

Mary Lynn Nicolas-Brewster:

Good afternoon. Thank you. So the purpose of this town hall is to provide our court family an opportunity to engage in honest and meaningful dialogue with the goal of eradicating systemic racism and bias from our court system. We want to hear your voice, your concerns, your solutions, in order to address these issues and affect meaningful change in our court system. My name is Mary Lynn Nicolas-Brewster, and I am the executive director of the Franklin H. Williams Judicial Commission, which is celebrating its 30th anniversary this year as a permanent commission in the New York state court system promoting racial and ethnic fairness in the courts, the first such court based commission ever established in the United States. Over the last 30 years, and continuing today, the Commission works to ensure that all who are employed by, and conduct business in, the New York state court system are treated equally. That the court system operates free from racial discrimination and bias, and that the court system truly reflects the diversity and inclusiveness of our communities.

Mary Lynn Nicolas-Brewster:

Thank you for joining us today and participating in this important conversation, which will bring us ever closer to the goal of a court system which is free from discrimination and bias, and to truly achieving equal justice under the law. On the agenda today, we will have greetings and remarks from the Honorable Janet DiFiore, Chief Judge of the State of New York. Then we will have the Honorable Lawrence K. Marks, Chief Administrative Judge, also bring greetings and remarks, as well as the Honorable Edwina G. Mendelson, Deputy Chief Administrative Judge for Justice Initiatives. Next, the Honorable Shirley Troutman and the Honorable Troy K. Webber, co-chairs of the Franklin H. Williams Judicial Commission, will provide an overview of the Williams Commission, discuss the report of the Special Advisor on Equal Justice and its recommendations, and the Commission's action plan to address racial and ethnic bias in the courts.

Mary Lynn Nicolas-Brewster:

We are privileged to have with us today as our distinguished keynote speaker, Deborah N. Archer, Professor of Clinical Law and Co-Faculty Director of the Center on Race, Inequality, and the Law at New York University School of Law, and a nationally recognized expert on civil rights and racial justice. Thereafter, we are joined by panelists, Tony Walters, Director of The Office of Diversity and Inclusion, Sherril Spatz, Inspector General, and Kay-Ann Porter Campbell, Managing Inspector General for Bias Matters, each of whom will speak briefly about the work of their respective offices. Immediately following, we will have our question and answer period during which time we wish to hear your voice and concerns on issues of systemic racism and bias in the courts. That portion will be moderated by the Honorable Llinét M. Rosado, Justice of the Supreme Court, Bronx County and Franklin H. Williams Commissioner.

Mary Lynn Nicolas-Brewster:

At that time, you will be directed to raise your hand and will be able to unmute yourself and ask any questions, or you may use the chat function to submit your questions to any of the speakers. The chat icon is located in your meeting controls panel of your meeting video. Now, those who are participating via live stream, please forward your questions via email to FHWilliams@nycourts.gov. Again, FHWilliams@nycourts.gov.

Mary Lynn Nicolas-Brewster:

Now in the materials that were shared, you will find the ground rules for the Town Hall and those rules will be reviewed immediately before the Q&A portion. We want to engage in a respectful and productive conversation, which allows us to hear from as many people as possible and address questions and concerns. Before we get started with the Town Hall, please note that everyone's microphone will be muted during the presentations by our speakers and panelists. And as I just noted, attendees will be able to unmute themselves during the Q&A session. Please note also that the session is being recorded and the recording will be posted later to our website. We will begin now with greetings and remarks from the Honorable Janet DiFiore, Chief Judge of the State of New York.

Hon. Janet DiFiore:

Good afternoon, and welcome to the Franklin H. Williams Judicial Commission's virtual town hall on dismantling systemic racism in the courts. The court of appeals is in session today, and so I regret that I can't join you to participate live in this town hall meeting, but I'm grateful for the opportunity to say a few words about the importance of today's forum and the need for an honest and ongoing dialogue about issues of racial and ethnic fairness within our court family.

Hon. Janet DiFiore:

So let me start by thanking the chairs of the Williams Commission, Justice Troy Webber of the Appellate Division, First Department, and Justice Shirley Troutman of the Appellate Division, Fourth Department, and all 28 commission members, including your moderator, Bronx County Supreme Court Justice Llinét Rosado, for their leadership in sponsoring this live forum to update our judges and staff on the status of our efforts to implement the recommendations in Secretary Johnson's Equal Justice Report, including the commitment I have made as Chief Judge to achieve a policy of zero tolerance for racial bias and discrimination in our court system. And for giving our judges and staff, this unique opportunity to be heard and to offer their insights and suggestions on how we can meet the challenge of eliminating systemic racism in the courts.

Hon. Janet DiFiore:

We all know and understand that our courts and our justice system cannot function without the public's trust and confidence. Our authority and legitimacy in the public's eye depends on many factors, but none is more important than the public's belief in our ability to provide equal justice under the law to every person who comes through the courthouse doors, regardless of who they are or where they come from in life. And equally important, the judges and court professionals who make up our court system, including the men and women who interact with the public each and every day, must inspire that same trust and confidence. As judges and court professionals who've dedicated our careers to the courts and our system of justice, we have a solemn obligation in performing our public duties to treat every colleague we work with and every person who appears before us with equal justice, dignity, and respect.

Hon. Janet DiFiore:

That's why in early June, following the killing of George Floyd and a disturbing racist Facebook posting by one of our court employees, I asked Jeh Johnson, a nationally respected lawyer and public servant, who as you know served as United States Secretary of Homeland Security in the Obama administration, to conduct an independent, equal justice review of our court systems policies and practices, as they relate

to issues of racial justice. After a thorough four-month study, Secretary Johnson and his team issued a report, which found that even though our judges and court professionals are working hard to get it right when it comes to equal justice, we are falling short in a number of areas, including the treatment of minority litigants in our high volume urban courts, the existence of racial tension and intolerance within our court family, the need to strengthen internal diversity and inclusion and the need to clarify our discrimination policies and improve their enforcement.

Hon. Janet DiFiore:

We've embraced our responsibility to do better. And as you will hear today, we have moved quickly to implement Secretary Johnson's recommendations to ensure fairness, equal treatment, diversity and meaningful inclusion in our court system. And I have appointed and empowered Edwina Mendelson, our Deputy Chief Administrative Judge for Justice Initiatives to lead our day-to-day efforts to put these recommendations into action. And as you will also hear today, Judge Mendelson is actively engaged with our judicial leaders, court managers, judges, and staff all across the State in developing our strategic plan on equal justice in the courts in order to implement the Equal Justice recommendations, including the commitment from the top, the commitment I have made on behalf of our entire court system to embrace a policy of zero tolerance for racial bias and discrimination.

Hon. Janet DiFiore:

And we are working hard to finalize our strategic plan by early March, and we're excited about unveiling our zero tolerance policy later this month. And as I hope you know, we've engaged an independent monitor as well, Alphonso David, a nationally-recognized civil rights advocate and president of the Human Rights Campaign, to evaluate and report on our progress and ensure that we're making good on our commitment to implement the Equal Justice recommendations.

Hon. Janet DiFiore:

For all of us, there is no higher priority than implementing these recommendations. And that is simply because transformative change, real durable institutional change requires more than strategic plans and nicely worded policies. Real change, meaningful change requires honest, often difficult dialogue and conversation and that is exactly what we are compelled to do right here within our own court family. And what better way to promote that dialogue than providing an appropriate forum where judges and staff have the opportunity to react to and comment on the work we are doing and offer up suggestions and input on how we can achieve our shared goal of eliminating bias from our court system in any and all of its forms. There is no substitute for open and honest communication. Conversations that question our attitudes, challenge our perceptions and foster understanding of our differences so that we can build the kind of foundation of empathy, mutual trust and understanding that will support lasting change within our institution and among the members of our court family.

Hon. Janet DiFiore:

And so I want to express my gratitude to the Williams Commission for taking the lead in creating this live town hall forum and for engaging a terrific keynote speaker, Professor Deborah Archer, who has studied systemic racism and its many forms. And who will speak to the importance of this moment in our history and the opportunity that we have before us to work together to confront and combat racial injustice and strengthen public trust and confidence in our courts, the justice system and the rule of law.

Hon. Janet DiFiore:

Finally, I want to thank all of you for your participation and for the terrific turnout for today's town hall. We want, and we need to hear from you. We want to hear your concerns, your expectations, your ideas and your observations, so that we can tackle these issues together openly and honestly, and come to a shared understanding of what it means to foster meaningful inclusiveness, ensure fair and even treatment of everyone among us, and make certain we are truly all about equal justice for all. So thank you for your participation today, and thank you for your commitment to maintaining the public's trust and confidence in the work and mission of the New York State courts.

Mary Lynn Nicolas-Brewster:

Indeed, we do have greetings and introductory remarks by the Honorable Lawrence K. Marks, the Chief Administrative Judge. So we want to welcome him. Judge Marks, welcome.

Hon. Lawrence Marks:

Thank you, and good afternoon to everyone. I have some brief remarks to share with you. So just let me start out by saying, and I know I speak for the Chief Judge when I say this, that there is no more important task in the Unified Court System right now than following up on the recommendations in the Johnson report and seeing to their speedy and effective implementation. Last spring, in the wake of the George Floyd tragedy, the Chief Judge and I discussed at length what the court system needed to do in response. We talked about putting out a statement as a number of other court systems and state high courts were doing at the time, but we concluded that while words are obviously very important, strong action was needed as well. So we agreed what was needed was an independent top to bottom evaluation of how our court system as an institution handles racial bias. With practical, doable recommendations, proposing how to address the problems that the evaluation identified.

Hon. Lawrence Marks:

And that is exactly what we received. The Johnson report is thorough, it is comprehensive, it pulls no punches and it lays out a series of realistic steps we can take as an institution. In short, it's a blueprint for addressing these problems. And that is what we are doing, we have put together an implementation team consisting of the people with responsibility for the tasks and actions that the report emphasized needs to be accomplished. As you know, we have designated Judge Edwina Mendelson to oversee our efforts on a day-to-day basis, and you'll be hearing from her in a moment. Judge Mendelson in carrying out her day to day supervision of this program is developing a detailed work plan to ensure that what needs to be done is done and is done in a timely fashion.

Hon. Lawrence Marks:

I can tell you that this is all well underway, but I don't want to suggest to you that this is a simple undertaking, it is not. Achieving cultural change is never simple, but we are committed to doing everything we can reasonably do as an institution to attack these problems. And as the Chief Judge says in her remarks, we do need input and advice from all of you, so forums like this one are necessary and invaluable. So I want to thank the Williams Commission for organizing this event, and in particular, I want to thank all of you for participating. Thank you very much.

Mary Lynn Nicolas-Brewster:

Thank you, Judge Marks. Thank you so much. Next we will hear from the Honorable Edwina G. Mendelson, Deputy Chief Administrative Judge, who heads the newly expanded New York State Unified Court System's Office for Justice Initiatives, tasked with ensuring meaningful access to justice for all New Yorkers in civil, criminal and family courts, regardless of income, background or special needs. Additionally, Judge Mendelson leads the Equal Justice in the Courts Initiative, a top priority for our Chief Judge Janet DiFiore to implement the recommendations of Special Advisor on Equal Justice, Jeh Johnson in his October, 2020 report, Examining Racial Bias in the State Court System. Welcome Judge Mendelson.

Hon. Edwina Mendelson:

Good afternoon, everyone. It is my true pleasure and privilege to be asked to join you today at this very important Town Hall. I thank the Williams Commission for hosting this important event and for all the work they have done for decades pursuing racial justice in our courts. I'm excited and I'm humbled by the critically important assignment, leading our court's implementation of the recommendations made by Secretary Johnson in The Equal Justice report. Chief Judge DiFiore mentioned in her remarks, that our judicial and executive court system leaders have been very busy drafting our strategic plan on equal justice in the courts. That is to implement those 13 recommendations in that 100 page remarkable, comprehensive, and extremely painful to read report.

Hon. Edwina Mendelson:

Our early steps have involved many intense, hours long planning meetings with court leaders. And I'm going to name the implementation planning team alphabetically by their office. We are working with the council's office, the Department of Public Safety, the Division of Professional and Court Services, the Division of Technology and Court Research, the Division of Human Resources, including their Workforce Analysis Office, the Franklin Williams Judicial Commission, of course, the Inspector General's Office, including the Office of the Managing Inspector General for Bias Matters, the Judicial Institute, my own office, which is the Office for Justice Initiatives, the Office of Diversity and Inclusion, as well as other key OCA executive leaders.

Hon. Edwina Mendelson:

Issuing this strategic plan will begin our work. This is multi-faceted, multi-layered, and I expect this will be a multi-year endeavor. I do consider this work to be the assignment of my life, and I promise to take it extremely seriously and do my very best to help our courts become the best they can be. We owe this high level commitment and insistence on excellence to the communities we are called upon to serve as a court system and to each other, as the judges and professional staff serving in our courts.

Hon. Edwina Mendelson:

So who am I to lead this work? I do not claim to have particular expertise in implementing racial justice reform in courts. It is not something that I have done before, and I didn't learn it in any of the schools that I have attended, but I do come to this project with a fair amount of experience, engaging in other important system reform efforts and those of significance, in my opinion.

Hon. Edwina Mendelson:

First, in my prior service as a judge leading our fabulous New York City family courts, that is a court that constantly strives to improve our service to the public and our interaction within our court family. And also more recently in my role as Deputy Chief Administrative Judge for Justice Initiatives, where I lead our Access to Justice program and other endeavors. In that role, I was so pleased to have co-lead our court systems successful implementation of what seemed impossible at the time, successfully raising the age of criminal responsibility in New York State. We transformed our courts and our court system to address the justice system involved youth who are under age 18. And I note, and I think it's worth noting, that the implementation of raise the age was also a system improvement endeavor related to racial justice. When we consider the race and ethnicity of the young people who are system involved in our state, it is a racial justice endeavor. I thought that was the assignment of my life, not knowing that this one was on its way.

Hon. Edwina Mendelson:

I also have a fair amount of lived experience to guide me in this special assignment. I was a Black lawyer appearing in and representing low income, mostly Black and Brown court users who looked like me and my own family. And I represented them in our busy family courts for many years, and then served as a judge in those very same courts. And I feel I have something unique to offer to this assignment because of my experiences. When I appeared as a lawyer in family court in New York, I was mistaken on more than a few occasions by court staff and by judges for being a caseworker, an interpreter, although English is my only language or as my client. I have also experienced being abruptly told to step out and wait outside until my case was called, while other lawyers were allowed to freely roam courtrooms. Wearing the business suit costume that lawyers tend to wear was not enough to have others look at me and see a lawyer.

Hon. Edwina Mendelson:

The Report on Equal Justice tells us that these experiences continue to happen in our courts. And I share this with you not to complain, but to acknowledge that I have intimate familiarity with much of what has been described in the Jeh Johnson report. And I also wish to indicate to you that this thorny complex elusive work of ending discrimination, pursuing racial justice and promoting respectful treatment for all who serve in our courts and for all who appear in our courts is one of great personal and professional meaning to me. So I look forward to this challenge and, oh, it is a challenge. And I expect with the assistance, cooperation, guidance, and support of our core community, you all, we will make great progress in this endeavor. Our country and our world are at a place of great introspection and reckoning as it regards racism, racial justice and racial injustice. We must meet this moment. I'm grateful for this opportunity to be engaged in this critically important endeavor with you all, for the benefit of our courts and more importantly, and especially, for the people we are privileged to serve or appear in them, thank you.

Mary Lynn Nicolas-Brewster:

Thank you, Judge Mendelson. Thank you so much. Thank you again to Chief Administrative Judge Marks, Judge Mendelson, Deputy Chief Administrative Judge, again for your remarks, your commitment to implementing the recommendations of Secretary Johnson's report, removing barriers to justice and eliminating racial bias in all forms. So thank you so much. I am now pleased to introduce the co-chairs of the Franklin H. Williams Judicial Commission. The Honorable Shirley Troutman is an associate justice of

the Appellate Division, Fourth Department. She previously served as a trial judge in the New York State Supreme Court assigned to the Eighth Judicial District. Prior to the election, Justice Troutman was a county court judge, and she began her career as a Buffalo city court judge, her judicial career. Prior to joining the bench, Justice Troutman was an Assistant United States Attorney in the Western district of New York, assistant state attorney general and an assistant district attorney.

Mary Lynn Nicolas-Brewster:

The Honorable Troy K. Webber is an Associate Justice of the Appellate Division, First Department. She has served as an assistant district attorney in New York County, senior associate at a medium-sized law firm and deputy bureau chief at the New York City Corporation Counsel and law assistant to a state supreme court justice. The full bios of both co-chairs of the Commission can be found in your materials. And now I will turn it over to Justice Webber, Justice Webber.

Hon. Troy Webber:

Thank you very much, and good afternoon everyone. So in 1988, the then chief judge announced the formation of the New York State Judicial Commission on Minorities. The Minorities Commission, as it was then called, its mandate was, in summary, to ascertain how the public and court participants perceived the treatment of minorities in the courts. The commission was to review the diversity of court personnel in non-judicial positions, and to recommend ways to increase that diversity, Franklin H. Williams was tasked with rendering a report. The Minorities Report was released in 1991. The report concluded that there are two justice systems at work in the courts of New York state, one for whites, and a very different one for minorities and the poor. The Minorities Commission also concluded that the public perceived the court system to be racially biased, and that courts use primarily by minorities, that being the family court, criminal court, civil and housing courts within New York City were grossly deteriorated and inadequate and referred to as ghetto courts.

Hon. Troy Webber:

The court report also recounted a number of overly racist comments from judges in open court across the state. Other findings of the Commission included that nearly half of all attorneys surveyed witnessed discriminatory treatment of minority court users. That court personnel were frequently disrespectful and discourteous to minority court users. Judge Mendelson mentioned the fact that attorneys of color were many times mistaken for defendants, defendant families, for court interpreters, but not for attorneys. The quick pace at which judges made weighty decisions in the cases of minority litigants apparently undermined, as we know, their confidence in the system. The report also noted that many of the judges who made bail determinations lacked the cultural sensitivity necessary to make fair determinations appropriate for the realities faced by minority court users.

Hon. Troy Webber:

Also that for litigants, for which English was not a primary language, that full access to the court system was significantly impaired due to the insufficient number of court interpreters. The report also noted that minority attorneys, as I stated, were treated with less professional respect and courtesy than their white counterparts. Also, minority judges were underrepresented in a supervisory as well as administrative positions in the court system. Also, that minorities were underrepresented in OCA's nonjudicial workforce. And that the EEO office within OCA had been relegated to second class status.

Hon. Troy Webber:

The Minorities Commission also singled out the court officer community, which one attorney quoted in the report as, in describing an incident, as, "an especially horrible problem." Citing segregated locker rooms for court officers in the Bronx and graffiti, reflecting racial insults in hallways and locker rooms. The Commission noted an incident where a court officer placed an attorney of color in a choke hold because the court officer assumed that attorney to be a defendant when the attorney was approaching a judge too closely, though the judge had motioned for the attorney to approach the bench.

During public hearings conducted by the Minorities Commission, a black court officer testified that her fellow court officers told her to refer to litigants as slime, to refer to their children as baby slime and not to show litigants any courtesy whatsoever. The Minorities Commission recommended that a further commission be formed to ensure the successful implementation of their recommendations. And in 1991, the then chief judge established the Franklin H. Williams Judicial Commission, an independent permanent commission tasked with the following mandate: to engage with court leaders, to attend annual meetings with the chief judge and court administrators to discuss issues of concern to minority legal community, data collection and analysis to collect and analyze race data and analyze programs relating to the treatment of people of color in the court system and to suggest methods of correcting those issues, monitoring racial bias complaints to collect and monitor complaints of racial bias within the judicial system and forward them to the commission or agency with jurisdiction to discipline where appropriate, to review and comment on existing pending legislation affecting people of color and the state court system and recommending legislation where necessary, to interact with local bar associations, law schools, and community groups in an effort to develop educational and other programs designed to address racial and ethnic bias in the legal profession.

Hon. Troy Webber:

Fast forward to 2020. In June, 2020, following events which are unfolded in this country, as well as within the court system itself, Chief Judge DiFiore appointed Secretary Johnson to conduct an independent review of the New York State court system's response to issues of institutional racism, and to make recommendations that center on operational issues that lie within the power of the court system to implement administratively and unilaterally. Chief Judge DiFiore directed that Secretary Johnson deliver this report and recommendations by October 1st, 2020. In compiling his report, Secretary Johnson was tasked with reviewing the policies and statewide practices of the court system, reviewing the structure, operations and effectiveness of organizations and programs within the court system designed to address issues of systemic and implicit bias and to make recommendations, review bias education and training practices of judges and non-judicial personnel to ensure that such training maximizes the understanding of all court personnel on the challenging issues of racial justice, make recommendations accordingly, review the practices of the selection and appointment of judicial and non-judicial officers and employees within the court system, with recommendations to ensure that those practices are consistent with the standards of fairness, equity, and inclusiveness, review court policies and programs to ensure that they are free of racism and other bias, and to make recommendations accordingly.

Hon. Troy Webber:

Secretary Johnson and his staff solicited the views of current and former judges, non-judicial personnel with the Office of Court Administration, district attorneys, prosecutors, public defenders, private attorneys, bar associations, and also associations and representatives from court employee units.

Secretary Johnson and his staff conducted 97 interviews involving 284 individuals, including current and former judges from the court of appeals, the appellate divisions, the trial level supreme courts, county courts, city courts, town and village courts, court clerks, court officers, court attorneys, and administrative personnel OCA. They also interviewed prosecutors, private, civil and criminal practitioners, public defenders, and assigned counsel.

Hon. Troy Webber:

They received and reviewed over 120 documents, including 74 memos and emails, supplementing their interviews. There were 17 pictures and emails, documented instances of discrimination or bias as well as memos and emails referring to prior studies or models for innovative practices. And on October 1, 2020, Secretary Johnson delivered a 100+ page comprehensive, well-developed and well thought out report to the Chief Judge. In the report, Secretary Johnson reaffirmed what we at the Williams Commission, and perhaps many of you already knew, that being that while there have certainly been advances, many of the issues and practices which existed in 1991 continue to exist today. In fact, to some extent, Secretary Johnson could simply have removed the first couple of pages from that 1991 report, changed a few names and a few dates, and submitted it as the 2020 report.

Hon. Troy Webber:

In the Report, Secretary Johnson noted the issues in terms of the lack of transparency within the court system when addressing race and racial bias, jury bias, the improper use of social media by court personnel, and a lack of policy by OCA concerning misuse, the handling of complaints of bias by court personnel, the lack of data collection, the lack of diversity in the workforce to recruitment and promotion of non-judicial personnel, judges and court personnel who lack cultural sensitivity, litigants of color and attorneys who were treated with less than professional respect, lack of minority representation in supervisory and administrative positions, under-representation of minorities in OCA's nonjudicial workforce, lack of access by non-English speaking litigants. Again, many of the same issues that were in the 1991 report, and that existed in 1991 in the court system. His recommendations include a commitment from the top, promoting existing institutions, expanding bias training, addressing jury bias, adopting a social media policy, improving diversity and inclusion within HR practices, ensuring implementation of change. As referenced by Secretary Johnson in his report, the Williams Commission has undertaken and continues to address many of these issues.

Hon. Troy Webber:

Again, we've met with and continue to meet with Chief Judge DiFiore and with Judge Marks. We meet with the administrative judges. We meet with the supervising judges. We have made a recommendation, which was actually adopted, in terms of mandatory implicit bias training for judges as well as for individuals within the court system. We have also conducted many programs such as this one, but many programs addressing implicit bias, addressing issues which confront the individuals within the court system. We have been vigilant in our attempts to ensure that the hiring panels are diverse. We continue to review data and statistics concerning the hiring, retention and promotion of nonjudicial as well as judicial personnel. As I stated, we've conducted numerous programs, new judges, things to encourage and to elicit continued participation in the court system, but to ensure that there is diversity in the court system.

Hon. Troy Webber:

As I stated, the Williams Commission is an independent commission within the New York state court system. While we obviously rely upon OCA for our budget and our staffing, all prior judges, chief judges, as well as deputy administrative judges have acknowledged our independence. Judge DiFiore and Judge Marks are no exceptions and we thank them for their continued support and commitment. They have reaffirmed their commitment to providing the commission with the resources, including additional staffing, to assist us in assisting others in the implementation of Secretary Johnson's recommendations, as well as continue our stated mission. Our mission is to promote equal access and full participation in the court system by persons and communities of color in the judicial process, and as well as eradicating systemic racism in the court system, as well as serving as a voice for the concerns of employees, both judicial and nonjudicial within the system.

Hon. Troy Webber:

So, that brings us to the purpose of this Town Hall. While Secretary Johnson's report was certainly comprehensive, due in part to the challenges of the pandemic as well as the time constraints, it was the Commission's conclusion that there were still court employees and other stakeholders who did not have an opportunity to voice their concerns and comments. We therefore thought it important to provide such a forum. This is not a forum for the airing of personal grievances, it is a forum to honestly address issues which we as members of the court system face and to come up with possible solutions to those issues. And with that, I thank you very much.

Mary Lynn Nicolas-Brewster:

Thank you, Justice Webber. And now, we will hear from Justice Troutman. Thank you.

Hon. Shirley Troutman:

Good afternoon. As co-chair of the Franklin H. Williams Judicial Commission, I wish to thank you for joining us today, to share your concerns with the Commission as an existing institution. It is uniquely qualified to address many of the recommendations in the Special Advisor's Report, since we have been confronting many of the issues cited therein for 30 years. Although we have made progress, it is certainly not enough. What those years have taught us is that continued vigilance and the fight to eradicate systemic racism is an absolute necessity. It is the courts that every citizen calls upon when there are disputes that can't be resolved without its assistance, and where the state's punitive powers are exercised as it relates to the criminal law. There is no doubt that when citizens appear at the courthouse, what the people look like, with whom they interact with, from court officers to the judges, impacts their perception of how justice is dispensed.

Hon. Shirley Troutman:

This is not to say that a courthouse with majority personnel can't dispense justice fairly, but when some persons of color from the public become involved in the legal system, their greatest fear is that their negative perception of the system will for them become a reality. Thus, as gatekeepers of justice, it is the responsibility of the courts to actively work to ensure that when every citizen participates in our judicial system, they have trust and confidence in the process. The Franklin H. Williams Judicial Commission has prepared its own action plan in response to special adviser Jay Johnson's equal justice in the courts report. We are working to eradicate systemic racism in our court system, and in order to do this, we wish to establish statewide advisory groups for the Commission. As we all know, New York is a

large state and the needs of our citizens and our court employees are different in different areas of the state. Thus, that is the purpose for that particular group.

Hon. Shirley Troutman:

We wish to develop an entire page on the OCA internet website dedicated to the Commission, the Office of Diversity and Inclusion and the Inspector General. That is necessary so that employees who have issues can navigate the process much more easily so that their circumstances can be dealt with swiftly. We wish to establish a newsletter to assist with outreach regarding promotional opportunities, exams, career development, and et cetera. We are working to increase racial and ethnic group representation at all levels of the court system, as we have been throughout our existence. In order to do that, we believe a repository is necessary to be established containing vacancies that would be shared with the Commission, and encourage administrative judges to consider using acting judicial designation where there are underrepresented persons with respect to the courts and various areas of our state. The use of acting judicial status, for instance, with respect to the family court and the county court would allow a more diverse judiciary.

Hon. Shirley Troutman:

It is the Commission's desire to utilize data required by Senate Bill S7703 to help identify target areas where employee enrichment programs and judicial diversity is an issue. We will collaborate with Human Resources in the court system, work to increase and make accessible employee enrichment programs, especially targeted to underrepresented groups. We would establish a best practices manual for diversity statewide. We would utilize the digital boards that are in existence, where it is possible to do so, to include job announcements and promotion opportunities.

Hon. Shirley Troutman:

It is the Commission's desire to be included as an advisor to court administrators and stakeholders on the issue of racial and ethnic fairness. The co-chairs, in that vein, should be included as one of the chief judges advisors because we're the eyes and ears of the community, the judicial members of the court system and court employees. The Commission intends, going forward, to make sure that we have annual meetings with all administrators, to the extent possible throughout the state. The Commission is prepared to continue serving as a voice for the concerns of employees and the public on issues of race and bias. We will work with employees, law schools, the judiciary and the public, providing programs for each of those entities that are appropriate, survey judicial district employees, serve as a liaison to ensure all employees receive proper workspace, equipment, equity, and job titles, et cetera, that court officers, reporters, and others all have an established court email address and computer access, address issues that impact the community to ensure equal justice and treatment under the law, and improve navigation of courthouses with respect to signage. It's suggested that perhaps a kiosk or a help desk be established to assist the public.

Hon. Shirley Troutman:

With respect to jury diversity and bias, we will work to have jury commissioners throughout the state have mandatory outreach programs and that a state model be established for those programs. Data collection, with respect to underrepresented persons who appear for jury service, must be collected. The Commission plans a jury summit to address underrepresentation on juries, and we will work with the parties that are necessary to help develop an implicit bias jury charge. Disparate impact of court procedure and rulings. The commission is prepared to do the following: community outreach and

collaboration with all affected entities, surveys, research, disparate impact rulings as to individuals and certain communities and track those rulings, providing educational training for court employees and the judiciary to raise awareness regarding issues of racial and ethnic bias, partner with other court commissions, fraternal groups, and bar associations to provide a pipeline to law school, leadership positions and the judiciary. New York County Lawyers Association Special Masters Program is a program that will allow experienced lawyers of color to resolve complex discovery issues predominantly in commercial divisions.

Hon. Shirley Troutman:

And we would work to improve admission, graduation and bar passage rates of persons of color, bring back the Judicial Fellowship Program, serve as a liaison to bar associations with respect to diversity issues and conduct research, review statistical data and publish periodic reports regarding racial, ethnic equity in the courts and the legal profession, track the impact of our programming, publish reports and articles on diversity and racial issues, publish annual or biennial reports on diversity with respect to statistics or judges and all court personnel. Thank you.

Mary Lynn Nicolas-Brewster:

Thank you, Justice Troutman. And thank you, Justice Webber, for your remarks. I am now pleased to introduce and welcome our distinguished keynote speaker. Deborah N. Archer is a Professor of Clinical Law and Co-Faculty Director of the Center on Race Inequality and the Law at New York University School of Law. She is a nationally recognized expert in civil rights and racial justice, and a frequent public speaker on these topics. Her scholarship has appeared in leading law reviews, including Michigan Law Review, Vanderbilt Law Review and the Harvard Civil Rights - Civil Liberties Law Review. Prior to full-time teaching, Professor Archer worked as an attorney with the American Civil Liberties Union and the NAACP Legal Defense and Educational Fund, where she litigated in the areas of voting rights, employment discrimination, and school desegregation. Professor Archer is currently a member of the National Board of Directors of the American Civil Liberties Union and general counsel to the Board. She is also a member of the board of the Legal Aid Society of New York. Professor Archer previously served on the New York City Civilian Complaint Review Board, the nation's oldest and largest police oversight agency, and the 2018 New York City Charter Revision Commission.

Mary Lynn Nicolas-Brewster:

Professor Archer was selected as an Aspen Ideas Festival Scholar and the recipient of the Judge Jane M. Bolin Alumni Service Award from Yale Law School, the Constance Baker Motley Award from Columbia Law School, the Haywood Burns/Shanara Gilbert Award from the Northeast People of Color Legal Scholarship Conference and the Otto L. Walter Distinguished Writing Award from New York Law School. She was also selected as one of the top women in law by the New York Law Journal. We are pleased to welcome our keynote speaker this afternoon, Professor Deborah N. Archer. Thank you so much.

Professor Deborah N. Archer:

Thank you for the very generous introduction, and thank you for the invitation to talk to you all about systemic racism as you turn to address the findings in Secretary Johnson's report, the report talks about many different forms of discrimination. It raises issues of diversity, inclusion, cultural sensitivity, explicit bias, and implicit bias. And all of those are incredibly important issues you need to address in order to maintain the faith in our judicial system. But he also writes about a dehumanizing culture for people of color and systems that create second class citizenship for people of color who work in the court system,

who come to the court seeking justice, or who face charges within our criminal legal system. And that last set of concerns raise issues around systemic racism. It's important to understand what that is before you embark on the hard work of unraveling those systems of oppression.

Professor Deborah N. Archer:

So, when most people think of racism, they think about a person or maybe a group of people who dislike people of a different race, and then act on that dislike, or they talk about implicit bias where someone is acting on unconscious feelings, but thinking of racism only in those terms really misunderstands the true nature, power and persistence of racism. This limited understanding of racism completely overlooks the decades or centuries-long impact of race-based laws, policies, practices that have caused and perpetuate racial inequality. And that limited understanding of racism means that we're using tools that are really too small and too narrow to be effective ultimately. So, I want to start by sharing with you a story of the fish, the lake, and the groundwater, which I think is a helpful framing that was created by Bay Love and Deena Hayes-Greene of the Racial Equity Institute.

Professor Deborah N. Archer:

So, imagine you have a lake in front of your house and you come out to find one fish that is floating belly up dead in that lake. It makes sense at that point to analyze the fish, to figure out what is wrong with it. So, let's imagine the fish is one student who's failing in the education system. You might ask, "Did it study hard enough? Is it getting the support that it needs at home? Is the work too challenging?" But if you come out to the same lake and half the fish are floating belly up dead, what should you do next? This time, it's probably time to analyze the lake. And imagine, again, that the lake is the education system and half the students are failing. This time, we'd ask, "Might the education system itself be causing such consistent, unacceptable outcomes for students. And if so, how?" Maybe we look at the curriculum or the teachers, the facilities and the resources. And finally, picture five lakes around your house, and in each and every lake, half the fish are floating belly up dead. What does it time to do then? At this point, it's time to look at the ground water feeding into each lake as the source of the problem for each of these different lakes. It's no longer about the fish and it's no longer about a single lake.

Professor Deborah N. Archer:

And as we look at the deep and profound racial disparities that pollute every institution in America, including our legal system, you will see that facially neutral yet ultimately race-based laws, policies, practices are the groundwater leading to the widespread racial inequalities we are seeing today and that is systemic racism. Systemic racism, which accounts for individual, institutional and structural forms of racism is the intersecting, overlapping and codependent institutional arrangements, policies, practices, ideas, cultural norms, and behaviors that give an unjust amount of resources, access, rights, respect, and power to white people while denying those same opportunities and resources to people of color.

Professor Deborah N. Archer:

So, systemic racism goes beyond individual beliefs and feelings about people of other races. It means that the systems on which our society functions and our physical, cultural and social structures are all infused with and impacted by the racism within which they are created and maintained. They unevenly distribute benefits and burdens to various groups and make it very difficult for an individual to break free of this web and avoid those disparate outcomes regardless of their individual behavior. In turn, those systemic inequalities influence and feed stereotyped thinking and explicit bias, and then those

biases and stereotypes influence future laws, policies, and practices that then continue to feed systemic racism. It really is a vicious cycle.

Professor Deborah N. Archer:

I think an example is helpful and a recent example of which I think we are all painfully aware, is the COVID-19 pandemic. And there's an old saying that when America catches cold, black people catch pneumonia. And I was reminded of the saying over and over again, as we see the way that COVID-19 is disproportionately ravaging black and Latino communities. It really is a textbook example of systemic racism. So, COVID-19 was introduced into a society and systems that are racially discriminatory in individual, institutional and structural ways. People of color are not more innately susceptible to coronavirus, but because of years of inequality, people of color are more likely to be exposed to the virus, we're at greater risk of developing complications, and we're also going to experience a disproportionate share of the social, emotional and economic fallout from the virus and the lockdowns. And we can start with the healthcare system. Many communities of color have a long-standing distrust of healthcare professionals because of the history of using black people for medical experiments. From James Marion Sims, who's considered the father of gynecology who conducted gynecological experiments on enslaved black women, without the use of any painkillers or anesthesia, to the Tuskegee experiment, where from 1932 to 1972, the public health service infected black soldiers with syphilis and then study the effects without informing these men or attempting to treat them at all.

Professor Deborah N. Archer:

Long-standing disparities and access to hospitals and doctors, including the closure and chronic underfunding of community hospitals, contributed to black and Latino people being less likely to be tested for COVID-19. And then also being more severely impacted once they contracted the virus. And we saw recent reports confirming that black people who contract the virus are not getting the same level of care by doctors and hospitals, as others are. Living in highly dense segregated housing in under-resourced communities contributes to the racial and ethnic disparities of the COVID-19 pandemic, as does the increased likelihood of living in a community or housing plagued by environmental stressors, such as mold or lead paint and lack of access to clean water or communities that are more likely to have pollution causing highways running through them or factories located within them.

Professor Deborah N. Archer:

Add to this, that people of color are more likely to work in low wage jobs, more likely to be let go from those jobs and more likely to be compelled by economic necessity, to work in jobs where they let the luxury of being able to work remotely. And because of a history of discriminatory housing, banking and employment practices have left people of color less wealthy than white people. They're more likely to lack the safety net you need to withstand these economic shocks. Low income students, particularly students of color are more likely to suffer long-term from the closing of schools, lost access to school lunch programs and a lack of computers, broadband, and really just the space necessary to receive the benefits of remote learning.

Professor Deborah N. Archer:

The United States government's major COVID-19 relief program for small businesses is the paycheck protection program. However, neighborhoods of color received PPP loans last or not at all and data from the Brookings Institution found that before COVID-19 large banks approved 60% of loans to white business owners, compared to just 29% of loans to black business owners. That disparity continued after COVID-19.

Professor Deborah N. Archer:

Some studies estimate that up to 90% of minority, small business owners were denied a PPP loan because financial institutions favored their disproportionately white customers when distributing those funds. So in the end, telling people of color to wear masks and social distance is not going to solve the disparities. We have to remove and replace the underlying systems that feed that inequality.

Professor Deborah N. Archer:

So what does that mean for how you move forward in fighting systemic racism within the court system? In the way that I just broke down the many systems that are feeding the racially disparate impact of this pandemic, you have to identify and break down the many systems that are feeding systemic racism within the court. The dehumanizing culture, the culture of disrespect for people of color, second class citizenship, for people of color who engage with the court system every day, including the public, litigants, employees and judges.

Professor Deborah N. Archer:

It's not enough to talk about not having diverse leadership. You have to think about the systems that have fed that lack of diversity, that inhibit opportunity for some and provide opportunity for others. So rather than just focusing on identifying racist people or trying to pinpoint the single racist policy that is going to fix everything, you have to focus on the complex interplay of relationships, processes, systems, behaviors, and culture, including acknowledging the impact of systems and processes that are not directly in your control. And to be clear, fighting systemic racism is not the same as promoting diversity. Diversity is a good thing. It's important and it's absolutely critical work. But diversity alone, divorced from larger structural change, is going to be a hollow goal. The report was really powerful as were the statements from the court system that followed. And that's obviously an important step. This town hall I think is an incredibly important step, but the hard work really has only begun.

Professor Deborah N. Archer:

It's important to speak out against racism, but racism is in part, a systemic problem, and systemic problems require systemic solutions. So an important part of the work you have ahead of you is to unravel the racism that has woven itself into your systems and structures over time, and which grow deeper and more complex every day. We heard earlier that the report that you received in 2020 looked very similar to the report that you received decades ago. And one reason for that, maybe because there was not the process to really unearth the systems and the structures that were feeding the racism. And now's the time to do that.

Professor Deborah N. Archer:

Of course, you can't fix everything, but it's important to those who have contact with the court that you acknowledge the disparities and the systems limitations to address some of the systemic racism.

Overcoming structural discrimination is difficult work, but what you say and do are important steps to unearthing and getting rid of the culture, policies and systems that are really the architecture of racial inequality, both inside and outside of the courthouse. Thank you for giving me this opportunity. And I really look forward to hearing from the panelists and to engaging with you during the rest of the Town Hall.

Mary Lynn Nicolas-Brewster:

Thank you so much, Professor Archer. We really appreciate your comments and we look forward to your participating in the Q and A later. And we now have an opportunity to welcome our moderator, the Honorable Llinét Rosado is a Justice of the Supreme Court of the State of New York, and currently presides in the Supreme Court, Civil Term, in Bronx County. And she's also a commissioner of the Franklin H. Williams Judicial Commission. S. Anthony Walters, known as Tony Walters, is the Director of the Office of Diversity and Inclusion, and is responsible for implementing the New York State Unified Court Systems Workforce Diversity Program. Sherrill Spatz is Inspector General for the Unified Court System and supervises internal investigations, including bias matters and fiduciary appointments and internal audit statewide for the unified court system. Kay-Ann Porter Campbell is the Managing Inspector General for Bias Matters for the Unified Court System. She conducts investigations in connection with allegations of work-related bias, including sexual harassment involving employees of the Unified Court System. The full bios of our moderator and our panelists again can be found in your materials. We will now hear from Tony Walters, Director of the Office of Diversity and Inclusion. Mr. Walters.

Tony Walters:

Thank you, Mary Lynn. Good afternoon, everyone. The New York State Unified Court System has a long-standing commitment to equal employment opportunity, the elimination of under-representation of minorities and women, and to ensure in the diverse workforce that reflects the communities that we are mandated to serve. Diversity contributes to the many different perspectives, approaches, talents, and aspirations that court employees, both judicial and non-judicial, bring to their work every day.

Tony Walters:

Considerations include nationality, ethnicity, gender identity, or expression, and other aspects of backgrounds, such as age, religion, geography, family status, physical and mental ability, and other differences. Some of our differences are unique to us as individuals, while others connects us to groups of people. The strength of diversity is realized by valuing and leveraging all of these differences. It is the objective of the Unified Court System and its Office of Diversity and Inclusion, which I am proud to lead, to ensure an atmosphere conducive to the highest quality of work. A workplace where all people feel comfortable and productive. The Unified Court System will not allow any behavior that an intimidating or offensive environment for court users or employees. Next slide, please.

Tony Walters:

As a department within the Office of Court Administration, the Office of Diversity and Inclusion provides a centralized dedicated resource with statewide reach and authority from which the Unified Court System can further its diversity and inclusion policies and initiatives. From this unique position, the Office of Diversity and Inclusion has worked diligently over many years to expand the recruitment, hiring and advancement of qualified candidates from underrepresented populations by coordinating outreach efforts for competitive and non-competitive exams and positions, and also disseminating job

announcements to various diverse applicant pools. We address discrimination, bias and unwelcomed behavior issues in the workforce by collaborating with some of our partners, such as the human resources department and some of our fraternal organizations. We raise awareness of cultural sensitivity and bias issues. We encourage the inclusion of disparate voices and opinions at all levels by constantly communicating with our fraternal organizations and affinity groups.

Tony Walters:

We promote the importance of a respectful workplace. We try to create a large inclusive umbrella, a community where all are welcomed and supported. As a response to the Jeh Johnson report, we will now also really proactively promote our existing institutions that we partner with on these important causes such as human resources, our upstate diversity task force, our court commissions and committees, the fraternal and affinity groups and others who are dedicated to working on these critical, equal justice endeavors. It is our hope that diversity and inclusion, racial justice, and the proactive dismantling of systemic racism becomes a part of our organization's DNA from this point forward. Thank you.

Mary Lynn Nicolas-Brewster:

Thank you. We will not hear from IG Spatz.

Sherrill Spatz:

Thank you, Mary Lynn. And thank you Franklin H. Williams Judicial Commission for inviting us to come and make a presentation today. One of our tasks from the Secretary Johnson report was to improve the awareness of our office. So this is the perfect opportunity for us to do so. First, I'd like to tell you a little bit about the Inspector General's office, what we do, how we do it and how we can help. Then Kay-Ann Porter will talk more specifically about the Bias Matters Unit.

Sherrill Spatz:

The IG's office is responsible for investigating allegations of misconduct. We have statewide jurisdiction from Buffalo to Montauk. We have a staff of four attorneys, one supervising investigator, four investigators, and two support staff. We have jurisdiction over all the employees of the court system in addition to all court users. It's our view that this is our house and that we have responsibilities to make sure that bias does not go unchecked.

Sherrill Spatz:

We receive our complaints from a variety of sources from the DCAJ's and the administrative judges, from litigants, from employees, chief clerks, court users, and other organizations that do business with the court. We want to remind everyone that we are always taking anonymous complaints and we will investigate them, as we have in the past. It's always helpful to have as much information as we can such as witnesses and other information for us to do an effective job investigating. But if you are uncomfortable revealing who you are, we can work with you. We now have an ombudsperson, Eva Moy, who is available to answer all questions. Sometimes people will call us and they'll wonder whether they should make a formal complaint that would be investigated by the IG's office or an informal complaint. We would then assist you in working with your administrative judge or your chief clerk or your supervisor or your union, so that you would have the opportunity to make an informal investigation.

Sherrill Spatz:

If your allegation involves serious misconduct, then we would open a formal investigation. Let me tell you a little bit about our process. We initially would start interviewing the complaining witness, thereafter we would gather all relevant documents, which could be Kronos records, court documents, EZ-Pass records, social media. We would interview all relevant witnesses who had information about the incident or the incidents. And then at the conclusion, we would interview the subject who would be represented, usually by their union or an attorney or both. Thereafter, we draft a confidential report. That confidential report, because we are fact finders, involves the facts of the case, the information about the testimony of the witnesses and their credibility, any documents or videos or anything else that we've reviewed. And that report goes to the deputy chief administrative judge or the appropriate director of OCA, depending on who the subject is.

Sherrill Spatz:

And the DCAJ or the director of OCA will ultimately make the decision as to whether the complaint was substantiated. And what, if any, discipline or other actions are appropriate. We would let you know and want to assure you that we are not swayed by the title or the alleged power of the person who might be the subject or the person who was the complaining witness. We look at every case on its own. We encourage people to make complaints to us because we are not biased. And we don't know most of the people who make the complaints, and we judge the facts for what they are. We would also remind you that there is no retaliation and that if you make a complaint, you should feel assured that no action could be taken against you for making that complaint. And now, Kay-Ann Porter will tell you about the specifics of the Managing Inspector General for Bias Matters. Thank you.

Kay-Ann Porter:

Good afternoon, everyone. Thank you. I'd like to thank the Franklin H. Williams Judicial Commission and the chairs, Judge Webber and Judge Troutman, for inviting me to talk about the Office of the Managing Inspector General for Bias Matters. Just a little bit of background. The office was created in 1998, and at that time it was known as the Office of the Special Inspector General for Bias Complaints. I started in that office about one year later, in 1999. The office was created to eliminate bias and the perception of bias. As such the office investigate allegations of discrimination and bias involving UCS employees, or that occurs within the courthouse. That would include allegations of bias based on someone's race, color, national origin, age, disability, creed, sex, sexual orientation, gender identity, gender expression, or gender dysphoria, marital status, familial status, military status, arrest, or conviction record, and domestic violence victim status.

Kay-Ann Porter:

A lot of the cases that we have investigated over the years were sexual harassment type cases. And we did see an uptick in the sexual harassment cases in the past few years because of the Me Too movement and the increase intolerance to such behavior and the willingness to report it. This past year, we have seen an increase in complaints based on racial bias because of the Black Lives Matter movement and the George Floyd tragedy. Many of those cases that we've seen involved racially offensive comments made on social media which was not new to the office. In fact, just a couple of weeks before the case in Brooklyn, which we all aware of, the Office was informed about in racially offensive Facebook posting by another employee. The office investigated and recommended disciplinary action for that employee, to which the DCAJ agreed with our findings, and that employee was subsequently disciplined.

Kay-Ann Porter:

We also investigate complaints against judges. And although the Office does not have jurisdiction to discipline judges, the court system does have a responsibility to ensure that its employees are not working in a racially hostile work environment. So that's one of the reasons why we would conduct an investigation involving a judge. Once the Office is notified that a complaint was made against a judge or an employee of the court system, we would ensure that the employee is not further harmed by their continued employment in that work environment. Therefore, if necessary, we would have discussions with the appropriate chief clerk and or district executive to possibly reassign the subject, of course, based on the operational needs of the court during the pendency of the investigation. Once a determination was made by the DCAJ or the appropriate OCA director, a decision would be made regarding the final placement of that subject employee.

Kay-Ann Porter:

Again, these steps are taken to ensure that the complaining witness employee does not continue working in a racially hostile environment. Sherrill also mentioned retaliation. And if during the pendency of the investigation or thereafter, the complaining witness or any other witness believed they have been retaliated against, the office would certainly look into those allegations and possibly commence an investigation into those allegations of retaliation. Again, thank you to the Williams Commission for this timely program and the Office looks forward to working with the Commission, the Office of Justice Initiatives, as well as the Office of Workforce Diversity in implementing Secretary Johnson's recommendations, and ensuring that our employees and court users are aware that there is an office to investigate allegations of racial bias in the court system. Thank you.

Mary Lynn Nicolas-Brewster:

Thank you. Thank you so much to our panelists, Tony Walters, Sherrill Spatz and Kay-Ann Porter. So now we are open for the question and answer period, which is moderated by Justice Rosado, who will first review the Town Hall ground rules. And then we will begin our Q and A. Thank you.

Hon. Llinét Rosado:

Good afternoon, everyone. I appreciate you being with us as we set off our 2021 celebration of the Franklin H. Williams Judicial Commission's 30th Anniversary with today's Town Hall. We clearly want to hear from you. And I know that we are limited on time. Please note that this conversation does not end with today's Town Hall. We are only getting started. The Commission is committed to continuing this conversation in the future, as well as doing the necessary work to bring the necessary changes.

Hon. Llinét Rosado:

Personally, I am inspired by today's event. The number of attendees present here today. It means we all want and are willing to come together to make it better for our court system. That said, I want to briefly go over the ground rules, since we only have half an hour and we really want to hear from you. I can't touch all 10 as that would take away from our time for the Q and A. If you want to ask a question yourself, then I ask that you use your raise hand feature when seeking to be recognized. I, as the moderator, would recognize you. You will then be able to unmute yourself and be spotlighted.

Hon. Llinét Rosado:

You can also pose questions to a panelist via our email or on the chat. Please keep your questions and comments in a general nature. And please, if you are going to pose a question, please tell us what

panelists you're posing that question to. Once the speaker has spoken we can't get back to you because there are so many questions coming from different forums, and I need everyone to bear with me. I'm still a girl that's on beepers, learning all this other IT stuff is taking me time. Again, please maintain a respectful attitude and refrain from any inappropriate comments or personal attacks. That's not what we're here for. Anytime someone speaks we're going to give you two minutes to speak. As a Bronx girl, I will hold you to those two minutes. We appreciate and encourage the diversity of perspectives.

This Town Hall was not designed to be argumentative. Rather, it was designed to support learning together and the creation of a shared understanding of how we can collectively address the issues of systemic racism and bias in the court system. Finally, I am aware, as you're probably aware, that we're not going to be able to get to every question. And I hope you are aware this is the first of many future town halls. We encourage, nonetheless, to forward your questions and comments or concerns to us at the Franklin H. Williams Judicial Commission's website, and we will address any outstanding questions in writing after directing them to the appropriate entity. And those responses will be posted on our website.

Hon. Llinét Rosado:

Now let's get to the questions. Our first question was submitted to the commission, and it's directed at our amazing keynote speaker, Professor Archer. Professor Archer, how can one protect themselves when faced with racial bias in the workplace? Any suggested steps one should take?

Professor Deborah N. Archer:

Well, I think some of those steps have to come from the court system, and some of those come from the individual. From the court system, there needs to be effective, transparent policies that explain what conduct violates those policies. How do you identify bias, and then steps that people can take to report that behavior, including alternative steps. You can't just have one person who can receive bias complaints. You need to have multiple people who can receive them. But on the individual level, in terms of protecting yourself, because I think that was how the question was framed. I would say first, it's always important to document as much as you can, to keep copies of emails or papers that demonstrate the bias, to take notes contemporaneously that we're going to help you remember the details of the bias. And then to follow, meticulously, the processes that have been laid out by the court system to report that bias.

I think it's also important that this not be limited to people who are the target or victim of the bias, but for those who witness bias in their environment and in their workplace to also take the same steps to document the bias that you have seen directed at others. And then to report that bias using the processes that have been laid out by the court system.

Hon. Llinét Rosado:

Thank you Professor. Our second question comes from an attendee Judge Cenceria Edwards, please unmute yourself and pose your question or make your comment.

Hon. Edwards:

Good afternoon, everyone. Thank you for your service. This is hard work and we really do... I would say that I really do appreciate it, and happy that this report is out and released. And kudos, because it is well done. My question is when will you look to resolve some of the issues in the report and how long do you assume that it will take?

Hon. Llinét Rosado:

Are you posing that to anyone in particular Judge Edwards?

Hon. Edwards:

Anyone can answer it.

Hon. Llinét Rosado:

There you go panelists.

Hon. Troy Webber:

Judge Mendelson, I think that would be your...

Hon. Edwina Mendelson:

Yeah. Yeah.

Hon. Llinét Rosado:

My favorite judge. Thank you, Judge Mendelson.

Hon. Edwina Mendelson:

Thank you, your honor. That is a question for me, and you're not going to like my answer, but it's an honest answer. We have had a society that has been with slavery longer than we have had a society without slavery. And I say that to show that we didn't get here overnight. And as the Professor has taught us about systemic issues of concern, we are not going to correct the issues that we're hoping to correct in this process overnight. That being said, we are working furiously to begin this work. I think it's going to be, as I said, not just multi-layered, but also a multi-year process. And I'm in it for the long haul as are our colleagues who are working hard on this.

Hon. Shirley Troutman:

I would note that the Commission, as I indicated earlier, we've been at this for 30 years. Yes, the process has been slow, but even in the... Recently we have made serious inroads by going around the state and speaking to administrative judges and others and changing what the workforce looks like. So it, as I said earlier, it requires that we continue to be vigilant. My co-chair echoed the same sentiment, but we are making inroads and they are incremental. It requires a partnership and a willingness to reevaluate as you go along.

Hon. Llinét Rosado:

Thank you to both justices. Our next person is also an attendee. Ms. Ada Milam, can you please unmute yourself and pose your question or make your comment?

Ms. Ada Milam:

Hello? Good afternoon. My name is Ada DeJesus Milam. Can everyone hear me?

Hon. Llinét Rosado:

Yes. Hi.

Ms. Ada Milam:

So I'm an associate court clerk, I work in Brooklyn. And I just want to, first of all, thank everybody for this very important town hall. I've been working in the court system for 32 years, and I have never seen this format being done, so it's very much appreciated and we thank you. So I just want... The question that I posed when I registered was, what remedies do we have to overcome these inequalities? Again, we've been working hard here in Brooklyn. Our credentials and capabilities, and we have impeccable work ethic here in Brooklyn, but when it comes to applying for a supervisor position, there's always an excuse. And it's like the audacity of us, or someone from a certain part of Brooklyn, and I'm sorry, I'm just being real, the audacity of someone from a certain race, in a certain part of Brooklyn, like Bushwick, for instance, which is where I was raised from, have the audacity to ask for a position. And so it's like, we're good enough for us to make them look good, use our talents to process these cases effectively, it's good enough for that, but not good enough for a position.

And also, I want to say that here in Brooklyn, and I know we're rushed for time, there's 31.9% of non-Hispanic Blacks here in Brooklyn. I don't know what percentage are people, non-Hispanic Black in a supervisor position. There's 19.6% of Hispanic population here in Brooklyn, I can't even tell you the percentage. I know here in this field, there's zero percentage of supervisor position for all Latino, Hispanic, in the clerk series. So again, I just want to know what remedies do we have? I'm sorry, one last thing-

Hon. Llinét Rosado:

I have to stop you, it's two minutes.

Ms. Ada Milam:

It's been two minutes already? Okay. It just affects us some of us physically.

Hon. Troy Webber:

So this is an issue that we have encountered, especially in Brooklyn, and I'll say especially in Brooklyn, but in other counties as well. But this is something that was brought to the attention of the Williams Commission last year. And you quoted certain statistics, this is one issue, we need the statistics and because of various issues in terms of OCA not compiling or compiling these statistics, it becomes very difficult at some point in time in order to get those statistics. So we need the statistics. Once we are armed with the statistics, and this is what we did in the past, we've met with the supervising judge in Brooklyn, and we had a long conversation with him, as well as with his staff, in terms of what was going on. And we presented him with these numbers and said to him, "Why is it this way? Why are not more individuals of color being promoted to these various positions?" And he really could not give us an answer, but he said he'd look into the matter.

But what we do at the Williams Commission, is we will go and we will meet with these supervising judges. We will present them with the statistics. We will then have them respond and we will continue to speak to them. Periodically, we'll call them, we'll meet with them in order to see if there's any progress. And what we have found is by repeatedly meeting with them, there has been change. But what we have told employees and what we will continue to tell employees, is that you must apply for these positions. It is very, very important because what you just said, "Oh, if you're from Bushwick, you're not going to get the position." Or if you're Bed-Stuy, what used to be Bed-Stuy, you're not going to get the position.

But that is not the reality. The reality is if you don't apply, if you're not in it, you're not going to win it. And so then if you apply and you are not selected, then we have some ammunition to go to these

judges, to supervising judges and go to the individuals who make these determinations, to say, "Why is it that these individuals are not being promoted? Why is it that they are not being hired?" Because I will say that one of the responses that we get is, "Well, there were no individuals of color who applied for the position. No one of color applied for the position, so therefore, we didn't have a pool from which we could select someone."

Hon. Llinét Rosado:

Thank you, Justice Webber. I'm going to ask everyone to mute themselves after they are recognized. The fourth question comes via submission and is posed to our amazing Deputy Chief Administrative Judge, Judge Mendelson. Judge Mendelson, what policy will New York state court implement to combat systemic racism amongst its employees? Example, hiring, promotion and disciplinary procedures.

Hon. Edwina Mendelson:

So this follows quite seamlessly from the last question that was just asked and answered by Justice Webber, But I'll go a little further. I'll start with the area of disciplinary procedures. And this question does really go to the very heart of the strategic planning we're trying to do to improve our system. First of all, we need, in terms of our disciplinary procedures, a plan for an enhanced and strong communication strategy, to basically explain what the disciplinary process is. And today was an example of that, as has been done here, and the role of the managing IG for bias matters in particular. But in addition to that, we have to put our stated beliefs and our principles as they relate to discipline, into action. We do that by having a fair, do due process driven, swift, no nonsense disciplinary process, when there are allegations of racism and other bias. And I think that recent events have shown our court's commitment to that process.

The thornier questions about promotion and hiring, those questions, it's really, really difficult. And interestingly, as we are developing our internal strategic plan for this, which will become public and be incorporated into the fabric of our efforts, human resources and promotions and hiring, and the impact of civil service exams and its adverse impact on people of color, that's going to end up taking up, I believe, most of the pages of our strategic planning, because there is a lot to do. Some of that has to do with communicating what exists in terms of policies and practices for human resources, but a lot of it has to do with taking a hard look at how promotions happen in our court system, how hiring happens and how we can increase diversity and inclusion.

So information, more specific information is coming, but it's the heart of what we're trying to do. Make sure, particularly, many of us are in New York City, we have a very big state beyond New York City where diversity and inclusion and hiring practices and diversity is an issue of grave concern. And we have a lot of work to do to ensure that we are making available to our communities where our courts operate, opportunities for jobs reflecting the communities that we're serving.

Hon. Llinét Rosado:

Thank you, judge Mendelson. Our next question is posed to IG Sherril Spatz. What do you do if you feel like you've been unfairly discriminated against as an employee?

Sherrill Spatz:

Well, I'm happy to hear that question and I hope that people have a little bit more information about our office after today's meeting. But we encourage everyone, there are complaint forms online. We, as I said, have now an ombudsperson who can answer all questions. Both Kay-Ann and I, are happy to meet with anyone who feels that they've been discriminated against. So the reports and the investigations are

confidential, as much as we can keep them so, and we are happy to work with people and assist them in getting the support and doing the investigation.

Hon. Llinét Rosado:

Thank you, inspector general. Our next question comes from Damani Nyahuma. Please unmute yourself and pose your question or make your comment. Damani, are you still with us? I'm going to go to our next question. Babacar Diouf, can you please unmute yourself and pose your question? Babacar, are you with us? Am I muted? Can people hear me? Thank you. Our third person ... I'm sorry. Is someone there? Okay.

Mary Lynn Nicolas-Brewster:

Yeah, that's me, Mary Lynn. Just ask them to unmute themselves. They have to unmute themselves.

Hon. Llinét Rosado:

Well, I first called on Damani. Damani, if you're still with us, unmute yourself, pose your question.

Babacar Diouf:

Hello?

Hon. Llinét Rosado:

Hello.

Babacar Diouf:

This is Babacar.

Hon. Llinét Rosado:

Hi, Babacar, ask your question or make your comment. We want to hear from you.

Babacar Diouf:

I have a question. I would like to ask the Franklin [Commission], what is the court planning to do to eliminate the two-class system that we have within the interpreters, full-time interpreters? Because what's been happening for the past 20 years that I've been working with the system, is that the interpreters by themselves are a minority within the minority group. But within that minority group, we have another subgroup, those interpreters who do not speak Spanish. The system has established good employment opportunities for Spanish language interpreters and less employment opportunities to those who are called languages other than Spanish or exotic interpreters, and we do the same job as everybody else. Why does the court allow a two-class system within its full-time employees doing the same job?

Hon. Llinét Rosado:

Is there anyone in particular Babacar, you want to pose that question to?

Hon. Shirley Troutman:

He did say he wanted the Commission to answer. It isn't truly a Commission question, but I will say one of the things that we, as a Commission, have been doing is looking at classifications, conditions, et cetera, with respect to all job titles and discussing that with administration. That's what we, as a Commission, have been and will continue to do, to make sure that there's equity as to all employees in the Unified Court System.

Tony Walters:

This is Tony Walters, just to amplify on Judge Troutman's response, the Office of Diversity and Inclusion is also a resource and a place that employees should really feel free to come to us with some of these concerns. We do have a natural line to administration. So if, in fact, many of these instances are in fact, have become embedded practices that are not appropriate, we can also look at those things in that way. So I hope one of the things that we really leave with today is that there are many points of contact for employees to voice some of their concerns around these issues.

Hon. Llinét Rosado:

Thank you. We have a question in the chat, it's coming from Lieutenant Hunter and he poses the question, who will hold OCA accountable throughout this transition?

Hon. Edwina Mendelson:

May I take that first?

Hon. Llinét Rosado:

Yes, you may.

Hon. Edwina Mendelson:

That is a great question. The report did actually have a recommendation that there'd be an outside entity to monitor our implementation of the recommendations made by Secretary Johnson and Chief Judge DiFiore has appointed Alphonso David to monitor and conduct oversight regarding the implementation. And I think it's important that we have accountability from different places. Mr. David is a well-known and well-respected leader, running a national organization, and he is volunteering his time to support the courts and support the world, by keeping us accountable and monitoring the implementation process. And that's important for us because we don't always get as far as we would like to get when we are monitoring ourselves.

So it's important to have an outside voice saying, "Well, how are you doing?" But he will not be the only voice, you all will be keeping us honest to our commitments. Our court staff and our judges are going to keep us honest to our commitment. I will tell you that this town hall is for court family, judges and court staff. There are thousands of people outside of the court who are very eager to watch this town hall and want one of their own, they plan to keep us accountable. So while we have Alphonso David, and I think that that the Chief Judge made that determination in her leadership role, that we should have him as a highly experienced national leader and former New York State government official, as our monitor, that's not the only area of accountability for us.

Hon. Llinét Rosado:

Thank you. Our next attendee that wants to pose a question or make a comment, is the Honorable Walter Rivera. Can you please unmute yourself? Judge Rivera, are you there? We only have nine minutes, I'm going to keep going if you don't unmute. Our next attendee is Jessica Pena. Jessica, can you unmute yourself and pose your question or make your comment?

Jessica Pena:

Hi, I'm here. Thanks for having me. The question is about social media and social media has gotten very ugly. And I like to know if there is a social media policy now, or if not, will there be one, and what's going to be done about court employees who use social media for racial bias?

Hon. Llinét Rosado:

That's an excellent question. Panelists.

Hon. Edwina Mendelson:

So I will start, but I don't have to finish again. We do not currently have an official social media policy. That was one of the recommendations made in the report. Chief Judge DiFiore is committed to embracing all of the recommendations, so there will be a social media policy coming. I just want to remind us that we are courts of law and justice, and so there are first amendment considerations when we create policies like social media policies, but there will be one that's forthcoming.

Jessica Pena:

Thank you.

Hon. Llinét Rosado:

In the interest of time, I'm just going to let one person answer so that we can get as many people as possible to ask questions.

Mary Lynn Nicolas-Brewster:

Can we call Judge Walter Rivera?

Hon. Llinét Rosado:

Judge Walter Rivera, can you unmute yourself? Okay. Our next judge, that wants to ask-

Judge Walter Rivera:

Yes, now it works. I'm sorry. Thank you. Well, thanks to the commission and all the panelists for this excellent town hall. This is my question. How can judicial associations and bar associations, assist with the implementation of Secretary Johnson's recommendations? And I'd like to address that to Judge Mendelson. Thank you.

Hon. Edwina Mendelson:

So I will answer it this way, while we are doing this work initially internally with executive leaders in the court system and our implementation team, trust me, we know that we cannot do this work alone. We

will be meeting with all of the judicial associations, the affinity associations, the bar associations, everyone who's willing to do this work with us and develop plans. We also have to mention that we're going to need, this is not something that can happen at the executive level, there is going to be a need for local champions to actually make this work on the ground, in our different regions of the state. So stay tuned, we will be in touch and you will be participating in the implementation.

Hon. Llinét Rosado:

Thank you, Judge Mendelson. Judge Webber and Judge Troutman, we have a question for you. Can we have a Town Hall in every borough and every court?

Hon. Troy Webber:

Before the pandemic, believe it or not, we used to visit the various districts and we actually had gone to Buffalo, we've gone upstate a couple of times and we have had town hall type meetings. We do anticipate doing this more frequently, either remotely, if we can work out the kinks and definitely in person, once the pandemic is over and we are able to travel.

Hon. Llinét Rosado:

Thank you, Judge Webber. We have a question from one of the attendees, the Honorable Catherine M. DiDomenico. Please unmute yourself and pose your question or make your comment.

Hon. Catherine M. DiDomenico:

Good afternoon, everyone. Thank you so much for this difficult, but so necessary conversation. My question is, I think to Professor Archer. Professor, I've heard you speak in many, many places, and I'm so grateful for everything that you offer. I know you've devoted your entire career to this work, and I thank you for the difficult thoughts that you make us think. Professor, if we view this as a macro problem, we are a unified but tremendous organization, should we be trying to have micro conversations, county by county or how do we start thinking about this as a trial judge in a particular county?

Professor Deborah N. Archer:

And I think that's an important question. There are macro problems, but from borough to borough, from upstate New York to New York City, the reason for those challenges are going to differ. And so I think it's going to be very important to look at the problems within specific parts, to look at the problems within specific counties, to identify the source of the problem there as well. I also think we're using the phrase, people of color, it's going to be very important for you to break that down because the challenges and barriers that face Black people, for example, are going to be very different than the challenges and barriers that are going to face Latino people or Asian people. And so I think at a certain point, you also have to break down that phrase, people of color, to address specific barriers and challenges. And as you all said, it's a long process, it's going to take a very long time, a lot of attention to specific issues around the state.

Hon. Llinét Rosado:

Thank you. I think I can have one final question before I turn this back to our Executive Director. Marissa Soto, the Honorable Marissa Soto, can you unmute yourself and ask your question?

Hon. Marissa Soto:

Yes. My question is somewhat dovetailing off of Lieutenant Hunter's, about the accountability in terms of monitoring progress. And it goes more to whether or not the findings and recommendations of the Commission, will be made public and in that way, can be better monitored by the actual court staff and personnel. And also to basically play a little bit of devil's advocate in connection with the reliance on one individual, being Mr. Alphonso [David], to be the sole arbiter of whether or not OCA is complying or not. Everyone has some implicit bias and whether or not they're within the court system or not, they will have theirs as well, so wouldn't it make sense to have a broader commission overseeing OCAs compliance rather than just one individual?

Hon. Troy Webber:

Just to make one point, the Williams Commission, which I think I stated, is a permanent independent commission. And so wherein Mr. David will be ensuring that the recommendations made by Secretary Johnson are implemented, it has always been the job and the mission of the Williams Commission to ensure that these types of practices and these things do not occur or continue to occur within the court system. And so we are not going to stray from our mission, we are separate, we are independent, that is our mission and that is what we're going to do, and that is what we are going to continue to do.

Hon. Llinét Rosado:

I want to tell everyone that if we didn't get to your question, please email us, please reach out to the commission. We will respond, this is just the beginning, this is not the end. At this point, I'm going to give the mic over to our Executive Director, Ms. Nicolas-Brewster. Thank you.

Mary Lynn Nicolas-Brewster:

Thank you. I want to again, thank you all for attending today's town hall. Firstly, we want to thank our Chief Judge, the Honorable Janet DiFiore. The chief administrative judge who joined us, Judge Lawrence K. Marks. Judge Edwina G. Mendelson, Deputy Chief Administrative Judge for Justice Initiatives. Our co-chairs of the Franklin H. Williams Judicial Commission, the Honorable Shirley Troutman and the Honorable Troy K. Webber. Of course, we want to say thank you and we really appreciate our keynote speaker being with us today, Professor Deborah N. Archer. Our moderator, Honorable Llinét M. Rosado. Our panelists, Tony Walters, Sherril Spatz, and Kay-Ann Porter Campbell. On your screen, you should see the contact information for the Franklin H. Williams Judicial Commission. As you just heard from Justice Rosado, please send your questions.

We know we weren't able to get to everyone who wanted to speak today, or the questions that were submitted in the chat. We will endeavor to review those questions and answer those questions and provide, to the extent possible, those answers in writing and those will be posted on our website. Please feel free to contact myself, I am the Executive Director, Mary Lynn Nicolas-Brewster, and our associate counsel, Karlene Dennis, should you have any additional questions. I also want to thank Karlene Dennis, Associate Counsel, who's been so helpful in putting together the program. Our information technology, Thomas Loughlin and Nicholas Arabia, who has helped throughout the program. I want to thank and acknowledge the entire membership of the Franklin H. Williams Judicial Commission.

Thank you for joining. Thank you for all those who participated and attended today. As we noted earlier, this conversation does not end, please forward your questions to us via email at, FHWilliams@nycourts.gov. We want to answer your questions. We are here and we want to continue this conversation because we have to continue this work, it's necessary and the dialogue is indeed

important to help us bring lasting change in our goal to advance diversity and inclusion within the court system.

Before we conclude, I want to again note that the Franklin H. Williams Judicial Commission is celebrating its 30th anniversary this year as a permanent entity in the New York state courts. Our Commission will be hosting a number of programs throughout the year to celebrate 30 years of promoting racial and ethnic fairness in the courts, including the release next month of *A Bridge to Justice*, a PBS documentary on the life and accomplishments of Franklin H. Williams, the distinguished attorney and civil rights leader, in whose honor the Commission is named. The documentary is narrated by Emmy Award-winning actor, Sterling K. Brown. So look out for that PBS documentary next month. Thank you again for joining. We look forward to continuing this meaningful dialogue and continuing the work to eliminate racism and bias from our court system and ensuring equal justice under the law.

Thank you.