



## MINORITY AND JUSTICE COMMISSION

ZOOM VIDEOCONFERENCE  
FRIDAY, JANUARY 28<sup>TH</sup>, 2022  
9:00 A.M. – 12:00 P.M.  
JUSTICE MARY YU, CO-CHAIR  
JUDGE VERONICA ALICEA-GALVÁN, CO-CHAIR



### MEETING NOTES

#### Commission Members

Justice Mary Yu, Co-Chair  
Judge Veronica Alicea-Galván, Co-Chair  
Lisa Castilleja  
Judge Faye Chess  
Professor Mark A. Chinen  
Judge Linda Coburn  
Theresa Cronin  
Grace Cross  
Judge Theresa Doyle (ret.)  
Chad Enright  
Professor Jason Gillmer  
Judge Anthony Gipe  
Judge Bonnie Glenn  
Kitara Johnson  
LaTricia Kinlow  
Anne Lee  
Judge LeRoy McCullough  
Justice Raquel Montoya-Lewis  
Karen Murray  
Briana Ortega  
Christopher Sanders  
Judge Ketu Shah  
Travis Stearns  
Judge Leah Taguba  
Jeremy Walker  
Judge Karl Williams

#### AOC Staff

Kelley Amburgey-Richardson  
Cynthia Delostrinos  
Moriah Freed  
Frank Thomas

#### Liaisons

Wanda Barrett, *Embedded Law Librarian*  
Esperanza Borboa, *Access to Justice Board*  
Denise Chen, *SU Law*  
Sean Dong, *SU Law*  
Sarah Max, *SU Law*  
Margarita Esquivel Torres, *Gonzaga Law*  
Gloria Ixtaly Herrera, *Gonzaga Law*  
Whitney Wakefield, *Gonzaga Law*  
Alicia Chaudry, *Gonzaga Law*  
Wendy Martinez Hurtado, *UW Law*  
Angel Torres Mann, *UW Law*

#### Guests

La Rond Baker  
Twyla Carter  
Judge Sara Dannen  
Brian Flaherty  
Jaime Hawk  
Gordon Hill  
Katie Hurley  
Anita Khandelwal  
Mynor Lopez  
Nicole Zayas Manzano  
Claire Mauksch  
Judge Maureen McKee  
Julissa Rachor  
Amrit Sharma  
Cherif Sidiali

### CALL TO ORDER

The meeting was called to order at 9:00 AM.

## Welcome and Introductions

- Justice Yu welcomed everyone to the meeting.
- Frank Thomas called roll. Members, guests and staff introduced themselves.
- Justice Yu recognized Judge McCullough as the longest serving judge in Washington.

## Approval of November 12<sup>th</sup> Meeting Minutes

- The minutes were approved as presented.

## GUEST PRESENTATION

**Continued Bail Reform through Court Rules** – Anita Khandelwal, Seattle Department of Public Defense; Twyla Carter, The Bail Project

### Presentation

- Justice Yu shared that judges in Washington have expressed concern about the incarceration rate – why are so many individuals being detained pre-trial? There is a large amount of pressure on judges to keep people incarcerated. The Minority and Justice Commission has implored judges to step back and further examine Cr 3.2 and ask for additional resources to help make better decisions.
- The Bail Project is working with the Department of Public Defense to propose amendments on Cr 3.2, Cr 4.7, and Cr 8.3. Washington has been at the forefront of proposing court rule changes to protect the rights of people in the system.
- Anita Khandelwal presented on the current high-level proposed criminal rule changes, and where they see room for improvement. The proposed language has not yet been formally drafted.
  - Cr 3.2 – Presumption of release. The presenters shared that the rule is not being exercised as intended for certain crimes, such as low level property offenses. There is a jump to monetary bail. Thinking of separating failure to appear from willful failure to appear or flight risk. Considering a language proposal that would consider systemic reasons for failure to appear.
    - Enacting a clear standard for when monetary standards of release can be imposed.
    - Further the intent of original rule drafters – presumption of release.
  - Cr 4.7 – Regarding discovery. Ensures defense counsel gets timely access to discovery. Rule inadvertently gives prosecutors additional leverage regarding redactions. Prosecutors need to sign off on redactions, and this process is being used as leverage in plea bargains, i.e. If you ask for redacted discovery, we will pull the deal. This promotes coercive plea bargaining where people are asked to sign plea bargains without reviewing the case against them.
  - Cr 8.3 (b) – Has not been amended for some time. Want to broaden the court's discretion to take action on unfair conduct. Want to push more power back to the court to hold parties accountable.
- In closing, the presenters shared that their goal is to make the system more fair, and reduce inequities of predominantly indigent and disproportionately BIPOC individuals.

## Discussion

- The Minority and Justice Commission is conducting a study on plea bargaining in Washington. Although the study might be able to help inform the plea bargain process for the rule change, the Department of Public Defense is hoping to prepare language in anticipation of the March Commission meeting and the timing might not align.
- Concerns were expressed that the proposed rule changes presume the right to a plea bargain. Is making this decision an appropriate role of the court, and are the revisions reflective specifically of King County practices?
  - The Department of Public Defense believes that the rule change would “neutralize” the current rule.
  - Commission members asked for clarification if this is a statewide issue or a specifically King County issue. Others shared that the practices have been observed in Skagit and Whatcom counties.
- It was emphasized that about half of individuals in state jails are held pre-trial with no conviction, and the longer someone sits in jail, the higher likelihood of them pleading guilty.
- Individuals need to be able to make an informed decision on plea bargaining. How do we move procedural fairness in a way that makes sense? How do we uphold practices that are correct?
  - It was added that judges have not seen people raising issues of procedural fairness in courts. Rulemaking is one way to address these issues.
  - Defense attorneys might be hesitant to raise the issue in front of judge if it affects their client’s deal or all of their other clients’ outcomes.
- Justice Yu emphasized that the discussion on this issue is ongoing, and is excited for the Commission to continue engaging in exploration of this topic.

## CHAIR & STAFF REPORTS

### 2023 NCREF National Conference – Judge Veronica Galván

- Judge Galvan would like Washington to consider hosting the National Consortium of Racial and Ethnic Fairness in the Courts (NCREF) Conference for 2023. This would include developing programming and working with bar associations to plan a reception. The National Center for State Courts (NCSC) handles logistics.
- Other courts are looking to Washington as an example and the state has a lot to share.
- Judge Galvan is on the national planning committee and is willing to lead a state planning committee. There is substantial overlap in Symposium topics that could transfer to valuable NCREF programming.
- A vote by the Commission previously approved hosting the conference, but it was postponed due to COVID. A planning Committee will need to be formed and financing secured to move forward.
- Cynthia Delostrinos encouraged MJC to think about intersections with the work of the other Commission’s during planning.

**ACTION:** Trish Kinlow and Judge Sarah Dannen volunteered to assist in planning the NCREF 2023 Conference. If interested in participating, contact Frank Thomas.

### Legal Financial Obligations (LFO) Final Report Publication – Cynthia Delostrinos

- *The Price of Justice: Legal Financial Obligations in Washington State*, and the companion report *The Cost of Justice: Reform Priorities of People with Court Fines and Fees*, were released on January 25th, 2022.
- The press release and links to the report can be found on the Washington Courts website here:  
<https://www.courts.wa.gov/newsinfo/?fa=newsinfo.pressdetail&newsid=48540>
- Cynthia Delostrinos provided background on the Commission's involvement in LFO reform. The Minority & Justice Commission has been involved in LFO work for years to bring the topic to the judiciary's attention. Washington was one of 5 states to receive the Department of Justice's grant to study the issue. At the time, the legislature was unable to pass LFO reform in the state. The grant and report allowed stakeholders to convene and reach consensus on reform. This led to legislative and court rule changes.
- A partnership with Living With Conviction has been established to bring lived-experience recommendations to further the reform efforts.
- MJC needs to support further reform, such as support HB 1412. Supporting access to GR 39 reforms, informing people that LFO relief is often available.
- Commission members were encouraged to share the reports widely.

#### **Jury Diversity Updates – Frank Thomas**

- The 2021 Jury Diversity Survey Study has been revised after an error was noticed and is now available online.
- The legislature has funded an additional jury study for 2022 to capture jury diversity data for future consideration. This project is off the ground in Pierce County. Other counties are being on boarded, and 5000 responses have been received over the past month.

#### **Pretrial Research Projects – Frank Thomas**

- Dr. Lisette Garcia and Frank are proceeding with the Plea Bargaining research project that will seek to isolate the effects of the plea bargaining process on racial disproportionality.
- AOC has received legislative funding for a Juvenile Detention Alternatives Researcher to focus primarily on EHM outcomes. JDAs is a priority issue for MJC JJ Cmte., and there may be potential to expand the scope of the researcher's work to include other diversion programs.
- Frank Thomas anticipates that the bail research study will be completed sometime in the next couple months, potentially by the next MJC meeting.

**ACTION:** Contact Frank Thomas about any of the research projects or if you would like to assist. Judge Dannen expressed interest in working on the pre-trial project.

#### **LAW STUDENT LIAISON PRESENTATION**

**Expungement Clinic Proposal – Seattle University School of Law Liaisons Denise Chen, David Armstead, Sarah Max, Sean Dong**

The Seattle U liaisons were the first to submit their project proposal, which seeks to facilitate a two-day program relating to criminal expungement. One day will be dedicated to education and training, and another day to the expungement work. I understand that they have coordinated

with organizations to have supervising attorneys and pre-cleared clients so intake will not be required.

- The full proposal is on page 7 of the packet.
- The Law Student Liaisons propose to launch a criminal records sealing clinic during March and April 2022. They will partner with Microsoft and the Seattle Urban League to pre-screen clients for eligibility.
- The clinic will provide students with pro-bono work and educate on racial disproportionalities. Additionally, the students will partner with law school affinity groups and develop an infographic to educate students on Washington state incarceration.
- The training prior to the clinic will be structured in 3 parts:
  - MJC race equity training led by commission member
  - Substantive law training
  - Procedure training
- The SU students have already discussed the project with other partner agencies and just need MJC approval to move forward with the event. If MJC funding is approved, it will go towards the promotional infographic and materials for the clinic. Seattle University will provide the meeting space.

**VOTE:** The Commission unanimously voted to approve the Expungement Clinic Proposal and provide sponsorship funds.

## COMMISSION LIAISON & COMMITTEE REPORTS

### Education Committee – Judge Lori K. Smith and Frank Thomas

- Judicial College Recap – Judge Veronica Galván and Judge Ketu Shah
  - Judges Shah and Galvan presented at Judicial College to 65 students. The presentation, *Emerging Through Bias*, was taught on the first day. This encouraged students to apply these lessons across the other presentations throughout Judicial College.
  - Evaluations have not yet been released.
- MJC Education Retreat – Judge LeRoy McCullough
  - The retreat was held virtually due to COVID on Saturday, January 29<sup>th</sup> from 8:00 am – 12:00 pm.
  - The Education Committee has taken a step back to examine their work in relation to the mission statement.
  - The Committee will be asking the full Commission for feedback on the revised mission and how the goals are being met.
  - The retreat will be conducted via zoom.
- SCJA Spring Conference Colloquium Update – Frank Thomas
  - SCJA conference has been moved fully virtual. Updating contracts and program to adapt to the new format.
  - The accepted, large scale program involves both a keynote speaker and breakout work sections.
  - SCJA has not just approved the proposal, but is co-sponsoring and co-funding of the session.
- Racial Equity and Child Welfare Colloquium – Judge Maureen McKee and Frank Thomas
  - Have been working with child welfare stakeholders to plan a colloquium with the goal to shift the narrative in child welfare from saving children by separating them

from the family unit towards an emphasis on maintaining the family unit. Child welfare issues in Washington overlap considerably with race equity.

- The program outline is on page 16 of the packet. Members of the colloquium group have expressed support of using the program outline to create a multi-part colloquium series. They are seeking MJC support to execute this program in summer 2022. The audience has expanded to a diverse group of stakeholders interested in learning about the issue.

**VOTE:** The Minority & Justice Commission approved support of the Race Equity and Child Welfare Colloquium programming for summer 2022.

### **Outreach Committee – Lisa Castilleja and Judge Bonnie Glenn**

- Judges of Color Directory Update – Judge Faye Chess, Esperanza Borboa, and Moriah Freed
  - The 2022 Judges of Color Directory has been submitted for final approval before publishing. The updated directory will send a message of inclusivity and serve as a resource to the state. It is important to show how the diversity of the bench is growing.
  - The 2022 directory features artwork by Judge Gipe, and poetry submitted by Washington judges.
  - A distribution plan has not yet been discussed. Moriah Freed will look at prior distribution lists to provide a suggestion to the Outreach Committee.
  - The Commission recognized Judge Chess for her outstanding dedication in getting the project completed, including formatting the directory and conducting personal reach-outs.
- Annual Artwork 2022 – Judge Anthony Gipe and Moriah Freed
  - Judge Gipe is currently working on a draft announcement to circulate by mid-February announcing the call for artwork.
  - Judge Gipe is requesting an honoraria of \$1000 to compensate the selected artist for the 2022 poster.
  - Judge Gipe is updating the distribution list to include more organizations representing BIPOC artists.
  - The 2021 artwork will be used on the announcement flyer.
- Gender Justice Study MJC Follow-up – Judge Bonnie Glenn
  - A group has been formed to narrow down next steps on the recommendations from the Gender Justice Study where the Minority and Justice Commission is named or has overlapping work:
    - Jury diversity working with Judge Rosen
    - Women and girls in incarceration
    - LFOs
    - Prosecutorial discretion
    - Family law and civil consequences
  - The group is planning to schedule a second meeting with various stakeholders.
- WSMJC Board Award – Judge Bonnie Glenn
  - A number of boards and Commissions present outgoing members with a recognition of service. Judge Glenn is hoping to establish something similar to recognize outgoing MJC members.
- CZ Smith Award – Judge Bonnie Glenn
  - Lisa Castilleja will be reaching out to the universities next week. Last year the law schools sponsored a monetary award – hoping this continues.

- Gonzaga will be the next host of the event. It is to be determined if the event will be held virtually in the spring or pushed to fall for a possible in-person event.

### **Rules and Legislation Committee – Judge Theresa Doyle**

- The Minority and Justice Commission has supported various bills this session:
  - SB 5609 – Concerning Eliminating Fingerprinting for Juveniles at Disposition
  - SB 1637 – Concerning Mental Health Condition Mitigation at Sentencing
  - SB 1169 Enhancement stacking bill
    - Allows judges to unstack charges to run them concurrently and not consecutively
  - HB 1412 – omnibus LFO reform
    - Moving forward, Judge Keenan testified on behalf of MJC.

### **Juror Orientation Video – Judge Leah Taguba**

- The video and renderings are almost finished with the review process.
- Looking forward to having final product shared with the Commission

### **MJC Liaisons**

- **Access to Justice Board – Esperanza Borboa**
  - The Access to Justice Board created a community advisory panel. Following murder of George Floyd, ATJ assessed that the community and those most impacted by the justice system needed a bigger voice in the decision making process.
  - The community advisory panel expressed wanting to continue involvement at the most recent meeting.
  - ATJ is in process of recruiting 3 new board members and are re-evaluating the recruitment process to diversify applicant pool and get higher community engagement.
  - Evaluating and revising hallmarks for equal justice and state plan.

## **ADJOURNMENT**

**The meeting was adjourned at 11:47 AM**