



**WORKING GROUP ON RACIAL EQUITY
IN NEW YORK STATE COURTS**

**PROGRESS REPORT AND RECOMMENDATIONS:
CREATING LASTING REFORM IN THE WAKE OF
SECRETARY JEH JOHNSON'S EQUAL JUSTICE REPORT**

July 2023

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK
42 West 44th Street, New York, NY 10036
212.382.6600 | www.nycbar.org

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FOREWORD

FROM THE PRESIDENT

I am so honored to be serving as President of the New York City Bar Association during this time of significant and often challenging change, both in the legal profession and beyond.

This year marks three years since COVID-19 first darkened our doors; three years since the murder of George Floyd and widespread protests demanding racial justice and an end to police violence against people of color; three years since the release of a seminal report commissioned by former Chief Judge Janet DiFiore – the *Report from the Special Advisor on Equal Justice in the New York State Courts* (Equal Justice report)*; and three years since a presidential election that brought unprecedented threats to the rule of law and electoral safeguards, culminating in the January 6 insurrection at the Capitol.

When my term as City Bar President started in May 2022, I was pleased to see that our committees continued to monitor and advocate for necessary changes in all of these areas, including the need to be vigilant in protecting the rule of law and in reckoning with the racial, social and economic inequities caused by long-standing systemic racism in our institutions and so achingly laid bare by the COVID-19 pandemic. As I began my presidency, I came to learn that several of our court-related committees had come together in 2020 to form a Working Group on Racial Equity in New York State Courts and that working group members had provided oral and written input to Secretary Jeh Johnson as he completed his Equal Justice report and crafted his recommendations to the Unified Court System (UCS). Our working group members were—and continue to be—focused primarily on the experiences of people living in poverty and working-class litigants in New York City’s high-volume Housing, Civil, Criminal and Family Courts, and ways UCS could address systemic inequities and end what Secretary Johnson called a “second-class system of justice for people of color” in those courts.

When the Equal Justice report was released in October 2020, the working group determined that it would like to play a productive and contributing partnership role in the complex and challenging process that would be undertaken by UCS to implement Secretary Johnson’s recommendations. Over the course of two years, the group organized and engaged in several stakeholder meetings and proposed collaborations and solutions to address racial and economic inequities and improve the litigant experience in New York City’s courts. They reviewed UCS’s annual reporting regarding steps taken to implement Secretary Johnson’s recommendations** and continued to investigate and propose ways they believed they could be helpful in bringing about change.

In the fall of 2022, the working group began work on this report, with the aim of releasing an update on their activities and their best assessment of what had been done—and what remains

* <https://www.nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf>

** Equal Justice in the New York State Courts, 2022 Year in Review (“2022 Year in Review”), <https://www.nycourts.gov/LegacyPDFS/publications/22-Equal-Justice-Review.pdf>

to be done—in order to implement fully both Secretary Johnson’s recommendations and additional recommendations made by the working group and other stakeholders. While acknowledging where progress has been made, including, for example, court-wide anti-bias training for all personnel and a new juror video addressing implicit bias, the report details areas where further progress, collaboration and transparency would be beneficial and why they believe an Independent Monitor, as recommended by Secretary Johnson, would be a significant asset.

I will leave it to the report to provide further details, but there are a few things I would like to highlight here. First, I want to extend our appreciation and thanks to the court leaders who have met with the working group, who have reviewed this report and provided feedback, and who have met with me personally to discuss how we can continue to collaborate to achieve our shared goals: Hon. Tamiko Amaker, (Former) Acting Chief Administrative Judge; Administrative Judge, NYC Criminal Court; Hon. Anne-Marie Jolly, Administrative Judge, NYC Family Court; Hon. Deborah Kaplan, Deputy Chief Administrative Judge for the New York City Courts; Hon. Edwina G. Richardson-Mendelson, Deputy Chief Administrative Judge for Justice Initiatives; Hon. Richard Rivera, Co-Chair, Franklin H. Williams Judicial Commission; Acting Supreme Court Justice, Albany County, and Supervising Judge of the Family Court, Third Judicial District; Hon. Shirley Troutman, (Former) Co-Chair, Franklin H. Williams Judicial Commission; Associate Justice of the Court of Appeals; Hon. Troy K. Webber, Co-Chair, Franklin H. Williams Judicial Commission; Associate Justice of the Appellate Division, First Department; Brian Balmes, Deputy Chief of Staff to Hon. Deborah Kaplan; Randy Bowens, Statewide Equal Justice Coordinator; Joan Levenson, Special Counsel to Hon. Deborah Kaplan; Rosemary Martinez-Borges, Deputy Chief of Staff, Office for Justice Initiatives; Mary Lynn Nicolas-Brewster, Executive Director, Franklin H. Williams Judicial Commission; Kay-Ann Porter Campbell, Managing Inspector General for Bias Matters; Michelle Smith, Chief of Staff, Office for Justice Initiatives; Sherrill Spatz, Inspector General; and S. Anthony Walters, Director, Office of Diversity and Inclusion. I have found these meetings to be informative and helpful and serve to underscore our shared goal to improve racial equity in the courts. It is my hope that together we can address these issues and act on the many good ideas raised during these meetings.

Second, I would like to thank the founding chair of the working group, Vidya Pappachan (now Justice Pappachan), the current co-chairs of the working group, Rene Kathawala and Ron Richter, and all the members of the working group and its constituent committees for their incredibly hard work and their devotion to the court system and their clients.

Finally, I would like to thank Secretary Jeh Johnson for his comprehensive and forward-looking Equal Justice report. It remains a clarion call to all of us.



Susan J. Kohlmann
President, New York City Bar Association

July 2023



NEW YORK CITY BAR ASSOCIATION WORKING GROUP ON RACIAL EQUITY IN NY STATE COURTS

I. MISSION STATEMENT

The New York City Bar Association (“City Bar”) has created an inter-committee Working Group, housed within its Council on Judicial Administration, to address racial (in)equality in the New York State courts. The formation of this Working Group is a direct follow-up to the City Bar’s comment letter providing the City Bar’s input and recommendations to Secretary Jeh Johnson in September 2020, and his Equal Justice in the New York State Courts report published on October 1, 2020. City Bar members are dedicated to working towards improving our court system and eliminating racial bias at all levels by:

1. Allowing for continued discussions with, and feedback to, officials tasked with implementing the recommendations of Secretary Johnson’s report;
2. Advocating for transparency, collaboration, and accountability on the part of all stakeholders involved with implementing Secretary Johnson’s recommendations;
3. Listening and responding to the experiences and concerns of litigants during conversations and correspondence with stakeholders;
4. Coordinating and facilitating discussions amongst City Bar members about racial injustice and bias, and engaging the City Bar as an active stakeholder in ensuring that Secretary Johnson’s recommendations are implemented; and
5. Providing the courts with access to resources and possible *pro bono* services to help achieve our shared interest in eliminating systemic racism and inequality from the New York Court System.

The formation of this group is an important and necessary next step to ensure progress towards meaningful change that will improve our courts. City Bar members have a diverse set of perspectives and experiences that will provide valuable input towards achieving the goals outlined in the Equal Justice report. We welcome the opportunity for transparent, honest, and respectful

About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has over 23,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.

conversations and will offer resources, potential solutions,¹ and continued feedback and support in this collaborative effort.

II. OVERVIEW

New York State Courts, particularly New York City’s high-volume courts such as Housing Court, Civil Court, Family Court, and Criminal Court, are emblematic of long-standing inequities and systemic discrimination. At the time of the Working Group’s inception, the legal system was facing a pivotal moment in its history.² The City Bar has undertaken its own widespread efforts to examine areas in need of immediate action through interviews with hundreds of practitioners and court personnel, and comparative conversations with affinity bar associations and organizational leaders. Racial inequity in the New York State Courts is a prevalent, decades-long problem. Specifically, in 1988, then-Chief Judge Sol Wachtler appointed the New York State Judicial Commission on Minorities. That Commission issued a report that traced what it said was a long pattern by New York court officials of ignoring warnings about racial bias. Thirty-two years later, spurred on by the death of George Floyd, then-Chief Judge Janet DiFiore announced an “independent review of the New York State court system’s response to issues of institutional racism.” Secretary Johnson’s October 2020 report followed, calling out—as “not new”—“a second-class system of justice for people of color in New York State.”³ In May 2021, Chief Judge DiFiore said, “There is no greater priority for the court system than the implementation of the Special Adviser’s recommendations.”⁴

Discussions among City Bar members have highlighted widespread concerns regarding

¹ See *infra*, pp. 11–14 for a comprehensive list of the City Bar’s recommendations in this regard, to date.

² The Working Group focuses this report and its work on the high-volume courts that formed the basis of Secretary Johnson’s report. As detailed in his report: “But, in one form or another, multiple interviewees from all perspectives still complain about an under-resourced, overburdened New York State court system, the dehumanizing effect it has on litigants, and the disparate impact of all this on people of color. Housing, Family, Civil, and Criminal courts of New York City, in particular, continue to be faced with extremely high volumes of cases, fewer resources to hear those cases and aging facilities. Over and over, we heard about the ‘dehumanizing’ and ‘demeaning cattle-call culture’ in these high-volume courts. At the same time, the overwhelming majority of the civil or criminal litigants in the Housing, Family, Civil, and Criminal courts in New York City are people of color. The sad picture that emerges is, in effect, a second-class system of justice for people of color in New York State. This is not new.” See Report from the Special Adviser on Equal Justice in New York State Courts, Oct. 2020, at 2–3, <https://www.nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf>. As a result, this report intentionally does not address the system of justice administered in the Supreme Courts in New York State, the primary trial court, and does not address any race equity issues being contemplated or administered there, except the mandatory bias training, case management training, and other trainings and programs that have been implemented throughout the entire court system.

³ *Id.*

⁴ See <https://ww2.nycourts.gov/press/archive.shtml#2020> for UCS press releases.

racial inequity and passion for taking steps towards improvement. The staunch commitment of City Bar members led to forming the Working Group on Racial Equity in New York State Courts. The goals of the Working Group are to (1) assist stakeholders in improving diversity, equity, and inclusion among staff in state courts, (2) promote cultural and racial awareness in courts where litigants and defendants are composed heavily of low-income and working-class populations, and (3) provide support to implement initiatives that increase accountability and transparency to shed light on whether existing and newly implemented policies are being carried out in the courts.

III. TAKEAWAYS FROM 2021–2022 DISCUSSIONS WITH UCS STAKEHOLDERS

In March 2021, the Working Group began a series of meetings and collaborative discussions with leaders of the court system.

Our conversations with stakeholders in the Unified Court System (“UCS”) underscored the many challenges ahead, while we explored avenues to assist with implementing and reviewing planned initiatives.

As members of this Working Group, we have drawn upon our lived experiences and expertise to provide insight into key areas of improvement. It is palpably clear that collective action combined with continued conversations to amplify both the progress and remaining work to be done are necessary in order to assure lasting, transparent and accountable change.

The Working Group’s preliminary efforts focused on gathering information from primary stakeholders in UCS through meetings with the Office for Justice Initiatives, the Franklin H. Williams Commission, the Inspector General’s Office, and the Office of Diversity and Inclusion. Engagement in these conversations allowed Working Group members to formulate and suggest ideas for collaboration and improvement.

The foundational step in engaging in these discussions was a meeting with Judge Edwina Richardson-Mendelson, who, as of March 2023, leads the Office for Justice Initiatives. In March 2021, Working Group members invited Judge Richardson-Mendelson to speak with Working Group members and the Council on Judicial Administration about planned initiatives in light of Secretary Johnson’s recommendations. Judge Richardson-Mendelson explained the many plans ahead. She indicated that larger systemic change would be a slow, complex process that would take years of effort and dedication. She further explained that these initiatives require engagement with town and village courts in addition to the Supreme Court, while stating that a large part of implementation included community outreach.⁵

The Office for Justice Initiatives planned to increase mandatory and continuous bias training in different formats and to retain outside experts for assistance. At the time, Judge

⁵ This meeting was around the same time that Judge Richardson-Mendelson released her Message on Equal Justice, April 16, 2021, which outlined plans for moving forward with implementation of Secretary Johnson’s recommendations. See <https://www.nycourts.gov/legacyPDFS/IP/nya2j/A-Message-on-Equal-Justice-from-DCAJ-Mendelson.pdf>; see also Equal Justice in the Courts, <https://www.nycourts.gov/legacyPDFS/IP/NYA2J/Equal-Justice-in-the-Courts.pdf>.

Richardson-Mendelson also shared that Alfonso David, then the President of the Human Rights Campaign, was appointed an Independent Monitor to ensure effective implementation of Secretary Johnson’s recommendations. Retired New York Court of Appeals Judge Carmen Beauchamp Ciparick succeeded Mr. David, with both having served as “first Independent Monitors” to UCS. Monitoring will continue to be provided by, among others, the Franklin H. Williams Commission.⁶

At this juncture, it is not entirely clear to whom—if anyone—the Independent Monitor reports, or if the Independent Monitor must be responsive to the legislature, the Chief Judge, the Williams Commission, or a third party outside of the court system. The Working Group notes that vesting the role of an Independent Monitor in a former member of the Court of Appeals arguably creates the appearance of a lack of independence and bias favoring the court system. We therefore suggest that the Independent Monitor be someone with no ties to the court system. Clear information regarding the Independent Monitor’s qualifications, function, and oversight should be publicly accessible.

In that same March 2021 meeting, Judge Richardson-Mendelson indicated that a concentrated focus would be made on promoting existing commissions and departments that had been underutilized to (1) address juror bias⁷ by, among other things, updating rules for *voir dire* and amplifying civil and criminal pattern jury instructions; (2) update and recirculate social media policies for all court personnel; (3) strengthen Attorney General processes for bias complaints in courts, *i.e.*, through appointing an ombudsperson; (4) review rule changes for disparate impact and bias; (5) work with an advisory committee to implement plans and rules as to translation and interpretation services; (6) begin implementing new data collection rules aimed towards broader collection of relevant information and transparency; (6) publish data for download in a manipulative format, such as Excel; (7) diversify Human Resources; (8) increase community trust of Court Officers by, among other things, appointing a community affairs officer; and (9) improve the court navigator program by, among other things, providing “greeters” with customer service training.

The Working Group recognized, though, that certain likely challenges would arise in implementing the planned proposals. For instance, members of the Working Group noted that initiatives to observe and evaluate judges and their interaction with the public would conceivably be met with displeasure by at least some jurists and court personnel. Similarly, collaboration with other court personnel and unions in implementation of initiatives that involve monitoring and evaluation may meet with resistance. In the view of the Working Group, the outlined plans would be greatly enhanced by publicizing a time line and clear benchmarking goals, information that can

⁶ See *id.*, Equal Justice in the Courts at #13 (“Independent Monitors will help review and guide our implementation endeavors. Hon. Carmen Ciparick and Alphonso David served as the first Independent Monitors, while other individuals, such as the Franklin H. Williams Judicial Commission, will continue to monitor the progress of the Equal Justice in the Courts initiative. Additional internal and external monitors, including court users and the public at large, will provide further accountability.”).

⁷ The UCS juror bias video is here, <https://wowza.nycourts.gov/vod/vod.php?source=ucs&video=2021-JuryServiceFairness.mp4>, and as reported at a UCS Virtual Town Hall on November 4, 2022, has been viewed by over 320,000 prospective jurors since its release.

be publicized and amplified by the Working Group, the City Bar and other stakeholders.

Efforts must be focused on thoughtfully determining impactful short- and long-term goals while developing clear and measurable metrics to assess both progress and accountability as to the outcomes.

In May 2021, discussions with UCS stakeholders continued during a meeting with Franklin H. Williams Commission chairs, Justice Troy Webber and then co-chair Justice Shirley Troutman.⁸ The Williams Commission has long recognized a culture of biased attitudes and behaviors in our courts, which in turn profoundly negatively affects the fair administration of justice. New York City’s high-volume courts are particularly impacted. Indeed, the Williams Commission recently released a report on the Family Court that identifies the myriad of access to justice issues with that Court that this Working Group supports, and, in fact, many of our recommendations set forth herein are mirrored in the Williams Commission Report.⁹

The May 2021 meeting also included discussion about public reports of egregious, overtly inappropriate behavior by Family Court personnel within the last few years. For instance, a court employee was caught on live microphone using a racial slur speaking about a young litigant who had just appeared before the court and another court employee was overheard referring to a litigant as a “scumbag.” These are but two examples of the numerous, recurrent scenarios of implicit, explicit, and/or unreported instances of bigotry.

During the May 2021 meeting, the Williams Commission highlighted plans for enhanced mandatory training for judges and court personnel that would focus on modifying courtroom behavior and decision-making.

To the credit of UCS, Mandatory Bias Training has now been implemented for all court personnel.

Anti-bias training is a top priority for a court system seeking to change its culture and how the people who work in and rely on our courts are treated. It is a positive development that mandatory bias training using outside experts has now been implemented for all court personnel. The Working Group hopes to learn further details about the current training’s content, how frequently and to whom it is administered, what future bias trainings will entail, how progress and impact will be measured and disclosed to the public, and how individuals who struggle with the trainings will be assisted and, if needed, held accountable.¹⁰ As UCS acknowledges, all trainings

⁸ Justice Shirley Troutman served as co-chair of the Williams Commission at the time of the May 2021 meeting. As of 2022, Justice Richard Rivera serves as co-chair in conjunction with Justice Troy Webber.

⁹ See Franklin H. Williams Judicial Commission of the New York State Courts, Report on New York City Family Courts, Dec. 19, 2022, at 7, 22, <https://www.nycourts.gov/LegacyPDFS/IP/ethnic-fairness/pdfs/FHW%20-%20Report%20on%20the%20NYC%20Family%20Courts%20-%20Final%20Report.pdf>.

¹⁰ It is important to note in this respect that though diversity training workshops have been around in one form or another since at least the 1960s, few of them are subjected to rigorous

and follow-up work must involve evidence-based practices to ensure efficacy.¹¹ The City Bar, including through its Office of Diversity, Equity, Inclusion and Belonging, looks forward to supporting and partnering with UCS on programming and other anti-bias and DEI efforts.

Despite UCS’s efforts to hold personnel accountable in instances of overt bias such as those referenced above, pervasive implicit biases are entrenched and at least some court employees remain resistant to change and refuse to acknowledge their own biases. In June 2021, the Working Group held an in-depth meeting with the UCS Inspector General’s Office. The Working Group spoke with Inspector General Sherrill Spatz and with the Inspector General for Bias Matters, Kay-Ann Porter, about the role of the UCS Inspector General, newly implemented initiatives, and existing and anticipated challenges. While the Inspector General’s Office provides a mechanism to ensure equitable access to, and administration of, justice, it was immediately apparent that many litigants and practitioners were simply unaware of its existence and function. The meeting with IG Spatz underscored that the Working Group and similarly situated bar associations across New York State must serve as pipelines of information to the public about available protective measures, and that significant visible information about the Office of the Inspector General—including how to file a bias-related complaint with the Inspector General’s office—must be posted (and periodically audited and re-posted) in all New York City court buildings. In addition, court signage must be available in the myriad languages spoken by court users throughout New York City. We understand that steps are being taken to address this gap.

Specifically, the Working Group understands that the Office of Inspector General, in conjunction with UCS, is continuing efforts to make information about its complaint process and safeguards visible and readily available to court users. For instance, at an October 2022 meeting between court leaders and the Working Group, the Office of Inspector General restated its commitment to printing notices in additional languages and mentioned the possibility of including a “QR” code on the notices for easy access to additional information and forms. This commitment was repeated during the November 4, 2022 Virtual Town Hall, during which the IG’s Office also noted an uptick in complaints received. This Working Group supports the use of a QR code. We also support, and have repeatedly suggested, including information about the Office on Notices to Appear so that litigants attending virtual proceedings can access the information. While any uptick in complaints received is good progress, it also should be noted that the baseline number of complaints was very small (single digits), presumably given the lack of awareness about the complaint procedure. All creative ideas aimed at informing the public about the Inspector General’s Office should be on the table; one worth exploring would be including such information in the juror orientation video, or using the potential jury pool as a way to inform the public not

evaluation, and those that are mostly appear to have little or no positive long-term effects. This lack of evidence is “disappointing, considering the frequency with which calls for diversity training emerge in the wake of widely publicized instances of discriminatory conduct.” *See, e.g.,* Elizabeth Levy Paluck, Prejudice Reduction: Progress and Challenges, 72 *Annu. Rev. Psychol.* 533, 543 (2021). Therefore, it is crucial that UCS go well beyond isolated bias training to address race inequity, including with the continued assistance of outside experts.

¹¹ UCS 2020–2021 Year in Review: Equal Justice in New York State Courts, <https://www.nycourts.gov/LegacyPDFS/publications/2021-Equal-Justice-Review.pdf> at 13-17; UCS 2021–2022 Year in Review, <https://www.nycourts.gov/LegacyPDFS/publications/22-Equal-Justice-Review.pdf> at p. 8.

only about implicit bias as a juror, but also about the court’s commitment to a bias-free courthouse in its entirety.

As many other reports have noted, the pandemic most heavily burdened people living in poverty and working-class populations. In particular, the initial closure of Family Courts during the pandemic for all but “emergency matters” created a tremendous burden on litigants with a distinct disparate racial impact. Although proceedings in Family Court have resumed, the enormous backlog of cases and ongoing emergency, time-sensitive applications have left an enduring wound in the faith of our legal system. While UCS has implemented a case management training for jurists, it is unclear that this training can overcome the significant backlogs and delays that still exist in the courts that primarily serve those living in poverty as well as moderate income litigants. More judges, more court attorneys for judges, more clerks, and better technology are desperately needed in order for the Family Court to dig itself out of this predicament.

Continued transparency and communication with the public ensures trust in a court system that purposefully exists to serve the needs of its community members. The City Bar, led by the efforts of this Working Group, is pleased to serve as a vehicle to share information, updates, and recommendations for change among court leaders, jurists, litigants, and advocates.

Current and future progress depends on transparency and collaboration. Based on our continued talks with UCS, the Working Group acknowledges that several of the goals outlined by Judge Richardson-Mendelson have been implemented or are in the process of being implemented (as noted above and below). In addition, the Working Group acknowledges that Judge Richardson-Mendelson and other court leaders met with key members of the Working Group in late October 2022 and stated a commitment to meet with the Working Group regularly. And, when provided with an advance copy of this report, court leaders had two discussions with City Bar President Susan J. Kohlmann and provided further feedback, all of which has been incorporated. It continues to be critically important for UCS to be in regular communication with this Working Group, bar associations, practitioners, and the public about the steps being taken to achieve UCS’s racial equity goals and any impediments to their implementation. Without this regular information, a perception of inaction may take hold. We strongly believe that input from the bench, bar and litigants themselves is critical to success, and we welcome the opportunity to collaborate with UCS and other stakeholders in these efforts.

We know that there is a planned website redesign, a new bias training, and changes to the criminal and civil pattern jury instructions to address juror bias. We look forward to learning further details as these initiatives continue to develop and improve as it is imperative that all stakeholders be included in these initiatives and that UCS listen and incorporate stakeholder perspectives into these important projects.¹²

The Working Group is pleased to announce that most recently, the Williams Commission and the Office for Justice Initiatives have agreed to work with the Working Group to

¹² We will continue to follow the progress of all the initiatives presented in UCS’s December 2021 and 2022 Year in Review reports. See <https://www.nycourts.gov/LegacyPDFS/publications/2021-Equal-Justice-Review.pdf> and <https://www.nycourts.gov/LegacyPDFS/publications/22-Equal-Justice-Review.pdf>.

establish a Litigant Survey—a critically important way in which real-time feedback can be obtained from the clients of our court systems.

Court leaders also have made clear their commitment to be part of a process to conduct a litigant survey. The Working Group has begun the process of identifying partners, such as the Center for Court Innovation, to assist in the project. It is critical that UCS follow the lead of litigants and advocates regarding this survey, ensure that litigants are surveyed regularly, and that UCS respond quickly and affirmatively to the concerns raised by survey results.¹³

The Working Group also acknowledges the creation of a Judicial Observation Project (“JOP”) in the Seventh Judicial District, which includes Rochester, New York, which was brought to our attention during the October 2022 meeting with court leaders. This program is designed to detect and address implicit bias and systemic racism in New York State courts in the Seventh Judicial District. The JOP has been in the planning stage since 2020. Currently, based on publicly available information, we understand that there are 14 trained observers and 5 judges participating in the pilot program.¹⁴ And, according to the 2022 Year in Review, the Sixth Judicial District has launched a Court Officer Pilot Project “with the goal of increasing and improving court officers’ interactions with the public and improving every court user experience at the initial point of contact.”¹⁵ The Working Group looks forward to learning more about these pilot projects and their impact and, if effective, to ensure that they (or comparable programs) are implemented in New York City courts.

Again, as the Working Group specifically, and the City Bar generally, provides a crucial pipeline of information to the community at large, we appreciate and urge continued conversations with UCS and other court leaders. Transparency, collaboration, and joint commitment to change are key to realizing the goals set out in Secretary Johnson’s report and to creating true equity in our courts.

IV. ADDITIONAL WORKING GROUP COLLABORATION

In addition to meeting with UCS stakeholders, on October 14, 2021, the Working Group hosted a joint meeting in collaboration with the Network of Bar Leaders and the National Center for State Courts. Leaders of affinity bar associations across New York State and Presidents of organized associations within the Courts were invited to attend. The meeting aimed to serve as an informational session but also an opportunity for others to provide feedback to UCS stakeholders. Attendees included the Judicial Friends Association, the Association of Justices of the Supreme Court, the Asian American Judges Association, the Latino Judges Association, the New York Women’s Bar Association, the Brooklyn Women’s Bar Association, Queens County Bar

¹³ We acknowledge that UCS has posted an online survey for users of NYC Family Court; however, it is not readily obvious from the webpage that the survey is available, and we are unaware of outreach to potential respondents and how results are being used. See <https://ww2.nycourts.gov/COURTS/nyc/family/index.shtml> (at bottom of page). We look forward to learning more and providing support.

¹⁴ The Law Day Report for 2022 with a discussion of the progress of UCS is available here: https://ww2.nycourts.gov/ip/nya2j/Courts_Community_Center/lawday.shtml.

¹⁵ <https://www.nycourts.gov/LegacyPDFS/publications/22-Equal-Justice-Review.pdf> at p. 19.

Association, Rockland County Bar Association, LGBT Bar Association (LeGAL), Metropolitan Black Bar Association, Asian American Bar Association of New York, South Asian Bar Association, Korean American Lawyers Association, and the Jewish Lawyers Guild.

In the view of the Working Group, more of such meetings are necessary in order to provide bar association groups more fulsome opportunities to give honest feedback to UCS and to voice ideas about how the groups—if viewed as part of the solution—can play a critical role in publicizing the changes UCS is making and in providing greater equity for litigants in New York City’s high-volume courts. This Working Group, the Council on Judicial Administration, City Bar leadership and the City Bar’s Office of Diversity, Equity, Inclusion and Belonging are happy to help facilitate future meetings, listening sessions and joint programs in order to continue these important conversations.

V. WORKING GROUP RECOMMENDATIONS

As indicated above, the Working Group has met regularly for more than two years and has representation from institutional providers, private law firm pro bono counsel, and court personnel, including several current or former Jurists, all of whom practice regularly in New York City’s high-volume courts. Subsequent to the comment letter submitted to Secretary Johnson, the Working Group prepared a letter, dated June 15, 2021, addressed to the Williams Commission, providing the Commission and UCS with specific proposals to reform the Family Court.¹⁶

As part of the Council on Judicial Administration, the Working Group is only one of several groups at the New York City Bar Association that has provided detailed recommendations to UCS about what is needed to bring justice and dignity to the thousands of litigants in these courts. Thus, the recommendations in this report are made after detailed and thoughtful reflection by Working Group members with input across numerous committees inclusive of the vast membership of the City Bar. They are not meant to be duplicative of the steps currently underway although, naturally, there will be some overlap, including the recent report issued by the Williams Commission focused on reform of the Family Court.¹⁷ We urge UCS to separately consider our recommendations as part of the overall effort to provide equity in our courts, and we are prepared to engage in further discussions as necessary and to assist in their prompt implementation.

Only together can we deliver equal access to justice to those most in need so as not to perpetuate the unfair legal system that has long characterized the status quo in New York State for people living in poverty and working-class litigants.

The Working Group has reviewed our proposals along with those of other City Bar committees. We reference and incorporate that large body of work in this report. The Working Group looks forward to continued meaningful dialogue about the recommendations.

As noted above, UCS has instituted mandatory bias training for all court personnel, rolled out a training for jurists on case management, developed a juror video on implicit bias, implemented a pilot court observer project in the Seventh Judicial District, created Equal Justice

¹⁶ See Exhibit A.

¹⁷ See n. 9, *supra*, <https://www.nycourts.gov/LegacyPDFS/IP/ethnic-fairness/pdfs/FHW%20-%20Report%20on%20the%20NYC%20F%20amily%20Courts%20-%20Final%20Report.pdf>.

committees in each judicial district, and hired a Statewide Equal Justice Coordinator, among other actions described in the 2022 Year in Review. One concern we note with respect to Equal Justice committees is that, as best can be ascertained, they do not appear to include advocates as members, and although described in the 2022 Year in Review, information about their creation and membership selection has not been easy to publicly access. The City Bar is pleased to work with the Statewide Equal Justice Coordinator to amplify and support this effort, to undertake joint programming and listening sessions, and to act as a pipeline of information to practitioners, litigants, and the community at large. We urge UCS to take advantage of this opportunity for greater transparency and access, and we encourage use of a readily available resource.

Attached hereto as Exhibit A are links to the reports that the City Bar committees have issued relating to the recommendations in this report.

VI. CONCLUSION

The impetus for creating the Working Group arose out of members' deep concern for litigants in New York City's high-volume courts and a desire to have an equitable, respectful, dignified system for all those who come through its doors. After providing input to, and then reading, Secretary Johnson's report, Working Group members spent countless hours drafting constructive recommendations. We look forward to enhanced engagement with UCS so that the goals outlined in Secretary Johnson's report may be achieved. It is this goal that has moved so many members of the bar and the judiciary to devote valuable time and effort to this endeavor, one which remains an unwavering commitment of the Working Group and the City Bar.

RECOMMENDATIONS

We concur with the recommendations recently issued by the Williams Commission.¹⁸ Our additional recommendations are below.

Address Problematic Culture in the Courts That Serve People Living in Poverty and Working-Class Litigants:

- The Office for Justice Initiatives must be provided additional resources to support the Office's widespread efforts to combat explicit and implicit bias in the courts serving people living in poverty and working-class litigants.¹⁹
- Mandatory bias education training programs for court personnel is an important start, but training in and of itself is insufficient to confront the dehumanizing culture and eliminate bias. All trainings should include outside experts and be evidence-based, and their contents and delivery should be reviewed at least annually to ensure no updates are needed. Feedback from court employees, attorneys, and litigants should be solicited to identify areas where additional or new training may be needed. Pre- and-post-training evaluations should be created and administered, and the results of these evaluations should be anonymized, broken down by borough, and publicly posted.
- UCS should provide progress reports and statistics on its implementation plan for bias training broken down by borough (i.e., number of trainings that were completed, statistics on compliance by judges, court staff, etc., a timeline for review of the implementation of mandatory bias training and plan for noncompliance, etc.). Sharing this information will educate and build trust among court users and the public.
- A litigant survey should be created and conducted on at least an annual basis. A third party should analyze feedback and data outside of UCS. The results should be broken down by borough, court type, and case type. Results should be anonymized and made publicly available.

As identified above, it is a very positive sign that both the Williams Commission and the Office for Justice Initiatives have agreed to participate with the Working Group in planning for and conducting litigant surveys. UCS should consistently reach out to all court constituents to receive feedback and listen and respond to the concerns being expressed by litigants and advocates who seek to better the courtroom experience for all litigants.

¹⁸ See n. 9, 17, *supra*.

¹⁹ The Working Group notes its firm belief that the New York State Unified Court System is in need of more judge lines in, among others, the Family and Criminal courts. We acknowledge that this is a legislative matter outside the control of UCS. If such lines were authorized, UCS would likely not be required to move judges from one court to the other, which ultimately creates delays, causes inappropriate mistrials, and harms the fair administration of justice and provision of due process.

- Since the transition from Mr. David, the question of who is performing the role of Independent Monitor is difficult to clearly answer. Consistent with Secretary Johnson’s recommendation, UCS should appoint a new, third-party Independent Monitor from outside the court system to evaluate, benchmark, and report on the implementation of the recommendations set forth herein and in the Equal Justice report. The Independent Monitor should be viewed as an additional and important resource to ensure accountability, feedback, and transparency.²⁰
- As per the Year in Review annual report and the Inspector General’s landing page on the UCS website, UCS has appointed Eva Moy to serve as ombudsperson for the Bias Matters Unit.²¹ The role of an ombudsperson overseeing this work is extremely important and should be broadly publicized, including on all internal- and external-facing communications regarding UCS’s anti-bias work. In addition, although Ms. Moy is identified as the ombudsperson on the Bias Matters Unit landing page, there is no visible description of what role she plays and why someone might want to contact her; that information should be clear. It is also critical that Ms. Moy serve independently and have full discretion to carry out the important tasks of an ombudsperson provided that she has such authority.
- All stakeholders agree that signs about the Inspector General’s Office for Bias Matters, including information about how to file complaints, should be in every New York City courthouse. They should be, at minimum, in the five most spoken languages within each borough of New York City, and the courthouses should be periodically audited in order to re-post any signage as needed. UCS should work with the IG’s office to create a version of this sign that can be electronically disseminated to litigants appearing virtually, such as on Notices to Appear.
- UCS should provide observation and feedback for jurists from colleagues, supervisors, and litigants. This can be done through a variety of means, including, but not limited to, litigant surveys, anonymous staff surveys, town halls, random observations by supervising judges, more frequent requests for attorney feedback, and a court watch program.

Procedural Safeguards and Litigant Information:

- Adopt NYSCEF, the electronic filing system used throughout much of the New York State court system, including Civil, Criminal, Housing, and Family Courts, to the fullest extent permitted by law, with appropriate support for unrepresented litigants.²²

²⁰ Specifically, at p. 100, Secretary Johnson wrote: “We recommend that the Chief Judge assign an entity or committee that includes those independent of the court system, to monitor and report on implementation of those recommendations adopted here on an ongoing basis. Several outside organizations suggested this, and we agree.”

²¹ See <http://ww2.nycourts.gov/admin/ig/biasmatters.shtml>.

²² The City Bar is available as a resource to help circulate information about where NYSCEF is available and to encourage its use. According to the reference materials on the NYSCEF

- Expand UCMS access to all attorneys who regularly practice in the court system they seek to access. As it currently stands, many private practitioners and small nonprofits cannot access UCMS because they cannot meet the minimum number of active docket numbers required. A method should be developed so that UCMS users can annually certify they still need access to the system and have the same contact information. Such a system will ideally help keep access limited to those who should have it.
- Ensure that sufficient qualified interpreters are on staff to meet the needs of communities that speak languages other than English, and develop (or publicize, if it already exists) a means to report interpreters that interpret incorrectly or poorly.
- Provide the public with regular statistical reporting, by court term, on all proceedings in Civil Court, Criminal Court, Family Court, and Housing Court. Information should be broken down by borough, court type, and case type. The Working Group has reviewed the Court website and concludes that relevant statistics are lacking, including, but not limited to, details about the timing and movement of cases and any delays in processing specific case types that are reported there. If such information currently exists, the Working Group has not been able to locate it.
- Build an effective, user-friendly website (including mobile website) that comprehensively informs the public of current court operations and provides guidance to unrepresented litigants. The website must be fully accessible to people with disabilities and thus built according to universal design principles.²³ All website content must be available in languages other than English. All court forms designed for litigant and attorney use should be current and easy to find, read, and edit.

We were notified at our October 2022 meeting with UCS that the National Center for State Courts is independently evaluating the State Courts' website. We reiterate here

website, the New York City Civil Court and the Landlord/Tenant Division are available on NYSCEF (and EDDS), and NYSCEF filing has recently been made available in the New York County Family Court in the following case types: custody/visitation; guardianship; parentage—assisted reproduction; parentage—surrogacy; paternity; and support and only in new cases filed on or after August 1, 2022. The NYSCEF Resource Center indicated that there is no specific timeline for the expansion of NYSCEF filing in the Family Courts beyond New York County, but the hope is that it occurs soon. The Working Group could locate no public information as to why e-filing is being piloted only in certain cases in one Family Court in New York City, nor could we locate any publicity announcing the pilot, its timeline, or any anticipated goals. Family Court statewide, other than certain case types in the New York County Family Court, New York City Criminal Court, County Court Criminal Term (for jurisdictions outside of New York City, City Court Civil and Criminal Divisions) are only available on EDDS.

See also The Expansion of Electronic Filing: A Report and Recommendations of the Structural Innovations Working Group of the Commission to Reimagine the Future of NY Courts, <https://www.nycourts.gov/LegacyPDFS/publications/pdfs/CommitteeReport-eFiling.pdf>.

²³ *See also* Website Analysis submitted to Commission to Reimagine the Future of NY Courts, <https://www.nycourts.gov/LegacyPDFS/reimagine-the-future/WebsiteAnalysis.pdf> (calling for substantial overhaul of UCS website).

our strong suggestion that any formal project for a successful redesign include input from and testing by litigants, institutional providers, and other advocates, as they are the daily users of the State Courts' website.

- Litigants without access to adequate technology should be provided ways to participate in remote proceedings. All courts should have technology for pro se litigants to draft and file documents and to appear in virtual or hybrid proceedings.²⁴

The Equitable and Fair Administration of Justice:

- Adopt a communications strategy to ensure litigants and attorneys are kept up to date on the status of their cases as well as the status of Court operations, generally. Regarding the latter, the City Bar and other stakeholders should be viewed as a resource and pipeline of information to lawyers and litigants as well.
- Assess the Court's needs with respect to remote proceedings to ensure that it purchases and utilizes up-to-date technology best suited for courtroom protocols, and that the technology poses minimal security risks. The Court should also provide sufficient user training and support to all those who use it. Trainings should be easy to understand, accessible to persons with disabilities, and available in languages other than English.
- Provide appropriate resources from other trial courts as necessary and appropriate to tackle backlogs and delays.
- Enact uniform procedural and part rules for both in-person and remote proceedings. Judicial discretion is not a sufficient justification for the absence of consistent, published part rules dictating discovery, trial procedure, and courtroom behavior. Clear rules will help ensure that all litigants and lawyers are treated fairly and equitably regardless of which courtroom their case is assigned to.
- Ensure timely coordination with the Mayor's Advisory Committee on the Judiciary and anticipate vacancies in the New York City courts to select judicial appointees before vacancies arise. Take the additional steps necessary to fill vacancies quickly, and simultaneously use a distinct application and review process for judicial reappointments to complete the reappointment process more expeditiously.

²⁴ See also Report and Recommendations of the Futures Trial Working Group of the Commission to Reimagine the Future of NY Courts, <https://www.nycourts.gov/whatsnew/pdf/future-trials-working-grp-april2021.pdf> (recommending, among other things, that "UCS seek to partner with major internet service and/or other technology providers with an interest in community building in New York State and a commitment to access to justice to supply all courtrooms in New York state with secure and reliable high-speed wireless internet."); New York Courts' Response to the Pandemic, A Report of the Pandemic Practices Working Group, January 2023, <https://www.nycourts.gov/LegacyPDFS/press/pdfs/NYCcourtsPandemicPracticesReport.pdf> (setting forth recommendations regarding, among other things, e-filing, virtual proceedings, technical support, and communications improvements).

EXHIBIT A

- i. February 4, 2022, Report from Multi-Committee Working Group on the Impact of COVID-19 on the New York City Family Court: Recommendations on Improving Access to Justice for All Litigants (William Silverman and Rene Kathawala, Co-Chairs), <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/family-court-covid-19-impact>.
- ii. June 15, 2021, Letter from Working Group on Racial Equity in New York State Courts (Vidya Pappachan, former Chair) to the Franklin H. Williams Judicial Commission Regarding their May 19, 2021, Meeting with New York City Family Court Stakeholders, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/racial-equity-in-courts-williams-commission-meeting>.
- iii. April 9, 2021, Report from Domestic Violence Committee (Amanda M. Beltz, Chair): Recommendations for New York City Virtual Family Court Proceedings, With Particular Focus on Matters Involving Litigants Who Are Survivors of Abuse, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/comments-on-virtual-trial-rules-domestic-violence-cases>.
- iv. December 15, 2020, Report from Multi-Committee Working Group on The Family Court Judicial Appointment and Assignment Process (Glenn Metsch-Ampel and Hon. Daniel Turbow (ret.), Co-Chairs), <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/the-family-court-judicial-appointment-and-assignment-process>.
- v. June 12, 2020, Letter from Council on Children (Lauren Shapiro, Chair), Children and the Law Committee (Melissa J. Friedman, Chair) and Family Court and Family Law Committee (Michelle Burrell, Chair) to Court Officials Requesting COVID-19 Point Person for New York City Family Court, <https://www.nycbar.org/member-and-career-services/committees/reports-listing/reports/detail/covid-19-point-person-for-new-york-city-family-court>.

WORKING GROUP MEMBERSHIP²⁵

**Working Group Co-Chairs
Ronald Richter and Rene Kathawala**

Council on Judicial Administration

Amanda Raines

Alternative Dispute Resolution Committee

Natasha Major

Civil Courts Committee

Judge Leslie A. Stroth

Susan Shin

Jessica Caruso

Civil Rights Committee

Samantha Lyons

Council on Children

Co-Chair, Judge Ronald Richter (ret.)

Nila Natarajan

Criminal Courts Committee

Adnan Sultan

Criminal Justice Operations Committee

Danielle Jackson

Disability Law Committee

Katherine Carroll

Domestic Violence Committee

Nadia Hernandez

Lisa Alexander

²⁵ In addition to having members participate in the Working Group, the following committees opted to separately review and endorse the report: Alternative Dispute Resolution; Children and the Law; Civil Courts; Civil Rights; Council on Children; Council on Judicial Administration; Domestic Violence; Education and the Law; Family Court and Family Law; Housing Court; Juvenile Justice; Litigation; Minorities in the Courts; Pro Bono and Legal Services; and State Courts.

Family Court and Family Law Committee

Michelle Burrell
Judge Daniel Turbow (ret.)

Housing Court Committee

Jennifer Hudson
Sara Wagner
Mark Ward

Juvenile Justice Committee

Fredda Monn
Kirlyn Joseph
Lisa Salvatore
Cecilia Shepard

Litigation Committee

Jawad Muaddi

LGBTQ Rights Committee

Jose Abrigo
Danielle (Danny) King

Minorities in the Courts Committee

Christopher Wilds

Pro Bono & Legal Services Committee

Rhonda Singer
Hamra Ahmad
Co-Chair, Rene Kathawala

State Courts Committee

Rachel Haskell
William Bell