



**Washington State Minority and Justice Commission
(WSMJC)**
Friday, February 5, 2016
8:45 a.m. – 1:00 p.m.
Seattle University School of Law
Seattle, Washington



MEETING NOTES

Commission Members Present

Justice Mary Yu, Co-Chair
Justice Debra Stephens
Judge Lisa Atkinson
Prof. Lori Bannai
Mr. Jeffrey Beaver
Ms. Annie Benson
Judge Linda Coburn
Prof. William Covington
Sgt. Adrian Diaz
Mr. Mike Diaz
Judge Lisa Dickinson
Judge Theresa Doyle
Ms. Marie Eggart
Prof. Jason Gillmer
Ms. Bonnie Glenn
Mr. Uriel Iñiguez
Ms. Anne Lee
Judge LeRoy McCullough
Ms. Karen Murray
Ms. P. Diane Schneider
Judge Lori Smith
Mr. Travis Stearns

Student Liaisons Present

Ms. Manal Al-ansi
Mr. Jamie Cuevas Jr.
Ms. Sarah Erickson
Ms. Sarah Freeburg
Ms. Angela Jones
Ms. Astor Kidane
Mr. Frank Ovono
Ms. Desiree Phair
Ms. Harkiran Sekhon
Ms. Sara Taboada
Mr. Joshua Treybig

Members Not Present

Justice Charles Johnson, Co-Chair
Judge Veronica Alicea-Galvan
Prof. Robert Boruchowitz
Mr. Steve Clem
Mr. Russell Hauge
Ms. Yemi Fleming-Jackson
Ms. Carla Lee
Commissioner Joyce McCown, Ret.
Judge Gregory Sypolt
Judge Kimberly Walden
Mr. John Yasutake
Judge Dennis Yule, Ret.

AOC Staff Present

Ms. Stacy Smith

Guests

Mr. Travis Alley
Ms. Kathy Bradley
Ms. Karen Campbell
Ms. Mariah Ferraz
Ms. Martina Kartman
Ms. Janice Langbehn
Ms. Joanne Moore
Dr. Carl McCurley
Mr. Salvador Mungia
Mr. George Yeannakis
Ms. Jennifer Yogi

APPROVAL OF MINUTES

The meeting minutes from the December 4, 2015, meeting were approved.

CO-CHAIRS REPORT

Welcome

Dean Donna Deming, Seattle University School of Law Dean of Student Affairs, welcomed the Commission to the law school. Dean Deming discussed her experience as a member of the Commission for nine years during a time when she was the only African American staff at the law school when it was at the University of Puget Sound. She reflected on the increase of diversity since that time and on the many accomplishments of the Commission.

Staff Changes/Transitions

Ms. Stacy Smith is the new staff for the Minority and Justice Commission. Ms. Cynthia Delostrinos, Manager of the Supreme Court Commissions, is on maternity leave until April 2016.

Renewal of the Commission

The Commission has been unanimously approved by the Supreme Court for a new five-year term to run from 2015-2020.

Re-appointment of Members

Professor Bob Boruchowitz and Mr. Jeffrey Beaver have been re-appointed to the Commission for another four-year term.

Revision of Bylaws

Justice Yu discussed proposed amendments to the bylaws regarding membership. These revisions have been discussed at the past two Commission meetings. The updated bylaws were sent to the Commission prior to the meeting. There were no questions regarding the revisions.

Mr. Jeffrey Beaver made a motion to accept the proposed changes to the bylaws. Seconded by Judge Doyle. The Commission agreed unanimously.

2016 Supreme Court Symposium

The 2016 Symposium will be held at the Temple of Justice on Wednesday, May 25, 2016. The Commission will be examining the front-end of the criminal justice system (bail, plea bargaining, appearance bonds, etc.) and the disparities people of color face while trying to navigate the system.

LFO Report/Study

The Commission is working with the Brennan Center on an LFO study that will examine data over a two-year time span. SCJA has taken on the topic and voted to have the Commission do the research. The study will focus on specific counties: King, Clark, Spokane, Benton, Franklin. The AOC will provide revenue data by the end of February. Data is still needed on the cost of collecting LFOs.

Ms. Sara Taboada, intern with Columbia Legal Services and SU MJC Law Student Liaison, is working with Mr. Nick Allen on an LFO research project. Ms. Taboada has been calling clerks in each of the 39 counties to get data on general LFO practices, remission, interest waivers, hearings, motions, enforcement proceedings, and more. She has only gotten responses from ten of the 39 thus far and will be following up with the counties. The data she has collected shows that practices vary greatly by county. She will discuss with Mr. Allen whether the results of her research will be made public.

Northwest Justice Project has worked with LFO litigants for remission and per se cases. Law Help resources will be available soon. NJP is also collecting data on LFO practices with a focus on Benton County.

Recently, additional LFOs have raised concern:

- The Jury Pay Bill is before legislature this term. The bill would impose jury costs on losing criminal defendants.
- The cost of appeals is chilling the right of appeal for those who cannot afford the up to \$5000 Appellate Court fee. Justice Madsen has a committee reviewing whether the rule on appellate costs should be revised to give judges more discretion with imposing this cost. As it now reads, the rule requires Commissioners to make the decision on whether to impose appellate costs.
- Defendants are asked to challenge an LFO but often they cannot contest because if they lose they will have to incur additional costs.

The LFO Reform Bill has passed unanimously in the House. The Senate has not yet moved forward.

Related, SU will be hosting a Defender's Conference on March 13th. Cash-bail warrants and additional LFO topics will be presented.

National Consortium on Race and Ethnic Fairness

The Consortium will be held May 25-27 in Williamsburg, VA. The theme is "Engaging Communities: Building Trust and Increasing Confidence." The conference begins on the same day as the Supreme Court Symposium is scheduled and is during Supreme Court oral arguments. The Commission should send members and staff if possible. There are funds to send one staff and two Commission members. Judge Lori-Kay Smith and Judge Galvan have offered to attend the Consortium.

PRESENTATIONS

Statewide Relicensing Program – Karen Campbell, Northwest Justice Project

Ms. Karen Campbell of Northwest Justice Project presented on the Statewide Driver's Relicensing Program that aims to enable drivers whose licenses have been suspended for delinquent fines to consolidate their fines into simple and affordable payment plans. In November 2014, a group of stakeholders convened to discuss the relicensing issue. The group generated a list of barriers faced by those dealing with relicensing issues. First, the cycle of poverty can be even more difficult to break without a license if one cannot get to work and is therefore unable to make money to get out of poverty. Second, private collections can add numerous costly fees to already potentially insurmountable debt. Third, some face multiple holds on their licenses from multiple jurisdictions. This problem is compounded when not all jurisdictions offer the same payment plans, payment terms, and relief. The Relicensing Program offers a solution to these and other barriers. The Program would allow drivers to consolidate all Washington suspending traffic debt into a single plan where participants make payments based on income and holds are released if the participant remains current in payments. The Program calls for state agency administration either directly or by contract with an accounts receivable company, both of which could be self-funded through administrative fees on participants' accounts. Relicensing bills are currently before the House and Senate.

Questions and concerns were discussed regarding the Program:

- Interest would not accumulate during participation in the Program for participants making timely payments. Once a participant joins the Program, interest owed goes away unless the participant defaults on payments.
- Amnesty for old debts would likely not be supported and is not included in the bills.
- Participants would be responsible for a diversion fee to pay administrative costs. The five-dollar fee currently being charged in the Spokane program was found by the stakeholder group to be a reasonable fee.
- There was a question whether legislation was needed for a relicensing program. Stakeholders decided legislation was the way to get everyone on board across the state. Many view the Program as a win-win for courts to get the money owed and for defendants to have their license reinstated.
- Still have racial disparity because people of color are disproportionately affected by policing and by the number of tickets received.
- This Program is not for those with commercial and restricted licenses; those types of tickets can be addressed through the already established Occupational License Project.
- It was also discussed whether insurance companies can be a stakeholder because they are parties with interest in having more insurable drivers; insurance rates would likely be higher but participants can still have insurance.

Rule 35 on Jury Selection – Sal Mungia, Gordon Thomas Honeywell, LLP

Mr. Mungia, a civil litigation attorney at Gordon Thomas Honeywell LLP, provided an overview of a proposed court rule covering procedures for jury selection. The proposed rule addresses issues with Baston challenges of peremptory challenges where attorneys are precluded from using race as a reason to dismiss a potential juror. Reasons must be race-neutral and judge will decide if there is purposeful discrimination, which is a high bar to cross. In *WA vs. Saint-Calle* (2013), the WA Supreme Court discussed the need to strengthen Baston in order to make it work. The proposed rule replaces the purposeful discrimination standard with an objective observer standard where an attorney can raise a challenge if an objective observer would be aware that “purposeful discrimination and unintentional, institutional, or unconscious bias have resulted in the unfair exclusion of potential jurors based on race.” The proposed rule outlines a number of factors a judge should consider when making this determination.

The group discussed how workable the proposed rule would be for judges and what more should be added to the proposed rule. It was also discussed whether judges can make a Baston challenge sua sponte; case law says that court can; Mr. Mungia will talk with rule committee about this. There will need to be education to help judges understand why the proposed rule is important and how to use it. It was suggested that Mr. Mungia present at the jury selection session at fall conference.

The proposed rule is now being brought to stakeholders with hopes to have input over the next six months before presenting the final proposed rule. Commission members should email Mr. Mungia with suggestions on stakeholders to bring into the discussion.

The Commission had a consensus to work with the rule committee on revisions to the proposed rule.

Washington State Truancy Report – Dr. Carl McCurley, Washington State Center for Court Research

Dr. McCurley from the Washington State Center for Court Research discussed the 2015 Washington State Truancy Report that was conducted at the request of the SCJA to examine truancy practices in the state from the perspective of the juvenile courts. Washington State's truancy laws now recommend that schools and courts include interventions to address barriers to school attendance, with specific reference to Community Truancy Boards. As an update of the 2010 report, the 2015 report examined current truancy practices across the state, statewide trends in truancy petition filings, and educational progress and three-year outcomes of students who were petitioned truant during the 2010/11 academic year. Sources of data included a statewide survey of truancy practices in juvenile courts and integrated juvenile court and education data.

Key findings of the report:

- The total number of truancy petitions filed per year is now nearly equal to the combined number of all juvenile offender filings.
- Statewide, at no time during the past decade have more than 36% of the most chronically truant students in a given school year actually received truancy petitions.
- Almost one-half of all students who received truancy petitions during the 2010/11 school year were in grades 9 or 10. Close to one-half of the petitioned truants in grades 6 or higher faced juvenile offender charges during the same year or the three-year follow-up period. Over one-quarter of the older petitioned truants faced juvenile offender charges during the five years preceding their truancy petitions.
- Compared to the general student population, truant youth were disproportionately likely to be American Indian/Alaska Native, Hispanic, or Black.
- Petitioned youth were more likely to be eligible for school-based special education, free or reduced price lunch, migrant or homeless services.
- Many of the 2010/11 petitioned truants had previous truancy petitions, and many more would go on to receive at least one more in the following three years.
- Within four years post-petition, over 60% of petitioned students in grades 9-12 had left high school without earning a diploma, GED, or any other academic credential.
- Most juvenile courts occasionally use secure detention as a sanction for particularly recalcitrant truant youth. Eight percent of the petitioned high school students spent time in juvenile detention in relation to a truancy case.
- Courts report barriers to providing effective truancy prevention programs, including funding and establishing/maintaining partnerships with multiple school districts in their jurisdiction. Only eleven of the 29 responding juvenile courts operate Community Truancy Boards and four others operate other types of truancy prevention programs. School districts that operate Community Truancy Boards in partnership with the juvenile court system are more proactive in filing truancy petitions than are school districts without these programs.

The report informed several policy recommendations: emphasize cross-sector cooperation; establish practice standards for truancy programs; and, continue research and evaluation.

WSCCR has received a grant for \$600,000 spread out over the next four years to evaluate data between the court and education systems and look at the disproportionate impact of truancy for minority groups. Part of the proposal was for an analysis of early childhood data with a focus on Hispanic families. The analysis will focus on how to increase a child's ability for success early in

the child's life and will enable retrospective analysis. Early intervention and tracking could make a difference later in the child's life. This initiative is funded through the same grant as \$50,000 of the total \$600,000.

Dr. McCurley asked for the Commission's support in being a stakeholder in these efforts moving forward. The Juvenile Justice Committee has agreed to work with Dr. McCurley in identifying areas of interest that his team can look into, such as the school to prison pipeline, school discipline, truancy, and racial disproportionality.

OJJDP Grant: Youth Access to Justice Reform Planning Grant – George Yeannakis and Joanne Moore, MJC Juvenile Justice Committee Members

Mr. Yeannakis and Ms. Moore gave an overview of a federal grant the Washington State Office of Public Defense received to develop a strategic plan to ensure that every youth involved with the criminal justice system in the state has fair and equal access to quality legal representation. The grant provides funds for a team to create a strategic plan for juvenile defendants to get services and to help elevate the juvenile defense system. Part of the problem with services for juvenile defendants is that juvenile public defenders are paid less than other defense attorneys (\$20,000-\$70,000 less in some cases); as a result there is high turnover as many attorneys see juvenile defense as a stepping stone to other positions. One of the goals of the strategic plan is to address these issues and advocate changing the culture.

Washington is one of four states that received the grant, which is the first of its kind. The strategic plan is due in May and the training portion must be completed by September. Once the strategic planning part of the grant is complete, the group will have the opportunity to apply for an implementation grant to put the plan into action. The leads are working with a large cross-group of stakeholders (approximately 40 people) to help with planning and implementation. The group will meet with court personnel to see what the courts need and what is working in all state counties. There will also be web-based training programs created and made available to everyone on topics like collateral consequences, implicit bias, front- and back-end issues, school discipline, and homelessness.

The leads would like to present the strategic plan to the Commission for feedback and support. The leads will be seeking endorsement from other stakeholders as well.

STAFF REPORT

Staff Report – Stacy Smith

The Affiliated Tribes of Northwest Indians (ATNI) passed a Resolution supporting the Washington Tribal State Court Consortium. ATNI is a nonprofit organization representing 57 northwest tribal governments from Oregon, Idaho, Washington, southeast Alaska, Northern California and Western Montana. It aims to provide a forum for sharing information on matters of interest to its member Tribes, develop consensus on matters of mutual importance, assist member Tribes in their governmental and programmatic development consistent with their goals for self-determination and self-sufficiency and provide for effective public relations and education programs with non-Indian communities.

The Commission has sent a letter of support for House Bill 2076 regarding racial and ethnic impact statements. This letter mirrors the letter sent to the legislature last year in support of the impact statements. There is no word yet on the progress of the bill.

COMMITTEE REPORTS

Law Student Liaisons

Gonzaga

The Gonzaga Law Student Liaisons presented their agenda for the Gonzaga University Culture & Ethics Symposium. The date is set for April 1, 2016, and the program will run from 9:00 a.m. until 3:00 p.m. at the law school. The format includes workshops for dialogue, a keynote speaker, and three round robin sessions. The students are working with law school staff to secure CLE credits for legal professionals. Those seeking CLE credits will pay associated costs; event is free to students and community.

The students asked the Commission for thoughts on topics, speakers, and moving the scheduled Commission meeting to Spokane during the day of the symposium. It was suggested that the students include tribal judges as presenters. Judge Jane Smith and Judge Anita Dupree were both suggested. The students will be moving forward with planning and have strong support from the law school.

The Commission will take an email vote about whether to move the April meeting to Spokane.

Seattle University & University of Washington

The SU and UW Student Liaisons would like to collaborate on offering racial justice training for SU and UW law students. The goal of the training is to help students increase language and skills for identifying and discussing racial oppression, to gain tools for intervening in racist dynamics in law practice, and to experience a deeper commitment in working against racism. SU has offered similar training in the past and received overwhelmingly positive feedback from participants. Because the program empowers future lawyers to actualize the Commission's mission to eradicate the effects of racial, ethnic, and cultural bias in our state court system, the students asked the Commission for its support in offering the training and creating a sustainable program at both law schools.

The City of Seattle Office of Civil Rights has agreed to create a customized training for lawyers and students entering the profession. The cost would be \$1000 for a half-day session and \$2000 for a full day of training. The Commission's contribution would cover some costs; UW law school administration has offered to also provide funding. The students would like to have the training this spring in March or April. Student participation was raised as a potential issue. The students discussed strategies to get students to participate, including emphasizing possible networking with Commission members, highlighting why it is important for professional development, and offering a certificate of some sort to highlight on resumes. The training can be marketed through existing programs and throughout the law schools.

The Commission unanimously approved the proposal. Commission members may attend depending on logistics and availability.

Juvenile Justice Committee

The Juvenile Justice Committee is working on a number of projects. The Committee is supporting the work Dr. McCurley is doing with the truancy study. Sgt. Adrian Diaz has agreed to serve as a liaison to Dr. McCurley's stakeholder group on behalf of the Juvenile Justice Committee. Committee members are participating in the stakeholder group and can bring the voice of the Commission to the table. The Committee continues its work on the juvenile auto-decline issue by following legislation and looking for ways to educate on why this issue is a concerning justice issue, especially for children of color. In November, the Committee discussed whether the Commission should take a position on the Youth Detention Center. The Committee decided that it would draft a letter identifying 4-5 systemic issues that affect minority youth, not just a focus on the Center, to have a broader conversation. Judge Trickey is drafting the letter in conjunction with Breann Beggs from the Access to Justice Board – it would be a joint collaborative effort between the Commission and ATJ Board. Judge McCullough is working on drafting a letter/statement concerning the school to prison pipeline. The letter's purpose is to make a broad statement that the Commission is paying attention to this issue and to reach out in collaboration with other interest groups, like OSPI. The statement will advise the OSPI that there is a connection with pipeline and disparate justice as well as open the table to work with OSPI to address the issue. Judge Trickey's and Judge McCullough's letters will have some cross-over content and will emphasize key juvenile justice issues.

Education Committee

Proposals have been accepted by SCJA, DMCJA, Appellate Judges Conference, and fall conference. The Appellate presentation is being led by Justice Stephens and will be on the topic of mass incarceration. The DMCJA Spring Conference presentation was being led by Judge Coburn and Judge Walden on the topic of relicensing; this presentation has been put on hold. The Commission will host two presentations during fall conference. The first presentation will be part two of Perceptions of Justice. Tony Greenwald, expert on implicit bias and the IAT, will be speaking. The second presentation will be on jury diversity and implicit bias. The presentation will focus on the AOC jury survey organized by Judge Rosen, proposed court rule 35, and implicit bias. The Committee would still like to have training for administrative staff at some point.

The SCJA Spring Conference presentation is being organized by Judge Doyle on the topic of bail. Judge McCullough proposed a community forum on April 17th in Vancouver, WA as an extension of a presentation by Mr. Ron Davis at SCJA on April 18th. Mr. Davis, Founder/CEO of the Jordan Davis Foundation, will be showing his film, "3 ½ minutes 10 bullets", at SCJA. The Vancouver community forum will be open to the public and would include showing clips of the film and a dialogue with Mr. Davis. A number of local community and legal organizations will be invited to attend. Judge McCullough requested \$2000.00 for speaker transportation, honorarium, and costs to host forum. Clark College was suggested as a possible venue. The Supreme Court held court at the college in the past. Justice Stephens and Justice Yu will reach out to the college if needed. The Commission asked whether it would be possible to show a full screening of the film. Judge McCullough will check on this. With a consensus of those present, the Commission has agreed to support the event.

Workforce Diversity Committee

Mr. Mike Diaz reported in the absence of Ms. Bonnie Glenn. Three projects that are in the works are the Judges of Color Directory, the Youth and Law Forum Stakeholder collaboration, and pro tem judges training. The Committee has created a process to update the Judges of Color Directory. The Committee will first work with minority bar associations to get their input on

judges in their membership, then get feedback from the Commission as a review of the lists received from the associations, and, lastly, email judges on the list to verify that they want to be included in the directory.

The Committee is working on a Youth and Law website and listserv network to collect resources, program highlights, dates, and event pictures in one place, as well as provide opportunities for the stakeholders to meaningfully engage and collaborate. The website and listserv will be geared towards those who help organize existing forums and those looking to begin youth programming in new areas.

The Committee will also be getting involved with the DMCJA Diversity Committee and WSBA Pro Tem training. The training is done every two years and will be done this year Aug. 19-20 at the WSBA Training Center. Typically there is not much participation by people of color, so the Committee is working on ways to increase participation.

Outreach Committee

Ms. Stacy Smith reported in the absence of Judge Yule. The Committee is working on updating the website. Thank you to those Commission members who have submitted bios and pictures; Judge Yule will be following up with those missing information. Each Committee should review and submit updated goals and objectives to Ms. Smith for the website. The Outreach Committee will soon begin the process of soliciting proposals for the 2016 Artwork/Poster. If you have contacts with artists or community groups, please let the Committee know and they will reach out to them.

NEXT COMMISSION MEETING:

Friday, April 1, 2016, from 8:45 a.m. – 1:00 p.m. location TBD