

THE INDIANA SUPREME COURT'S

COMMISSION ON
RACE & GENDER
FAIRNESS

2017 COMMUNITY FORUM
RECOMMENDATIONS

November 14th, 2017

Dear Chief Justice Rush,

On behalf of the Commission, I am pleased to submit a report on the 2017 Community Forums held by the Indiana Supreme Court's Commission on Race and Gender Fairness. It goes without saying that finding solutions to complex problems is not an easy task. The Commission is of the strong belief that developing solutions takes collaboration and the ability to listen to those impacted by the Judicial System. The Commission embarked on a set of Community Forums in five cities in early 2017 with the goal of listening and reporting back recommendations to the Indiana Supreme Court. This report expresses sentiments heard during the forums and recommendations moving forward.

While our recommendations will not completely solve the issues related to race and gender, it is our goal that we continue to have an on-going dialogue and constantly look for ways to make the Indiana courts and Judiciary better for all Hoosiers.

It is a distinct pleasure to be involved in the important work of the Commission on Race and Gender Fairness.

Very truly yours,

Myra C. Selby

The Honorable Myra C. Selby
Chair, Commission on Race & Gender Fairness

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INTRODUCTION AND HISTORY:

The Indiana Commission on Race & Gender Fairness exists to study the status of race and gender fairness in Indiana's justice system since its inception in 1999. The Commission investigates ways to improve race and gender fairness in the courts, legal system, and state and local government, as well as among legal service providers and public organizations. The Commission recommends to the Supreme Court the adoption of policies and procedures promoting race and gender fairness.

In 2002, the Commission published an Executive Report and Recommendations called "Honored to Serve" which outlines a set of findings and recommendations in several areas including make-up of the profession; language and cultural barriers; criminal and juvenile justice; civil, domestic and family law; and employment. The 2002 report used several data collection methods including focus groups, interviews, and community forums to inform the recommendations. The 2002 report prompted the creation of the Court Interpreter program. To date, the court interpreter program provides statewide standards, training, and certification to interpreters that work on the trial court level.

2017 COMMUNITY FORUMS

The Commission held community forums in 2001 and 2010 as a tool to hear first-hand concerns about race and gender fairness. As previously stated, the forums were instrumental in the creation of the Court Interpreter program. The Commission embarked on another set of forums in early 2017. **Our mission was to obtain perception data to identify issues of importance related to race and gender fairness in the justice system to assist with future program development.**

METHODOLOGY:

The data was obtained in two different ways:

1. Forum participants completed a **survey** at the forums about their perceptions of the Judicial System
2. Attendees participated in small group **discussions about perceptions** of the Judicial System

Survey: The survey featured questions about: 1) forum attendee demographic information, 2) self-reported knowledge of issues related to race and gender fairness, and 3) perceptions of whether there have been any improvements since 2010. 2010 represents the last time the Commission on Race & Gender Fairness had a forum at that location. These results provided quantitative data. The results can be found on pages 8-12.

Small Group Discussions: The small group discussion provided qualitative data most beneficial in future program development. Since participation in the public forums was voluntary, we utilized convenience sampling. The results can be found on pages 14-20.

LOCATIONS & DATES:

The forums were held at an accessible venue within an Indiana city selected for its geographic diversity. The locations and dates for the five cities are listed below. All cities were visited previously by the Commission in 2010.

<u>GARY: Monday, February 27th, 2017</u> Indiana University Northwest
<u>EVANSVILLE: Wednesday, March 1st, 2017</u> Evansville Ivy Tech Vectren Auditorium
<u>INDIANAPOLIS: Thursday, March 9th, 2017</u> Madame Walker Theatre Center Ballroom
<u>LAFAYETTE: Monday, March 13th, 2017</u> Tippecanoe County Library
<u>FORT WAYNE: Thursday, March 16th, 2017</u> Allen County Public Library-Downtown Branch

FORUM ADVERTISING:

All citizens were invited and encouraged to attend. To solicit public participation, a press release was sent out on February 22, 2017, and forwarded to media outlets throughout the entire state.

FORUM FORMAT:

All forums had a uniform start time and agenda. The forums began at 6:00 pm, on a weeknight. Each event began with a welcome by a member of the Commission. Next, participants were placed in small groups to discuss standard questions related to the Judicial System. Facilitators led each group and asked the uniform questions, follow-up questions, and made sure that everyone in the small group had an opportunity to speak. Scriveners were placed in each group to write down the substance of the responses during the small group discussions. After the small groups concluded, everyone reassembled to share summaries of the small group discussions in the larger group. Finally, attendees completed a survey prior to leaving the forum.

SURVEY RESPONSES

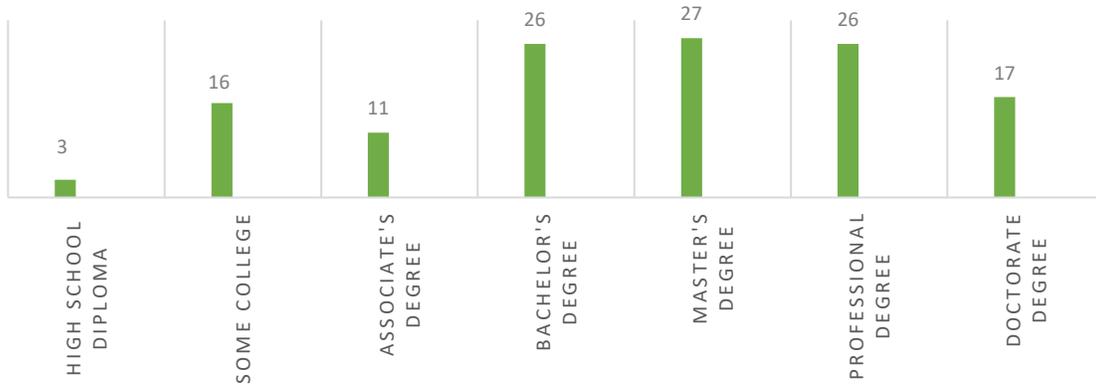
DEMOGRAPHIC COMPOSITION OF ALL ATTENDEES

Numbers are shown as raw numbers

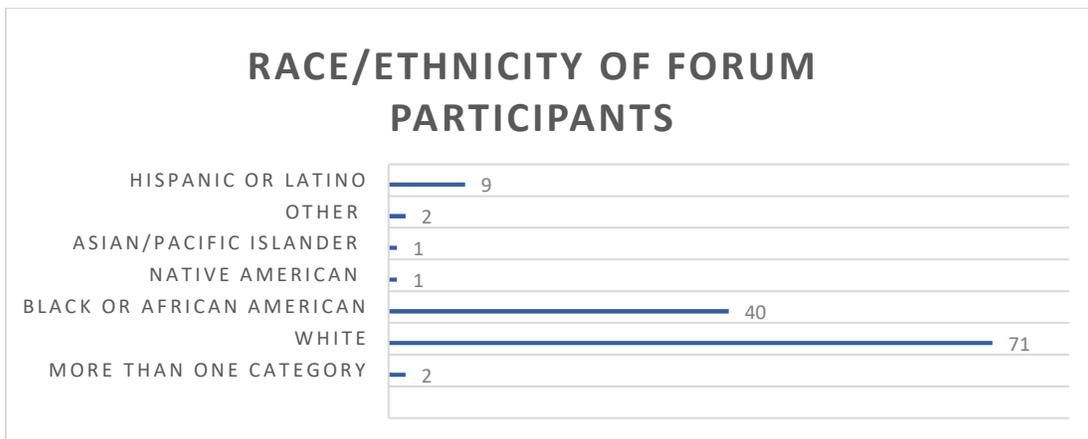
Gender	
Female	89
Male	36
Non-Binary	1

Age Ranges	
18 and below	8
19-34	36
35-54	35
55-74	41
75 or older	6

HIGHEST EDUCATIONAL LEVEL



RACE/ETHNICITY OF FORUM PARTICIPANTS



SURVEY RESPONSES: PERCEPTIONS OF CHANGE

All attendees at the community forum completed a survey gauging the following: 1) demographic information, 2) self-reported knowledge of issues related to race and gender fairness, and 3) perceptions of whether there have been any improvements since 2010.

The four major areas surveyed were:

Diversity in the Legal Profession
Language and Cultural Barriers
Criminal and Juvenile Law
Civil, Domestic, and Family Law

The above-mentioned areas were initially identified in the Commission's 2002 "Honored to Serve" report. The questions asking about improvements since 2010 reference the fact that the Commission last held community forums in the same cities in 2010.

EXAMPLE:

FOR QUESTIONS 5-15: Please Indicate the following:

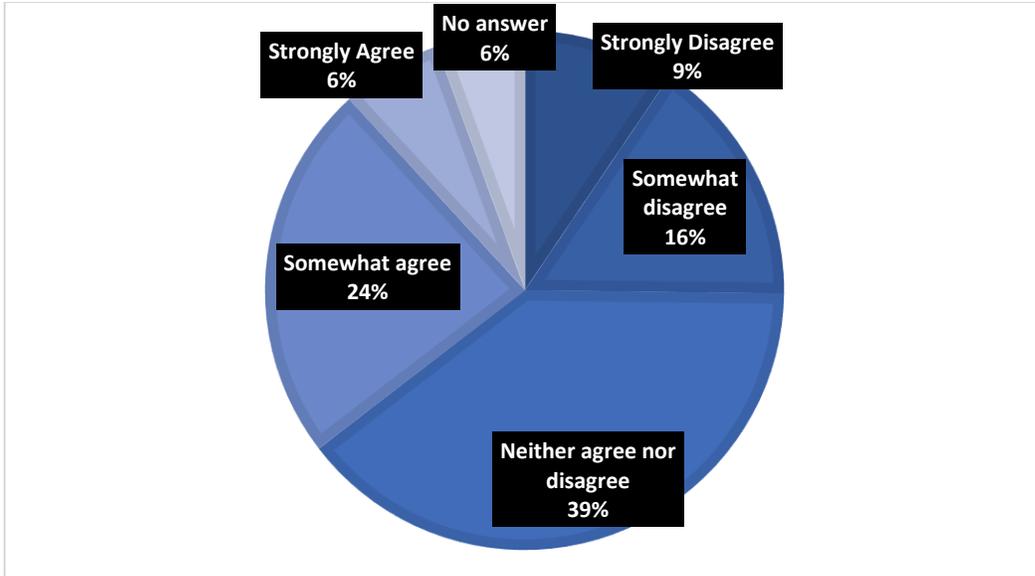
1-Strongly Disagree, 2-Somewhat disagree, 3-Neither agree nor disagree, 4-Somewhat agree, 5-Strongly Agree

5. I was familiar with topics related to Diversity in the Legal Profession before this event:
1 2 3 4 5

6. There have been positive changes in the area of Diversity in the Legal Profession since 2010:
1 2 3 4 5

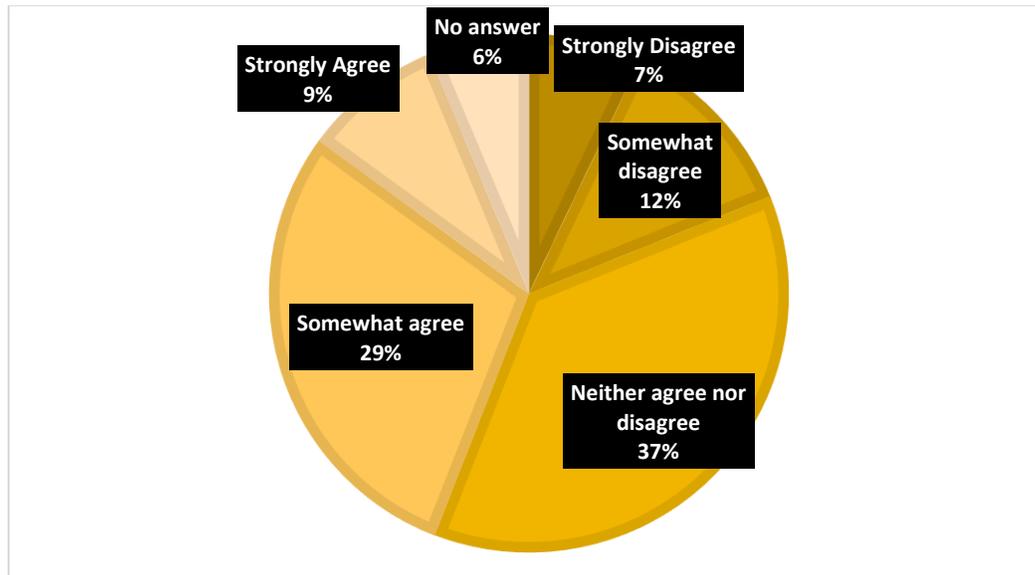
SURVEY RESPONSES: PERCEPTIONS OF CHANGE

There have been positive changes in the area of
DIVERSITY IN THE LEGAL PROFESSION since 2010:



68% of the participants labeled themselves as familiar with the topic "Diversity in the Legal Profession"

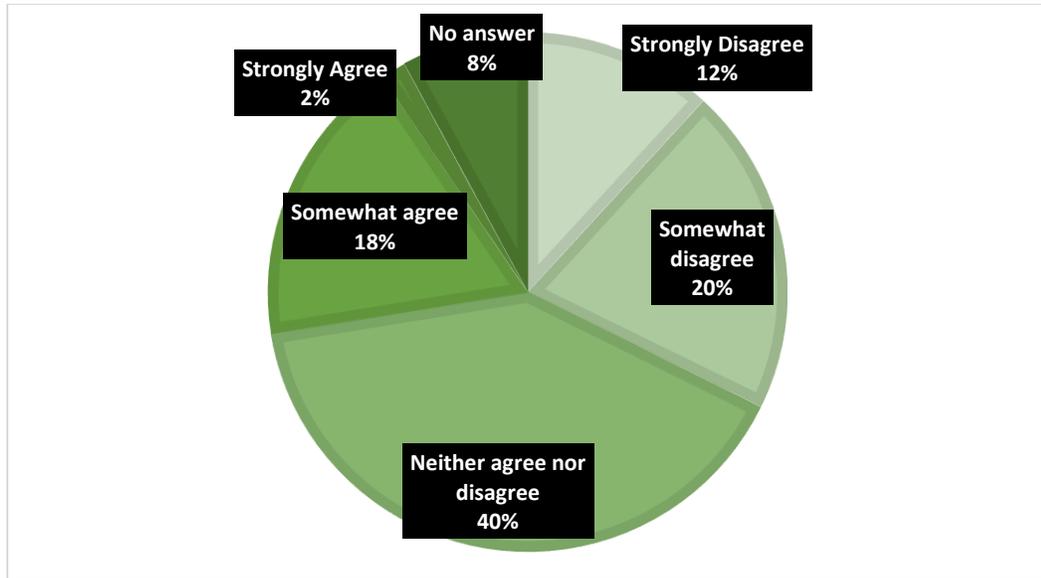
There have been positive changes in the area of
LANGUAGE AND CULTURAL BARRIERS since 2010:



62% the participants labeled themselves as familiar with the topic "Language and Cultural Barriers"

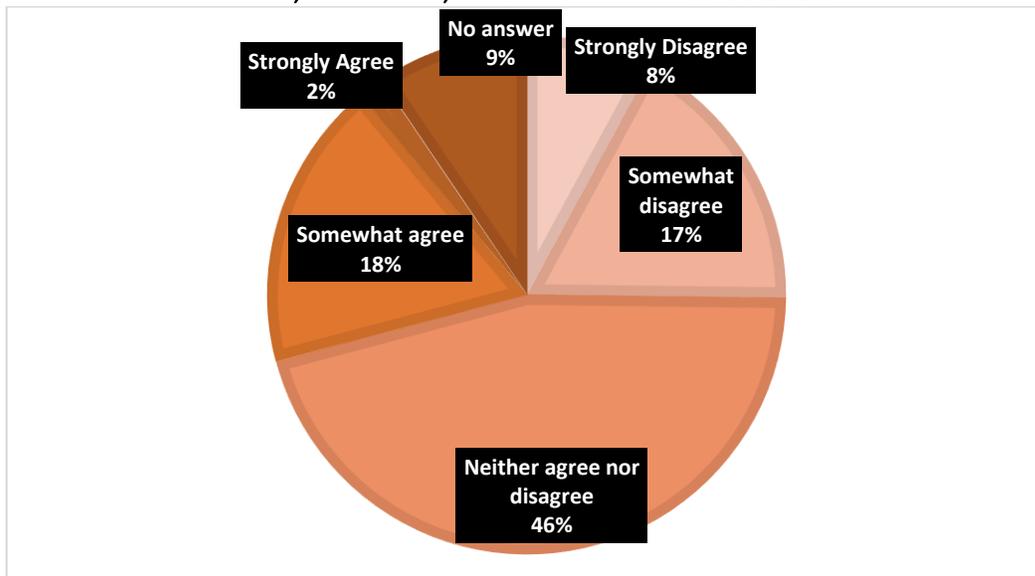
SURVEY RESPONSES: PERCEPTIONS OF CHANGE

There have been positive changes in the area of
CRIMINAL AND JUVENILE LAW since 2010:



66% the participants labeled themselves as familiar with the topic "Criminal and Juvenile Law"

There have been positive changes in the area of
CIVIL, DOMESTIC, AND FAMILY LAW since 2010:



49% the participants labeled themselves as familiar with the topic "Civil, Domestic, and Family Law"

**THEMES DISCUSSED DURING
THE SMALL GROUP SESSIONS**

FORUM QUESTIONS:

The following questions were posed to all attendees:

1) What is your perception of the Judicial System regarding race and gender fairness?

2) What has been your experience with Indiana's Judicial System (regarding race and gender fairness)?

3) What is the greatest priority or most urgent challenge we face in the area of race and gender fairness regarding the topics below?

Areas (not an exhaustive list)

- Diversity in the Legal Profession
- Language and Cultural Barriers
- Criminal and Juvenile Law
- Punishment, Jails, and Prisons
- Civil, Domestic, and Family Law

4) How would you improve the Judicial System regarding race and gender fairness?

The results for each location can be found on pages 14-20.

GARY FORUM THEMES:

LACK OF DIVERSITY: Many participants noted a lack of diversity on the bench and among lawyers and law students. The Gary participants discussed possible reasons behind this including clogs in the legal pipeline, the bar exam, and lack of mentorship for minorities considering careers as Judges. Some participants familiar with the Indiana Conference for Legal Education Opportunity (ICLEO) program noted the need for more initiatives like ICLEO that address diversity. Some participants also expressed a need for elected officials to be diverse.

FEAR OF POLICE IN MINORITY COMMUNITIES: Gary participants also noted a fear of police and judges, especially among young people. They felt that the cause is multifaceted and that bad experiences can be spread by word of mouth.

EDUCATION: Many Gary participants found the education system is, in general, lacking. As it relates to the judicial system, many think young people lack understanding and aren't engaged. Others felt there needs to be educational outreach to youth like oral arguments held at schools.

NEED FOR CULTURAL COMPETENCE: Many participants felt that disparate treatment stems from the lack of cultural competence. Lawyers and judges need to be educated about handling race and gender in the law by minimizing comments and habits that alienate groups of people. Language barriers and discussions about white privilege are connected to this issue. Many of the participants felt these discussions should not "preach to the choir" but should engage all people in the solution. Discussions about the person conducting the training were discussed by the Gary participants. Some felt that a black facilitator talking about white privilege may not carry the same weight as a white facilitator talking about white privilege.

EVANSVILLE FORUM THEMES:

DIVERSITY IN THE LEGAL PROFESSION/ROLE OF GENDER: Evansville participants discussed the lack of diversity. Some participants noted that women are not practicing law in proportion to the number of women law school graduates. In further discussions about gender, some felt that there should be clarity in terminology used in courts regarding gender identity.

DISPARATE TREATMENT IN THE JUSTICE SYSTEM: Evansville participants discussed the connection between race, gender, and socioeconomic status in relation to the justice system. Some participants noted that minorities are treated unfairly and felt that race was a factor in considering who is charged with crimes. Specifically, Evansville participants discussed that the disparate treatment starts in school and that black youth get stopped more often by the police. Some of the Evansville participants spoke from their perception of society while other participants spoke from personal experiences. Some felt that white males get a “break” when it comes to crime.

Others felt that disparate treatment is more related to socioeconomic status with low-income persons having less than positive outcomes. The practical impact in criminal cases, according to the Evansville participants, is that poor people have limited attorney interaction which turns to low-income persons having a greater chance of going to jail. In civil cases, according to Evansville participants, low-income people cannot afford litigation against institutions.

Others noted that gender and age can also play a factor. Specifically, one participant noted that women’s concerns can be dismissed and “women’s voices aren’t heard”. On the other end of the spectrum was the perception that men are treated unfairly in family law and that “boys are treated harshly and males are angry”.

CONCERN FOR THE “SCHOOL TO PRISON” PIPELINE AND ROLE OF JUVENILE COURTS: Evansville participants discussed the connection between schools and the judicial system. Some participants felt that the “school to prison” pipeline pushes students out of school on a pathway to prison. Their perception of the causes for this were addressed, in part, under disparate treatment, one participant felt that this is an area for improvement. Many participants felt education is an urgent challenge or priority.

PRIVATIZED PRISONS: Evansville participants discussed the role of privatized prisons and had a negative perception of privatized prisons.

INDIANAPOLIS FORUM THEMES:

DISPARATE TREATMENT FOR WOMEN LAWYERS: Indianapolis participants noted that female attorneys are sometimes assumed to be court staff or a secretary. In addition, female attorneys are held to stricter dress code standards and not taken seriously in court. One African American female lawyer shared that people assume she is a defendant whenever she is dressed casually. The Indianapolis participants felt that gender diversity makes a difference.

NEED FOR DIVERSITY AND TRAINING IN AREAS RELATED TO DIVERSITY: In addition to the sentiments expressed under disparate treatment for women lawyers, Indianapolis participants discussed other forms of diversity including the need for racial diversity and for LGBT Hoosiers to be represented. When discussing roles within the Judicial system that lack diversity, participants noted the need for lawyers and judges with backgrounds that match the demographic make-up of a community. Other needs, according to the Indianapolis participants, included diversity education for police departments with accountability.

NEED FOR CULTURAL SENSITIVITY AND CULTURAL UNDERSTANDING: Indianapolis participants noted that the lack of cultural sensitivity turns into systemic problems and overrepresentation of minorities in jails and prisons. They discussed the importance of Judges learning more about the communities they serve.

DISPARATE TREATMENT FOR PEOPLE OF COLOR IN CRIMINAL CASES: Indianapolis participants discussed black youth being detained at higher rates than white youth.

MORE FUNDING FOR PUBLIC DEFENDERS: Indianapolis participants noted a need for Public Defenders to have a lessened caseload and that Public Defenders are treated poorly in court when compared to Private Attorneys.

DATA: Indianapolis participants discussed that data should be available to see if courts are biased and that the data should be published regularly and publicly.

JUDICIAL ELECTIONS: Several Indianapolis participants discussed judicial elections, specifically the fear that changes may negatively impact diversity.

FEDERAL MINIMUMS: When asked about improvements to the Judicial System, some Indianapolis participants expressed getting rid of Federal minimums.

LAFAYETTE FORUM THEMES:

NEED FOR MORE DIVERSITY IN THE LEGAL PROFESSION: Lafayette participants noted a need for more pathways to law school to increase diversity. They also addressed the need for more diversity on the bench and with judicial staff.

DIVERSITY TRAINING: Like other forum cities, Lafayette participants expressed a need for training about diversity.

LACK OF DIVERSITY ON JURIES: Lafayette participants noted that there needs to be cultural diversity on juries. One participant served on a jury with a black defendant and there were no people of color on the jury. This person felt that there was no compassion for the accused and that the odds were stacked against the defendant from the beginning.

PERCEPTIONS OF RACIAL INEQUALITY: Lafayette participants discussed the perception that people of color are in jeopardy of having longer sentences. They also discussed that some people think being black “equals trouble”. One participant has a child with mental health issues and expressed that there have been times when the police could have been called but the school didn't proceed because "they didn't want [the child] to have a record". This mother felt like the school would not be as lenient if her son was black.

HEROIN/OPIOID PROBLEM AND MENTAL HEALTH: Lafayette participants expressed concern over the Heroin/Opioid epidemic and the need for mental health resources for those impacted.

LACK OF DIVERSITY IN THE LEGISLATURE: Lafayette participants discussed that the legislature is not diverse since African Americans are represented in only a handful of counties.

FORT WAYNE FORUM THEMES:

DIVERSITY IN THE LEGAL PROFESSION: Like other forum cities, Fort Wayne participants expressed a need for diversity.

BLACK MALES ARE UNFAIRLY AND DISPROPORTIONATELY REPRESENTED IN THE CRIMINAL JUSTICE SYSTEM: Fort Wayne participants discussed the notion that black male children are targets in the legal system. They also discussed the perception that all the people in “the system” are people of color.

THE ROLE OF GENDER IN FAMILY LAW MATTERS: The Fort Wayne participants discussed the role of gender in deciding parenting time, custody, and child support. Some participants felt that the system is stacked against fathers and that there is an unfair latent presumption that the mother should get the children.

GENDER-BASED VIOLENCE: Fort Wayne participants believe that gender-based violence exists because there is a lack of understanding, especially for those who are gender transitioning. In addition, they discussed the perception that black women’s protective orders are not taken seriously and that victim blaming exists.

LACK OF/MISSING COURT INTERPRETERS: Fort Wayne participants discussed the shortage of certified court interpreters. One participant experienced a court interpreter missing court.

HIV IN JUVENILES: Some Fort Wayne participants discussed a perception that there is a resurgence of HIV in juvenile cases.

**NEXT STEPS & RECOMMENDATIONS
FOR FUTURE COMMISSION
PROJECTS**

NEXT STEPS & RECOMMENDATIONS FOR FUTURE COMMISSION PROJECTS

While each forum location had a different demographic make-up and answers to the uniform questions, there are similarities that cannot be ignored. The Commission contemplated the following factors when considering what items are actionable:

- Frequency of the topic
- Whether the topic is related to Race & Gender and within the purview of the Commission
- Whether another entity or body is better situated to address the topic

Note: The Commission will refer those comments to the appropriate entity.

The Indiana Commission on Race & Gender Fairness exists to recommend the adoption of policies and procedures to the Indiana Supreme Court. In consideration of the above-mentioned factors and based on the forum feedback, we recommend:

1. That the court authorize additional research on the **legal pipeline** for lawyers generally and to the bench
2. That the court authorize **mandatory training for Judicial officers** on topics addressing diversity

Although the recommendations may not appear connected at first glance, meaningful change must 1) make the Judiciary more inclusive to people from different backgrounds and 2) educate the current people, particularly those with decision-making authority.

DIVERSITY & THE LEGAL PIPELINE

The topic of diversity was brought up at every forum location. Although the definition of what qualifies as “diverse” can change from person to person, the overwhelming sentiment is that the Judiciary does not match the population. The Commission is also of the belief that perceptions about disparate treatment and racial inequality can be correlated to the lack of diversity in the legal profession.

In response to this feedback, the Commission believes it is prudent to look at the pipeline to the legal profession in Indiana. Discussions about the legal pipeline refer to the structural, economic, and academic barriers that discourage or impede under-represented populations from becoming lawyers, judges, or from pursuing other careers within the legal profession.

And while there are programs that focus on providing resources to diverse law students, there has not been as much discussion on the role of the Judiciary in targeting people earlier on in the pipeline in Indiana. In other words, the Indiana Conference for Legal Education Opportunity (ICLEO) program provides scholarships for diverse students going to law school but what about the Hoosiers who have the desire but don't get as far? What outreach should the court have for younger children? How can the court intervene earlier?

We propose that we explore pipeline and paths to the legal profession for lawyers generally. We also strongly believe that there should be a secondary focus on the pipeline to the bench. It goes without saying that the pathway to becoming an attorney and the path to becoming a Judge are interwoven but increasing the number of diverse lawyers does not automatically mean the bench will follow at the same rate.

To further study the Pipeline, The Commission on Race & Gender Fairness humbly requests permission to do the following:

-Contact Indiana Judicial Officers from underrepresented backgrounds to discuss:

- Their educational background
- Path to the bench
- Their feedback about ways to assist other people similarly situated

-Authorize the Commission to contact the Indiana law schools on behalf of the Supreme Court to do 1 on 1 or small group interviews with diverse law students about:

- Their educational background
- Path to law school (and any perceived difficulties)
- Their perceptions about careers as Judicial Officers

-That the Court entertains future requests from the Commission to interview other populations within their purview OR requests for outreach for entities outside.

IMPLEMENTATION NOTES ON PIPELINE:

- The subsequent recommendations will be compiled into a report and will specifically address judicial intervention and outreach at various points throughout the pipeline.
- Mapping the pipeline can and will include opportunities for collaboration among the various entities addressing diversity in the legal profession.
- Underrepresented will be determined by the percentage recorded in the Roll of Attorney Portal relative to the percentage of that population statewide.

JUDICIAL TRAINING

Beyond the discussions about diversity, forum participants discussed the need for training in the areas of race, gender, and other areas related to diversity. There was an overwhelming sentiment that Lawyers and Judges need to continue efforts to work with diverse populations. As the Gary participants noted, often the people voluntarily attending a training about diversity may already be well-versed on the subject. ALL judges need to be educated about how to serve ALL Hoosiers. To this end, we recommend mandatory diversity training for all Indiana Judicial Officers.

The ABA's House of Delegates adopted Resolution 107 which encourages states to have mandatory or minimum CLE credit about diversity and inclusion in the legal profession for all persons regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs eliminating bias. The Commission on Race & Gender Fairness recommends that Indiana Judicial Officers have mandatory diversity training in line with ABA Resolution 107.

IMPLEMENTATION NOTES ON JUDICIAL TRAINING:

- Judges are required to attend sessions on ethics, we envision the diversity requirement would work in a similar fashion and would be a separate credit without increasing the total number of hours required.
- If this causes any additional financial burden, Race & Gender funds could be used (subject to availability) if it relates to race and/or gender
- The Commission on Race & Gender will serve as subject matter experts on the issue and will provide any advice, consent, or assistance needed for successful implementation of the diversity requirement.