



A Word From the Chairs

As co-chairs of the Fairness Committee, we are excited to introduce the inaugural Ninth Circuit Fairness Committee Newsletter. We hope this newsletter will be informative and thought-provoking.



District Judge Edward M. Chen, CAN, and Magistrate Judge Sheila K. Oberto, CAE, are co-chairs of the Fairness Committee.

The committee is comprised of circuit, district and magistrate judges; federal defender; United States attorney; clerk of the court; chief probation officer; law professor; diversity, and inclusion officer with the Office of Circuit Executive (OCE), members of the bar and an OCE staff person.

Its "Mission Statement" is to make recommendations to the Ninth Circuit Judicial Council on fairness issues in the administration of justice. To accomplish this task, the mission of the Fairness Committee includes: (1) examining and identifying areas within the criminal justice system for potential racial, gender, ethnic, religious and similar disparities—such as charging, bail, sentencing and supervision and examining the causes of such disparities; (2) proposing practices, procedures and policies to address and mitigate those disparities; (3) examining ways to address bias within the justice system, including during bail review hearings, jury selection and sentencing; and (4) examining methods of promoting diversity of judicial officers, court executives and court staff involved with the judicial decision-making process, including pretrial and probation officers, staff attorneys and law clerks.

In furtherance of accomplishing its mission, the Fairness Committee has formed four subcommittees to address issues pertaining to implicit bias during various phases of the justice system, sentencing and bail disparities, and magistrate judge and law clerk diversity. This issue includes a summary of each

Ninth Circuit Fairness Committee Examines Compassionate Release

As the federal judiciary faced unprecedented challenges during the early months of the pandemic, the Ninth Circuit Fairness Committee¹ decided to embark on a project in May 2020 to study in real time how judges were addressing the sudden swell in compassionate release motions under 18 U.S.C. § 3582(c)(1)(A)(i) based on the "extraordinary and compelling reasons" presented by the COVID-19 pandemic. This project grew out of the committee's continuing examination of reported disparities in sentencing² and the causes of such disparities. The committee was particularly interested in whether racial



Miranda M. Du is chief district judge for District of Nevada.

An Interview with Judge John B. Owens

Professor Gowri Ramachandran, counsel in the election security program at the Brennan Center for Justice at New York University Law School, on leave from her positions as professor of law at Southwestern Law School, sat down (virtually) with Circuit Judge John B. Owens on May 10, 2021, to discuss their work on the Fairness Committee and Judge Owens' commitment to hiring diverse law clerks.



Professor Gowri Ramachandran

subcommittee's goals and accomplishments to date.

The committee maintains a website available throughout the judiciary. The website contains a number of resources including suggested readings and video links, as well as a Diversity, Equity and Inclusion Toolkit that court units can use to assist them in creating their own employee engagement programming. We invite you to visit the Fairness Committee website at <http://fairness.circ9.dcn/>.

Future editions of the newsletter will feature various fairness-related articles and interviews with academicians, advocates, activists as well as our own judges and other individuals who are committed to this important subject.

Implicit Bias Subcommittee

The history of racial bias in the American justice system is a shameful story. The institution of slavery is enshrined into the Constitution. The Supreme Court upheld slavery and racial segregation. Since the Supreme Court decided Brown v. Board of Education in 1954 and the passage of landmark civil rights legislation in the 1960s, overt racial bias in our federal justice system has diminished—although it has not disappeared. The events of the past year make this point.

Yet there is another form of racial bias that remains in our justice system that is only now being acknowledged: implicit racial bias. In the realm of jury selection, we can see the effect of such implicit bias and the Implicit Bias Subcommittee, chaired by Senior District Judge Robert S. Lasnik of the Western District of Washington, is looking at ways to address how to eliminate this unconscious or implicit bias in our courts.

Implicit bias is difficult to detect because it is largely unconscious and is often at odds with what we consciously believe. Social scientists have used an Implicit Association Test to demonstrate that implicit bias is widely prevalent among all groups—Black and white, young and old, men and women. It could be a prejudice about race, gender, age or national origin.

The Western District of Washington developed a special jury video on implicit or unconscious bias which has been adopted by many other state and federal courts. The Ninth Circuit Jury Trial Improvement Committee has incorporated portions of this video in the introductory video shown to all potential jurors in all civil and criminal jury trials.

Just before the global pandemic struck in March 2020, the Implicit Bias Subcommittee had arranged to work with renowned social scientist Jennifer L. Eberhardt of Stanford University to conduct a study of how the implicit bias video had an impact on jurors in civil and criminal cases in our circuit. Dr. Eberhardt is co-founder and co-director of SPARQ (Social Psychological Answers to Real-World Questions), and she and her team were ready to apply their analytical abilities to this crucial question. Then suddenly there were no jury trials. Now over a year later, assuming we return to the day-to-day functions of the federal courts, and we hope to pick up where we left off.

Sentencing Subcommittee

Chaired by Chief District Judge Miranda Du of the District of Nevada, the Sentencing Subcommittee has been working on an ongoing project to understand whether and how probation's sentencing recommendations and interactions with the sentencing judges affect sentencing length. Initially, the subcommittee planned to obtain presentence reports (PSRs), including sentencing recommendations from the Central District of California given the number of defendants sentenced in that district each year. However, obtaining authorization to view the PSRs was a challenge. One of the Administrative Office of the U.S. Courts' Probation and Pretrial Services Office's working groups is undertaking a study to examine probation's role in sentencing as well and is encountering similar issues with respect to providing the PSRs to a third-party consultant. We are temporarily placing this project on hold while we wait to see how these issues are resolved.

The subcommittee is exploring two other projects. The first is to develop a template or report for sentencing judges to use to monitor their sentencing decisions to avoid disparity and to self-regulate potential implicit biases. The second is to better understand whether and how consideration of criminal history may affect disparity in sentencing. The subcommittee may also examine other areas in the criminal justice system which contribute to disparate outcomes.

Law Clerk Diversity Subcommittee

The Law Clerk Diversity Subcommittee has had a busy year drafting, issuing, and analyzing a survey of current and former law clerks regarding barriers they faced during the clerkship application process, particularly



Circuit Judge John B. Owens with his 2019-2020 law clerks, top, and his 2020-2021 law clerks, above, along with Laura Castillo, his permanent clerk, and Jennifer Lawlor his judicial assistant.

Ramachandran: The Fairness Committee that you and I serve on was really the brainchild of Chief Judge Emeritus J. Clifford Wallace. When you clerked for him, did he ever speak about gender bias and other concerns of his that ultimately evolved into the Fairness Committee?

Owens: He did talk about those issues. Judge Wallace is from a very different generation than mine. He's doing great! He turns 93 this year. He thinks everyone should get a fair shake. He came from a very rough neighborhood in San Diego when he was a young man, and he knows that his life could have easily gone in a very different direction, but it went the right way through hard work and some luck, and he just wants other people to have that opportunity.

So, he thought it was important that everyone gets a fair shot. Especially, a fair shot in court. That was always very important to Judge Wallace.

Ramachandran: And now, years later, when Chief Judge Sidney R. Thomas asked you to serve on the Fairness Committee, were there particular issues that

were of most interest or that you were excited about working on with the committee?

Owens: Yes. The one I was the most enthusiastic about was clerkship hiring because I think that's a very important issue, not just for the judiciary, but for the country. Many of our nation's leaders in politics or in the legal system, when you look at their backgrounds, have clerked for a federal judge. And so that was where I wanted to focus my attention. And it's something that I can, in my own way, do something about. I can hire in a certain way. Whereas in other areas of life, we all might want change to occur, but we don't always have a lot of power to do it. This is one place where I could make a direct impact.

Ramachandran: I'm glad that you mentioned clerkships because the hiring season for clerks is just around the corner. Of course, you've been a Ninth Circuit clerk yourself and you clerked for Justice Ruth Bader Ginsburg. Is there anything from your experience as a clerk that informs the way you approach hiring your own clerks now?

Owens: Every judge is different in what factors they emphasize in hiring. The first thing I want to do is to encourage everyone to apply. You never know what factors about you may stand out to an individual judge.

Of course, the number one criterion is you have to be able to do the job well. But after that, for me, the most important criterion is, I want to hire people who I think are going to be good work colleagues. If I think you're going to have a difficult personality in any respect, or if I've heard you've been difficult in law school or at a previous job, I'm not hiring you. I don't care how smart you are. I don't care what degrees you have, what law review articles you've written. I will not hire you.

And that's because, when you work in chambers, I always say it's like being in a submarine – one of those really small submarines where there's not even another compartment you can go to. There are just the four law clerks, my judicial assistant and me. So, you must be a good work colleague.

Ramachandran: Have you noticed any change in the diversity and the demographic makeup of clerks in the Ninth Circuit since your time as a clerk?

Owens: This is all anecdotal, but I think I see more women law clerks now than when I was a law clerk. In terms of racial diversity, the statistics, if that data is collected, might not bear this out, but anecdotally, I haven't seen the change that I would have expected. What I saw as a law clerk in 1996 on racial and ethnic diversity doesn't, on the surface, look that different from now. Again, I'd want more statistics to confirm that, but I think the racial and ethnic diversity of the clerks is not as reflective of the talented law graduates as I think it could be.

Ramachandran: Why do you think diversity among law clerks is an important goal?

Owens: Number one, I think I am better served by people who are not the same as me. Am I going to learn as much from a younger version of me, or am I going to learn more from someone else, with a completely different background? You know, if I have a law clerk who observes Ramadan, I'll learn a lot about her culture because of the sacrifices that she makes during that time. I just think I'm better served by people who are different from me. Remember Justice Scalia would always hire that so-called liberal clerk, right? The one who would be there to test him on things, push him on things. He didn't want four people that were the same. I think it's a similar idea that there is strength in diversity.

Number two, I think it's very important for our legal system in general to have a wider variety of people in important positions. We need our judicial system, our legal system, and our political system, to reflect America. And one of the ways you succeed in the legal business is a judicial clerkship. The fact that someone clerked for this judge or that judge, not only does it help train them to be a better lawyer, but it also introduces them to a social network that will help them down the road. I think that is very important. So, part of it is selfish – I try to hire a diverse set of clerks because it's better for me. But part of it is because I also think it's better for society in general.

Ramachandran: What are some of the ways you try to promote diversity in your own clerk hiring?

Owens: Well, again, when I hire, you have to be able to do the job and you have to be a good colleague. Once we get past those two factors, I look for people who have overcome something. The phrase I use is,

"That person probably shouldn't be here." Now, when I say that, you might say "Judge Owens, I can't believe you're saying that person shouldn't be here." But that's not what I mean. What I'm saying is that the odds were against them to get here.

I'll give you an example. One of my former law clerks, Elia Herrera, grew up in South Los Angeles. Both of her parents are immigrants, and they don't really speak English. When she was in eighth grade, a program identified her, and she ended up attending an elite East Coast high school.

So I'm thinking to myself, here's this kid whose parents don't speak English, who work in the hospitality industry, and someone is telling them, "We want to move your little girl 3,000 miles away." That took serious guts, by the parents and the girl, to do that. Elia then went to Stanford for college and Berkeley for law school. I knew, with that kind of story, that she was going to work hard because that's how she got to where she was. She ended up clerking for two federal judges. And now she's a federal prosecutor in Los Angeles.

I've always been very happy when I find people with that kind of story, and a lot of my law clerks have a similar story to that. They've always proven to be good because they want to work hard, and they're not going to let me down. And often, people with that background are immigrants or people of color.

Ramachandran: Because a group of clerks had expressed concern that federal law clerks aren't representative of the graduating class of students in the country, the Fairness Committee recently conducted a survey of past and current law clerks. We asked about barriers that clerks had or had not faced during the application process. Was there anything we learned from the survey that was particularly surprising to you, new information for you, that you would want to highlight for the other judges?

Owens: I don't know if I would use the word surprising, but I would say there was something very disappointing. And I want to preface this by saying this is not totally the law schools' fault; judges need to be more active, if they think this is important, in encouraging the law schools and talking to the law schools. But one of the messages that came out of the

survey was that many of the students felt the career services people, or professors, were actually a barrier to them seeking clerkships. When they went to those people and said, "Hey, I've heard about clerking. I want to learn more about clerkships," the response was unenthusiastic and unsupportive.

And these are the people who ended up getting clerkships, right? Maybe disappointing is not a strong enough word: that was disturbing. If we're going to change the trends that we've been talking about and have a more representative group of law clerks, they've got to apply. As a judge, I don't know about someone unless they apply.

But I do think judges need to do a better job, as well. And our circuit needs to do a better job of getting out to the law schools and encouraging the applicants. It's not just about the Supreme Court or the Ninth Circuit; there are all kinds of clerkship opportunities. District court judges obviously offer great opportunities that are in some ways more valuable than clerking for me because you actually get to work with lawyers and see many different issues. You see fascinating issues clerking for a magistrate or a bankruptcy judge. And I'm not sure how well we are doing in advertising those opportunities. We as a court need to do a better job of informing the schools and the students.

At the same time, schools can't be telling people not to apply. I mean, you can tell them, "Look, you should apply. You may not get it; that's life. You know Michael Jordan didn't hit all the shots. He actually missed more than he made, so you've got to be willing to put yourself out there." But it's one thing to say, "Put yourself out there." It's another to say, "Don't bother." That's really discouraging. I really hope we can change that narrative at the law schools.

Ramachandran: I know some of the other judges who are going to read this newsletter might be thinking "There's so many of these applications that come in, and Judge Owens just told even more to apply!" How do you handle going through all those applications and finding that person with the amazing story that you're looking for? Do your clerks do a lot of the screening?

Owens: I will admit that my system is not perfect, and there are problems with the system I use, but I rely very heavily on law professors at schools to find candidates. I tell them what I just told you. I don't say "I need

someone from the top five [law schools]." I've never said that. I look at grades, of course, as a measure of how they're going to do in my job, but it is not the only measure. I say to professors, "I need someone who can do the job. I need someone who's going to be a good colleague. And I would love to have someone who has a really interesting life story one way or the other." That's what I tell them. Those three things. And every year I find very good people—more than I can hire. And I have found, in terms of diversity, an extremely diverse group of law clerks, that way, just with those three things.

I've never looked back and said, boy, I really wish I hadn't done it this way. You know, I've just been very happy with the clerks I've had over the years.

Ramachandran: A new voluntary hiring plan went into effect recently. Do you have a sense of why it seems so hard for the judiciary to stick to these voluntary hiring plans, in which they agree not to hire before students get to a certain point in law school? And do you think that sticking to these plans is important for clerk diversity? Or do you think it's a separate issue?

Owens: I joined for year one of the plan. I was skeptical of doing it because judges don't like being told what to do, but I hired under the plan, and the clerks have all done a great job. And if the clerks I've hired for year two out of the plan work out, then the plan is working as far as I'm concerned. One thing I don't like is that it requires things to be rushed on the judge's end. It makes it a little more difficult for me to do some of the background checks I want to do.

When I say background checks, I mean that I call former employers and ask how this person was. When the process is so truncated, it makes it a little more difficult. At least now we have a week to do a little background checking. The first year, the clerks could apply Sunday and interview Monday. That was totally insane. Now they're giving us a week. I don't like being rushed, but if it means we get good people, great.

On the diversity issue, we'll see. I didn't have a problem with hiring diverse clerks under the old plan. I'm not so sure how much the plan is going to improve things for me. But from a law student's perspective, if none of your family has ever been to law school, you may not know anything about clerkships your first year. By your

while in law school. The subcommittee is grateful to Arevik Chukhuryan, Ninth Circuit Statistician, for her enormous assistance with the survey data analysis. The data analysis summary report is available here (<https://fairness.circ9.dcn/page/clerkship-survey-report>). To request a copy of the full survey and results, contact Amrita Mallik at amallik@ce9.uscourts.gov.

Based on the survey results, and under the leadership of Ms. Mallik, the subcommittee has formed several working groups comprised of representatives from law schools and the bench to better address the challenges that diverse law students face when applying for clerkships. The working groups have already begun brainstorming ways the judiciary and law schools can work together to encourage a more diverse applicant pool of future law clerks.

Magistrate Judge Diversity Subcommittee


The Magistrate Judge Diversity Subcommittee is co-chaired by Magistrate Judge Sheila K. Oberto of the Eastern District of California and Magistrate Judge Candy W. Dale of the District of Idaho. The subcommittee was formed in 2020 with the goal of increasing diversity among magistrate judges, magistrate judge applicants and merit selection panel members within the Ninth Circuit. Since its formation, the subcommittee has taken the following steps:

Compilation of Best Practices for a Diverse Magistrate Judges Bench

To determine what practices are currently in place throughout the circuit, the subcommittee sent a


brief survey to the chief district judge and chief magistrate judge in all districts within the Ninth Circuit requesting information regarding how magistrate judges are selected. More specifically, the survey asked for information on the following: distribution and publication of the public notice/announcement of open magistrate judge positions; recruitment efforts, including outreach and information sessions; identification of and appointment of members of the merit selection panel; involvement of the magistrate judges in the selection process; and any challenges faced in attracting diverse candidates. The responses were insightful and will be incorporated into a report from the subcommittee that will summarize and discuss the information in conjunction with best practices recommended by the Brennan Center for Justice in their publication "Building a Diverse Bench." This report will be available on the Fairness Committee website.

Collection of Demographic Data

The subcommittee is working in conjunction with the Office of Workplace Relations toward recommendations for the collection of demographic information and applicant flow data regarding the merit selection panel process, starting with recruitment and following to selection and appointment of magistrate judges by the district judges. The subcommittee also is collaborating with other committees or organizations, such as the FMJA and the Magistrate Judges Executive Board, to assist with collecting demographic data to further its goal of increasing diversity among magistrate judges, magistrate judge applicants and merit selection panel members within the circuit. 

second year, you probably know a lot more about it if you're interested in those things. So, it gives students a little more time to think about these things, learn about the opportunities and decide where they want to pursue them. If it's so accelerated, they may not have enough time to really understand, because the first year of law school is miserable, right?

So overall I think it's probably a good thing because it gives people a little more time. But like I said, it's a hectic week. I'm sure the pandemic has been miserable

for law students, as one of the fun things about law school is you get to actually meet people and they'll be your friends for life. But for clerkship interviews, the pandemic made it a lot easier because they don't have to do all the crazy travel that was done before. It's a lot easier for people to pop on to Zoom interviews. Not everyone has the money to be flying to all these places. We'll see going forward, what happens. Will we still require the in-person interviews or not? I do prefer interviewing in person, but I thought it went well last year with Zoom. 

disparities, found in its research into data from the Ninth Circuit Court of Appeals, would manifest in compassionate releases. With the cooperation of the districts within the Ninth Circuit, the committee collected data on compassionate release rulings based on COVID-19 issued between April and December 2020. The committee is particularly appreciative of the contributions from Karin D. Martin, Ph.D., and Isaac Sederbaum, M.P.A.³, who analyzed the data to help determine whether the results showed disparities and if so, the factors which accounted for those disparities. The preliminary key findings are presented below.

First, a brief note about the methodology used. The analysis uses “multilevel mixed-effects logistic regression,” which accounts for the fact that each district judge hears multiple cases and each district includes multiple judges. Failing to do so could impair the ability to accurately detect statistical significance. The main outcome of interest is whether a motion for compassionate release due to COVID-19 was granted or denied.

Second, it is important to note that a major limitation of this project was the availability of compassionate release data. While most districts provided data, some districts did not include data for the entire study period due primarily to time constraints. The dataset covers 14 out of 15 districts in the Ninth Circuit, which includes 147 judges and 1,307 cases filed between April and December 2020. The average number of cases per district was 93.4, with 23.3% of petitions being granted overall. Hence, the key findings presented are preliminary based on April – December 2020 data acquired.

This project examines the legal and extralegal factors that influence the granting of compassionate release motions. Unless otherwise noted, all findings are statistically significant. Key findings for legal factors include:

- Government opposition significantly decreases the odds that a compassionate release motion was granted.
- Fraud and weapons convictions reduce the odds of success—if the odds are that six out of 20 people with a drug conviction were granted release, then the odds for a person with a fraud conviction are three in 20 and the odds are four

in 20 (marginally statistically significant) for those with a weapons conviction.

- The length of the imposed sentence and remaining sentence very slightly increased and decreased the odds of a successful motion, respectively.


The committee acknowledges not every potentially influential factor could be considered. These factors would include, for instance, the level of COVID-19 infection at the institution where the petitioner resided, performance of the petitioner during post-conviction incarceration, assessment of current risk to public safety and the appropriateness of available release conditions and supports. Nonetheless, the committee believes that based on available information, useful indicators could be revealed.

Key findings for extralegal factors include:

- Black petitioners have much higher odds of success (2.8 times larger), and this effect appears to be driven by possible health risk factors, time served and disparate impact of COVID-19 which appear to correlate with higher release rates of Black petitioners.
- Latino petitioners do not have higher odds of success even though more have health risk factors and are older on average.
- Women were more likely to have their motions granted.
- Age influences the likelihood of a motion being granted, with the odds of success increasing with each additional year in age.

The committee has asked the researchers to look more closely at the differences between Black and white petitioners. One trend that has emerged upon closer examination is that disparities appear to manifest in groups with a large number of health conditions: Black petitioners with a large number of health conditions are granted relief at higher rates than whites. As to those with fewer health conditions, there is no apparent disparity. The committee intends to explore further the relationships between release rates by race and length of sentences and types of convictions. National data suggest that Black people are disproportionately impacted by higher offense levels in drug cases. As to other factors, perhaps unsurprisingly, health conditions that are

on the Centers for Disease Control and Prevention’s list of factors known to increase risk of severe illness from COVID-19 significantly increased the odds of a successful motion. Initial analysis shows that the odds of a motion being granted doubled when the

petitioner had underlying health conditions on the list of known risk factors. Health conditions on the CDC’s list of factors that may potentially increase risk did not significantly influence outcomes. 

Preliminary Analysis of Compassionate Release Decisions in the Ninth Circuit Court of Appeals

Summary of Factor Influence on Petition Success			
	Increased Odds of Petition Success	Decreased Odds of Petition Success	No or Very Small Impact
Legal Factors		Government Opposition Fraud Conviction (Weapons Conviction)	Sex-Related Offense Conviction Violent Offense Conviction Imposed Sentence Remainder of Sentence
Extralegal Factors	Known Health Risk Factors Race: Black Age: Older Gender: Women		Potential Health Risk Factors Race: Asian, Latino, Other

Items in blue have especially large impact on odds of success/failure.

Decision Summary by District			
District	Total Number of Cases	% Gov. Endorsed	% Granted
AK	115	6.5%	18.2%
AZ	125	6.4%	12.0%
CA Central	168	6.6%	18.6%
CA Eastern	353	2.9%	15.4%
CA Northern	45	2.4%	33.3%
CA Southern	20	50.0%	95.5%
Guam	8	12.5%	57.1%
HI	176	1.70%	15.4%
Idaho	97	4.1%	19.0%
N. Mariana Islands	2	0.0%	50.0%
NV	180	7.5%	26.9%
OR	112	23.2%	55.9%
WA Eastern	86	1.2%	25.4%
WA Western	194	3.5%	23.7%
Total	1,681	6.2%	23.3%

Table 2: Petitioner Characteristics by District – Extralegal Factors

District	Avg. Age	% White	% Black	% Asian	% Latino	% Other	% Male
AK	42.3	45.2%	31.3%	2.6%	7.0%	13.9%	91.3%
AZ	45.9	29.6%	19.2%	0.8%	35.2%	15.2%	81.6%
CA Central	53.3	30.7%	29.5%	9.6%	29.5%	0.6%	89.2%
CA Eastern	38.5	39.1%	26.3%	5.7%	26.3%	2.6%	91.5%
CA Northern	48.7	66.7%	24.4%	8.9%	0.0%	0.0%	95.6%
CA Southern	49.3	70.0%	15.0%	0.0%	15.0%	0.0%	90.0%
Guam*	45.6	0.0%	12.5%	0.0%	0.0%	0.0%	87.5%
HI*	48.8	28.4%	5.7%	31.8%	0.6%	1.14%	84.7%
Idaho	49.3	72.2%	1.0%	0.0%	23.7%	3.1%	88.7%
N. Mariana Islands*	37.5	0.0%	50.0%	0.0%	0.0%	0.0%	100%
NV	47.4	51.1%	37.2%	2.8%	7.2%	1.7%	92.8%
OR	50.7	80.2%	18.9%	0.0%	0.0%	0.9%	89.3%
WA Eastern	46.9	79.1%	18.6%	1.2%	0.0%	1.16%	84.9%
WA Western	47.9	44.8%	35.9%	5.2%	10.9%	3.1%	94.8%
TOTAL	46.2	46.4%	23.9%	7.0%	15.2%	7.5%	95.6%

Note: In Hawaii, 32.4% of defendants were listed as Native Hawaiian (not included in the table above). In Guam, 87.5% of defendants were listed as Pacific Islander (not included in table above).

**In the Northern Mariana Islands, 50% of defendants were listed as Pacific Islander (not in table above).*

¹ Members of the Ninth Circuit Fairness Committee who worked on this project include: Rhonda Langford Taylor, Chief U.S. Probation and Pretrial Services Officer, District of Alaska; Robert S. Lasnik, Senior District Judge, Western District of Washington; Edward M. Chen, District Judge, Northern District of California; and Miranda M. Du, Chief District Judge, District of Nevada.

² See U.S. Sentencing Commission, Demographic Differences in Sentencing: An Update to the 2012 *Booker* Report (2017) (presenting key findings that sentencing length continues to be associated with demographic factors).

³ The committee is grateful to Dr. Martin and Mr. Sederbaum for providing their expertise as a public service to the Ninth Circuit Court of Appeals. Dr. Martin is an assistant professor at the Daniel J. Evans School of Public Policy & Governance and an adjunct assistant professor in sociology at the University of Washington. Mr. Sederbaum is a Ph.D. student at the Daniel J. Evans School of Public Policy & Governance, University of Washington. Arnold Ventures provided some financial support for Dr. Martin’s research.



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