

WASHINGTON STATE
MINORITY AND JUSTICE COMMISSION

COMMISSION MEETING



TVW: [HTTPS://WWW.TVW.ORG/WATCH/?
EVENTID=2021031365](https://www.tvw.org/watch/?eventid=2021031365)

FRIDAY, MARCH 19, 2021
9:00 A.M.—1:00 P.M.

Minority and Justice Commission

2021 Meeting Dates

Virtual Meetings held via Zoom Videoconference

Date	Time	Location
Friday 01/15/21	9:00 AM – 12:00 PM	Zoom Videoconference
Friday 03/19/21	9:00 AM – 1:00 PM	Zoom Videoconference
Friday 05/14/21	9:00 AM – 1:00 PM	<i>Zoom Videoconference</i>
Friday 06/02/21 Supreme Court Symposium: <i>The Mass Incarceration of Women and Girls of Color</i>	8:45 AM – 1:00 PM	<i>Zoom Videoconference</i>
Friday 07/30/21	9:00 AM – 1:00 PM	<i>TBD</i>
Friday 09/24/21	9:00 AM – 1:00 PM	<i>TBD</i>
Friday 11/5/21	9:00 AM – 1:00 PM	<i>TBD</i>

Please contact Frank Thomas at Frank.Thomas@courts.wa.gov or 206-316-0607 if you have any questions.



MINORITY AND JUSTICE COMMISSION

BIMONTHLY GENERAL MEETING

MARCH 19, 2021

9:00 A.M. – 1:00 P.M.

JUSTICE MARY YU, CO-CHAIR

JUDGE VERONICA ALICEA-GALVÁN, CO-CHAIR

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AGENDA

CALL TO ORDER 9:00 – 9:15 a.m. (15 minutes)

- Welcome and Introductions
- Approval of January 15 Meeting Minutes (p.)
- Personnel and Membership Update
 - Announcing Judge Veronica Alicea-Galván as Commission Co-chair
- Solemn Acknowledgment of the Rise in Anti-Asian Hate Crimes and March 16 Atlanta Shooting

GUEST PRESENTATIONS 9:15 – 9:45 a.m. (30 minutes)

- **State v. Gaines, Ct. App. Div. II (Jan. 26, 2021)** – Professor Bryan Adamson
 - Decision holding trial court erred in not recognizing its discretion to remove LFO debt from collections.

CHAIR & STAFF REPORT 9:45 – 10:15 a.m. (30 minutes)

- **Racial Justice Consortium**
 - Introduce Patty Lally as newest Commissions Team Member and Consortium Lead.
- **CLE Event: Qualified Immunity 360**
 - Announce the full-day CLE event Co-sponsored by Seattle U Law, UW Law, Gonzaga Law, and the Washington State Bar Association.
- **Staff Report**
 - **MJC Research Project Updates**
 - LFO Work Updates – Cynthia Delostrinos
 - Ongoing MJC Research Update – Frank Thomas

BREAK 10:15 – 10:30 (15 minutes)

LAW STUDENT LIAISON PRESENTATIONS 10:30 – 11:30 (60 minutes)

- **UW School of Law** – Furhad Sultani and Mary Ruffin
 - *Social Justice Protests and the Historical Legacy of Racism in the Justice System*
- **Gonzaga University School of Law** – Dalia Pedro Trujillo, Rigo Garcia, Israel Carranza, and Maggie Esquivel Torres
 - *Multi-lingual MJC Informational and Digital Outreach Campaign*

- **Seattle U School of Law** – Denise Chen, Peggy Rodriguez, Jenny Wu, and David Armstead
 - *A Law Student's Toolbox for Social Justice Advocacy*

COMMISSION LIAISONS & COMMITTEE REPORTS 11:30 – 1:00 p.m. (90 minutes)

- **Education Committee** – Judge Lori K. Smith
 - **Recap Judicial College 2021**
 - Emerging Through Bias – Judge Veronica Alicea-Galván
 - **DMCJA 2021 Spring Conference**
 - “Legal Status” of LFO Collections, and Legal Debt as a Historical Means of Oppression
 - **SCJA 2021 Spring Conference**
 - 2020 Rollover: Immigrant Families Tool Kit
 - **Fall Conference Colloquium Planning Committee (2022):**
 - Discuss Colloquium on Facially Neutral Laws with Racialized Impact; Racial Disproportionality as Evidence of Racism and Systemic Racism – Judge Johanna Bender

- **Rules and Legislation Committee** – Judge Theresa Doyle (ret.) and Justice Mary Yu
 - Recap MJC published comment on proposed legislation related to improved justice.

- **Juvenile Justice Committee** – Annie Lee

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

- **SCJA Self-Represented Litigants Workgroup** – Judge Jennifer Forbes, Theresa Cronin and Joshua Treybig

- **MJC Liaisons**
 - **Gender Justice Study** – Judge Bonnie Glenn
 - **Sentencing Task Force** – Judge Veronica Galvan
 - **Access to Justice Board** – Esperanza Borboa
 - **Bar Licensure Task Force** – Frank Thomas

Next MJC meeting: Friday, May 14th, 2021 @ 9:00 a.m. (via Zoom).



MINORITY AND JUSTICE COMMISSION

ZOOM VIDEOCONFERENCE
FRIDAY, JANUARY 15, 2021
9:00 A.M. – 12:00 P.M.
JUSTICE MARY YU, CHAIR



MEETING NOTES

Commission Members

Justice Mary Yu, Chair
Judge Veronica Alicea Galvan
Lorraine Bannai
Annie Benson
Professor Bob Boruchowitz
Judge Faye Chess
Judge Linda Coburn
Grace Cross
Chief Adrian Diaz
Judge Theresa Doyle (ret.)
Chad Enright
Professor Jason Gillmer
Judge Anthony Gipe
Kitara Johnson
Trish Kinlow
Anne Lee
Judge LeRoy McCullough
Justice Raquel Montoya-Lewis
Brianna Ortega
Christopher Sanders
P. Diane Schneider
Judge Ketu Shah
Travis Stearns
Leah Taguba
Joshua Treybig
Judge Karl Williams
Judge Dennis Yule (ret.)

Liaisons

Esperanza Borboa, *ATJ Board*
Laura Edmonston, *Embedded Law Librarian*

Law Student Liaisons

David Armstead
Israel Carranza
Denise Chen
Maggie Esquivel Torres
Rigo Garcia
Dalia Pedro-Trujillo
Peggy Rodriguez
Mary Ruffin

Staff

Cynthia Delostrinos
Moriah Freed
Frank Thomas

Guests

Judge Sara Dannen
Dontay Proctor Mills
Mynor Lopez
Marcus Stubblefield
Jeffrey Beaver
Willa Osborn
Judge Charnelle Bjelkengren

CALL TO ORDER

Welcome and Introductions

The meeting was called to order at 9:00 a.m. Justice Yu reminded attendees that the Commission meetings are public, and that the meeting is being recorded by TVW.

Members, guests, and staff gave introductions.

Commission Renewal Order

The Minority & Justice Commission was renewed through 2025.

Approval of Minutes

The November 14 meeting minutes were approved as presented.

Personnel and Membership Update

- Special Recognition of Justice G. Helen Whitener - In December, Justice Whitener notified the Commission that she would be stepping down as Co-Chair and focusing her time on the Supreme Court. We decided to thank Justice Whitener for her commitment and willingness to serve us with a framed commemorative MJC poster that will be presented to her at a later time due to COVID.
- Justice Yu has invited Judge Galvan to step into the position of MJC Co-Chair, a position traditionally held by a trial court judge. A vote will take place via email.
- Welcome DMCJA Representative Judge Karl Williams as the newest Commission member.
- Frank implored Commission members to continue to build community relationships with those who are interested in the work of the Commission.
- As of January 15th, MJC has 33 of the 35 Commission seats filled, if we still include Judge Diaz and Chief Diaz in the member count. There is a group members up for reappointment in 2021. Currently, MJC does not have any Tribal Court representation, and is in need of SCJA representation outside of King County.

ACTION: Send nominations for Commission members to Frank Thomas and Justice Yu.

CHAIR & STAFF REPORT

Racial Justice Consortium: A Judicial Branch Commitment to Race Equity in the Courts – Cynthia Delostrinos and Justice Mary Yu

On June 4th, 2020 the Washington Supreme Court released a letter calling for the judicial and legal community to work together on racial justice. A group is now being organized to bring together the judicial branch so that concrete steps can be taken to address racial justice seriously through collaborative and collective work. The goal of the group is to look inward and reform institutions, transform structures, and try to understand systemically how racial structures have been perpetuated.

The Commission would serve to assist and organize the Consortium. A dedicated staff person is needed to facilitate the group. The one year long position would work with Cynthia and the Commission to guide the group to meet their objectives. Work is currently being done to collect resources to fund the full time position. Grant funding is also being sought, and judicial branch entities are being asked to match the grant amount. There are no specified commitment levels, but there is a goal of 100% participation.

A copy of the initiative proposal is included on page 19 of the meeting packet.

ACTION: If your organization has concerns over making a commitment to the consortium, let Cynthia and Justice Yu know so that a dialogue can be opened.

MJC Research Project Updates

➤ LFO Work Updates – Cynthia Delostrinos

There are currently three LFO projects in various stages of completion:

- Earlier this week, we were able to present the Pierce County LFO Reconsideration Day Report findings to Pierce County and Representative Simmons. Representative Simmons will be sponsoring an omnibus LFO reform bill this session. The findings might possibly be presented before the legislature.
- The LFO Calculator is still up and running. AOC has been supporting the LFO Calculator up until this point. Funding to maintain the calculator is included in AOC's legislative budget this session.
- The final report from the LFO Consortium is being completed. Two law students are helping Cynthia finalize the report. Living with Conviction will be consulted to include firsthand stories of how LFOs are impacting everyday people. We will work with them to review the report and provide recommendations.

➤ Ongoing MJC Research Projects

There are two ongoing research projects that stemmed from the Symposium Steering Committee:

- Understanding racial disproportionality in bail – release vs. remand. MJC is partnering with WSCCR to retrieve county information.
- Plea bargaining pilot project – The goal is to codify the plea bargaining process. We are seeking partners at the prosecutor level to gather data from 10 counties.
 - Chad Enright expressed interest.

The data needed to conduct the studies was not initially collected. There is a long-term goal to improve the quality of data captured in relation to racially disparate outcomes. Often data is only as good as police capturing, so part of capturing better data is informing law enforcement on how they can collect better data.

Chief Diaz gave an update on what Seattle is doing to collect better data. A report from the Center for Policing Equity, which places Seattle as one of the top 3 precincts for data collection, will be coming out in about a month on their partnership with Seattle. Often, police data programs are “off the shelf” and only include 5 classifications for race.

ACTION: Contact Frank Thomas if you know of jurisdictions interested in partnering on the plea bargaining pilot project.

COMMISSION LIAISONS & COMMITTEE REPORTS

Education Committee – Judge Lori K. Smith

- January 8th Webinar, “*End of the Eviction Moratorium: Issues Facing the Judiciary and Use of Discretion*”
 - The Committee hosted its first live webinar for mainly Superior Court Judges. The recording is available on the MJC website.
- **Judicial College 2021**
 - **Emerging Through Bias** – Judge Veronica Alicea-Galvan
Judge Galvan will be presenting at Judicial College and will be revamping the presentation. She is hoping to take the presentation beyond the introductory to a more intermediate level. The state cannot have beginners on the bench, as bias is no longer a ‘nice to know’ issue. We have to have higher expectations for those who serve us.

- **DMCJA 2021 Spring Conference**
 - Proposed: “Legal Status” of LFO Collections, and Legal Debt as a Historical Means of Oppression
- **SCJA 2021 Spring Conference**
 - 2020 Rollover: Immigrant Families Tool Kit
 - Still being planned for April Session. Re-tooling it for completely online format.
 - 2020 Rollover: Juvenile Justice Session

Rules & Legislation Committee – Judge Theresa Doyle (ret.) and Justice Mary Yu

- The Commission is expecting an LFO Reform Bill to drop this session, sponsored by Representative Tarra Simmons.
- We were approached by Senator Pedersen to provide feedback on a Uniform Pretrial Release and Detention bill. The Committee provided feedback through a letter and expressed some concerns with the bill. The letter was provided in the meeting packet.
- The Commission also shared a letter with the BJA sharing the purpose of MJC’s new Rules and Legislation Committee, encouraging the BJA to look at proposed legislation through a race and equity lens.

Jury Diversity Task Force – Cynthia Delostrinos

- There is an update on the Jury Diversity & Community Engagement Pilot Project on pg. 29 of the meeting packet.
- MJC is still actively engaged in jury diversity efforts. We are working with King County Superior Court, Pierce County Superior Court, and Snohomish County Superior Court on a survey to look at the demographics of jurors from the beginning to the end of this fiscal year. We want to see what impact COVID has had, specifically what the demographic makeup of online versus in-person juries is.

Jury Instruction Video – Leah Taguba

- Due to COVID, the filming team has encountered many challenges, and progress is moving slowly. Animation was proposed as an alternative, but it was decided that this would not reflect the goals of the video.

MJC Liaisons

- **Gender Justice Study** – Judge Bonnie Glenn
 - Materials are included on pg. 42 of the meeting packet.
- **Sentencing Task Force** – Judge Veronica Alicea Galvan
 - The full 60 page report is included in the meeting materials. Work on this task force was done by consensus of a large group of diverse stakeholders. The task force resulted in 47 recommendations where consensus was reached. Many likely will pass as legislation due to bipartisan support.
 - Some issues of concern to the Commission did not reach consensus from the Task Force. One of these issues was retroactivity of sentencing enhancement changes.
- **Access to Justice Board** – Esperanza Borboa
 - The Access to Justice Board has identified 8 priorities for 2021 to address racial equity.
 - The ATJ Conference will be held from August 11-13, 2021.
 - The ATJ Board is participating in JustLead Racial Justice Initiative. Consider having your organization sign on.
- **Office of Equity Task Force** – Kitara Johnson

- The Office of Equity was developed to lead the State's DEI activities and serve as a resource.
 - The final Task Force meeting was in July. A summary of the recommendations can be found online.
 - The Director of the Office of Equity position is waiting to be filled.
- **SCJA Self-Represented Litigants Workgroup** – Theresa Cronin and Josh Treybig
- Materials are on pg. 50 of the meeting packet.
- **Race and Criminal Justice System Task Force 2.0** – Lorraine Bannai
- The Task Force is comprised of a diverse group of stakeholders who have come together to examine the issues of race in the criminal justice system.
 - A number of committees have been formed with the goal of doing research identifying issues, collecting data, and identifying solutions and areas of potential disproportionality.
 - The final report is due in July, with a presentation before the Supreme Court to follow in October.
 - Various Committees have been meeting and working regularly. More information on their progress will be forthcoming.

ACTION: Contact Lorraine Bannai to be involved with the Race and Criminal Justice System Task Force 2.0.

- **Bar Licensure Task Force** – Frank Thomas
- The newly formed Task Force is co-chaired by Justice Raquel Montoya Lewis and Dean Rooksby of Gonzaga Law.
 - The group has not yet convened, and is still in the early stages of getting members named.
 - The goal of the task force is to examine the bar exam and its intention, impact and practice to see if it is the best way to continue to license attorneys in Washington.

ACTION: Contact Frank Thomas with questions or interest in the Bar Licensure Task Force.

ANNOUNCEMENTS

Upcoming Events

- The diversity section of the Spokane Bar is hosting an event next Wednesday with the Chief Diversity Officer from Gonzaga. Contact Briana Ortega if interested in attending.

Upcoming Meetings

- The next MJC meeting will take place on Friday, March 19th at 9:00 AM via Zoom.

The meeting was adjourned at approximately 12:00 PM.

January 26, 2021

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

DIVISION II

STATE OF WASHINGTON,

Respondent,

v.

TERRY EUGENE GAINES,

Appellant.

No. 53955-1-II

PUBLISHED OPINION

MAXA, J. – Terry Gaines challenges the superior court’s denial of his motion to remove his legal financial obligation (LFO) account from AllianceOne Receivables Management, Inc. (AllianceOne), a private debt collection agency, and return the account to the superior court clerk’s office. The superior court imposed LFOs, including restitution of \$1.8 million, after Gaines’s conviction of multiple counts of trafficking in stolen property and money laundering related to the theft and resale of printer ink cartridges. When Gaines failed to make payment arrangements after being released from confinement, the court clerk referred Gaines’s LFO account to AllianceOne, and a collection fee of \$738,312.68 was added to Gaines’s LFOs as authorized under RCW 19.16.500(1)(b).

In denying Gaines’s motion, the superior court stated that it did not have the authority to direct the court clerk to remove his LFO account from AllianceOne. We disagree, and hold that the superior court erred in failing to recognize that it retained the authority under RCW 36.18.190 to remove Gaines’s LFO accounts from AllianceOne despite the court clerk’s

authority under the same statute to contract with AllianceOne. Accordingly, we reverse and remand for the superior court to exercise its discretion in considering whether to remove Gaines's LFO account from the collection agency.¹

FACTS

Background

In March 2012, Gaines was convicted in Pierce County of 34 counts of first degree trafficking in stolen property and eight counts of money laundering. At sentencing, the superior court imposed \$1.8 million in restitution and \$2,300 in other LFOs. The court also sentenced Gaines to 108 months of confinement.

Regarding LFOs, the judgment and sentence stated that all payments must be made in accordance with the court clerk's policies. In addition, the judgment and sentence stated, "The defendant shall pay the costs of services to collect unpaid legal financial obligations per contract or statute. RCW 36.18.190, 9.94A.780 and 19.16.500." Clerk's Papers (CP) at 30. Later, \$8,685.02 in appellate costs were added to Gaines's LFOs.

In January 2018, Gaines was released from confinement. Interest at the rate of 12 percent per year had accrued while he was in custody, increasing his total LFO debt to over \$3.1 million.

In April, the court clerk's office sent Gaines a letter entitled "Notice." CP at 69. The notice noted that Gaines had been making monthly payments, apparently while he was incarcerated. But the notice stated that it was now necessary for Gaines to make new payment arrangements with the clerk's office. The notice continued:

¹ Gaines also argues that referring his LFO account to a collection agency and adding over \$700,000 to his LFOs violated substantive and procedural due process and constituted an excessive fine in violation of the Eighth Amendment of the United States Constitution. Because of our holding, we do not address these constitutional issues. However, we do not disagree with the concurring opinion.

Within 30 days from the date of this notice you must pay the outstanding balance due or make new arrangements for payment with this office. If you do not respond to this notice within the 30 days we will turn this case over to our Commercial Collection Agent. As of that time you will be required to deal ONLY with the collection agent regarding payments.

CP at 69.

Gaines did not contact or make new payment arrangements with the court clerk's office. After more than 30 days passed, the clerk's office referred Gaines's judgment to AllianceOne, a private debt collection agency. AllianceOne subsequently sent Gaines a notice stating that his LFO account had been placed with AllianceOne for immediate collection efforts. The notice stated that the amount owing now included a fee in the amount of \$738,312.68. This collection fee constituted 19 percent of the total judgment.

In July, Gaines visited the court clerk's office. The next month, he began to pay \$10 per month toward his outstanding LFOs.

Relationship Between Pierce County and AllianceOne

Pierce County and AllianceOne executed a "Letter of Establishment" effective September 2012. CP at 122. The letter, signed by the Pierce County superior court clerk, stated that Pierce County wished to utilize AllianceOne to provide collection services for the recovery of unpaid LFOs, and that AllianceOne's fee would be 19 percent of each payment received for in-state collections.

The record contains a "Collection Services Agreement" between the Pierce County Superior Court and AllianceOne that provided for a 19 percent collection fee. CP at 75-79. The agreement stated that AllianceOne would be consulted before an assigned account was recalled and an appendix stated that "a particular account may be withdrawn at any time for any reason." CP at 89. The agreement contained a signature line for the Pierce County clerk on behalf of the

Pierce County Superior Court, but it was unsigned. Neither party disputes that this agreement was executed.

Motion to Remove LFO Account from AllianceOne and Remit Certain LFOs

In May 2019, Gaines filed a motion in superior court to remove his LFO account from AllianceOne and return the account to the superior court clerk's office, to remit the collection fee assessed by AllianceOne, to waive any nonrestitution interest accrued on the LFO account, and to waive appellate costs. AllianceOne filed a memorandum in opposition to the motion.

The superior court essentially denied the request, stating, "I don't believe I have the authority to tell the Clerk what to do." Report of Proceedings at 12. The court stated that it would waive nonrestitution interest and appellate costs, but stated that there had not been an adequate showing of hardship for the remittance of other LFOs.

Gaines appeals the superior court's denial of his motion to remove his LFO account from AllianceOne.

ANALYSIS

Gaines argues that the superior court had authority to remove his LFO account from AllianceOne under RCW 36.18.190, and that the trial court erred in failing to recognize that authority. We agree.

A. STANDARD OF REVIEW

There is no published case that addresses the applicable standard of review for Gaines's motion to remove an LFO account from a collection agency. The State argues that we should review the superior court's decision for an abuse of discretion. We generally review discretionary superior court decisions for abuse of discretion. *See In re Pers. Restraint of Rhome*, 172 Wn.2d 654, 667-68, 260 P.3d 874 (2011). However, Gaines based his motion on

RCW 36.18.190 and the superior court stated that it did not believe it had authority to consider Gaines's motion. Therefore, we must engage in an interpretation of that statute. We review questions of statutory interpretation *de novo*. *State v. Brown*, 194 Wn.2d 972, 975, 454 P.3d 870 (2019).

In addition, the superior court's failure to recognize that it has discretion to grant a motion is itself an abuse of discretion. *See State v. McFarland*, 189 Wn.2d 47, 56, 399 P.3d 1106 (2017). And an erroneous interpretation of the law necessarily constitutes an abuse of discretion. *State v. B.O.J.*, 194 Wn.2d 314, 322-23, 449 P.3d 1006 (2019).

B. INTERPRETATION OF RCW 36.18.190

The question here is whether the superior court has authority under RCW 36.18.190 to recall an LFO account from a collection agency after the court clerk has referred the account to the collection agency and a collection fee has been added to the defendant's LFOs. We hold that the superior court does have that authority.

1. Statutory Provisions

RCW 9.94A.760(5) and RCW 9.94A.760(9) generally authorize court clerks to collect unpaid LFOs. RCW 36.18.190 specifically addresses the use of collection agencies to recover LFOs:

Superior court clerks may contract with collection agencies under chapter 19.16 RCW . . . for the collection of unpaid court-ordered legal financial obligations as enumerated in RCW 9.94A.030 that are ordered pursuant to a felony or misdemeanor conviction. . . . The costs for the agencies or county services shall be paid by the debtor. The superior court may, at sentencing or at any time within ten years, assess as court costs the moneys paid for remuneration for services or charges paid to collection agencies or for collection services.

. . . .

The servicing of an unpaid court obligation does not constitute assignment of a debt, and no contract with a collection agency may remove the court's control over unpaid obligations owed to the court.

(Emphasis added.)

The first sentence of the statute references chapter 19.16 RCW. RCW 19.16.500(1)(a) states that a public agency may retain collection agencies to collect public debts, including restitution being collected on behalf of a crime victim. In addition, RCW 19.16.500(1)(b) addresses the collection agency fee:

Any governmental entity as described in (a) of this subsection using a collection agency may add a reasonable fee, payable by the debtor, to the outstanding debt for the collection agency fee incurred or to be incurred. The amount to be paid for collection services shall be left to the agreement of the governmental entity and its collection agency or agencies, but a contingent fee of up to fifty percent of the first one hundred thousand dollars of the unpaid debt per account and up to thirty-five percent of the unpaid debt over one hundred thousand dollars per account is reasonable.

(Emphasis added.)

However, the last sentence of RCW 36.18.190 expressly provides that regardless of any collection agency contract, the superior court retains “control over unpaid obligations owed to the court.”

2. Statutory Interpretation

The primary goal of statutory interpretation is to determine and give effect to the legislature’s intent. *Brown*, 194 Wn.2d at 975. To determine legislative intent, we first look to the plain language of the statute. *Id.* at 975-76. We consider the language of the provision in question, the context of the statute in which the provision is found, related provisions, and the statutory scheme as a whole. *State v. Larson*, 184 Wn.2d 843, 848, 365 P.3d 740 (2015). If the plain meaning of a statute is unambiguous, we must apply that plain meaning as an expression of legislative intent. *Id.*

3. Analysis

RCW 36.18.190 expressly authorizes superior court clerks to refer LFO accounts to collection agencies. And as Gaines acknowledges, this statute does not expressly authorize a court to remove an LFO account from a collection agency once a court clerk has referred the account to the agency.

However, RCW 36.18.190 also expressly authorizes superior courts to retain control over unpaid LFOs. The plain statutory language shows that this provision takes precedence over the court clerks' authority. RCW 36.18.190 states that "no contract with a collection agency may remove" that control.

The State asserts that the reference in RCW 36.18.190 to the superior court's "control over unpaid obligations owed to the court" recognizes only that the superior court retains authority to modify or rescind the amount of LFOs. But the crucial fact here is that the collection agency fee *does* affect the amount of LFOs. As noted above, RCW 19.16.500(1)(b) allows the court clerk to add the collection fee "to the outstanding debt"; here, Gaines's LFOs. And RCW 36.18.190 itself allows the superior court to "assess *as court costs* the moneys paid for remuneration for services or charges paid to collection agencies or for collection services." (Emphasis added.)

Because the superior court retains control over the amount of LFOs under RCW 36.18.190, the court necessarily has the authority to reduce the amount of the LFOs by removing an LFO account from a collection agency and thereby removing the collection agency fee from the LFO account.

This interpretation of RCW 36.18.190 is consistent with the Collection Services Agreement between the Pierce County Superior Court and AllianceOne. The agreement

contemplates that an account assigned to AllianceOne may be recalled. And an appendix to the agreement states that “a particular account may be withdrawn at any time for any reason.” CP at 89.

We conclude that the language in RCW 36.18.190 that the superior court retains “control over unpaid obligations owed to the court” authorizes the superior court to remove an LFO account from a collection agency even after a superior court clerk has referred the account to the agency. Whether a superior court actually will choose to remove the LFO from a collection agency will involve the exercise of the court’s discretion.

The superior court denied Gaines’s motion to remove his LFO account from AllianceOne because the court did not believe that it had the authority to grant the motion. We hold that the superior court erred in failing to recognize that it did have that authority under RCW 36.18.190.

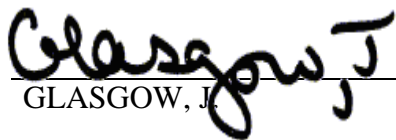
CONCLUSION

We reverse and remand for the superior court to exercise its discretion in considering whether to remove Gaines’s LFO account from the collection agency.



MAXA, J.

I concur:



GLASGOW, J.

WORSWICK, J. (concurring) — I concur in and completely agree with the lead opinion. I write separately to express concern over the practices and effects of court cost collection practices.

When initially assessing legal financial obligations (LFOs), trial courts have an obligation to carefully consider each defendant’s ability to pay before imposing discretionary LFOs. *State v. Blazina*, 182 Wn.2d 827, 838, 344 P.3d 680 (2015). In making this individualized inquiry, the court must consider factors such as incarceration and other debts, and are guided by GR 34.² “[I]f someone does meet the GR 34 standard for indigency, courts should seriously question that person’s ability to pay LFOs.” *Blazina*, 182 Wn.2d at 839.

The court in *Blazina*, noted that organizations have chronicled problems indigent defendants incur when saddled with LFOs. 182 Wn.2d at 835. The court discussed how interest accrual and collection costs create an untenable situation when defendants are able to pay only modest amounts against their fines, and who see their balances only increase with time. 182 Wn.2d at 836. The court recognized that these unpaid fines tether individuals to the courts indefinitely, preventing their full reentry into society. 182 Wn.2d at 835-36. These financial burdens impose an unequal burden on people of color and the poor. Bryan L. Adamson, *Debt Bondage: How Private Collection Agencies Keep the Formerly Incarcerated Tethered to the Criminal Justice System*, 15 Nw. J.L. & Soc. Pol’y 305, 318 (2020).

In 2018, the legislature recognized these LFO burdens, and passed Engrossed Second Substitute House Bill 1783, 65th Leg., Reg. Sess. (Wash. 2018), which amended two statutes that prohibit the imposition of certain LFOs on indigent defendants. LAWS OF 2018, ch. 269.

² GR 34 describes the ways a person may prove he or she is indigent for the purpose of seeking a waiver of filing fees and surcharges.

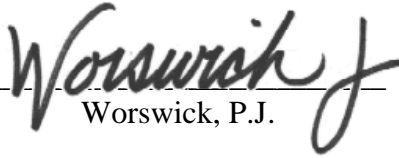
Apparently, concern about debt bondage and disproportionate effects of LFOs ends when the judgment and sentence is signed. With minimal notice, a clerk's office can send an LFO account to a private collection agency. RCW 19.16.500(1)(b) allows collection agencies to immediately impose a contingent fee of up to 50 percent of the total debt (which often includes compounded interest), deeming this amount to be "reasonable."

Here, the State argues that Terry Gaines was supposed to recognize that he would be subject to more than \$700,000 in additional court costs because his judgment and sentence, entered in 2012, provided he could be charged for the costs of collecting unpaid fees and cited to the relevant statutes. And he was supposed to understand, when the clerk sent him a letter nearly six years later in 2018, that a collection fee of over \$700,000 would be instantly added to his court costs if he did not make new payment arrangements with the court clerk, even though the letter neither mentioned any additional fees or costs, nor referred to the statutes allowing such fees. The letter stated that Gaines was in compliance with the LFO obligations imposed in his judgment and sentence, and it contained no express warning mentioning any additional costs or fees or any indication of how exorbitant the fee could be.

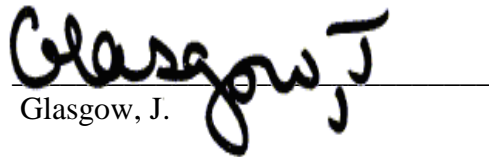
In addition to the contingent fee, Gaines tells us that AllianceOne Receivables Management Inc. imposes even more fees for servicing the account and setting up payment plans. These fees are mechanically added, without any individualized consideration given to the defendant's financial or indigent status. Ironically, it is the defendants' inability to pay that lands them in this situation.

Gaines asks this court to hold that these practices violate his due process rights and violate the Eighth Amendment. We do not reach that question today. But all the thought, concern, and consideration given to formulating rules to protect indigent defendants from

crushing LFO debt should extend beyond the sentencing date. Any protections are illusory so long as courts allow private collection agencies to add exorbitant fees to LFOs.


Worswick, P.J.

I concur:


Glasgow, J.

Washington State Racial Justice Consortium: Working Together to Eradicate Systemic Racism and Reform Our Judicial Branch

“The legal community must recognize that we all bear responsibility for this on-going injustice, and that we are capable of taking steps to address it, if only we have the courage and the will.”

Open Letter from the Washington State Supreme Court, June 4, 2020

In an effort to support the various responses to the Supreme Court’s invitation to take specific and concrete steps to eradicate racism, especially the devaluing of Black lives, a consortium of entities that make-up the judicial branch is hereby established.

Purpose:

The purpose of the Racial Justice Consortium is to maximize opportunities for collaboration and mutual support of judicial branch entities in exploring:

- a) Education of our workforce on racism, the causes of racism, and how it shows up in the courts and legal system;
- b) A comprehensive review of policies and practices that contribute to racial disproportionality and systemic racial injustice; and
- c) Meaningful reform of those policies and practices that can be measured and tracked for accountability and progress.

The goal of the Consortium is to develop specific plans that will result in structural change within the various judicial entities relying upon the principles and objectives outlined in the Supreme Court’s letter on racial justice.

Organizational Support & Capacity:

The Racial Justice Consortium will be supported by the Supreme Court’s Minority and Justice Commission but shall remain distinct from the Commission and its governing structure. The Commission, through the Administrative Office of the Courts will secure funding to hire a temporary staff person for this initiative. The hired staff person will be an individual familiar with the breath and diversity of the various entities within the judicial branch, a deep skill set for facilitating difficult conversations about race, and a resilient personality that is sensitive to the independent thinking of judicial officers but also grounded in a commitment to equity. The estimated cost for a full-time staff person (including full benefits) is around \$140,000.

Preliminary Timeline of Activities:

Month 1-3:

- Develop the schedule for the convenings of the Racial Justice Consortium.
- Host the first convening bringing all the partners together to establish the goals, objectives, timeline, and commitment to participation.

- Connect with the designated group members to learn more about their stakeholder's role in the branch, and where racial equity support is most needed.
- Design workshops for hands-on racial equity muscle building for Consortium members.
- Develop plans for communication, trainings, workshops and services that will go out to justice system partners.
- Present frameworks and tools that will be used for continued conversations on racial equity.
- Create and decide on a framework and process for reviewing policies and practices which includes smaller workgroups and/or committees.
- Begin review of policies and practices that contribute to racial disproportionality and systemic racial injustice.

Month 4-7:

- Continue Consortium meetings and trainings.
- Continue review of policies and practices that contribute to racial disproportionality and systemic racial injustice.
- Begin identifying solutions for reform and methods for tracking accountability—will culminate into a public Racial Equity Initiative that will guide the Courts' racial equity commitment and efforts.
- Create strategy for seeking feedback from local communities on the judicial branch's Racial Equity Initiative. One example could include public listening sessions with members of local communities across the state.

Month 8- 12:

- Continue Consortium meetings and trainings.
- Complete review of policies and practices.
- Complete development of a public Racial Equity Initiative to guide the Courts' racial equity commitment and efforts.
- Seek feedback from local communities on the Racial Equity Initiative—amend plans as needed.
- Complete plans for communication, trainings, workshops and services that will go out to justice system partners.
- Pilot the creation of Racial Equity Internal Change Teams to support continued racial equity efforts within each of the judicial branch associations.
- Create and support a train-the-trainer cadre to carry out future racial equity trainings.

List of Consortium Members to Date:

- **Supreme Court** - Mary Yu, Helen Whitener, Raquel Montoya-Lewis, J.J.
- **Court of Appeals** - Cecily Hazelrigg, J. (Div. I)
- **Superior Court Judges Association (SCJA)** - Judith Ramseyer, J. (King Co.)
- **District and Municipal Court Judges' Association (DMCJA)** - Michelle Gehlsen, J. (King Co. Dist. Ct.)

- **Board for Judicial Administration (BJA)** - Gregory Gonzales, J. (Clark Co.)
- **Public Trust and Confidence Committee, BJA** - Kathryn Loring, J. (Island Co.)
- **Association of Washington Superior Court Administrators (AWSCA)** - Jessica Gurley (Clark Co.)
- **District and Municipal Court Management Association (DMCMA)** - Cynthia Davis (Seattle Muni.)
- **Washington Association of Juvenile Court Administrators (WAJCA)** - Christine Simonsmeier (Clark Co.) & TJ Bohl (Pierce Co.)
- **Washington State Association of County Clerks (WSACC)** - Grace Cross (Skamania Co.)
- **Gender and Justice Commission -**
- **Interpreter Commission -**
- **Commission on Children in Foster Care** – Justice Barbara Madsen
- **Tribal State Court Consortium -**
- **Access to Justice Board –**
- **Office of Public Defense –** Barbara Harris
- **OCLA -**
- **Administrative Office of the Courts** - Dawn Marie Rubio & Cynthia Delostrinos
- **Community Representatives** – (4 from each of the state’s 4 quadrants (NW, NE, SW, SE))

Preliminary Tasks:

Launch Racial Justice Consortium - (November 2020 – January 2021)

- Fill out the list of representatives from the remaining entities and identify community representatives
- Select representatives for a Steering Committee and meet to plan official launch
- Secure sufficient funds to hire Racial Equity employee
- Collect racial equity plans/goals each association already has in place
- Develop a project charter that outlines purpose/goals for Racial Justice Consortium
- Launch in January 2021



Qualified Immunity 360

A Multi-Part Presentation on the History, Legal Basis, and Utility of the Judge-Made Defense to Claims under 42 U.S.C. § 1983.

The [Washington State Minority and Justice Commission](#) is sponsoring a webinar presentation on qualified immunity, co-hosted by Washington Supreme Court [Justice Mary I. Yu](#) and [Judge David Whedbee](#) of the King County Superior Court.

The presentation aims to facilitate a “360” discussion of the doctrine to educate practitioners, judges, law students, and the public on the mechanics, history, and public policy behind the doctrine.

When: Friday, May 7, 2021, from 8:00 a.m. to 4:00 p.m. (with discussion afterward for those who are interested). WSBA CLE credit available.

[Pre-Registration Required](#)

Co-sponsored by:

Center for
CIVIL & HUMAN RIGHTS
at Gonzaga Law

W SCHOOL OF LAW
UNIVERSITY of WASHINGTON



SEATTLEU.
SCHOOL OF LAW



PANELISTS
[David B. Owens](#)
Partner at Loevy & Loevy



[Brian G. Maxey](#)
Principal, Modern Policing
The Maxey Group, LLC



[Tiffany R. Wright](#)
Adjunct professor
Howard University School of Law
Civil Rights Clinic



[James E. Pfander](#)
Owen L. Coon Professor of Law
Northwestern School of Law



[Janet C. Hoeffel](#)
Catherine D. Pierson Professor
of Law
Tulane Law School



[Joanna C. Schwartz](#)
Professor of Law
UCLA School of Law



[Hon. Carlton W. Reeves](#)
Judge
United States District Court
Southern District of Mississippi

**Qualified Immunity 360: A Multi-Part Presentation on the History, Legal Basis,
and Utility of the Judge-Made Defense.
May 7, 2021**

8:00 Welcome – J. Mary Yu on behalf of the Minority and Justice Commission

8:10 – 8:25 Introduction of the Topic and Overview of the day – J. David Whedbee

Topic: Educational panel to discuss the use of qualified immunity as a judicially created doctrine, in light of the history of the Civil Rights Act of 1871 and the current lawfulness and utility of the doctrine. Anticipated statewide audience of judges and practitioners. Introduce Panelists, with overview of presentations (see below).

- I. 8:30 – 9:30 (presentation: 45 minutes plus 15 min questions)
David Owens, Seattle/Chicago-based plaintiff's side practitioner and adjunct professor with active § 1983 litigation across the county, will address the practical analysis he goes through when doing case selection, to determine viability of litigation against the current qualified immunity case law and procedural obstacles.

1. Mr. Owens will outline elements of doctrine and procedural considerations (such as availability of interlocutory appeal).
2. Mr. Owens, who will be teaching a class at Stanford on race and § 1983, will discuss disproportionate impact of police use of force on communities of color and the related adverse effects of qualified immunity.

10 minute break (9:30-9:40)

- II. 9:40 – 10:40
Brian Maxey, former Assistant City Attorney for Cities of Seattle and New York, will discuss assessment of an officer's defense including qualified immunity and its advantages to the officer. Mr. Maxey will also address related concerns of officer indemnification and municipal liability under *Monell*, in addition to his experience litigating the defense in over 300 cases in federal courts and any reservations about the doctrine.

10 minute break (10:40-10:50)

III. 10:50- 11:50

Tiffany Wright, adjunct professor at the Howard University School of Law Civil Rights Clinic, will provide the social and legal historical background for the emergence of the doctrine, including the legislative intent that animated the Civil Rights Act of 1871 and the failure in the post-Reconstruction era to enforce constitutional protections under the Act through to *Monroe v. Pape*, 365 U.S. 167 (1961).

Lunch --- 11:50 – 12:30

IV. 12:30 – 1:30

Prof. James Pfander of the Northwestern School of Law will address the legal validity of qualified immunity as rooted in the common law at the time of the passage of the Civil Rights Act of 1871, as held in *Pierson v. Ray*, 386 U.S. 547 (1967), where the U.S. Supreme Court first recognized the defense.

Prof. Janet Hoeffel of Tulane Law School will discuss the advent of the “reasonably unreasonable police officer” in *Pierson* and as further developed in subsequent case law such as *Harlow v. Fitzgerald*, 457 U.S. 800 (1982), as the U.S. Supreme Court expanded its theory for qualified immunity based on public policy considerations for shielding officers from the burdens of litigation

10 minute break (1:30 – 1:40)

V. 1:40 – 2:40

Prof. Joanna Schwartz, of the UCLA School of Law, will address the question of whether qualified immunity works as contemplated by the U.S. Supreme Court and its public policy concerns. Prof. Schwartz will examine the question in terms of the doctrine’s implications for courts and litigants based on empirical studies. She will present new research building on her articles, *The Case Against Qualified Immunity*, 93 Notre Dame L. Rev. 1797 (2018), and *How Qualified Immunity Fails*, 127 Yale L. Rev. 2 (2017).

Twenty minute break 2:40 – 3:00

VI. 3:00 – 4:00

Judge Carlton Reeves, of the Southern District of Mississippi, will discuss his tour de force qualified immunity opinion in *Jamison v. McClendon*, No. 16cv-595- CWR-LRA (S.D.Miss. Aug. 4, 2020), his approach to drafting the opinion and any reactions to the opinion. The presentation will be interview style with Chief Justice Steven González interviewing Judge Reeves.

- VII. Audience Discussion - open moderated discussion hosted by Judge David Whedbee
The audience will have opportunities to ask questions of the presenters, but discuss alternative approaches to police accountability notwithstanding qualified immunity. Judges will have opportunity to discuss ethical concerns related to criticism of such a judge-made doctrine in light of the presentation and any misgivings about the qualified immunity



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- Within 30 days after the event, requester will send a short summary (1 page maximum) of the event or project and its impact with 2-3 pictures from the event to frank.thomas@courts.wa.gov.

Request Form

<p>Full name and contact information of organization and persons making the request:</p>	<p>University of Washington MJC Student Liaisons</p> <ul style="list-style-type: none"> • Mary Ruffin: mary322@uw.edu • Furhad Sultani: furhads@uw.edu
<p>Type of request (please check one)</p> <p>SUPPORT includes:</p> <p>Publicity – WSMJC listed as a “supporter” on all promotional materials and helps advertise.</p> <p>CO-SPONSORSHIP includes:</p> <p>Publicity – WSMJC listed as a “co-sponsor” on all promotional materials and helps advertise.</p> <p>Funding based on available WSMJC funds.</p> <p>Planning support for the event.</p>	<p><input type="checkbox"/> SUPPORT (Level 1)</p> <p>Indicate if you would also like:</p> <p><input type="checkbox"/> Guest speaker – WSMJC member(s) provide speaking services on behalf of the Commission</p> <p><input checked="" type="checkbox"/> CO-SPONSORSHIP (Level 2)</p> <p>Indicate if you would also like:</p> <p><input type="checkbox"/> Guest speaker – WSMJC member(s) provide speaking services on behalf of the Commission</p>
<p>Name, date, time, and location of the event or project:</p>	<p>May 20, 2021, 6:00pm, Virtual</p>
<p>If funding is requested, total amount of funds requested and tentative budget:</p>	<p>Total Amount: \$1,200</p> <p>Speaker fees: \$300 (non-profit organization speaker- either 1 or 2)</p> <p>Consulting: \$500 (local non-profit to cater agenda and promote event)</p> <p>Gift Cards: \$100-\$400 (handed out in lieu of food to attendees)</p>
<p>Purpose and objectives of the request:</p>	<p>Educate and open dialogue with the public surrounding the recent social justice protests during the Summer of 2020. Hopefully presenting on the historical legacy of racism in our judicial system and touching having a panel discuss some of the efforts</p>



Event agenda or project schedule, if available:

2-part Presentation/Panel Discussion:

(1) Presentation:

Basic Know your Rights Training:

- What is unlawful search/seizure.
- 6th Amendment Right to Counsel—what does this look like? Want my lawyer dog case.
- 5th Amendment Right to Silence—must assert; What does that look like?
- Resources if you are arrested.

Debunking Myths:

- You're allowed to film police; caveat you are not allowed to interfere in the performance of officials' duties or violate generally applicable laws.
 - What to do if you are stopped or detained for taking photographs?
- Why aren't police being charged with *murder*?
 - Discuss the legal standards. What's a grand jury?
 - Case study the Breonna Taylor Case.

What to do if you believe your rights have been violated?

- Collect evidence—get contact information of witnesses, write down the important details ASAP, take photos of injuries/incident, file complaints, contact attorneys, contact and seek medical attention so your damages can be documented.

Overview of shocking historical cases involving racial bias (ideas-work with partners to cater):

- *Washington State v. Willaims*
- *State v. Gregory*
- *Batson Challenge*
- *Korematsu v. United States*



Criteria for Support or Co-sponsorship Requests



	<p><u>Panel Discussion:</u></p> <ul style="list-style-type: none"> • <u>MJC Judge:</u> to talk about what the judicial branch is doing to meet this moment. <ul style="list-style-type: none"> ○ Highlight importance of voting for judges. State courts power to challenge federal courts. Ways WA state is innovating: LFO; ICE rules; Rule 37 against racial bias in policing; Need for more diverse juries. • <u>NLG Member/Public Defense Attorney/Smith Law (Cloie Chapman):</u> What are the common themes being seen with protesters being arrested? What is being done (or needs to be done) to protect protesters. • <u>Everyday Marchers/Puget Sound Prisoner Support/Black Collective Voices/Other on the ground groups:</u> How are they still being active?
<p>Target audience:</p>	<p>Active Protesters</p>
<p>Expected attendance or number of persons who will benefit:</p>	<ul style="list-style-type: none"> • 30+ during presentation • More during recording • Engage users through Social Media PSA
<p>Other methods or sources being used to raise funds, if any:</p>	<p>N/A</p>
<p>Other co-sponsors, if any:</p>	<p>Potential:</p> <ul style="list-style-type: none"> • WA Bus • Front & Center • Black Collective Voices • Everyday Marchers • NLG
<p>Plan to collect outcome data and evaluate the impact of the project (i.e., survey):</p>	<p>Feedback on programing</p> <p>Suggestions to make for next year</p> <p>How do we increase access to justice?</p>



Washington State Minority and Justice Commission (WSMJC)
 Criteria for Support or Co-sponsorship Requests



Request Form

<p>Full name and contact information of organization and persons making the request:</p>	<p>Seattle University Law Liaisons Peggy Rodriguez rodriguezpeg@seattleu.edu Denise Chen chend5@seattleu.edu David Armstead darmstead@seattleu.edu Jenny Wu wujenny@seattleu.edu</p>
<p>Type of request (please check one) SUPPORT includes: Publicity – WSMJC listed as a “supporter” on all promotional materials and helps advertise. CO-SPONSORSHIP includes: Publicity – WSMJC listed as a “co-sponsor” on all promotional materials and helps advertise. Funding based on available WSMJC funds. Planning support for the event.</p>	<p><input type="checkbox"/> SUPPORT (Level 1) Indicate if you would also like: <input type="checkbox"/> Guest speaker – WSMJC member(s) provide speaking services on behalf of the Commission <input checked="" type="checkbox"/> CO-SPONSORSHIP (Level 2) WSMJC listed as a “co-sponsor” on all promotional materials, and funding based on available WSMJC funds.</p>
<p>Name, date, time, and location of the event or project:</p>	<p>A Law Student’s Toolbox for Social Justice Advocacy Date: TBD. Based on project approval and speaker availability, April 2021–Early May 2021 Location: Seattle University Zoom Room</p>
<p>If funding is requested, total amount of funds requested and tentative budget:</p>	
<p>Purpose and objectives of the request:</p>	<p>2020 will be marked as a notable year for several reasons. Of particular significance were the</p>



	<p>summer racial uprisings that occurred in response to the killings of George Floyd, Breonna Taylor, Ahmaud Arbery, and too many others. While a great number of courageous and passionate individuals participated in the protests, there were also a great number of equally passionate individuals, including law students, with legitimate reservations about their physical participation in the protests due to concerns related to COVID-19, physical safety, and racial profiling. Not all law students could attend the protests and not all law students could be plaintiffs in litigation, so law students continued to ask, “what can I do,” and “how can I help?”</p> <p>Our project is a response to these questions. The audience of this project is law students. We want to provide students with alternative pathways of advocacy beyond protest and litigation. The goal of this project is to give law students a toolbox for social advocacy in response to large scale systemic issues and social change. The four categories of “tools” to be explored are mutual-aid, accountability practices, education, and self-reflection. The project consists of two parts: (1) a panel discussion and (2) an infographic of inclusive advocacy strategies.</p>
<p>Event agenda or project schedule, if available:</p>	<p><u>The Panel</u></p> <p>The panel will feature four guest speakers to speak on each of the four categories of “social justice tools.” Due to the ongoing impact of COVID-19, the panel will take place on Zoom.</p> <p>In order to set this up, we will work with Claudine Benmar from the law school. Claudine has supported faculty in using Zoom as a platform for panel discussions in the last year. Moreover, Claudine is familiar with YouTube live stream capabilities, and so the discussion</p>



Criteria for Support or Co-sponsorship Requests



	<p>will be accessible to law students who are unable to attend live.</p> <p>The first speaker will be Professor Dean Spade. Professor Spade is an Associate Professor at Seattle University and teaches Administrative Law, Poverty Law, Gender and Law, Policing and Imprisonment, and Law and Social Movements. Professor Spade received his JD from UCLA Law School. Professor Spade is also the founder of the Sylvia Rivera Law Project, a New York City based legal collective and non-profit that provides free legal services to transgender, intersex, and gender non-conforming people who are low-income and/or people of color, as well as engage in litigation, policy reform, and education. Professor Spade recently published a book, <i>Mutual Aid: Building Solidarity During the Crisis (and the next)</i> and has also written extensively on the importance of mutual aid work, community organizing, and movement building. Professor Spade will speak on mutual aid and community work as tools for social justice advocacy outside of the courtroom. According to Professor Spade, “Mutual aid is collective coordination to meet each other’s needs, usually from an awareness that the systems we have in place are not going to meet them.”</p> <p>The second speaker will be Sam Sueoka. Sam Sueoka is a second-year law student at Seattle University School of Law. Sam, Madison Moreno, Cloie Chapman, and a number of law students founded the Seattle Accountability Project (SAP). SAP’s mission is to hold Seattle Officials and businesses accountable through community-led accountability projects. SAP connects stakeholders to community leadership to stop perpetuating systemic racism. SAP conducts research and information gathering to promote</p>
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Criteria for Support or Co-sponsorship Requests



	<p>awareness of social justice issues and engage in a collaborative effort towards change. Through social media and other platforms, SAP identifies organizations who engage in practices that do not align with racial equity and inclusion, and it encourages stakeholders to engage with government officials. Sam is also a member of the National Lawyers Guild, an organization that is well-known for protecting protestors through its legal observer program that observes police actions during protests, provides Know Your Rights trainings, and provides free attorneys for protest-related cases. Sam’s perspective will be invaluable on the panel because he will provide specific ways SAP has tangibly made a difference in the fight against systemic racism, and his perspective as a law student will likely resonate and inspire his peers.</p> <p>The third and fourth speakers will be Professor Ahrens and Professor Coleman. Professors Ahrens and Coleman have led numerous community forums and discussions with the Seattle University School of Law community on contemporary social justice-related legal topics, including the U.S. Supreme Court, policing and Qualified Immunity, and what to expect from the new Biden Administration.</p> <p>Professor Deborah Ahrens is an Associate Professor at Seattle University School of Law, who teaches and writes about criminal law, criminal procedure, and evidence. Professor Ahrens served as a law clerk for Judge Amalya Kearse of the United States Court of Appeals for the Second Circuit, a legal fellow at the ACLU's Drug Policy Litigation Project, an Assistant Public Defender at the Richland County (South Carolina) Public Defender, and a professor at the University of South Carolina School of Law. She received her JD from New York University. In</p>
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	<p>addition to teaching, Professor Ahrens often serves as a media commentator on questions related to criminal law and criminal justice policy. She is an innovative and highly regarded teacher and is frequently honored by graduating students for her teaching.</p> <p>Professor Brooke Coleman is the Associate Dean of Research & Faculty Development and Professor of Law at Seattle University School of Law. Her research and teaching interests focus on civil procedure, advanced litigation, and procedural justice. In addition to her teaching and scholarship, she is the co-founder and co-organizer of the Civil Procedure Workshop, the incoming chair of the AALS Section on Civil Procedure, and a co-editor of the Courts Law section for the online legal journal JOTWELL. Professor Coleman received her JD from Harvard Law School and clerked for Honorable David F. Levi, district judge in the Eastern District of California. She has received numerous honors for her teaching, including the law school's Outstanding Faculty Award in 2013, 2015, 2016, and 2020.</p> <p><u>The Infographic</u></p> <p>The infographics will feature specific strategies not focused on by the panel that law students may employ as legal advocates to respond to large-scale systemic issues. There will be two infographics produced.</p> <p>The first infographic will be shareable on social media. It will briefly describe that there are more ways to social justice advocacy than courtrooms and protests. The infographic will contain a QR code which social media users may follow to connect to a permalink of the second infographic.</p> <p>The second infographic will be the main infographic with the social justice advocacy</p>
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Criteria for Support or Co-sponsorship Requests



	<p>“tools”: mutual aid, accountability, education, and self-reflection. Each section will explain what the form of advocacy is and provide resources on how students can utilize these tools. Some of the resources will include the Harvard Implicit Bias Test, local mutual aid efforts, and informative books, podcasts, or documentaries.</p> <p>After the event, we plan to distribute the main infographic to students, and students will be encouraged to share the social-media infographic.</p> <p>Fees for the infographic: The amount requested to complete the infographic portion of the project is \$500. This is the maximum cost as quoted by the graphic designer, so depending on the hours spent on the graphic, the actual cost could be less.</p> <p>Consultation Fee: \$150 base fee.</p> <p>Infographic 1: TBD. \$50/hour.</p> <p>Infographic 2: TBD. \$50/hour.</p>
<p>Target audience:</p>	<p>Seattle U Law students, staff, and faculty.</p>
<p>Expected attendance or number of persons who will benefit:</p>	<p>50–100.</p>
<p>Other methods or sources being used to raise funds, if any:</p>	<p>None.</p>
<p>Other co-sponsors, if any:</p>	<p>None.</p>
<p>Plan to collect outcome data and evaluate the impact of the project (i.e., survey):</p>	



Criteria for Support or Co-sponsorship Request



Being part of the MJC has been a life changing experience to us as Liaisons. One thing we noticed though is that not as many people as we would want to know about the existence of the MJC and what we do. So we decided to change that. The proposal below details our project.

Request Form

<p>Full name and contact information of organization and persons making the request:</p>	<p>Hisrael Carranza, hcarranza@lawschool.gonzaga.edu Margarita Esquivel, mesquiveltorres@lawschool.gonzaga.edu Rigoberto Garcia, rgarcia@lawschool.gonzaga.edu Dalia Pedro Trujillo, dpedrotrujillo@lawschool.gonzaga.edu</p>
<p>Type of request (please check one)</p> <p>SUPPORT includes:</p> <p>Publicity – WSMJC listed as a “supporter” on all promotional materials and helps advertise.</p> <p>CO-SPONSORSHIP includes:</p> <p>Publicity – WSMJC listed as a “co-sponsor” on all promotional materials and helps advertise.</p> <p>Funding based on available WSMJC funds.</p> <p>Planning support for the event.</p>	<p><input type="checkbox"/> SUPPORT (Level 1)</p> <p>Indicate if you would also like:</p> <p><input type="checkbox"/> Guest speaker – WSMJC member(s) provide speaking services on behalf of the Commission</p> <p><input checked="" type="checkbox"/> CO-SPONSORSHIP (Level 2)</p> <p>Indicate if you would also like:</p> <p><input type="checkbox"/> Guest speaker – WSMJC member(s) provide speaking services on behalf of the Commission</p>
<p>Name, date, time, and location of the event or project:</p>	<p>Su Commission: Connecting to Washington’s Spanish Speaking Community</p>
	<p>This will vary depending on what path the commission will like us to take.</p> <ul style="list-style-type: none"> ● Translation Services



Criteria for Support or Co-sponsorship Request

<p>If funding is requested, total amount of funds requested and tentative budget:</p>	<ul style="list-style-type: none">● Filmmaking (digital technology)● Visual Designer (infographics)● Social Media Advertising
<p>Purpose and objectives of the request:</p>	<p>As law student liaisons we have the privilege of seeing the work that the Minority Justice Commission does for our communities. We also have the opportunity to witness the passion, dedication and commitment that the commission members bring in advocating for change in our judicial system. We have been inspired and energized by this work and we want to do our part to connect the community to this body.</p> <ol style="list-style-type: none">1. The purpose of our project is to engage in a MJC informational campaign that highlights who the commission is as an entity and highlight its members.2. Our goal is to disseminate this information to the marginalized communities the commission serves.<ol style="list-style-type: none">a. In particular, we would like to target the Spanish-speaking populations of Washington.b. This project could be modified in the future to reach other stakeholders in the community. <p>Why this project: While the commission is a highly respected entity in Washington and has an online presence, we noticed it is not as prominent on social media. With the way our world is communicating now, this is an opportunity to engage the public and inform them about the commission.</p> <p>What does this project do to further the Commission's goals: Our goal is to recreate the inspirational experience we had when we learned there was a body in the state of</p>



Criteria for Support or Co-sponsorship Request

Washington that was created with the sole purpose of eliminating racial bias, with the Spanish-speaking community. We want them to know who the commission is, what the commission does, and how they too can be included in the conversation to a greater extent. We believe if we can do that, the community will then engage the Commission directly with any issues regarding bias or access to courts.

- Our goal is to inform Washington State's Spanish-speaking community that MJC was created and exists to eliminate racial **and ethnic** bias in the criminal justice system and...

How will this be accomplished and measured:

1. Create an introduction video in English/Spanish that introduces the viewers to the commission.
 - a. E.g., the video will give a brief history of who the commission is composed of, when it was created, and why that matters.
2. Create a new MJC Instagram page and share the video to the public.
3. Revamp the Facebook page and share the content there.
4. Establish relationships with local community partners in the Spanish-speaking communities so that they can help us share the videos/graphics.

After their partnerships are established, we will share a series of 3-4 videos that highlight members of the commission.

- E.g., we may highlight commission members (e.g. Judge Galvan, the new co-chair) and have them talk about why they are part of the MJC and why the work that happens here is important.
 - Purpose: to make the MJC approachable to the communities that might not feel like the justice system works for them.



Criteria for Support or Co-sponsorship Request

	<p>After each video, we will share an infographic that highlights key accomplishments of commission members and how they have helped out communities.</p> <ul style="list-style-type: none">• The infographics will refer people to the social media platforms and the MJC website.• Infographics will be in both English and Spanish. <p>In the process, we are hopeful that we will also engage the law student community and inspire them to be advocates as well so they may consider filling MJC positions in the future.</p> <p>Measuring Project Success:</p> <ol style="list-style-type: none">1. This project's success will be measured by two main metrics. First, we will be looking at social media engagement such as views, likes, and shares. Second, we will also look at how many people respond to the post such comments or private messages. We think this will show that the community is responding to the campaign and will create a direct connection between them and the MJC.2. Seek community feedback via surveys<ol style="list-style-type: none">a. Question samples: how willing are you to engage with MJC after learning more about the MJC.3. Invite & count the amount of community members that attend MJC meetings. <p>Objectives:</p> <ul style="list-style-type: none">- Present the commission to the general public with a "Did you know" campaign that will feature both video and infographics.<ul style="list-style-type: none">- Ex. Did you know that the Washington State Supreme Court created this body to combat bias in the Courts- Include Spanish version (¿Sabia Usted?)
--	--



Criteria for Support or Co-sponsorship Request

	<ul style="list-style-type: none">- Demystify the court system and make Commission members approachable to marginalized communities- Ultimately invite members/stakeholders in the community to attend a MJC meeting
Event agenda or project schedule, if available:	<p>Project Schedule:</p> <p>February 3 - February 17: Draft proposal and create “demo” video and Instagram page.</p> <p>Feb. 17 - March 4: Work on logistics, create scripts/timelines, pick individuals we would love to highlight.</p> <p>March 19: Present proposal to committee.</p> <p>March 22 - April 9: Launch MJC information Campaign</p> <p>April 9 - April 14: Evaluate success of MJC campaign</p>



Criteria for Support or Co-sponsorship Request

<p>Target audience:</p>	<p>Our target audience is primarily Spanish-speaking communities in the State of Washington. Because of the nature of a virtual world we can have a broader reach, but engaging with Eastern Washington is a priority.</p> <p>We are targeting individuals who have internet access and social media accounts first-and-foremost, as an effective way of disseminating information. Once we roll out our virtual campaign, we will check for gaps in communication and move to publish and distribute our media to the public via infographics, especially those who do not have internet access (via postal mail or in-person dissemination).</p>
<p>Expected attendance or number of persons who will benefit:</p>	<p>TBD?</p> <ul style="list-style-type: none"> • Number of Spanish-speaking individuals with social media accounts in Eastern WA
<p>Other methods or sources being used to raise funds, if any:</p>	<p>Going viral; views?</p>
<p>Other co-sponsors, if any:</p>	<p>Nonprofit and government organizations that will allow us to distribute media publications in their facilities (e.g., courts, public assistance centers, schools) -- restaurant social media pages, maybe.</p>
<p>Plan to collect outcome data and evaluate the impact of the project (i.e., survey):</p>	<p>Website Traffic</p> <p>Clickthrough Rate (CTR)</p> <p>Click-Tracking Tools (Google Search Console)</p> <p>Instagram/FB Engagement Tools</p> <p>Video Views (YouTube)</p>



WASHINGTON STATE

MINORITY AND JUSTICE COMMISSION

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Mr. Joshua Treybig
King County Department of Public Defense

Judge Karl Williams
District and Municipal Court Judges Association

Jim Bamberger
1112 Quince Street SE
P.O. Box 41183
Olympia, WA 98504-1183

Dear Mr. Bamberger,

Thank you for your request for Minority and Justice Commission (MJC) to comment regarding HB 1072. I chair MJC's Rules and Legislation Committee, which has considered the bill and supports its passage.

The Commission's mission is to promote racial justice and equity in the legal system. MJC has long been committed to removing barriers to full access to the courts for all immigrants. We agree that current law discriminates against immigrants by denying them the legal representation needed to defend their rights and prosecute claims. Access to the courts is an empty promise without access to an attorney for enforcement of those rights. MJC strongly supports equal court access for all of Washington's residents and believes HB 1072 is an important step toward that meritorious goal.

Thank you for requesting our views. Please distribute this letter as you see fit.

Very truly yours,

Judge Theresa Doyle (ret.)
Chair, Rules and Legislation Committee
Washington Minority and Justice Commission

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King County Department of Public Defense

Judge Karl Williams
District and Municipal Court Judges Association

February 3, 2021

Via email to:

Representative Drew Hansen
Representative Tarra Simmons
Representative Jim Walsh
Representative Greg Gilday
Representative Jenny Graham
Representative Peter Abbarno
Representative Lauren Davis
Representative Debra Entenman
Representative Roger Goodman
Representative Steve Kirby
Representative Brad Klippert
Representative Tina Orwall
Representative Strom Peterson
Representative My-Linh Thai
Representative Javier Valdez
Representative Amy Walen
Representative Alex Ybarra

Re: HB 1412

Dear Representative Simmons and House Civil Rights & Judiciary Committee Members:

Thank you for the opportunity to share our views on HB 1412, the Legal Financial Obligations (LFO) bill.

The mission of the Minority and Justice Commission (MJC) is to promote racial justice and equity in the legal system and to eradicate racial disparities. MJC has long recognized the harms of imposing LFOs on the poor and that those harms fall disproportionately on indigenous and people of color. Since 2014, MJC has supported reform of LFOs through judicial and attorney education, bench cards that inform trial judges about changes in the law, the LFO Consortium, development of an LFO calculator, and comments on reform legislation.

HB 1412 promotes MJC's goals of racial justice and equity. For this reason, MJC urges its passage. We are pleased that our judicial partner, the Superior Court Judges Association (SCJA), also supports HB 1412. As you know, the bill largely follows the recommendations of the Sentencing

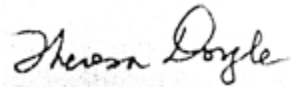
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Reform Task Force, comprised of stakeholders and on which SCJA and MJC were ably represented.

Judge David Keenan will be representing MJC in the hearing February 3, 2021, providing more details about our perspective.

Thank you again for requesting our comments.

Very truly yours,

A handwritten signature in cursive script that reads "Theresa Doyle".

Judge Theresa Doyle (ret.)
Chair, Rules and Legislation Committee
Washington Minority and Justice Commission



WASHINGTON STATE MINORITY AND JUSTICE COMMISSION

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February 11, 2021

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Mr. Joshua Treybig
King County Department of Public Defense

Judge Karl Williams
District and Municipal Court Judges Association

Hon. David Hackney
JLOB 319
PO Box 40600
Olympia, WA 98504-0600

Dear Representative Hackney:

Thank you for providing the Minority and Justice Commission (MJC) this opportunity to comment on House Bill 1344, "Second Chance for People Incarcerated as Young Adults", extending the "Miller fix" to age 25.

The mission of the MJC is to promote racial justice and equity and to eradicate racial disproportionality in Washington's legal system. Addressing the gross racial disparities for juveniles and young adults in the criminal justice system has long been a priority for MJC.

HB 1344 would move Washington State toward greater racial justice and equity for our incarcerated young people. Racial disproportionality is extremely high among youth who offended between ages 18 to 25 and were are given prison sentences of more than 15 years. Though representing only 4.3 percent of the state population, Blacks who committed crimes between ages 18 to 25 constitute over 32 percent of that group serving long prison sentences. Many of these young people of color come from communities surviving generational trauma, cyclical poverty, over-policing, and disproportionate incarceration.

HB 1344 is also consistent with the underlying science about youthful brain immaturity. The human brain is not fully developed until well into the mid-twenties. Until then, young people are more impulsive, less able to understand the consequences of their behavior, and more susceptible to peer pressure.

Many of the young adults in this age group were sentenced to lengthy prison terms that failed to take into account their youth and lessened culpability and capacity for change. Some were victims of the racist "superpredator" myth of the 1990s, and assumed to be inherently violent and irredeemable.

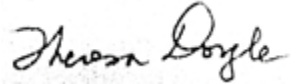
HB 1344 presents an opportunity to correct these wrongs by permitting an evidence-based and fair sentence evaluation by the Indeterminate Sentence Review Board. Recognizing its merits, the Superior Court Judges Association

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(SCJA) and the Washington Sentencing Guidelines Commission (SGC) also support HB 1344. We are pleased to add our support, and thankful for this chance to comment on your “Second Chance” bill.

Very truly yours,

A handwritten signature in black ink that reads "Theresa Doyle". The signature is written in a cursive style with a large initial 'T'.

Judge Theresa Doyle (ret.)
Chair, Rules and Legislation Committee
Washington Minority and Justice Commission

Cc:
Olga Laskin
Lucinda Duvall



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February 11, 2021

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Hon. David Hackney
JLOB 319
PO Box 40600
Olympia, WA 98504-0600

Dear Representative Hackney:

Thank you for inviting our comment on House Bill 1413, the “Fresh Start for Youth” bill.

The mission of the (MJC) is to promote racial justice and equity and to eradicate racial disproportionality in Washington’s legal system. Addressing the gross racial disparities for juveniles and young adults in the criminal justice system has long been a priority for MJC.

HB 1413 would promote racial justice and equity and reflect the current understanding of juvenile brain development. For these reasons, MJC supports its passage.

Current law requires an automatic ratcheting up of an adult’s sentence based on offenses the person committed as a teenager and is a relic of the racist myth of “superpredator” youth. This racist trope from the 1990s was premised on the belief that some youthful offenders, particularly Black children, were inherently violent, prone to crime and irredeemable. The myth was a lie, laid bare by recent science showing that teenage brains are immature, hampering impulse control, judgment, and appreciation of long-term consequences. Yet, its legacy persists in statutes that punish individuals in adult sentencing for past crimes committed as a juvenile.

Communities of color are disproportionately harmed by the current sentencing practice that HB 1413 would correct. Structural racism, over-policing and over-prosecuting have resulted in more BIPOC youth with criminal records. These juvenile “points” have led to longer sentences for 84 percent of indigenous inmates, 54 percent of Blacks, and 44 percent of Latinx, compared with 27 percent of Whites.

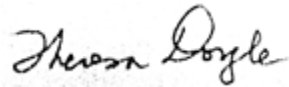
HB 1413 would allow judges to revisit lengthy adult sentences fueled by juvenile points. Sentences could be reconsidered in light of the brain science and racial equity. Judges would have discretion to take juvenile offenses into account when fashioning an appropriate sentence.

We appreciate that resentencing hearings resulting from this bill could increase court workload and costs, as noted by the Superior Court Judges Association (SCJA). But the bill would likely lead to some shortened prison

terms which would result in cost savings for Department of Corrections (DOC). These savings could be redirected from DOC to local governments and targeted toward any increased court budgetary needs.

Thank you for considering our perspective.

Very truly yours,

A handwritten signature in cursive script that reads "Theresa Doyle". The signature is written in black ink on a white background.

Judge Theresa Doyle (ret.)
Chair, Rules and Legislation Committee
Washington Minority and Justice Commission

Cc:
Olga Laskin
Lucinda Duvall



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P.O. Box 40970
Olympia, WA 98504-0970

Dear Ms. Krutsinger

Re: HB 1186, regarding juvenile rehabilitation

Thank you for soliciting comments of the Washington Minority and Justice Commission (MJC) regarding HB 1186. I chair the MJC Rules and Legislation Committee, which recently was able to review the bill. I am happy to report that we view your proposed legislation as highly meritorious and needed, and thus support.

The mission of our Commission is to promote racial justice and equity in the legal system. MJC has long been committed to reform of the juvenile justice system to promote true and effective rehabilitative services for our youth. Many Commission members—judges, attorneys, community members—have worked with youth caught up in the offender system. We understand the role of racism and poverty in juvenile crime, and strongly support efforts to help these youth reintegrate into society and even become community leaders.

Reentry for juvenile offenders is key to achieving racial justice and equity in the juvenile system. House Bill 1186 is a step toward that goal. MJC supports the legislation.

Please use this letter as you see fit.

Thank you for seeking our views. Please don't hesitate to contact us with other such meritorious proposed bills.

Very truly yours,

Judge Theresa Doyle (ret.)
Chair, Rules and Legislation Committee
Washington Minority and Justice Commission

Cc: Annie Lee, Mark Rosen, DCYF

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February 4, 2021

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Judge Karl Williams
District and Municipal Court Judges Association

Hon. Joe Nguyen
State Senate, 34th Legislative District
304 15th Ave. S.W., #213
Olympia, Washington 98501

Re: Senate Bill 5120

Dear Senator Nguyen:

Thank you for providing the Minority and Justice Commission (MJC) this opportunity to comment on Senate Bill 5120, concerning resentencing of persons serving adult prison terms for offenses committed when juveniles. As you are aware, the mission of MJC is to promote racial justice and equity and to eradicate racial disproportionality in Washington's legal system. Addressing the gross racial disparities in the criminal justice system has long been a priority for MJC.

Those racial disparities are particularly apparent among those who have committed crimes while juveniles but were sentenced as adults. Well over half of youth sentenced as adults are youth of color. SB 5120 would codify recent constitutional decisions that require trial courts to consider youthfulness at the time of the crime when sentencing. Although that case law applies retroactively, most of those entitled to a resentencing hearing lack legal representation to make that request and could languish in prison for decades. They have a right without a readily accessible remedy. SB 5120 will provide for assignment of counsel and ensure equal access to the courts for all to request reconsideration of their original adult sentence.

SB 5120 is necessary to implement important juvenile rights that are grounded in the emerging brain science, and to further the goal of equal access to justice for all.

Thank you for considering our race and equity perspective.

Very truly yours,

Judge Theresa Doyle (ret.)
Chair, Rules and Legislation Committee
Washington Minority and Justice Commission

Cc: Nicole Lutomski

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King County Department of Public Defense

Judge Karl Williams
District and Municipal Court Judges Association

February 4, 2021

Hon. Joe Nguyen
State Senate, 34th Legislative District
304 15th Ave. S.W., #213
Olympia, Washington 98501

Re: SB 5122

Dear Senator Nguyen:

Thank you for providing the Minority and Justice Commission (MJC) this opportunity to comment on Senate Bill 5122, concerning juvenile court jurisdiction. The mission of MJC is to promote racial justice and equity and to eradicate racial disproportionality in Washington's legal system. Addressing the gross racial disparities in juvenile justice have long been a priority for MJC.

The evidence on brain development is undisputed that "children are different" and not a smaller version of adults. Youthful brains are not fully developed until well into the mid-twenties. Until then, young people are more impulsive, less able to understand the consequences of their behavior, and more susceptible to peer pressure. Also undisputed is that detention is harmful to children and contributes to recidivism, and that BIPOC youth suffer disproportionately from these harms.

MJC strongly supports SB 5122, extending juvenile court jurisdiction to age 18 and eventually to age 19. Our only reservation is that the bill does not go far enough. Studies show that human beings are not fully adults until at least age 25. We are hopeful that SB 5122 is a step toward reflecting this reality.

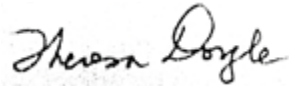
Another reason MJC supports your bill is that community safety is best achieved by replacing incarceration with a behavioral health approach. Many of our youth are from communities surviving generational trauma, cyclical poverty, over-policing, and disproportionate incarceration. These youth need services in the community to help overcome the harms caused by a racist system. Extending juvenile jurisdiction to include older youth is consistent with these goals.

This behavioral approach to juvenile crime has proven effective and is being applied in King County. Under the Restorative Pathways program,

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juvenile offenders will be diverted from juvenile court to services in the community, decreasing the juvenile court's caseload by 60 percent and redirecting funds from a court-based to a community-based approach. It makes sense to include older teens in such programs.

Thank you for your support for our youth and racial justice and equity.
Very truly yours,

A handwritten signature in black ink that reads "Theresa Doyle". The signature is written in a cursive style with a large, looped initial 'T'.

Judge Theresa Doyle (ret.)
Chair, Rules and Legislation Committee
Washington Minority and Justice Commission

Cc: Nicole Lutomski