

## State's Minority Committee Continues Seeking Justice

By James Barnes  
The Daily Record

More than 145 years ago, President Abraham Lincoln delivered the solemn and often-repeated phrase in the famous Gettysburg Address: "Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal."

Under Lincoln's leadership, the proposition of equality gave birth to his legacy as the author of the Emancipation Proclamation, which freed slaves in territories not already under Union Army control in 1863 and ultimately led to the passage

of the Thirteenth Amendment (in 1865), which permanently abolished slavery throughout the entire nation.

Today, it is seductively easy to forget the fact that Lincoln's legacy with the Emancipation Proclamation and the strides made during the Civil Rights movement were both difficult and bloody affairs. After all, it's 2009, the nation's first black president is firmly in charge of the White House and overt signs of racism are largely a memory. While many ills and discrepancies in our system of justice have been corrected, the work of ensuring "justice for all" is unceasing and just as para-  
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# Justice

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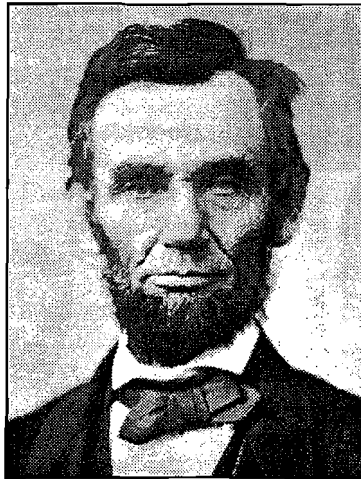
Serving on the front lines to help ensure minorities receive justice according to the rule of law in Nebraska are Supreme Court Justice John Gerrard and Dr. Linda Crump, assistant to the Chancellor for Equity, Access and Diversity Programs, University of Nebraska-Lincoln. The duo serve as co-chairs of the Nebraska Minority Justice Committee (MJC) – a statewide collaborative body made up of the Nebraska Supreme Court and Nebraska State Bar Association.

The committee was formed in May 2003 following a two-year investigation by a Task Force to determine if Nebraska's justice system had any inherent elements of discrimination or racial and ethnic bias. This unique committee works to develop and implement just and sustainable policy reforms. The MJC has three primary objectives that are outlined in the annual Progress Report 2008: Addressing racial disparities in both the juvenile and adult justice systems; ensuring equal access to justice and increasing the diversity of Nebraska's judicial workforce and legal profession.

"For the state courts," explained Gerrard, "it's most important that there is an even playing field for everybody. So when anybody walks into a courtroom regardless of the color of their skin or the language that they speak, they should not only get an even and fair shake but they should also perceive or understand that they are getting a fair shake."



Dr. Linda Crump



Pres. Abraham Lincoln



Justice John Gerrard

Nearly a century and a half later, Nebraska is still striving to reach the goals of liberty and equality that Abraham Lincoln set out so clearly during the Civil War.

The unintended consequences were that counties that experienced a recent influx of minorities were not reflecting those demographic changes in their juries.

According to Crump, the committee has been successful in doing a lot of small things that have a big impact.

"As you look at a system, if you are thinking about making one that is open and fair, you have to know there's been a lot of privilege that some people have had and there have been a lot of roadblocks that other people have had," she explained. "But, if you're not even aware of [the roadblocks], how are you ever going to change who we are, how we operate, and really have a system that's open to all."

Other ways that the Nebraska Minority Justice Committee has helped ensure minorities have access to justice, published in the Progress Report 2008, include a \$25,000 grant from the

Woods Charitable Fund to help

to fix something?" Then you can move mountains," said Crump. According to Justice Gerrard, the MJC has a long way to go in addressing minority justice issues but because of the committee's willingness to critique the current system, it is making progress.

"I think we're trying really hard," said Gerrard. "I think we as a system have been willing to hold the mirror up and look at the system – warts and all – and been willing to make changes."

A couple of problems which had impacted due process on a very basic level, and a fair trial in a number of cases, were influenced by the MJC.

"We've got a project right now called the Failure To Appear project. It's just in the initial stage. These are juveniles and adults that simply fail to appear in court so whatever the charge was – maybe it was a driving under suspension or minor in possession, whatever – they wouldn't show up to court," explained Gerrard. "We

What they do have is called Identification Cards, which they can get through the Department of Motor Vehicles. Even if they don't have a driver's license and they have an identification card, that can expand the jury pool, particularly in minority populations. So that's likely to pass this year and that's expanding the jury pool and making the system fairer. It's an example of a large scale issue that we want to patch right away."

Dr. Crump points to the criminal and juvenile justice system as an area of special concern and focus.

"We see discrepancies there and we want to figure out why and what's going on. And we try to do a lot of researched-based analysis so that we're not looking for a generic answer," said Crump. "We're looking for an answer to the question, 'What's happening here?' And if you look at the whole legal system, the diversity within the profession, in the court system; again it's us making sure that

The constitutional amendment, which bars public agencies such as universities and city governments from considering race, gender and ethnicity when handing out contracts, hiring employees and awarding scholarships, was approved by Nebraska voters by a comfortable margin.

Due to potential litigation proceeding through the appellate courts, Justice Gerrard was unable to comment. However, Dr. Crump shared her observations of the initiative in the context of MJC's efforts:

"I don't think that particular constitutional amendment says that we shouldn't be doing the things that we're doing, because if you look at it – and especially the bar association which is not a public entity and the courts are not supposed to discriminate – [then] we're trying to make sure they don't discriminate," said Crump. "I don't at this moment see it as a deterrent to our efforts, because if you've read even the most recent progress report, we're trying to eliminate any kind of discrimination going on within the system. And when we're looking at access to justice issues, even if we're looking at our profession, you're not talking about the state. If it has an impact, I think any state that has passed this constitutional amendment does not appear to be as welcoming for many minorities as states that have said no."

As the nation celebrates the bicentennial of President Lincoln's birth and reflects on the impact the Civil Rights Movement has had on the justice system, the passion, energy and drive of the MJC is challenging

Crump, who was the first person of color to serve as president of the Nebraska State Bar Association, agrees and explained that a large part of what the Minority Justice Committee is trying to do is along the lines of the work of justice and equality started by the Civil Rights Movement. "We're still trying to look at, 'Is it really working the way it should be working'. And if it's not, how can we do something to make it a more just system," said Crump.

Gerrard cited one of several examples of the system not working the way it should. He explained that the judicial system has to watch out for unintended consequences. "We determined that in many of the counties, jury pools had not been refreshed for over 10 to 20 years. Well, Schuyler, a city in Colfax County, looks completely different than it did 10 years or 15 years ago," he said. "We've got a Hispanic population of 40 percent there now. So, if you don't refresh your jury pools, you're not going to have a jury of your peers. And even though you might have a judge that is fair-minded, and you have a system that wants to be fair-minded [we still] had some systemic breakdowns that we had to fix. So, we fixed that by legislation."

The legislation was passed in January 2003 as part of Legislative Bill 19. It required counties to update their jury pool lists annually. Some counties had not updated their lists in 20 years.

woods Chamber... all appropriate court forms translated into a bilingual format, including Spanish, Vietnamese and Arabic. The MJC is undertaking a study in which 90,000 juror qualification forms have been received and analyzed to determine to what extent racial and ethnic minorities may systematically be excluded.

The committee also sponsored an education seminar for justice system practitioners during the Nebraska State Bar Association's Annual Meeting to gain insight into the Sudanese culture in light of the resettlement of refugees to Nebraska. This provided the legal community with greater insight into the legal issues faced by the Sudanese population.

"We believe we can be better and we can do things that are more inclusive," said Crump. "If we strongly believe and have that passion for it, we can see ways to change things. If you don't have your antenna out looking, I don't think you'll notice things that are wrong that need to be fixed."

One of the key characteristics to having a diverse committee is that many people on the MJC operate in many different areas of the law; their daily life experiences let them see what's wrong so that the committee can work on things that need to be done.

"We could spend a lifetime defining problems but [we need] an attitude [that asks], 'What can we do to change something,

were finding out that minorities were affected really in high disproportionate numbers. Many of the times, it was simply because they didn't understand the process, they didn't understand the language."

As a solution, Justice Gerrard said that there is a joint project underway with several counties to send out cards, or make calls, or both to remind people of their court appearances. The result has been a reduction in the failures to appear in court.

"It makes court go smoother obviously, but it's also really affecting the efficiency and the cost. If you have a failure to appear, a bench warrant is issued. Law enforcement gets involved. Tremendous cost, tremendous inefficiencies," explained Gerrard. "So, we've got a Failure To Appear project that's been really substantial."

Other projects involve bail bonds and increasing the size of jury pools.

"We're in the process now of doing some statistics to determine if the way that we do bonds in Nebraska is fair or whether we should consider some uniform application of bond considerations throughout the state," said Gerrard.

"We are [also] intending to increase the jury pool. Right now we draw our jury pools from driver's licenses and voter registration rolls. But you can imagine there are a number of non-English speaking citizens that might not [be on either list].

we ask people to step up to the plate and do it with us. We've had good response and I wish it was faster."

Despite the success and speedy passage of legislation deemed friendly to minority interests in Nebraska, last year's passage of Initiative 424 creates a different perception.

tice turning slowly.

"We enjoy a very good reputation and we've had success in the Legislature because we've brought forward projects that really did bring about improvement in the court system [and] the legislature has cooperated with us very well," said Gerrard.

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