

COMMUNITY DIALOGUE

TENTH DISTRICT REPORT

May 16, 2009

Church of All Nations Dialogue Session

On Saturday, May 16, 2009 eleven representatives of the Tenth Judicial District's Equal Justice Committee participated in a Community Dialogue session held at the Church of All Nations in Columbia Heights, Minnesota. Columbia Heights is in a small tip of land extending from the southern edge of Anoka County. It is bordered by both Ramsey and Hennepin Counties.

Church of All Nations is a Presbyterian parish. Its 300 congregants represent more than 25 nations. Pastor Jin S. Kim states that in his parish every race/ethnicity has minority status: 37% White, 30% Asian, 22% Black and 10% Latino/Latina.

About thirty-five members of the congregation and parish staff attended the Community Dialogue session. The session was led by committee chair Judge James T. Reuter and Rev. Kim.

Community Dialogue

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INTRODUCTION

Minnesota's Tenth Judicial District is comprised of eight counties north of the Twin Cities metro area. Six of these counties (Wright, Sherburne, Anoka, Isanti, Chisago and Washington) were among the ten counties in Minnesota which experienced the highest percent increase of the number of residents who are people of color between 2000 and 2006. (U.S. Census Bureau, 2006)

The Tenth Judicial District's Equal Justice Committee has 30 members including judges, government and private practice attorneys, law enforcement, probation and correction officers, court administrators, guardians ad litem, and others involved in the judicial system.

Church of All Nations was founded in 2004. It is located at 4301 Benjamin Street NE, Columbia Heights, MN 55421. Initially the congregation was 90% Korean. It quickly became increasingly diverse, demonstrating its strong commitment to serving the immigrant community. Sunday services are offered in English, Portuguese (Brazil), French (Togo and Ivory Coast) and Sudanese.

Church of All Nations was selected after being recommended by a committee member. Pastor Jin. S. Kim was very enthusiastic in his response to an inquiry letter sent to the church. The community dialogue session occurred just one month after Judge Reuter and Pastor Kim's first phone conversation. Eleven representatives of the committee served as facilitators at the two hour Saturday morning meeting.

The issue of concern most frequently mentioned by the session attendees was federal immigration law and how it affects matters in state courts and people held in detention facilities. Other concerns included the lack of minority representation in judicial and court staff, suspicions of racial profiling, the perceived disparity of treatment in the court system between American born or white people and immigrants and nonwhite people, challenges posed by language differences, the apparent lack of personal responsiveness by public defenders, and the need to understand cultural differences when faced with cases involving a non-native born American.

Community Dialogue Plan

The Community Dialogue Plan was developed by a planning subcommittee of the Judicial Branch's Racial Fairness Committee. The Plan provides a template for the Racial Fairness Committee and each Judicial District's Equal Justice Committee (EJC) to work together to achieve equitable treatment for all individuals in the court system. The Community Dialogue Plan's stated purpose is to:

Create a public forum for community members to describe their experiences and discuss ideas for advancing racial equality and fairness in the courts.

The Tenth Judicial District has a single joint Racial Fairness/Equal Justice committee, identified as the Tenth Judicial District Equal Justice Committee.

Tenth District Session Details

Thirty five persons, almost all from the Church of All Nations parish and its staff, attended the Community Dialogue Session. Although never formally discussed by Pastor Kim and Judge Reuter, each decided to not publicize the session to the wider community. This decision was made for three reasons: 1) time constraints, 2) a desire to keep the meeting focused on the needs of parish members, and 3) as this was Tenth District's initial effort in public outreach, an intention to start small and then build with experience.

Representing the committee were the meeting's facilitators: Judge B. William Ekstrum (Washington County), Judge James Dehn (Isanti County), Judge James Reuter (Pine County), Robert M.A. Johnson (Anoka County Attorney), Scott Nadeau (Columbia Heights Chief of Police), Deidre Aanstad (Assistant Anoka County Attorney), John Bowen (Assistant Pine County Attorney), Rebecca Leis (Law Clerk, Anoka County, Judge Askew), Kim Larson (State Court Administration Office), Mike Moriarity (Tenth District Court Administrator), and Virginia Murphey (Managing Attorney Anoka County Public Defender's Office). The committee had three handouts which were given to all attendees: 1) a copy of the district's outreach brochure, 2) a page with general information about courts and judges, and 3) a sheet with information about present Minnesota racial distribution and racism concerns.

As suggested in the Community Dialogue Plan, the facilitators used these three questions to generate conversation:

1. If there was one thing that you could change that would make the court system better for people of color, what would it be?
2. Based on a public opinion survey about 35% of the public believes the courts are unfair towards people of color. What is your perception? How or why did you gain this perception?

3. A majority of court staff and judges are Caucasian. Do you feel confident that you will be treated fairly if you were to use the court?

The two hour session had four components. Following introductory remarks, the participants met in small groups with the committee's facilitators. The facilitators kept a record of the concerns expressed by the attendees. This dialogue session lasted about 75 minutes. Judge Reuter then received reports from the facilitators about the topics covered in each of the small groups. Pastor Kim concluded the session by providing comments on the two additional handouts he provided: "East and West" and "Shifting the Racial Paradigm".

Church of All Nations provided a luncheon to follow the session. They also offered child care to attendees who brought small children. The event was covered by Ms. Martha Vickery, the managing editor of Korean Quarterly, a Twin Cities based Korean community newspaper.

SUMMARY OF THE TENTH DISTRICT SESSION

It was agreed by both the Church of All Nations attendees and the representatives of the Tenth Judicial District's Equal Justice committee that the Community Dialogue session was worthwhile, productive and even enjoyable. Nonetheless, there was a group consensus at the close of the session that talking about these issues, as difficult as it might be, is really the easiest part. Planning and implementing systemic changes is the true challenge.

Major Themes of the Session

IMMIGRATION

There were many comments about the unfairness of the immigration system. While immigration law is governed at the federal level, it has frequent interplay with persons in state court. There is a disconnect between the things that happen in our state courts and the consequences that flow from a federal immigration deportation proceeding.

■ One of the attendees was a Sudanese refugee, now living in Columbia Heights. He came to the United States in the 1990's. He became involved with the justice system in the late 1990's and early 2000's when he was charged in Anoka County with domestic related offenses.

In 2007, his green card application was denied. He was subsequently arrested by Immigration and Customs Enforcement (ICE). He was held through the Immigration and Naturalization Services (INS, now known as United States Citizen and Immigration Services or USCIS) in Ramsey and Sherburne County detention facilities, and also in North Dakota.

At the time of his arrest his English language skills were very limited. His native language is Nuer. While being held in Sherburne County he attempted to fill out paperwork designating

who could visit him. He wanted a person from the Church of All Nations who speaks his native language to visit him. The jail would not provide a translator in his language to assist him in filling out paperwork. Unfortunately, he could not properly fill out the paperwork in English without assistance and could not get the church member (who could have provided the necessary assistance with the paperwork) to visit without completing the paperwork.

He spent approximately one year in custody during the pendency of the deportation proceedings. He ultimately was not deported. He has received a temporary work visa permitting him to stay in the United States.

The prolonged detention had a tremendous personal impact on him. This parishioner shared that he is presently homeless and lives with a friend. Because he no longer has a green card, and USCIS has taken much of his documentation, he cannot apply for benefits through Anoka County.

There is a question of whether the rules surrounding his detention were governed by Sherburne County's jail policy or by USCIS policy (on the presumption that this detention was through some sort of contract with USCIS).

MINORITY REPRESENTATION

- The very first comment offered to the committee members was one attendee's observation that all facilitators appeared to be Caucasians. In fact, of the 43 judges in the 10th Judicial District only one is a member of a minority race. There is one non-white law clerk and a few non-white people employed by court administration at either the district office located in Ramsey, Minnesota, or at one of the eight county government centers.
- One presenter, who heads an office with a large number of attorneys, stated that he decided to not solicit minority staff members to volunteer to assist with this project. The participation of the facilitators was completely voluntary and not determined along racial lines.
- After the meeting one facilitator reflected that it is important to have someone before the group that is like the people in the group or at least shares common experiences. As a group member said, who do we relate to the experiences of the people in our courts and in our jails if we don't share the common experience?

RACIAL PROFILING

- Many comments were received from non-white attendees indicating their belief that police make traffic stops of minority individuals more readily than of white drivers. One person stated that he was faced with the decision to either just pay the fine or lose time from his work in order to contest a ticket for a burned out taillight. He stated that he felt that if he'd been a

white driver with a burned out taillight (unaware that it was needing replacement) he would have been let go by the police officer with just a warning.

- Another person spoke of loaning a car with a broken taillight to a white female for two years. She was never stopped by law enforcement. He then loaned this vehicle to an African male. That very day the man was pulled over for a traffic stop.
- A white male attendee stated that he's had friends (persons of color) who have been stopped in Columbia Heights for no apparent reason. Another person stated that the random checks at the airport are "difficult to stomach." One person expressed the view that it's the entire American system, not just the judicial system.
- One man stated that he and friends (all immigrants) were playing soccer at a local public park. The police came and shut down the soccer game stating they had not completed the required field registration and paid the permit fee. No registration or fees were required for the non-immigrants playing basketball on courts in the same park near the soccer field.
- Some people raised the issue of whether there is in fact one system of justice. Rather it seems there is street justice versus courtroom justice. It appears that police have their own version of justice as demonstrated by racial profiling matters. Is there any accountability of police? Being charged, even if the charges are later dismissed, has significant consequences to individuals, families and communities.

COURTROOM MATTERS

- There is a need for greater understanding that regardless of race, people are scared and apprehensive about going to court. They don't know what to expect.
- Some attendees expressed a view that public defenders should make greater efforts to know their clients as individuals rather than "just as a number."
- Concern was expressed about the unfairness of returning a person to the country of their birth, from which they may have emigrated many years earlier, or even as a child, simply because of a relatively minor criminal conviction, making what appears to be a very reasonable plea negotiation into an extremely harsh consequence. The criminal justice system should take these extra-judicial sanctions into account when making prosecutorial, defense and judicial determinations.
- We need to recognize issues of fairness based on disparities of wealth, economics, etc. How do we level the playing field?

- The most important issue concerning fairness may be the shortage of public defenders.
- In his comments Pastor Kim noted there are four types of justice: 1) retributive, 2) procedural, 3) restorative and 4) distributive. All of these require fairness. The American criminal justice system is an example of retributive justice.
- The issue of criminal records and their accuracy was raised. It was also discussed that there are problems relating to expungement as these records prevent people from getting employment.

LANGUAGE BARRIERS AND CULTURAL UNDERSTANDING

■ One attendee commented that in cross cultural matters there is often a need not only for a language interpreter, but also for a “cultural broker” to provide assistance in the translation of the differing views and beliefs of the parties. For example, in the predominant American culture, it is felt that a person who is speaking the truth looks into the eyes of the listener when speaking. This is contrasted by the views of several minority groups in which the cultural rules state that it is disrespectful to look directly into another person’s eyes as sustained eye contact signifies contempt or confrontation.

■ The session included discussion of the use of interpreters in court proceedings. The district court administrator provided the following interpreter usages statistics for the 2007-2008 fiscal year.

Interpreting services were provided in 35 different languages for 3,695 events. Spanish was the most frequently requested language – 2,693 events or 73% of all requests. Spanish was requested in all 8 counties. 55% of the Spanish interpreting took place in Anoka County.

Other frequently requested languages include: Hmong (284 events in 7 counties), Somali (158 events in 5 counties), Russian (114 events in 5 counties), American Sign Language (96 events in 7 counties), Vietnamese (75 events in 5 counties), Arabic (60 events in 4 counties) and Mandarin (24 events in 5 counties).

The Tenth District was billed for 4,261 hours of interpreter time. Anoka was the busiest court with 55% of the interpreter usage. Washington followed with 24%, Sherburne and Wright Counties 16%, and Pine, Isanti, Chisago and Kanabec (the “PICK” counties) 3.7%.

■ There is a need for greater recognition about the burden of interpreting. It isn’t solely a courtroom need. There is a need from more help at court administration counters; we need greater sensitivity to language barriers. It would help if people were allowed to schedule or request an interpreter at the counter and not just have to rely on family and friends. In

response to a question about whether there is bilingual staff it was stated that there is one Spanish speaking person employed in Anoka.

- One of the prosecutors provided examples of cultural challenges faced by his staff. He stated that the office presently has a file involving charges of cock fighting. Members of the public have called his office asking that a fine of \$20,000 be sought in sentencing the defendants. On the other hand, the defendants, who are not native-born Americans, feel they did nothing wrong as cock fighting is very acceptable in their native culture.
- An attendee from Kenya asked how the judicial system recognizes unique experiences.

GENERAL COMMENTS

- Some attendees indicated that they felt the Community Dialogue session should have been publicized better in order to include a wider audience.
- Some attendees commented that they had experienced receiving disrespectful or unhelpful treatment from court personnel.
- One person stated that the system is using the excuse of costs to justify racism – without recognizing that the budget cuts hurt justice.
- Another person stated that being in a predominately white culture feels lonely and even frightening.
- It was noted that involvement in discrimination cases causes people to lose their spirit. Only assertive positive people can navigate the system.
- When someone feels like he/she is a victim because of their race they become self conscious and put themselves in a bad situation to bring attention to themselves.
- Immigrant students often leave school to keep from being intimidated by discrimination.
- One facilitator stated that the people in her small group stated they felt responsible to tell others in their community to challenge the problems in the system.
- One facilitator asks “How do we go about addressing the issue of White privilege?” He states this is a “double consciousness” issue, saying that we need to (1) be aware of the problem and (2) recognize that each of us, as individuals, have a responsibility to do something about it, i.e. to take responsibility for it. This needs to be an on-going conversation.

In order to understand the issues of being a minority person, one must actually experience those issues or problems, at least on some level.

■ Concerns were expressed about the complaint form in the Tenth District's Equal Justice outreach brochure, indicating that people will be hesitant to put down their name, believing this was not safe to do for fear of retribution. Perhaps stating a name could be optional or there could be an option to list a pastor's name, or the name of a friend who knows of the situation. This person stated they realized that anonymous complaints are hard to investigate.

SUMMATION

The attendees provided the committee with a range of concerns demonstrating the impacts of racism and cultural misunderstanding in their lives. Addressing these concerns will require a range of systemic and personal adjustments, educational programs and outreach efforts.

Proposed Suggestions for Improving the Court System

These suggestions will be reviewed by the Tenth District Equal Justice Committee and used to inform the priorities and actions of the group. Following are the most commonly shared suggestions from the pilot session which may or may not be acted upon by the Tenth District Equal Justice Committee.

- Many suggestions spoke to improvements of race relations in society at large as well as within the judicial system. One person stated that high school age people should be sensitized to racial issues.
- The legal system needs to do a better job of educating judges, staff, prosecutors, defense and others about matters relating to immigration and deportation. It has an obligation to inform and educate both the public as well as individual defendants on these issues.
- Additional training about the impacts of immigration matters could be developed and offered to members of the bench and bar. The judicial system doesn't recognize the problems that are faced constantly by a non-citizen.
- It was suggested that the district court judges should write a letter to immigration court judges explaining that their actions affect perceptions in the state court and this dialogue should reach across the federal/state court line of division.
- Minority persons should be actively recruited for employment within the judicial system.

- The judicial system needs to have persons employed within the system to specifically address minority issues.
- The courts need to increase its number of bilingual staff.
- One facilitator believed the most important single step we could take is to communicate and take any other actions that would increase the funding of public defenders in the State of Minnesota. This addresses many of issues raised about racial unfairness, economic unfairness, immigration awareness, as well as other issues relating to a criminal defendant being able to understand his or her individual rights and be able to act accordingly.
- The judicial system should continue to look for ways to create fairness in the civil litigation arena as well. This certainly involves self help services that are provided and could be expanded. It also involves considering the so-called “Civil Gideon” issue of having public defenders appointed in these matters, or at least expanding *pro bono* representation.
- Scholarships should be offered to students who want to pursue equal justice. There should be outreach efforts to international student organizations.
- Efforts need to be taken to raise the comfort level for people in court proceedings – to decrease apprehension and fear of the process.
- The process and policies concerning expungement of criminal records needs review.
- It is necessary to critically review what the judicial system is doing to provide understandable written documents and to provide interpreter services beyond its current scope of courtroom services.
- The court needs to be re-organized to encourage greater multi-cultural acceptance. The judicial system needs to develop contact people with the various communities.
- Social service programs and churches can assist in outreach efforts.
- The judicial system needs to do a better job of disseminating information. Traditional media outlets don’t work with minority populations. Minority newspapers, church bulletins, outreach to community centers and ethnic organizations would be more effective.
- Materials on the court’s websites should be translated.

- It would be helpful to have interpreters available for court administrations in blocks of time, such as every Monday from 2-4 p.m. having a Spanish language interpreter available, every Wednesday from 10-12 p.m. having an Arabic interpreter available, etc.

ADDITIONAL INFORMATION

The Tenth Judicial District's Equal Justice Committee's outreach brochure contains information on how to file a complaint about occurrences of discrimination or bias in the judicial system. These complaints may be made to the committee chair in three ways: 1) in writing, 2) by use of a dedicated telephone line or 3) by email. Copies of this brochure were given to each session attendee, with additional copies given to church staff. Several attendees requested additional copies for use in their work with people who reported having negative courtroom experiences. The brochure will soon be available in Spanish, Hmong, Russian and Somali.

More information about Church of All Nations is available at their website: www.cando.org