



# Arizona's 2021 Consortium Update

[Commission on Diversity, Equality, and Justice in the Judiciary \(azcourts.gov\)](http://azcourts.gov)

\*logo to be updated soon

## Commission on Minorities renamed to Commission on Diversity, Equality, and Justice (CODEJ)

- In Fall 2020, the commission formed a workgroup to recommend updates for the commission's name and mission. The workgroup reviewed commission websites' from across the United States. The final recommendations were presented at numerous committee meetings, and the Arizona Supreme Court signed Administrative Order 2021-69, effective May 5, 2021.
- The new Arizona Code of Judicial Administration § 1-107 is listed here: [1-107 Amended 5-2021.pdf](#)

## Maricopa County Commissioner Recruitment: "Application 101" Webinar

- In an effort to demystify the Maricopa County (Phoenix, AZ) Court Commission Recruitment process, four local judges presented a roundtable discussion on the application and review process. The presentations included: 1) the process from application to interview, 2) putting together a quality application and garnering community support, 3) how applying to be a judge differs from a commissioner and 4) things the judges wish they had known before they applied. This November 13, 2020 event was held virtually and attended by a diverse audience. The webinar has been deemed a success, as several applicants who attended the event are now commissioners.

## Racial Justice Initiatives

While the Arizona Judicial Branch has ongoing initiatives to improve racial justice, more can be done to improve diversity and equality in the judicial system. Planned initiatives include improving the bail system, striving to have a racially and culturally diverse bench and court workforce, ensuring representative juries, and addressing racial disparities in the adult and juvenile justice systems.

To this end, the Arizona Judicial Council and the Commission on Minorities in the Judiciary met on December 17, 2020. The resulting joint session recommendations are targeted for implementation in the Arizona state courts in 2021.

### **Bail Reform**

File Supreme Court rule petitions and amendments to Arizona Code of Judicial Administration (ACJA):

- Allow representation of a defendant by a legal paraprofessional (LP) at an initial appearance hearing to assist with determining the amount of bail and other release conditions
- Require a review hearing if a defendant remains in jail after a judge sets a cash bond
- Modify the current rule clarifying that failure to post the required bail would be grounds for a review hearing

### **“No-Knock” (Unannounced) and Nighttime Warrants:**

A task force has been created to make recommendations regarding no-knock and nighttime warrants, addressing:

- Statutory and rule changes to clarify requirements to issue a no-knock warrant. As an example, require that requests for no-knock warrants must be approved by a command-level officer or prosecutor.
- Updated bench scripts and additional judicial training on no-knock and nighttime warrants, including training and materials at new judge orientation.

Incorporate task force recommendations into bench books and other judicial training platforms

### **Representative Juries and Juror Service:**

A task force has been created to study and make recommendations regarding:

- Increased participation of racial and ethnic minorities on juries
- Economic roadblocks that prevent citizens with low incomes from serving on juries, such as juror pay and associated costs such as parking, public transportation, and lost wages
- Sufficiency of prospective juror source lists
- Coordination with tribal nations on improving prospective juror source lists
- Distance issues that present challenges for rural residents to participate in jury service
- Use of the statewide jury management system for collection of demographic information and statistical reporting
- Peremptory challenges to jurors

### **Plea Bargains:**

Encourage County Attorneys to develop and publish plea bargain guidelines for their county

A task force will be created to make recommendations regarding plea bargains, sentencing and dispositions, addressing:

- Ways to compile, analyze, and publish demographic data on plea bargains, sentencing, and dispositions
- Judicial training on plea agreements (improving bias awareness, tracking of dispositions, sufficiency of facts, county attorney plea guidelines, probation discretion, and data entry integrity)
- Judicial training on best practices in criminal sentencing to ensure that all required assessments and data entry fields are populated and appear on sentencing orders
- The deployment of public defenders, legal paraprofessionals, or both, to advise defendants about collateral consequences of pleading guilty.
- Clarify by rule, statute, or both, that small bond amounts (\$1-\$100) are not required to ensure that the defendant receives credit for time served when the defendant is also being held on another case.

### **Disproportionate Minority Contact in Juvenile Justice System:**

- Adoption of the juvenile detention screening instrument in all counties
- Adoption of the dispositional matrix tool that determines supervision level based on risk and most serious adjudicated offense in all counties
- Continuing work of the Juvenile Detention Alternative Initiative (JDAI) committees to research, define, and decrease identified racial disparities in their counties

- Publish the *Seventh Arizona Statewide Report Card on Equitable Treatment of Minority Youth (FY17-19)* and present findings to stakeholders
- Research the creation of a data dashboard with demographic breakdowns of juvenile case data to be published on [www.azcourts.gov](http://www.azcourts.gov)

#### **Enhance the Diversity of the Bench and Court Personnel:**

- Explore the establishment of a law student summer intern/extern program to encourage diverse law school students to gain experience in the courts and encourage them to apply for law clerkships at the Arizona Court of Appeals and Supreme Court
- Encourage the American Bar Association Section of Legal Education and Admissions to the Bar to explore ways to strengthen Standard 206, to promote increased diversity of law school faculty, staff and student bodies
- Modify the Arizona attorney admission application to collect demographic data
- Urge the State Bar of Arizona to identify ways to improve the collection of racial and ethnic demographic membership data
- Collect racial and ethnic demographic data workforce composition on judicial officers and court employees, including probation officers and detention officers

### Arizona Collaborative Bar – Community Conversations and Convention Seminar

- Throughout Fall 2020, the Arizona Collaborative Bar\* hosted a series of webinars designed to facilitate discussions on racism, implicit bias and discrimination in the courts and the practice of law. Attendees included attorneys, law students and others in the legal and court system. The Collaborative Bar also presented a seminar at the December Arizona State Bar Convention on unconscious bias that involved the judiciary and members of the legal community discuss their personal experiences with bias and racism and how to confront it.

\*Beginning in 2015, leaders from the Arizona Asian American Bar Association, Arizona Black Bar, Los Abogados Hispanic Bar Association, and Native American Bar Association— Arizona recognized a growing need to coordinate and foster dialogue amongst Arizona’s diverse bar organizations as an ongoing benefit to each organization’s individual membership. From their efforts, the Arizona Collaborative Bar was born to serve as a pipeline for communication and to provide an avenue to explore creative, strategic, and innovative collaborations.

### 2021 Arizona Court Leadership Conference (CLC) Plenary - Racial Justice, Equity, and Equality for All: Update on Arizona Judiciary Initiatives

- On March 31, 2021, 150 court leaders from around Arizona attended this annual conference and the opening plenary session examined Arizona initiatives—past and present—that focus on ways judicial leadership can make an impact on ensuring access to justice is equal for all. The panel was introduced by the Chief Justice, moderated by the CODEJ Chair and presentations were given on CODEJ, upcoming tasks forces reviewing bail reform, plea bargains, warrants and jury processes, data on bench and employee diversity, and initiatives underway on judicial education and operational reviews.

## 2021 Equitable Treatment of Minority Youth: Seventh Statewide Report Card - Key Findings

- Minorities are overrepresented at the referral, detention, direct filings to adult court, and the Arizona Department of Juvenile Corrections (ADJC) decision points.
- The referral, direct file to adult court, and ADJC decisions are the points with the greatest disparity.
  - Black youth are the most disadvantaged group each of these decision points
  - Each of the minority groups examined are at least 50% more likely than white youth to be direct filed to adult court
  - Black youth are 2.3 times and Latinx youth are 50% more likely than white youth to be sent so ADJC
- Indigenous youth are at least 60% more likely than White youth to be detained
- Latinx and Indigenous youth are 40% more likely than White youth to receive Juvenile Intensive Probation Supervision (JIPS)
- Black, Latinx, and Indigenous youth are at least 20% more likely than White youth to have a petition filed
- Asian and Unknown youth received outcomes that are equal to or less restrictive than White youth at the majority of decision points.
  - Asian youth are especially underrepresented at the decision to refer to the juvenile justice system
  - Unknown youth are 40% less likely than white youth to be detained
- White and minority youth experience similar outcomes at the decisions to not bring the youth to detention, to not to file a petition, to adjudicate the youth as delinquent, and to receive standard probation