



Gender and Justice Commission
Friday, March 12, 2021
9:30 AM – 12 PM
Zoom Webconference



MEETING NOTES

Members & Liaisons Present

Justice Sheryl Gordon McCloud (Co-Chair)
 Judge Marilyn Paja (Co-Chair)
 Dua Abudiab
 Judge Anita Crawford-Willis
 Chief Judge Michelle Demmert
 Brielle Douglas (GU)
 Laura Edmonston
 Judge Rebecca Glasgow
 Kelly Harris
 Lillian Hawkins
 Elizabeth Hendren
 Ivy Rose Kramer (L&C)
 Commissioner Jonathon Lack
 Judge Eric Lucas
 Erin Moody
 Sal Mungia
 Dr. Dana Raigrodski
 Jennifer Ritchie
 Barbara Serrano
 Chief Judge Cindy Smith
 Olivia Shangrow (SU)
 Judge Jackie Shea-Brown
 Vicky Vreeland

Members & Liaisons Absent

Lucy Bauer (UW)
 Honorable Melissa Beaton
 Professor Gail Hammer
 Ali Johnson (UW)
 Riddhi Mukhopadhyay
 Bailey Reese (GU)
 Commissioner Sonia Rodriguez True

Guests

Judge Barbara Mack
 Rob Mead
 Marla Zink

Staff

Kelley Amburgey-Richardson
 Cynthia Delostrinos
 Moriah Freed
 Sierra Rotakhina

WELCOME AND INITIAL BUSINESS

Welcome and Call to Order

The meeting was called to order at approximately 9:30 AM.

- Justice Gordon McCloud welcomed everyone and called roll.
- Justice Gordon McCloud recognized Marla Zink and Judge Barbara Mack, who will be presenting at today's meeting.

January 22, 2022 Meeting Minutes

The meeting minutes were approved with modification.

Supreme Court Symposium Planning Update – Elizabeth Hendren and Marla Zink**Symposium Overview**

- Elizabeth Hendren and Marla Zink are representing GJC on the Symposium planning committee, coordinated by the Minority and Justice Commission. They have undertaken considerable work over the past year plus to develop the program for this important event.
- The title of the symposium is *Behind Bars: The Increased Incarceration of Women and Girls of Color*. GJC was asked to co-sponsor in 2020, and the event is now scheduled virtually via Zoom for June 2, 2021.
- The focus of the event will be on Washington. The number of women being incarcerated in Washington has been static or increasing over the past 10 years, with disproportionate impact on Black and Indigenous women. Will be providing firsthand accounts, data, and recommendations.
- There will be three panels:
 1. Status and number of girls incarcerated in Washington. Dr. Tatiana Masters and Dr. Amanda Gilman will present. There will be a section on a sexual orientation survey and they are hopeful to have a speaker specifically on trans issues.
 2. Pathways to incarceration. Policing, pretrial decisions, and social conditions that lead to incarceration of women.
 3. Conditions of confinement and collateral consequences. Parenting issues both in and after prison. Being in prison during COVID, fighting dependency and termination cases while incarcerated, and reentry issues. Will have individuals with lived experience present.
- The keynote speaker will be Angela Davis.
- A bench book will be compiled for follow-up education.

Discussion

- DOC recently changed its policy on where transgender prisoners are incarcerated.
 - Elizabeth Hendren informed the Commission that Disability Rights Washington, particularly Danny Waxwing, pushed for policy change. DRW put out an FAQ this week.
 - There is misinformation and mishandling of the topic.
 - Transphobic rhetoric has been circulated by DOC staff that is damaging to women currently housed at the facility and newly transferred prisoners. This has created a hostile situation for the trans women.
 - Justice Gordon McCloud noted that Secretary Sinclair sends a delegate to the GJ Study Advisory Committee meetings. Feel free to reach out if this can be raised at the next meeting.
- Judge Paja suggested that trans issues should be considered as a potential topic when planning the next Women's Conference at Mission Creek.

Law Student Liaison Virtual Event – Ivy-Rose Kramer

Event Planning

- Ivy-Rose Kramer is GJC’s law student liaison from Lewis and Clark Law School. She has worked with the other liaisons to develop a plan for a virtual event to foster a connection with the Commission in lieu of the usual in-person networking reception.
- They have put together a proposal for a lunchtime virtual event that would have multiple breakout rooms on various gender-related topics. She is looking for GJC members to volunteer for topics.
- The general structure of the event is as follows:
 - Main discussion room for 15-20 minutes.
 - Breakout room discussions. A survey was sent to students to see what types of breakout rooms they would like. The following were the top 3 topics:
 - Intersectionality, identity in the workplace
 - Uncomfortable moments – navigating micro aggressions and unprofessional conduct
 - Negotiating a salary
- The event would take place on April 9 or April 12-17 over the lunch hour, subject to availability of Commission member volunteers.
- Seattle University has a new gender-nonconforming students group they will also reach out to.

Discussion

- Suggestion to consider doing two lunch hours in a row because judges usually only have an hour. That way people could attend more than one session. One session could be introduction, and another could be breakout rooms.
- Judge Rebecca Glasgow noted that Washington Women Lawyers did a program on salary negotiations a few years ago. They are very responsive to inquiries if contacted. Might be worth having an expert from a non-legal field.
- Commissioner Jonathon Lack volunteered to help.

ACTION: Ivy-Rose Kramer will send an event summary to Kelley Amburgey-Richardson to disseminate to Commission and Committee members to gather volunteers and decide on a date.

Legislative Update on E2SHB 1320 - Judge Marilyn Paja, Chief Judge Cindy K. Smith, Chief Judge Michelle Demmert, Kelley Amburgey-Richardson

Status of Bill

- Judge Marilyn Paja provided a status update and background on E2SHB 1320. The bill has passed the House and is now in the Senate.
 - Over the summer, there was a large workgroup that met to look at the issue of creating a single petition for all protection orders, under the guidance of Judge Anne Levinson, ret. Riddhi Mukhopadhyay, Elizabeth Hendren, and others were involved. The workgroup came up with a proposal that required going through each individual statute

to mix and match them where changes needed be made – commonalities, fees, language, etc. Produced a document of suggested changes.

- The bill was nearly 300 pages long. Made substantial changes that provide greater access to the petitioner. Looked at various technology issues to gauge how courts could communicate with each other more easily.
- Chief Justice González communicated to the judicial branch that the bill is an access to justice issue.
- GJC supports the improvements to access to justice the bill would provide. There a few specific provisions the Commission is not taking a position on due to issues that may come before the Supreme Court.
- GJC is named in the bill to convene work on several protection order issues and is supportive of leading that work.
- Chief Judge Cindy Smith and Chief Judge Michelle Demmert met with Judge Anne Levinson and others to discuss Tribal protection order issues and gaps. A proposed amendment has been added to the bill in the Senate.
- Chief Judge Cindy Smith added that currently some tribes that participate in the Tribal Access Program (TAP) have access to enter their court data to the National Crime Information Center (NCIC). However, neither NCIC nor the National Instant Criminal Background Check System (NICS) talk to the state Judicial Information System (JIS) in WA. Orders have to be entered twice.
- Chief Judge Michelle Demmert shared:
 - TAP provides direct access to tribes to enter own criminal/civil data into NCIC and NICS.
 - Has been working with DOJ to figure out data gap where judges cannot see POs. State system does not show federal data inputted by tribes.
 - There are data sovereignty issues. Tribes should not have to rely on state to input information into state system.
 - Was excited for this bill because it was an opportunity to close this gap. Federal issues don't just impact tribal POs, could also be military, etc.
 - Current bill has GJC named to make recommendations to legislature and the courts on how to close this gap. Want to ensure we make the best decision possible.
- DMCJA and SCJA are opposing immediate implementation of the bill due to funding concerns. Not speaking with one voice from judicial branch on this bill.
- The first hearing in the Senate is 3/16.
 - Judge Marilyn Paja will be testifying in general support on behalf of GJC.
 - Chief Judge Michelle Demmert will be testifying in support on behalf of Tulalip tribes.

GENDER JUSTICE STUDY

Presentation and Discussion of Topics 2.8 and 2.11 – Dr. Dana Raigrodski and Judge Barbara Mack (ret.)

Presentation

- Dr. Raigrodski introduced the sections. The authors are seeking feedback on the following questions:

- Are we striking the right balance with comprehensive, data-based, evidence-based analysis?
- What are we missing?
- Dr. Raigrodski and Judge Mack provided an overview of how they approached the section.
 - Perception that most people exploited are women and girls. That is the case, but we are starting to identify and recognize how many boys and young men are involved, and the invisibility of these populations.
 - Gender-based violence is often perceived as violence against women, but that is not always the case. This section tries to convey that nuance and complexity.
 - Sections covering youth and adults have been combined because all are on a spectrum of exploitation and gender-based violence.
 - Language has been challenging they welcome input.
 - Want to highlight harm and significant disparate impact on Black, Indigenous, and people of color.
 - Washington has made great strides, such as changes to arrest policies, however application is inconsistent across the state. The legislature has also passed statutory changes.
 - Washington data shows that buyers tend to be white, educated, economically stable men. Many mandatory fines and fees are being left on the table.
 - Co-occurring crimes make individuals vulnerable to the criminal justice system.
 - Promising approaches include the Kitsap County diversion court and girls' court.
- This section makes the following recommendations:
 - Improve data collection and coordination.
 - Decriminalize people selling sex, but keep criminalization of buyers and sellers.
 - Expand diversion and other legal system responses.
 - Increase judicial education.

Discussion

- Chief Judge Smith noted WomenSpirit Coalition might have some evidence from the field to share with the study about Native communities.
- Judge Mack highlighted that the data issue is a barrier to agencies, private organizations, and law enforcement to know what we're dealing with. A state, local, and federal problem.
- Chief Judge Demmert noted that data is an issue across so many platforms, not just trafficking, but protection orders and other areas as well. When we have missing or runaway children, response is dismissive. This doesn't take into account historical trauma.
 - [Minnesota Indian Women's Sexual Assault Coalition](#) has done some studies on trafficking in Native communities and also conduct a bi-annual training.
 - [Innovations Human Trafficking Collaborative](#) (Director Jeri Moomaw) is another contact.
- Chief Judge Demmert recommends a multi-jurisdictional approach because of database issues.
- Dr. Raigrodski noted that COVID impacts need to be integrated into the report. Reporting has gone down, especially re: children but CSEC gone up due to exploitation by family members. As economic pressures have increased, this has pushed some youth into sex work.
- Judge Paja suggested including some headlines that jump out and grab you visually on the pages of the report. This affects real people.

- Dr. Raigrodski posed questions about the recommendations: What manner do we make the recommendations? Should we be making targeted recommendations to the legislature, or is that overstepping? Should we recommend decriminalization for adults? Are we setting the right tone? Are the recommendations suitable?
 - Discussion about the recommendation to enforce mandatory fines and fees, civil forfeiture, for buyers
 - Justice Gordon McCloud noted that we have tried to oppose fines and fees that disproportionately impact low income and people of color.
 - Judge Mack shared that buyer data for child sexual exploitation shows that buyers are economically advantaged. Fines and fees help pay for services to arrest perpetrators and serve the victims.
 - Diversion programs need prosecutor approval. Would another consideration for a recommendation to remove the prosecutorial approval for diversion programs?
 - Erin Moody expressed concerns with the conflation of trafficking and participation in the commercial sex industry on the “buyer” side. This is an oversimplification, and the resulting imposition of fees has ramifications for families and individuals.
 - Kelly Harris shared about the prosecution approach in King County and Seattle.
 - Has focused on the demand side. In Seattle there hasn’t been a prosecution of an exploited person in years.
 - Members discussed issues with the Law Enforcement Assisted Diversion (LEAD) model
 - Relies on law enforcement directing people towards services.
 - Go after the buyer, get the victim to help convict them as a way to manipulate them into getting services.
 - Forces people through a criminal justice process rather than empowering them to get services on their own.

ACTION: Chief Judge Demmert will provide information on trafficking in native communities to Sierra Rotakhina and Dr. Raigrodski.

ACTION: Members should provide comments and feedback on sections 2.8 and 2.11 to Dr. Raigrodski, Judge Mack, and Sierra Rotakhina.

Discussion of Draft Study Recommendations – Justice Sheryl Gordon McCloud, Dr. Dana Raigrodski, Sierra Rotakhina

- Study research has reached a point where topic leads have developed recommendations for many of the sections.
- Commissioner feedback on the recommendations is very important, as this will be a Commission report that guides our work for years to come.
- Pg. 62 of the packet contains draft recommendations. Recommendations range from practical to aspirational, to somewhere in between.
- The 1989 study recommendations were detailed and directed at certain entities. It was difficult to discern which recommendations were accomplished.

- Rob Mead noted that if the recommendations are not measurable, it is hard to know if the recommendation had any benefits. He suggested using the SMART (specific, measurable, attainable, relevant, time-bound) framework for developing the recommendations.
- Justice Gordon McCloud noted that a big overarching concern is that we lack data.
 - For the areas where we've identified problems, we can craft smart, attainable recommendations.
 - More trouble figuring out smart, measurable recommendations for issues such as childcare so women and other caregivers may attend court.
 - Judge Mack noted that consent to collecting data is a big issue. Need to protect the person whose data is being collected.
 - Judge Lucas thinks it is important to prioritize recommendations that causally solve problems.
 - Chief Judge Smith likes the idea of grouping the recommendations by priority or urgency.
- The recommendations will serve as a guiding force for the Committees of the Gender & Justice Commission.
- Justice Gordon McCloud asked Commission and Committee members to look at the recommendation chart and evaluate.
- Dr. Raigrodski added that if there are particular sections that you have time to provide feedback on, please let us know. All sections will be circulated as an FYI.
 - It is okay to forward the drafts to other stakeholders but please let them know it is a draft and keep Sierra Rotakhina in the loop.
 - There is a cover email to circulate that provides background on the study.

ACTION: Gender & Justice Commission and Committee members should provide feedback on the chart of proposed study recommendations by emailing Sierra Rotakhina.

ACTION: Please let Sierra Rotakhina know if you have interest in reviewing a particular study section. Draft sections will be circulated for review via email.

NEXT STEPS AND ADJOURNMENT

Next Steps and Adjournment – Co-Chairs

- The study team will be disseminating Gender Justice Study draft sections on a rolling basis over the next few months for review and feedback. Commission members should look for those via email and review the sections they are interested in.
- Justice Gordon McCloud and Sierra Rotakhina will be presenting to the Race and Criminal Justice Task Force after today's Commission meeting.

The meeting adjourned at approximately 12:03 p.m.