



PRESS RELEASE

**New York State
Unified Court System**

**Hon. Lawrence K. Marks
Chief Administrative Judge**

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Date: October 15, 2020

Independent Review of Court System Policies, Practices and Programs Yields Recommendations Aimed at Advancing Equal Justice in the New York Courts

NEW YORK—An in-depth review of the New York State Courts' policies, practices, rules and programs as they relate to issues of racial and other bias has yielded a set of practical recommendations aimed at advancing diversity and inclusion within the court system and ensuring equal justice under the law.

The unique, independent evaluation, commissioned by Chief Judge Janet DiFiore this past June, was conducted by former U.S. Secretary of Homeland Security Jeh Johnson in his role as Special Adviser on Equal Justice in the Courts. Secretary Johnson, a partner at Paul, Weiss, Rifkind, Wharton & Garrison, LLP, was assisted in this effort by colleagues at his law firm, as well as Professor Harold Goldstein, an industrial psychologist at Baruch College.

The recommendations presented by Secretary Johnson and his team center on operational issues within the court system's authority to carry out administratively and unilaterally.

Among Secretary Johnson's recommendations are:

- Calling on the courts' leadership to embrace a robust "zero tolerance" discrimination policy that specifically addresses racial bias, supported by enhanced efforts to raise awareness about the courts' discrimination policy among court employees, court users and the public.
- Developing and mandating comprehensive bias training—with a strong focus on implicit bias, racial bias and cultural sensitivity—for judges and non-judicial employees alike.
- Incorporating a segment on implicit bias in the orientation video shown to jurors; creating and implementing new rules to allow for the questioning of prospective jurors about implicit bias; and developing and adopting jury instructions that explain the concept of implicit bias and remind jurors to be aware of their own implicit biases.
- Implementing a policy that provides clear restrictions regarding employees' use of social media—whether in an official or personal capacity—for racially or culturally offensive remarks that reflect poorly on the court system and undermine public trust in the Judiciary.
- Initiating best practices to strengthen the court system's mechanisms for making bias complaints, and raising awareness among court employees, litigants and other court users about the procedures in place to lodge a bias complaint.
- Evaluating proposed legislation, regulations and rules pertaining to the New York State Judiciary for any potential bias or disparate impact on people of color.
- Continuing to advance the courts' interpretation and translation services.
- Enhancing human resources practices to improve diversity and inclusion within the court system workforce.

The recommendations issued by Secretary Johnson were based on several hundred interviews with current and former New York State judges, court clerks, court officers, court attorneys and administrative personnel, as well as private legal practitioners, public defenders and prosecutors, and court observers. Secretary Johnson and his team also consulted numerous judicial associations, bar associations, court employee unions, court reform organizations and affinity groups.

In addition to reviewing court system policies and practices, the team also studied past reports examining racial bias in the New York State Courts.

In his report detailing his recommendations, Secretary Johnson stated, “I was reminded over the last four months of the intense pride and dedication that many in and around the New York State court system feel for their work,” later adding, “In my assessment as a lawyer, a student of history, a former public official, and as an African American, this is a moment that demands a strong and pronounced rededication to equal justice under law by the New York State court system.”

“The recommendations put forth by Secretary Johnson offer a tangible framework for a court system that truly reflects the diversity and inclusiveness of our communities, ensures the fair administration of justice and promotes the public trust. I am extremely thankful to Jeh Johnson and his team at the Paul, Weiss law firm for their extraordinarily thoughtful, comprehensive analysis of these critical issues and for their tremendous time and effort in the preparation of this invaluable report,” said Chief Judge DiFiore. “We fully endorse this report and will proceed now to implement its recommendations.”

The report’s ultimate recommendation is assignment of an independent monitor to evaluate and report on the court system’s implementation of the recommendations. Chief Judge DiFiore has appointed Alphonso David to take on that role. Mr. David is currently President of the Human Rights Campaign, which is the largest LGBTQ civil rights organization in the country. He previously served as Counsel to Governor Andrew M. Cuomo.

“I am very pleased that distinguished civil rights advocate Alphonso David has so graciously agreed to oversee the implementation process as we put into place these systemwide reforms in our ongoing efforts to remove barriers to justice and eliminate racial bias in all its forms,” said the Chief Judge.

The full report is available at:

www.nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf.

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