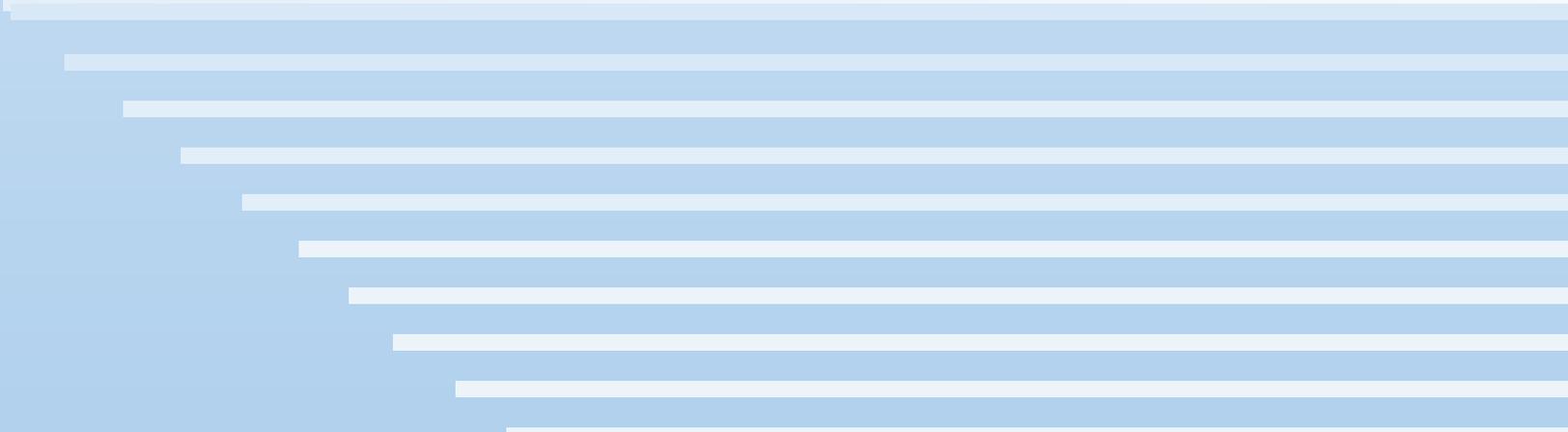


Findings from the Leadership Development Conference



Franklin H. Williams
Judicial Commission on Minorities

January 2004





TABLE OF CONTENTS

- I.** Introduction **1**
- II.** History of the New York State
Judicial Commission on Minorities **3**
- III.** Summary of the 1991 Report:
Honorable Richard B. Lowe, III **4**
- IV.** Panel Discussion: Promotional Process **5**
- V.** Panel Discussion: A Bias Free Workplace **6**
- VI.** Workshop Discussions with Recommendations **7**
 - A.** Affirmative Action / Workforce Diversity **7**
 - B.** Promotional Opportunities / Non Judicial **8**
 - C.** Judicial Selection: Election versus Appointment **9**
 - D.** Perception Of Bias **10**
 - E.** Embracing Leadership for a Competitive Advantage **11**
- VII.** Conclusions **12**
- VIII.** Conference Attendees **13**
- IX.** Franklin H. Williams Judicial Commission on Minorities **15**

LEADERSHIP DEVELOPMENT CONFERENCE: COURTS FOR THE 21ST CENTURY

On May 21, 2003, the Franklin H. Williams Judicial Commission on Minorities held a minority leadership conference at the newly established Justice Institute in White Plains, New York. The conference brought together more than one hundred and seventy-five (175) minorities and others from all levels of the court system to assess the progress that has been made since the original study by the Commission and to develop recommendations to confront current problems in the system.

The following planning committee developed the conference program, with special professional services provided by Wilhelmina Tribble of Lowe Tribble and Associates, Inc.:

HONORABLE LEWIS L. DOUGLASS

Chair, Commission on Minorities
Supreme Court Justice, Kings County

LUZ BRYAN

President, Cervantes Society
Captain, Kings County Supreme Court

FELIX FERNANDEZ

Commission Member
First Deputy Chief Clerk, Queens County

EUGENE JORDAN

President, Guardians Association
Senior Court Officer Sergeant,
New York Supreme Court

HONORABLE yvonne lewis

Commission Member
Supreme Court Justice, Kings County

HONORABLE RICHARD B. LOWE III

Commission Member
Supreme Court Justice, New York County

HONORABLE EDUARDO PADRO

Commission Member
Supreme Court Justice, New York County

PATRICIA PARKER

Vice President, Tribune Society Inc
Senior Management Analyst, Access to Justice

HONORABLE ROSE H. SCONIERS

Commission Member
Supreme Court Justice, 8th Judicial District

DAMARIS TORRENT

Assistant Deputy Counsel
Justice Institute

RACHEL VILLARINI

President, Hispanic Court Officers Society
Court Officer, Bronx Criminal Court

HALIMA CASSELLS

Administrative Support, Commission on Minorities

JOYCE Y. HARTSFIELD

Executive Director, Commission on Minorities

WILLIAM ETHERIDGE

Commission Member
Chief Clerk, Criminal Court New York City

ELIZABETH HOOKS

Special Assistant to the Honorable Ann Pfau

LENORE KRAMER

Commission Member
Attorney

CHARLES LOPEZ

Principal Court Clerk, NYC Civil Court

ANGELA MITCHELL

Senior Court Officer, Bronx Supreme Court

TRACY PARDO

Vice President, Cervantes Society
Assistant Deputy Chief Clerk, Bronx Family Court

FRANK PEZZELLA

President, Tribune Society Inc.
Deputy Chief Clerk, Surrogate's Court Westchester County

HONORABLE CHARLES J. TEJADA

Commission Member
Court of Claims, New York Supreme Court

WILHELMINA TRIBBLE

Facilitator Consultant

HONORABLE DOUGLAS S. WONG

Commission Member
Acting Supreme Court Judge, Queens County

The Commission wishes to acknowledge the Chief Judge, the Honorable Judith S. Kaye, for the depth of support witnessed by her personal commitment to the goals of the Commission.

The conference included the keynote speech by attorney Theodore M. Shaw, Lead Counsel for the National Association for the Advancement of Colored People (NAACP) Legal Defense and Education Fund, Inc.; a panel discussion conducted by the Honorable Jonathan Lippman and four Deputy Administrative Judges—the Honorable Ann Pfau, Honorable Juanita Bing Newton, Honorable Joan B. Carey, and Honorable Joseph J. Traficanti—on the promotional process; and a panel discussion conducted by the Honorable yvonne lewis, Alice Chapman (Director, Workforce Diversity), Sherrill R. Spatz (Inspector General, Unified Court System), and Kay-Ann Porter (Inspector General for Bias Matters) on the functions of the Workforce Diversity Office and the Office of the Inspector General. The attendees dispersed into the following five workshops:

- Affirmative Action/ Workforce Diversity
- Promotional Opportunity for Non-Judicial Personnel
- Judicial Selection: Election versus Appointment
- Perception of Bias
- Embracing Leadership for Competitive Advantage

This report outlines the panel and workshop discussions with recommendations.



THEODORE M. SHAW, ESQ.



ABOVE: Justice Lewis L. Douglass welcomed the attendees to the Leadership Development Conference held at the Justice Institute in White Plains, New York.
LEFT: Theodore M. Shaw, Lead Counsel to the NAACP Legal Defense and Education Fund, Inc., addressed the attendees.

“...There is a deliberate assault on race consciousness these days...”

“...Affirmative Action allowed institutions to look in places where they had not looked before for talent, employment, college or other institutions of higher learning.”

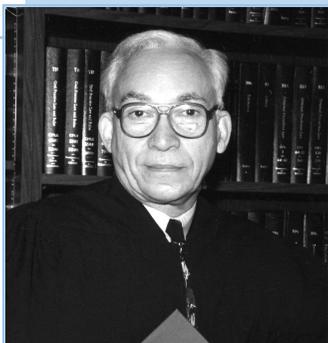
“All those (Affirmative Action) programs and efforts are at risk. The assault on affirmative action is nothing less than an attempt to make it illegal or unconstitutional to do anything voluntarily or consciously about racial inequality.”

“Brown versus Board of Education is honored more in principle than in practice.”

THE HISTORY OF THE NEW YORK STATE JUDICIAL COMMISSION ON MINORITIES

The New York State Judicial Commission on Minorities (Judicial Commission) was created by the Chief Judge in response to surveys indicating a widespread public perception that race played a significant role in the outcome of court cases. In January 1988, the Chief Judge appointed Franklin H. Williams to chair the Judicial Commission, charging it with three mandates:

- To ascertain how the public and court participants perceive the treatment of minorities in the courts, with a particular emphasis on how minorities are treated in the courtroom and the extent to which minorities voluntarily use the courts;
- To review the representation of minorities in non-judicial positions—e.g. court clerks, court reporters, court officers—and to recommend ways to increase such representation; and
- To review the selection processes for elected and appointed judges to determine which processes resulted in greater minority representation on the bench.



HONORABLE LEWIS L. DOUGLASS
CHAIR

Over the next three and one-half (3 1/2) years, the Judicial Commission conferred with judges, court administrators and bar association leaders, conducted surveys, convened numerous focus sessions, and held multiple public hearings and meetings to explore and report on the extent of the perception of bias among users and employees of the Unified Court System.

Today, the Commission consists of eighteen (18) members, including eleven (11) judges, private practitioners and court administrators. The Executive Director is Joyce Y. Hartsfield, Esquire (See Page 15 for a complete list of the Commission). The Commission continues its mission of advising, educating, and implementing the recommendations developed by its members. It provides a vehicle through which issues of importance to minorities are brought to the attention of decision makers. The Commission also served as a model for other states interested in establishing a commission devoted to minority concerns within the Judiciary and legal profession.



JOYCE Y. HARTSFIELD
EXECUTIVE DIRECTOR



HONORABLE RICHARD B. LOWE, III

The Honorable Richard B. Lowe, III opened the conference with a summary of the original 1991 study.

“...An investigation by the commission showed that although minorities constituted 13.7% of the workforce, the proportion of minorities among officials and administrators in the United Court System was only 3.4%. In those areas where minorities were found to be over represented, the over representation tended to be in the lower-paying entry level, non-promotional positions...”

He charged the attendees to take a hard look at where we are and where we want to be.



PROMOTIONAL PROCESS

“...This is the “nuts and bolts” of the hiring process:

- 1) How does it work?
- 2) How do people compete for positions?
- 3) Does the interview process work?
- 4) What information and helpful hints are available on how to navigate the hiring process?”



**HONORABLE
JONATHAN LIPPMAN**

**HONORABLE
JOSEPH J. TRAFICANTI, JR.**



HONORABLE ANN PFAU

“...We cast a wide net...posting job positions in over 300 courts... A website posting all the jobs....800 toll free number for promotional opportunities”

“...Always build on your resume...distinguish yourself by your actions.”

“...Plan your own path to success... make yourself visible to the judges and administrators...Show your leadership qualities.



HONORABLE JOAN B. CAREY

..and that you are the best person for the job.”

HONORABLE JUANITA BING NEWTON

“...You have to be in the game to win—you must apply for a position with confidence and common sense.”



A BIAS FREE WORKPLACE

The Honorable yvonne lewis moderated this panel which acquainted the attendees with the offices that deal with bias in the workplace and investigation and training related to bias in the workplace. Here she listened intently as Alice Chapman, Administrator for the Workforce Diversity Office (WDO), explains the functions of that office. “WDO’s primary responsibility is to conduct programs that promote diversity and anti-discrimination through education, training, special employment opportunities, and outreach efforts. The major responsibilities of WDO are: **1)** to do analysis of the workforce in each of the courts and to do a comparison of that workforce to census data; **2)** to conduct training, focusing on diversity issues for court managers statewide as part of the ‘Justice Works’ Program; and **3)** to conduct statewide sexual harassment training for judicial and non-judicial personnel. As an outcome of one of the original recommendations from the Minorities Commission, WDO does extensive outreach, with designated persons in all the courts.”

Sherril R. Spatz, Inspector General of the Unified Court System, explained “that the Inspector General Office, in conjunction with the Inspector General for Fiduciary Appointments and the Inspector General for Bias Matters, investigates and works to eliminate infractions of our disciplinary standards—especially looking at criminal activities, conflict of interest, misconduct, and incompetence. The office also receives complaints and information from employees, litigants, and the public. The Inspector General works with local and federal law enforcement, departments of investigations for the city, grievance committees, and the Judicial Commission. If wrongdoings are found, the Inspector General refers the cases to the Deputy Chief Administrative Judge.”

Kay-Ann Porter, Inspector General for Bias Matters, explained “that the Inspector General for Bias Matters Office conducts investigations of formal complaints and through the Anti-Discrimination Panels conduct informal investigations regarding complaints in the court systems. The Bias Unit conducts investigations on discrimination based on race, religion, sex, or anything else identified in Title VII of the Federal Regulations. The office also does extensive outreach to inform employees that help is available through the Inspector General for Bias Matters.”



Hon. yvonne lewis,
MODERATOR



ALICE CHAPMAN,
ADMINISTRATOR FOR THE
WORKFORCE DIVERSITY
OFFICE



SHERRIL R. SPATZ,
INSPECTOR GENERAL OF
THE UNIFIED COURT SYSTEM



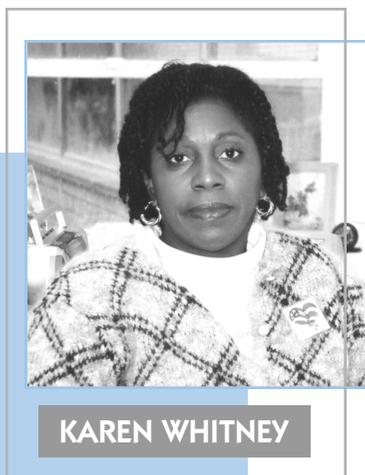
KAY-ANN PORTER,
INSPECTOR GENERAL FOR
BIAS MATTERS

AFFIRMATIVE ACTION/WORKFORCE DIVERSITY

The 1991 study included a recommendation for the adoption of an Affirmative Action Plan. The present effort to increase minority hiring and promotional opportunities in the Office of Court Administration (OCA) is referred to as the Workforce Diversity Program, rather than the more generally used term “Affirmative Action.” There was a lack of understanding by the participants of the similarity between programs bearing the traditional label “Affirmative Action” and OCA’s Workforce Diversity Program.

Recommendations:

1. OCA should take steps to distribute a memorandum to all the employees explaining the Workforce Diversity Program and the similarity between that program and programs which carry the more traditional “Affirmative Action” title.
2. OCA should distribute a memorandum explaining the role of the Anti-discrimination Panels and the role of the Inspector General for Bias Matters. That office should issue an annual statement of the number of complaints and the dispositions.
3. OCA should conduct a yearly, mandatory sensitivity training for OCA personnel.
4. Where the goals of the Workforce Diversity Program have not been met, OCA should issue an annual statement explaining why those goals have not been met.



5. The Workforce Diversity Office should maintain a resumé bank of minority employees and take greater steps to making its programs known to employees.
6. OCA should increase the use of community-based organizations in recruitment efforts.

PROMOTIONAL OPPORTUNITIES/NON JUDICIAL

The 1991 study recommended that promotional opportunities should not be limited to applicants from the court where the opening exists. The study further recommended that minorities and promotional opportunities for applicants from a particular Court should be included on all promotional panels. Promotional panels now include minorities. Yet, there is still a general perception that minorities face an uphill battle in gaining transfers to courts outside of New York City.

Recommendations:

1. The Judicial Commission should meet with the Deputy Chief Administrative Judge for courts outside New York City to discuss how transfer applications are handled. There is great concern surrounding the transfer of minority employees from New York City to the adjacent counties. There should be guidelines.
2. Because the title “Lieutenant” is unclassified, there is no formal promotional mechanism affecting the selection of Lieutenants, but rather the selection is left to the Captain. Although this title is unclassified, a system similar to promotion for classified titles should be put in place to ensure that diversity is achieved in this title.
3. OCA should create an ombudsman position for minority affairs that would report directly to the Chief Judge.
4. OCA should create a program which would rotate employees through various job assignments to acquire the skills associated with those job titles and thus be better prepared for promotional interviews.



JUDICIAL SELECTION: ELECTION VERSUS APPOINTMENT

The 1991 study found under-representation of minority judges and minorities on various screening panels. The study took no position on whether the election or appointment process better served the interest of minority communities. This workshop discussion acknowledged some increase in the number of minority judges and in the number of minorities on the various selection panels as compared to 1991. The participants believed the election process was preferable. They also recognized that because of the statutory arrangement in New York, the appointment process is here to stay. They also believed that the so-called “merit selection” process had very little to do with merit and would only serve to transfer the selection process to established bar associations and would dilute the political strength of minority communities.



HONORABLE
JAMES A. YATES

Recommendations:

1. OCA should continue to increase the number of minorities sitting in Supreme Court when selecting acting Supreme Court Justices.
2. To increase the number of minorities in judicial elections, mechanisms should be established for public funding.



HONORABLE ROSE H. SCONIERS
"An independent judiciary counts."



LENORE KRAMER

3. The creation of both outreach and mentoring committees should be developed to encourage more minority participation in judicial elections.
4. An increase in minority participation on the judicial selection committees should be developed.
5. The Judicial Institute should offer a course on how to comply with the various financial requirements of a judgeship.

PERCEPTION OF BIAS

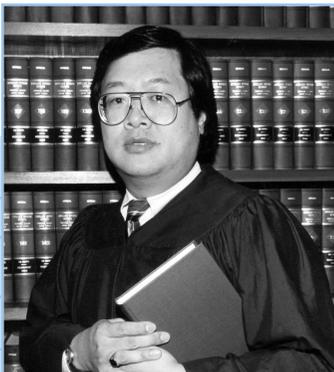
The objective of this group was to assess the current perception of bias in the court system as it relates to litigants, attorneys, and court personnel. In 1991, the Commission held public hearings around the State that elicited testimony from court users at all levels. At that time, those testifying felt that they could not receive equal justice in the system. At those hearings, the Commission found a significant number of complaints against the courts' uniform personnel. Comments from participants in this conference indicated that there are still incidents of appearances of bias by court personnel against minorities. One attorney thought that minorities were subjected to more detailed searches as they passed through the magnetometers. Another participant stated that some Court Officers in lower courts would rudely shout instructions to members of the public.



JUANITA NORMAN

Recommendations:

1. OCA should increase the number of minority supervisors, including Lieutenant selection (discussed in more detail under Promotional Opportunities, page 8).
2. OCA should establish an office for an ombudsperson to assist all persons to understand the court processes, secure interpretation services, and locate specialized facilities (i.e. childcare).
3. OCA should provide in each clerk's office additional informational brochures in other languages and dialect translations.
4. OCA should involve fraternal and employee organizations in regularly scheduled meetings regarding the development of policy.
5. The results of racial investigations made by the Office of Inspector General should be published.



JUDGE DOUGLAS S. WONG

EMBRACING LEADERSHIP FOR A COMPETITIVE ADVANTAGE

This workshop examined how employees in the Court System could develop relations that would be helpful in their advancement in the system by recognizing that each individual has a personal responsibility to develop relationships within the system. The workshop focused on the following concepts:

- Developing an awareness for participants of their “leadership quotient” as they perform daily duties in the court system
- Valuing the need to consider the emerging workplace strategy of “Emotional Intelligence” as part of the new leadership paradigm
- Facilitating a dialogue that challenged attendees to “think outside the box” when confronted with difficult situations that arise with internal and external stakeholders of the courts

Recommendations:

1. There should be greater involvement in minority employee groups such as Cervantes and Tribune Society to develop relationships that would be helpful to career advancement.
2. An employee should understand and be prepared for both behavioral and situational interview questions and have the ability to articulate ideas verbally—both in writing and/or through a presentation (i.e. Powerpoint).
3. Each employee should take an individual SWOT (Strengths, Weaknesses, Opportunities, and Threats) Analysis, a user-friendly self-assessment strategy, to determine his or her strengths and weaknesses. Based on the results of this analysis, the employee should then develop an Action Plan that will capitalize on his or her strengths and strategize on ways to change weaknesses into positive characteristics.
4. Each employee should use his or her Action Plan to promote himself or herself for career advancement opportunities.



ARTHUR MATTHEWS

CONCLUSIONS

The attendees thought that the conference provided an excellent opportunity for employees, administrators, judges, and court users to discuss the problems of the advancement of minorities within the Unified Court System (UCS). They stated emphatically that they wanted an Action Plan to increase minority participation in the UCS hierarchy and to have a safe recourse to express grievances. In each workshop, attendees stressed the need for a monitoring system that enforced equality and advancement of minorities in the various departments of UCS.

The attendees also felt that there should be information distributed to all employees, explaining the roles of the various special interest offices—such as the Workforce Diversity Office, the Inspector General for Bias Matters, and the Inspector General for the Unified Court System. There was a need for a better outreach program for the distribution of materials on the various grievance processes, the use of employee and fraternal organizations for distribution of notices and materials, and the announcement of position openings.

Finally, the attendees thought that all Office of Court Administration (OCA) personnel should be required to attend an annual sensitivity training session. While most of the attendees felt that minorities had made advancements since the Judicial Commission on Minorities 1991 study, they felt that these advancements did not match up proportionately with the percentage of minorities in the population.

**"WE ARE NOT WHERE WE USED TO BE,
BUT WE ARE NOT WHERE WE WANT TO BE."**



The Honorable Robert G. M. Keating, Dean of the New York State Judicial Institute, and Honorable Richard B. Lowe, Supreme Court Justice, prepared to address the attendees.

Keynote Speaker Theodore M. Shaw made a poignant observation in the opening session.



Conference attendees applauded Hector Diaz, Bronx County Clerk, as he pointed out challenges faced by minorities in the New York State Court System.

The Honorable Robert T. Johnson, District Attorney of Bronx County, (left) and Honorable L. Priscilla Hall, Justice of the Supreme Court—Kings County, mused over the data given at the conference.



The Honorable Juanita Bing Newton, Honorable Joan Carey, and Honorable Joseph Traficanti, listened as the Honorable Ann Pfau addressed the conference attendees.

Also attending the conference were the Honorable Ariel E. Belen (right) and John Carro, the first Hispanic appointed to the Appellate Division, First Department. Carro said, “When I first came on, you could put all of the minorities in one spoon.”



THE FRANKLIN H. WILLIAMS JUDICIAL COMMISSION ON MINORITIES



LEFT TO RIGHT: Justice yvonne lewis; Dr. Maria Ramirez; Justice Lewis L. Douglass (Chair); Justice Ariel E. Belen; Justice Eduardo Padro; and Halima Cassells, Administrative Staff; **(STANDING):** Joyce Y. Hartsfield, Executive Director; Justice Rose H. Sconiers; Justice Richard B. Lowe, III; Lenore Kramer, Kramer & Dunleavy; William H. Etheridge, Chief Clerk VII; Justice Troy K. Webber; Felix Fernandez, First Deputy Chief Clerk; Robert M. Reaves, Retired; and Judge Charles J. Tejada; **(NOT PICTURED)** Justice William J. Davis; Pamela D. Hayes, Attorney; René Myatt, Attorney; Judge Cesar H. Quinones and Judge Douglas S. Wong.

MISSION STATEMENT

It is the mission of the Franklin H. Williams Judicial Commission on Minorities to educate and advise decision makers in the New York Court System on the issues affecting both minority employees and litigants; and to implement recommendations developed to address said issues.



[Redacted text]

