



July 2015 - Tip of the Month

The Impact of Race on Pro Bono Services

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Minnesotans coming from generations of poverty often have had negative experiences dealing with public institutions, including the legal system. Even while requesting pro bono assistance from the Volunteer Lawyers Network (VLN), they may be skeptical about our good faith efforts and/or ability to avail them of the protections of the law. In short, their distrust of the system we represent often extends to us. This is particularly true for people of color because of the added issues of institutional racism and racial disparities, as more fully described below.

Understanding the racial disparities that exist in our state provides critical context when working with pro bono clients. This article provides this background, as well as practical suggestions for lawyers in addressing this inherent subtext in providing pro bono services.

People of color have disproportionately negative experiences with the criminal justice system

According to a 2013 report by the Council on Black Minnesotans, people of African descent view “criminal justice problems as systemically discriminating, entrenched, and supported by main stream power brokers.”¹ Some data:

- People of color are more likely to be in prison than white people. For instance, although Blacks are 5.2 percent of the state’s population, they represent 37 percent of the prison population. American Indians are 1.2 percent of the population and yet represent 9 percent of the prison population. Latinos are 4.7 percent of the population and make up 8 percent of the prison population.
 - On any given day in Minnesota, a black person is more than 20 times more likely to be stopped for a traffic offense than a white person. Even though whites stopped during traffic searches were found to carry contraband at higher rates than people of color, resulting arrests and prosecutions were ten times higher for blacks than whites.
- **Impact:** *This disparity impacts every aspect of people’s lives. Because most landlords and employers routinely do background checks, disparities in the criminal justice records create additional barriers for people of color. A criminal record affects their ability to find living wage jobs and/or decent housing.*

People of color face institutional barriers to acquiring wealth

Buying a home is one important way to accumulate wealth. Minnesotans of color are less likely to own homes than white Minnesotans. The homeownership gap between white people and people of color in Minnesota led the nation in 2012² 76 percent of white Minnesotans owned homes compared to 39 percent people of color.

¹ [Disparity Analysis: A review of disparities between White Minnesotans and other racial groups](#), Council on Black Minnesotans, 2013

² [Minnesota Compass](#), Wilder Foundation

Some of this disparity is the legacy of our past national appraisal system that assessed homes at a lower value simply because a person of color lived there. People of color were systematically denied access to federal housing lending programs and subjected to redlining.³ One result of these practices: Between 1934 and 1962, the federal government underwrote 120 billion dollars in new housing. Less than 2% went to people of color.⁴

- **Impact:** *Since homeownership is a key way that families accumulate and pass on wealth, people of color continue to endure the effects of this economic racism. In 2009, the national median net worth of white households was \$113,149. For black households it was \$5,677 and for Hispanics it was \$6,325.*⁵

Mortgage lending disparities continue today

Nationally, people of color continue to receive home loans on less favorable terms and at a higher cost than similarly situated white borrowers; people who live in segregated communities of color receive a disproportionate rate of subprime loans and foreclosures, thereby bearing the brunt of the mortgage crisis.⁶ Among the findings specific to the Twin Cities, a report from the Institute on Race and Poverty found that:

“Denial rates [for home mortgages] are higher for black, Hispanic and Asian applicants than for whites, regardless of income. Very high income black, Hispanic and Asian applicants (applicants with incomes more than \$157,000 per year) show denial rates higher than whites in the lowest-income category (less than \$39,250 per year). Disparities are greatest for black borrowers. The denial rate for blacks with incomes above \$157,000 was 25%, while it was just 11% for whites making less than \$39,250.”

- **Impact:** *The housing crisis resulted from historic and systemic government policies that denied access to people of color (see above), poor government oversight of predatory financial institutions, and unreasonable risks taken by financial institutions. People of color bore a disproportionate burden of the resulting foreclosure crisis, again affecting their ability to accumulate wealth and pass it on.*

People of color make less money than whites

According to U.S. Census data for 2012, Minnesotans who are black or Native American each make about half of the median income of white Minnesotans.⁷ The median income for white non-Hispanic Minnesotans that year was \$61,667 compared to \$32,153 for Native Americans and \$28,136 for black Minnesotans. Black Minnesotans and Native Americans also have higher unemployment rates.

³ For more information and cites, see http://en.wikipedia.org/wiki/Housing_Segregation

⁴ For more information see Race, the Power of an Illusion DVD, one transcript at <http://newsreel.org/transcripts/race3.htm>

⁵ *Health Disparities: Impact on Minnesota, Impact on the future*, Minnesota Department of Health presentation on Jan. 17, 2012, at ??? citing Pew Center research.

⁶ [Communities in Crisis: Race and Mortgage Lending in the Twin Cities](#), Institute on Race and Poverty, February 2009.

⁷ Minnesota Budget Project blog, “[Minnesota still a land of Inequality](#), Sept. 19, 2013”

- **Impact:** *All the above factors have a significant impact across generations, creating a negative momentum that is hard to overcome. Some liken it to trying to go up a down escalator. Whatever the interconnecting causes that lead to these disparities, one result is that people of color are disproportionately in poverty.*

Many persons of color are scarred by historical trauma

Historical trauma refers to cumulative emotional and psychological wounding that extends across generations. For example, the emotional effects from maternal abandonment of a young child of any race might be seen across three generations.⁸ Mental health care professionals generally agree that people of color often carry unresolved historical trauma as a result of generations of discrimination, segregation, racism, and “micro-aggressions.” Micro-aggressions refer to brief, daily hassles and slights experienced by people of color, such as frequent media portrayal of people of color as tokens or criminals, frequent denials by the dominant culture that systemic racism and oppression continue to exist, insensitive remarks or demeaning practices such as being followed by security in a department store.⁹

Addressing the impact of race in our individual pro bono representations

The Rules of Professional Conduct (RPC) require that we provide competent and effective representation and urge that we work for equal access to our system of justice for all. Below are some suggestions for how we can fulfill these in our individual representations of people of color from poverty.

- Take a little more time with clients to give them a context to our volunteer work – that we have a professional interest (and responsibility) to make sure the justice system works well . . . for everyone, and so we are volunteering our services.
- Reassure clients that “volunteer” doesn’t equal second best. We will be just as zealous in their representation as we are with paying clients.
- Watch for indications of mistrust of authority or institutions and take time to acknowledge them. For example, “I can imagine that you may not have had good experiences of the legal system, and yet in order for me to help you as best as I can, I need you to come to the court hearings with me.”
- Anticipate that some clients will be hesitant to fully answer our questions, especially those that may seem personal and/or invasive. It helps to explain the reason we need to ask certain questions, and acknowledge that they may be personal.
- Remember and acknowledge that racism is a reality for our clients of color—and they are the experts on their life experiences. If clients bring up racism as part of their case, we can take some time to listen. If a client’s claim of racism is not legally relevant to the case, we can take a moment to explain why while taking care to not minimize the possible racism and its emotional impact on the client. For example, if a client says that

⁸ http://en.wikipedia.org/wiki/Historical_trauma

⁹ <http://gainscenter.samhsa.gov/cms-assets/documents/93078-842830.historical-trauma.pdf>

the landlord did not give him extra time to pay the rent because he is black, we can acknowledge that that is unfair, but it is not relevant to the unlawful detainer based on not paying rent.

- After hearing our advice and/or explanation about remedies, our clients may decide that the legal system will not address their problem enough to justify their and your efforts. They may decide not to pursue their case, a decision we need to respect as making sense to them based on their prior experiences.

Providing excellent representation and access to justice for all—including those from different backgrounds—is an ongoing professional issue for all attorneys. In recognition of this, VLN offers practical help for volunteers serving in cultural settings that are often quite different from their own.

For information regarding serving people living in poverty, see www.wpbc.wikispaces.com.