

**FIRST REPORT OF THE TASK FORCE OF THE DALLAS BAR ASSOCIATION
ON RACIAL AND ETHNIC BIAS IN THE COURTS**

In her Inaugural Address to the Dallas Bar Association in 2004, DBA President Rhonda Hunter asked the Association to conduct a comprehensive and candid evaluation of the state of possible racial and ethnic bias in the Courts in Dallas County. While such studies have been conducted in the past on a statewide basis, President Hunter's request marked the first time that a metropolitan bar association has attempted such a self-evaluation. This project has become a continuing effort for the DBA, through the active participation and encouragement of the 2005 President, Tim Mountz, and 2006 President, Mark Sales.

This report, envisaged as the first in a series to be issued periodically by the Task Force, focuses on the results of surveys conducted of Dallas attorneys, and of employees at all levels of the Courts system in Dallas County, Texas. From the information gained in those surveys, which is discussed in this report, the Task Force has been able to formulate a number of initial recommendations, which also are discussed in this document. It is appropriate initially to describe the Task Force, its composition and goals.

1. THE DALLAS BAR ASSOCIATION TASK FORCE ON RACIAL AND ETHNIC BIAS IN THE COURTS, ITS ORIGIN, MEMBERSHIP, AND MISSION.

To implement DBA 2004 President Rhonda Hunter's call for action, the Association created the Task Force on Racial and Ethnic Bias to conduct its examination into the issues which might presently confront the Dallas Courts. Working with the

DBA Board, President Hunter and Task Force chair Thomas B. Alleman issued invitations to a diverse body of attorneys to participate in the Task Force, with special invitations to the Dallas County Prosecutor's office, the Public Defender's office, Legal Aid of Northwest Texas, and Dallas area attorneys. A gratifyingly large number agreed to do so, and, as a result, the Task Force includes a highly diverse group of able individuals. The Task Force also asked members of the bench from the United States District Court for the Northern District of Texas, the Dallas Court of Appeals, the Civil, Criminal and Family District Courts of Dallas County, and a distinguished former judge of the Dallas Municipal Courts to serve as resources so that it would have access to information on operations and procedures. The Dallas County Prosecutor's Office, Public Defender's office, Legal Aid of Northwest Texas, all of the Dallas minority bar associations, and attorneys ranging from sole practitioners to partners in the largest firms in the area have actively participated in the group.¹

This diverse group has brought a similar diversity of perspective to its work, which has helped shape the Task Force's methods and mission. The Task Force's overarching mission - to achieve equal justice for all - was and is apparent, but how to implement that mission was a matter the Task Force discussed extensively in its first several meetings. The result was a series of criteria which the group has used to focus its efforts. They are:

- *Act locally.* From the first, the Task Force determined that its efforts should focus on Dallas County and its bench and bar. This permits a more detailed

¹ Appendix A to this report provides a full roster of Task Force participants.

focus on the situation in one area and allows results to be tailored to the specific needs which exist within this area. By looking at a single community, the Task Force was able to achieve a better understanding of the situation at the point of contact between the judicial system and its "customers," the people who use it and are affected by it.

- *Build from the ground up.* As important as principles are to define the scope of this inquiry, implementation of those principles must occur one case at a time in a system that can be overloaded and definitely has limited resources. Inquiries that focus on remedying impacts are more likely to achieve results that benefit the judicial system's ultimate constituency, its users.
- *Seek achievable results while maintaining a broader vision.* The Task Force recognizes that it is acting locally and that its recommendations must be tailored to the specific needs of a local constituency. In so stating, however, it is equally true that the metrics established here may be of assistance in other metropolitan areas, and that general principles or larger remedies may emerge from the results obtained here. The Task Force has endeavored to bear this in mind in formulating its recommendations.

The Task Force determined that the best way to begin the process of implementing this mission was to survey the perceptions of attorneys and Court professionals at all levels. The primary objectives of the survey were to

- Examine the perceptions of active professional participants in the court system in an effort to determine whether they believed bias or prejudice

existed in any portion of the court system;

- Compare the responses submitted by various racial and ethnic groups responding to the survey to determine if there were significant variations in beliefs as to the existence of bias or prejudice in any part of the system, because such disparities in perception can be indicative of a problem;
- Obtain narrative answers from respondents in order to provide further details of possible problems and issues, and to provide assurance that answers were motivated by a desire to see improvements rather than by a bad experience or outcome; and
- Obtain a basis for comparison with later surveys to be conducted with the public.

Beginning in late 2004 and continuing through the early spring of 2005 members of the Task Force reviewed surveys performed by bar associations and groups to come to a better understanding of appropriate questions to be surveyed. After reviewing this information, members also suggested various areas of inquiry which might be pertinent to a survey of attorneys and court professionals. The entire body of information was conveyed to Cynthia Spanhel, Ph. D., a professional statistician who has worked with the State Bar of Texas in designing surveys on various subjects. Dr. Spanhel created two surveys, one directed to attorneys and another directed to court personnel. The Task Force also solicited Dr. Spanhel's input on proper methods for distributing surveys to potential respondents in order to ensure the broadest possible participation and statistically valid results.

The Task Force distributed the first survey, directed to attorneys, by e-mail to 1328 participants chosen at random from the Dallas Bar Association membership rolls in April 2005. At the same time, in order to ensure an adequate response from minority attorneys, the Task Force sent an additional 250 surveys via mail to minority lawyers. Because of the possibility that an individual might receive the survey more than once, the mailed surveys contained a request that the individual respond only one time to the questions. The survey also requested that the respondent provide answers and any response to open-ended questions also contained in the survey within two weeks. Approximately 22 per cent of those attorneys receiving surveys responded, making the results statistically valid for purposes of analysis.

The Task Force sent its second survey directed to court professionals, including judges, clerks, court coordinators, court reporters, bailiffs and other professionals, during the summer of 2005. The Task Force sent 575 questionnaires in this survey and received 208 responses, for an overall response rate of 36%. Of judges, 59 of 145 responded, for a response rate of 41%. Court coordinators responded most frequently, with 33 of 48 or 69% responding. As with the attorney survey, this level of response made the results valid for analytical purposes.

Both surveys allowed the respondents to reply anonymously.

All respondents were allowed to submit responses to several open-ended questions in addition to answering the survey questions, and a significant number did so. The purpose of allowing such responses was two-fold. First, the Task Force requested specific suggestions as to areas where improvements could be made in the

courts so as to help them achieve their mission more effectively. Many respondents provided thoughtful answers to these questions, some of which have found their way into or informed the recommendations made in this report. While these answers did not provide statistical validation of the results of the surveys, the fact that respondents took the time to provide these responses provided subjective reassurance that the answers to the survey questions represented considered and candid responses to the questions being asked.

The Task Force forwarded the raw responses to Dr. Spanhel, who prepared a report and data appendices, which are attached. The Task Force recognizes that these results represent the views of one group of participants in the justice system, and that public perceptions may be different, but the results do offer several areas where recommendations for changes can be made. Based upon the survey results and on the responses to the open-ended questions, the Dallas Bar Association Task Force on Racial and Ethnic Bias in the Courts makes the following recommendations for immediate implementation.

- *Increase availability of interpreters and other multilingual personnel and resources at key points of contact between the public and the courts.* The presence of interpreters in major criminal litigation is an accepted fact of life and most Dallas courts make provision for having some interpreters available. However, trial is not the only point of contact between the public and the court system, and it does not presently appear that there are adequate resources available at those points to assist the public. An

immediate need exists for more and better multilingual personnel in clerk's offices, both at points of filing and in individual courts, at times of docket calls or appearance dates and in a host of other points of contact between the public and the Courts. In order to implement this recommendation, serious consideration should be given to quality assurance programs such as the use of "decoys," who can report on the quantity and quality of assistance they receive.

The Task Force recognizes that not every Court can anticipate the diverse language needs of a growing Dallas, but there are related steps that can be taken. For example, common-sense foreign language guides which can explain to unrepresented non-English speakers what to expect and what to do, including how to find an attorney, should be made available. Such guides should take the reader from intake to disposition in simple steps, and be available at all major points of contact between public and the courts. The DBA can take a leading role in preparing these guides.

The Task Force stands ready to help facilitate development of these resources or to create partnerships which can do so.

- *Develop means by which records concerning appointment of masters, guardians ad litem, mediators, and defense counsel in criminal matters can be centrally collected and open to the public.* The survey results demonstrate that there is a difference in perception between white and minority attorneys as to who is being appointed to fill these positions.

Orders of appointment for these positions are public records, so the issue is purely one of collection in a central location. The Task Force stands ready to assist in devising a system by which these records can be made available for all to see and review.

- *Work to improve minority participation on juries.* This is a complex issue as reports by the Dallas Morning News, academicians and other bar groups have shown. Recent increases in pay for Texas jurors may ameliorate disparities in service rates to some degree, but the root problems leading to a lack of minority jurors remain. The Task Force recommends the creation of a joint working group to increase minority juror participation whose members should be drawn from the criminal and civil benches, the bar, and from minority citizens' groups.
- *Improve services to minority criminal defendants.* While the issues at stake in this area are highly complex and involve actions by many bodies and individuals, many respondents perceived that minority criminal defendants were most often the victims of bias or discrimination. This is an area which needs immediate study and investigation, and the Task Force recommends that a joint working group whose members should be drawn from the bench, the bar, and minority citizens' groups be created to begin a focused study of concrete steps which can be taken in Dallas County to ensure fair treatment for all defendants at all stages of the criminal process and that adequate resources and funds are available to all.

- *Develop diversity awareness programs.* Many of the responses to survey questions and even more of the responses to the survey's open-ended questions demonstrate that there is a pressing need for increased awareness of and sensitivity to diversity issues. The perception of the bias being reported by respondents in the survey can be reduced by education in this area, just as workplace retaliation issues can be addressed with similar training. It may be appropriate to consider making periodic diversity education or training a part of a law school curriculum and every attorney's MCLE requirement, just as ethics training has become an accepted part of today's law school education and MCLE. Development of these programs also is an area where successful partnerships can be developed between Bar organizations, the Bench, and private organizations. The Task Force stands ready in this area to provide assistance in developing partnerships or facilitating program development.

These recommendations represent a first step in an ongoing process which will involve additional gathering of information, additional recommendations and steps to implement what is outlined in this Report. The DBA Task Force on Racial and Ethnic Bias in the Courts will continue its efforts to understand where bias is or may be perceived, and will work with bench, bar, bar organizations, civic groups, governmental agencies and the public to implement the recommendations made in this First Report. Comments and suggestions are welcome and may be addressed to the Task Force in care of the Dallas Bar Association.

Appendix A

Task Force on Racial & Ethnic Bias in the Courts

Tom Alleman	Elizabeth Davis Frizzell	Hon. Lana McDaniel
Adelfa Callejo	G. Michael Gruber	Timothy W. Mountz
Rob Canas	Teresa Hawthorne	Mike Parham
Hon. Jeff Coen	Vonciel Jones Hill	Hon. Irma Ramirez
Nina Cortell	Kent Hofmeister	Mark A. Shank
Hon. John Creuzot	Rhonda Hunter	Cheryl Wattley
Mike Daniel	Harry Joe	H. Ron White
Hon Craig Enoch	Margaret Jones Johnson	Joel Winful
Frieda Fiske	Elizabeth K. Julian	Michele Wong Krause