



**Washington State Minority and
Justice Commission (WSMJC)**
Friday, April 5, 2013, (8:45 p.m. – 12:00 p.m.)
Seattle University, School of Law
Sullivan Hall, Room 109, Seattle, Washington



MEETING NOTES

Commission Members Present:

Justice Charles W. Johnson, Co-Chair
Judge Mary I. Yu, Co-Chair
Jeffrey A. Beaver
Robert C. Boruchowitz
Judge Vickie I. Churchill
Carla C. Lee
Sandra E. Madrid, Ph.D.
Commissioner Joyce J. McCown (via phone)
Judge LeRoy McCullough
Karen W. Murray
P. Diane Schneider
Jeffrey C. Sullivan
Judge Mariane C. Spearman
Judge Vicki J. Toyohara
John Yasutake (Representing Rosa M. Melendez)
Judge Dennis D. Yule

Members Not Present:

Ann E. Benson
Jennifer Davis-Sheffield
Callie Dietz
Judge Deborah D. Fleck
Russell Hauge
Bonnie J. Glenn
Uriel Iñiguez
Justice Debra Stephens
Judge Gregory D. Sypolt

AOC Staff Present:

Myra Downing
Pam Dittman
Margaret Fisher
Beth McGrath

Other Guests:

Anne Lee

The meeting was called to order at approximately 8:45 a.m. The meeting minutes from the February 1, 2013 Minority and Justice Commission meeting were approved.

CHAIR REPORTS

Justice Charles Johnson attended the 25th Annual National Consortium on Racial and Ethnic Fairness in the Courts Conference. The program was well-attended and provided many informative sessions. A complete listing of conference topics can be found at <http://www.national-consortium.org/>.

Justice Johnson shared information about a program he learned about at the conference which was presented by Hong Tran, a public defender who practices in King County. The program is a joint initiative with the King County Prosecutor's Office and is entitled Project LEAD (Law Enforcement Assisted Diversion). It is a project to divert drug offenders from jail to services and can result in a prosecutor not filing charges. Justice Johnson thought it was a concrete way to reduce disproportionality in the criminal justice system and suggested that perhaps they could be invited to attend a Commission meeting and provide a presentation on the program.

Judge Yu mentioned that the King County Prosecutor's Office also has a program entitled 180 which is a pre-filing diversion program for youth. More information can be found at <http://www.kingcounty.gov/Prosecutor/news/2012/june/180program.aspx>.

Commission members expressed interest in both these programs and asked that the program contacts be invited to present at the June 14, 2013, Commission meeting.

Sentencing Guidelines Commission Meeting

Dr. Sarah Veele, Judge Mary Yu, Bonnie Glenn, Russ Hauge, Kim Ambrose, and Myra Downing attended the Sentencing Guidelines Commission at their request. Commission member Russ Hauge was also present. They were interested in our work on juvenile disproportionality and wanted an update on preliminary review of date being undertaken by the Center for Court Research. The Sentencing Guidelines Commission expressed an interest in working with the Minority and Justice Commission on exploring the idea of attaching racial impact statements to legislation; that is a request to review the impact of legislation on minority populations.

Save the Date: Friday, September 27, 2013. The MJC and the Sentencing Guidelines Commission will have a joint meeting on September 27. Dr. Katherine Beckett, University of Washington will share her research on how prior drug convictions affect the length of sentences. The discussion will explore proposals on how such prior convictions might be “washed out” or discounted when compiling a person’s criminal history. Each Commissioner is asked to set the date aside and attend.

Race and Pedagogy Initiative

Justice Johnson was invited to speak at a community forum hosted by the Race and Pedagogy Initiative, a collaboration of the University of Puget Sound which educates students and teachers to think critically about race and act to eliminate racism. Justice Johnson focused on how courts address racial and ethnic bias. Justice Johnson plans to continue the discussion with the group on how the judiciary can be a positive impact in this arena along with addressing issues on youth to prison pipeline, security in schools, and DMC. In addition, the Commission should approach this group on being part of their 2014 conference.

Disproportionality Discussion

The Commission continued the discussion on how we deal with juveniles within our schools, our communities, and our legal systems. The New York Times published an article on April 4, 2013, on this topic. It can be found at <http://www.nytimes.com/2013/04/04/education/restorative-justice-programs-take-root-in-schools.html?pagewanted=all>

Margaret Fisher indicated there are three (3) schools in Washington that have youth courts and employ restorative justice models. Judge LeRoy McCullough expressed that he has been working on this issue in the context of school suspensions and how this causes youth to become further behind in school and the causal effect of increasing the number of youth in the criminal justice system. John Yasatake discussed the Disproportionality Task Force in the Seattle School District which has instituted an independent body of hearing officers who mediate suspensions.

Jeffrey Beaver indicated he will provide a link to Myra Downing from Professor Scott on peer reviewed articles on disproportionate youth in schools.

Judge Vickie Churchill indicated it would be interesting to see any research on the connection between truancy issues and sanctions where students are placed in detention thus enabling students to keep up on work versus being suspended. A type of day-reporting idea would be interesting.

Judge Veronica Alicea-Galvan inquired if there is a joint task force with school districts or the Office of the Superintendent of Public Instruction (OSPI) discussing restorative justice measures. Judge McCullough indicated that JRA and OSPI had a collaborative meeting with stakeholders and there is an effort underway. Anne Lee indicated that part of the discussion was how to start the conversation with the Legislature on education and discipline. We also need to look at these cases as “teachable” moments for students, staff, and the community versus a behavior and disciplinary issue; look beyond the concept of adversarial approach and look at behavior.

Robert Boruchowitz indicated there are scenarios that he can provide which discuss restorative justice models. Judge McCullough indicated that we should continue the discussion with others on not suspending students, but look at the underlying and fundamental issues and provide tools and options for the student to make better life choices.

The question becomes “how does the Commission stay connected, informed, and be an integral part of the discussion and the solution?”

DMC – Phase I Study

The Commission paid for a research project which focused primarily on the differences between specific groups and the differences in their perception and judgments of the criminal justice system. In March 2013, *Justice in Washington, Phase I*, was released.

The Commission is still proposing to follow through with Phase II which would focus on the consequences of the Phase I findings. Phase II would provide qualitative results through engaging others through focus groups. The Commission has approximately \$20,000 to spend by June 30, 2013. The proposal is to hire law students to gather preliminary information from jurisdictions on who should be invited to focus groups. Commission members had questions as to how this might affect the validity of the study.

Other items discussed:

1. Does Phase I provide a complete story or does it depend on Phase II to give a complete story?
2. Ask researchers if they would prefer the study to be released piecemeal or after Phase II is completed.
3. Concerns were raised that if there is no funding to complete Phase II, then what happens to Phase I.
4. Ask WSCCR to provide a press release and talking points and how to roll out.
5. Discussion was had on facilitated town hall type of meeting.
6. We need to ensure the credibility of the Commission is not called into question however it is decided to handle the roll out or non-roll out of the report. There could be questions on transparency of the Commission and the findings.

The Commission voted to not release the Phase I report until the question on whether the report can be stand-alone is answered. Further, the Commission agreed to approach WSCCR on the above questions and/or comments and to get some answers before release.

A conference call needs to be initiated with WSCCR, the Commission, and the Researchers. The Commission voted to commit no more than \$25,000 in funds to:

1. Complete additional research or promulgate the Phase I information.
2. Hire research students.

3. Answer questions and/or address comments from above.
4. Invite researchers to assist with development of press release or other ways to roll out the information. (Could be used for travel, etc.)

Gideon v. Wainwright

Justice Johnson indicated the Washington State Supreme Court will be reenacting *Gideon v. Wainwright*, a landmark case where the U.S. Supreme Court unanimously ruled that state courts are required under the Fourteenth Amendment to provide counsel in criminal cases for defendants who are unable to afford to pay their own attorneys, extending the identical requirement made on the federal government under the Sixth Amendment. (http://en.wikipedia.org/wiki/Gideon_v._Wainwright). An article in the New York Times addressed this more recently regarding civil matters, which were not covered by the decision, and the effect that is having on poor people. The article can be found at <http://www.nytimes.com/2013/03/16/us/16gideon.html?pagewanted=all&r=0>. You can also see the movie "Gideon's Trumpet" via YouTube <http://www.youtube.com/watch?v=qAnb40298IU>.

Staffing Update

The staff position for the Commission has been opened and posted on the Washington Courts website at www.courts.wa.gov. The position is for a Court Program Analyst. Closing date is April 12, 2013.

SCJA Session

Judge Yu is working with Dr. Sarah Veele, Judge Frank Cuthbertson, Brian Pinto, and Anne Lee to present on the disproportionate minority contact report.

STAFF REPORT

Budget Review

Myra Downing provided a copy of the Minority and Justice Commission's budget. The report shows there is approximately \$35,000 in unallocated funds. Ms. Downing asked the Commission to identify projects or items that could be completed on or before June 30, 2013. The Commission members suggested:

1. Printing for Judge McCullough and Rosa Peralta.
2. Tri-Cities Youth and Justice Forum (T-shirts, give-aways, supplies, food).
3. Road Show / town hall type of forum around DMC.
4. June Commission meeting in Yakima in conjunction with an town hall forum.

Gender and Justice Commission (GJCOM) Report

The Gender and Justice Commission is working with the Initiative for Diversity on a Managing Partners CLE scheduled on May 22, 2013. The CLE will focus on ways to increase diversity in firms where lawyers are present.

The GJCOM released a RFP focusing on identifying promising practices when sentencing and monitoring domestic violence and sexual assault cases.

The GJCOM are sponsoring two sessions at the SCJA Spring Conference. One session focuses on the Sexual Assault Protection Orders. The second session focuses on situations that arise in the courtroom and, while not illegal, may create a distraction and is intended to provide judicial officers to answer the question "So how far would you go?"

Tribal State Court Consortium

The purpose of this project is to work with tribal nations and state courts to identify and propose solutions to inter-jurisdictional issues in the management and disposition of domestic violence and sexual assault cases, Indian Child Welfare cases, and to address juvenile disproportionality. Forty thousand dollars (\$40,000) has been set aside for this project, of which \$20,000 is being provided through the Court Improvement Project to be used to address youth and family issues, and \$20,000 is being provided through the GJCOM STOP grant funds which will be used to address domestic and sexual assault cases. An additional \$20,000 was included in the Office on Violence Against Women's state grant. This is the first time that GJCOM has been included in the grant. The funds will provide for three student interns to assist with data gathering.

PRESENTATIONS

Jim Bamberger, Office of Civil Legal Aid (OCLA)

OCLA Director, Jim Bamberger, provided copies of the Final Report of the Civil Legal Needs Study Scoping Group convened by the Washington State Office of Civil Legal Aid. The focus of the Scoping Group's work was to assess the need for and purpose of updating our understanding of the civil legal problems experienced by low-income Washingtonians. Mr. Bamberger explained that the civil legal problems of low-income Washingtonians were last documented in the [2003 Civil Legal Needs Study](http://www.courts.wa.gov/newsinfo/content/taskforce/CivilLegalNeeds.pdf) (<http://www.courts.wa.gov/newsinfo/content/taskforce/CivilLegalNeeds.pdf>) published by the Supreme Court Task Force on Civil Equal Justice Funding. In addition to determining that there is an imperative to update our collective understandings given the dramatic changes that have occurred since 2002-03, the Scoping Group's report outlines the focus, scope, and methodology that it recommends be employed in any such update. The Scoping Group's efforts were supported in substantial part by the Washington State Center for Court Research (WSCCR).

Mr. Bamberger reminded members that both the Washington State Gender and Justice and Minority and Justice Commissions were key partners in defining the focus and scope of helping underwrite the research effort associated with the 2003 Civil Legal Needs Study. At the time, the Gender and Justice Commission was particularly interested in ensuring that the civil legal problems of women and children, including domestic violence victims, received a high level of scrutiny in the design and execution of the study methodology. Mr. Bamberger noted that the results of the 2003 study were striking, not only with respect to the overall prevalence and substance of civil legal problems experienced by low-income Washingtonians, but the clearly documented disproportionality of civil problems experienced by women, especially victims of domestic violence.

Mr. Bamberger requested that the Minority and Justice Commission join as a partner in the effort to update Civil Legal Needs Study. He indicated that OCLA will be forming a Blue Ribbon Committee to oversee the effort, and that he intended to seek appointments from key partner entities including, he hoped, both the Minority and Justice and Gender and Justice Commissions.

The Commission voted to support this effort and identified Dr. Sandra Madrid as the Commission's representative. If anyone else is interested in serving as an alternate on this project, contact Judge Yu.

Margaret Fisher, Diversity Pipeline Programs for Youth

Ms. Fisher presented the Diversity Pipeline Programs for Youth – Diversifying the Bench and Bar in Washington State. Ms. Fisher was asked to explore and report on existing diversity pipeline programs for youth. Additionally, Ms. Fisher identified areas she is currently or will be working on:

1. Contact “Other Programs” that reported, such as the Washington Young Lawyers who offer a program in Yakima.
2. Confirm with existing programs that they would like to have a strategic meeting (spring timeframe).
3. Draft and submit a grant proposal to the Law School Advisory Council (LSAC) to assist with the strategic meeting (spring timeframe).
4. Presented this report and findings at the Gender and Justice Commission’s January meeting.

The Commission voted that they wanted to be a co-applicant with the GJCOM on a grant to LSAC to fund a project that is intended to bring together the various programs conducting pipeline projects. Dr. Sandra Madrid agreed to assist Myra Downing and Ms. Fisher with the writing the proposal.

COMMITTEE REPORTS

Collaborations Committee, Judge Vickie Churchill, Chair

The Committee has broken into three (3) sub-committees:

- Russ Hauge and Jeffrey Beaver provided an overview of the discussion they are going to have with the Washington Association of Sheriffs and Police Chiefs and the Criminal Justice Training Center. The discussion will be around unjustified disproportionate minority contact.
- Dr. Sandra Madrid and Jennifer Davis-Sheffield drafted a letter to be sent to a targeted group of entities that we are inviting to collaborate with the Commission on DMC and other projects.
- Commissioner Joyce McCown and Judge Dennis Yule discussed ways to assist the Commission’s collaboration with other organizations and the dissemination of information to the public through updating the Commission’s website, newsletter, poster, and other social media.

There was discussion about whether to pursue poster artwork for this year and should this continue to be a yearly project.

They also discussed the quarterly newsletter and additional ways to disseminate the information; especially with the impending update to the Commission’s website.

The sub-committee has been working with Beth McGrath and Paula Odegaard to update the website. At today’s meeting, everyone was given the chance to look at it and make any suggestions. The Commission agreed the mock-up was a great start.

Members asked for:

1. A dummy site so they can click through and see how it would work.
2. Revision dates on pages so people are aware of how current the information is.
3. A written protocol from the Committee on how the site will be maintained, who will maintain it, and how content will be added or deleted.

4. A rework of the mission statement to have it be short and compelling.
5. The possibility of the site being available in other languages.
6. An easily identifiable web address.

Juvenile Justice

Anne Lee has agreed to be the Interim Chair for this Committee. The Center for Youth Justice is looking to fill the position (formerly held by Carla Lee) and that person might be willing to take over as Chair, if Anne Lee cannot continue as Chair. The group is developing a work plan around the recommendations from the Task Force on Race and the Criminal Justice System.

The Committee agreed to:

- Revisit areas of focus and the division of labor between the Commission and the Partnership Council.
- Revisit timeline for report to the Supreme Court.
- Follow-up to data released by AOC on the Relative Rate Index.
- Follow-up with Stakeholder Group
 - Draft an e-mail/letter for Justice Johnson and Judge Yu which would be sent to the stakeholder group thanking them for their participation in the December meeting, providing them the notes, and letting them know that they will be contacted for follow-up.
 - Look over the stakeholder notes and identify the list of things that people promised and/or where obvious follow-up can occur. The Committee members will then review the list and volunteer to follow-up.
- Look at revisions to court rules.
- Look at the school to prison pipeline.
- Look at ways to create visibility and take advantage of opportunities for the Commission and the Supreme Court to take the lead on discussing the topic of disproportionate representation of youth of color in the juvenile justice system.

Legislative Role

The Committee asked the Commission what the role of the Committee and the Commission is when advocating for legislation. The Commission discussed whether a Legislative Committee should be put in place during session. Additionally, the question was raised on whether the Commission should take positions on bills and/or actively comment on bills. This discussion was held over to the June Commission meeting.

The Committee scheduled conference calls for April 18, May 16, and June 6, beginning at 8:00 a.m.

Next Commission Meeting

The next meeting is scheduled for Friday, June 14, 2013.