

North Carolina Task Force

for Racial Equity in Criminal Justice

WAYS JUDGES CAN IMPROVE CRIMINAL JUSTICE

Judges wield extraordinary power in our criminal justice system and in the lives of the people who come before them. That power comes with an awesome responsibility to ensure no illegitimate factors - like race - affect the process or the outcomes. A judge's duty to mete impartial justice is challenged by implicit and explicit bias that can exist at every stage of a criminal prosecution, starting with arrest. A judge must be vigilant in rooting out bias by other actors and especially vigilant in rooting out his or her own.

Fortunately, there are demonstrated practices, programs, and trainings that can help reduce the risk of racially disparate outcomes in our criminal justice system.

The below recommendations (from the North Carolina Task Force for Racial Equity in Criminal Justice's [December 2020 report](#)) outline solutions that you can help implement. We have organized these solutions by category and the TREC recommendation number corresponds to the full report. In some cases, we have tweaked the language to reflect progress since we published our report. Finally, while some recommendations can only be accomplished statewide legislatively, judges can implement local changes within their discretion consistent with the letter or the spirit of the recommendations.

RECOMMENDATIONS FOR JUDGES

Category	TREC Recommendation
Reimagine Public Safety	5. Participate in the formation and support of local Community Safety and Wellness Task Forces
Promote Restorative Justice	61. Help establish restorative justice programs in local communities and support and use at various points in the system
	65. Recognize racial equity and the rights and perspectives of harmed parties and survivors
Shrink the Criminal Code	77. Review and recommend changes to the criminal code
Improve pre-trial release and accountability practices	79. Eliminate cash bail for Class I, II, and III misdemeanors unless the defendant poses a clear risk to public safety

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	80. Require first appearance within 48 hours or the next day in which District Court is in session
	81. Require preventive detention hearing within five days and repeal bond doubling
	82. Promote court appearance strategies and develop alternative responses to failure to appear
Implement Racial Equity Training for Court System Actors	84. Require racial equity training for all court system personnel including the judiciary
Facilitate Fair Trials	91. Promote the increase of representation on juries through expanded and more frequent sourcing, transparency and compensation
	92. Broaden protection against use of preemptory challenges
	93. Provide implicit bias training to all jury system actors
Reduce Current Sentencing and Incarceration Disparities	99. Support and advocate for amending the MAR statute to allow judges to overcome technical defects where the petition raises a significant claim of race discrimination
Reduce Use of Fines and Fees	101. Assess defendant's ability to pay prior to levying any fines and fees
	104. Develop a process to eliminate criminal justice debt by using a standard form for considering waiving fines and fees, conducting judicial trainings, and stopping issuance of arrest warrants for outstanding court debt without first having a show cause hearing

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Study and Revise Future Sentencing Guidelines	116. Support the review of all future sentences after 20 years or before
	118. Promote the establishment of a Truth and Reconciliation Commission to study NC's history of race and criminal justice

ABOUT THE TASK FORCE FOR RACIAL EQUITY IN CRIMINAL JUSTICE

The North Carolina Task Force for Racial Equity in Criminal Justice, which is co-chaired by Supreme Court Associate Justice Anita Earls and Attorney General Josh Stein, was established in June 2020. For more information about the Task Force, please visit <http://ncdoj.gov/trec> or email criminaljustice@ncdoj.gov.