



**Washington State Supreme Court
Commission on Children in Foster Care
September 21, 2020
Meeting Minutes**

Members Present:

Jody Becker, Department of Children, Youth, and Families (DCYF), Commission Co-Chair
Justice Barbara Madsen, Washington State Supreme Court, Commission Co-Chair
Raven Arroway-Healing, Northwest Intertribal Council
Jolie Bwiza, Tacoma Chapter Leader, Mockingbird Youth Network
Mike Canfield, Foster Parent Allies of Washington State
Peggy Carlson, Office of Superintendent of Public Instruction (OSPI)
Senator Jeannie Darneille, Washington State Senate
Judge Kitty Ann van Doorninck, Superior Court Judges' Association
Jeannie Kee, Foster Youth Alumni Representative
Laurie Lippold, Partners for our Children
Jill Malat, Office of Civil Legal Aid
Jill May, Washington Children & Families
Tonia McClanahan, Parent Advocate Representative
Joanne Moore, Washington State Office of Public Defense
Ryan Murrey, Washington Association of Child Advocate Programs
Representative Tana Senn, Washington House of Representatives
Rachel Sottile, Center for Children & Youth Justice (CCYJ)
Emily Stochel, Youth who has Reunified (New CCFC Position); Mockingbird Society (Tacoma)
Carrie Wayno, Attorney General's Office (Designee for Bob Ferguson)

Members Not Present:

Jim Bamberger, Office of Civil Legal Aid (OCLA)
Beth Canfield, Foster Parent Allies of Washington State
Tory Gildred, Coordinated Care
Martin Mueller, Office of Superintendent of Public Instruction (Designee for Chris Reykdal)

Guests Present:

Kwesi Booker, DCYF
Sydney Forrester, Governor's Office
Tracy Freckleton, Foster Parent Allies of Washington State
Lauren Frederick, Mockingbird Society
Steven Grilli, DCYF
Chanita Jackson
Julie Lowery, Coordinated Care
Angela Murray, Washington CASA Association
Dawn Marie Rubio, State Court Administrator
Erin Shea McCann, Legal Counsel for Youth Children (LCYC)
Phyllis Sutton, Mockingbird Society
Kelly Warner-King, Court Improvement Training Academy Director

Staff Present:

Cindy Bricker, Administrative Office of the Courts
Moriah Freed, Administrative Office of the Courts
Susan Goulet, Administrative Office of the Courts

Call to Order

Justice Barbara Madsen called the meeting to order at 1:05pm. She thanked The Mockingbird Society for the great Youth-Adult Partnership Training they provided earlier that morning. Introductions and roll call were conducted virtually through the Zoom meeting chat box.

Approval of the Minutes

Justice Madsen invited a motion to approve the May 2020 meeting minutes. Emily Stochel abstained. The motion to approve the minutes passed.

Youth Leadership Summit Follow Up

Justice Madsen explained that the September meeting is a new meeting that the Commission on Children in Foster Care (Commission) scheduled last year, and it is for the purpose of reviewing the proposals submitted by the Mockingbird Society at the Youth Leadership Summit each year. Commission members were provided a copy of the Youth Leadership Summit proposals for review prior to the meeting.

Jody Becker led the discussion and noted the Department of Children, Youth, and Families (DCYF) had a meeting with some of the Mockingbird chapter leaders, following the Summit, to talk about issues specifically related to DCYF, and they will continue as a department to do follow-up work and partner with the chapters concerning those issues specifically related to DCYF.

1. Legal Representation for all children and youth in care in Washington State – Yakima Chapter

Jody introduced Lauren Frederick from the Mockingbird Society, and Lauren introduced Jolie Bwiza and Emily Stochel. The Yakima Chapter wants every foster youth to have a lawyer that can be there specifically for them and represent them when they need it. For example, when they are having difficulties in their family, to help them figure out if they want to stay with their families; when they have insurance issues; when they have issues with a case worker; and so on—someone to be there when the program is not working well for them, who knows the laws and understands how the system works, and who can make sure they are not being abused, not staying in the system too long, and not being removed too quickly, etc.

Questions and Comments from Commission Members:

Joanne Moore explained that the Office of Public Defense (OPD), over a number of years, instituted the Parents' Representation Program. Legal representation of children in dependency and termination cases has been a very hot topic for the last 10-15 years, and the Office of Civil Legal Aid (OCLA) program that represents children whose parents have been terminated at least six months before, is well established now. When she looked at the meeting materials prior to the meeting, she saw the information from OCLA that stated "recent research from Washington indicates that appointing attorneys to children and youth at the shelter care hearing results in a 22% reduction in time to permanency." She knows that kind of reduction saves millions of state

dollars, and that type of research could be a real boost to this effort of getting attorneys for kids in foster care. Jill Malat confirmed that that research came from preliminary findings from the OCLA evaluation that is underway. Joanne shared the following key lessons learned and recommendations from the Parents' Representation Program:

- Getting research, like that from OCLA, is a critical step.
- Getting help with economic calculations is another critical step.
- When the Legislature learns they could save state money that can be used to offset or cover the cost of the program, it will help them get it.
- It will also save a lot of problems for the state (such as not having enough foster parents, if you can safely/permanently get permanency for kids in foster care).

In addition, Joanne shared that many states have attorneys for children in foster care, and she is certain there is information on the beneficial results, including getting kids to permanency faster.

Tonia McClanahan offered her help if the Yakima Chapter would benefit from the advocacy of a parent.

Laurie Lippold asked whether the Commission takes positions, and if they have not in the past, would Mockingbird be interested in proposing they do so? Joanne recalls about 10 years ago being involved with a Commission subcommittee that drafted practice standards for children's attorneys and studied other aspects of this. The practice standards are published on the Washington Courts website under the Commission's webpage, and she recommends looking at that. Ryan Murray said the recommendations that came out from that were from the Legislature directing the Commission to put some standards in place for youth attorneys, but he is not sure whether the Commission ever took a position one way or the other on legal representation for kids. Carrie Wayno recalled that about 10 years ago, the Commissions recommended standards for counsel for children, and there is a piece at the beginning that supports generally for appointment of counsel for children. She said, however if there were to be a request again for a commitment, the scrutiny, at least in her office, would go up because it is not just a policy goal, but a policy with a budget goal.

Jill Malat would like to look back and see whether or not the Commission has already taken a position, which she believes it has, and if the Commission has already taken a position then procedurally do we have to revisit it? Cindy Bricker said she will do some research through the Commission minutes to see what she can find on (1) whether the topic itself has been supported and (2) if there has been any discussion or decision about whether the Commission as a group before has decided to support something that is a legislative policy and/or budget issue. Jody said, if we can start there, we can revisit this issue.

Joanne mentioned that Title IV-E funding provides a percentage of funding for children to get representation, which OCLA is already participating in. Cindy Bricker agreed, and said the reason the federal government is allowing reimbursement is because they want every child and every parent to have representation, not only during the dependency process once the petition is filed, but even before to try to prevent removal.

Senator Jeannie Darneille said that other boards and commissions tend to annualize their commitments to issues, and in some ways it helps to be able to state for how long the request has been made. Anytime you encourage the Legislature to look at changes or investments in the human services sector as offsetting future expenses to the system, you need to show that money can be saved, on both the state and local levels.

Jill Malat said OCLA has a report that will be coming out in December, as requested by the Legislature that will give the final results of the study and will project the cost savings to the state, if any, as a result of the appointment of counsel for children. Senator Darneille suggested it would also be very helpful if Justice Madsen could take this request and share it with the Chief Justice and ask that it become part of the report from the Supreme Court. Judge Kitty-Ann van Doorninck said there are always competing budget items, and historically she believes the Commission has not taken a position when there has been legislation dealing with budget, since everyone is competing for the same money. Also the Superior Court Judges' Association (SCJA) supports the concept of youth having attorneys, at least over the age of 12, but they cannot have the counties or the courts pick up the tab. Jody asked that someone from OCLA present at December Commission meeting regarding the OCLA report.

Laurie Lippold asked if there can be a philosophical position that, we do or don't support this, without necessarily having to get stymied by the fact there will not likely be money for anything in the 2021 Legislative Session.

Mike Canfield also brought up the foster parent mentoring programs and the family connections programs, which also reduce the length of stay in foster care. In addition, the attorneys doing the F.I.R.S.T. Program up in Snohomish County is another example of where we can use attorneys before children even become dependent.

Ryan Murrey added, that we all come from different areas where we are relying on state funding, and he never considered this group as one to take those requests and say, "Will you support this?" It has never been what this group has done, and if we can do it for one, we have to open it up for others to participate too, including foster parents, birth parents, and OPD.

Justice Madsen would like to know the history before we take any further actions with regard to whether the Commission can be involved with an official position. If there has already been a position taken, we can reiterate a position that has been taken in the past. However, if we have not or if it is more nuanced, she would like to note that and be assured that she can be a co-chair of a commission that takes a position without trampling on the canons of judicial conduct. Rachel Sottile offered to speak with Justice Bobbe Bridge (ret.) about the historical context on child representation, and ask for her historical perspective and information to help inform what the Commission does.

Carrie Wayno provided a link to the 2011 report [Meaningful Legal Representation for Children and Youth in Washington's Child Welfare System: Standards of Practice, Voluntary Training, and Caseload Limits in Response to HB 2735](#), and said she believes this was the most recent time we were all able to come to an agreement. In addition, she recalled time around 2015 where

the Commission considered practice standards for representation of children; however, a consensus was not attained and it did not result in a work product.

2. Establishing an intergovernmental task force to identify gaps and barriers for Native youth in accessing state services – Everett Chapter

This topic involves support for Native American youth, wanting to make sure young people in tribal foster care have access to and knowledge of resources available to them through the state, so when they are aging out of care, they are less likely to become homeless. The Everett Chapter thought there were a lot of gaps in awareness of what those services were and there were barriers, so they proposed an intergovernmental task force within Washington State to work on those issues.

Questions and Comments from Commission Members:

Raven Arroway-Healing suggested Mockingbird have a chapter for tribal youth. She said all tribes are different and feels the best place to get this information would be from a “Mockingbird Society of Children in Tribal Dependencies”. One of the issues she sees a lot is tribes trying to get resources for their kids, but then running into barriers in communication between the tribe and the state, even though they already have MOUs to address that.

Jody talked about their Tribal Policy Committee and they have talked internally at DCYF about getting this chapter connected with Tleena Ives, Director of Tribal Affairs. The DCYF is interested in pursuing some of those options with Mockingbird in the upcoming months to see if it would be a good connection.

Ryan Murrey said, the Washington Association of Child Advocate Programs (WACAP) hosts an “ICWA Institute,” and he thinks bringing in the youth’s perspective on what their advocates can do to promote Native American culture and things they need the advocates to know would be good. He would love the opportunity to have Mockingbird present at that Institute.

Jolie said she appreciates the Commission’s support of this issue, and she would like to know if there is anything else the Commission thinks should be their next step. Jody suggested, if the Chapter is not connected with the Governor’s Office of Indian Affairs, it may also be good to get this issue on their radar screen and have an opportunity to interact with that office in terms of potential next steps or ideas moving forward.

Justice Madsen asked if the Everett Chapter has identified a roll that courts might play in this issue and said, if there is something judicial officers can do to help facilitate the information getting to the youth, she would be very interested in knowing what that is so we can share it on the judicial side. Tonia McClanahan brought up the idea of a one-pager that could be provided to youth, and Kelly Warner-King said if anyone is interested in putting something like that together and/or if a court wants to pilot something, CITA would be very interested and willing to help. Judge van Doorninck stated that might be something the SCJA Family and Juvenile Law Committee (FJLC) would be interested in.

3. Addressing police brutality – Network Representatives

This topic came from young people in the Mockingbird headquarters network representative team during the protests about George Floyd’s murder, and is still in development, but the young people are exploring most deeply the following two items at this point: (1) What can be done to reduce the contact young people have with police as related to the foster care system, and (2) possibly making a request to minimize police contact with young people at school.

Questions and Comments from Commission Members:

Justice Madsen brought up school resource officers (SRO). Peggy Carlson said, because we live in a local controlled state, the decision about whether or not to have an SRO is made at the district level; OSPI does not control whether districts have SROs or not. They do have a school safety team that she knows is connecting with this Mockingbird chapter to talk more about ways OSPI could influence schools around SROs.

Representative Tana Senn said last year the Legislature did add a definition and some requirements around SROs that are just now taking effect, and those include an annual community conversation about whether or not they should have an SRO. It also requires training of SROs, including a new training on de-escalation and racial bias. Peggy provided the following link to House Bill (HB) 1216, which Representative Senn said includes a newer definition: <https://app.leg.wa.gov/billsummary?BillNumber=1216&Year=2019&Initiative=false>. Representative Senn said there have been a lot of conversations about this lately, and that talking about ways that more foster youth can be engaged with their local school districts about the hiring process could be a way to share that there are new community engagement opportunities.

Tonia McClanahan shared that she feels on the fence about this for different reasons. After the Youth Summit, she talked to her local area schools and their SROs. They have changed how they do things, and they want to be that safe place where a student can come to talk to them. When arrests need to be made, they call the local police department, and the SROs are not the arresting officers at all because they want to be the safe person youth can come to and have conversations. In addition, they carry gift cards in their pockets to give out when needed, in case a child is going home without food. They are trying to be a true resource officer. Therefore she does not want to have blanket statements for how SROs are looked at, but she also does not want to minimize what is going on in other areas.

Jill Malat said she supports not having law enforcement or SROs in schools, because she thinks the “school to prison pipeline” is a real thing, especially when talking about disproportionality.

Jill May wonders, if we can get more local data that reflects what is really going on in the community, whether it might be an easier conversation to have. Representative Senn talked about Eastside for Black Lives, which is a group of high school and college youth of color who have met with some legislators and shared their experience. It is interesting that the schools and school districts are definitely interested in the SROs, and that is why they have had them. It is really the individual students, especially students of color, who have shared about being followed around by the SROs; having them know their schedules; and having them stopping, frisking, and searching them with no reason; etc. It is not the school districts, but rather the individual

students, who are saying they do not want the SROs, and it would be good to see what the data shows. Representative Senn said it was an eye-opening conversation, and they would probably be willing to talk to the Commission if the Commission wanted them to do that.

Erin Shea McCann provided the following link to a 2017 report from the ACLU-WA on this issue: <https://www.aclu-wa.org/docs/students-not-suspects-need-reform-school-policing-washington-state>.

Peggy Carlson wondered if the gift cards and other resources that are given out could be done by staff who are not affiliated with the police department, like school counselors or family community resource center folks.

Mike Canfield also talked about school shootings and parents that are afraid their kids will get shot at school. Somehow the answer needs to be in how we deal with that piece, rather than kids having to go through metal detectors, locked doors, etc.

Carrie Wayno said she personally would support the idea of exploring an assessment of what the needs are that the SRO is intended to address, and then seeing if a better way to address that is through some other actual resource officer who is not law enforcement. It's not really just about training; it is also about what the intent and purpose of the organization is. And the intent and purpose of law enforcement is to enforce the laws. So it seems one approach could be to evaluate what resource they are intending to offer, and see if there is an organization that could actually deliver that resource in a school.

Representative Senn shared that she is looking into whether they could have legislation that states that schools cannot have an SRO, until they have at least one full-time counselor or one full-time nurse at their school.

Ryan Murrey asked if the Commission could look at the policies DCYF has for the use of law enforcement, to see if there is anything we could change as part of the recommendation from Mockingbird. Kwesi Booker said he will look at the policies DCYF has for law enforcement. As far as he knows, they only get law enforcement involved when there is a safety issue for their staff or for the children involved; other than that, they just try to deescalate the situation, etc.

Mike Canfield asked when kids are being removed, is a law enforcement officer there with the social worker, and if it is actually the police who removes the kid rather than the social worker? Kwesi Booker said DCYF does not have the authority and would have to go to the police or go to court to get an order first. Child welfare errs on the side of caution when removing children, to protect the safety of staff, because those situations can be very unpredictable. Mike said when we talk about defunding the police, his thoughts go to how can we use them differently rather than defund them. Perhaps we can have them dress in plain clothes and be less threatening when they interact with the public.

4. Improvements to Child Protective Services to address racial disproportionality and other systemic biases with an equity toolkit that includes youth voice – Tacoma Chapter

This request calls on DCYF to implement a three-part solution that would involve: (1) young people being able to serve on a group, task force, or review board to review removals before they occur; (2) including the use of Adverse Childhood Experiences (ACEs) in the removal decision-making; and (3) social worker training to address one's own bias and how it could show up in removals. Emily Stochel reported that one thing they are seeing, from the research, are situations such as a black youth being removed and a parent getting sent to jail over a hair dryer incident (a one-time thing) vs. on the other side of the spectrum white privileged teens with educated parents living in a truly toxic situation where removal is taking too long (10 years or more, for example). She pointed out the perspective that, when there is abuse, it does not look like a kid just waiting to be saved; it looks like the abuse continuing to happen (i.e. rape, neglect, abandonment, etc.). It is something that is on-going until they are in a safe space. She also referenced the Gabriel Fernandez trial on Netflix, which she said is a great example of what that looks like, because that picture is often not seen. In addition, she reported this is a problem in Washington State even though the Gabriel Fernandez trial took place in California, and noted there were 27 deaths in Washington State in 2015. It is an ongoing issue, and in her work, she sees thousands of youth who have experienced care. For her, it took eight years to get removed, and she knows that is not uncommon.

Questions and Comments from Commission Members:

Kwesi Booker said we do realize that this is an issue in child welfare, and we appreciate everyone's input. As a team, DCYF just formed a committee within their leadership team for Child Welfare Field Operations to look at racial equity and social justice within Field Operations, both internally and externally. There was a discussion as to how they can remove racial bias in removals. There is work being done in Nassau County, where they are using a blind removals process. Kwesi is in the process of reaching out to Nassau County to look at that.

Senator Darneille said Lori Lippold included a note in the chat box about a group who will be exploring race blind removals and will be meeting with someone from Casey Family next week. Also the article Kwesi referred to is linked through the FPAWS.org website at: <https://www.fpaws.org/research-in-child-welfare-the-difference-made-by-race-blind-child-welfare-decisions/>, and it is for Lucas County, Ohio, that has implemented that in their CPS program. Senator Darneille also recalled this is the 3rd time she has heard from Mockingbird about the 27 youth dying in one year in Washington State's custody, but she had no previous knowledge of this at all. She said if anyone should be receiving information like this, it is the Chair in the Senate and the House that should be notified it is happening. She said she is required to get death reviews; therefore, she requested that DCYF make sure both she and Representative Senn receive those reports. Senator Darneille also wants to either confirm that we actually have 27 children that have been unfortunately impacted in this way, or help the Mockingbird Society to understand data and get that corroborated in providing that to the Commission.

Emily provided the following link to that report in the chat:

<https://www.cwla.org/wp-content/uploads/2017/04/WASHINGTON-revised-1.pdf?fbclid=IwAR1Tn2vNRtLG6fWmKjVhXcKGDQOS40mKa5S17nND3g1b8P8nxsEbX5edEys>.

Kelly Warner-King said the following might also be helpful—from the Office of the Family and Children's Ombuds 2018—<https://ofco.wa.gov/sites/default/files/2019-09/2018-OFCO-Child-Fatality-and-Near-Fatality-Report.pdf>. Laurie Lippold said it would be interesting to try to get a sense of the impact of the eviction moratorium and increased benefits like unemployment and food assistance on the decrease in referrals, given the correlation between poverty and neglect. Carrie Wayno stated in the chat: The linked report from Child Welfare League of America (CWLA) says: "In 2015, there were 27 child deaths resulting from abuse or neglect reported in Washington[.]" Cites to federal reporting. Note that these are inclusive of children in their parents' care, or in the care of other adults, as well as children in out-of-home care. Senator Darneille in chat clarified: Carrie, you need to see the reference #11 at end of report...looks like data (cumulative) from 2010-2014 in a federal report. Lauren Frederick thanked Emily for the report, and thanked Senator Darneille for the question on data on fatalities. She said they will look more deeply at that and report back on their understanding. She also saw the notes above on data, and they will make sure they clarify how they are talking about that. Jody Becker will follow up with the DCYF government affairs office who should be able to provide Senator Darneille the linkage to those reports.

Representative Senn said that DCYF has data that shows, in incidents that are reported vs. screened in, there is some bias just in the beginning of the number of kids reported and that don't screen in. There are clearly more kids that are called in (probably because of race) than are founded, and given that, it will be interesting to look at with school closures what is the reporting rate, and how does that all play out over the next year in terms of, were kids actually being abused and neglected, or were there just less complaints, unfounded complaints.

Steve Grilli said the work to help their staff remove bias is very important, but it is very tricky for their staff at the same time. Because these are families that even before they get to us have experienced layers and layers of inequities, by the time they get a call, it may very well be there is an unsafe situation that results from all those layers of inequities that have affected them before staff even got involved. Therefore they may have to make a decision that looks like it is biased. Sometimes it may be, and other times it may be a real safety situation that results from years of inequities that have affected these families. So it is tough to weed some of that out and walk that line, but they absolutely have to look at bias amongst the staff.

Emily said the hope was that using ACES as part of the risk assessment, to make sure you are getting a full understanding of everything that is happening with the family in the home, just social justice in that lens as well, so you can see all of that. Emily said, that the intention was for every time there is a report for a kid, everyone fills it out, including teachers. That may seem like a lot of work too, but it may help get a bigger picture of how the child is seen—for example, in different areas that may be lacking with their needs being met. Also it is no secret this state wants to reunify kids. She understands that and is not saying it's a bad thing. However, she does think that sometimes it can get in the way of being able to see completely what is going on, and understanding what is going on in a house, and when it's toxic enough that a kid should get removed. So that is part of the reason they want to bring in the understanding of ACES and evaluate with the intention to understand, rather than overlooking things with everyone's implicit bias, and also including youth voice in that.

Concluding Remarks and Adjournment

Jody Becker thanked everyone for the very engaging conversation and for taking the time to participate in the summit and do this follow up work. Jody said, for those topic areas where DCYF has some momentum going forward, they will continue to reach out to work with Mockingbird youth. She said, we did not have a chance today to talk about the work they are doing around their practice model, but there will lots of opportunities to think through our practice and look at our policies moving forward.

Justice Madsen thanked Lauren, Jolie, Emily, and everyone on the meeting for their time. She also recognized Emily as the newest Commission member and welcomed her to the Commission. The next Commission meeting is on December 7, 2020, at 1:00 p.m. via Zoom.

Adjourned at 3:02pm by Justice Barbara Madsen.