



## Gender and Justice Commission (GJCOM)

Friday, January 13, 2012 (8:45 a.m. – 12:30 p.m.)

AOC - SeaTac, 18000 International Blvd, Seattle WA

### MEETING NOTES

#### Members Present

Chair, Chief Justice Barbara Madsen	Ms. Emily Henry	Ms. Leslie Owens
Vice-Chair, Judge Alicia Nakata	Dr. Margaret Hobart	Judge Ann Schindler
Judge Stephen E. Brown	Judge Cynthia Jordan	Honorable Jane Smith
Judge Vickie Churchill	Ms. Judith Lonnquist	Mr. David Ward
Ms. Laura Contreras	Professor Natasha Martin	Judge Chris Wickham
Judge Joan DuBuque	Ms. Emily McClory	Myra Downing, Staff
Honorable Ruth Gordon	Mr. Ron Miles	Pam Dittman, Staff

**Members Absent:** Ms. Barbara Carr      Judge Craig Matheson  
Ms. Jennie Laird      Mr. Bernie Ryan

The meeting was called to order by Chief Justice Madsen. The November 4, 2011, meeting notes were approved with one minor change.

#### COMMISSION BUSINESS

##### • STAFF REPORT

- The 2008-2010 Commission Report was published in December. Printed versions were sent to members, State Legislators, Supreme Court members, and made available on the Commission's website.
- A report was sent to the Legislature providing the statewide guidelines for reducing the number of conflicting no contact and protection orders as required by HB 2777.
- The SJI Grant was extended to June 30, 2012. The Grant is paying for the development of two bench guides on immigration; criminal and civil. It will also pay for two webinars on the same topic.
- Proposals for annual conference are due Tuesday, January 17. Topics suggested were military in the courts and programs exploring domestic violence issues.
- STOP Grant funds for \$125,000 are pending. The funds are used to partially pay for staff support, court programs, and to assist jurisdictions with coordinating councils and implementing guidelines outlined in the Conflicting Orders Report. In addition, Thurston County will be submitting a request to pay for a regional domestic violence program.

**ACTION:** Myra will draft language explaining the requirements for accessing technical assistance from the Commission and how to develop a budget for jurisdictions requesting assistance with coordinating councils and implementing guidelines. Commission members will review prior to the next meeting.

- The seminar, Intimidating a Witness, is scheduled for February 14, 12:15 p.m. The webinar is one of three paid for by STOP Grant funds and developed as a part of the King County Superior Court program focusing on issues of DV.

- The Commission will be offering “In Her Shoes” training for the District and Municipal Court staff in six locations. This will be funded through the STOP grant program. There will be two parts: dynamics of domestic violence educational program and the simulation exercise. Dates are:
  - April 12 – Gig Harbor
  - April 13 – Thurston County
  - April 19 – Lake Forest Park
  - April 25 – Ellensburg
  - April 26 – Pasco
  - April 27 – Spokane

**ACTION:** GJCOM members who would like to facilitate “In Her Shoes,” please contact Myra for information.

- **CHIEF REPORT**

- **Boards and Commissions**

- There is a proposal being considered that would provide for a team to staff both the Minority and Justice Commission (MJC) and Gender and Justice Commission (GJCOM). It is proposed that Myra Downing would be the lead staff for both Commissions. The team would be comprised of existing AOC staff and resources, including some additional assistance with media and outreach. This would provide the opportunity for crossover and collaboration efforts between the two Commissions. Two areas mentioned in the discussion were:
      - Myra’s continued support of GJCOM and what it will mean for GJCOM members with her time divided between two Commissions.
      - Identification of cross-over issues between GJCOM and MJC.

**ACTION:** A proposal will be submitted for Fall Conference regarding cultural considerations in court cases.

- **Plain Language Forms**

- Washington State Bar Association (WSBA) provided a \$75,000 grant to the Access to Justice Board to work on plain language of forms. Forms need to be legally correct but also need to be understandable to the lay person. Suggestions ranging from having the plain language on the front page with all the statutory language included at the end of the forms to being on the list of reviewers were mentioned.
  - The forms being developed include residential placement when domestic violence is alleged, dissolution forms, family law, and intersection of domestic violence. Commission members discussed concerns about how to ensure that plain language forms will meet the requirements of the associated statute while simplifying the language in the forms.

**ACTION:** DV Committee will discuss whether there is a role they can play in the development and/or reviewing of these forms.

- **Officer-involved DV Policies**

- A newspaper article from Wisconsin discusses officer-involved domestic violence and the need for police department policies. A reporter contacted the Chief to discuss the policies that were put into place after the Brame murder in 2003.

**ACTION:** The Incarcerated Women and Girls Committee will follow up with law enforcement agencies to determine whether all agencies have instituted policies and if they are training on the policies.

- **Initiative for Diversity Governing Council (IDGC)**

Two events are planned. One event is a breakfast with corporate counsels in the Seattle area. Chief Justice Madsen and other members of the IDGC Executive Team will explain IDGC and seek commitments from those present in terms of diversifying their work force.

- **Court Rule on Pro Se Defendants**

There is consideration of developing a Court Rule regarding Pro Se Defendants cross examining the alleged victim in DV and sexual assault cases and what protocols should be in place to control defendant conduct.

**ACTION:** Request that managing pro-se litigants and defendants in the courtroom be addressed at Fall Conference. David Ward agreed to look into case law on the subject.

## **COMMITTEE REPORTS AND PROJECTS**

- **Mission Statement**

- There has been discussion about the current mission statement. An article titled "How to Write a Mission Statement" was distributed followed by discussion among members. Two main points surfaced:
  - The statement should be compelling and inspiring.
  - The statement should distinguish between equality and equity.

**ACTION:** Other mission statements will be reviewed. Ron Miles will take the lead on crafting a survey that will be distributed to Commission members. The purpose of the survey will be to determine what Commission members believe is our mission.

- **Incarcerated Women and Girls**

- This committee had its first conference call to develop a work plan for a proposal this year which was shared with the Commission. Commission members recommended that the committee design a project to assist incarcerated people in their interactions with the courts such as: consequences of convictions on housing; licenses; Medicare; employment; reunification with children (legal assistance); or how to expunge or vacate a record of conviction.

**ACTION:** The Incarcerated Women and Girls Committee will present their action plan to the Commission in March. They will also follow up to see the progress on compliance with shackling legislation and protocols.

- **Immigration**

- The Immigration Committee shared with Commission members that they believed they had one project left. They recommend the Commission reconsider the need for this committee and whether the MJC should take over primary responsibility for this subject. The one project they would like to finish is a webinar on UVisas.

**ACTION:** Follow-up with MJC on a collaborative training and education proposal for 2013 Fall Conference on immigration.

- **Legal Equality**

The annual judicial officer/law student reception will be held on Thursday, April 12, at the O'Asian Restaurant. The National Association of Women Judges will offer a \$1,000 scholarship. Judith Lonnquist indicated her association (WSAJ) would provide some financial support for the event.

- **Legislation**

Following is information on bills of interest to the Commission.

**Domestic Violence, Sexual Assault, Stalking**

**HB 2325 – Requiring courts to consider evidence of domestic violence when ordering maintenance**

Provides that “when determining whether and to what extent maintenance is just, the court shall also consider any documented evidence of any history of domestic violence, as defined in RCW 26.50.010, between the parties, including whether the party seeking maintenance committed acts of domestic violence against the party from whom maintenance is sought.”

**HB 2363 – Protecting victims of domestic violence and harassment**

This bill has been the topic of discussion on several conference calls and Ruth Gordon continues to attend Representative Goodman's meetings regarding this bill. This bill is the product of Rep. Goodman's DV workgroup and includes these provisions:

- Increases the confidentiality of DV victims in family law proceedings and in seeking confidential name changes;
- Makes it a gross misdemeanor to willfully violate a no-contact order for crimes involving harassment;
- Authorizes courts to extend no-contact orders for DV crimes even if defendant fails to appear at arraignment;
- Requires DV no-contact orders issued prior to charging to be entered into criminal intelligence information system;
- Requires violators of anti-harassment petitions to appear in court the next judicial day after arrest;
- Authorizes courts to reissue no-contact orders in DV cases that were terminated at the victim's request, if there has been a substantial change in circumstances;
- Protects confidentiality of communications or documents shared within or produced by domestic violence fatality review panels;

- Directs the Washington State Institute for Public Policy (WSIPP) to conduct a statewide study to assess recidivism by domestic violence offenders and assess domestic violence perpetrator treatment, subject to provision of funding.

**HB 2385 – Concerning the disclosure of information of an address confidentiality participant contained in state registered domestic partnership applications and records**

Creates procedures for Address Confidentiality Program participants to prevent their names and addresses from being disclosed as a result of registering as domestic partners.

**SB 5971 – Modifying requirements for certain mandatory reporters of child abuse and neglect**

Comment was the bill subjects more people to criminal penalties as it expands the number of people who can report thus expanding the number of people who can be charged.

The Committee will hear substitute version of this bill, which is not available online as of last night. Bill report indicates that the legislation would require mandatory reporting of child abuse and neglect by persons in an “official supervisory capacity” for most organizations and entities; define the term “sexual misconduct” under mandatory reporting statute; and make technical corrections.

**SB 5991 – Extending mandatory child abuse reporting requirements to specified employees of institutions of higher education.**

Penn State bill. Expands mandatory reporting requirements for public and private university employees, including university athletic departments; requires universities to make employees aware of reporting requirements.

**SB 6100 – Updating the administration of the sexual assault grant program**

Makes numerous changes to clarify and update the sexual assault grant program by Department of Commerce. Many changes are technical or update terms. Some other provisions:

- Requires grantees to utilize private insurance and crime victim compensation first before using grant funds for therapy services.
- Eliminates requirement that a peer review committee advise department on grants.
- Requires department to seek funding from federal or other sources and to make every effort to qualify for federal funding.
- Expands definition of sexual assault to instead sexual exploitation or commercial sex abuse of a minor promoting prostitution, and trafficking.

***Expected soon – Anti-stalking protection order bill***

The bill would establish a new civil protection order for victims of stalking, to apply in cases where stalking is not committed by a family member or intimate partner (i.e, stalking by strangers or other instances where stalking would not support a domestic violence protection order).

Concerns were raised on this bill: it would establish another protection order; training will be required; questions regarding enforcement. A suggestion was made to simply add stalking as another designation under RCW 26.50 thru expanding the definition.

### **Family Law**

#### **HB 2193 – Concerning third-party visitation**

Seeks to establish a constitutional third-party visitation statute in Washington. Would permit persons with a substantial relationship with a child to petition for visitation, subject to many restrictions and requirements.

#### **HB 2279 – Implementing changes to child support based on the child support schedule work group report**

Would implement recommendations of the child support workgroup, including changes to the economic table, treatment of children not before the court, residential credits, and post-secondary support.

#### **HB 2392 – Regarding Shared Parenting Responsibility**

Would create a presumption that shared parenting (defined as each parent having at least 1/3 of residential time) is in the best interest of the child, unless the parties agree otherwise. Presumption could be rebutted by showing shared parenting would result in actual detriment to child.

#### **HB 2137 – Addressing the transportation and storage of firearms and ammunition in privately owned motor vehicles.**

This was referred to GJCOM from a former Commission member. We will continue to monitor. Would make it unlawful for employers or businesses to prohibit employees or patrons from having firearms or ammunition in a privately-owned motor vehicle on the business's property, as long the person complies with all other laws and the firearms/ammunition are locked out of sight in a trunk, glove box, or other enclosed compartment.

#### **HB 2196 – Adopting the Uniform Collaborative Law Act**

GJCOM expressed concern about this bill in several areas. Commission members will relay concerns to the DMCJA and SCJA Legislative Committees. In particular, concerns are that the bill adversely impacts those with less economic strength in the relationship, causes a disparate impact based on gender, and would be very expensive if the parties were unable to reach agreement because they would be required to restart the process with new lawyers.

Would establish uniform standards for practice of collaborative law in Washington. The bill includes provisions requiring collaborative law attorneys to screen for domestic violence and restricts use of collaborative law in cases involving DV survivors without a survivor's informed consent. Washington State Coalition Against DV supported the bill with a minor amendment to protect privilege. WSBA opposes adoption of many provisions of the bill because it believes that many provisions affect the practice of law and conflict with Rules of Professional Conduct (and therefore should be dealt with by court rule rather than statute). The Judiciary Committee passed the bill to keep it moving through the process, but will continue to have discussions about adopting some provisions by rule rather than statute.

**HB 2323 – Concerning the protection of young adults involved in the commercial sale of sex**

Would impose higher monetary penalties for persons convicted or plead guilty to engaging in commercial sexual activities with a person under the age of 21.

**SB 6095 – Making technical corrections to gender-based terms**

Committee: Labor and Commerce & Consumer Protection hearing scheduled January 16. Continues the multi-session process of eliminating gender-based terms in the Revised Code of Washington.

***Expected soon – Marriage Equality bill***

Would extend civil marriage to same-sex couples.

- **Proof of Concept**

- The Proof of Concept project was funded through a Federal Grant. The project is designed to test the feasibility of a model on allowing judicial officers to see the images of orders. The Commission received \$50,000 to do this project. The original contractor has backed out of the project. Other options are now being explored.

- **Concealed Pistol License**

- The project to expedite the transfer of information pertaining to concealed pistol licenses has made some progress. AOC figured out a technical fix that allows for a nightly transfer to DOL of information when the license is revoked. The problem still remains when the party is ordered to “surrender” the license. Transferring this information may not be the best use of time since the person may get it back. Also, some decision would have to be made regarding who would store the license and make it available to be returned.

Meeting adjourned at 12:45.