

WASHINGTON STATE
MINORITY AND JUSTICE COMMISSION

COMMISSION MEETING



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FRIDAY, JANUARY 28, 2022
9:00 A.M.–12:00 P.M.



MINORITY AND JUSTICE COMMISSION

BIMONTHLY GENERAL MEETING

JANUARY 28TH, 2022

9:00 A.M. – 12:00 P.M.

JUSTICE MARY YU, CO-CHAIR

JUDGE VERONICA GALVÁN, CO-CHAIR

[HTTPS://WACOURTS.ZOOM.US/J/96402241869](https://wacourts.zoom.us/j/96402241869)

MEETING ID: 964 0224 1869

AGENDA

CALL TO ORDER 9:00 – 9:05 a.m. (5 minutes)

- Welcome and Introductions
- Approval of November 12 Minutes

GUEST PRESENTATION 9:05 – 9:35 a.m. (30 minutes)

- **Continued Bail Reform through Court Rules** – Anita Khandelwal, DPD, and Twyla Carter, The Bail Project

CHAIR & STAFF REPORT 9:35 – 10:05 a.m. (30 minutes)

- **Chair Report**
 - 2023 NCREF National Conference – Judge Veronica Galván
- **Staff Report**
 - 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>
 - Jury Diversity Study – Frank Thomas
 - Update on 2022 Jury Demographics Survey
 - Final 2021 Study: https://www.courts.wa.gov/subsite/mjc/docs/2021_Jury_Study_Final_Report.pdf
 - Pretrial Research Project(s) – Frank Thomas
 - Plea Bargain Research Project
 - AOC Juvenile Detention Alternatives Researcher
 - Bail Research Study

BREAK 10:05 – 10:15 (10 minutes)

Law Student Liaison Presentation 10:15 – 10:35 (20 Minutes)

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

COMMISSION LIAISONS & COMMITTEE REPORTS 10:35 – 12:00 p.m. (85 minutes)

- **Education Committee** – Judge Lori K. Smith
 - Judicial College Recap – Judge Veronica Galván and Judge Ketu Shah
 - MJC Education Retreat, Saturday, January 29th, 8:00 – 12:00 p.m. – Judge Lori K. Smith
 - SCJA Spring Conference Colloquium Update – Judge Johanna Bender
 - Racial Equity and Child Welfare Colloquium – Judge Maureen McKee and Frank Thomas.

- **Outreach Committee** – Judge Bonnie Glenn and Lisa Castilleja
 - Judges of Color Directory Update – Judge Faye Chess, Esperanza Borboa, and Moriah Freed
 - Annual Artwork 2022 – Judge Anthony Gipe and Moriah Freed
 - Gender Justice Study MJC Follow-up – Judge Bonnie Glenn
 - WSMJC Board Award – Judge Bonnie Glenn
 - CZ Smith Award – Judge Bonnie Glenn
 - Youth and Law Forum Events Update – Lisa Castilleja

- **Rules and Legislation Committee** – Judge Theresa Doyle
 - Update on Statements of Public Support for Legislation – Judge Theresa Doyle
 - SB 5609 – Concerning Eliminating Fingerprinting for Juveniles at Disposition
 - SB 1637 – Concerning Mental Health Condition Mitigation at Sentencing
 - HB 1169 – Concerning Sentencing Enhancements

 - **MJC Liaisons**
 - **Access to Justice Board** – Esperanza Borboa

Next MJC meeting: Friday, March 25th, 2022 @ 9:00 a.m. (via Zoom).

Minority and Justice Commission

2022 Meeting Dates

Virtual Meetings held via Zoom Videoconference
Available to the public online at TVW.org

Date	Time	Location
Friday, January 28 th , 2022 01/28/22	9:00 AM – 1:00 PM	Zoom Videoconference
Friday, March 25 th , 2022 03/25/22	9:00 AM – 1:00 PM	Zoom Videoconference
Friday, May 13 th , 2022 05/13/22	9:00 AM – 1:00 PM	Zoom Videoconference
Wednesday, June 1 st , 2022 <i>Supreme Court Symposium</i> 06/01/22	9:00 AM – 12:00 PM	Zoom Videoconference
Friday, July 22 nd , 2022 07/22/22	9:00 AM – 1:00 PM	Zoom Videoconference
Friday, September 30 th , 2022 09/30/22	9:00 AM – 1:00 PM	Zoom Videoconference
Friday, December 9 th , 2022 12/09/22	9:00 AM – 1:00 PM	Zoom Videoconference

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

CALL TO ORDER

The meeting was called to order at 9:01 AM.

Welcome and Introductions

- Justice Yu welcomed everyone to the meeting.
- Frank Thomas called roll. Members, guests and staff introduced themselves.

Approval of October 1st Meeting Minutes

- The minutes were approved as presented.

Recognition of Members and Staff

- Congratulations to the new AOC Supreme Court Commissions Manager, Kelley Amburgey-Richardson.
- Welcome to the Commission's new Embedded Law Librarian, Wanda Barrett.
- Congratulations to Commission member and Seattle District Court judge-appointee Leah Taguba.
- Congratulations to Frank Thomas on being sworn in as a Washington attorney.

GUEST PRESENTATION

Uninsured Motorist Fines and Fees – Martha Ramos, Jenna Robert, Nat Jacob

The Washington Drivers Relicensing Taskforce and the King County Transportation Equity Committee presented a combined advocacy initiative to the Minority and Justice Commission on the court's jurisdiction over and race equity impact of fines and fees related to uninsured motorist citations. Members of both groups took turns presenting before the Commission.

- A letter to the Commission Re: Transportation Equity – Monetary Penalty Schedule for Infractions is included in the meeting packet on page 7.
- Myra shared her story paying exorbitant fees related to being an uninsured driver and how the debt has impacted her life.
- Kirsten Wysen, from King County Public Health, shared new public health research about how unpaid debt can be linked to a myriad of health problems. LFOs have been shown to have adverse effects on the health of the individual and their family, including periods of homelessness.
- King County Transportation Equity Workgroup member Yordanos Teferi introduced herself and the group. The group believes that transportation inequity and criminalization through punitive fines has racially disparate roots and outcomes.
- Cesar highlighted the flaw in data collection representing the Latino and Hispanic demographics. There is no distinct Hispanic or Latino group, and these individuals were categorized as 'white' and 'other.'
- Jen Lombardi shared how the increase in fees does not incentivize individuals to obtain insurance. The overwhelming debt from the fees makes them further unable to obtain insurance. She also shared the disparate fines imposed on BIPOC individuals and the disparate impact in who is stopped.
- Nat Jacob echoed the comments of his colleagues. He recognized that cases have addressed criminal LFOS, but not civil infractions. The group has a specific policy ask addressing this issue.

- Jenna Robert presented the policy ask from the group and are seeking the Minority and Justice Commission’s support and assistance with the policy change. They see opportunity for the Supreme Court to take action by reducing the amount to the maximum base penalty.

Discussion

- The proposed change was based on an initiative enacted in San Francisco that found if the uninsured motorist fees are reduced to a more reasonable amount that individuals were more likely to pay them. Jenna Robert will share the findings with MJC staff to circulate.
- Judge Coburn added that there is a fee taken out for the AOC JIS that is not in the statute.
- Increasing the fines and fees does not result in further funding of the courts. The individuals do not have the money to pay.
- Judge Coburn spoke to the judicial discretion on imposing civil infractions, and how individuals at the courts for civil infractions and without legal representation likely have no knowledge of judicial discretion. She suggested judicial education might be needed on the topic.
- Lack of representation on civil side is leading to things falling through the cracks – increases in fines and fees, etc.

Justice Yu asked Commission members if they had any concerns with the Commission moving forward in addressing the policy ask.

VOTE: The Commission approved moving forward in exploring how to address the policy change requested by the Transpiration Equity Workgroup and the Washington Drivers Relicensing Taskforce. It will be taken before the Court Rules Committee first.

ACTION: Martha Ramos and the task force will provide supplemental materials to Frank Thomas and Justice Yu to assist in presenting the policy change.

CHAIR & STAFF REPORTS

Introduce Dr. Lisette Garcia as WSCCR Equity Researcher – Dr. Carl McCurley, WSCCR

- Two years ago, Cynthia Delostrinos and Carl McCurley began meeting to discuss the Commission’s research needs. It was decided that a new position would be needed to address the research needs addressing issues of equity.
- Dr. Lisette Garcia’s position will be to carry out, oversee, and conduct equity research; establish a baseline; and track policy changes that the court makes based on inequities. Justice Yu thanked Dr. McCurley for his ongoing commitment to justice issues and for bringing Dr. Garcia on board.

Jury Diversity Updates – Cynthia Delostrinos and Frank Thomas

Jury Diversity Study

- After our last MJC meeting the researchers went back to run numbers on the race data and noticed that they had made a miscalculation. The miscalculation led to a different

finding that there was actually underrepresentation of jurors of color, when they reported over representation.

- The amended report is included in the packet. It was additionally reviewed by WSCCR, and the researchers at Seattle University will be incorporating some feedback from WSCCR's manager Dr. Carl McCurley. The final report will be posted and shared once the report is finalized.
- This was an opportunity for us to look at our processes of finalizing research reports. It comes at great timing now that we have Dr. Lisette Garcia on our team as the new Commissions and WSCCR Equity Researcher who can play a key role in this process.

Continued Collection of Juror Data

- The 2021 legislature provided a budget proviso to the AOC for statewide collection of Juror Demographic Data, recognizing the importance having juries that are representative of their communities.
- The proviso provides funding for one years' worth of data collection.
- We are continuing to work with Seattle University researchers on this endeavor, as they have been our consistent partner in this effort since we did our first study in 2016.
- We are currently doing outreach to courts across the state about how to implement this data collection effort, recognizing that there may be different methods of data collection necessary to get every court onboard.
- Our goal is to collect data from January 2022 to December 2022. A report on the efforts will be due to the legislature in June of 2023.

Pretrial Research Projects – Frank Thomas

- The MJC is currently underway with two research projects stemming from Symposium.
- We are proceeding with analysis that will combine the county-level bail data where we can attain it, and 10 years of statewide pretrial detention data from the Washington Police Chiefs and Sheriffs. 9 of the 10 largest counties in Washington have now supplied data. The data will allow us to measure for racial disproportionality and gender on release/remand decisions and setting of bail. In reviewing the bail amount data from AOC, Dr. Andrew Peterson has discovered that the data is incomplete and cannot be used to measure the bail decisions.
- Pretrial data project has received 10 years of data and is ongoing.
- Plea bargaining and racial disproportionality project will begin now that Dr. Lisette Garcia is hired. The research group will meet with the MJC Co-Chairs to set a timeline.

2022 Annual Supreme Court Symposium on Reparations – Frank Thomas

- 2022 Symposium planning Committee will begin meeting soon, with an initial meeting on November 16th.
- The selected topic of reparations was proposed by the Seattle University Calhoun Fellows.

COMMISSION LIAISON & COMMITTEE REPORTS

Education Committee – Judge Lori K. Smith

Conference Proposals

- DMCJA Spring Conference Proposal – Judge Ketu Shah and Judge Kimberly Walden
 - A proposal was submitted and is pending acceptance. The proposal will look at different DEI tools that can be adopted with real world application and how they can be implemented. The presentation will also touch on the Racial Justice Consortium’s work.
 - The goal is to empower judges to feel more comfortable talking about race and become leaders in community on the issue.
- Judicial College – Judge Veronica Galván and Judge Ketu Shah
 - For the past 6/7 years, MJC has sponsored a curriculum about bias at Judicial College.
 - The presentation is revised slightly each year as presenters change. Judge Shah and Judge Galvan are further revising the program now that more incoming judges have a base level knowledge on bias.
 - The session duration has been shortened due to the online format, and hopefully will return to in-person next year.
 - Focusing on how judicial decision impact communities.
- DMCMA Spring Conference Proposals – LaTricia Kinlow
 - LaTricia Kinlow brought 3 proposals forward to the Education Committee:
 - Racial assessment tool – courts would receive this tool and be provided education. Courts in other states are using it to assess how courts serve BIPOC communities.
 - Tribal courts model presentation of restoring individual to the tribe and the restorative justice approach.
 - Journey to Change – would be taught by a retired Superior Court Judge from California. Takes you on a journey of racial injustice, including laws that are the foundation of systemic racism.

Education Committee Retreat

- The Committee is planning an education retreat to discuss proposals and the Committee’s work. They will look at the mission statement and role the Committee plays for MJC. A half-day retreat will help the group expand and move in a new direction, such as how COVID has presented new ways to learn and reach a greater audience.

SCJA Spring Conference Colloquium 2022 – Frank Thomas

- Colloquium Judicial Education Series on Facially Neutral Laws with Racialized Impact; Racial Disproportionality as Evidence of Racism and Systemic Racism
- Update Colloquium Plans and SCJA Spring Conference 2022 Program – Judge Johanna Bender
- 3 breakout sessions running concurrently. Working with presenters to maximize reach and effectiveness.
- Keynote will address issue of false neutrality – the idea will be further explored in the breakouts.

Outreach Committee – Lisa Castilleja and Judge Bonnie Glenn

Judges of Color Directory Project – Judge Faye Chess and Esperanza Borboa

- The form for the Judges of Color Directory project has been circulated to Washington Judicial Officers. MJC judges, please complete the survey and encourage your colleagues to complete the survey
- The goal is to publish at the beginning of 2022. Many judges of color will be appointed or elected and take the bench in January 2022. The deadline is being slightly pushed back to include them.
- Judge Chess is spearheading personal reach outs to participate in the directory.
- Judge Chess and Esperanza Borboa are taking a slightly new approach, and are hoping everyone appreciates the uniqueness of the new directory.

Gender Justice Study MJC Follow-up – Judge Bonnie Glenn

- A group led by Judge Bonnie Glenn and Karen Murray has met to discuss follow-up from the Gender Justice Study recommendations.
- The group is identifying next steps and areas of concern from the study in relation to MJC areas of interest.

Youth and Law Forum Events – Lisa Castilleja and Judge LeRoy McCullough

- The 2021 Youth and Law Forum events are finished for 2021. This year was the first attempt at a hybrid event due to COVID.
- The Tri-Cities event had over 100 students and over 40 volunteers both live and virtually. Justice Whitener and Justice Montoya-Lewis gave great presentations.
- Seattle also was successful as a fully virtual this year. A play was performed that discussed jury selection and deliberations.
- Both programs went forward with success thanks to the Commission's support.

Annual Artwork 2022 – Judge Anthony Gipe and Judge Dennis Yule

- The planning group will be meeting soon to discuss outreach and planning for the 2022 artwork.

Juvenile Justice Committee – Frank Thomas

- The Committee has identified two priority areas for FY22: Juvenile Diversions Research and Juvenile Dispositions and Alternatives to JR incarceration.
- Currently, not all juveniles are eligible for diversions, usually most serious offenses. The group is looking at extending diversion to these youth who need additional help but are prohibited from receiving it.

MJC Liaisons

- **Access to Justice Board** – Esperanza Borboa
 - ATJ Conference Report is included in the meeting packet on page 13.
 - All of their programming is on video and accessible online.

ADJOURNMENT

The meeting was adjourned at 11:24 AM



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



Request Form

Full name and contact information of organization and persons making the request:	Seattle University Law Student Liaisons Denise Chen: chend5@seattleu.edu Sean Dong: sdong@seattleu.edu Sarah Max: smax@seattleu.edu
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.	X SUPPORT (Level 1) Indicate if you would also like: X Guest speaker – WSMJC member(s) provide speaking services on behalf of the Commission X CO-SPONSORSHIP (Level 2) WSMJC listed as a “co-sponsor” on all promotional materials, and funding based on available WSMJC funds.
Name, date, time, and location of the event or project:	Criminal Records Sealing Clinic Date: End of March 2022–Early April 2022 Time: TBD Location: Both the clinic and the training will be held online with in-person options*. *We are working with Microsoft to have both options available and are building in flexibility because of the pandemic.
If funding is requested, total amount of funds requested and tentative budget:	Funding requested: \$1,000. <ul style="list-style-type: none">● Food/Beverages for training \$300*● Pens \$10● Legal Pads** \$50● Infographic*** \$250+



Criteria for Support or Co-sponsorship Requests



	<ul style="list-style-type: none"> ○ Will McCoy: base fee is \$250. The exact estimate will depend on the complexity of the infographic. <p>*Food/Beverage option to be determined closer to event and subject to Covid guidelines.</p> <p>**We will provide paper to ensure students have a place to take notes. All notes and work product should be returned at the end of the clinic.</p> <p>*** Some examples of infographics can be found at the end of this proposal.</p>
<p>Purpose and objectives of the request:</p>	<p>The purpose of this event is to provide students with hands-on pro bono work; to educate students about the race disparities in criminal convictions and the justice system; and to serve the community by hosting a clinic that assists with sealing criminal convictions.</p> <p>To accomplish this goal, we are partnering with Microsoft, the Access to Justice Institute (ATJI), Civil Survival, and the Urban League of Metropolitan Seattle.</p>
<p>Event agenda or project schedule, if available:</p>	<p style="text-align: center;"><u>Overview</u></p> <p>The Seattle University law liaisons will be partnering with Microsoft to host a hybrid virtual and in-person clinic, in which students assist clients with sealing or vacating records under the New Hope Act.</p> <p>The student liaisons have already been talking with Microsoft about the feasibility of this project. The high-level timeline is as follows: Throughout February and some of March, we will plan the clinic and execute logistics like recruiting law students. Around late March to early April, we will train students and partner them with supervising attorneys at Microsoft to</p>



	<p>begin working on cases. All cases will wrap up before the end of the school year.</p> <p>Prior to the clinic, the Urban League of Seattle and Microsoft will screen eligible clients, so all clients who students work with will be eligible for assistance. Microsoft currently has about 15 clients who are eligible for relief and awaiting legal assistance. We plan to assign two students to one client.</p> <p>The student liaisons will recruit student-volunteers for the clinic. We plan to utilize law school communication channels and reach out to affinity groups such as the Black Law Students Association; Latinx Law Student Association; Asian and Pacific Islander Law Students Association; and OutLaws, to name a few. To support our recruiting efforts, we plan to create an infographic to share with the student body. The infographic will discuss the racial disparities in criminal convictions, the New Hope Act, and encourage students to get involved with the clinic. The infographic can also be used for future clinics of this nature should Microsoft and ATJI keep this clinic running after the liaisons have graduated.</p> <p>Students will be trained prior to the clinic on professional responsibility, the clinic, the New Hope Act, and racial equity as detailed below:</p> <p style="text-align: center;"><u>The Training</u></p> <p>All students interested in participating in the clinic will be required to attend a training event and watch pre-recorded videos on the New Hope Act. Microsoft has offered to share their Microsoft Forms technology which will allow us to manage the list of student-volunteers and track which students have participated in training. The live training will consist of three main parts.</p>
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1. MJC Race Equity Training

A member of MJC will assist the student liaisons by preparing a presentation on racial disparities in the criminal justice system, particularly with criminal convictions.

The presentation will discuss how disparities in policing, access to counsel, decisions to charge LFO's, etc. lead to disparities in criminal convictions. The presentation will briefly discuss the New Hope Act and how it aims to address some of the racial disparities.

2. Substantive Law Training

ATJI will train students on their ethical obligations under the Rules of Professional Conduct, such as what they can and cannot do, conflicts of interest, confidentiality, and competence.

Civil Survival will train students on the substantive law and the statute that governs whether certain criminal convictions may be sealed. There will also be a pre-recorded video on this topic that students are required to watch.

3. Procedure Training

Microsoft will teach students about the process of filing a motion with the courts. This training will explain to students what work they will be doing in the clinic and what a motion packet looks like.

The Clinic Part 1: Information Gathering

Once students are assigned to a client and a supervising attorney, students will gather court documents and supporting documents for the motion to seal or vacate a criminal record (motion packet).

Student volunteers will prepare motion packets. Once these are completed, the supervising



	<p>attorney will review the motion packet. If the motion packet is ready, the supervising attorney will reach out to the client to set up a time to get their signature and final approval (see part 2).</p> <p><u>The Clinic Part 2: Client Approval Filing with the Court</u></p> <p>Students and supervising attorneys will meet with clients to get signatures and approvals on the motion packets.</p> <p>We are leaving it up to the clients whether this meeting will take place virtually or in-person because clients come from different parts of the state and have varying access to stable Wi-Fi, Zoom, and Microsoft Teams.</p> <p>The supervising attorney will then submit the motions to the appropriate prosecuting attorney’s office. As an example, Microsoft has worked with Laura Petregal from KCPAO in the past. The prosecutor will then file the motion with the courts.</p> <p>Student involvement ends at this point. The student liaisons will reach out to volunteer-students and ensure all confidential materials are destroyed.</p>
<p>Target audience:</p>	<ul style="list-style-type: none"> ● Washingtonians eligible for conviction sealing and vacating ● Seattle University Law students, staff, and faculty
<p>Expected attendance or number of persons who will benefit:</p>	<ul style="list-style-type: none"> ● 30 Volunteer Law students ● 15 Clients ● 15 supervising attorneys ● 100-300+ Seattle U law students and faculty with the potential to reach incoming and future law students.



Criteria for Support or Co-sponsorship Requests



Other methods or sources being used to raise funds, if any:	Microsoft uses its pro bono fund to pay for clients' watch reports. ~\$11 per client covered by Microsoft.
Other co-sponsors, if any:	Microsoft, Civil Survival, Urban League of Seattle, and Access to Justice Institute.
Plan to collect outcome data and evaluate the impact of the project (i.e., survey):	At the end of the event, students will be required to complete a short reflection on their experience working with the clinic.



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



Examples of Infographics:





BLACK COMMUNITIES BEAR THE BRUNT OF THE SYSTEM'S DYSFUNCTION

ARRESTED, SUSPENDED, AND STOPPED



BLACK STUDENTS ARE **3X** AS LIKELY TO BE SUSPENDED FROM SCHOOL AS WHITE STUDENTS



72% OF ALL STOPS BY CHICAGO POLICE WERE OF BLACK PEOPLE, WHO COMPRISE JUST **32%** OF THE CITY'S POPULATION

IMPRISONED AND DETAINED



BLACK MEN ARE IMPRISONED AT **6X** THE RATE OF WHITE MEN



BLACK WOMEN ARE IMPRISONED AT **2X** THE RATE OF WHITE WOMEN



OF YOUTH IN THE JUVENILE JUSTICE SYSTEM ARE BLACK



OF YOUTH NATIONWIDE ARE BLACK



Sources: Civil Rights Data Collection, U.S. Department of Education (Office for Civil Rights, "Data Snapshot: School Discipline"; ACLU of Texas, "Stop and Frisk in Chicago"; Census, "Prisoners in 2017"; News, "Disproportionate Minority Contact in the Juvenile Justice System."



Minority and Justice Commission Education Committee Inaugural Education Retreat

January 29th, 2022

8:00 a.m. - 12:00 p.m.

<https://wacourts.zoom.us/j/92125733369>

Meeting ID: 921 2573 3369

I. Welcome and Introductions. 8:00-8:15 a.m.

- MJC Education Chair Judge Lori K. Smith will welcome the group and set forth expectations for the day's program.

II. Education Committee Mission and Goals Review. 8:15 – 8:45 a.m.

- Break into smaller groups and apply the mission and goals to create a list of educational programs or strategies to fulfill Committee mission.

Mission Statement:

The Education Committee seeks to improve the administration of justice by eliminating racism and its effects by offering and supporting a variety of innovative, high quality, education programs designed to improve the cultural and professional competency of court employees and other representatives of the Washington State justice system.

Goals:

- To provide and foster leadership for all components of the state justice system with the goal of eliminating racial, cultural, and ethnic bias and disparate treatment and fostering systemic change.
- To ensure that cultural diversity and cultural competency trainings becomes a normal and continuous aspect of employment or service within the state justice system.
- To increase cultural awareness, foster greater appreciation of racial and cultural diversity, and engender mutual respect in persons who deliver court services and represent our justice system.
- To provide and /or collaborate with others in recommending resources and education programs consistent with the mission of the Committee.
- To be flexible and creative in developing high quality education programs tied to learning outcomes/objectives.

III. Recent Programming Review. 8:45 – 11:00

- Review recent judicial educational programming and evaluations. 8:45 – 9:15
- Discuss new areas of law to address. 9:15 – 9:45

Break: 9:45 – 10:00

- Discuss opportunities to engage other Commission members and incorporate their expertise into Educational programming. 10:00 – 10:30
- Discuss additional modes of education programming (i.e. webinar, town hall). 10:30 – 11:00

IV. Community Partnerships and the Impact of Personal Experience. 11:00 – 12:00

PROPOSAL FOR COLLOQUIUM ON RACIAL EQUITY AND CHILD WELFARE

To: Minority & Justice Commission
From: Frank Thomas and Maureen McKee
Date: 1/28/22
Re: Proposal for Colloquium

Goal: We wish to explore and to promote a shift in the historical narrative found in child welfare cases. The narrative too often has focused on saving the child by separating the child from the family; instead, we seek to explore and to strengthen the narrative of saving the child by protecting the family unit.

We are aware of and are disturbed by the disproportionately high rate of Black and brown children separated from their parents in child welfare cases. Also, we are committed to protecting *all* children emotionally, mentally and physically. In pursuit of the latter, too often judges and other stakeholders have made potentially ill-informed decisions which served to perpetuate if not exacerbate the former. And in doing so, we have unintentionally caused and/or failed to respond to trauma experienced in children and their communities, especially Black and brown children and their communities.

The proposed program below seeks to address issues of structural racism and implicit bias within the child welfare system and invites an in-depth analysis and discussion. The goal, of course, is to find ways in which we can change the narrative, to strive to protect children by protecting the family unit, and to commit to supporting the family unit in order to protect the child.

Tentative Name of Colloquium: Keeping Families Together: Addressing Structural Racism in Child Welfare Cases

Intended audience: All interested individuals, groups and populations including but not limited to judicial officers, attorneys, law school students, social workers, social work students, CASAs, Guardian ad Litem, and youth with lived experiences.

Format: Most likely a series of virtual programs

Potential time period: Tentatively, Summer 2022

Colloquium Planning Group: We strived to create a planning group inclusive of primary stakeholders. Below is a list of the current participants.

1. Frank Thomas (Senior Court Program Analyst, Minority & Justice Commission)
2. Kelly Warner-King (Manager, Family & Youth Justice Programs)
3. Commissioner Laird, Jennie (King County Superior Court)
4. Judge Josephine Wiggs-Martin (King County Superior Court)
5. Judge Maureen McKee (King County Superior Court)
6. Diana De Forest (Student, Seattle University Law School)
7. Annie Chung (Staff Attorney, Legal Counsel for Youth and Children)
8. Jill Malat (Manager, Children's Representation Program/Office of Civil Legal Aid)
9. Tashawn DeVille (young adult with lived experience)
10. Emily Stochel (young adult with lived experience)
11. Esther Taylor (young adult with lived experience)
12. Natalie Green (Regional Administrator Region 3, DCYF)
13. Mary Li (Senior Assistant Attorney General, Chief, Social and Health Services, WA Attorney General's Office)
14. Dae Shogren (Racial Equity & Social Justice Administrator, DCYF)
15. Cina Littlebird (Staff Attorney, Native American Unit/Northwest Justice Project)
16. Jennifer Yogi ((Staff Attorney, Native American Unit/Northwest Justice Project)
17. Tara Urs (Special Counsel for Civil Policy and Practice, King County Department of Public Defense)
18. D'Adre Cunningham (Incarcerated Parents Project Resource Attorney, Washington Defender Association)
19. Shrounda Selivanoff (Director of Public Policy, Children's Home Society of Washington)
20. Elizabeth Hendren (RISE Project Attorney, Northwest Justice Project)
21. Kimberly Mays (Social Worker, Family Representation Program)
22. Paula Duke (Staff Guardian ad Litem Specialist, King County Dependency CASA Program)

KEEPING FAMILIES TOGETHER: Addressing Structural Racism in Child Welfare Cases (*Draft outline*)

I. Introduction (by a judicial officer): No one goes into the challenging work of promoting child welfare with the expectation of an easy day's work. Meeting families in crisis is incredibly challenging work. People do this work to help others, particularly vulnerable children. But our intentions cannot insulate us from self-reflection. In fact, good intentions can obscure our ability to perceive harm we may be doing. Many years ago, the Second Circuit Court of Appeals was deciding a dependency case and quoted CS Lewis as saying the following, "...a tyranny sincerely exercised for the good of its victims may be the most oppressive . . . (T)hose who torment us for our own good will torment us without end for they do so with the approval of their own conscience."¹ In particular, as professionals, we are often insulated from the tangible impacts of our decisions. That dynamic creates a unique imperative – to look behind the curtain and see, to the greatest extent possible, the consequences of our work, however challenging that may be.² For too long the child welfare system has escaped that kind of penetrating inquiry. It must be our goal to recognize the inherent value in protecting the family unit and the benefit to the child of maintaining connection to the child's parents.

II. Understanding the Harms of the System:

a. Introduction - A Framework for Understanding Families as a Whole:

Kimberly Mays and Judge Wiggs-Martin. We must change the narrative of saving the child by separating the child from the parents. Whenever possible, the family unit must be protected in order to protect the emotional, mental and physical safety of the child.

1. There is a false dichotomy between being “pro-child” or “pro-parent.” Can we instead be pro-family? Pro-healing? Being “pro child” necessarily requires concern for parental health and wellbeing; a parent’s destiny is interconnected with the child’s destiny.
2. This is a “pro-child” training because work with children teaches us that what children want and need is for their families to be healthy and whole, and we will talk about child safety in this context – a safe child requires a safe family.

¹ *Duchesne v. Sugarman*, 566 F.2d 817, 828 (2d Cir. 1977) (discussing a deprivation of liberty based on the best interests of the child and noting that, “Nevertheless, ‘(o)f all tyrannies a tyranny sincerely exercised for the good of its victims may be the most oppressive . . . (T)hose who torment us for our own good will torment us without end for they do so with the approval of their own conscience.’” Goldstein, *supra* note 19, at 645, quoting, Lewis, *The Humanitarian Theory of Punishment*, 6 *Res Judicatae* 224, 228 (1952))

² “Legal interpretive acts signal and occasion the imposition of violence upon others.” Robert M. Cover, *Violence and the Word*, 95 *Yale L.J.* 1601 (1986).

b. Harms as a Result of Family Separation:

1. *Nicole Chung*. The loss of racial identity in transracial adoptions.
2. *Youth with lived experiences*. Histories, insights and perspectives of those with lived experiences
3. *Shanta Trivedi*. Review of literature on the harm of removal for children³

c. Intersection of Family Separation with the Carceral State:

1. *State Raised Concerned Lifers at Monroe*. Intergenerational Trauma and childhood trauma
2. *Erin Miles Cloud & Joyce McMillan*. How the Family Regulation System Mirrors and Feeds the Carceral State

d. Understanding Wounds that Families Bring with Them into the System:

1. *Corey Best*. Introduction
 1. *Dr. Ben Danielson*. Impacts of [ACES and toxic stress](#) in childhood
 2. *Dr. Maria Yellow Horse Brave Heart*. Historical Trauma
 3. *Panel of parents who have experienced family separation*

III. Reflection: connecting the harms of the system to the idea of concrete skills – solidifying buy-in, do judges, attorneys, CASAs, social workers and other participants feel ready to make change? Can we do something different? Add in racial disproportionality statistics here? *Speakers to be identified.*

IV. What Can Judges and Stakeholders Do? Anti-racist decision-making must center child well-being. Doing so requires that all participants value a child’s history, family, and community, and uphold the law:

- a. How to be trauma informed:** *Judge David Avraham Voluck*. How to be trauma informed. [Trauma Informed Benchbook for Tribal Justice Systems](#)
- b. Support relational permanency:** *Jerry Milner and David Kelly*. Reviewing their work as leaders of the federal Children’s Bureau, Administration for Children Youth and Families. Information Memorandum ACYF-CB-IM-20-09, January 5, 2021: “Legal permanence alone doesn’t guarantee secure attachments and lifelong relationships. The relational aspects of permanency are critically important and fundamental to overall well-being.”⁴
- c. Recognize Disability:** *Robyn Powell*. The requirements of the ADA in child welfare proceedings and the needs of parents with disabilities in dependency cases.
- d. Evaluate Expertise:** *Deborah Ahren*. Reviewing how the law typically evaluates opinion evidence and expertise (the *Frye* standard) and why dependency cases are not immune from that same inquiry.

³ Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. Rev. L. & Soc. Change 523, 542-544 (2019).

⁴ See also <https://imprintnews.org/child-welfare-2/family-is-a-compelling-reason/42119>

- e. **Don't Forget the Constitution:** *Vivek Sankaran*. Review of constitutional guarantees and how these baselines limit judicial discretion.
 - f. **Uphold ICWA and then Borrow From It:** *Sheldon Spotted Elk*. ICWA as the “gold standard”: Imminent Physical Harm Standard, qualified expert witnesses, active efforts, good cause findings, petitions to invalidate, etc.
 - g. Washington's leadership: Matter of Dependency of Z.J.G., 471 P.3d 853 (Wash. 2020); Matter of Dependency of G.J.A., 489 P.3d 631, 653 (Wash. 2021).
- V. **Recent Changes in Washington Law:** *Tara Urs*. Reviewing ES2HB 1227; E2SHB 1194; RCW 11.130; In re M.A.S.C., 486 P.3d 886, 889 (Wash. 2021).
- VI. **Keynote:** Dorothy Roberts – The best interests of the child is living with a healed family

POTENTIAL SPEAKERS, PRESENTERS AND PANELISTS

- **Maria Yellow Horse Brave Heart, Ph.D.:** President of the Takini Institute and Associate Professor in the Department of Psychiatry and the Director of Native American and Disparities Research at the University of New Mexico in the Center for Rural and Community Behavioral Health. Professor Brave Heart focuses upon indigenous collective trauma, grief and loss, cross-cultural mental health, substance use disorders and co-occurring mental health disorders in indigenous populations.
- **Nicole Chung:** Author of *All You Can Ever Know*, a memoir of a transracial adoptee. Ms. Chung, a Korean American, was adopted by white parents. Chung explores and comments upon the loss of certain aspects of cultural identity.
- **Erin Miles Cloud:** Co-founder and Co-Director of Movement for Family Power. Cloud focuses upon reducing the harm inflicted upon children and their communities by forced family separations.
- **Dr. Ben Danielson:** Director of a program at the Department of Psychiatry and Behavioral Sciences at the University of Washington School of Medicine seeking to end youth incarceration in Washington State. Dr. Danielson was the former Director of the Odessa Brown Children's Clinic.
- **David Kelly:** Co-Director, Family Integrity and Justice Works/Public Knowledge. Kelly has served on leadership teams nationally to promote justice, inclusion and voice for children, youth and families, empower families and prevent the need of separating families unnecessarily.
- **Joyce McMillan:** McMillan previously served as the Director of Programming and Lead Parent Advocate for the Child Welfare Organizing Project and is currently a visiting fellow at The New School's Center for New York City Affairs. McMillan's mission is to remove systemic barriers in communities of color by bringing awareness to the racial disparities in systems where people of color are disproportionately affected. McMillan leads child welfare family engagement and advocacy efforts at Sinergia, a non-profit, community based, multi-service organization providing services to children and adults with disabilities and their families.
- **Jerry Milner:** Co-Director, Family Integrity and Justice Works/Public Knowledge. Milner has co-led efforts to help jurisdictions transform existing child welfare systems into approaches that strengthen and support families to care for children in safe and healthy ways.

- **Robyn Powell:** Assistant visiting professor at Stetson University College of Law focusing on the areas of Torts, Public Health Law, and Disability Law. Professor Powell authored “[Rocking the Cradle: Ensuring the Rights of Parents with Disabilities and Their Children](#)” ([ncd.gov](#))
- **Dorothy Roberts:** Professor of School of Sociology and the Law School of the University of Pennsylvania. Professor Roberts has written numerous books including the soon-to-be-released book, *Torn Apart: How the Child Welfare System Destroys Black Families – and How Abolition Can Build A Safer World*. Professor Roberts has also authored the book, *Shattered Bonds: The Color of Child Welfare*.
- **Vivek Sankaran:** Clinical Professor of Law at the University of Michigan Law School. Professor Sankaran advocates for the rights of children and parents involved in child welfare proceedings. Professor Sankaran has written numerous articles on ways to improve the child welfare system.
- **Sheldon Spotted Elk:** Director of Tribal Justice Relations at the National Council of Juvenile and Family Court Judges. Judge Spotted Elk is currently a judge on the Ute Indian Tribe Court of Appeals (Fort Duchesne, Utah) in a jurisdiction he once represented children in child welfare and juvenile delinquency matters. Judge Spotted Elk has worked as an adjunct professor teaching a law school course on Family Law in Indian Country.
- **Judge David Avraham Voluck:** Chief Judge of the Sitka Tribal Court and St. Paul Island Tribal Court (primarily Unangan Aleuts). Judge Voluck is also organizing an intertribal court for the Kodiak archipelago villages. Judge co-authored two editions of Alaska Natives and American Laws and is faculty for the National Judicial College’s National Tribal Judicial Center and the National Tribal Trial College housed at the University of Wisconsin Law School.
- **Judge Josephine Wiggs-Martin:** Judge Wiggs-Martin started her career at Northwest Defender Association in King County, WA. In 2019, Governor Inslee appointed her to the King County Superior Court bench. For two years, Judge Wiggs-Martin focused upon child welfare cases and witnesses.



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Jeremy Walker
QLaw

Judge Karl Williams
District and Municipal Court Judges Association

January 11, 2022

Hon. Yasmin Trudeau
Human Services, Reentry & Rehabilitation Committee
Sent Via email

Dear Senator Trudeau:

Thank you for this opportunity for Minority & Justice Commission (MJC) to comment on SB 5609. I chair the MJC Rules and Legislation Committee, which has reviewed SB 5609. MJC wholeheartedly supports the bill and urges its passage.

The purpose of the 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 effect true and effective rehabilitation for our youth. Children of color are disproportionately represented in the juvenile justice system in Washington State. Unfairness in that system thus disproportionately harms youth of color.

Fingerprinting of juveniles is inconsistent with the goals of rehabilitation and reentry for juveniles. Youth need to be protected from the lasting impacts of the criminal legal system so that they can reach their full potential. Fingerprints on the order of disposition add to the youth's criminal record which can long outlast the case. Future harms from a criminal record disproportionately impact children of color. Practices such as fingerprinting youth are vestiges of the era of mass incarceration and its racist underpinnings. Brain science now shows that juvenile brains are immature, hampering impulse control, judgment, and appreciation of consequences.

Fingerprinting of juveniles at the time of disposition of the case is also unnecessary. Prosecutors can prove the fact of the disposition and the youth's knowledge of its terms by other means, such as the record of the hearing, the youth's signature on the disposition order, and recorded testimony. Fingerprints are not needed.

Thank you for considering the Commission's perspective on SB 5609.

Very truly yours,

Judge Theresa B. Doyle (Ret.)
Chair, Rules and Legislation Committee
Minority and Justice Commission

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Judge Karl Williams
District and Municipal Court Judges Association

January 21, 2022

Rep. Tarra Simmons
House Committee on Public Safety
Sent via email
Re: HB 1637

Dear Representative Simmons:

Thank you for inviting the Minority & Justice Commission (MJC) to comment on House Bill 1637. HB 1637 would give trial judges the discretion to consider whether a person was suffering from a mental health condition at the time of the felony offense when fashioning an appropriate sentence. MJC has reviewed this bill and supports its passage.

The purpose of the Commission is to promote racial justice and equity in the legal system. People of color are grossly overrepresented in the criminal legal system and receive harsher sentences than do white defendants for the same offense under like circumstances. An estimated one-third to one-half of persons caught up in the system suffered from a mental illness at the time of the offense. A disproportionate share are persons of color.

Trial judges have long lamented the harsh effects of our felony sentencing statutes on defendants suffering from a mental health disorder at the time of the offense. For these defendants, long sentences fail to account for their lessened culpability and thus are disproportionate to their crime. Unnecessarily punitive, lengthy incarceration can also be extremely destabilizing to the mentally ill; harmful rather than rehabilitative.

Prisons are inherently punitive institutions, not designed or administered to meet the needs of the mentally ill. Incarcerated mentally ill defendants often spend more time in solitary confinement, where they further decompensate. When released after unduly long prison terms, the mentally ill are often more mentally unstable than when they entered and thus more likely to recidivate.

I was a trial judge for 22 years, presiding over mental health court and numerous mental competency hearings. I have sentenced scores of mentally ill defendants. Judges need more tools for this population, to fashion appropriate sentences that treat and rehabilitate, not just punish. Real public safety is achieved by addressing conditions contributing to crime. Otherwise, we are continuing the revolving door approach that creates more crime rather than reduces it.

Thank you for considering the Commission's perspective on HB 1637.

Very truly yours,

Judge Theresa B. Doyle (Ret.), Chair, MJC Rules and Legislation Committee

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King County Department of Public Defense

Jeremy Walker
QLaw

Judge Karl Williams
District and Municipal Court Judges Association

January 25, 2022

The Honorable Roger Goodman
Chair, House Committee on Public Safety

Sent Via email

Dear Representative Goodman,

Re: HB 1169

Thank you for inviting the Washington Minority & Justice Commission (MJC) to comment on House Bill 1169, concerning felony sentence enhancements. As you know, HB 1169 was a consensus recommendation from the Washington State Criminal Sentencing Task Force. MJC Co-Chair Judge Veronica Alicea-Galván was an active member of that task force, which was comprised of a broad range of criminal justice stakeholders. MJC has reviewed and supports HB 1169.

The purpose of the Commission is to promote racial justice and equity in the legal system. People of color are grossly overrepresented in the criminal legal system and receive harsher sentences than do white defendants for the same offense under like circumstances. Addressing these racial disparities in felony sentences has long been a priority for the Commission.

Mandatory, consecutive sentence enhancements are a major cause of excessive prison terms served disproportionately by persons of color. In particular, the "stacking" of fire and deadly weapon enhancements and imposition of the "school zone" enhancements contribute to existing racial disparities in the justice system, according to recent literature that Gonzaga University law student Casey Kinross compiled for MJC. Enacting House Bill 1169 would be a major step in correcting this inequity.

Thank you for considering the Commission's perspective on HB 1169. Distribute this letter as you deem appropriate.

Best wishes,

Judge Theresa B. Doyle (Ret.)
Chair, Rules and Legislation Committee
Minority and Justice Commission

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