



MINORITY & JUSTICE COMMISSION | WASHINGTON STATE SUPREME COURT

ANNUAL REPORT

17-18





Diane Covington

heavy metals, fire retardant and nuclear waste running down into the Columbia River, to agriculture chemicals, storm water runoff, oil spills and pharmaceutical pollution along the coast, our very existence is threatened. Led by indigenous women, the fight to save our water and all living things may be the most important thing we ever do. As we say on the Spokane Indian Reservation, x^wlx^wilt tu sewtk^w (water is life).

To learn more about the artist and her work, please visit www.facebook.com/AspenLeafMeadowStudio/.

If you are interested in submitting a piece of artwork for consideration as the Commission's next poster, or would like to order a copy of a poster, please contact:

AOCMIN/JUS@courts.wa.gov.

About the Cover

The Minority and Justice Commission selects and reproduces works by Northwest artists that reflect dimensions of the racial and ethnic diversity of the people and communities served by Washington State courts. This year's selection is "Water Song" by Diane Covington. Ms. Covington is Sanpoil band of Colville Confederated Tribes and Spokane Tribe as well as English, Norwegian and Irish. She is a visual artist working in both traditional and contemporary indigenous materials. She specializes in figurative paintings depicting Interior Salishan women in narrative settings, both rural and urban.

ARTIST'S STATEMENT

The Washington State Minority and Justice Commission, in seeking to level the field for all peoples equally, gives much needed voice to those oppressed or ignored by the larger system. Racial inequality and ecological injustice are not unrelated. Indigenous populations have insights about the land, water, plants and animals that will need to be taken seriously by law and policy makers if we are to survive and thrive the next seven generations on this earth. This is my belief and my motivation for painting these three women who signify diverse tribes with common concerns for clean water.

Water Song represents us saving ourselves through collective intent and action. It is a prayer for water, to a synchronized beat, in the hearts of life givers and life nurturers across the land. As I painted, I prayed for the water, and I imagined that the coming together of many could result in a crescendo of healing and a wave of power to change wasteful ways. From

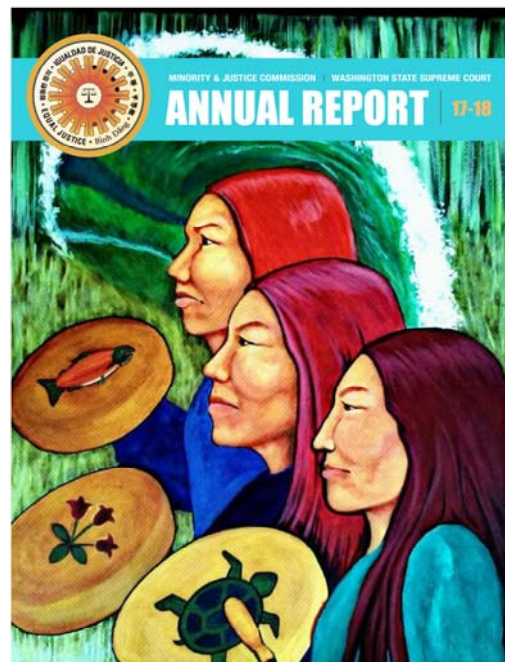
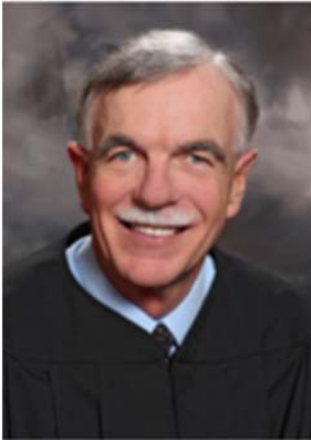


TABLE OF CONTENTS

Tribute to Justice Charles Johnson.....	4
Statement from the Co-Chairs.....	5
History and Mission.....	6
A Call to Black Women and Women of Color to Rise.....	7
2017 Supreme Court Symposium.....	10
Exploring Jury Diversity and Its Related Problems.....	11
Jury Diversity Efforts in Washington: A 27-Year History...	13
Juror Demographic Survey.....	19
Pretrial Reform Task Force.....	20
LFO Consortium.....	21
Color of Justice.....	22
Workforce Diversity	23
Youth and Justice Forums.....	25
Education.....	26
Law Student Liaison Projects.....	28
Tribal State Court Consortium.....	29
Juvenile Justice.....	30
William Nevins Award.....	31
2017-2018 Commission Members.....	32

AN EXPRESSION OF GRATITUDE . . .

BY JUSTICE MARY YU



Justice Charles Johnson

Justice Charles Johnson recently announced that he was stepping aside as co-chair of the Minority and Justice Commission. As the longest serving justice on the court, he first joined the Commission in 1991 and then began serving as co-chair of the Commission in 1994 alongside Justice Charles Z. Smith.

Having served as his “sidekick co-chair” since 2011, there is so much that can be said about Justice Johnson and his devotion to the Commission. But, the story is best told in each annual report outlining the Commission’s accomplishments over the last twenty-four years. He is deeply committed to acknowledging and eradicating the racial bias that undermines the promise of fairness for all; a fact that is not readily accepted. I have observed his gentle hand guide our work in the area of research and education while also watching his courageous push back when the Commission has been criticized for publicly taking on difficult questions on race and poverty, or when battling budget cuts and competing interests at the Supreme Court. Justice Johnson has represented the Commission with excellent advocacy and I am confident it would not be in the position it is today, without his resilient supervisory influence.

So, why is he stepping down? He quietly shared his view that it was time to pass on the torch and to allow another trial court judge to join as my co-chair (I was a trial judge when first elected to serve as co-chair). Like all defining leaders, he is consciously envisioning the future and embracing progressive change in leadership.

Thank you, Justice Charles Johnson. Thank you for your lengthy service and dedication to eradicating racial and ethnic bias in the State of Washington. And thank you for your willingness to share power not only with a co-chair but with a vibrant engaged Commission. We will endeavor to carry your humility, compassion, and courage forward.

And Welcome to Our New Co-chair

We are pleased to announce the election of Judge G. Helen Whitener to serve as the new co-chair of the Minority and Justice Commission. Judge Whitener has served as a judge on the Pierce County Superior Court since 2015, when she was appointed to the bench by Washington State Governor Jay Inslee. Judge Whitener brings a wealth of experience to her work as a judge. Prior to her appointment and subsequent election to the superior court, Judge Whitener served as a judge on the Washington State Board of Industrial Insurance Appeals and as a pro-tem judge in Pierce County District Court as well as the City of Tacoma Municipal Court. She also worked as a prosecutor and defense attorney. Judge Whitener has revived the Color of Justice program created by The National Association of Women Judges, and the program is now being hosted and sponsored by superior courts across the state. We look forward to working with Judge Whitener and are confident she will bring energy, insight and a deep commitment to justice that will make the Commission even better than we are today.



Judge G. Helen Whitener



Co-Chairs Justice Mary Yu and Judge G. Helen Whitener

Statement of the Co-chairs

On behalf of the Washington State Minority and Justice Commission, we are pleased to present the 2017-2018 Annual Report.

Each year the Commission purposefully focuses on four key areas to advance its mission: education research, outreach, and promoting diversity in the legal workforce. Through the hard work of its staff, committees, and partners, the Commission saw a remarkable year of success in each of these areas.

A major area of focus this year was on jury diversity. On May 24, 2017, the Commission held its annual Supreme Court Symposium entitled “Jury Diversity in Washington: A Hollow Promise or Hopeful Future?” At the conclusion of the Symposium, Ms. Angeline Thomas, Executive Director of Washington Appleseed, made several recommendations on ways we could improve diversity on juries. Some of those recommendations include improving the summons process to enhance the pipeline of people who arrive at the courthouse to serve, removing barriers to jury service for communities of color, and collecting data on race to expand a recent study conducted by the Minority and Justice Commission. On behalf of the Court, Chief Justice Mary Fairhurst requested the Commission take on the task of exploring the implementation of these recommendations. The Commission subsequently created the Jury Diversity Task Force as a new Commission ad-hoc subcommittee and appointed King County Superior Court Judge Steven Rosen, to serve as the chair. The Task Force held its first meeting in December 2017, and is near the completion of its work.

The Commission has expanded its work on legal financial obligations (LFOs) through a \$500,000 federal grant initiative focusing on reforming the policy and practice of court fines and fees in their state. For the past year and a half, the Commission has convened a statewide consortium of stakeholders to carry out the work of the grant. The work includes new data analysis on LFOs across Washington state, and the creation of a LFO calculator. On June 7, we officially launched the LFO Calculator <<https://beta.lfocalculator.org/>>. The LFO Calculator is a web-based tool to assist judges during sentencing when making determinations of a defendant's ability to pay court fines and fees. It is being piloted by 10 trial court judges across the state, representing different court levels and counties, and is also available for the public to use. The Commission also produced updated LFO benchcards reflecting the recent changes in law around LFOs. It is our hope that Washington State can be a leader in LFO reform efforts to ensure that justice is accessible and dispensed fairly to all people. Judge Linda Coburn deserves special recognition for her work on the calculator and Judge Theresa Doyle deserves special thanks for her work on the benchcard.

We also launched a statewide Pretrial Reform Task Force in cooperation with the Superior Court Judges' Association and the District and Municipal Court Judges' Association. The initiative grew out of the 2016 symposium on pretrial reform and its goals are to gather data, examine court practices on pretrial detention, and identify tools to help judicial officers make pretrial determinations. The collaboration came amid growing national concerns about the number, and economic and social costs, of persons waiting in jail for trials primarily as a result of the inability to pay bail. The Task Force includes judges, prosecutors, public defenders, bail bond agents, court administrators, researchers, and many other stakeholders and is divided into three subcommittees (Pretrial Services, Risk Assessment, and Data Collection).

Our Workforce Diversity Committee provided an update to the Judges of Color Directory. The Directory identifies and showcases the current judges and commissioners of color serving on the bench in Washington State, helping them and those aspiring to become judicial officers, build and sustain professional networks and supportive communities. The directory will also serve as a resource for organizations to find speakers and presenters for various events and programs.

Lastly, the Commission welcomed Chanel Rhymes as its new Court Program Analyst. She brings a breadth of

experience and a strong passion for justice. We are so fortunate to have her join us.

The Commission's work is often challenging, but our annual report is an opportunity for us to highlight some of our successes and to celebrate the good people who joined us this year. Much remains to be done to ensure that our courts are a fair forum for all people and we will continue to work tirelessly to effect change.

The Commission's work would not be realized without the support of its members, volunteers, and supporters, and we express our deepest gratitude to each of them. We hope that you find the 2017-2018 Annual Report both interesting and inspiring. Our events and meetings are always open to the public and we encourage your participation.

History and Mission

The Washington State Minority and Justice Commission was created by the Washington State Supreme Court in 1990, for the purpose of examining all levels of Washington's judicial system to ensure that the judicial needs of people of color are considered and to make recommendations for judicial improvement and equal treatment in state courts.

By order of the Supreme Court on January 6, 2016, the Commission was renewed for an additional period of five years. In creating the Commission and in subsequent Orders of Renewal, the Supreme Court acknowledges there is a continuing need to identify and to eradicate the effects of racial, ethnic, and cultural bias in our state court system.

Our mission is to foster and support a fair and bias-free system of justice in Washington Courts, and by identifying racial and ethnic bias, take affirmative steps to address, eliminate, and prevent such bias.

The Commission Sub-Committees, each chaired by Commission members, focus on four areas:

EDUCATION: The Education Committee seeks to improve the administration of justice by eliminating racism and its effects by offering and supporting a variety of innovative, high quality, education programs designed to improve the cultural and professional competency of court employees and other representatives of the Washington State justice system.

JUVENILE JUSTICE: The mission of the Juvenile Justice Committee is to work with justice partners to focus attention, inquiry, and action on addressing bias and undoing institutional racism in the juvenile justice system and juvenile courts that allow for disparities for youth of color to persist.

OUTREACH: The mission of the Outreach Committee is to facilitate communication between the Washington State Minority and Justice Commission, the public, and the legal and court communities of Washington State, regarding interaction with and participation in the justice system by minorities or persons of color.

WORKFORCE DIVERSITY: The mission of the Workforce Diversity Committee is to promote equal employment and to increase the number of racial and ethnic minorities employed in the justice system.

A Call to Black Women and Women of Color to Rise

By Judge G. Helen Whitener



My speech at the 2018 Black Women Rise Conference was meant to provide insight to the disparity in treatment in our justice system of black people and people of color, in particular women and women of color. It was meant to uplift and empower women and women of color. I identified many of the various ways we encounter implicit and explicit bias and the reasons for our skepticism of our Justice system. My speech gave a roadmap as to why there continues to be distrust of the justice system by black people and people of color and why a change in addressing the disconnect is warranted. Yesterday the police were called to remove Rosa Parks from her seat on a bus and today police are called to remove black people and people of color from different establishments. My speech is a wakeup call to the justice system that real solutions are needed to end the discriminatory treatment of black people and people of color to include women.

Women have historically been intimately involved in major human rights movements addressing the elimination of systemic, racial, economic and misogynistic barriers. Yet history has been mostly silent on our contributions, our accomplishments and our stories. The silence has allowed others to define and control who we are and how we are seen. The silence has allowed others to tell our story without our input. The silence has placed us in a subservient position, a position of servitude.

Synonymous with servitude is inequality, and Western European culture has tied identity to institutional systems with associated systemic barriers: race and inequality; gender and inequality; sexual orientation and inequality; immigration and inequality; labels assigned at birth that preordain lives to one of servitude, enslavement, oppression, and powerlessness. A person's race, sex or sexual orientation may tell you about that person's biology but it does not tell you anything about the person's abilities or potential.

I was raised to stand up, stand out, and stand fast. I was taught by my parents and teachers that I am a descendant of kings and queens and I could be anything that I wanted to be. From birth I was taught to rise, that I mattered, that I was worthy. Yet when I maneuver this world the very essence of my being is continuously attacked. So, how does a woman fit in when she was born to stand out? I made the choice many years ago to be vocal, visible, and vigilant; to demand not only to be heard; but also, to be seen, treated, and respected as an equal. Even though society had a different plan in store for me, I must admit, I missed the memo. The memo said, you're black, stay back; you're a woman, lay back; you're a lesbian, step back; or you're an immigrant, go back.

Black women have been targeted for hate, targeted for vile rhetoric, targeted for division. The goal is to instill fear and to silence our voices. Women, this is our time; we must stop accepting mediocrity and instead demand excellence. Excellence from ourselves and excellence for ourselves. We must recognize the power of our individual voice and the power of our collective presence. Sisterhood is inclusive of all women, it is global, it knows no color, but a sisterhood of black women knows no boundaries. Women who have benefitted from privilege, it is time to acknowledge the reality of what is happening to your sisters of color, your lesbian sisters, and your immigrant sisters, but all women need to acknowledge what is happening to our transgender sisters as they are being killed and no one seems to care. Black women and women of color what is happening today is more than a Black Lives Matter movement, ours is more than a Me Too Movement; ours is a No More Movement.

No more, excusing bias intentional or implicit; accepting dismissive and disrespectful actions. No more accepting pretexts to remove us from society, stealing our 15th and 19th amendment right to vote by caging us. No more imprisonment of our community for addictions yet treating the addictions of others as a mental health problem. No more, assessing women's worth as connected to our genitalia. No more denying our sister's rights just because she was born our brother, or our brother's rights because he was born

our sister. No more loving who you want for us rather than who we want for ourselves. No more, telling us to go back to where we came from when this is our home. No more, denying us the right to stand with you simply because we are unable to stand. No more deflecting our plight, if we say our lives matter, then remove your blindfolds and look and listen as to why we are saying it.

Systemic discrimination institutionalized in our justice system has ensured that the voices of Women of Color continue to be unheard. The result is a lack of diversity within the ranks of the justice system, on our police forces and a lack of voluntary participation with the justice system. A historical theme that comes from being disenfranchised from citizenship for people of color is slavery, internment, mass incarceration and immigration. These institutions placed people of color in unequal positions of continuing servitude and until adequate solutions are found to address these systemic problems, history will be doomed to repeat itself.

Today it is clear that a lack of acknowledgment of what has historically silenced the voice of disenfranchised women, specifically women of color and transgender women, has led to the voice of all women being attacked on a level not seen before. Yesterday it was me and tomorrow it could be you. Women who have benefitted from privilege have recently begun to acknowledge the pain of their sisters of color, standing in numbers not just with us but sometimes for us. A gender equal society must be inclusive of all women, which includes lesbians, bisexual and most importantly transgender women. It is true that there is strength in numbers but the numbers do not matter unless we make them count.

A Native American judge once said, “when you are not counted – you do not have to be served.” My sisters, our struggles are one and our strength is in our numbers. Even though we have differences, we are not truly different. The achievement of equality for all requires an inclusive approach that recognizes the crucial role of building partnerships with others and that includes men.

A fundamental legal principle in the law of civilized nations is that everyone must be treated equally without special privileges, discrimination or bias. Another cornerstone of a well-functioning judiciary is the appearance of impartiality. Impartiality is intertwined with perception and a bench that reflects its society is integral in promoting public confidence in the ability of the courts to make sound, responsive decisions. Many people of color perceive the justice system as lacking in substantive equality and the perception of nefarious decision making is prevalent. To eliminate this perception, diversity must be a priority rather than an afterthought. A diverse bench of human beings enhances impartiality as more varied experiences and perspectives are drawn upon in interpreting and applying the law.

Judicial diversity or the composition of our courts must be as inclusive as the populations it serves. All of us are profoundly shaped by our personal experiences and our view of the world is filtered through what we see and hear in our day-to-day lives. Judges are the human face of the law and a judge’s notion of justice is molded by that judge’s unique life experiences. US Supreme Court Justice Sonia Sotomayor said, “it would be a travesty to the population served if their justice is reflected only in terms of the white male experience, because experience matters, both in informing the court’s opinions and in ensuring that the population feels like it is “part of the process and not like an outsider looking in.” The law has always been gender and race sensitive to one group, white men.

Diversity is a human rights Issue. It includes the maxims of acceptance and respect and it recognizes that everyone is unique. Diversity is not synonymous with white genocide. That rationale plays on prejudices that imply certain groups lack competence and are less worthy. Historically, that rationale was meant to instill fear, to maintain the status of servitude and to silence collaborative efforts.

For black women and women of color to be visible, collaboration in the struggle is required to provide sustainable solutions. Safe spaces for dialogue regarding discrimination are a must. For “access to justice” to have meaning, to eliminate attitudes, norms, beliefs and practices that perpetuate discrimination, action that is executable is necessary. Creating a committee to study the issue is passé, we know what the problems are.

Black women, women of color, we have fought for the right to sit at the table and a few are privileged to be seated. Do not become complacent with having obtained a seat. We must be vocal, demand not just to be heard, but demand to be understood. Otherwise, we are wasting a seat by being silent with inaction.

When seated, be vocal and demand what you need and want, and if what you need and want is not served, then you must take your personal and economic wealth elsewhere and create it. Women, no more waiting for others to act for us, we must act for ourselves. We must deploy our individual and collective power, so we, black women, women of color, and all women, can rise together as one! Dr. Martin Luther King Jr. said, "If you can't fly then run, if you can't run then walk, if you can't walk then crawl, but whatever you do you have to keep moving forward." So black women, rise, stand up, stand out, and stand fast.

About the author: G. Helen Whitener has been a Pierce County Superior Court Judge since 2015. Prior to her current position she served as a judge on the Washington State Board of Industrial Insurance Appeals and as a pro-tem judge in Pierce County District Court and the City of Tacoma Municipal Court. She is also a former prosecutor and defense attorney. Judge Whitener is the first immigrant-born judge of her court, the only black woman and the first openly black LGBT judge in the State of Washington. She speaks often locally, nationally, and internationally on human rights and access to justice in the court.

2017 Supreme Court Symposium

“Jury Diversity in Washington: A Hollow Promise or Hopeful Future?”

Symposium recording and materials can be found on our [website](#).

On May 24, 2017, approximately 130 justice system partners attended the Commission’s annual Symposium held at the Temple of Justice in Olympia, Washington, and more across the state watched the TVW live stream. The Symposium included a keynote presentation by Professor Nina Chernoff (CUNY School of Law) on why jury pools have failed to reflect the racial and ethnic makeup of their communities, why a representative jury is critical to justice, and nationwide efforts to increase jury diversity and their effectiveness. The main reasons she identified for why jury systems are not representative are: unrepresentative source lists; incorrect addresses on master jury lists; economic hardship of jury service; problems with the summons process; and automation errors. Professor Chernoff also shared recent studies that show that racially mixed juries deliberate longer, discuss more case facts, and make fewer factual errors. In cases with no Black people in the jury pool, Blacks were convicted at significant higher rates than Whites. When the jury pool included at least one Black person, the conviction rates were nearly identical.



Keynote presentation from Professor Nina Chernoff

The Court also had the opportunity to hear presentations from Judge Steve Rosen (King County Superior Court), Dr. Matthew Hickman (Seattle University), and Dr. Peter Collins (Seattle University) on the preliminary results of the Commission’s statewide Juror Demographic Survey. Chris Gaddis, Pierce County Superior Court Administrator, shared the results of a juror summons study that analyzed the rate of no response to summons by zip codes in Pierce County.



Ausha Byng explaining how she was excluded from jury service

The program concluded with an account of the challenges that a juror of color, Ms. Ausha Byng, experienced to participation and a call to action delivered by Angeline Thomas, Esq., Executive Director of Washington Appleseed. Specifically, Ms. Thomas urged the Court to help reform the summons process, remove barriers to jury service, and be a leader in diversity-specific data collection.

The Commission would like to thank the presenters for their outstanding and thought-provoking presentations, our co-sponsors, Prolumina and Washington Appleseed, and all who attended.

Exploring Jury Diversity and Its Related Problems

By Rina-Eileen Morales

With the recent successes of Marvel's *Black Panther*¹ and Disney's *Coco*² the conversations about creating films that not only represent minorities in positive ways but also include minorities' experiences are gaining momentum. These films are inspiring to minorities and open the door to positive conversations about race and ethnicity, but it is disheartening that the conversation around diversifying juries has yet to gain the same momentum. The U.S. is a melting pot of nations with a diverse population. This diversity has been poorly represented in movies, TV shows, Congress, and particularly in juries. The beauty found in diversity is different perspectives, experiences, and viewpoints; all of which contribute to finding creative solutions to shared problems. In comparison to homogenous groups, diverse groups have "improved group creativity, information sharing, [and] flexibility."³

The jury pool list is created statutorily in Washington and is limited to registered voters, licensed drivers, and identification card holders.⁴ Legal permanent residents are excluded from the list of potential jurors because they are not U.S. citizens.⁵ Convicted felons who have not had their civil rights restored are also excluded from serving on juries.⁶ Voting rights of convicted felons can be provisionally restored under Washington statute.⁷ However, the statute only speaks to voting rights and does not indicate whether eligibility for jury duty is restored as well.⁸ Minorities in Washington are incarcerated at higher rates than Whites. Per 100,000 people, 1,272 Blacks and 272 Hispanics were imprisoned in comparison to 224 Whites in 2014.⁹ In 2016, roughly 3.71% of the African American community were affected by felony disenfranchisement, while less than one percent (0.87%) of Washington's entire eligible voting population were affected.¹⁰

It is difficult to find recent data on registered voter's race or ethnicity. The Elections Division of the Washington Secretary of State's Office does not collect data on registered voters based on race or ethnicity.¹¹ However, Pew Research Center has been able to compile data on eligible voters based on a 2014 U.S. Census Bureau survey. Pew's data refers to eligible voters as adults over the age of 18 in the U.S.¹² Around 39% of the Washington Hispanic/Latino community were eligible to vote and about 55% of the Asian community were eligible to vote.¹³ In the African American community, about 68% were eligible to vote in 2014.¹⁴ Pew Research Center's eligible voter data for Washington did not have any information on Native American eligible voters. These percentages pale in comparison to the 80% of White eligible voters.¹⁵

The registered voters list is not the most inclusive and diverse list to select potential jurors from, but the list of licensed drivers or identification card holders may not be any better. The Washington Department of Licensing does not collect data on licensed drivers or identification card holders based on race or ethnicity.¹⁶ However, roughly 13% of African Americans nationwide do not have any form of identification and about 10% of Hispanics nationwide do not have any form of identification in 2012.¹⁷ White Americans made up 71% of the nation's population in 2012 but only 5% did not have any form of identification.¹⁸

These numbers indicate that the current jury list sources may not be as effective in representing the population. In a news report last year, Justice Mary Yu, of the Washington State Supreme Court, suggested a possibility of expanding the jury source list by a phone or address list.¹⁹ Another possibility to expand the jury pool is to have a volunteer sign-up campaign that is educational and encourages civic engagement, similar to voter registration campaigns.²⁰ With the rise in media attention on claims of excessive use of force by police and aggressive deportation tactics used by Immigration and Customs Enforcement, many feel discouraged and polarized by the legal system. A beginning step to combat these sentiments is education of the role a jury plays in a trial and emphasizing that jurors make an impact. A campaign is not the only possible avenue to educate and encourage participation in jury duty. Depending on the school district, some public schools have mock trials and may include a jury. The negative stigma towards jury duty may begin to dissipate by ensuring mock trials include juries and by assisting schools without mock trials programs to develop them.

Diversifying the jury pool and creating inclusive sources is an admirable goal but not if it creates a significant hardship for those who have yet to be included. With 39% of the national African American community²¹ and 30% of the national Hispanic

community living with annual household incomes below \$25,000;²² many potential jurors might face the choice of engaging in their civic duty or paying their bills. Each county in Washington determines jurors' compensation but must be between ten and twenty-five dollars per day.²³ Spokane County pays its jurors ten dollars per day.²⁴ Washington currently does not have a law mandating that private employers still pay for a full day's work while the employee is on jury duty. This requirement may encourage those who are unable to afford taking a day off work to be more active participants. Some states already require employers to compensate their employees to some extent. Alabama requires employers to pay full-time employees their regular wages for days spent on jury duty.²⁵ Similarly, Connecticut requires private employers to pay their full-time employees their regular wages for up to five days spent on jury duty.²⁶

Diverse juries are important to the criminal justice system because they open the door to more creative dialogue in deliberations and facilitate conversations that include different perspectives. Diversifying juries includes identifying the systematic barriers that have been placed on minorities and creating solutions, not just expanding the jury list sources. Creative solutions will continue to surface by encouraging people to participate in these conversations.

About the author: Rina-Eileen Morales is a law student at Gonzaga and is a student liaison for the Minority and Justice Commission. She has a strong desire to advocate for human rights and immigration reform when she finishes law school.

Endnotes

¹ *Black Panther* (Marvel Studios 2018)

² *Coco* (Walt Disney Pictures and Pixar 2017)

³ Samuel R. Sommers, *Determinants and Consequences of Jury Racial Diversity: Empirical Findings, Implications, and Directions for Future Research*, 2 SOC. ISSUES & POL'Y REV. 65, 83 (2008).

⁴ WASH. REV. CODE ANN. § 2.36.054(1) (West 2018).

⁵ WASH. REV. CODE ANN. § 2.36.070(2) (West 2018).

⁶ WASH. REV. CODE ANN. § 2.36.070(4) (West 2018).

⁷ WASH. REV. CODE ANN. § 29A.08.520(1) (West 2018).

⁸ Memorandum from the Washington Appleseed Jury Diversity Work Group on Tactics to Increase Jury Diversity 9 (Dec. 8, 2017), http://docs.wixstatic.com/ugd/4569ed_775a70e235214198986f32f509a778b9.pdf.

⁹ *State-by-State-Data*, THE SENTENCING PROJECT, <https://www.sentencingproject.org/the-facts/#map?dataset-option=FDR> (last visited Mar. 19, 2018).

¹⁰ *Id.*

¹¹ In calling the Elections Division, the receptionist stated the Elections Division does not collect information on race and ethnicity. A public record request was made on March 29, 2018 for verification.

¹² Gustavo López & Renee Stepler, *Latinos in the 2016 Election: Washington*, PEW RESEARCH CENTER: HISPANIC TRENDS n.1 (January 19, 2016), <http://www.pewhispanic.org/fact-sheet/latinos-in-the-2016-election-washington/>.

¹³ López, *Latinos in the 2016 Election: Washington*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ In calling the Department of Licensing, the receptionist stated the Department does not collect information on race and ethnicity. A public record request was made on March 29, 2018 for verification.

¹⁷ Vanessa M. Perez, Ph.D., *Americans With Photo ID: A Breakdown of Demographic Characteristics*, PROJECT VOTE (February 2015), <http://www.projectvote.org/wp-content/uploads/2015/06/AMERICANS-WITH-PHOTO-ID-Research-Memo-February-2015.pdf>.

¹⁸ *Id.*

¹⁹ *Jury of your peers? Not if you're a minority in Washington, study shows*, FOX Q13 (May 24, 2017), <http://q13fox.com/2017/05/24/jury-of-your-peers-not-if-youre-a-minority-in-washington-study-shows/>.

²⁰ Memorandum from the Washington Appleseed Jury Diversity Work Group on Tactics to Increase Jury Diversity 4

²¹ Perez, Ph.D., *supra* note 15, at 9.

²² *Id.* at 11.

²³ WASH. REV. CODE ANN. § 2.36.150 (West 2018).

²⁴ <http://www.spokanecounty.org/1723/Compensation>

²⁵ ALA. CODE ANN. § 12-16-8(c) (West 2018).

²⁶ CONN. GEN. STAT. ANN. § 51-247(a) (West 2018).

Jury Diversity Efforts in Washington: A 27-Year History

By Angeline Thomas

Advocates in Washington have been endeavoring to improve jury diversity in our state for at least 27 years. Jury composition makes a difference in trial; it is correlated with increased conviction rates for minorities, and the underrepresentation of minorities on juries likely plays a role in their overrepresentation in prison. Our justice system can only function if people believe that it works, but these disparities and the real and perceived unfairness they create undermine that trust.

Many others have discussed the reasons for lack of jury diversity, the consequences thereof, and what can be done to increase jury diversity. One thing missing from the conversation is a history of how we got here and why we have not had more success in tackling this problem. Appendix A is my attempt to capture a non-exhaustive chronological timeline of the events in our state's jury diversity history in order to document our collective efforts and to potentially spark new creative insights on what has worked and what has not.

In researching this article, I interviewed several jury diversity advocates, including representatives from the public defense bar, legal aid lawyers, and participants in various jury-related commissions. From a 50,000-foot level, reform efforts to improve jury diversity tend to focus on either the front-end problem of who shows up for jury duty or the back-end problem of jury selection. In their efforts, advocates have used a variety of different tools, including studies and data collection, Sixth Amendment litigation, Equal Protection challenges in a variety of forms, public education, and policy changes.

Our history demonstrates that we have seen sustained commitment from the criminal justice community (defenders, civil rights advocates, prosecutors, judges, and legislators) on these issues for the last quarter century. These efforts have raised the collective consciousness of stakeholders and changed the conversation in the courtroom. The Court's historic adoption of GR 37 on April 5 makes Washington the first state in the country to adopt a rule recognizing the seriousness of the problems with *Batson* and provide an alternative, and establishes us as national leaders on the back-end problem.

However, our history also shows that despite our best intentions, we've made very few other inroads against minority underrepresentation. Minority jurors continue to appear for jury service at rates far lower than their representation in our communities. One advocate I interviewed said that "our progress has been more sideways and backwards than forwards." I am hopeful that the MJC's Task Force on Jury Diversity will make forward progress on some of the front-end issues.

The Task Force, chaired by King County Superior Court Judge Steve Rosen, brings together over twenty stakeholders, including the Washington Association of Prosecuting Attorneys, the Washington Defender Association, the ACLU, several minority bar associations, and representatives from several other courts and court-related organizations. Washington Appleseed contributed a memo outlining possible tactics, and the Task Force is currently vetting each option and ranking them in order of priority. The initial goal of the Task Force is to identify pieces of the problem that have a legislative fix and draft bill language for submission in the next legislative session.

About the author: Angeline Thomas is the Executive Director of the Washington Appleseed Center for Law in the Public Interest where she works to connect volunteer attorneys with community organizations to solve pressing social justice problems in our state. Washington Appleseed has been studying jury diversity for four years and was pleased to cohost the Minority and Justice Commission's 2017 symposium: "Jury Diversity: A Hollow Promise or a Hopeful Future?" Ms. Thomas is also a voting member of the Minority and Justice Commission's Task Force on Jury Diversity and can be reached via email angeline@waappleseed.org.

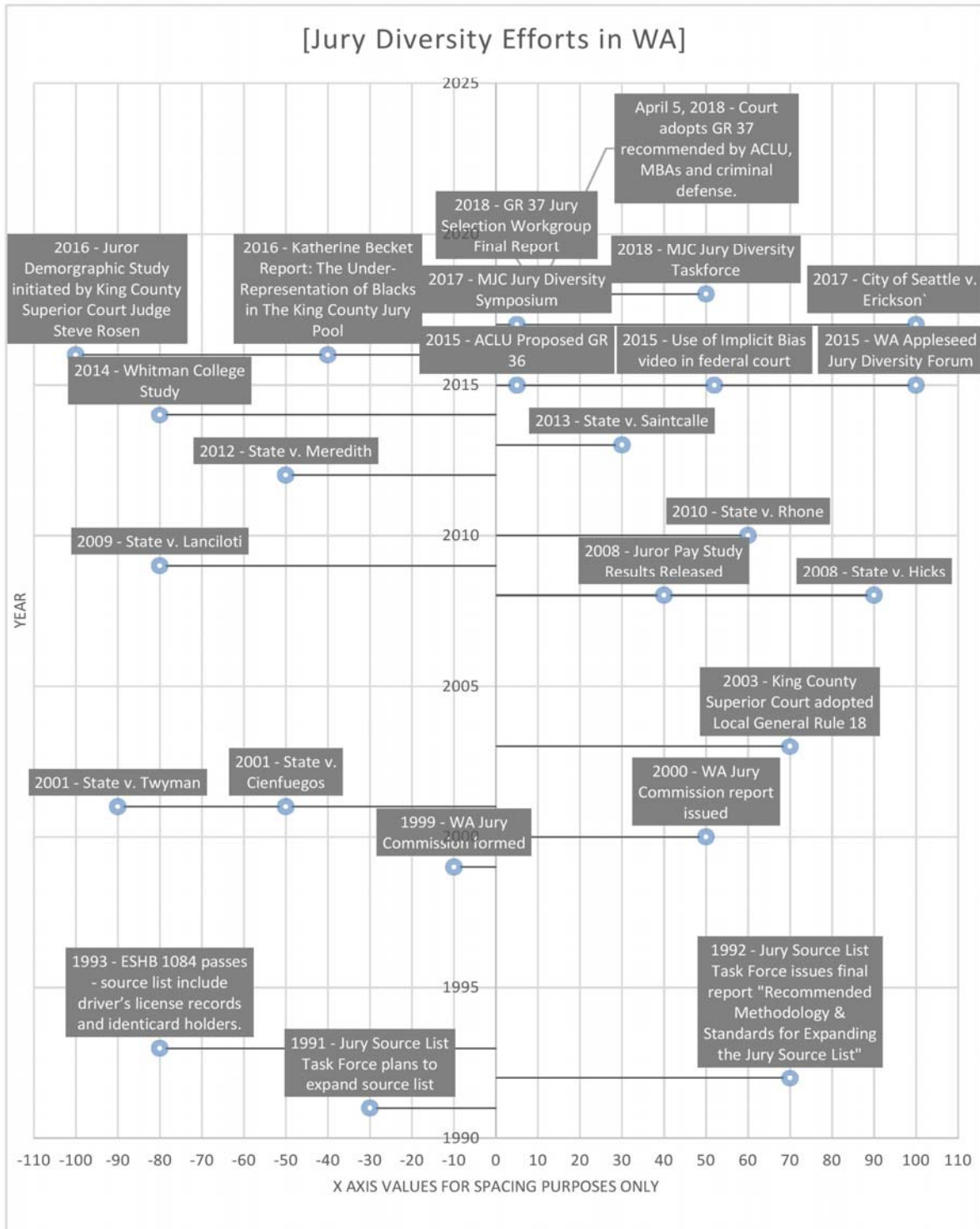
Endnotes

¹See Sommers, Samuel R., ON RACIAL DIVERSITY AND GROUP DECISION-MAKING: IDENTIFYING MULTIPLE EFFECTS OF RACIAL COMPOSITION ON JURY DELIBERATIONS. 90 *Journal of Personality and Social Psychology* 597 (2006); Sommers, Samuel R. and Phoebe C. Ellsworth, HOW MUCH DO WE REALLY KNOW ABOUT RACE AND JURIES? A REVIEW OF SOCIAL SCIENCE THEORY AND RESEARCH, 2003 *Chicago-Kent Law Review* 997 (2003); Bowers, William J., Benjamin D. Steiner, & Marla Sandy, DEATH SENTENCING IN BLACK AND WHITE: AN EMPIRICAL ANALYSIS OF THE ROLE OF JUROR RACE AND JURY RACIAL COMPOSITION, 3 *University of Pennsylvania Journal of*

Constitutional Law 171 (2001).

ⁱⁱ See e.g. Paula Hannaford-Agor, *Systemic Negligence In Jury Operations: Why The Definitions of Systemic Exclusion In Fair Cross Section Claims Must Be Expanded*, 59 Drake L. Rev. 761, 773, (Spring 2011); Stephanie Domitrovich, *Jury Source Lists and the Community's Need to Achieve Racial Balance on the Jury*, 33 Duq. L. Rev. 39, 100 (Fall 1994); Hong Tran, *Jury Diversity: Policy, legislative and legal arguments to address the lack of diversity in juries*. Defense 2013. Available at: <https://www.courts.wa.gov/subsite/mjc/docs/2017/Jury%20Diversity%20Policy%20Legislative%20and%20Legal%20Arguments.pdf>; *Justice by Lottery*, Barbara Goodwin, ISBN-13: 9781845400255; *The Art and Science of Litigation Advocacy*, Samuel R. Sommers, 1/2009; *Race and Jury Selection*, Sommers and Norton, 63 American Psychologist 527 (2008); *Affirmative Action in Jury Selection*, Fukurai and Davies, 4 Virginia Journal of Social Policy and the Law 645 (1997).

ⁱⁱⁱ For those readers less familiar with the events that make up this history, appendix A includes a short description of each event.



Appendix A - Jury Diversity History Event Explanations

1991: Jury Source List Task Force is appointed to prepare a plan to expand source list beyond registered voters to include licensed drivers and identocard holders. The task force report identified substantial implementation problems that would prevent adopting the expanded jury list.

1992: The legislature allocated \$10,000 to the Administrator for the Courts to continue the work of the Jury Source List Task Force. The final report, *Recommended Methodology & Standards for Expanding the Jury Source List*, contained a timetable for implementing the expanded system and included recommended statutory, administrative, and court rule changes to accomplish implementation.

1993: Washington state passes ESHB 1084 expanding source lists from voting records to include driver's license records and identocard holders.

1999: The Board of Judicial Administration forms a committee to "conduct a broad inquiry into the jury system and examine issues including...juror responsiveness, citizen satisfaction from jury service, adequacy of juror reimbursement, and improving juror participation in trials."

2000: WA Jury Commission issues its report listing forty-four recommendations including several items that have been identified as possible ways to expand jury diversity with a pay increase being the top priority.

2001: *State v. Twyman*, 143 Wash.2d 115 (2001). Holding a statute that allows a district court to select a jury pool from an area less than the entire county in which an offense is charged is constitutional.

State v. Cienfuegos, 144 Wash.2d 222 (2001). Held defendant's mere allegation that master jury list was not representative of minority population was insufficient to show unconstitutionality of jury selection system.

2003: In response to data that showed that lower income and racial minorities were less likely than higher income and non-minority citizens to report to a court house more distant from their home, King County Superior Court adopted Local General Rule (LGR) 18, which created two separate jury assignment areas: Seattle and Kent.

2008: In response to WA Jury Commission recommendations, the Washington State Center for Court Research conducted a juror pay study in three jurisdictions funded by a nearly \$900,000 appropriation from the legislature. The study found that increasing juror pay made little impact on jury yield or demographic representativeness. Though the report was well intentioned, the consensus among most advocates was that it was a missed opportunity given problems in the study design.

State v. Hicks, 163 Wn.2d 477, 486, 181 P.3d 831 (2008). Holding that a trial judge has discretion to determine when a peremptory challenge that removes the sole member of a protected group from the jury panel shows a discriminatory purpose.

2009: *State v. Lanciloti*, 165 Wash.2d 661 (2009) LGR 18 upheld.

2010: *State v. Rhone*, 168 Wn.2d 645, 229 P.3d 752, cert. denied, 131 S. Ct. 522 (2010) the four-vote lead opinion applied this state's established rule in *Hicks* for the first step of the *Batson* test. The four-vote dissent proposed a new bright-line rule that when the defendant objects, the State must provide a race-neutral reason for exercising a peremptory challenge against the only remaining minority member of the defendant's cognizable racial group or the only remaining minority in the venire. Chief Justice MADSEN wrote a concurrence, stating, "I agree with the lead opinion in this case. However, going forward, I agree with the rule advocated by the dissent."

2012: *State v. Meredith*, 173 Wn.2d 1031, 275 P.3d 303, 275 P.3d 303 (2012) Clarified that *Rhone* did not establish a bright-line rule and that the rule in Washington remains the rule applied in the lead opinion in *Rhone*.

2013: *State v. Saintcalle*, 178 Wn.2d 34, [309 P.3d \(2013\)](#), watershed decision where the Court recognized

that *Batson* is failing to effectively combat racial discrimination in jury selection due to its failure to recognize that “racism is often unintentional, institutional, or unconscious.”

2014: The Northwest Justice Project partnered with Whitman College to complete research on a model jury wheel for the Eastern District of WA, Sub-district B. The undergraduate report made some strides in finding Latino underrepresentation within the jurisdiction and made recommended including supplementary source lists, clarifying the English language requirement on qualification questionnaires, improving juror amenities to decrease hardship excusals, and amend U.S. law to allow non-citizens to serve on juries.

2015 – WA Appleseed hosted a Jury Diversity Forum bringing together experts and interested parties from across the state to share knowledge, discuss strategies and action items, and form collaborations to work toward increasing jury diversity. The consensus following the symposium was to focus on source list problems and economic disincentives as tactics that would have the most impact. Preemptory challenges and *Batson* issues were also discussed but were much more controversial and discarded as an area for immediate attention.

Use of Implicit Bias video in federal court began.

The American Civil Liberties Union (ACLU) proposed to the Supreme Court a new GR 36—Jury Selection. The court published the proposed rule for comment with a comment period ending April 30, 2017. During that time, the court received thirty comment letters including two letters proposing alternative rules. Also during that time, a new GR 36—Trial Court Security was adopted, therefore the court re-numbered the ACLU’s proposed new GR to 37. Based on three alternative rule proposals coming out of the comment period, the court formed a work group to consider the alternate proposals and see whether consensus about the wording of the rule could be reached.

2016 – In partnership with Seattle University Criminal Justice department, Judge Steve Rosen (King County Superior Court) conducted a jury demographic study in over 30 jurisdictions chosen for geographic diversity. Of the almost 70,000 surveys collected, 65,000 responses were used to assess demographic diversity of the jury venire. The study found that, with limited exception, racial/ethnic minority populations are underrepresented in most jurisdictions.

Katherine Becket Report: *The Under-Representation of Blacks in The King County Jury Pool* concluded that potential jurors identifying as African-American or Black, American Indian or Alaskan Native, Asian, Pacific Islander or multiracial are underrepresented in the jury venire in King County as compared to their representation in the jury-eligible population.

2017 – MJC Symposium held topic of jury diversity entitled, “A Hollow Promise or a Hopeful Future?” Professor Nina Chernoff (CUNY School of Law) gave the keynote address on why jury pools have failed to reflect the racial and ethnic makeup of their communities, why a representative jury is critical to justice, and nationwide efforts to increase jury diversity and their effectiveness. Judge Steve Rosen (King County Superior Court), Dr. Matthew Hickman (Seattle University), and Dr. Peter Collins presented the preliminary results of the statewide Jury Demographic Survey. Chris Gaddis, Pierce County Superior Court Administrator, also shared the results of a juror summons study. The program concluded with an account of the barriers to participation that a juror of color experienced and a call to action.

City of Seattle v. Erickson, 188 Wn.2d 721, 398 P.3d 1124 (2017), – created a bright line rule that striking a juror who is the only member of a cognizable racial group automatically triggers a full *Batson* analysis by the trial court.

GR 37 Jury Selection Workgroup commences work.

2018 – Following the 2017 MJC symposium, the Court appointed a task force to explore implementation of the recommendations given at the symposium with a narrow focus on fixing front end problems. The task force is chaired by Judge Steve Rosen and currently prioritizing solutions that have a legislative fix and it will likely present a package of reforms in the next legislative session.

Proposed New GR 37 Jury Selection Workgroup issued its final report and the Supreme Court on April 5 voted to adopt the version of the rule supported by six civil liberties, criminal defense, and minority Bar groups.

Endnotes

ⁱ Senate Bill Report ESHB 1084 as reported by Committee on Ways and Means (April 5, 1993) pg. 1. Available at: <http://lawfilesexxt.leg.wa.gov/biennium/1993-94/Pdf/Bill%20Reports/Senate/1084-S.SBR.pdf>.

SENATE BILL REPORT ESHB 1084 AS REPORTED BY COMMITTEE ON WAYS & MEANS, APRIL 5, 1993

ⁱⁱ Supra i at 2.

ⁱⁱⁱ *Id.*

^{iv} Washington State Jury Commission: Report to the Board for Judicial Administration (July 2000) Executive Summary iii.

^v *Id.* (Recommendations included tactics to increase summons response rates (including following up with non-responders, public education and outreach, and making improvements to the mechanics of source list development, better accommodating citizens called to jury service (i.e. juror fee increase, mileage reimbursements, providing interpreters for non-English speaking jurors etc.), and addressing the timing of Batson objections to preemptory challenges).

^{vi} Defendant failed to show that representation of minorities in jury venires was not fair and reasonable in relation to number of such persons in community or that such underrepresentation was due to systematic exclusion, and thus jury selection system did not violate Sixth Amendment, despite defendant's claim that he was prevented from making requisite showing by either trial court's refusal to give him list of potential jurors or by compilation method itself, which did not collect information about potential jurors' race.

^{vii} Declaration of Hon. Michael J. Fox, filed in *State v. Lanciloti*, King County Superior County Cause No. 07-C-06093-2 SEA at 3 on file with the author.

^{viii} Washington Center for Court Research, Juror Pay Research Project: Report to the Washington State Legislature (December 24, 2008) p. 4 (The report acknowledged that only 1 out of every 12 persons receiving a summons but not meeting their obligation was aware that juror pay had been increased due to poor advertising).

^{ix} *Rhone* at 657.

^x *Id.* at 661 (ALEXANDER, J., dissenting).

^{xi} *Id.* at 658 (MADSEN, C.J., concurring).

^{xii} See e.g. Understanding the Effects of Unconscious Bias, available at: <https://www.youtube.com/watch?v=2SgtsQEJq3A>.

^{xiii} Proposed New GR 37—Jury Selection Workgroup, Final Report. On file with the author.

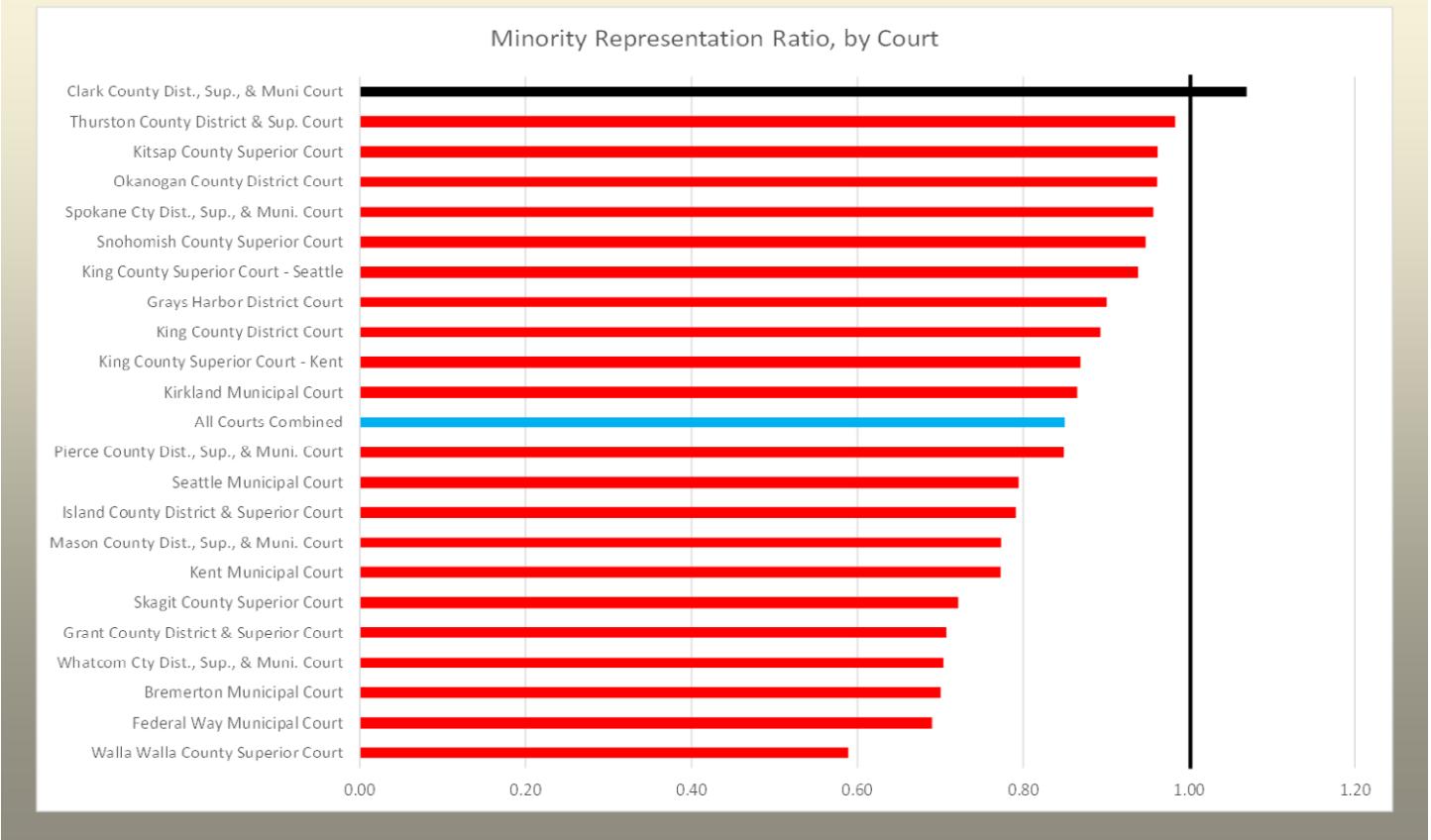
^{xiv} Katherine Beckett, *The Under-Representation of Blacks in The King County Jury Pool*. University of Washington. May 11, 2016. On file with author.

Juror Demographic Survey

In order to better understand juror demographics in Washington State, the Commission surveyed select courts across the state on the demographic makeup of the population that shows up for jury duty. Surveys were collected from 22 counties. The average total response rate of surveys collected February 2016 through February 2017 was 83.74%.

Judge Steve Rosen, Dr. Matthew Hickman, and Dr. Peter Collins presented the preliminary findings at the 2017 Minority and Justice Commission Supreme Court Symposium. The preliminary findings suggest that with limited exception, racial/ethnic minority populations are underrepresented in most jurisdictions in Washington, although there is variation among the courts in regard to representation based on racial/ethnic category. The full presentation can be found [here](#).

Minority/Non-Minority



Pretrial Reform Task Force

The Pretrial Reform Task Force first met on June 22, 2017, to outline plans for examining policies and practices regarding pretrial detention of persons charged with crimes in Washington.

The Task Force will work for approximately 18 months gathering data to formulate recommendations for expanding pretrial release. The Task Force was launched at the urging of the Washington State Superior Court Judges' Association, the District and Municipal Court Judges' Association, and the Supreme Court's Minority and Justice Commission. The Commission's 2016 Supreme Court Symposium titled "Pretrial Justice: Reducing the Rate of Incarceration," featured presentations by national experts on the increasing national trend of pretrial incarceration. The Task Force continues to meet and will present its findings and recommendations to the court community once its work is complete.

[Full Press Release](#)



Judge Sean O'Donnell, SCJA President, addressing the Task Force



LFO Stakeholder Consortium

In 2016, Washington was one of five states awarded a three-year \$500,000 grant by the U.S. Department of Justice to identify strategies "to structure criminal justice legal financial obligations in ways that support, rather than undermine, rehabilitation and successful reintegration of justice-involved individuals into communities." The grant was awarded to the Minority and Justice Commission on behalf of Washington State.

Since receiving the grant, the Commission created the Legal Financial Obligations (LFOs) Stakeholder Consortium comprised of several statewide stakeholders. The stakeholders represent different parts of the LFO system in Washington State. Members of the Consortium serve on at least one standing subcommittee and actively participate in meeting that committee's objectives. The Consortium concentrated their efforts on producing a comprehensive report looking at the local and statewide policies and practices, and on creating the LFO Calculator for judges that will assist them in making the ability to pay determinations.

In 2017, The Consortium's accomplishment included the following:

- * Reviewed the various types of Account Receivable Codes (ARs), to have a better understanding of all the types of LFOs that can be imposed by courts in Washington State.
- * Conducted a Clerk Survey and collected information regarding the \$100 LFO Collection Fee. In the survey, clerks were asked to answer questions regarding practices in assessing the fee, what would happen if the fee went away completely, and whether they were willing to share the details of their specific collection programs.
- * Requested and received data from the Administrative Office of the Courts (AOC) on several financial aspects of LFOs in Washington State. The data included LFOs imposed during calendar years 2014-2016 and the data on what payments were received on these specific LFOs, and types of adjustments made on these specific LFOs.

On June 7, 2018, the LFO Calculator was launched. The calculator was developed in partnership with Microsoft. It is a publicly available web-based tool to assist judges during sentencing when making determinations of a defendant's ability to pay LFOs. For the purpose of the grant study, the calculator is being piloted by 10 trial court judges across the state. The pilot judges volunteered for the study and represent different court levels and counties.

Color of Justice

The Washington State Minority and Justice Commission had the privilege of co-sponsoring the Color of Justice Event at Pierce County Superior Court on August 17, 2017. The program was adapted by Judge G. Helen Whitener from the National Association of Women Judges' Color of Justice Event with the goal of connecting girls from marginalized communities to female judges who can mentor and empower them. Women judges representing all court levels in Washington encouraged over 60 minority girls between the ages of 11-18 to consider legal and judicial careers. The event featured networking and empowerment panels on the law and the legal profession and why diversity and minority perspectives matter. The girls had the opportunity to hear inspirational speeches from Justice Mary Yu, Judge Linda Lee, and Judge Veronica Alicea-Galvan. The event was sponsored by: Pierce County Superior Court, National Association of Women Judges, Washington State Gender and Justice Commission, SCJA Equality & Fairness Committee, Gonzaga University School of Law, University of Washington School of Law, Seattle University School of Law, Loren Miller Bar Association, and the law firm of Miller, Nash, Graham & Dunn.



Color of Justice participants pictured with Judge G. Helen Whitener, Justice Mary Yu, Judge Veronica Alicea-Galvan, Judge Shelly Speir, and Judge Susan Serko.

Workforce Diversity

Judges of Color Reception and Directory

The Commission's third Judges of Color Reception titled, "Bridging Justice: A Judicial Reception Celebrating Diversity and Inclusion on the Bench" was held September 17, 2017, as part of the 2017 Judicial Fall Conference. Welcome remarks were provided by Judge Veronica Alicea-Galvan and Michael Diaz, Esq. on behalf of the Workforce Diversity Committee. Judge Adrienne Nelson of Multnomah County Circuit Court delivered remarks about the importance of serving as a bridge to marginalized populations as a judge of color. The reception was an opportunity to recognize and celebrate the diversity of the court bench and network with Oregon judges. The [2017 update to the Judges & Commissioners of Color Directory](#) was also released.



Washington Supreme Court Justices pictured with Oregon judges from all court levels, including the Oregon Supreme Court



BRIDGING THE GAVEL GAP:
 A DIRECTORY OF
 JUDGES AND COMMISSIONERS OF COLOR
 IN THE STATE OF WASHINGTON
 2017

Justice Charles Z. Smith Resolution

On June 1, 2017, Judge Bonnie Glenn and Judge LeRoy McCullough presented a [Resolution](#) in memory of Justice Smith to his family at the Washington State Supreme Court memorial service for Justice Smith. The TVW broadcast of the memorial service can be viewed [here](#).



Justice Charles Z. Smith Law Student Award

The Workforce Diversity Committee helped establish an award for law school students who exemplify Justice Smith's values. The award will be given annually by Seattle University School of Law, Gonzaga University School of Law, and University of Washington School of Law. The first annual Charles Z. Smith Award was awarded on February 22, 2018, at the Black Law Student Association (BLSA) Alumni Awards Reception at Seattle University School of Law. Congratulations to the recipients:



Archie Roundtree
Seattle University School of Law



Ben Asare
Gonzaga University School of Law



Nico Quintana
University of Washington School of Law

Youth and Justice Forums

The Minority and Justice Commission partners with communities across Washington State to host Youth and Justice Forums, which are day-long events held to encourage and inspire youth to consider the many different career paths in the law and justice system. The forums invite middle and high school aged youth from diverse backgrounds to learn about the work of an attorney, law enforcement officer, judge, and other justice system professionals. Throughout the day, students are led through skits or mock trials, argue fictitious fact scenarios, and hear from justice system professionals about the work that they do and their paths to the law. By the end of the day, students leave with not only a greater understanding of their rights and responsibilities as members of their communities, but also with their horizons expanded as to the many different career opportunities available in the justice system and how to seize those opportunities. Below is a list of some of the Youth and Justice Forums the Commission sponsored in 2017-2018:

Seattle Youth and Law Forum

Date: April 29, 2017

Location: First A.M.E. Church, Seattle, WA

Tri-Cities Youth and Justice Forum

Date: November 3, 2017

Location: Columbia Basin College, Pasco, WA

Yakima Youth and Justice Forum featuring the UW Law Academy: Discovering Law and Making a Difference

Date: April 20, 2018

Location: Heritage University, Toppenish, WA



Commission member Jeffrey Beaver, Esq., answering career questions during the Passport Game



Commission member Lisa Castilleja giving away trivia prizes

Education

Each year the Minority and Justice Commission sponsors a variety of innovative educational programs for judicial officers, court employees, and the public to improve the administration of justice by eliminating racism and its effects on the justice system. The following is a list of educational programs sponsored by the Commission in 2017:

Implicit Bias Training for Administrative Law Judges

The Commission supported the first mandatory implicit bias training for administrative law judges on October 30, 2017. Commission staff helped facilitate a group in Olympia at the Board for Industrial Insurance Appeals.

“Bridges for Cultural Competency” - Institute for New Court Employees

Participants discussed cultural competency and its importance to the administration of justice. Attendees identified current issues related to race, ethnicity, and culture; recognize how diversity, inclusion, and cultural competency impacts your perceptions, behaviors, and effectiveness at work; while using provided tools and skills to enhance interactions with users of the courts and with colleagues. Ms. Jessica Gurley and Ms. Laurie Tuff served as faculty.

Washington State Coalition for Language Access Summit

Commission members P. Diane Schneider, Anthony Gipe, and Judge Linda Coburn presented at the Washington State Coalition for Language Access (WASCLA) Summit in Wenatchee. They presented on the ethical and legal issues as they pertain to interpreters, specific challenges facing minority communities in the justice system, and the impact of effective interpreter services.



Commission members P. Diane Schneider, Anthony Gipe, and Judge Linda Coburn - WASCLA Summit

“Emerging Through Bias: Towards a More Fair and Equitable Courtroom” - Judicial College

Faculty discussed the differences between culture, cultural identity, and race, and what role these differences play in perception. Other topics included implicit bias and its effect on case law, integrity of the justice system, and respect for the rule of law. Judge Veronica Alicea-Galván and Judge Raquel Montoya-Lewis served as faculty.

“Beyond Balls and Strikes: Approaches to Judging in a Diverse Society” - Appellate Judges’ Spring Program

This program explored the difficulty of judging in the real world. In the first segment, faculty discussed various approaches to decision-making, using judicial opinions, scholarly writings and competing judicial philosophies. Also posing questions about how judges approach legal issues, how they become informed and what values guide their decisions. The second segment, offered two scenarios – one civil and one criminal – that tested competing approaches to judging in a diverse society. In the final segment, participants explored the judge’s role in addressing juror bias, and engaged in a mock hearing under the proposed Batson rule, GR 36. Judge Michael Trickey, Professor Robert Chang, Mr. Salvador Mungia, and Professor Anna Roberts served as faculty.

“The Problem of Juror Unconscious Bias and Possible Solutions” - Superior Court Judges’ Spring Program

This 90-minute session looked at implicit bias in the context of jury trial and jurors. Judicial officers learned about studies that have looked at the impact of implicit bias on juries and why diversity on juries matters and is successful in producing more fair outcomes. The session also went into what judges can do to facilitate voir dire and the discussion around juror’ implicit bias, with tips on what one can do during juror orientation. Judge Theresa Doyle, Judge Veronica Alicea-Galván, and Professor Anna Roberts served as faculty.

Education continued...

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“Collateral Consequences of Criminal Convictions and Criminal Actions” - Appellate Conference

Individuals and their families face wide-ranging consequences as a result of criminal convictions, including restrictions on employment, voting, travel, and access to public benefits and housing benefits. Judges impose fees and costs that can result in long term debt. Families and friends of convicted people are also affected by the consequences of the convictions. This session explored the consequences of a criminal conviction, the implementation of State v. Blazina and the new RAP 14.2 and provided an opportunity to hear from individuals who have been directly impacted. Commissioner Aurora Bearse, Ms. Kim Ambrose, and a panel of individuals with direct experience with the criminal justice system served as faculty.

“Immigration’s Impact on the Judiciary: Maintaining the Integrity of Your Courtroom” – Superior Court Administrators’ Spring Conference

This presentation reviewed the complex and mobile topic of immigration law, with an emphasis on policies to increase access to the courts for crime victims. Also included was an overview of the ways that immigration law intersects with state courts and a review of the current landscape of immigration enforcement in Washington State. Presenters addressed issues unique to immigrant crime victims, including a judicial officer’s role in U Visa Certification. Practical information on courthouse procedures were discussed, including the role of the court -appointed interpreter and procedures for scheduling interpreters which may expose immigrant litigants to immigration enforcement encounters. Finally, this session will briefly touched on new Evidence Rule 413 regarding immigration status, which took effect in September 2018. Ms. Milena Calderari-Waldron, Ms. Grace Huang, and Ms. Sara Sluszka served as faculty.

“Beyond Batson: Developing Skills to Avoid Bias Influencing Judicial Determinations” - SCJA Spring Conference

An interactive program for all judicial officers that explored and challenged the role of the judicial officer in addressing courtroom bias in a variety of judicial determinations. Participants will engaged with cultural competency experts to learn how to spot issues and impacts of bias - their own and those contained in information presented to the court - in proceedings before commissioners, at pre-trial, bench trials, jury trials and other hearings. Participants also practiced their skills by evaluating procedural options in multi-ethnic and cross-cultural hypotheticals and fact patterns. Judge Marilyn Paja, Kitsap County District Court, Sal Mungia, and Rebecca Roe served as faculty.

“Poverty Simulation DMCMA Regional Line Staff Trainings - DMCMA Regional Training”

The Commission in partnership with the Department of Commerce sponsored poverty stimulations in Burlington, Gig Harbor, and Des Moines for court staff to better understand the obstacles that those living in poverty face trying to navigate systems for services, and their role to ensure that courts are fair and accessible.

Law Student Liaison Projects

“Sanctuary Cities, DACA, and Immigrants’ Rights,” at Gonzaga Law.

On February 27, 2018, the Minority and Justice Commission sponsored a panel presentation on “Sanctuary Cities, DACA, and Immigrants’ Rights” at Gonzaga University School of Law. The four Gonzaga student liaisons to the MJC who put on this panel included Rina Bozeman, Peter Gale, Briana Ortega, and Sather Gowdy.

The panel consisted of four speakers, each addressing topics of concern in immigrant communities and the role of lawyers in addressing those concerns. Professor Megan Ballard set the stage by providing a brief overview of the Immigration and Nationalization Act. Spokane City Council Member Breean Beggs followed with a discussion of “sanctuary cities” and their effect on federal and states’ rights. After Beggs, immigration attorney Vanessa Mathisen-Nelson discussed the work of World Relief Spokane. Vanessa Montoya, a legal advocate at Northwest Immigrant Rights Project, spoke about DACA, the practical implications of the Trump Administration’s decision to end the program, and next steps for current DACA recipients.

“Immigration Issues in Civil, Criminal, and Administrative Proceedings,” at Seattle University Law School

On February 28th, 2018, the “Immigration Issues in Civil, Criminal, and Administrative Proceedings” panel explored how courts deal with one’s immigration status in handling and resolving cases. The panel featured a diverse array of speakers representing different sectors of the Washington state justice system, from government, attorneys to private and public interest. Attorneys shared both professional experiences as well as personal insights, and educated guests on the impact of immigration today.

“Just for Kids: A Two-Panel Discussion on the Challenges and Opportunities for Juvenile Justice in Washington”

On April 12th the Minority and Justice Commission UW Student Liaisons hosted a panel of professionals and legal practitioners who work in juvenile justice in Western Washington. The practitioner panel included:



Judge J. Wesley Saint Clair, King County Superior Court
Jimmy Hung, King County Prosecutors Office
Elizabeth Mustin, Snohomish County Public Defender Association
Domonique Davis, CEO and Co-Founder of Community Passageways

A panel of local youth affiliated with Community Passageways—a Seattle non-profit promoting restorative juvenile justice also presented their perspectives on the Juvenile Justice System. Over a dozen youth were eager to participate on the panel. Each panel lasted approximately 1

hour and included an opportunity for questions generated from the audience.

The practitioner panel moderator, Professor Kim Ambrose, gave an overview of juvenile justice in Washington through current data. This helped to further focus the panel’s discussion and acclimate the audience to some of the challenges facing youth, and particularly youth of color, in the juvenile justice system today.

Each panel was able to touch on numerous issues relating to juvenile justice including the experience and effectiveness of incarceration, strategies for helping young defendants navigate the justice system, and efforts to promote reconciliation in the community. The youth panel in particular was able to provide a background to these discussions. They candidly shared their interactions with the juvenile justice system.



Tribal State Court Consortium

The Tribal State Court Consortium (TSCC) is a collaboration of the Minority and Justice Commission, Gender and Justice Commission, Administrative Office of the Courts, and tribal courts across Washington State. Created in 2013, TSCC aims to expand and increase communication and cooperation between state and tribal court judicial officers. TSCC provides an open, transparent forum where state and tribal court judicial officers can come together and discuss jurisdictional issues, gaps in services, and ways to develop lasting partnerships.

The TSCC held a regional meeting on July 21, 2017 at the Colville Tribal Government Center. Approximately 30 individuals representing tribal courts in eastern Washington and state courts were in attendance to discuss cross-jurisdictional issues and the ways that they can be addressed. Judge B.J. Jones, Director of the Tribal Judicial Institute, gave a keynote presentation on the value of tribal state court consortia. Chief Justice Anita Dupris (Colville Tribal Court of Appeals) and Judge Sophie Nomee (Colville Tribal Court) gave a guided tour of their courthouses and shared information about the practices of their respective courts.



Juvenile Justice

School Discipline Series - Eliminating the Pipeline: Transforming Juvenile Justice and School Discipline

The Minority and Justice Commission partnered with the Equity in Education Coalition to put on a free, four-part, professional training series for teachers, school administrators, judges, and court personnel that touched on different pieces that make up the “school to prison pipeline.” The trainings were held at the Tukwila Community Center from April 2017 to April 2018.

The goal of the series was to bring focus to improving the education experience for students of color. To decrease the number of children of color confined in juvenile justice, and focusing on ways that our schools carry out student discipline. Below is a list of the four trainings:

June 9, 2017 - The second workshop of their Eliminating the School-to-Prison Pipeline Series was on the topic of Early Learning and Discipline. The guest speaker was Dr. Debra Ren-Etta Sullivan. Dr. Sullivan serves as the President of the Seattle Affiliate of the National Black Child Development Institute.

August 14, 2017 - The third workshop was on the topic of the history of school discipline and how it is different from today. Guest speakers included Judge Nicole Gaines Phelps, King County Superior Court; Dr. Third Andersen, University of Washington; and Attorney Jamila Taylor, NW Justice Project.

November 9, 2017 - The fourth workshop focused on the policies that create the current discipline structure in schools. Approximately 40 educators, parents, attorneys, and court staff discussed the new proposed OSPI school discipline rules and their impact on students and communities of color. Panelists included: Hali Ali-EI (parent and community advocate), Paul Alig (Managing Attorney, Teamchild Pierce County), Tymmony Keegan (educator, Rental School District), Joshua Lynch (Program Supervisor, OSPI), Rogelio Rigor (educator, Seattle Public Schools), and Paulette Thompson (public school educator).

March 15, 2018 - The final workshop focused on how students become court-involved from schools, the role the courts play in the school-to-prison pipeline, and what courts are doing or should be doing to dismantle the pipeline. Panelist included Judge Wesley Saint Clair, King County Superior Court, Samaneh (Sammie) Alizadeh, King County Prosecutor’s Office, Willard Jimerson, Credible Messenger, Richard Devenport, Team Child, and Maria Marshall, mother and community member.



Commission Awarded the William Nevins Award

The Washington State Minority and Justice Commission received the 2017 William Nevins Award for its years of work educating youth and adults across the state on the role of the judicial branch, the need for diversity in the legal profession, details on legal careers, and for the Commission's educational outreach to under-represented populations.

The award was announced by the Washington Judges Foundation, which presents the honor annually to a person or organization that contributes significantly to youth education or public understanding of the law and the role of the judiciary in American society. The Washington Judges Foundation was created in 1999 with the help of a \$50,000 bequest from the estate of Lincoln County Superior Court Judge William Nevins. The Foundation provides financial support of statewide youth-and-justice programs such as Mock Trial, Youth Court, We The People and more.

The Washington State Minority and Justice Commission was nominated for the award by King County Superior Court Judge LeRoy McCullough for its years of hosting Youth and Justice Forums for middle and high school students in the Tri-Cities, and now in Yakima and Spokane. The forums bring together students and justice professionals — judges, attorneys, police officers, probation officers and more — for day-long discussions and demonstrations aimed at demystifying the justice system, explaining rights and responsibilities, and encouraging young people to think about legal professions. [Full Press Release](#)



Justice Mary Yu, Commission staff Carolyn Cole, Judge LeRoy McCullough, and Justice Charles Johnson accepting the William Nevins Award on the Commission's behalf



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