



GENDER AND JUSTICE COMMISSION

FRIDAY, SEPTEMBER 9, 2022 (9:30 AM – NOON)

JUSTICE SHERYL GORDON MCCLOUD, CO-CHAIR

JUDGE MARILYN PAJA, CO-CHAIR

ZOOM: [HTTPS://WACOURTS.ZOOM.US/J/81189220951](https://wacourts.zoom.us/j/81189220951)

MEETING ID: 811 8922 0951; PASSCODE: 077444

DIAL IN: +1 253 215 8782 US (TACOMA)



Agenda

9:30 AM – 10:15 AM WELCOME AND INITIAL BUSINESS

- **Welcome and Introductions** Justice Sheryl Gordon McCloud
 - Roundtable introductions of members and guests
- **Approval of May 27th Meeting Minutes**
- **Supreme Court Commissions Updates** Kelley Amburgey-Richardson
 - Tribal State Court Consortium Staff Update
 - Commissions Administrative Staff Update

10:15 AM – 10:45 AM COMMITTEE AND PROJECT UPDATES

- **HB 1320 Work Group Leadership Appreciation** Justice Sheryl Gordon McCloud
- **Standing GJC Committee Updates**
 - *GJ Study Implementation Committee* Barbara Serrano
 - *Incarceration, Gender and Justice Committee* Elizabeth Hendren
 - *Education Committee* Judge Rebecca Glasgow
 - *Domestic and Sexual Violence Committee* Judge Jacqueline Shea-Brown
 - *Tribal State Court Consortium* Chief Judge Cindy K. Smith
 - *Legislative Committee* Justice Sheryl Gordon McCloud

10:45 AM – 11:00 AM STRETCH BREAK

11:00 AM – 11:50 AM DISCUSSION ITEMS

- **Washington State Bar Association Bylaws Change Proposal** Imani Shannon
Washington State Bar Association
- **Information Sharing: Statewide 2023 Legislative Priorities and Efforts** Commission Members
- **Future In-Person v. Virtual Meetings Discussion** Justice Sheryl Gordon McCloud



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Agenda

11:50 AM – 12:00 PM **ADJOURNMENT**

➤ **Next Steps and Adjournment**

Justice Sheryl Gordon McCloud

APPENDIX

- 2022 Gender and Justice Commission Meeting Dates
- Supreme Court Update - Chief Justice González Memorandum

NEXT MEETING – November 4, 2022

**WASHINGTON STATE SUPREME COURT
GENDER AND JUSTICE COMMISSION
2021-2022**

CO-CHAIR

Justice Sheryl Gordon McCloud
Washington State Supreme Court

CO-CHAIR

Judge Marilyn G. Paja
Kitsap County District Court

MEMBERS

Dua Abudiab

Washington Women Lawyers
2020 – 2023 (1st Term)

Victoria Blumhorst

Spokane Counsel for Defense
2022-2025 (1st Term)

Honorable Melissa Beaton

Skagit County Clerk
2020 – 2023 (1st Term)

Judge Anita Crawford-Willis

Seattle Municipal Court
2020 – 2023 (2nd Term)

Professor Lynn Daggett

Gonzaga University School of
Law
2022-2025 (1st Term)

Quinn Dalan

Yakima County Attorney
Services
2022-2025 (1st Term)

Judge Michelle Demmert

Alaska Native Women's
Resource Center
2020 – 2023 (1st Term)

Judge Rebecca Glasgow

Court of Appeals, Division II
2021 – 2024 (2nd Term)

Kelly Harris

Law Offices of Alan E. Garrett
2020 – 2023 (1st Term)

Lillian Hawkins

Court Coordinator
King County District Court
2020 - 2023 (1st Term)

Elizabeth Hendren

Northwest Justice Project
2021- 2024 (2nd Term)

Shannon Kilpatrick

Law Office of Shannon
Kilpatrick
2022-2025 (1st Term)

Commissioner Jonathon Lack

King County Superior Court
2020 – 2023 (1st Term)

Riddhi Mukhopadhyay

Sexual Violence Law Center
2020 – 2023 (2nd Term)

Dr. Dana Raigrodski

University of Washington
School of Law
2021-2023 (3rd Term)

Jennifer Ritchie

King County PAO
2019 – 2022 (2nd Term)

Barbara Serrano

Office of the Attorney
General 2020 – 2023 (1st
Term)

Judge Jaqueline

Shea-Brown

Benton & Franklin Counties
Superior Court
2019 – 2022 (1st Term)

Chief Judge Cindy K. Smith

Suquamish Tribal Court
2019 – 2022 (2nd Term)

AOC Staff

Crissy Anderson, JD

Senior Court Program Analyst
G & J Commission

**Kelley Amburgey-Richardson,
JD**

Manager
Supreme Court Commissions

Avery Miller

Administrative Assistant
Supreme Court Commissions



Gender and Justice Commission
Friday, May 27th, 2022
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
 Victoria Blumhorst
 Judge Anita Crawford-Willis
 Professor Lynn Daggett
 Quinn Dalan
 Laura Edmonston (Embedded Law Librarian)
 Judge Rebecca Glasgow
 Elizabeth Hendren
 Erin Moody
 Riddhi Mukhopadhyay
 Dr. Dana Raigrodski
 Barbara Serrano
 Chief Judge Cindy Smith

AOC Staff

Kelley Amburgey-Richardson
 Crissy Anderson
 Cynthia Delostrinos
 Moriah Freed
 Laura Jones

Members & Liaisons Absent

Honorable Melissa Beaton
 Judge Michelle Demmert
 Professor Gail Hammer
 Lillian Hawkins
 Kelly Harris
 Casey Kinross (GU)
 Ivy-Rose Kramer (L&C)
 Commissioner Jonathon Lack
 Sal Mungia (ATJ Board)
 Sloan Nickel (GU)
 Olivia Shangrow (SU)
 Judge Jackie Shea-Brown
 Vicky Vreeland

Guests

Honorable Tim Fitzgerald
 Jesse Guecha
 Angela Langer
 Kyra Laughlin

WELCOME AND INITIAL BUSINESS

Welcome and Introductions

- The meeting was called to order at 9:32 AM
- Justice Gordon McCloud acknowledged the ongoing national tragedies and collective mourning of the heartbreaking events.
- Justice Gordon McCloud thanked the Nominations Committee for leading the Commission’s new appointment procedure amidst a competitive recruitment process.

- The Commission conducted formal introductions of members and staff so that new members could be acquainted with others' backgrounds, including areas of practice and committees that might be of interest.

March 4th Meeting Minutes

- The meeting minutes were approved as presented.

PROJECT UPDATE – E2SHB 1320 WORKGROUPS

HB 1320 Work Group Presentation – Judge Jackie-Shea Brown, Erin Moody, and Laura Jones

- Erin Moody gave a brief overview of the E2SHB 1320 project. In sections 12, 16, and 36 of E2SHB 1320, the Washington State Legislature directed the Gender and Justice Commission (GJC), with the support of the Washington State Women's Commission and in collaboration with other stakeholders, to develop recommendations to the legislature and the courts regarding several matters related to civil protection order proceedings. The project was split into two phases – a report to the Legislature, and recommendations to the Courts.
 - Phase I: First deliverable – Report to legislature in December 2021.
 - The following questions were followed up on in the phase II deliverable:
 - Whether or not to include coercive control in the domestic violence definition
 - How to make state protection orders visible across jurisdictions (federal and tribal) with access to the record
 - Stakeholders were split into 3 groups by directive / topical area:
 - Litigant Rights & Access
 - Technology
 - Research and Information Sharing
 - Phase II of the project has involved the same stakeholder groups to produce a deliverable to the courts. It is a set of recommendations and materials to the courts that covers 6 slightly different topics:
 1. Evidentiary considerations
 2. Improving access for unrepresented litigants
 3. Addressing motions to continue when there are concurrent criminal proceedings concerning the same alleged conduct
 4. Technology to reduce administrative burdens
 5. Requirements for private vendors providing electronic filing services
 6. Data collection and sharing to promote research and transparency for the public

Phase II Deliverable Demonstration

- The project will go live June 30, 2022.
- The deliverable is in a website format that is easily accessible to busy individuals. It is a scrolling, responsive webpage modeled after the Gender Justice Study website that is easy to update and can be accessed on various devices.
- The beta version of the webpage was screen shared for Commission members. Laura Jones and Moriah Freed were recognized for their work in building the webpage and resource documents.
 - Materials drafted by the stakeholder groups were shared. They are linked in the various resource sections on the webpage. These include materials for litigants to increase access; judicial officers; and court staff.
 - Vendor requirements – all courts will be moving towards e-filing, which will likely require contracting with private vendors. The technology group focused on what type of concerns need to be considered when contracting to protect information and address privacy concerns.
 - Commission members asked if each jurisdiction will need to figure out vendor issues for themselves. Is there a centralized way to accomplish this? Statewide approach?
 - Model contract language was explored by the technology group. However, landscape is changing so rapidly that language would quickly become obsolete.
 - Right now it is county by county due to non-unified court system. Counties are either using Odyssey or another document management system. Arizona, another non-unified system, has found a solution that was presented to the workgroup.
 - Data collection section – survey. Responses from most counties.
 - Service of process issues were common – failure to serve respondent.
 - Learned that small counties are collecting differentiation between intimate partner violence (IPV) and domestic violence (DV) more effectively than large counties.
 - Final analysis will be linked on webpage.
- Website format will allow for updating as information becomes available.
- Coercive control question – After December report was submitted, there was consensus from the majority of stakeholders to support an amendment to include coercive control in the DV definition. The Legislature enacted the amendment and included another directive in HB 1901 (trailer bill) to study effects of the amendment. GJC and the Washington State Center for Court Research (WSCCR) learned it is not possible to track coercive control as a discrete data point on protection orders proceedings using available JIS codes. A memo is linked to the legislature explaining why coercive control cannot be tracked in JIS, including recommendations for changes to allow tracking of data.

- Access to the record question – Electronic record access requirement across county lines. The December report made a couple of proposed solutions to address this issue across Tribal / State / Federal jurisdictions. Struggling to continue work on this issue and implement solutions.
 - An AOC Group is leading charge on implementing state jurisdiction sharing. Hoping to have liaisons from DSV group to track progress in regards to December recommendation with state/tribal information sharing.

Discussion

- Justice Gordon McCloud applauded the work, especially the script and increasing access for litigants. Recommended thinking statewide on implementation, including potential budget requests.
- Dr. Raigrodski commended the accessible format, ease of access, and clarity. Asked that the Gender Justice Study could be tagged for how recommendations are being implemented.
- Erin Moody recommended that interested parties review the [December deliverable report](#), that goes more in depth on issues with more detail.
- Laura Jones was recognized for her work and dedication on this project over the last year.

ACTION: An AOC group will be looking at notifications systems. GJC is seeking volunteers from the TSCC and DSV Committee to participate in the group. The work will be related to coercive control and cross jurisdictional sharing issues.

DISCUSSION ITEMS

GJC Standing Committee Updates – Committee Chairs

- The Commission will return to asking for written reports from Committee chairs. Crissy Anderson will be reaching out to distribute the written reports.

Racial Justice Consortium – Judge Rebecca Glasgow and Dua Abudiab

- The final report is included in the meeting materials.
- The consortium met monthly for a little over a year. The group identified and prioritized strategies to tackle “big” problems in the justice system.
- Will next be working with Barb Serrano on where priorities overlap and align with the Gender Justice Study recommendations.
- Judge Glasgow has hired an additional extern this summer who will be working on GJC issues.

Gender Justice Study Implementation Committee Updates - Barb Serrano

- The first Implementation Committee meeting was held on March 29, and another will take place this Monday.
- Recommendations are so comprehensive and broad in scope. Need to work on narrowing and distilling them for implementation.
 - 5 main goals – Crissy Anderson and Barb Serrano have been working on a spreadsheet for easier tracking. It also includes chapter and authors of that section; proposed partners; proposed leads.
- Working with liaisons to help track progress of partners who are working on recommendations. E.g. MJC has a jury diversity workgroup stemming from a study recommendation.
- It was emphasized that the data collection issue is gaining traction in broader conversations.
 - OFM Forecasting and Research department of Governor's office eager to partner. Barb Serrano will be setting up a meeting with them.
 - Recommendations will require funding and partnerships.
- Crissy Anderson was recognized for her extensive review of the Study. Spreadsheet will be distributed to individuals who worked on the study.
- The Implementation Committee will be moving towards weekly, standing 30 minute meetings.
- The group presented to the Sexual Assault Task Force on the GJ Study, and discussed sexual assault; data issues; rape kit backlog. Policy analyst reached out about the July 27 meeting of Sexual Assault Task Force, where there will be a presentation on the dashboard from the King County Prosecuting Attorneys Office. Members of the Implementation Committee will attend. Signals a positive shift in how data issues are being received.
 - Senator Dhingra and Representative Orwall were at the meeting – hoping to continue working on legislation. Committee also has bipartisan representation from Representative Mosbrucker. Additionally, Senator Warnick participated in the Study Advisory Committee.
- Barb Serrano acknowledged that implementing recommendations will take time, including the importance of building partnerships.

ACTION: Crissy Anderson will distribute the summary spreadsheet. Please let Crissy Anderson, Barb Serrano, or Dr. Raigrodski know if you are interested in working on implementation. Review the recommendations and Study at your leisure for areas of interest.

ACTION: If members or guests are aware of individuals or entities, public or private, that tie in with recommendations or are working on recommendations, let Crissy Anderson and Barb Serrano know.

GJC Legislative Committee – Justice Gordon McCloud

- GJC has been called more often to comment on legislation. Would like to work more proactively and less reactively.
- GJC needs a legislative committee to address bills in a more organized way. Typically, this Committee will look at bills suggested to take a position on. Will look at bills during session on a weekly basis and make recommendations.
- Seeking volunteers for Committee.
 - Angela Langer and Jesse Guecha volunteered.
- It was recommended to work more with Brittany Gregory, AOC Legislative Director, during session.
- Crissy Anderson suggested pulling out legislative recommendations from the study to present to Senator Dhingra and Representative Orwall, who expressed interest in the work.
- Barb Serrano suggested that the Commission explore testifying ‘other’ on legislation to provide information without taking a hard stance on a political issue. This could potentially involve meeting with legislators to present information, but not to lobby. E.g. data collection issue.

BJA 2023 Legislative Proposals – Judge Marilyn Paja

- BJA has put out a call for legislative proposals for next session. Legislation that judicial branch organizations, including GJC, would like to be involved in, such as recommendations from the GJ Study.

ACTION: If members have knowledge of issues that may be of interest with GJC and its goals, please share with Crissy Anderson.

Pattern Jury Instructions – Judge Paja

- Judge Paja was asked to chair a subcommittee to review whether instructions should include just binary pronouns (she, him) or more expansive pronouns (she, he, they), and how judges should refer to participants.
- Should expect changes in this regard

ADJORNMENT

Announcements

- Future meeting dates are included in today's meeting packet.
- The Minority and Justice Commission will be sponsoring its annual Supreme Court Symposium on June 1st, 2022 via Zoom. This year's topic is *Reparations for African Americans*. All are invited to attend.

The meeting was adjourned at 12:00 PM.

DRAFT

DRAFT DEFINITION OF DIVERSITY (FOR DISCUSSION PURPOSES ONLY)

Diversity refers to meaningful representation of, and equal opportunities for, individuals who have lived experience as a member from an underrepresented community in the legal profession. A finding of underrepresentation includes and is not limited to, race, disability, sex, age, ethnicity, religion, sexual orientation, gender identity (both cisgender and transgender), and gender expression. Preference will be given to those who meet one or more designations while recognizing that the intersection of race with other designations exacerbates inequities.

DRAFT

Questions and considerations remaining related to the definition:

1. Do we need sex as a designation or do we delete?
2. Do we need cisgender/transgender language or is gender identity/expression sufficient?
3. Do we want to center race? If yes, how best do we achieve this?
4. Do we need to order the designations by the importance we want to give each designation?
5. Do we want to keep the language which provides “in no particular order?”



PROTOCOLS FOR PARTICIPATION IN OFF-SITE, FACE-TO-FACE, WORK-RELATED ACTIVITIES

AOC Leadership intends to protect the health of all employees in our workplace. Requirements stated herein may be stricter than those you see elsewhere. Your understanding and cooperation are appreciated.

In an effort to clarify expectations for staff and stakeholders, this document describes how AOC may authorize employees to engage in off-site, face-to-face, work-related activities. For the purpose of this guidance document, off-site refers to all non-AOC, Supreme Court or Court of Appeals facilities.

1. The decision whether an AOC employee may participate in off-site, face-to-face, work related activities will be made by the employee's division director after the employee submits the AOC [COVID Travel Exception Form](#).
2. AOC is operating under its Workplace Guidance, Version #2, which provides:
 - *AOC employees must receive specific division director authorization to participate in work-related group activities outside AOC, Supreme Court, or Court of Appeals facilities.*
 - *When domestic business travel is approved by a director, AOC employees will be asked to observe the requirements and recommendations of the CDC and Washington State authorities, including any requirements for isolation or quarantine.*
3. The division director may authorize participation only if the AOC employee has been "fully vaccinated" for COVID-19 as indicated by [Supreme Court Order No. 25700-B-669](#) and [AOC Policy 3.31, COVID-19 Vaccination Requirement for AOC Workers](#). Employees are encouraged to be up to date with COVID-19 vaccinations. The Centers for Disease Control (CDC) considers people [fully vaccinated](#) when they have received their primary series of COVID-19 vaccines and [up to date](#) when they have also received any boosters for which they are eligible.
4. The division director will consider factors and conditions such as:
 - a. Event attendees attest either that they are fully vaccinated or have had a negative COVID-19 test within 72 hours of the event. Note: AOC employees are not responsible for verifying this information.
 - b. All invitees (e.g., members, guests, faculty) will be informed in advance that they may not attend the event if they have experienced COVID-19 symptoms in the last 10 days or been in contact with someone who recently tested positive.
 - c. A participating AOC employee must wear an [effective, well-fitting mask](#) in public indoor settings and maintain physical distancing of 6 feet, just as they would if working in any AOC facility.
 - d. Each day before entering any venue, AOC employees will be expected to self-screen for COVID-19 symptoms using the same criteria that are in effect at that time for entry into AOC facilities. See, [AOC Building Entry Information At-a-Glance 07/29/2022](#).
 - e. AOC employees who experience COVID symptoms at any time during an event or while in transit to the event must immediately end their participation. For this reason, the employee must have a plan for return transportation that will not expose other AOC employees.
 - f. Event participants are also expected to self-screen daily for COVID-19 symptoms according to the most recent guidance from the Washington Department of Health.
 - g. Event participants are instructed that they must properly wear [effective, well-fitting masks](#) in public indoor settings during the event. AOC employees are not responsible for monitoring or enforcing compliance, but are instructed to notify their supervisor and end their participation in the event if attendees are not complying with this requirement.
 - h. AOC employees responsible for organizing or staffing an event may obtain and make available N95, KN95 or higher-grade masks for their own use and that of other participants.

AOC employees and attendees are encouraged to enable Exposure Notifications on their smartphones to alert users if they may have been exposed to COVID-19.

Gender and Justice Commission

2022 Meeting Dates

Virtual Meetings held via Zoom Videoconference

Contact Avery Miller (Avery.Miller@courts.wa.gov) for Zoom access information.

Date	Time	Location
January 21 st	9:30 AM – 12:00 PM	Zoom Videoconference
March 4 th	9:30 AM – 12:00 PM	TBD
May 27 th	9:30 AM – 12:00 PM	TBD
September 9 th	9:30 AM – 12:00 PM	TBD
November 4 th	9:30 AM – 12:00 PM	TBD

Please contact Crissy Anderson with any questions at (360) 764-3198 or Crissy.Anderson@courts.wa.gov.

The Supreme Court
State of Washington

STEVEN C. GONZÁLEZ
CHIEF JUSTICE
TEMPLE OF JUSTICE
POST OFFICE BOX 40929
OLYMPIA, WASHINGTON 98504-0929



(360) 357-2030
E-MAIL J_S.GONZALEZ@COURTS.WA.GOV

August 18, 2022

To: Fairness and Awareness Working Group
National Center for State Courts

From: Chief Justice Steve C. González, Washington State Supreme Court

Re: Washington State Supreme Court – Update

At the request of Chief Justice Robinson, co-chair of the Fairness & Awareness Working Group, I am providing an update on the Washington Supreme Court's efforts to implement the court's [June 4, 2020 Letter to the Judiciary and the Legal Community](#). I am also including efforts that occurred prior to our letter that are significant and worthy of mentioning.

Rules

[GR 37: Jury Selection](#). This rule requires judges to deny peremptory challenges to potential jurors if an objective observer could view race or ethnicity as a factor. For purposes of the rule, an objective observer is one who is aware that implicit, institutional, and unconscious biases, in addition to purposeful discrimination, have resulted in unfair exclusion of potential jurors in Washington State. The rule also lists presumptively invalid reasons for a preemptory challenge. Those presumptively invalid reasons have historically been associated with improper discrimination in jury selection. (effective April 24, 2018)

Adopted [amendments to RPC 8.4 to prohibit discrimination on the basis of gender identity or gender expression](#). (Effective September 1, 2022). *See also* related amendments to comments on the [Canons of Judicial Conduct](#).

Adopted global [rule amendments](#) removing biased, non-inclusive, and gendered language across the court rules. (effective January 1, 2023)

Adopted [GR 39](#) which makes it easier for a person to remit or reduce legal financial obligations. Legal financial obligations have a disproportionate impact on Black, Indigenous and other People of Color (BIPOC). (effective 2021)

Adopted [JuCR 7.16](#) which requires courts to find a serious threat to public safety before issuing an arrest warrant due to a juvenile’s alleged violation of a court order. [Comments](#) in support of the rule change suggest the prior practices had a disproportionate effect on BIPOC children. (A proposal to rescind this rule will be published for comment July 15, 2022)

Amended [CrR 3.4 and CrRLJ 3.4](#) to allow defendants to appear through their attorneys in many trial proceedings. [Comments](#) in support of the rule suggested requiring in person appearances had a disproportionate effect on immigrants and people of color, as well as imposing an unnecessary significant burden.

Amended a [comment to RPC 4.4](#) to make it clear it is a violation of the rules of professional conduct to use a person’s immigration status to intimidate, coerce, or obstruct a person from participating in a judicial matter.

Enacted [GR 38](#) to prohibit civil arrest in court houses or while traveling to a court without a judicial warrant.

[Amended GR 31 and CrR 2.1 - Access to Juvenile Court Records](#). These changes to court rules would limit online access to juvenile court records. Juveniles have been denied housing, employment, and educational opportunities because of their involvement in the justice system. These effects have been felt disproportionately on people of color. The [effective date](#) of these rules is currently suspended as work continues to be done.

Decisions

[State v. B.O.J.](#), 194 Wn.2d 314, 449 P.3d 1006 (2019). Held that a juvenile’s need for treatment was not grounds to give them an exceptionally long sentence. Concurrence noted considerable evidence in racial bias in sentencing children of color. *Id.* at 332 & n. 11 (González, J., concurring) (citing, among other things, George S. Bridges & Sara Steen, *Racial Disparities in Official Assessments of Juvenile Offenders: Attributional Stereotypes as Mediating Mechanisms*, 63 AM.

SOC. REV. 554 (1998) [<https://perma.cc/J6RJ-J4BV>]; Michael J. Leiber & Jennifer H. Peck, *Race in Juvenile Justice and Sentencing Policy: An Overview of Research and Policy Recommendations*, 31 Law & Ineq. 331 (2013) [<https://perma.cc/X6HS-SAT9>])

State v. Berhe, 193 Wn.2d 647, 665, 444 P.3d 1172 (2019). Applied GR 37's heightened standards to questions of racial bias in jury verdicts and deliberations. Held that once there is a prima facie showing of racial bias, courts must hold an evidentiary hearing to determine whether race has been a factor in the verdict.

State v. Jackson, 195 Wn.2d 841, 845, 467 P.3d 97 (2020). Held that there must be an individualized determination of necessity before a defendant could be shackled during a hearing. *Id.* The court noted scholarship suggesting implicit bias creates risks of prejudice. *Id.* at 856 n. 5 (citing Preliminary Report on Race and Washington's Criminal Justice System, 35 SEATTLE U. L. REV. 623 (2012) and ANDREW J. WISTRICH & JEFFREY J. RACHLINSKI, IMPLICIT BIAS IN JUDICIAL DECISION MAKING: HOW IT AFFECTS JUDGMENTS AND WHAT JUDGES CAN DO ABOUT IT, IN ENHANCING JUSTICE: REDUCING BIAS 87 (Sarah E. Redfield ed., 2017)).

Matter of Dependency of Z.J.G., 196 Wn.2d 152, 175, 471 P.3d 853, 865 (2020). Held that the heightened requirements of the Indian Child Welfare Act and the Washington State Indian Child Welfare Act apply when any participant in the proceeding indicates that the child has tribal heritage even.

Garfield Cnty. Transp. Auth. v. State, 196 Wn.2d 378, 390 n.1, 473 P.3d 1205 (2020). Overruled *Price v. Evergreen Cemetery Co. of Seattle*, 57 Wn.2d 352, 357 P.2d 702 (1960) which had found a law that prohibited racial discrimination in cemeteries unconstitutional.

Martinez-Cuevas v. DeRuyter Bros. Dairy, Inc., 196 Wn.2d 506, 475 P.3d 164 (2020). Held that the exclusion of farmworkers from state minimum wage protections violated the state constitution's privileges and immunities clause. The concurrence discussed the racial discrimination underlying such exclusions. *Id.* at 528-32 (González, J., concurring).

Mancini v. City of Tacoma, 196 Wn.2d 864, 880, 479 P.3d 656 (2021). Held that police have a duty of reasonable care when executing search warrants.

State v. Blake, 197 Wn.2d 170, 174, 481 P.3d 521 (2021). Held Washington’s strict liability simple possession law unconstitutional based on the state and federal due process clauses. While not critical to the holding, the court noted scholarship that discussed racialized aspects of the War on Drugs. *Id.* at 184 (citing Gabriel J. Chin, *Race, The War on Drugs, and the Collateral Consequences of Criminal Conviction*, 6 J. Gender, Race & Just. 253, 259-60 (2002)).

May v. County of Spokane, 199 Wn.2d 389, 506 P.3d 1230 (2022). Held County Auditor was required to remove racially restrictive covenants from deeds when requested by the property owner.

Matter of Dependency of K.W., 199 Wn.2d 131, 504 P.3d 207 (2022). Held that the state erred in removing a Black child from a relative placement and that “[f]actors that serve as proxies for race cannot be used to deny placement with relatives with whom the child has a relationship and is comfortable.” *Id.* at 156 (citing RCW 13.34.130(3) and GR 37).

State v. Haag, 198 Wn.2d 309, 495 P.3d 241 (2021). Held that “[a] sentence of 46 years to life amounts to a de facto life sentence for a juvenile offender because it leaves the incarcerated individual without a meaningful life outside of prison” and that this sentence is “an unconstitutional de facto life sentence under both the state and federal constitutions” *Id.* at 327, 330.

State v. Sum, ___ Wn.2d ___, 511 P.3d 92, 97 (Wash. 2022). Based on article I, section 7 of the state constitution and GR 37, this court clarified that:

A person is seized for purposes of article I, section 7 if, based on the totality of the circumstances, an objective observer could conclude that the person was not free to leave, to refuse a request, or to otherwise terminate the encounter due to law enforcement’s display of authority or use of physical force. For purposes of this analysis, an objective observer is aware that implicit, institutional, and unconscious biases, in addition to purposeful discrimination, have resulted in disproportionate police contacts, investigative seizures, and uses of force against Black, Indigenous, and other People of Color (BIPOC) in Washington.

Id., 511 P.3d at 97.

State v. Zamora, ___ Wn.2d ___, 512 P.3d 512 (Wash. June 30, 2022). Held that a prosecutor commits misconduct “when, during jury selection, he repeatedly asked the potential jurors about their views on unlawful immigration, border

security, undocumented immigrants, and crimes committed by undocumented immigrants.” Further, based on prior case law and GR 37, “when a prosecutor flagrantly or apparently intentionally appeals to a juror's potential racial or ethnic prejudice, bias, or stereotypes, the resulting prejudice is incurable and requires reversal.” [State v. Zamora](#), 2022 WL 2348703, at *1, *11 (Wash. June 30, 2022).

[State v. Thomason](#), 2022 WL 2517212 (Wash. July 7, 2022). Based on existing precedent, the court upheld a 63 month standard range sentence for second degree robbery. One justice wrote separately to suggest that the court should reexamine the constitutionality of the Washington’s sentencing regime given significant evidence of racial disproportionality. *Id.* at *6 (González, J., concurring) (citing Research Working Grp., Task Force 2.0, Race and Washington's Criminal Justice System: 2021 REPORT TO THE WASHINGTON SUPREME COURT 3-5 (2021), https://digitalcommons.law.seattleu.edu/korematsu_center/116 (Task Force 2.0); KATHERINE BECKETT & HEATHER D. EVANS, ABOUT TIME: HOW LONG AND LIFE SENTENCES FUEL MASS INCARCERATION IN WASHINGTON STATE (2020), <https://www.aclu-wa.org/docs/about-time-how-long-and-life-sentences-fuel-mass-incarceration-washington-state>.)

Orders

[Vacated](#) the conviction of Alec Towessnute, a Yakama tribal member who was convicted of fishing crimes after he had exercised his treaty rights to fish in usual and accustomed fishing places of the Yakama Nation. (July 10, 2020)

Granted [diploma privilege](#) for students who would otherwise have had to take the bar examination in an unsafe setting in July 2020 despite the COVID pandemic. The law schools informed the court that the pandemic prevented many of their students from having a safe and quiet place to study, and that burden fell hardest on BIPOC students, many of whom were also struggling with the death of George Floyd and its aftermath.

Established the [Bar Licensure Task Force](#) “to assess the efficacy of the bar exam and related requirements for licensing competent lawyers.” Order (25700-B-649) at 1. Among other things, the task force was asked to “assess disproportionate impacts on examinees of color and first generation examinees.” *Id.*

Taskforces

The court publically received and asked questions about a detailed report on [Race and Washington’s Criminal Justice System](#), along with separate

[recommendations](#) and a [Report and Recommendations to Address Races in Washington's Juvenile Legal System](#), from the [Race and Criminal Justice Taskforce 2.0](#). The Taskforce made detailed, specific suggestions for making Washington a more just and equitable state.

Commissions

The Washington State Gender and Justice Commission issued a detailed, 1183 page report titled [2021: How Gender and Race Affect Justice Now](#). Among other things, the study detailed how gender still impacts outcomes in the court system, and that impact falls hardest on BIPOC communities.

The Washington State Minority and Justice Commission held a symposium on [Reparations for African Americans](#) and prepared an accompanying [bench book](#).

Published [An Exploration of Barriers to Responding to Jury Summons: Technical Report to the Washington State Administrative Office of the Courts \(2021\)](#) exploring, among other things, racial disproportionality among potential jurors.

Issued a special report on [Girls of Color in Juvenile Detention in Washington State](#) (2020) detailing racial disproportionality in children held in detention.

Internal to the Supreme Court

[Race Equity Training for Court Staff](#). The court asked Patty Lally and Makeba Greene to lead multiple Racial Equity trainings. These led to a staff-led Temple of Justice Race Equity Project. Staff are leading “spokes” dedicated to (1) examining internal rules and policies of the court with an eye towards making them more just and equitable (2) improving training (3) creating a book/movie club to explore racial equity issues and (4) creating both a BIPOC affinity group and a white affinity group to create spaces where some people might feel safer discussing racially charged issues.

[Law Clerk Manual Update](#). Court staff did a comprehensive overview of the internal Judicial Law Clerk manual, among other things to make it clear the court expected clerks to think about the letter. The goal of the revisions was to make the manual more inspirational, aspirational, and helpful to the work. Clerks were encouraged to consider the June 4, 2020 letter when staffing cases.

Opinion Checklist. The chief’s office produced a drafting checklist for opinions. Among the checklist items: “Does the opinion comply with the spirit of the court’s [June 4, 2020 letter to the judiciary and the legal community?](#)”

Language Access Plan. The court is working on a language access plan to keep the courthouse meaningfully open to those with limited English proficiency.

Workgroup on Barriers to Access to Justice in the Appellate Courts. The court asked the Office of Civil Legal Aid and the Access to Justice Board to convene a workgroup of stakeholders to advise it barriers to full participation for pro se and indigent parties in the appellate process. The court specifically asked the group to consider whether [RAP 15.2](#), which governs waivers of costs on appeal, should be revised.

Relevant News Articles

Kevin Schofield, [Weekend Reads: Inequitable Impacts of the Sentencing Reform Act](#), South Sound Emerald (July 9, 2022) (discussing [State v. Thomason](#) and particularly the concurrence’s discussion of the Sentencing Reform Act’s apparent failure to constrain discriminatory sentencing)

David Gutman, [Prosecutor who asked jury about immigration, border wall committed racial bias, misconduct, WA Supreme Court rules](#), Seattle Times (June 30, 2022)

Gene Johnson, [Washington Justices Blast Racist Questioning by Prosecutor](#) Associated Press (June 30, 2022)

David Gutman, [‘We’re not colorblind’: Two years after George Floyd, WA Supreme Court tries to chart a different path on race](#), Seattle Times (June 12, 2022) (discussing the work of the court in the wake of the June 4, 2000 letter)

David Gutman, [Race must be considered in determining legality of police stops and seizures, WA state Supreme Court rules](#) Seattle Times (June 9, 2022) (discussing *State v. Sum*)

Shauna Sowersby, [WA Supreme Court says ‘race and class’ wrongly affected decision in child dependency case](#), The Olympian (Feb. 28, 2022)

David Gutman, [Black Seattle family couldn’t bury their young son where they wished because of racism. 60 years later, does an apology help?](#) Seattle Times (Nov. 24, 2020, updated April 30, 2021) (discussing the court overruling *Price v. v.*

Evergreen Cemetery Co. of Seattle, 57 Wn.2d 352, 357 P.2d 702 (1960) which had found a law that prohibited racial discrimination in cemeteries unconstitutional.

Mark Joseph Stern, [Washington State Shows How a Truly Progressive Court Changes Everything](#) Slate Magazine (March 15, 2021)