

NEW JERSEY SUPREME COURT ACTION PLAN FOR
ENSURING EQUAL JUSTICE:
UPDATE ON 2020 ACTION ITEMS & 2021 INITIATIVES

The New Jersey Supreme Court on July 16, 2020 issued its inaugural [Action Plan](#) for Ensuring Equal Justice, which documented the New Jersey Judiciary's longstanding leadership in the area of racial and ethnic fairness. In that document, the Court committed the Judiciary to do even more, both immediately and in the future, to improve equity in the courts. This report provides an update on the status of the Court's 2020 action items and announces further areas of focus for 2021.

The 2020 Action Plan introduced nine areas in which the Court sought to make equity-based improvements within one year. Consistent with the Court's pledge, the Judiciary has advanced those action items. In addition, members of the court community have embraced the opportunity to examine internal processes, expand collaboration with stakeholders, and enhance court procedures and services to address both identified and potential gaps in equity. These ongoing interrelated efforts are designed to support greater access, fairness, and equity for all who seek justice through the New Jersey courts, especially for individuals and communities who throughout history have been underrepresented and as a result have experienced less than true equality under the law. Taken together, they are intended to ensure that our system of justice provides expanded options for individuals to connect with court services, understandable processes for navigating court systems, meaningful opportunities to be heard, and consistent procedures that support fair and unbiased outcomes.

The pursuit of equity is an ongoing process that requires constant recommitment and concerted action. To that end, the New Jersey Supreme Court here announces nine new initiatives to improve procedural and substantive justice for everyone, including adults and children who continue to face obstacles because of racism and systemic disparities. These Year 2 action items include reforms intended to improve equity for people of color, as well as for persons affected by mental health conditions, addiction, and the challenges associated with poverty.

STATUS OF PROGRESS – ACTION PLAN YEAR 1

The following chronicles the Judiciary’s progress in each of the nine areas set forth in its 2020 Action Plan, including both short-term improvements and institutionalization of ongoing reforms.

1. Supporting Juror Impartiality

The New Jersey Supreme Court is committed to the selection of fair and impartial juries that fully represent their communities. Having requested and considered public comments on draft [proposals](#), the Court in July 2021 approved new jury selection questions and additions to model jury instructions to support juror impartiality and reduce the effects of implicit bias. These updated questions and instructions will be implemented later in 2021 in conjunction with a new juror orientation video on impartiality and implicit bias.

The Supreme Court in [State v. Andujar](#) (A-6-20) (decided July 13, 2021) announced a Judicial Conference on Jury Selection in late 2021. The Judicial Conference will examine implicit bias in jury selection, including but not limited to the potential effects of the allotment and exercise of peremptory challenges on juries and juror experiences in criminal trials. In [State v. Dangcil](#) (A-56-20) (decided August 16, 2021), the Court also directed that juror demographic data be collected

2. Reducing Timeframes for Post-Dispositional Supervision

The Court in December 2020 approved a framework for standardized statewide review of certain adults and juveniles subject to probation supervision. Consistent with that protocol, Superior Court judges ordered early termination of probation supervision for more than 500 individuals who had achieved critical rehabilitative goals and met other relevant criteria. Some individuals were discharged entirely, and others had their cases converted from supervision to collections only.

The Court-authorized review and individualized judicial actions ended the burdens – disproportionately faced by Black and Latino people – associated with ongoing court involvement beyond a rehabilitative purpose. This standardized review process and timely conclusion of

supervisory terms will continue and expand as supported by new automated risk assessment tools.

3. Supporting Juvenile Rehabilitation

The Court in its October 20, 2020 [Order](#) vacated all outstanding discretionary juvenile fines (which totaled more than \$140,000 statewide), stating that “[t]he young people who owe those fines - including disproportionate numbers of youth of color - overwhelmingly lack the capacity to make necessary payments, and the fines serve only to prolong involvement with the juvenile and criminal justice systems.” The Court’s October 20, 2020 Order also vacated open failure to appear juvenile warrants issued more than five years ago for non-violent 4th degree or lesser charges.

In addition to those immediate actions, the Court established a process for local courts to annually dismiss such warrants, so as to avoid prolonged burdens on individuals who as juveniles failed to appear for minor, non-violent charges.

4. Requiring Anti-Bias Continuing Legal Education (CLE)

The Court adopted [amendments](#) to Continuing Legal Education (CLE) requirements, effective January 1, 2021, so as to require all judges and attorneys to complete two hours (in each two-year reporting cycle) of coursework in diversity, inclusion, and elimination of bias, as part of an expanded five-hour requirement for ethics and professionalism.

Following through on the Court’s promise to support fulfillment of these new requirements, the Judiciary in early 2021 launched a year-long series of free virtual CLE courses on the elimination of bias. To date, more than 3,500 individuals have participated in the Judiciary’s interactive virtual programs, which examine the histories and dynamics of structural, explicit, and implicit biases; explore the relationship among implicit associations, implicit assumptions, and implicit bias in thought processes and decision-making; identify microaggressions common in professional legal settings; and provide additional tools and resources to eliminate the

effects of bias in the administration of justice and the practice of law. In addition to New Jersey licensed attorneys seeking to fulfill the new CLE requirement, justices and judges from around the nation have participated in the ongoing virtual courses.

The Court's amendments to Rule 1:42 prompted reexamination of other educational requirements, as reflected in new requirements for diversity, inclusion, and elimination of bias training for municipal court administrators, deputy administrators, and directors, and in the addition of implicit bias training for Family Part and Civil Mediators.

5. Using Technology to Improve Opportunities to Access Expungement Resources

New Jersey expungement statutes were recently amended to reduce waiting periods and expand the types of offenses eligible for expungement. As required by those legislative enactments, the Court authorized expungement electronic filing. Throughout 2021, the Judiciary has engaged in outreach efforts to raise awareness of expanded [expungement resources](#) and to facilitate use of this new tool.

In the November 2020 general election, New Jersey voters approved a referendum to decriminalize the use of marijuana by adults. The new law required dismissal and vacatur by operation of certain offenses that involve distribution or possession of small amounts of marijuana or hashish and entitled individuals to obtain expungements of those records. Accordingly, the Court in its [July 1, 2021 Order](#) authorized the automation of expungements for eligible individuals in the enumerated categories. As a result, the records of people who are poor and lack legal resources will be cleansed with the same efficiency and timeliness as the records of individuals who can afford access to legal representation. Approximately 360,000 cases in the Superior Court (Criminal and Family) and in the Municipal Courts potentially fall within this statutory direction. The Judiciary has launched an outreach campaign to ensure that all eligible individuals are aware of the new legislation and the benefits that flow from expungements.

6. Enabling Alternative Methods of Resolving Municipal Court Matters

The Judiciary developed and implemented the Municipal Case Resolution (MCR) system. This online system allows court users to electronically reach out to the municipal prosecutor to help resolve certain traffic offenses remotely without an appearance. Rolled out statewide in July 2020, tens of thousands of defendants have used this online system to initiate a plea agreement with the municipal prosecutor to resolve their case.

As authorized by the Court, the Judiciary expanded the Statewide Violations Bureau Schedule to add more than 400 additional matters for which defendants can plead guilty without a court appearance. The Judiciary also enhanced the NJMCdirect.com online portal so as to allow online payments, without court appearances, for non-traffic/parking matters and to support payments by monthly installments.

The Court in April 2021 authorized the substantial [expansion](#) of time payment plans and alternatives in order to ensure that such reasonable options are widely rather than sparingly available to defendants. The Court's action improves convenience to court users, specifically those with longstanding or short-term financial challenges, and avoids discussion of financial circumstances in open court. The Court urged judges to use their statutory authority when appropriate to revoke all or a portion of a penalty if (1) continuing payment of even a modest amount would cause a hardship or (2) the circumstances have changed such that it is in the interest of justice to do so.

7. Broadening Language Access Resources

The Judiciary expanded and improved language access services during the COVID-19 pandemic, including to add simultaneous interpreting (in addition to the consecutive mode) so as to maximize the efficiency of remote proceedings.

The Court in [June 2020](#) supplemented its existing Language Access Plan to provide guidance for remote proceedings. In 2021, the Judiciary posted comprehensive Video Remote Interpreting ([VRI](#)) resources on its

public website. Those new public-facing resources include training webinars and instructional videos for court interpreters to provide services using different technologies. Virtual information sessions were also offered to freelance interpreters in spring 2021 to provide additional supports to the professionals called upon by the courts to provide services in remote and hybrid settings.

8. Reexamining Access to Misused Court Records

The Court in September 2020 solicited public comment on proposed amendments to Rule 1:38 (“Court Records Excluded from Public Access”) so as to remove from public access certain categories of records in landlord tenant matters. The eviction crisis arising from the COVID-19 pandemic increased the urgency of this reexamination for hundreds of thousands of New Jersey tenants and landlords. Those tenants include not only individuals who struggled to pay rent during COVID-19 but also those with cases before and after the public health crisis for whom the process of obtaining future rental housing may be more difficult in light of changes to the economic landscape.

The Court in July 2021 determined to exclude from public access certain categories of records of adjudicated landlord tenant cases. The Judiciary currently is exploring the operational steps necessary to implement the Court’s action. Further information, including an effective date for amendments to Rule 1:38-3(f), will be shared as soon as practicable.

9. Improving the Landlord Tenant Process

Over the past year, the Court authorized a number of reforms to improve equity in landlord tenant proceedings, including the establishment of an exemption from other pro bono requirements for attorneys who provide at least 25 hours of uncompensated representation to qualifying tenants or landlords. During the extended moratorium on residential evictions, the Court introduced virtual settlement conferences to assist willing parties in resolving disputes without delay. At the same time, Judiciary staff at all levels worked with intergovernmental partners, including the Department of Community Affairs, to connect New Jersey residents with rental

housing assistance resources.

In March 2021, Chief Justice Stuart Rabner established the Special Committee on Landlord Tenant to reimagine all aspects of the landlord tenant process in New Jersey. In its April 21, 2021 [report](#), the Special Committee offered recommendations to address all phases of landlord tenant events through proposed amendments to Court Rules, new and revised forms, improved court processes, and informational materials. As recommended by the Special Committee, the Court in [June 2021](#) established a new statewide Landlord Tenant Legal Specialist program to enhance case review, provide opportunities for resolution before trial, and support the fair and efficient processing of cases.

After considering extensive written comments and oral testimony by practitioners and advocates, the Court on July 14, 2021 issued its [Administrative Determinations](#) on the Special Committee's Report and Recommendations. Contemporaneously, the Court in its [July 14, 2021 Order](#) relaxed the Rules of Court so as to establish a new process for residential landlord tenant cases.

The Court's actions involve new pleadings, revised processes, and pretrial events that will support a more robust and transparent record, so as to enable early identification of issues, differentiated management of cases, and opportunities for parties to connect with rental assistance and legal assistance resources and to resolve disputes without trial. The interrelated reforms approved by the Court will support fair and efficient processing of landlord tenant cases throughout New Jersey.

ADVANCING EQUITY IN THE CONTEXT OF A GLOBAL PANDEMIC

Beyond the above one-year action items, the Court in its 2020 Action Plan committed to continue ongoing efforts to improve procedural justice and support equitable outcomes for all people. Despite the challenges of a global pandemic, the Judiciary over the past year has fulfilled the Court's promise, including in the areas of Criminal Justice Reform, Juvenile Justice, and Municipal Courts. In each of those and other areas, the Court authorized temporary modifications to court operations so as to sustain and even enhance access and fairness.

The Court responded to the unprecedented risks associated with

incarceration during the pandemic, including through a [Consent Order](#) for the release of certain defendants, and adjustments to sentencing protocols designed to reduce jail populations without jeopardizing public safety. The Judiciary also implemented remote reporting by defendants released pretrial to maintain oversight and critical connections with individuals subject to monitoring.

In child welfare dockets, virtual proceedings yielded unexpected benefits. Remote technologies offered a convenient way for youth to participate in court events without missing school or other responsibilities. The use of remote formats for final adoption hearings avoided delays to permanency for children throughout New Jersey and enabled families to celebrate those joyous occasions.

The Judiciary is in the process of an ongoing transition to a “remote first” approach to the Municipal Courts and other high-volume dockets. At the same time, the Court has continued to address the unintended consequences of driver’s license suspensions and bench warrants in old cases no longer suitable for prosecution. The Court in [May 2021](#) dismissed nearly 300,000 minor municipal court matters involving active driver’s license suspensions, imposed at least 27 years ago, for defendants who failed to appear in court. The Court expects to dismiss another 1.5 million additional cases through calendar year 2022 as part of this initiative.

Throughout the COVID-19 pandemic, the Court led in a manner designed to ensure access to the courts for all people, particularly mindful of those who confronted greater barriers because of the sudden transition from in-person to remote operations. Among other steps, the Court authorized the Judiciary’s expansion of its electronic filing system so that self-represented individuals could seek legal relief without delay, even while the number of judges and court staff present in courts was curtailed to protect public health. The Court also approved temporary modifications to jury processes, including virtual grand juries and hybrid jury trials, to uphold the rights of criminal defendants. The Court conditioned those adjustments on the Judiciary’s procurement and provision of Broadband enabled tablets to jurors in need of technology so that all qualified members of the community could serve on grand juries and trial juries. Beyond court programs and processes, the Chief Justice, Supreme Court, and Administrative Director responded to the wave of anti-Asian violence that escalated during the pandemic by engaging judges, court staff, and legal and non-legal advocates.

CONTINUATION OF PROGRESS – YEAR 2 INITIATIVES

As part of an organizational focus on advancing equity in all areas of court services, the Court over the past year guided the Judiciary's efforts to achieve measurable results in the areas highlighted for initial action. All levels of the courts contributed to making progress on the 2020 action items. At the same time, the Court's call to action resonated throughout the organization such that judges, staff, and other members of the court community identified and raised for attention other areas of known or potential inequity. These areas form the basis for the Court's 2021 Action Plan for Ensuring Equal Justice. Building on the framework and principles of its 2020 Action Plan, the New Jersey Supreme Court now announces the following areas in which the Judiciary will strive to demonstrate measurable progress within the next year:

- 1. Improving procedural safeguards and equitable outcomes for individuals with mental health challenges who are involved with the justice system.**

The Judiciary in coordination with intergovernmental partners and community stakeholders will advance the work of the Mental Health Advisory Committee.

- 2. Supporting employment opportunities for clients and graduates of Judiciary drug court and probation programs.**

In partnership with private employers, the Department of Labor, Legislators, Prosecutors, Public Defenders, and public institutions, the Court through the Judiciary Opportunities for Building Success (JOBS) program will advance initiatives aimed at connecting New Jersey drug court participants, Intensive Supervision Program (ISP) participants, and probation clients to training and employment opportunities.

- 3. Requiring training on implicit bias and elimination of bias for all Judiciary employees.**

The Court will evaluate a proposal to require all state court employees to

complete a standardized training on recognition and elimination of explicit and implicit bias.

4. Integrating equity impact analysis tools to support consideration of (and mitigation against) potential disparities in court policies and protocols.

The Court will consider introduction of internal tools to ensure that proposed policies and protocols align with the Judiciary's values and mission, including to facilitate evaluation of anticipated outcomes, including those that may have a disparate or disproportionate effect on certain racial or ethnic groups. Consistent engagement in equity impact analysis would support implementation of appropriate strategies to prevent inequitable results and systemic disparities in outcomes.

5. Expanding access to legal representation at all levels of the courts.

The Court will consider a number of proposals designed to support access to legal assistance for individuals and entities who otherwise would lack such guidance. Such initiatives may involve expanded opportunities for pro bono service by attorneys, including in areas of significant potential consequences. Efforts may include expanded permission for law students and recent law graduates to assist parties in certain case types and matters. The Judiciary will continue to explore collaborative efforts with law school clinics and qualified pro bono organizations.

6. Broadening diversity and inclusion in legal and non-legal court appointments.

The Court will explore collection and analysis of demographic data for individuals appointed by the courts, including experts, evaluators, and mediators, in order to assess the representativeness of court-involved and court-annexed programs. Tracking of expert qualifications and the baseline level of diversity and representativeness would position the Judiciary to undertake targeted outreach to underrepresented groups and to improve cultural competency in key areas, including those that involve children.

7. Supporting fairness for children of unmarried parents through critical examination of the non-dissolution (FD) docket.

The Court will act on a pending proposal to establish a Special Committee to bring together key stakeholders from legal and community advocacy associations along with judges and court staff. That Special Committee would develop recommendations to enhance procedural safeguards in Family Non-Dissolution (FD) matters and ensure equity and procedural fairness consistent with similarly situated cases in the Family Matrimonial (FM) docket.

8. Modernizing aspects of court access and records to align with new technologies and remote operations.

The Court will review and seek public comment on a number of related proposals to integrate the lessons learned during the temporary transition to remote operations.

9. Using language that is inclusive and easy to understand in court communications.

Language, both spoken and written, is central to how the courts interface with litigants, stakeholders, and the community. The Court will consider an array of proposals to reexamine and improve use of language in all areas.

NEXT STEPS: ONGOING TRANSPARENCY AND ACCOUNTABILITY

Words alone are insufficient to advance the cause of equity. Actions, even when coupled with good intentions, likewise are not enough. In the end, the value of the New Jersey Supreme Court's plans will be in the sustainable systemic changes that are achieved.

The 2020 Action Plan for Ensuring Equal Justice resulted in measurable benefits to people of color and others who historically have been underserved by or

marginalized within the justice system. Those tangible benefits included vacating non-rehabilitative fines and open warrants, automated expungements of minor marijuana offenses, and early termination of probation supervision – all of which involve the lifting of burdens that fall disproportionately on Black and Latino people within our communities. In other areas, such as reforms to jury selection and improvements to landlord tenant processes, results will be less immediate and require more time to yield cognizable changes, which is why the Judiciary has taken steps to collect the data necessary to evaluate the results of these efforts.

The Court in its Year 2 Action Plan again commits to initiatives that will yield immediate results as well as procedural and operational improvements that will position the New Jersey courts as a leader in fostering a system of justice that is accessible, equitable, and free from structural barriers and biases.