

1st Bench Diversity Project

<http://www.azcourts.gov/cscommittees/Commission-on-Minorities> (Resources)

The 1st Bench Diversity Project was a joint effort of the Arizona Supreme Court Commission on Minorities in the Judiciary and the Administrative Offices of the Courts. One of the mandates of the Commission on Minorities is to “*enrich the diversity of the judiciary to reflect the communities it serves.*” In order to move forward with that goal, the Commission determined that, as a starting point, it needed more comprehensive data to assess the current status of the Arizona judiciary in terms of reflecting the rich diversity of our state’s population.

The Bench diversity survey was sent to over 500 Arizona Judges at all levels of court with an invitation from Chief Justice Bales to participate.

Findings:

- The traditional federal diversity categories do not necessarily correspond to a judge’s personal conceptions of diversity.
- The Arizona State Court Judiciary does not reflect the categorical diversity of the state’s population.
- Compared to the state’s population, Hispanics, in particular, are under-represented in the judiciary.
- Instead of reflecting the population as a whole, the diversity of the judiciary more closely mirrors the diversity of the State Bar.
- Different levels of court have demonstratively different diversity. Local appointment plays a significant role in diversity outcomes.
- There is more diversity in judicial offices that do not require a law degree.
- When adjusted for population, merit selection of Superior Court Judges produces slightly better diversity outcomes for categorical diversity than selection by local election.
- Women are under-represented across the judiciary. However, among locally appointed Superior Court Commissioners, women are over-represented.
- The population of women in the judiciary is more diverse than that of men.
- However, whites are significantly over-represented among locally appointed female Superior Court Commissioners.

Fifth Arizona Statewide Report Card (reviews data from CY2010 and CY2011, FY 2012 and 2013)

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The Arizona Statewide Report Cards on the Equitable Treatment of Minority Youth have challenged juvenile court judges, court administration, county attorneys, and many other judicial employees and community leaders, to ensure all youth in the Arizona juvenile justice system are provided with fair and equitable justice.

The report cards review the following decision points:

- Referral (paper or physical/detention)
- Diversion, Petition Filed, No Petition Filed
- Direct filed in adult court
- Adjudicated, transferred to adult court, or non-adjudication
- Dispositions (penalty only, Department of Juvenile Corrections, or probation (standard or intensive))

The purpose of this report is to analyze each major decision-point in the juvenile justice continuum to determine whether all youth are receiving similar treatment. It is our intent that this report be used as a tool

by juvenile court leadership teams and policy makers to prioritize and focus their efforts in creating fair outcomes for all children who have contact with Arizona's juvenile courts.

The 5th Report Card indicates that while Arizona is enjoying unprecedented declines in the number of youth entering the system, minority youth are not fairing as well as white youth in the Arizona juvenile justice system. The following provides a summary of the results.

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| All Youth: | <ul style="list-style-type: none">• Juvenile delinquency activity is decreasing.• Only 3.25% of court-age youths were referred to juvenile court in FY2013.• Minority youth are under-represented in diversion cases.• Only 17.93 % of all referrals are brought to detention, this is a downward trend over the last 4 years.• Very little difference in rates of adjudication among all groups of youth.• Minority youth are more likely to be Direct Filed in adult court. |
| African American Youth: | <ul style="list-style-type: none">• In the 2004 report, were referred at a rate that was 2 times higher than would be expected based on their proportion in the population. The following four reports indicate this has dropped to 1.8 times.• Were committed to ADJC and brought to detention are higher rates.• The most significant finding continues to be the rate of Direct Filing in Adult Court. The overall rate of Direct Filing for African American youth ranged from 2.92-5.62 over the 4 cohorts examined. |
| Hispanic Youth: | <ul style="list-style-type: none">• Are under-represented at the referral decision point however they were over-represented in being brought to detention.• Had higher rates of being petitioned and ending up on Juvenile Intensive Probation Services (JIPS).• Were Direct Filed in Adult Court at 3.55 times higher than White youth—an increase from the 2010 Report Card.• Are about even to the White youth on being adjudicated.• Had higher rates for being committed to ADJC. |
| American Indian Youth: | <ul style="list-style-type: none">• Although they are over-represented at being referred and brought to detention, they are more likely to be released.• The Direct Filed data shows a decrease from the 2006 Report card with an RRI of 1.56. Transferred youth show under-representation for the American Indian youth, but this rate involves an extremely small number.• They are under-represented on Diversion, ADJC and Penalty Only. |

Task Force on Fair Justice for All

<http://www.azcourts.gov/cscommittees/Task-Force-on-Fair-Justice-for-All>

In March 2016, Chief Justice Scott Bales established the Task Force on Fair Justice for All: Court-Ordered Fines, Penalties, Fees, and Pretrial Release Policies (Task Force). The establishing order outlined the purpose of the Task Force which is to study and make recommendations regarding the following:

- a) Necessary statutory, court rule, policy, and process and procedure changes for setting, collecting, and reducing or waiving court imposed payments.

- b) Options for people who cannot pay the full amount of a sanction at the time of sentencing to make reasonable time payments or perform community service in lieu of some or all of the fine or sanction.
- c) Best practices for making release decisions that protect the public but do not keep people in jail solely for the inability to pay bail.
- d) Alternatives to driver's license suspension.
- e) Educational programs for judicial officers, including pro tem judges and court staff who are part of the pretrial decision-making process.
- f) Technological solutions that provide defendant notifications of court dates and other court-ordered deadlines to reduce the number of defendants who fail to appear for court and to encourage people who receive citations to come to court.

The *Report and Recommendations of the Task Force on Fair Justice for All* (Report) was presented to the Arizona Judicial Council (AJC) in October 2016. The report contains 53 recommendations, plus additional educational and training recommendations for the AJC's review and consideration.

Reforms being considered or underway

Sentencing

- Legislative proposals – submitted but stalled
- Automated tools to help determine a defendant's ability to pay – so far research has not yielded a reliable tool
- Phoenix Municipal Court's Compliance Assistance Program (down payment + time payment plan = reinstatement of driver's license):
 - Phoenix Municipal Court - 12,906 cases since January '16
 - Glendale Municipal Court - 517 cases since July '16
 - Tucson Municipal Court - 425 cases since January '17
 - Scottsdale Municipal Court - No stats as yet
- Pilot project that combines the Phoenix Municipal Court's Compliance Assistance Program with a fine reduction program.
 - Piloted in Yuma County – 534 cases reduced balance paid in full – 255 cases on payment plans – oldest case closed from 1986
- Statewide Notification Process – contract signed
 - Text messaging system to remind defendants of court dates, missed payments, and other actions to reduce failure to appear warrants and failure to pay Order to Show Cause hearings.
 - Arizona Traffic Ticket and Citation (ATTC) modification to collect cell phone numbers, and email addresses for the messaging system with disclaimer and opt-out information
- Bench Card for Order to Show Cause hearings to assist judges in determining:
 - willfulness of non-payment, and
 - level of mitigation based on Federal Poverty Level (FPL)
- Plea by mail for criminal traffic and boating cases (primarily related to out-of-state defendants)
- Defendant notification prior to Failure To Appear or Failure to Pay driver's license suspension

Bail

- On-line payment and submission of proof (e.g. vehicle registration and insurance, and driver license) site
- Criminal Bail Schedule elimination

- Tools for helping judges make release decisions
- Restitution courts, status conferences, and probation review hearings that ensure due process and consideration of the victim's wishes
- Simplification and clarification of defendants' rights as they appear on the Release Order and Appearance Bond
- Non-traffic criminal bond schedule elimination
- Require the appointment of counsel if a person remains in jail after the initial appearance.
- Request that the legislature refer to the people an amendment to the Arizona Constitution to expand preventive detention to allow courts to detain defendants when the court determines that the release will not reasonably assure the appearance of the person as required, in addition to when the defendant's release will not reasonably assure the safety of other persons or the community.
- Expand the use of the public safety risk assessment to limited jurisdiction courts.