



Gender and Justice Commission
Friday, November 19, 2021
9:30 AM – 12:00 PM
Zoom Videoconference



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
 Judge Michelle Demmert
 Laura Edmonston (Embedded Law Librarian)
 Judge Rebecca Glasgow
 Professor Gail Hammer
 Commissioner Jonathon Lack
 Erin Moody
 Riddhi Mukhopadhyay
 Dr. Dana Raigrodski
 Jennifer Ritchie
 Barbara Serrano
 Olivia Shangrow (SU)
 Judge Jackie Shea-Brown
 Vicky Vreeland

Members & Liaisons Absent

Roberta Blood (UW)
 Kelly Harris
 Lillian Hawkins
 Elizabeth Hendren
 Lauren Jaech (UW)
 Casey Kinross (GU)
 Ivy-Rose Kramer (L&C)
 Sal Mungia (ATJ Board)
 Sloan Nickel (GU)
 Chief Judge Cindy Smith

Guests

Professor Lynn Daggett
 Dr. Lisette Garcia, WSCCR
 Dr. Carl McCurley, WSCCR
 Judge Averil Rothrock
 Rhea Yo

Staff

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

WELCOME AND INITIAL BUSINESS

Welcome and Introductions

The meeting was called to order at 9:33 AM.
 Judge Marilyn Paja welcomed Commission members, staff, and guests.

September 10th Meeting Minutes

The meeting minutes were approved as presented.

Announcements

- Commissioner Laird has agreed to co-chair the Gender and Justice Commission Education Committee.
- Kelley Amburgey-Richardson has been promoted to manager of the Supreme Court Commissions. She will remain involved in selecting the next staff to the Gender and Justice Commission.

HB 1320 STAKEHOLDER GROUPS

Project Overview – Judge Jackie Shea Brown and Erin Moody, Project Co-Leads

- E2SHB 1320 was passed last session to reform all protection order types in Washington. The bill named the Gender and Justice Commission to convene workgroups that answered specific questions stemming from the bill and report back on where there is or is not consensus on recommendations from the stakeholders. The recommendations will not come on behalf of the Commission, but from the workgroups that represent a broad range of perspectives and stakeholders.
- A summary of the draft recommendations is included in the meeting packet beginning on page 7.
- The first deliverable, a report to the legislature, is due on December 1, 2021. Only the litigant rights and research and information sharing groups will participate in that report. All 3 groups will participate in an additional report due to the courts in the spring.
- The stakeholders were organized into 3 groups by subject area that include over 100 individuals:
 - Litigant rights and access
 - Research and information sharing
 - Technology
- Laura Jones, project coordinator, began organizing the groups and project in June after E2SHB 1320 was passed. All of the groups have been meeting on a regular basis since the summer.
- In the materials today are the recommendations from two of the groups. The research group is submitting a report on the issue of making visible protection orders that are entered by tribal, federal, etc., by Washington State judicial officers and courts.

Litigant Rights and Access Workgroup – Judge Averil Rothrock and Riddhi Mukhopadhyay

The Litigant Rights and Access workgroup was directed to report on three issues for the December deliverable:

- Jurisdictional divisions
- Recommendations for protection orders involving minor litigants
- How the protection order law can be amended to better address coercive control

Judge Averil Rothrock discussed the recommendations covering jurisdictional divisions and protection orders involving minor litigants:

- The group did not end up with a consensus for major revisions regarding jurisdictional divisions. There were not overwhelming requests for changes, nor strong thoughts on transfers. One universal message was that access is key.
- Municipal court jurisdiction – municipal courts were not included in a prior amendment about hearing protection order cases. The group recommends the legislature look into this.
- It was suggested the legislature take time to gather more data about allocation of resources.
- There was not much consensus on recommended changes regarding youth litigants. The group ended up with privacy recommendations that were supported by stakeholders, such as using youth initials in proceedings, and extending sealing beyond ERPOs for youth.
 - Sanctions are still under debate. Science is showing that youth brain development are different than adults – unclear on what sanctions should be.

Riddhi Mukhopadhyay summarized the coercive control related recommendations:

- The section received high stakeholder involvement. The Washington State Women’s Commission (WSWC) conducted listening sessions around the state, and workgroup participants attended a conference on the subject to report back.
- There was consensus across the board that coercive control is part of domestic violence, but there was not consensus on a definition as part of E2SHB 1320. There was concern that including coercive control in the definition would give abusers another tool to engage in abusive litigation tactics and further control victims. There was also concern around the criminalization of coercive control and having the definition applied to the criminal statute. This distinction between civil and criminal was made clear in the report. The majority opinion was that coercive control needed to be added to the definition.
 - A protection order cannot be issued unless certain criteria in the domestic violence definition are met, which is why encompassing coercive control in the definition is needed.

- The group discussed having more objective standards of the understanding of coercive control in addressing the concern of use by abusers or perpetrators.
- A few other states have codified the definition of coercive control in various ways.
- The group recommends that the state allocate funding to train judicial officers on coercive control. This was raised by a lot of stakeholders.

Research and Information Sharing Workgroup

Judge Michelle Demmert discussed the Research and Information Sharing workgroup recommendations.

- The group was tasked to develop best practices to address the issue of making visible protection orders that are entered by tribal courts, federal courts, etc., to Washington State courts. Additionally, they are exploring how tribal courts can enter their protection orders into JIS or other databases to prevent conflicting orders, and how Washington can use NCIC to check other protection orders.
- A statewide survey was distributed to collect information, interviews with other states were conducted, and the group conferred with the Department of Justice Tribal Access Programs.
- One issue that has been identified is that in order to determine best practices, the best information available is needed to determine conflicting protection orders.
- The Administrative Office of the Courts (AOC) provided the group with several scenarios for information sharing. Two of the proposals are as follows:
 - Have AOC develop a new application user interface so that tribal courts can enter protection orders directly into the Washington state database. This could begin as a pilot.
 - Have Washington state courts obtain access to NCIC. The pilot project would involve volunteer courts to have access to the database.
- In the short term, courts could update petition forms to explicitly ask about protection order proceedings in other courts.
 - Have judicial officers ask on the record of tribal affiliation or other court protection orders.
- Civil rule 82.5 – amended a year ago. Specifically mentions superior courts, but not CLJs. Further amendments could be possible to be inclusive of all courts.
- The group has also looked at what Arizona, Oregon and California are doing for information sharing.

Discussion and Commission Feedback

- Dr. Dana Raigrodski asked about the recommendation amending the domestic violence statute. She expressed concern in applying a reasonable person standard to coercive control, and wants to know if examples, such as financial abuse, are included. Judge Shea-Brown clarified that examples, including financial abuse, are included.
- Recommendations are rapidly changing, and have been updated since materials were provided in the packet.

ACTION: Commission members can follow up with Laura Jones, E2SHB 1320 workgroups project coordinator, at Laura.Jones@courts.wa.gov with questions. Feedback needs to be provided by 11/24.

RECOGNITION OF LEADERSHIP

Gender Justice Study Recognition of Leadership

- Judge Paja recognized Justice Gordon McCloud for her leadership on the Gender Justice Study on behalf of the Commission. A framed version of the “lifting as we climb” photograph that appears on the report cover was presented to her with the inscription: In recognition of your leadership on the Gender Justice Study, which provides a roadmap for us all – In your words – to “change the world.”

FEE WAIVERS AND NAME CHANGES

Presentation & Judicial Education Proposal – Rhea Yo, Legal Counsel for Youth and Children

- Presenters provided a disclaimer that there is currently appellate litigation on the issue, but it will not be discussed today.
- There are substantial barriers to accessing name change petitions for Washington’s indigent LGBTQ+ community. Partners at Qlaw and Team Child have experienced similar barriers.
- Some district courts do not accept Qualified Legal Service Provider (QSLP) fee waivers. Even with waivers, some petitioners must first pay the \$203.50 recording fee before the petition can be filed. Some courts do not recognize that GR 34 and Jafar v. Webb apply to recording fees.
- The right to access courts includes waiving recording fees for name change petitions.
- Kitsap and Spokane counties were highlighted for their responses on the issue.
- LCYC would like to partner with the Gender and Justice Commission to provide training to DMCJA and DMCMA on the topic of fee waivers and name changes. They believe this

issue is in-line with the 2021 Gender Justice Study recommendations, and are seeking the Commission's partnership in the education programming.

Discussion

- Judge Paja shared that in Kitsap county there is still discrepancy between the court waiving the fee and the treasurer needing to collect a fee.
- Dr. Dana Raigrodski pointed the Commission to the recommendation in the Gender Justice Study to convene a group to address this specific issue. It is an issue the Commission has committed to working on.

ACTION: The issue of fee waivers and name changes will be referred to the Gender and Justice Commission Education Committee. They will consider which an appropriate role for the Commission on this issue, taking into account the presentation from LCYC, and the recommendations from the Gender Justice Study.

REPORTS AND DISCUSSION ITEMS

2022 Legislative Discussion

- This year, in advance of session, the Gender and Justice Commission is asking Commission members to alert staff of any legislation they are working on. Judge Paja has asked members to share actively before and throughout session.
- The Board for Judicial Administration (BJA) has several proposals and Commission Co-Chairs had the opportunity to provide input. One proposal is to add mental illness to the list of mitigating factors for sentencing.
 - Justice Gordon McCloud suggested this be broadened to “mental health” and the BJA Legislative Committee agreed to make that modification before filing the bill.
 - The Gender Justice Study recommended that “primary caregiving” be added to the list of mitigating factors. This disproportionately affects women, particularly women of color.
 - Judge Glasgow added that judges can consider mitigating factors not on the list. This could be addressed through judicial education.
 - Erin Moody added that the statutory list of mitigating factors is not exhaustive, but there is case law limiting those factors in abstract ways that the parties may interpret differently in any given case. Adding a mitigating factor in statutory language will resolve that potential disagreement from the outset, making things easier on the trial court.

- Justice Gordon McCloud and Kelley Amburgey-Richardson shared this recommendation with BJA's legislative staff and committee, for consideration.
- The Sexual Violence Law Center is actively working on the E2SHB 1320 trailer bill, but is not prepared to share bill specifics yet.

ACTION: Commission members are asked to share legislation they are working on with staff throughout session.

Potential New Liaison: Council on Public Defense (CPD) – Justice Sheryl Gordon McCloud

- Justice Gordon McCloud suggests formalizing a liaison to the CPD. Justice Gordon McCloud currently attends all meetings on behalf of the court, but would like a formal CPD liaison to attend GJC meetings.
- It was suggested that a Washington Association of Prosecuting Attorneys (WAPA) liaison might also be added if a CPD liaison is added. Other members support asking WAPA if they would be interested to give the option.
- The Commission supports adding a CPD liaison and will proceed.

Gender Justice Study Implementation Committee – Justice Sheryl Gordon McCloud and Dr. Dana Raigrodski

- The Commission is beginning to undertake implementation of the Gender Justice Study recommendations. Dr. Raigrodski emphasized working with partner organizations to tackle the recommendations, and figuring out what should be done in-house verse what other groups might be more equipped to tackle.
- Commission members volunteered at the last meeting to participate on the Implementation Committee. It was also suggested that someone from the Washington State Center for Court Research (WSCCR) join the group. The Implementation Committee is seeking expertise in all 5 goal areas.
- A chair of the Implementation Committee will be selected from the volunteers.
- Barb Serrano and Lynn Daggett also volunteered to join the committee.

Introduction of WSCCR Equity Researcher Dr. Lisette Garcia – Dr. Carl McCurley

- Dr. Carl McCurley introduced Dr. Lisette Garcia, who has been hired as the first ever dedicated Equity Researcher at WSCCR.
- Two years ago, Cynthia Delostrinos and Carl McCurley began meeting to discuss the Commission's research needs. It was decided that a new position would be needed to address the equity related research needs.
- Dr. Garcia's job will be to carry out, oversee, and conduct equity research; establish a baseline; track policy changes the court makes based on inequities.

Racial Consortium Update – Judge Rebecca Glasgow and Dua Abudiab

- Dua Abudiab and Judge Glasgow provided brief background of the Racial Justice Consortium. A large portion of the meetings thus far have focused on belonging, developing trust and learning amongst the group.
- The goal is shifting now to develop reform proposals.
- The Racial Justice Consortium is also developing a website to share stories, the mission, and work of the Consortium.

NEXT STEPS AND ADJOURNMENT

Announcements

- The Gender and Justice Commission is still recruiting for openings. Please share the announcement with your networks.
- There is a proposal from Commissioner Lack in the meeting packet. The item will be on the agenda at the next meeting with a specific ask.
- A letter from Treasurer Mike Pellicciotti was included in the packet re: Gender Justice Study thanking the Commission for their work in addressing issues gender inequities in the justice system.
- 2022 Commission meeting dates are included in today's meeting packet for calendaring.

The meeting was adjourned at 11:57 AM.