



The Pew Charitable Trusts

How to Create Courts That Reflect the Diversity of the Communities They Serve

Steps for making civil courts more equitable

Overview

Judges, court personnel, and juries should reflect the communities they serve across sociodemographic categories to ensure not only that courts are inclusive but also that staff understand the needs of court users. When court staff are diverse and locally representative, court users, witnesses, and others are likely to feel more comfortable engaging with the court.

Creating a diverse workforce requires time, effort, and a commitment to culture change at the individual court level, but it pays dividends over the long term. Demographically representative courts not only can improve user engagement but also may help increase public confidence in the court and its ability to render fair outcomes.¹

Courts can better reflect the communities they serve by implementing three key practices:

- Review and revise recruitment and hiring practices to attract more diverse candidates.
- Work with jury commissioners and other local agencies to ensure jury selection pools are diverse.
- Prioritize workplace equity and inclusion by training staff and implementing proven human resource policies and practices.

After extensive research, The Pew Charitable Trusts has developed a framework outlining how and why courts should modernize.² These steps arise from that work and can help programmatic and operational court staff, along with court leadership, assess the demographics of court personnel and whether they match community demographics; identify opportunities to improve; and decide—with input from relevant stakeholders—which of those opportunities to pursue and how.

Step 1: Bring together relevant court staff and external stakeholders

These groups can contribute important perspectives and insights about how to diversify court personnel and juries.

Court users can provide feedback about harmful or discriminatory treatment they may have received when interacting with the court.

Leadership can champion evidence-based diversity, equity, and inclusion initiatives, develop and dedicate funding to relevant committees, ensure that human resources departments adopt and implement inclusive hiring practices, and meet with frontline staff to learn more about court user experiences.

Court researchers can collect and analyze court and personnel data and identify needed outreach strategies and other interventions to address disparities and inform training efforts.

Clerks can provide information about court culture and inclusivity drawn from their regular interactions with court users, judges, and court services.

Access to justice staff can develop plans, survey court personnel, and work with jury commissioners to ensure that jury pools are diverse.

IT staff can work with jury services or commissioners to develop locally representative lists from which to pull prospective jurors, provide guidance on how to securely access community data (e.g., voter registration lists) for jury selection, and ensure that demographic information is securely stored.

Website administrators can publish court staff demographic information on a public-facing website in plain language and in an accessible format.

External researchers can train staff on racial and economic equity and provide guidance on how to increase the diversity of jury pools and court personnel.

Legal stakeholders (e.g., legal aid, law firms) can offer perspectives on interactions with court personnel that frequently involve bias or unequal treatment and identify areas needing improvement.

Step 2: Assess current practices and set next steps

The following metrics can help courts assess their progress toward becoming more inclusive, diverse, and reflective of their communities. (See Tables 1 and 2.)

For each metric, determine whether the answer to the initial question is yes or no using the suggested measure.

If the answer to the metric question is no, pursue the suggested next steps in collaboration with staff and stakeholders. The suggested steps are not prescriptive; instead, they provide ideas and options for getting started.

The state examples can help courts determine what actions are feasible given available resources.

Table 1

Court Personnel and Juries Should Reflect the Diversity of Their Communities

Metrics, suggested steps, and state examples and resources

Metric	If not, suggested next steps	Examples and resources
<p>Are court personnel—throughout all levels—diverse in terms of age, race, gender, and disability status?</p> <p><i>How to measure it:</i></p> <p>Survey court personnel and compare results with local demographics from census information.</p>	<ul style="list-style-type: none"> Consider changing recruitment practices, such as clearly stating in position descriptions a preference for candidates with a variety of experiences—including, possibly, lived experiences with the court system—and reviewing background check policies to ensure that checks are conducted only when required for the position. Adopt inclusive hiring practices, such as using standardized interview questions and posting job openings widely. Hire a diversity, equity, and inclusion officer, or develop an office dedicated to this work. Offer periodic training for court staff on the importance of and strategies for building and maintaining a diverse workforce. <p>Who's involved:</p> <div data-bbox="500 1136 924 1203"> Access to justice Leadership Researchers </div>	<ul style="list-style-type: none"> The U.S. Census Bureau has public datasets of county-level demographics broken down by age, race, and gender. The National Center for State Courts (NCSC) developed a new database, called Court Opportunity Recruitment for All, as part of its Blueprint for Racial Justice initiative, where courts can upload clerkships, internships, and other opportunities to make them available to a wide audience. NCSC has an assessment tool that courts can use to gauge racial bias and disparities in their recruitment, hiring, development, retention, and promotion practices. Delaware published a strategic plan for and mini documentary about improving diversity on the bench, highlighting how courts can partner with K-12 public schools to provide civic education opportunities and promote interest in law school.
<p>Are court staff members who interact with users bilingual or multilingual?</p> <p><i>How to measure it:</i></p> <p>Survey court staff about the languages they speak, and document the number of bilingual staff and the languages spoken.</p>	<ul style="list-style-type: none"> Train all court personnel on the differences between interpreters and bilingual staff and when each should be used. Identify the languages that the court should prioritize when recruiting new staff. When recruiting or promoting bilingual and multilingual staff, confirm their language proficiency levels and develop clear guidelines for what staff are (e.g., offer real-time translations of court documents) and are not (e.g., serve as an interpreter) allowed to do for and with court users. <p>Who's involved:</p> <div data-bbox="500 1772 782 1839"> Access to justice Leadership </div>	<ul style="list-style-type: none"> The New Mexico courts have language access specialists who are certified bilingual employees; clear rules for when to use bilingual staff; higher salaries for bilingual employees, compared with otherwise commensurate monolingual employees; and a mandatory 12-week online certification program for bilingual staff members. Courts can use census data to view language needs by state, county, city, and region.

Metric	If not, suggested next steps	Examples and resources						
<p>Are juries and jury selection pools diverse?</p> <p><i>How to measure it:</i></p> <p>Have jurors self-identify their race and other demographic information on qualification forms, or geomap or impute that information based on names and mailing addresses. Use the collected data to compare jury and selection pool demographics with the local community.</p>	<ul style="list-style-type: none"> Identify ways to obtain inclusive jury pools, such as by pulling names from state income tax filings and unemployment or other welfare benefits recipient lists, as well as the usual voter and driver’s license lists. Make it easier for prospective jurors to attend court, such as by adequately compensating them and providing child care. Offer periodic training sessions for jury commissioners and clerks about the importance of diverse juries and jury pools. Publish demographic data on juries online in a prominent location. <p>Who’s involved:</p> <table border="1" data-bbox="500 768 924 905"> <tr> <td data-bbox="500 768 643 835">Access to justice</td> <td data-bbox="643 768 786 835">IT staff</td> <td data-bbox="786 768 924 835">Leadership</td> </tr> <tr> <td data-bbox="500 835 643 905">Researchers</td> <td data-bbox="643 835 786 905">Website administrators</td> <td data-bbox="786 835 924 905">Researchers</td> </tr> </table>	Access to justice	IT staff	Leadership	Researchers	Website administrators	Researchers	<ul style="list-style-type: none"> In 2019, Washington State’s Minority and Justice Commission Jury Diversity Task Force made several recommendations, which include how to better identify and support jurors, such as expanding source lists, offering child care, and using text message reminders to improve response rates. The Washington, D.C., courts maintain a webpage for jurors that includes information on payment, child care, and interpreter services, as well as educational videos (which are subtitled and available in American Sign Language) on topics such as the effects of implicit bias.
Access to justice	IT staff	Leadership						
Researchers	Website administrators	Researchers						

■ Internal ■ External

Sources: U.S. Census Bureau, “County Population by Characteristics: 2020-2022” (2020-2022); National Center for State Courts, “CORA (Court Opportunity Recruitment for All)”; National Center for State Courts, “The Racial Justice Organizational Assessment Tool for Courts” (2023); Delaware Bench and Bar Diversity Project Steering Committee, “Improving Diversity in the Delaware Bench and Bar: Strategic Plan” (2022); P. Couselo and B. Carrasquillo, “Express Lesson: Use of Bilingual Staff”; U.S. Census Bureau, “Language Spoken at Home by Ability to Speak English for the Population 5 Years and Over” (2010-2022), (Sept. 27, 2023); Washington State Minority and Justice Commission Jury Diversity Task Force, “Minority and Justice Commission Jury Diversity Task Force 2019 Interim Report” (2019); District of Columbia Courts, “Jurors”

Table 2

Courts Should Prioritize Workplace Equity and Inclusion

Metrics, suggested steps, and state examples and resources

Metric	If not, suggested next steps	Examples and resources
<p>Does the court retain and promote diverse staff?</p> <p><i>How to measure it:</i></p> <p>Review retention metrics, such as promotion opportunities and pay.</p>	<ul style="list-style-type: none"> • Develop and disseminate a transparent procedure for determining promotions, pay, and raises to all court personnel. • Set benchmarks for advancement to ensure that all employees have a fair chance for promotion or internal recruitment. • Incorporate equity and inclusion goals into staff performance evaluations, such as whether they attended required trainings or participated in work groups. • Conduct regular survey of court personnel to get their feedback on whether there are fair promotion and pay structures, opportunities for diverse representation in leadership positions, and opportunities to increase equity in decision-making or operationalize equity at various levels of the court. <p>Who's involved:</p> <div style="display: flex; justify-content: space-around;"> <div style="background-color: #4b3621; color: white; padding: 5px; text-align: center;">Access to justice</div> <div style="background-color: #4b3621; color: white; padding: 5px; text-align: center;">Leadership</div> <div style="background-color: #4b3621; color: white; padding: 5px; text-align: center;">Researchers</div> </div>	<ul style="list-style-type: none"> • Courts and bar associations in more than half of U.S. states have <u>developed committees or commissions</u> to address diversity and inclusion in the legal profession, such as the <u>Rhode Island Supreme Court's Permanent Advisory Committee on Women and Minorities in the Courts</u>, which has among its subcommittees one that works on education and training and another focused on hiring and retention.

Metric	If not, suggested next steps	Examples and resources						
<p>Are court personnel aware of their own potential biases when working with their colleagues and with court users?</p> <p><i>How to measure it:</i></p> <p>Survey court personnel about their experiences with co-workers, and survey court users about their interactions with court personnel.</p>	<ul style="list-style-type: none"> Survey court personnel and users and use that data, as well as records of denials of services such as fee waivers and interpreter requests, to identify topics for staff training and guidance. Provide extra paid time off for court personnel to attend courses and training, and consider creating more opportunities for staff to share information and participate in peer learning. Train court personnel on the individual and organizational strategies the court is using to address biases that affect users and staff. Develop post-training and other follow-up surveys for court personnel to assess the impact training programs have on their approaches to working with court users and colleagues. <p>Who's involved:</p> <table border="1" data-bbox="505 915 924 1050"> <tr> <td>Access to justice</td> <td>Leadership</td> <td>Researchers</td> </tr> <tr> <td>Researchers</td> <td>Court users</td> <td></td> </tr> </table>	Access to justice	Leadership	Researchers	Researchers	Court users		<ul style="list-style-type: none"> An NCSC report outlines strategies for training court staff about implicit bias and breaks down the science behind how implicit bias interventions that bypass or disrupt biased responses can be effective as well as how intergroup contact can reduce prejudice and discrimination. For the past 10 years, the Connecticut courts have hosted a "diversity week," with 25 to 30 trainings for court personnel on cultural awareness, racial justice, mental health, and more. In 2022, Iowa's chief justice mandated that all judges and court personnel participate in unconscious bias training, supplementing their 2014 training on implicit bias. New Hampshire courts partnered with a local professor to train judges and court staff on how assumptions about people in poverty can affect ability-to-pay determinations; the courts also included identifying trainings on implicit bias in their 2022 strategic plan.
Access to justice	Leadership	Researchers						
Researchers	Court users							

■ Internal
 ■ External
 ■ Court users

Sources: National Consortium on Racial and Ethnic Fairness in the Courts, "State Commission"; Rhode Island Supreme Court, "Rhode Island Supreme Court's Permanent Advisory Committee on Women and Minorities in the Courts" (2014); J.K. Elek and A.L. Miller, "The Evolving Science on Implicit Bias: An Updated Resource for the State Court Community" (2021); National Center for State Courts, "Tiny Chat 121: Connecticut's Diversity Week" (April 12, 2023); Iowa Supreme Court, "In the Matter of Mandatory Education for Judicial Officers and Judicial Branch Staff" (2022); S. Pimpare (senior fellow at the Carsey School of Public Policy at the University of New Hampshire), (Oct. 19, 2022); New Hampshire Judicial Branch, "New Hampshire Judicial Branch Steering Committee on Diversity and Inclusion Strategic Plan" (2022)

The work in action: Pennsylvania Interbranch Commission works to create courts that reflect their communities

The [Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness](#), established by the Pennsylvania legislature in 2005, takes an active role in ensuring that court staff in the state reflect the communities they serve and has been at the forefront of efforts to improve equity in the courts.³ Commission members, many of them judges or attorneys, decided early on that addressing workforce diversity and the court's role as an employer were important components of broader equity efforts in the state.

Former commission Executive Director Lisette McCormick says that one of the first challenges the commission tackled in 2016 was figuring out how to overhaul opaque court appointment processes throughout the state. "We knew that in some counties, the appointment system was closed," McCormick says. "No one knew how to get on the list, and we knew that was preventing people, particularly women and people of color, from being considered for those opportunities."

In September 2016, the commission surveyed district court administrators on their court appointment procedures. The commission then sent letters to the justices of the Supreme Court of Pennsylvania and to court leadership in the state detailing the survey results and recommended best practices. In response to the recommendations, the state Supreme Court changed its policies and now advertises available court appointments, along with detailed information on how to apply, to the entire legal community.

But, McCormick adds, the commission also knew anecdotally that there was not enough diversity among nonappointed court personnel and had published a 2006 recruitment guide and a 2010 workforce diversity manual to help the courts attract diverse applicants and identify model programs.⁴ To track the state's progress, in 2017 the commission requested that the Supreme Court add an optional question to the annual attorney registration forms to enable collection of gender, race, and ethnicity data for the state's lawyers.⁵ The court approved the request in 2018, and the commission now publishes an annual infographic showing statewide attorney demographic data, along with a letter explaining the trends.⁶

The commission hopes the annual data collection will highlight the diversity of attorneys who may be eligible for judicial appointments and help the state measure progress toward a more inclusive and representative legal profession in Pennsylvania.

Endnotes

- 1 Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System, "Final Report of the Pennsylvania Supreme Court Committee on Racial and Gender Bias in the Justice System" (2003), <https://files.deathpenaltyinfo.org/legacy/documents/PAFinalReport.pdf>; M. Corra, "Disability and Access Perspectives From Judiciary Personnel on Issues of Accessibility," *The Judges' Journal* (2020), https://www.americanbar.org/groups/judicial/publications/judges_journal/2020/spring/disability-and-access-perspectives-judiciary-personnel-issues-accessibility/; H. Albarazi, "North Carolina Justice Anita Earls Opens Up About Diversity," *Law360*, June 20, 2023, <https://www.law360.com/articles/1687516/north-carolina-justice-anita-earls-opens-up-about-diversity>; Conference of Chief Justices and Conference of State Court Administrators, In Support of Disability Diversity in the Legal Profession, Resolution 13 (2012), https://ccj.ncsc.org/_data/assets/pdf_file/0015/23541/07252012-access-justice-disability-diversity-legal-profession.pdf.
- 2 The Pew Charitable Trusts, "How to Make Civil Courts More Open, Effective, and Equitable" (2023), <https://www.pewtrusts.org/research-and-analysis/reports/2023/09/how-to-make-civil-courts-more-open-effective-and-equitable>.
- 3 The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness, "The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness," accessed Dec. 4, 2023, <https://pa-interbranchcommission.com/>; *ibid*.
- 4 The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness, "The Diversity Recruitment Resource Manual" (working paper, <https://pa-interbranchcommission.com/>, 2006); The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness, "Creating a Diverse Workforce in the Pennsylvania Courts: A Manual for Success" (2010), <https://pa-interbranchcommission.com/creating-a-diverse-workforce-in-the-pennsylvania-courts-a-manual-for-success/>.
- 5 The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness. "The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness."
- 6 The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness, "Diversifying the Legal Profession in Pennsylvania" (2022), <https://pa-interbranchcommission.com/graphic-summary-diversifying-the-legal-profession-in-pa-2022-attorney-demographic-data>.

For more information, please visit: pewtrusts.org/modernlegal

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