



**Gender and Justice Commission**  
**Friday, May 21, 2021**  
**9:15 AM – 12:00 PM**  
**Zoom Webconference**



**MEETING NOTES**

**Members & Liaisons Present**

Justice Sheryl Gordon McCloud (Co-Chair)  
 Judge Marilyn Paja (Co-Chair)  
 Dua Abudiab  
 Honorable Melissa Beaton  
 Judge Anita Crawford-Willis  
 Chief Judge Michelle Demmert  
 Laura Edmonston  
 Judge Rebecca Glasgow  
 Professor Gail Hammer  
 Elizabeth Hendren  
 Commissioner Jonathon Lack  
 Erin Moody  
 Riddhi Mukhopadhyay  
 Sal Mungia  
 Dr. Dana Raigrodski  
 Jennifer Ritchie  
 Barbara Serrano  
 Chief Judge Cindy Smith  
 Judge Jackie Shea-Brown  
 Vicky Vreeland

**Members & Liaisons Absent**

Kelly Harris  
 Lillian Hawkins  
 Judge Eric Lucas (ret.)  
 Commissioner Sonia Rodriguez True

**Guests**

Nicole Ack  
 Alan Adams  
 Curtis Dunn  
 Kalia Hobbs  
 Andrew Lindsay  
 Lorrie Thompson

**Staff**

Kelley Amburgey-Richardson  
 Cynthia Delostrinos  
 Laura Jones  
 Moriah Freed  
 Sierra Rotakhina

**WELCOME AND INITIAL BUSINESS**

**Welcome and Call to Order**

- The meeting was called to order at approximately 9:15 AM.
- The Co-Chairs congratulated Moriah Freed on her job reclassification to Court Program Assistant for the Supreme Court Commissions.
- The Co-Chairs welcomed Lorrie Thompson, AOC Senior Communications Officer, who was in attendance to learn more about the Gender Justice Study to help with rollout efforts.

**March 12, 2021 Meeting Minutes**

The meeting minutes were approved as presented.

**GENDER JUSTICE STUDY**

## **Member Feedback on All Draft Recommendations and Draft Technical Summaries – Justice Gordon McCloud, Dr. Dana Raigrodski, Sierra Rotakhina**

### **Members and guests were split into two breakout rooms to discuss the recommendations.**

- Each breakout group was led by one of the Study co-chairs. Participants in each group were asked to share their top three and bottom three recommendations from the Study.
- Justice Gordon McCloud shared that we seem to have consensus on the goals, but the concrete steps are more complicated.
- Some recommendations are conflicting and they are not all data based.

### **Full group debrief**

- Dr. Raigrodski summarized her group's discussion. Overall there was general support for how the recommendations were laid out.
  - Areas of particular note were: access issues, communication, fees, jury service, LFOs and impact of infractions, all courts should be trauma informed and trained on implicit bias.
  - Some people liked the strong push for data collection, but others felt it could take the focus away from other recommendations.
  - Vicky Vreeland added that currently there is nowhere for attorneys to go to discuss judicial misconduct that is less formal, perhaps like an ombuds office.
- Justice Gordon McCloud summarized her group's discussion. There was overall agreement on 3 general priorities on the report – 1) improve data collection 2) improve court access including improvements to legal aid funding 3) over criminalization as it affects women of color.
  - Suggestions to involve WAPA more and elect more female prosecutors.
  - Jury access – there was some criticism of focusing on studies, and a suggestion to focus on juror pay.
- Justice Gordon McCloud added that she would like the Commission to speak with one voice on the recommendations in the final report. She asked Commission members to give a general thumbs up or thumbs down on the overarching goals.
  - The majority of members gave a thumbs up. There were no thumbs down.
- The Advisory Committee is meeting on Monday will provide additional feedback.
- Section authors are in the process of finalizing their own recommendations and seeking community feedback.
- Justice Gordon McCloud thanked members and guests for their feedback in breakout rooms. It will be integrated.

## **PROPOSAL TO AMEND CrR 3.2**

### **Discussion: Proposal to Amend CrR 3.2 – Erin Moody, Judge Marilyn Paja, Judge Jackie Shea-Brown**

#### **Background**

- Judge Paja provided an overview of CrR 3.2 and the proposed amendment, which was developed by the E2SHB 1517 DV Work Groups.
- In December, Laura Jones, Judge Lucas, and Judge Logan came and presented to the Domestic and Sexual Violence Committee (DSV) on the proposal.
- The rule has been amended over the years for various reasons, but it has not been amended with consideration of the risk of violence, particularly domestic violence.

- The workgroup elected to propose the rule in a way that was conservative. Researchers supporting the work group identified evidence-based studies and the work group selected the risk factors to include from one of those studies.
- The Domestic and Sexual Violence Committee reviewed and provided feedback on the proposal.
- After meeting, the committee voted on proposed changes, including technical edits and adding an explanatory comment.
- The DSV Committee and is now bringing the proposed amendment to the full Commission for consideration.

### **Discussion**

- Some members were concerned that adding these factors to the rule could compound problems with disproportionality.
  - Erin Moody noted that the DSV Committee considered if this could be mitigated by an explanatory comment that provided additional context.
- The proposal could be an opportunity to educate lawyers and judges on DV issues.
- Other members were concerned that the list of risk factors is under inclusive – particularly due to the omission of stalking, which other tools show can have a lethality risk.
- What was strangulation not included as a risk factor?
  - Erin Moody shared that part of choosing the ODARA was the simplicity of application that does not rely on a hierarchy of factors. It also does not include factors that some other tools do, which tend to result in disproportionate racial impacts.
  - ODARA relates more to the recidivism risk, not lethality factors. Strangulation and stalking are high lethality factors, and are ways to control victims.
  - Judicial discretion means that these can still be taken into account without including them specifically in the proposed amendment.
- The Department of Corrections is contracting right now with Washington State University on a more gender responsive risk assessment tool. They were part of the DV workgroup, but do not have a finished product due to a switch in vendors.
- One limitation of the tool the factors were pulled from is that the tool has only been validated using male offenders in heterosexual relationships.
- The DSV Committee over represents victim advocates, and under represents defense attorneys.
  - The subcommittee that drafted the proposal shared it with a representative from the Washington Association of Criminal Defense Lawyers who was a member of the larger DV work groups. They did not have objections, but we expect there may still be pushback if the proposal is submitted and published for comment.
- Justice Gordon McCloud added that when the Supreme Court is deciding on the adoption of a court rule, there is tension between a top down approach, which limits discretion, and trial court discretion.

**ACTION:** Laura Jones will work with Erin Moody to circulate the proposed amendment for comment from the Commission.

### **BRIEF UPDATES AND NEW BUSINESS**

## **Passage of E2SHB 1320 – Laura Jones, Kelley Amburgey-Richardson**

### **Background**

- During the legislative session, Judge Paja and Kelley Amburgey-Richardson tracked this bill closely.
- The Commission took a position of general support for improving access to justice, submitted letters of support, and Judge Paja testified at public hearings.
- As part of AOC's judicial impact note, we requested funding, which was included in the budget that passed.
- Laura Jones will be staffing this legislative work.

### **Gender and Justice Commission Provisions**

- The Commission is named to convene stakeholders to work on several protection order issues in Sec. 12, 16, and 36 of the bill.
- WSCCR is named to help with research aspects.
- Recommendations are due to the Legislature on 12/1/21
- Recommendations are due to the Courts on 6/30/22
- Laura Jones is working on an implementation plan now.

**ACTION:** Let Laura Jones or Kelley Amburgey-Richardson know if you or someone you know would like to be involved.

### **Name Change Fees and Practices – Judge Marilyn Paja**

- The Commission discussed issues with the application of GR 34 fee waivers to County Auditor name change recording fees a few years prior at a Commission meeting.
- It disproportionately affects LGBTQ individuals.
- Members noted that transgender issues are gender issues, and should also be considered by the Commission.
- A judge can waive the court filing fees, but many county auditors are not waiving the auditor recording fee based on an interpretation of the court rule and statute.
  - In King County, the court has asked for a budget line item to pay the county auditor's fee if the court filing fee is waived.
- The recording fee is going up by \$100.
- Possible solutions include a rule change, or to ask the legislature to amend the relevant statute.
  - Separation of powers issue – judicial branch is tasked on collecting the recording fee for the executive branch.
- Marriage certificates are accepted without a recording fee. They might be open to accepting name changes too.
- Elizabeth Hendren added that there are other issues with GR 34 that should be considered if the Commission proposes a revision.
- Justice Gordon McCloud noted the connection to the financial barriers section of the Gender Justice Study.

- Members discussed the possibility of convening an ad hoc committee re: financial barriers to court access / fees, including the auditor's recording fee. Professor Gail Hammer, Riddhi Mukhopadhyay, and Barbara Serrano volunteered to be a part of this effort.

### **June 2<sup>nd</sup> Symposium**

- The Gender and Justice Commission is co-sponsoring this year's Supreme Court Symposium titled, *Behind Bars: The Increased Incarceration of Women and Girls of Color*.
- Register via Zoom or watch on TVW. Dr. Angela Davis will be the keynote speaker.

### **Announcements**

- Judge Crawford-Willis thanked the Commission for support in attending the Children of Incarcerated Parents conference
- Judge Paja thanked Cynthia Delostrinos for all her hard work during the legislative session.

### **ADJOURNMENT**

#### **Next Steps and Adjournment – Justice Sheryl Gordon McCloud and Judge Marilyn Paja**

- The Co-Chairs thanked members, guests, and staff for their attendance and participation in today's meeting.

**The meeting was adjourned at 12:00**