million grant from Walmart Foundation to address racial disparities in youth incarceration* (October 12, 2022), available at <https://www.judges.org/news-and-info/the-national-judicial-college-receives-1-million-grant-from-walmart-foundation-to-address-racial-disparities-in-youth-incarceration/>

## National Center for State Courts (NCSC)

The [National Center for State Courts](#) (NCSC) describes itself as an organization that has shared authoritative knowledge and expertise to address current and emerging issues and trends in state court administration. NCSC’s mission today—promoting the rule of law and improving the administration of justice in state courts and courts around the world—springs logically from its original purpose to gather information and produce innovations to benefit all courts.

In addressing organizational needs, the NCSC reaches new and experienced judges, administrative leaders, and court personnel through their partnerships with the Conference of Chief Justices, Conference of State Court Administrators, and the NCSC Institute for Court Management (ICM).<sup>8</sup> The NCSC has been in existence for over 50 years. Racial justice is one of NCSC’s [areas of expertise](#) in which it provides consulting services and resources for courts. These resources include reports, toolkits, plans, and webinars to assist courts with implementing change through education, community engagement, data and analysis, leadership and governance, and court services.

In 2020, the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) adopted a resolution<sup>9</sup> urging courts to address racial bias within the justice system and to reaffirm their commitment to exploring the systemic changes required to ensure impartiality and lasting equality under the law. In 2021, the NCSC launched the [Blueprint for Racial Justice](#) in response to this resolution. The Blueprint for Racial Justice examines the systemic changes needed to make equal justice under the law a reality for all people. The Blueprint has created a collection of policies, webinars, bench cards and other resources designed to assist state court leaders with local racial justice, equity and inclusion efforts. The Blueprint currently has four workgroups: Fairness and Awareness; Systemic Change; Increasing Diversity of the Bench, Bar, and Workforce; and Communications and Implementation. Each workgroup is tasked with generating resources and tools for court leaders, which are housed at the NCSC's Racial Justice Resource Center.<sup>10</sup> The Resource Center also offers judges, trainings regarding the various Blueprint for Racial Justice focus areas and provides valuable information to judges and administrators, such as the NCSC “Trends in State Courts 2022” and “Action Steps To Eliminate Racism and Bias in the Courts.”.

NCSC also has an interactive web-based [Racial Justice Organizational Assessment Tool for Courts](#) that enables courts to assess how well they are providing justice to their communities. The interactive tool is free, anonymous to use, and produces a customized report with guidance tailored to the court.

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<sup>8</sup> <https://www.ncsc.org/education-and-careers/institute-for-court-management>

<sup>9</sup> [https://ccj.ncsc.org/\\_data/assets/pdf\\_file/0017/51191/Resolution-1-In-Support-of-Racial-Equality-and-Justice-for-All.pdf](https://ccj.ncsc.org/_data/assets/pdf_file/0017/51191/Resolution-1-In-Support-of-Racial-Equality-and-Justice-for-All.pdf)

<sup>10</sup> <https://www.ncsc.org/consulting-and-research/areas-of-expertise/racial-justice/resources>

In addition, NCSC has also developed “Just Horizons.” This tool helps courts think about their future by assessing six identified areas, which include:<sup>11</sup>

- Using a forward-looking, anticipatory capacity in court governance
- Focusing on user-centered experience and inclusive design
- Embracing a data-driven mindset
- Understanding the role of private entities in court work
- Preparing for emergencies
- Cultivating a future-ready workforce and workplace

These topics align with advancing racial and social equity within the judicial system. NCSC can be a resource for the Michigan Supreme Court or individual courts focusing on institutional and systemic changes needed to promote racial and social equity.

## **National Association for Court Management (NACM)**

The National Association for Court Management (NACM) is the world’s foremost association of court management professionals, boasting a diverse membership encompassing all court levels and types. NACM seeks to cultivate and enhance leadership of court managers within the judicial system. The organization is dedicated to enhancing court management both domestically in the United States and internationally. NACM activities span from educational initiatives and networking to strategic planning for the future.

At NACM's 2023 Conference, the organization unveiled and promoted its Diversity, Equity and Inclusion (DEI) Guide.<sup>12</sup> The NACM guide aims to assist court leaders, and everyone involved in the justice system in recognizing and gaining a deeper understanding of DEI. The guide offers multiple strategies for actively addressing these challenges and opportunities and provides a foundational set of resources for continuous improvement.

## **Other Local and Online Training Opportunities**

In assessing the current state of racial and social equity training for new judges and the judiciary, the Workgroup conducted a review of offerings outside of the judiciary. The Workgroup focused their research on trainings and certifications for DEI trainers since these would influence the market on what ultimately makes its way to individual and organizational consumers. The private and educational sectors offered trainings on various topics, in different formats and lengths, with varying curricula and costs. Implicit bias training emerged as the most common and foundational training for many programs. By starting with implicit bias training, participants learn that humans all have biases. Biases become problematic when they are unknown or denied and when they influence decisions and behaviors. Implicit bias trainings aim to increase awareness and

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<sup>11</sup> <https://www.ncsc.org/newsroom/at-the-center/2023/just-horizons-initiative-enables-future-ready-courts>

<sup>12</sup> National Association for Court Management, *Diversity, Equity, and Inclusion (DEI) Guide*, [https://nacmnet.org/wp-content/uploads/NACM-2023-DEI-Guide\\_Online.pdf](https://nacmnet.org/wp-content/uploads/NACM-2023-DEI-Guide_Online.pdf)

provide participants with tools to disrupt implicit bias. The effectiveness of training is measured by participants' ability to translate "aha moments" into meaningful changes in their behaviors. The Academy to Innovate Human Resources has recognized several DEI certification programs which offer various training opportunities regarding implicit bias, emotional intelligence, and inclusive leadership.<sup>13</sup>

## Measuring the Impact of Training & Education

Measuring the increase in awareness and the degree of changed perspectives among participants are important to determine if the sessions are effective. Unfortunately, the Workgroup was unable to identify a tool that currently measures judge or judicial staff's progress on racial and social equity. However, the Workgroup identified the [SCAO Public Satisfaction Survey](#) as a potential tool to help quantitatively and qualitatively measure racial and social equity progress.

## Recommendations that Impact Judges, Court Administrators, and Court Personnel

The Workgroup acknowledges that the recommendations below may overlap with the work of the Commission on Diversity, Equity, and Inclusion in Michigan's Judiciary (DEI Commission), which was established after this workgroup received its charge and began the process of formulating its recommendations. The Workgroup recommends that the MJC defer to the DEI Commission to take the lead in addressing any future initiatives related to these recommendations.

### 1. **Ensure proper and consistent training to cultivate a more equitable and fair justice system.**

One cannot adequately serve the public if they do not know or understand the reality faced by members of the public experience on a daily basis. We recommend training on the suggested topics below as an attempt to bridge the gap between court personnel and the individuals who access the justice system, whether that be with the bench, management, probation officers, clerks, or other staff who interact with the public on a regular basis.

#### a. **Implicit Bias**

Everyone has some sort of conscious or subconscious bias, with the latter often referred to as implicit bias. Biases are not limited to ethnicity and race but can exist toward any group; it is a way of thinking, categorizing, and predicting behaviors of various social groups. The committee, a diverse group of individuals that represent and intersect with many identities, recognizes that an introductory DEI topic will be helpful to promote a shared understanding as staff begin their individual and shared

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<sup>13</sup> Academy to Innovate HR, *8 Best Diversity & Inclusion Certifications of 2023*, <https://www.aihr.com/blog/best-diversity-and-inclusion-certifications/>

journeys into prioritizing racial and social equity in the Michigan justice system. The Workgroup suggests researching scientific studies regarding best training practices for combatting implicit bias and other DEI-related issues.

Another popular tool used to examine one's bias is Harvard's Implicit Association Test (IAT),<sup>14</sup> which demonstrates that regardless of intent, even the most altruistic of individuals have bias. Again, to be human is to have biases. The goal is for individuals to make conscious efforts not to let these biases direct our behaviors.

**b. Racial and Social Equity / DEI Leadership**

Importantly, all those in leadership positions must lead by example by participating in trainings. Specific training for leadership will aid in understanding their responsibilities for actively promoting racial and social equity/DEI within the workplace. Active engagement by leadership can occur in a variety of ways that are meaningful to the specific community. This includes educational opportunities for learning about marginalized communities in the workplace, creating meeting formats that fit the communication needs of staff, or other strategies developed through DEI leadership training. The Workgroup recommends the SCAO develop a training in partnership with the Commission on Diversity Equity and Inclusion in Michigan's Judiciary that is mandatory for all Chief Judges within the Michigan Court System. The training also can be revised and used for other leadership positions.

**c. Systemic Racism**

The motivation to change is challenging if an underlying problem is not clearly identified in the first place. Systemic racism, also known as institutional racism, affects outcomes and opportunities of non-white populations through historical and proven practices.<sup>15</sup> Because of both deliberate and unintentional policies and practices, biases exist and persist over time which affect institutional structures, societal structures, individual mental structures, and everyday interaction patterns.<sup>16</sup> As a result, education efforts should start with a history of systemic racism.

**d. Historical Trauma**

Historical trauma is multigenerational trauma experienced by a specific cultural, racial or ethnic group. It is related to major events that oppressed

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<sup>14</sup> <https://implicit.harvard.edu/implicit/takeatest.html>

<sup>15</sup> Banaji MR, Fiske ST, Massey DS, *Systemic racism: individuals and interactions, institutions, and society*. Cognitive Research: Principles and Implications. (2021), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8688641/>

<sup>16</sup> Id.

a particular group of people because of their status, such as slavery, the Holocaust, forced migration, and the violent colonization of Native Americans. While many in such a group experience no effects of the historical trauma, others experience poor overall physical and behavioral health, including low self-esteem, depression, self-destructive behavior, anti-social behavior, substance misuse and addiction, and high rates of suicide and cardiovascular disease. Parents' experience of trauma may disrupt typical parenting skills and contribute to behavioral problems in children. Compounding this familial or intergenerational trauma, historical trauma often involves the additional challenge of a damaged cultural identity.<sup>17</sup>

While closely related to systemic racism, understanding historical trauma generally and the specific historical trauma of marginalized populations within a community will ensure that courts provide proper resources and responses to those it serves. Training of both judges and staff about the history of specific populations within a court's service area should be a priority. Free resources offering historical trauma information are abundant. For example, the University of Minnesota Extension has a video series, "Historical trauma and cultural healing" with discussion questions provided at: <https://extension.umn.edu/trauma-and-healing/historical-trauma-and-cultural-healing>.

**e. Domestic Violence, Sexual Assault, Stalking, and Human Trafficking.**

The Workgroup affirms the importance of training every person working within the justice system about domestic violence, sexual assault, stalking, and human trafficking. These trainings are crucial for all personnel in the Michigan Justice System within the context of racial and social equity.

First, some marginalized communities experience these particularly traumatizing crimes at rates much higher than mainstream populations. "LGBT people are nearly four times more likely than non-LGBTQIA+ people to experience violent victimization, including rape, sexual assault, and aggravated or simple assault, according to a new study by the Williams Institute at UCLA School of Law. In addition, LGBTQIA+ people are more likely to experience violence both by someone well-known to the victim and at the hands of a stranger."<sup>18</sup> Understanding how victimization arises in court proceedings or in interactions with court system staff and

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<sup>17</sup> Administration for Children and Families, *Trauma*, <https://www.acf.hhs.gov/trauma-toolkit/trauma-concept#:~:text=Historical%20trauma%20is%20multigenerational%20trauma,violet%20colonization%20of%20Native%20Americans>

<sup>18</sup> A. Flores, L. Langton, I. Meyer, A. Romero, *Victimization rates and traits of sexual and gender minorities in US-Results from the National Crime Victimization Survey, 2017*, available at <https://www.science.org/doi/pdf/10.1126/sciadv.aba6910>



how to interact with victims so that, at minimum, further trauma is not unintentionally caused, underlies racial and social equity goals.

Second, in recent years, significant criminal justice reforms were passed, and multiple initiatives were enacted or are in the process of being enacted that place policies regarding the safety and wellbeing of victims, witnesses, jurors, and justice system personnel, in the discretion of the presiding judge. There is currently no mandatory training on these topics, with the exception of the MJI New Judges Seminar Agenda containing one session on domestic violence. Without trainings on human trafficking, judges may unintentionally place victims at greater risk or even facilitate a person continuing to endure the horrors of human trafficking.<sup>19</sup>

**f. Communication.**

We should all have a clear understanding of what we mean when certain words are used, and the implications that arise from the use of certain terminology. Quick references of what not to say are essential on the bench and for staff. Appropriate alternatives should be provided as a tool to not only use for effective communication, but for educational growth. Communication training should include tactics on how to apologize or correct language when one unintentionally offends someone. Sensitivity to vocabulary for the different demographics our courts serve is imperative to create an environment of inclusivity.

**g. Integrity and demeanor.**

The Michigan Code of Judicial Conduct, Canon 1, states a judge “should personally observe, high standards of conduct so that the integrity and independence of the judiciary may be preserved.” The Model Code of Conduct for Michigan Trial Court Employees, Canon 1, states, “I will avoid activities that could cause an adverse reflection on my position or the court.”<sup>20</sup> While the canons cover judicial conduct, all court staff must be educated on and mindful of these obligations to ensure the sanctity of the justice system.

**h. Microaggressions.**

The Cleveland Clinic’s Office of Diversity and Inclusion, defines the standard definition of microaggression as “a verbal or nonverbal slight that impacts an individual who might identify as being from a marginalized or

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<sup>19</sup> National Institute of Justice, *The Research Report: Violence Against American Indian and Alaska Native Women and Men* (2016), available at <https://nij.ojp.gov/topics/articles/violence-against-american-indian-and-alaska-native-women-and-men>

<sup>20</sup> Model Code of Conduct for Trial Court Employees, <https://www.courts.michigan.gov/49bae0/siteassets/offices/mji/resources-for-trial-court-staff/model-code-of-conduct-court-employee-social-media2.pdf>

nonmainstream community.”<sup>21</sup> It is critical that judges and court personnel are aware of the magnitude of their actions and the immense impact that even the smallest of comments or gestures can have on a person. Often, microaggressions occur when an individual believes they are paying someone a compliment. Regardless of the intention, awareness of this practice is vital to continue to break down stereotypes and baseless categorizations. Impact matters more than intent. If someone feels stigmatized by the action of someone else, regardless of intent, then it needs to be addressed, explored, and corrected.

**i. Creating an inclusive culture.**

The goal in recommending additional curriculum topics for the judiciary is to create an inclusive culture based on sound practices. The topics listed in this subsection are not exhaustive and other subcategories can be incorporated given the vastness of DEI work. Importantly, there must be a commitment to continued education, self and group introspection, solicitation of input, and application of principles and practices that ensure employees are comfortable not only speaking up, but knowing they will be heard.

**j. Hiring practices**

There is a myriad of ways to create an excellent workplace culture. Implementing effective hiring practices that ensure representation reflective of the jurisdiction the court serves is critical. In addition to a representative staff, having a diverse employee group is more likely to result in creative solutions to various issues that may arise. There are specific, data driven techniques that can be adopted to eliminate bias in the hiring process. These may include standardized processes, objective hiring criteria, neutral language in job descriptions, blind evaluation of resumes, involving a diverse set of people in the hiring process, and structured interviews with the use of scorecards.<sup>22</sup> Knowledge and use of these techniques can contribute to a diverse staff, which then enhances and improves the culture.

## **2. The Michigan Judicial Institute should implement and provide the racial and social equity training curriculum.**

The Michigan Judicial Institute (MJl) is well-suited to offer specialized training programs tailored to the distinct needs of judges and court personnel. Judges

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<sup>21</sup> Cleveland Clinic, *What are Microaggressions?* (2022), <https://health.clevelandclinic.org/what-are-microaggressions-and-examples/>

<sup>22</sup> Holzwarth, *How to Actually Hire for Diversity*, Forbes (Feb 18, 2021), <https://www.forbes.com/sites/alineholzwarth/2021/02/18/how-to-actually-hire-for-diversity/?sh=7d41cd8746f9>

can expect to participate in training sessions designed specifically for their roles, while court personnel should have their own set of training courses catering to their unique responsibilities. However, all trainings should integrate DEI related principles into the curriculum. Furthermore, this Workgroup will collaborate with MJJ to suggest a range of training topics, adapting to evolving needs as they arise over time.

### **3. Develop a robust talent pipeline for early intervention and capturing interest in working within the judiciary.**

The public does not know a lot about courts unless the judicial branch informs them. In addition to general educational lessons, the courts should market themselves to younger generations and other diverse populations to attract future employees, whether that be a judge, attorney, or clerk. Events such as judges visiting local elementary and middle schools to attending a variety of community activities can ensure court visibility. The exposure to the public may generate interest in our youth and attract a diverse range of individuals to explore a profession in the judicial branch. Various court representatives can appear at conferences, association meetings, extracurricular gatherings, and otherwise engage with different neighborhoods. A toolkit can be developed and provided to judges and administrators to guide and encourage this type of interaction with the public in their communities. The Workgroup acknowledges the alignment of this recommendation with the objectives of the Commission on Diversity, Equity, and Inclusion in Michigan's Judiciary (DEI Commission) and anticipates a convergence of efforts.

The Workgroup notes that individuals from marginalized communities may feel a greater sense of pressure to participate in racial and social equity initiatives, especially if they are the only one on staff who identifies with a marginalized community. To address the concern of having a disproportionate sense of responsibility, whether self-imposed, imposed by circumstance, or imposed by a supervisor, leadership must recognize that the obligation to ensure we effectively and fairly serve our communities rests with everyone – not just those in marginalized communities -- and that systemic change work is time-consuming. Leadership should be mindful and intentional about the requests made to employees who are from marginalized communities to take on this work and create incentives to encourage participation in these efforts.

### **4. SCAO should create a repository for resources to consolidate information and make it easily accessible.**

The SCAO should create a directory for training materials, literature, webinars, in-person trainings, toolkits, sample forms, marketing templates, and all other items that may assist a court with its DEI training journey. The repository can be a living document that is added to and edited with the most recent and updated information. A central point of information that is retrievable, useful, and clear will

assist courts with increasing their knowledge and understanding of DEI concepts and impact. This recommendation aligns with the DEI Commission's strategic recommendations. The Workgroup anticipates this recommendation, and those outlined above, will be advanced by the DEI Commission.

## Conclusion

Racial and social equity are significant issues that the judiciary must address. While Michigan has been a leader in many initiatives<sup>23</sup> that directly implicate fairness in our courts, the Michigan judiciary is poised now to work with intentionality to incorporate DEI-related training for judicial officers. The Michigan Supreme Court recently implemented compulsory ongoing legal judicial education, which presents a great opportunity to integrate the recommended topics.

As local and national organizations continue their work on these issues, there is an opportunity to access their resources, collaborate, learn from their experiences, and implement best practices. The Workgroup sees great potential and remains optimistic that the judiciary will seize opportunities to use training as a strategy to further racial and social equity. The Workgroup envisions new judges' training as a starting point, with the ultimate goal of expanding training to every judge, court administrator, and staff member.

Fostering a more equitable and fair justice system in Michigan is of critical importance and the recommendations put forward by the committee Workgroup represent a significant step towards achieving that goal.

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<sup>23</sup> The Michigan Supreme Court has numerous special initiatives all aimed at enhancing the judicial experience. These initiatives include the Justice for All Commission, Jail and Pretrial Reform, and the Commission on Well-Being in the Law. See more details at <https://www.courts.michigan.gov/administration/special-initiatives/>

## Workgroup Members

Zenell Brown	Chair, 3rd Circuit Court Administrator (ret.)
Hon. Stuart Black	Court of Appeals
JDee Brooks	Midland County Prosecuting Attorney
Tamara Brubaker-Salcedo	Member of the Public
Hon. Demetria Brue	36 <sup>th</sup> District Court, Wayne County
Gregory Conyers	State Bar of Michigan
Marilena David	State Appellate Defenders Office
Hon. Halel Farhat	3rd Circuit Court, Wayne County
Hon. Kameshia Gant	6th Circuit Court, Oakland County
Hon. Cheryl Hill	Marquette County Probate Court
Hon. James Maceroni	16 <sup>th</sup> Circuit Court, Macomb County
Hon. Herman Marable	67 <sup>th</sup> District Court, Genesee County
John Nizol	Michigan Judicial Institute Director
Hon. Melissa Pope	Nottawaseppi Huron Band of the Potawatomi Tribal Court
Paul Shkreli	Attorney
Tanya Todd	61 <sup>st</sup> District Court Administrator
Daniel Voss	Attorney