



**Washington State Minority and Justice Commission  
(WSMJC)**  
Friday, April 6, 2018  
8:45 am – 2 pm  
AOC SeaTac Office  
18000 International Blvd., Suite 1106, SeaTac, WA  
Teleconference: 1-877-820-7831  
Passcode: 358515#



**MEETING NOTES**

**Commission Members Present**

Justice Charles Johnson, Co-Chair  
Justice Mary Yu, Co-Chair  
Judge Veronica Alicea-Galvan  
Professor Lorraine Bannai  
Ms. Diana Bob  
Professor Robert Boruchowitz (emeritus)  
Ms. Lisa Castilleja  
Magistrate Faye Chess  
Mr. Steve M. Clem  
Judge Linda Coburn  
Lieutenant Adrian Diaz  
Judge Lisa Dickinson  
Judge Theresa Doyle  
Mr. Anthony Gipe  
Judge Bonnie Glenn  
Ms. Annie Lee  
Judge LeRoy McCullough  
Ms. Kimberly Morrison  
Ms. Karen Murray  
Ms. Rosalba Pitkin  
Ms. Jasmin Samy  
Judge Lori K. Smith  
Mr. Travis Stearns  
Judge Helen Whitener

**AOC Staff Present**

Ms. Carolyn Cole  
Ms. Cynthia Delostrinos

**Guests**

Mr. Jorge Barón  
Ms. Jennifer Chan  
Ms. Elly Krumwiede  
Ms. Hamdi Mohamed  
Ms. Vy Nguyen  
Mr. Nick Straley  
Ms. Kiese Wilburn

**Student Liaisons Present**

Ms. Geraldine Enrico  
Mr. Peter Gale  
Mr. John Sather Gowdy

**CALL TO ORDER**

The meeting was called to order at 9:00 a.m.

January 19, 2018 meeting minutes approved as presented.

**CO-CHAIRS REPORT**

**LFO Bill**

[Engrossed Second Substitute House Bill 1783](#) was signed into law on March 27, 2018 and becomes effective on June 7, 2018. It is the Commission's hope that the new law moves Washington towards

a fairer justice system. Justice Yu thanked the judges and prosecutors for coming to the table on this bill. Judge Doyle hoped that the \$500 Victim Penalty Assessment could be addressed by the Legislature next session. Judge Coburn pointed out that the new law does not prohibit judges from imposing “costs” only “fines” upon a finding of indigency. Many do not understand that there is a distinction.

### **General Rule 37**

The Washington Supreme Court adopted a new rule, [GR 37](#), to address the issue of racial/ethnic bias against jurors during jury selection. The rule is effective April 24, 2018. Justice Johnson shared that the rule is a first step that emphasizes the right of the juror to not be discriminated against and it is consistent with the Court’s cases. This makes the Washington Supreme Court the first in the nation to adopt a rule to address this issue. Judge Doyle and Judge Galvan thanked the Court for exercising leadership on this issue and helping judges engage in necessary conversations during jury selection. Justice Yu would like to see training on GR 37 at the judicial conferences and law schools.

Judge Whitener asked how the Court defines “ethnicity” in the rule. This may be something that needs more clarification. Kitara Johnson explained that “race” is the categorization of people along phenotypic features or biological traits while “ethnicity” refers to shared culture and practices. Anthony Gipe raised a concern that the rule does not include other categories and he hopes that GR 37 can be used to apply to other categories and judges would be prepared to entertain the arguments. Judge Smith agreed that GR 37 could be analogized to include other categories like gender identity.

### **2018 State of the Judiciary Report**

The work of the Supreme Court Commissions is featured prominently in this year’s [report](#). Commission members are encouraged to read and share.

### **National Consortium on Racial & Ethnic Fairness in the Courts Conference**

The Commission thanks Judge Galvan and Judge Glenn for volunteering to represent the Commission at the annual conference. They will give a report at the conference about the Commissions’ work and report back to the Commission about the conference. [This year’s conference](#) will be held in Minneapolis June 13-15. MJC is one of the four founding commissions of the Consortium. Justice Charles Z. Smith helped form the Consortium as a way for commissions across the country to exchange information and collaborate. Judge Galvan noted that the Consortium helped MJC connect with Judge (now Justice) Adrienne Nelson of the Oregon Supreme Court to organize last year’s Judges of Color Reception. Judge Doyle asked if there was a way to contact California to share resources and speakers on bail reform.

## **CO-SPONSORSHIPS**

### **Civics Day for Kent and Renton School Districts – May 2018**

Carolyn recommended approval of the request (meeting packet page 13) to support stipends for the youth panelists because the event is like the youth and justice forums the Commission already sponsors.

**VOTE: Unanimous vote to approve co-sponsorship request \$300.**

**ADDITIONAL ACTION:** Update the co-sponsorship request form to require an explanation of how the event relates to the Commission’s mission.

## **UW Law Academy Report – Lisa Castilleja**

Approximately 165 students were in attendance and 40 volunteer attorneys and judges. Judge Richard Jones served as the keynote speaker and led a “mini-CLE” on persuasive oral arguments. The student feedback was very positive. Lisa urged the Commission to reconsider its approach to funding events like the UW Law Academy. She suggested that the Commission rotate funding between the law schools to ensure equal support of law academy events for each school.

## **PRESENTATIONS & REMARKS**

### **Private Prisons in Washington**

**Jorge Barón**, Executive Director, Northwest Immigrant Rights Project

**Nick Straley**, Columbia Legal Services Institutions Project

**Jennifer Chan**, Office U.S. Representative Pramila Jayapal

Judge LeRoy McCullough explained that the topic of private prisons should be of interest to the Commission because of the racial disproportionality of private prison populations for profit. He believes it is an incredible abuse of the system and increases recidivism.

Nick Straley shared that private prisons provide fewer services to gain more profit. The only private prison in Washington is the Northwest Detention Center in Tacoma. They have been known not to provide cancer treatments and engage in practices like “slow walking,” which is the slowing down of the immigration hearing process, so the detainee is deported before the detention center has to give them any treatment. [Attorney General Ferguson has filed a lawsuit](#) against the detention center for paying detainees \$1 per day arguing that the detention center is not exempt from Washington wage and hour laws and are in violation. Mr. Straley believes that litigation is not going to solve the problem because all it can do is make the situation more “humane.” The undocumented activists speaking up about this issue even at the risk of deportation are the true heroes.

Jorge Barón reminded the Commission that immigration violations are civil matters and many of the individuals detained are being held based on an alleged violation of immigration law and have not been convicted of any crimes. These individuals have no right to appointed counsel. Eighty percent of cases are unrepresented. Initially, those who were being detained were mostly recent arrivals seeking asylum, but now ICE has started to detain longtime Washington residents by increasing local patrol at locations like bus terminals. Bond amounts set are very high and certain mandatory detention categories cannot seek bond. [The U.S. Supreme Court last month reversed and remanded a 9<sup>th</sup> Circuit decision](#) that held that bond hearings have to take place by six months. Many individuals are being held indefinitely without a hearing and some of them give up on their cases. The government is always represented in bond hearings.

Jennifer Chan presented on [HR 3923 Dignity for Detained Immigrants Act of 2017](#), a bill sponsored by U.S. Representatives Adam Smith and Pramila Jayapal. The bill did not pass. It would have created due process, eliminated profit motive, and increased transparency by requiring state contracts with private prisons to be public. The bill would have also created presumption of release, a probable cause requirement, eliminated mandatory detention, required ability to pay determination when setting bond, unannounced inspections, and resources for alternatives to detention pilot projects with the goal of phasing out private prisons completely. She urged the Commission to address aggressive immigration at the courthouses and not support the expansion of private prisons in the state.

**ACTION:** The Workforce Diversity Committee will discuss ways that the Commission can address this issue and present it to the Commission for consideration.

## **STAFF REPORT**

### **2018 LFO Symposium (“Legal Financial Obligations (LFOs): Beyond Defining the Problem; Advancing Solutions”) and Conference with Dr. Alexes Harris – June 6, 2018, 9 am – 12 pm, Seattle University School of Law**

Carolyn shared that planning is underway. Speakers and program have been confirmed. Program will include an overview of the use of LFOs in Washington by Dr. Harris, updates on the LFO Consortium, including an LFO Calculator demonstration by Judge Coburn, a panel of community members living with LFOs, and presentations from Trish Kinlow on the King County Unified Payment Program, and Judge Kimberly Walden on community service conversion of LFOs. The emcee will be Judge David Keenan.

#### **LFO Consortium**

Judge Coburn shared that the LFO Calculator will incorporate the new changes to the law and the link will be released by the summer. The LFO Calculator will help judges see the impact of imposing a particular amount on the defendant. Judge Chess is grateful for the LFO Calculator because judges lack an understanding about the “domino effect” that even license suspension for failure to pay parking tickets has on individuals. The Calculator will help judges ask questions to learn more about the individual’s circumstances.

The LFO Consortium is collecting data on the cost of imposing and collecting LFOs. The Washington State Auditor is conducting an audit on pretrial detention. It could be helpful if the State Auditor did an audit on LFOs.

#### **Pretrial Reform Task Force**

A full Task Force meeting was held on February 28th, 9 am – 12 pm, at the AOC SeaTac Office. The meeting included a presentation on the results of the Yakima system improvements and the results are promising. One notable result is that there was no significant difference between pretrial release rates between different race/ethnicity groups post-implementation. Pre-implementation, White defendants were being released at a higher rate than non-White defendants. In addition, there was no negative impact on public safety as pretrial release increased. Justice Yu was enthusiastic about the results and hopes that Yakima could be a model. Judge Doyle shared that the Race & Ethnic Considerations Statement from her workgroup was submitted to the Risk Assessment Subcommittee. There is new research every day about the topic and there isn’t consensus that risk assessment tools do not perpetuate disparities. The workgroup would like to see if fairness could be incorporated into the tool in some way to account for systemic inequalities that produce the data being used in the tools.

Annie Lee shared that a needs assessment approach is used more for juveniles. The literature and tools are shifting away from the risk assessment approach.

At the end of 18 months, the Task Force plans to produce a comprehensive report outlining the data collected and recommend best pretrial practices to be used throughout Washington State.

#### **Eliminating the Pipeline School Discipline Series**

The last workshop was held March 15, 2018. The panelists included Judge Wesley Saint Clair, Prosecuting Attorney Samaneh Alizadeh, Willard Jimerson (Urban League), Richard Davenport

(TeamChild) and Maria Marshall, a community advocate. The conversation was very frank about the court's inability to adequately address the youth's needs. The group discussed ways that court leadership could help dismantling the pipeline by supporting more diversion and communication with schools. It was a great workshop series and our partnership with Equity in Education Coalition allowed us to reach more community members.

### **Youth Events**

- *Yakima Youth & Justice Forum ("Technology and the Law") – April 20, 2018, Heritage College, Toppenish, WA*
- *Seattle Youth & Justice Forum ("What's the CODE? Technology, Law, and Justice!") – April 21, 2018, 8 am – 1:30 pm, First A.M.E. Church (1522 14<sup>th</sup> Avenue, Seattle, WA 98122)*
- *Power of Dissent Spoken Word – April 23, 2018, 5:30 – 7:30 p.m., Rainier Beach Community Center*
- *Civics Day for Kent and Renton School Districts – May 2018*

The Commission will be able to cover travel costs for up to 10 members to volunteer at the Yakima and Seattle Youth & Justice Forums.

### **Budget Update**

MJC has spent \$24,919 of its \$70,000 as of February 2018. We are not expected to go over budget at this rate.

### **Shout-outs:**

- Judge Smith and Judge Galvan for their work on SCJA Conference sessions and serving as faculty.
- Judge Whitener for working with SCJA to expand Color of Justice statewide.
- Gonzaga and SU law student liaisons for successfully organizing their events.
- Cynthia Delostrinos organizing the DMCMA regional poverty simulation trainings.
- Lisa Castilleja for her work on youth forums.
- Gonzaga liaison Sather Gowdy for his [Heal Spokane initiative](#).

## **LAW STUDENT LIAISON PRESENTATIONS**

Each year, the law student liaisons from each school organize an event or project to further the Commission's mission in their law school and greater community. Liaisons presented their submitted co-sponsorship requests. Commission members asked questions and gave suggestions for content and speakers.

### Gonzaga University School of Law

Sanctuary Cities, DACA, and Immigrants' Rights  
February 27, 2018, 5-7 pm  
Gonzaga University School of Law, Barbieri Courtroom

Approximately 44 people were in attendance, including representatives from community organizations. Judge Dickinson shared that the presentations were high caliber. Attendees were able to hear from Megan Ballard about how equal protection applies in education for undocumented immigrants. Students were able to connect with the panelists about their own immigration issues.

### Seattle University School of Law

Immigration Issues in Civil and Criminal Litigation and Administrative Proceedings  
February 28, 2018, 5-8 pm  
Seattle University School of Law

Approximately 36 people were in attendance. The event featured a very engaging panel of immigration experts. Their goal was to show all of the ways that state courts are impacted by immigration and it is not just an immigration court issue. Professor Boruchowitz praised the liaisons for helping Seattle University School of law engage in these conversations.

#### University of Washington School of Law

Just for Kids: Discussing Ongoing Efforts, Innovations, and Challenges in the Washington Juvenile Justice System

April 12, 2018, 4-7 pm

University of Washington School of Law

Update from the liaisons: The UW liaisons are very excited for their upcoming MJC event on April 12<sup>th</sup>. Our last update included plans to host a keynote speaker, however we were unable to have a speaker knowledgeable on Washington juvenile justice commit. We instead decided to localize our panel and create a two-prong schedule. First, we will be hosting youth involved in restorative justice. For the second half, we will be hosting the honorable Judge Saint Clair, community organizers, defenders, and prosecutors. Our budget has allowed us to provide food and drinks, parking validation, materials, and printing. We are anticipating about 90 students from various departments and graduate schools. We are very excited to bring MJC to UW on an issue very pressing for our community. Catalina Saldivia Lagos will be presenting a follow-up report at the next MJC meeting.

### **COMMITTEE REPORTS**

#### **Education Committee – Judge Smith**

*Appellate Conference - March 28, 8:30 am – 12 pm, Suncadia Resort, Cle Elum, WA*

Response from the judges on the collateral consequences of criminal convictions session was very positive. Several judges remarked that it was one of the most important sessions they have attended because they were able to hear directly from those living with convictions.

#### *SCJA Spring Conference*

- SCJA Batson Session (April 9, 1-2 pm plenary, 2:15-3:30 pm choice)

The first part of the program hopes to show through scenarios how bias can appear in different judicial determinations and information provided to the court by CASAs. Judges will use responder units to make rulings and discuss. The second part of the program will be the mock Batson hearing and address GR 37.

- SCJA Joint Commissions Immigration Session (April 9, 8-9:30 am plenary)

*Superior Court Administrator's Program – April 8, Campbell's Resort, Chelan, WA*

*DMCJA Spring Conference – June 4, 8-10:15 am, Campbell's Resort, Chelan, WA*

DMCJA Batson Session

The session will need to include GR 37.

Fall Judicial Conference – September 23-26, Yakima, WA

Proposals submitted and accepted:

- Poverty as a Barrier to Justice – How Courts Can Stop Being Part of the Problem and Help Create Solutions - MJC
- A Fair System for LEP Children and Connected Adults: The Importance of Linguistic and Cultural Competency – IC, MJC, ATJ Board
- Immigration’s Impact on the Judiciary: Implementing New Evidence Rule 413 – GJCOM, MJC, IC
- Combating Muslim Bias in Washington Courts: Equipping and Empowering Judges – BJA Public Trust & Confidence Committee and MJC

District and Municipal Court Management Association Regional Trainings – April 2018, locations throughout Washington

Cynthia reported that the registration numbers were low for some of the sites, so the trainings will only occur in 3 locations: Des Moines, Gig Harbor, and Bremerton.

**Juvenile Justice Committee – Annie Lee**

The Committee would like to see a broader presentation to the Commission on public health responses from courts. She also shared that [Senate Bill 6550](#) was signed into law, which allows prosecutors to divert almost any juvenile offense except a narrow class of violent offenses. [Senate Bill 6160](#), which revises conditions under which a person is subject to exclusive adult jurisdiction and extends juvenile court jurisdiction over serious cases to age twenty-five. The Committee would like Diana Garcia from Columbia Legal Services to present on a juvenile record sealing model protocol at the next MJC meeting.

Annie would like to invite juvenile court judges to join as members and add a co-chair to help with the work. Judge Whitener said she would reach out to her court administrator, Chris Gaddis, to see if he would be interested in joining. If so, the Commission should extend a formal invitation.

**Outreach Committee – Lisa Castilleja**

The Outreach Committee has received some great artwork submissions. They are in the process of selecting the artwork that they will recommend to the Commission. Law student liaison Rina Bozeman’s article on jury diversity will be featured in the annual report, in addition to an excerpt from Judge Whitener’s Black Women Rise Conference speech. Washington Appleseed also plans to submit an article on the history of jury diversity efforts in the state.

**Workforce Diversity Committee – Judge Bonnie Glenn and Judge Veronica Alicea-Galvan**

Justice C.Z. Smith Awards

- Law School Award Ceremony – Black Law Students’ Association Alumni Reception, SU School of Law, February 22, 2018.

Judge Glenn reported that the ceremony went well and there were many applicants for the award. The award winners were: Ben Asare (Gonzaga Law), Archie Roundtree (SU Law), and Nico Quintana (UW Law).

- WSBA Justice Charles Z. Smith Excellence in Diversity Award – APEX Award Dinner September 27, 2018.

Cynthia announced that she nominated Judge Bonnie Glenn for the award because of her efforts to establish the award and for all of the years she has supported workforce diversity, youth forums, community initiatives, and provided mentorship.

- Judicial Institute at SU Bridging the Gavel Gap – April 24, 2018, SU School of Law, 5 – 7 p.m.

**Tribal State Court Consortium – Judge Lori K. Smith**

The TSCC Regional Meeting will be held at the Tulalip Tribal Court, June 1, 8:30 – 2:30 p.m. Jennifer Walter from the California Tribal State Court Forum will be the keynote presenter. TSCC will discuss its work developing a court rule that could improve communication between state and tribal courts and cross-jurisdictional issues in the transfer of ICWA cases.

**Jury Diversity Task Force – Carolyn Cole**

Carolyn shared that the three workgroups (Summons, Economic Hardships, and Jury Service Eligibility) have all met and are narrowing down the final list of reforms that the Task Force will act on. The Summons workgroup has had a lot of interesting conversations looking at possible legal challenges to using targeted re-summonsing based on zip codes with lower return rates and weighted random selection. The Jury Diversity Task Force would like to develop a data collection plan to make the collection of juror demographic data permanent.

Meeting adjourned at 1:00 p.m.

<b>NEXT COMMISSION MEETING:</b>		
Friday, June 29, 2018	8:45 a.m. – 2 p.m.	AOC SeaTac Office 18000 International Blvd. Suite 1106 SeaTac, WA 98188