

## **Transcript: Promoting Diversity in the Courts: The Franklin H. Williams Judicial Commission**

Co-hosts: Franklin H. Williams Judicial Commission,

Rockland County Bar Association Diversity Committee

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Laurie Dorsainvil:

Good afternoon to all our participants and our panelists, Justice Troutman, Justice Webber, and Ms. Nicolas-Brewster. My name is Laurie Dorsainvil, and I am the co chair of the Diversity Committee of the Rockland County Bar Association, along with my colleague Hernan Caceres. We welcome you to our CLE program *"Promoting Diversity in the Court System, The Role of the Franklin H. Williams Judicial Commission."* Before we get started with the program, please note that everyone's microphone is muted. There will be one code announced during the CLE that you will need to write on your affirmation. Please email your affirmation along with your evaluation form to [sabrina@rocklandbar.org](mailto:sabrina@rocklandbar.org) in order to obtain your CLE certificate.

Laurie Dorsainvil:

On our agenda today, we will have a presentation about Franklin H. Williams and the Judicial Commission. We will show a clip of the Franklin H. Williams documentary. And we will discuss the Commission History, Purpose and Goals, the Commission's programming and judicial mentorship as well as pathways to the bench and judicial diversity. There will be a question and answer period towards the end of the CLE. And we ask that you use the chat function to submit your questions to the panelists. The chat icon is typically located on the bottom of your screen. On behalf of the Diversity Committee, I am pleased to introduce and welcome our esteemed panelists, the Co-Commissioners of the Franklin H. Williams Judicial Commission, The Honorable Troy K. Webber, Associate Justice of the First Department and The Honorable Shirley Troutman, Associate Justice of the Fourth Department, as well as the Executive Director of the Commission, Mary Lynn Nicolas-Brewster, Esq.

Laurie Dorsainvil:

I'll be your moderator for today's CLE. Our first panelist, Miss. Nicolas-Brewster, will give a presentation about Franklin H. Williams and the Commission. Ms. Nicolas-Brewster.

Ms. Nicolas-Brewster:

Thank you. Good afternoon.

Laurie Dorsainvil:

[inaudible 00:02:31].

Ms. Nicolas-Brewster:

Paul Williams, civil rights leader, lawyer, diplomat, organizer of the Peace Corps, and its first African American director, United Nations representative, foundation president, associate of Thurgood Marshall, New York Attorney. He was a visionary and a trailblazer who devoted his life to the pursuit of civil rights. His enduring legacy the Franklin H. Williams Judicial Commission continues to promote racial and ethnic fairness in the courts. Franklin H. Williams was a graduate of Lincoln University in

Pennsylvania, and he served in the US Army during World War Two. He received his law degree from Fordham University School of Law in 1945, after which he accepted a position with the NAACP Legal Defense and Educational Fund. Working as a special assistant to Thurgood Marshall. Mr. Williams worked with Thurgood Marshall during the NAACP's efforts to desegregate public education. Additionally, Mr. Williams played a significant role in battling a once common practice of systematically excluding African Americans from juries. 40 years before the Supreme Court formally ended that practice in *Batson v. Kentucky*, Mr. Williams was effectively arguing the same issue. Next slide, please.

Ms. Nicolas-Brewster:

Mr. Williams left the NAACP to become an assistant attorney general of California during which time he was instrumental in setting up the state constitutional rights section. He later became Special Assistant to Sergeant Shriver, who helped to establish the Peace Corps, and he served as director of the Corps' African Regional Division. He was also the first African American to serve as US representative to the United Nations Economic and Social Council. In 1965, President Lyndon B. Johnson appointed Mr. Williams to be the US ambassador to Ghana. After leaving his diplomatic post, Ambassador Williams returned to New York City, where he headed the Urban Center at Columbia University. He served as vice chairperson of the New York Board of Higher Education. Ambassador Williams also served as president of the Phelps Stokes Fund from 1970 to 1990, during which time he persuaded the foundation's board to divest itself holdings in South Africa.

Ms. Nicolas-Brewster:

Next slide. In 1987, Ambassador Williams was appointed by Chief Judge Sol Wachtler to chair, the New York State Judicial Commission on Minorities, the first court-based commission on minorities in the United States. And from 1987 to 1990, Ambassador Williams chaired the Commission, which studied the treatment of minorities in the New York State Court. And the study resulted in a 1991 report, which revealed a severe lack of diversity on the bench and in management positions and a widespread perception of racial bias in the court. To address the issues raised in the 1991 report, this Commission was established as a permanent entity in the court, and has been renamed the Franklin H. Williams Judicial Commission in honor of Ambassador Williams. Next year, the Commission will celebrate its 30th anniversary as a permanent commission.

Ms. Nicolas-Brewster:

Ambassador Williams was also instrumental in the formation of the National Consortium of Racial and Ethnic Fairness in the Courts. Ambassador Williams died in May of 1990, shortly before the final Commission report was issued. Next slide, please.

Ms. Nicolas-Brewster:

*Devil in the Grove: Thurgood Marshall, the Groveland Boys, and the Dawn of a New America* is a Pulitzer Prize winning non-fiction book by the author Gilbert King. It tells the history of Thurgood Marshall and Franklin H. Williams' defense of four young black men in Florida, who were wrongfully accused in 1949 of raping a white woman. The documentary clip we will share will discuss the case in more detail. All of the accused were posthumously exonerated in 2017. Next slide, please.

Ms. Nicolas-Brewster:

A film celebrating the life and contributions of Franklin Hall Williams debuted last year. The film was a vision of the commission's former executive director, Joyce Y. Hartsfield, who retired last year after 27

years of service to the commission, and John Caher, the Unified Court System Senior Advisor for Strategic and Technical Communications. PBS has taken an interest in the documentary and will release a newly narrated film later this year. Next slide please.

Ms. Nicolas-Brewster:

The following is a short clip from the documentary, which debuted last year.

[Documentary Film shown]

Franklin H. Williams:

We must not stop now, we have come too far to turn back. A nation that has progressed because of the sweat and blood of thousands of blacks. A nation that first tolerated slavery then outlawed it, that accepted separate but equal as a valid constitutional concept then rejected it. A nation that has slowly painfully tragically evolved to the point where a black can run for the presidency. A nation that has come so far must not now give up the struggle to rid itself of racism.

Elaine Jones, Former President/Director-Counsel, NAACP Legal Defense Fund, Inc.:

In 1949 in 1949 Thurgood Marshall turned to his 31 year old special counsel, an obscure New York lawyer named Franklin Williams when. When NAACP Legal Defense body was asked to help for young black men who were accused of raping a white woman in Groveland, Florida. One of the suspects was killed by a posse before being arrested, two were taken out on a desolate road by the sheriff and shot. The three who survived for trial were convicted by an all-white jury on the street, a false confession that resulted from torture. Two were sentenced to die in the electric chair, one who was 16 was sentenced to life in prison. All of them were innocent. But their innocence was of no consequence in 1949 in the [inaudible 00:10:10], a white jury could simply never credit the word of a black man over that of a white girl. It was socially and politically unthinkable. Franklin Williams was thrown into the middle of this cultural and legal minefield.

Anthony Suarez, Former President of the Puerto Rican Bar Association and original member of the Franklin H. Williams Judicial Commission:

I saw what one man with a law degree can do. And that was for me the most important thing that has impacted my life.

Hon. Sol Wachtler, former Chief Judge of the New York State Court of Appeals:

There were riots, they bombed a civil rights activist's home, and he saw this, he was part of this. He was brave enough to defend these young men and did this throughout the South by the way. This was not just someone who spoke civil rights, this is someone who put his life on the line for civil rights.

Elaine Jones, Former President/Director-Counsel, NAACP Legal Defense Fund, Inc.:

Franklin Hall Williams was a visionary and trailblazer who devoted his life to fostering better relations between all communities, not through acrimony and violence but through reason and example. Throughout his lifetime he would play many roles, attorney, civil rights leader, diplomat, organizer of the Peace Corps, United Nations representative, foundation president. In the late 1980s the New York State Judicial Commission or minorities was formed to promote racial and ethnic fairness in the courts. The

first such court based commission ever established in the United States. The Commission was first formed at the suggestion of the coalition of blacks in court. The members of which represent various judicial and non-judicial organizations. It would end up being Williams's last major professional achievement. And the Commission, since renamed the Franklin H. Williams Judicial Commission, is his lasting legacy.

Ms. Nicolas-Brewster:

The Franklin H. Williams Judicial Commission educates and advises decision makers in the New York court system on issues affecting both employees and litigants of color and implements recommendations developed to address these issues. The members of the Commission are judges, lawyers and court administrators all appointed by the Chief Judge of the state of New York. Next slide, please.

Ms. Nicolas-Brewster:

Our Chairs Emeriti are the Honorable Lewis L. Douglas, the Honorable Rose H. Sconiers, and Richard B. Lowe, III. Next slide please. The current co-chairs of the commission from whom you will hear shortly, are the Honorable Shirley Troutman, Associate Justice of the Appellate Division, Fourth Department, and the Honorable Troy K. Webber, Associate Justice Appellate Division, First Department. And now I turn it back to our moderator. Thank you.

Laurie Dorsainvil:

Thank you, Ms. Nicolas-Brewster for your illustrative and informative presentation about Ambassador Williams and the Commission. Next we'll hear from our co-commissioners, Justices Troutman and Webber about the history, purpose and goals of the Commission. Good afternoon again, Justice Troutman and Justice Webber. Let's start our discussion with the 1991 Report. The 1991 Report was the core foundational document for the establishment of the Franklin H. Williams Judicial Commission. Could you briefly discuss the report and its findings, please? Justice Troutman and Justice Webber.

Justice Troutman:

The importance of the report was an official recognition that in the court system for generations, there had evolved a system wherein minorities were not represented with respect to not only the judiciary, but with respect to staffing in the courts overall, and a determination that that affected the perception of the administration of justice. And significantly Justice Samuel L. Green, who worked with Franklin Williams, doing this report said that, and he himself had a long, storied career in the court system. Justice Green was the first African American to be appointed to the Appellate Division, Fourth Department. And he served longer than any justice on that court. And in fact, in our main courtroom, it now bears his name where we hear oral arguments.

Justice Troutman:

But one of the things that Justice Green has said with respect to that report was that it provided an opportunity for hearings around the state to have the input of people who were affected by what happens in the courts, and a realization that the courts belong to our citizens, that it should be representative of our citizens, and that there should be nothing but the actual implementation of equal justice under the law. But the realization that if the structure itself is not reflective of society, that trust does not necessarily exist. Justice Webber.

Justice Webber:

Thank you Justice Troutman. Do not pull any punches, and that was one of the statements made by Franklin Williams and he wanted to be assured that he could render this report and be as transparent and as truthful in terms of what was going on in the court system at that time. As you are aware, the report was rendered in 1991. Unfortunately, things have not changed that much since 1991. If you look at the report, it talks about the judiciary, the lack of diversity on the judiciary. It talks about the nonjudicial workforce and the lack of diversity as well as the issues facing the nonjudicial workforce. The report talks about the court officer problem, which again, continues to this day. It also talks about the work environment faced by judicial as well as nonjudicial individuals within the court system. It also talks about lawyers and litigants and the perception of litigants when they walk into our courtrooms, specifically, Family Court and housing court.

Justice Webber:

Unfortunately, we have not progressed, as far as I'm sure, Franklin H. Williams would have hoped or would have thought. It is the mission of the Commission to continue to attempt to address these issues, which were brought forth by Franklin Williams. And let me just say, as an aside, every time I see the film, and I've seen it numerous times, trust me, every time I see the film, it just strengthens my resolve that there has to be change, and we have to do something, and we have to make sure that there is in fact equality and there is equality in the court system.

Laurie Dorsainvil:

Thank you. I want to continue our discussion with the Commission's programming. What are your responsibilities as Co-Chairs of the Commission?

Justice Troutman:

Our responsibility is, quite frankly, to continue to make sure that the administration makes it a priority, that diversity exists in the court system, actual diversity, and especially with respect to people of color and the treatment of the employees within the court system. We also at times serve as a conduit with respect to concerns that employees have and, quite frankly, with the current tenor of this country, some of the issues that we have been asked to address are quite concerning. And as Justice Webber indicated, unfortunately, the same lack of diversity is still a major issue. By way of example, I testify in the legislature this spring, time frame is off now with COVID and everything, about the fact that I sit on the Appellate Division Fourth Department, I am the only person of color out of 12 justices. The first was Justice Green, the second was Justice Rose Sconiers. The fact that I can even easily name the persons who sat on the court is a problem in and of itself.

Justice Troutman:

And I talked to the legislature about that. And some people don't understand that even though we're a unified court system, even though we're one state, how judges are selected isn't necessarily done in a uniform manner. How people are employed by the court system isn't necessarily uniformly done. There are counties in our state, even though we are a very, what they call blue state, where there are a negligible if any African American's present. There are times the difficulty, especially in upstate New York, where I hail from to get that requisite representation. However, even though we don't have employees in both courts, we have people who come before those courts for justice. It is a continuing effort on our part, to make sure that we encourage people. Quite frankly, there are many that are

discouraged from even applying for employment within the court system, let alone seeking a judicial position.

Justice Troutman:

Part of our efforts is to continuously educate the public and it is to keep the fire to the feet of administration. We have held hearings around the state that, quite frankly, has resulted in some changes, even in the district where I am in the eighth Judicial District. If we have now more people of color in the higher grade positions, and let me make clear, it's not enough that we have people of color in the court system, if they're only relegated to the lowest level. That they're not in the levels with respect to supervision, and the non judicial staff, or even in the judiciary. We have to have it at all levels. And that is one of our responsibilities we take it very seriously. We invite members of the court administration to our meetings, and we take statistics and other information that we have, and we question them unabashedly about what those numbers reflect.

Justice Troutman:

And it is important that we continue to do that. It's one of the things when the movie started out, speaking, and Franklin Williams was talking about what the country looks like. And he spoke of a man running for president. Well, we've had one, a black family that's lived in the White House, yet the circumstances that we exist, the issue of diversity and racism is still a very serious issue. Justice Webber.

Justice Webber:

The commission itself is made up of judges, lawyers, court officers, a couple of clerks, individuals who work within the court system. And we as co chairs we obviously are guiding that Justice Troutman is far more familiar than I am with what occurs Upstate and how upstate is broken down in terms of its districts, in terms of its courts, et cetera. So we do have representation from individuals who are upstate as well as individuals who are downstate. And the condition itself is extremely diverse in terms of individuals of color, majority and not majority. I see my role as guiding the commission. And what we do is if there are individuals who have complaints, issues, concerns, et cetera. They bring them to the commission, and then we investigate. If we have a comment or question for a court officer we'll prompt a court clerk stating, why is it that there are no clerks of color above a certain level. We will then go to OCA we'll ask for the statistics. Also, I saw Tony Walters with a member was participating today. He is the head of one of our diversity groups within the court system.

Justice Webber:

We will ask the OCA for the statistics. And then we will look further to determine why there are no individuals of color. Have they been applying for the position? Have they not been applying for the position? What we have found, just as an aside is that many individuals of color especially the court officer, the court clerks do not apply for these positions because they feel that in the past, they have never got even an interview. So, the question always becomes, why should I apply for the position if I know that I am not going to obtain the position because it is a foregone conclusion as to who will be receiving that position. What we attempt to do is to let them know that the only way that you are going to be considered is if you apply. We have individuals who apply and they do not receive positions, then we can at least go back and say, "Well, why is it that these individuals did apply, but they did not receive the position?"

Justice Webber:

As Justice Troutman stated we go to the various districts, we speak to the AJ and [inaudible 00:26:34] judges to determine exactly what is going on and therefore, what can be improved in terms of the panels, what are the various positions, what can be improved in terms of the appointment of judges as well. That is basically our role. We try to be as proactive as possible, and there are certain things that we will do, planning each year. We will follow up on things that we did the prior year or the prior years to make sure that there has been some change or some attempts to some change. And then also we depend upon, as I said, comments and complaints or questions, individuals within the courts systems.

Laurie Dorsainvil:

Thank you judges. You have talked a little bit about the various programs and initiatives of the Commission. Can you just highlight for us which programs or events that you think have been the most successful in promoting diversity?

Justice Troutman:

I would say that it's not a single program, because there are different needs depending upon the audience that is necessary for us to reach. But one of the programs and I will let Justice Webber speak to it because she participated was even during COVID there was a program that was put on virtually regarding, Hate is a Virus Too from the Council Unity. We find it very important that our youth be a part of the process, that if we have people that don't believe that they can reach for the highest goals possible in life, then we're missing out on having that talent. The education of our youth is very important. We continue that with respect to the importance of diversity in the community as a whole. We've had a number of programs with respect to those type of issues, and our partnership with the National Consortium, where we will go and get ideas from other people, or things that they've been doing, and seeing how they work. Implicit bias is one of them.

Justice Troutman:

But the problem that I found with it is that people think implicit bias is a one time training. I believe that it is something just like it is mandated that you take sexual harassment training on an annual basis to certify that you have included, perhaps the issue of race should be included, that it is the perception of those people who are affected by your conduct that we need to do more with respect to that. Justice Webber.

Justice Webber:

On the screen is the mass incarceration [inaudible 00:30:02] data, that was a program we did in 2017 at Fordham law school. It was an excellent program. We have gotten so many positive remarks about that program. And again, that brought to light mass incarceration. Justice Lippman was one of the speakers at the program. And we really believe that as a result of that, there was a greater move towards bail before and hopefully less incarceration of individuals of color. To that end the [inaudible 00:30:38] we spoke to the youth because there is this pipeline, right, to prison for juveniles. And so we're trying to address that issue by keeping our young folks of color out of the pipeline, out jail and so that they are not arrested for low level crimes, et cetera. We find it very important to talk to young individuals, and to let them know exactly what is going on and things that they can actually do.

Justice Webber:

Most importantly, I think is meeting with the members, the non judicial members of the court system. I think that is most important to let them know what is going on when they're testing exams that are coming up positions and they can apply for as well. I think that's one of the most important things that we do in terms of our outreach to those individuals, as well as our outreach to individual community so that they will apply for the positions as well. The, How to Become a Judge, we've done this a couple of times. This also dovetail into our mentoring program. But how to become a judge was also a important conference that we did in conjunction with the other bar associations, as you can see. We had planned to do another one this spring, however, due to COVID, we're not really sure when we're going to be able to actually go forward with that program, probably going to do it virtually [inaudible 00:32:21].

Justice Webber:

We do meet with the chief judge, as well as the Chief Administrative Judge Larry Marks. I will say that we normally have one meeting with them, a major meeting at the end of the year, but during the course of the year, we will meet with Judge Marks, we will have conversations with Judge [inaudible 00:32:41] concerning things that are occurring and things that we believe should be addressed [inaudible 00:32:49].

Laurie Dorsainvil:

Judges, can you just briefly describe your judicial mentorship program?

Justice Troutman:

That program, I believe is more done downstate versus upstate because of the dynamics of what we have in upstate New York. The judicial mentoring that I do here, and that I've received myself has not been through the commission, but it's an individual effort. I will let Justice Webber speak to that.

Justice Webber:

The judicial mentorship program, the way we envisioned it, and thankfully, the way it's worked out, it's individuals who have expressed interest in joining the bench. This dovetail back to our, How to Become a Judge. And so individuals will then request a judicial mentor, and they will be paired with someone who've won the badge. We try to have them paired with someone who was recently but within the past five or so years, who have been on the bench. Who have been on the bench for 26 years. So I'm not really sure that I would be able to give them that much advice in terms of currently how to become a judge. And they are paired with someone who can assist them in terms of if they're going for an appointment route, how to fill out that application, what to say during the interviews, how to be prepared for the interview, what to expect once they do in fact become a judge.

Justice Webber:

We actually have one of our members, who was actually the chair of the committee, who was a mentee, and that is how she came onto the bench. And so now she, as I said, is the chair of that committee.

Laurie Dorsainvil:

Thank you, judges. Before we continue, Sabrina, can you please give us our CLE code?

Sabrina:

Yes. Give me one second. The code is diversity.

Laurie Dorsainvil:

Please make a note everyone and write that on your affirmation in order to obtain CLE credit. Continuing on, judges, can you tell us what your personal experiences have been on your journey to the bench? And what would be your advice to attorneys aspiring to the bench?

Justice Troutman:

Well, my own personal route to the bench was one wherein I didn't expect to go to the bench. I didn't think that was something that was for me. And in fact, even practicing and being in the court room. When I was in law school, it was not my intention to be anywhere near a courtroom. And life has a way of changing your prospects. And I would say be open, don't sell yourself short, thinking that you can't do something because you're the first person in your family to have gone to law school, or even college as you're preparing for the pathway forward. But with respect to the bench, actually, it is the first position that I held as an assistant district attorney, that gave me a lot more for the court and for advocacy. And I discovered that I had a talent that I didn't even realize that I had with respect to pathways, there are different times that you have people who will serve as a mentor.

Justice Troutman:

Fellow colleague here in Buffalo, Jeanette Acton was a practicing attorney at that time. And when an opportunity became available for a position on Buffalo City Court, and she wasn't interested in it. And she pushed me to not be afraid. And with her encouragement and mentoring, and that of Justice Samuel L. Green who's on the Fourth Department at the time, I didn't let fear be an obstacle for my ability to go forward with respect to that. But unlike some of the majority of candidates for judicial office, I actually had a career. I went from being afraid to be in a courtroom to in a very short period of time when I started practicing, I served as an assistant district attorney, an assistant state attorney general, and an assistant United States attorney. I argued appeals in the Fourth Department.

Justice Troutman:

I tried cases in federal court. But yet, when it came time for an opportunity for the bench, I was still afraid of going forward with respect to that, because of a lack of knowledge of the process. And quite frankly, because I was very young at the time to have that opportunity. And when you go for the bench, you need to understand it changes your life. It's not just an intellectual thing. There are these rules right now and you can say about pretty much anything you want, and you can do certain things. You also need to be educated about what it means once you put that robe on. You don't stop being a judge, no matter where you are.

Justice Troutman:

And I think that's also important to know. It affects every aspect of your life. And, quite frankly, some of those things, I didn't understand that it's also isolating, and that's why camaraderie with your fellow members of the judiciary. And it is much easier when quite frankly, when there are more people that look like you. If you're the only one, it's a challenge. But that is certainly not to say that colleagues in the judiciary as a whole haven't been supportive. And in fact, on my path, I've had mentors, had majority mentors, which included even Justice Kagan, and Justice Fahey on the court of appeals, who encouraged me, and encouraged me to even apply for this position. Justice Webber.

Justice Webber:

I grew up in the Bronx. And I did not see myself actually becoming a lawyer, never mind becoming a judge. But my mother was sued, and I remember coming home from school, and there was the summons attached on the door, because the oil company was suing her because of some oil issue for a business that my father had. And I remember having to go to court and I went to court with her. And I just was just totally taken aback as to the way that she was treated, the things that she had to go through, et cetera. And I still have the summons and complaint by the way, it's very yellow, but I still do have it. And so based upon that, I said, You know what, I'm going to become a lawyer. I went to NYU Law School, graduated, and then I went to the DEA's office.

Justice Webber:

And I was in a DEA's office for a number of years, then I became appointed attorney to Justice William Davis [inaudible 00:41:02]. He was my mentor. And he said, "Troy, you should consider going on the bench." And it was nothing that I had ever thought about, as I said, was to become a judge. But he mentored me, he guided me. He gave me the confidence to become a judge. I packed my judicial career in terms of my judicial temperament and how I acted on the bench. He was always respectful to the litigants. He was always respectful to the defendants in a criminal case and what have you, and that's how I always try to be. Then I became a judge. And I was relatively young, when I became a judge. And I sat in the Bronx. What I found throughout my career actually, especially in the beginning, was being tested. And I don't know whether [inaudible 00:41:58] had the same experience. Because I do believe there is a difference between upstate and downstate, as we have a little bit more diversity on downstate than there is upstate, but I was being tested.

Justice Webber:

I remember, as an African American female the attorneys and prosecutors as well [inaudible 00:42:16], would test me and sometimes they would be a little disrespectful. And also, I think there was this idea that, she doesn't really belong here, and she shouldn't be here. Why is she here? I found that I always had to be on the top of my game. And I always attempt to be on the top of my game. And I found that I had to put them in their place, excuse me, in terms of how they dealt with me and how they saw me. And once I did that, and if you're going on to bench and you're an individual of color you're a female, I believe you will be tested and I believe that if you just show them with the stuff that they cannot address you that way or treat you that way. I believe that that's a problem.

Justice Webber:

When I became an Associate Justice in the First Department, I will say, first couple of months again, I was being tested by the attorneys who appeared before me, because they appeared before the panel. Again, I think there was this idea or something that perhaps the reason that I was there was more towards achieving diversity than because of my experience, and my knowledge, and my legal acumen. And so again, there was that testing, but that period ended very quickly. And I have not had any issues since.

Justice Troutman:

I would just like to add, that's the importance of diversity. If there were true diversity, the things that Justice Webber was speaking of wouldn't happen. And with the two of us, black and female, and with myself when you add to the fact and add youth at that time, there's a belief that we are less [inaudible

00:44:17]. And true diversity would cause people to understand that we're better as a society. And I will tell you, in my court, we're very active, and in the decision making process, using your voice, that voice you bring all of your life experiences, you come out with better decisions. And a diverse world, trust the decision-making process, if it doesn't exclude certain groups of people, and that's why diversity is important. It's not just color and having someone look like you. It is doing that which is necessary to ensure that people have confidence in our judicial system. And we can see that right now in America as they are testing their belief in the foundation, that there is equal justice for all.

Laurie Dorsainvil:

I invite anyone who has questions for the panelists to use the chat function at this time to submit questions. There is a current senate bill pending, which will require the annual publication and diversity statistics on the judiciary. What are your thoughts briefly about that pending bill?

Justice Troutman:

I hope quite frankly, the fact that I willingly testified in the senate showed them the importance of that. And one of the things I should also tell you, there are four appellate divisions in our state and downstate has a much more diverse appellate bench than we do upstate. And upstate New York, there's the Third Department and the Fourth Department. In the Third department, there's one judge of color, and she comes from The Bronx. That's an issue, the only way that they could get diversity, because at the time that she was under consideration, or that there was an open seat, there were no elected judges of color on the Supreme Court, which is necessary. Part of the discussion during the hearings, and judicial friends appeared, and others in their concerns that diversity is a real issue. And even when you do legislation, changing the structure of the court, it is important to know what currently exists. The idea of that bill is to put in black and white, that which exists, and hopefully to result in the changes that are necessary to have a true with diverse court system. Justice Webber.

Justice Webber:

The commission is in total support of the Senate Bill. And I do not see why the bill would not be passed. Transparency is necessary. And this bill would assist in the transparency to see exactly, who is on the bench, whether we have a diverse bench or staff. I really don't see any issues with this. It should be made public. Again, transparency is certainly necessary. We are able to get some of this information from OCA via to [inaudible 00:47:58] have been able to get some of this information from OCA. We can certainly get information concerning race and ethnicity. We cannot get information as to sexual orientation. That's an issue. But we have to ask OCA [inaudible 00:48:15] since there is no requirement that they actually... How they go about compiling information, sometimes the statistics are not what we would hope them to be.

Laurie Dorsainvil:

Judges, I just want to ask you one more question before I ask questions from the attendees. Last week, Chief Judge DiFiore announced an independent review of the New York State Court Systems response to issues of institutional racism. As co-chairs of the commission you have been tasked to assist with the review? What are the goals of this evaluation?

Justice Troutman:

With respect to it, it is to take that hard work. The chief judge was very candid in acknowledging that we have serious issues that exist in the court system. When we have people who are accused of posting back, which is racist in nature on a website, and they're employed by the court system, that's a problem. When you add to the fact that people don't trust people in uniforms and with guns, that's a problem if they're the people who are actually that... She wants a real hard look. And the reason that an outside person is appointed, so that that outside look can take place. Myself and Justice Webber we are the people who participate in the system, and we have an auxiliary role with respect to assist with that which may be necessary in order to help. Mr. Johnson and his role as the lead with respect to it.

Justice Troutman:

But the Chief Judge has made clear, she would like a report in October. It's not like one of those normal missions that are set up in their public hearings and it goes on and on. She wants a look right now, and it requires effort. But it is an appropriate one. And it's a realization that justice may be blind, but we're not blind to the fact of what's going on outside in the streets on a daily basis, where people are crying out for the opportunity to be treated like everybody else, that their life matters. And it is important that our court system for every person, including persons of color, that they have the right to work in an environment where they are respected, and that they should not be subjected to some of the things that takes place when you deny that racism exists. What his job is, is to look at the charge that she gave, and it is my desire to help in that process.

Justice Troutman:

We will continue to exist as a commission, but I think this look complements that which we do on a daily basis, so that basically what's put out or taken out of the dark and put in the fullness of the day with the light shined on it, it gives more support, quite arguably, for some of the changes that we have been asking for. And I'm hoping that it will result in a seismic change that will deal with the issue of racism.

Laurie Dorsainvil:

Judges Amy Merrick has a question.

Justice Webber:

If I could respond to that. If I could just add one thing to that.

Laurie Dorsainvil:

I'm sorry. [inaudible 00:52:42].

Justice Webber:

I just wanted to say that, as I said in the outset, unfortunately, when the original report was published in 1991, things have not changed as much as we had hoped they would change. Mr. Johnson has been forwarded a copy of the report, of the original report. That will certainly be a great jumping off point for him, although the Chief Judge mandate is a little broader in terms of items that she would like us to look at or suggest that Mr. Johnson look at. Mr. Johnson like Franklin H. Williams is an "outsider" and so, he will certainly bring fresh eyes to the situation. We are hopeful and I am confident that he will be able to

come up with ideas, solutions, et cetera, to these problems. And as Justice Troutman stated, we as a commission will continue to exist, and it is most probable that many of the suggestions that he will be making will be things that the Commission will be able to follow through on.

Laurie Dorsainvil:

Thank you, judge. Miss Amy Merrick would like to know, to the panelists have a perspective on the difference between equality and equity for all litigants in the courtroom? Is there a difference? Is there a path towards one over the other? The distinction has been raised given the current national climate and racist sessions. I would love to hear what their perspective is from the bench.

Justice Webber:

Well, I think my opinion is there are issues in terms of again, I'm talking downstate, in terms of the resources which are allotted to one court over another court. The resources for example, that are allotted to housing court are the resources allotted to family court, maybe for a different... Not maybe, are different than the resources which are allotted to supreme court or to surrogates court. I sat as a surrogate here in New York County, so I know the resources that were allotted to Surrogate's Court. And so you have to ask yourself, why is it that those courts a majority of the individuals are of color? Why are the resources slower than the resources allowed into those courts where you have a higher number of individuals who are not of color? And so that is something that I think that has to be looked at. And I'm assuming that goes to the issue in terms of the inequities of the resources allotted.

Laurie Dorsainvil:

I have another question from William Garcia. What has been your experience in promoting diversity from this platform? Have there been challenges and or resistance?

Justice Troutman:

First of all, I will say it's a platform that is an opportunity for real change to come about, as it was explained when we go around the state and speak to administrative judges. It does put people on the defensive. And it does cost them to try to feel that they have to defend certain practices, which unfortunately, they're not seeing the full picture and the impact of those practices. The commission and as a collective body, having being diverse itself, it's a vehicle to bring about change. Yes, there are times we receive obstacles. Quite frankly, people like things the way that they are, especially if you benefit from things the way that they are. Yes, it can be quite challenging. But it's a wonderful vehicle. And since things have been going on right now with all of the protests across the country, across the world, frankly, Justice Webber and myself, there are phone calls and people are now asking.

Justice Troutman:

I have had recent conversations, where they're opening their eyes, and they're trying, at least, to make an effort to see things from the perspective of those who are adversely affected, as opposed to limiting it from their own perspective.

Laurie Dorsainvil:

Judges, I just want to ask one more question. And thank you for your patience for running a little bit over time. In 2021 the commission will celebrate its 30th anniversary as a permanent commission. What

are your goals as co-chairs for future initiatives? What areas is the commission believe need greater focus further improvement?

Justice Webber:

Well, we have plans, a number of events for our 30th anniversary. One of the events was the rollout of the Franklin H. Williams film on PBS. We wanted to coincide with Black History Month in February. We also have planned again meetings with the various bars so specific with the various ages. We wanted to have more interactions with youth, with juveniles, with high school, middle school individual, the How to Become a Judge program et cetera. However, based upon what has been going on recently, and based upon this new task force, by Mr. Johnson, I think we're going to have to rethink our initiatives for the coming year, and maybe probably do more things in line with what exactly is going on and more in line with actually addressing the issues which have been presented to us recently, from the judicial as well as non-judicial individuals within the [inaudible 00:59:38].

Laurie Dorsainvil:

Thank you. I want to thank our esteemed panelists, Justice Webber, Justice Troutman and Ms. Nicolas-Brewster for furthering our education on judicial diversity. I also want to thank our Rockland County Bar Association President Keith Braunftel for supporting the Diversity Committee endeavors the Rockland County Bar Association's executive director Nancy Low-Hogan and program director Sabrina Charles here for their assistance with their technical and operational aspects of this CLE. Last but not least, I want to thank Karlene Dennis, Associate Counsel to the Franklin H. Williams Judicial Commission and my colleagues on the Diversity Committee, Hernan Caceres, Bill Cember, Andrea Composto, Bridget Gauntlett, and again Mary Lynn Nicolas-Brewster for all their hard work in putting together this CLE. Thank you all very much.

Justice Troutman:

Thank you.

Justice Webber:

Thank you. Take care.

Laurie Dorsainvil:

Thank you.