



**Washington State Supreme Court  
Commission on Children  
in Foster Care**

**12/07/2020  
1:00-3:00 p.m.**

<https://wacourts.zoom.us/j/96897611818>

Meeting ID: 968 9761 1818

Dial by your location:

+ 1 253 215 8782

**Agenda**

1:00 pm <i>5 min</i>	1. Welcome and Introductions <ul style="list-style-type: none"> <li>Please type your name and agency in the chat in lieu of roll call</li> </ul>	Justice Barbara Madsen, Co-Chair
1:05 pm <i>5 min</i>	2. Approval of September 2020 Minutes	Justice Barbara Madsen, Co-Chair
<b>Old Business</b>		
1:10 pm <i>20 min</i>	3. Department of Children, Youth, and Families (DCYF) Updates	Jody Becker, DCYF, Co-Chair Kwesi Booker, DCYF Steve Grilli, DCYF Allison Krutsinger, DCYF Jess Lewis, DCYF
1:30 pm <i>15 min</i>	4. COVID Rapid Response Workgroup Update	Steve Grilli, DCYF
1:45 pm <i>10 min</i>	5. Normalcy Workgroup Update <ul style="list-style-type: none"> <li>SB5395 (Sex Education)</li> </ul>	Jeannie Kee, Foster Youth Alumni Representative Laurie Dills, OSPI
1:55 pm <i>10 min</i>	BREAK	
2:05 pm <i>20 min</i>	6. Commission Support of Policies and Legislation	Justice Barbara Madsen, Co-Chair Jody Becker, DCYF, Co-Chair Cindy Bricker, AOC
2:25 pm <i>15 min</i>	7. Legal Representation for Children	Jill Malat, OCLA
2:40 pm <i>10 min</i>	8. Youth Leadership Summit Follow Up	Justice Barbara Madsen, Co-Chair Jody Becker, DCYF, Co-Chair
<b>New Business</b>		
2:50 pm <i>10 min</i>	9. State Team Plan	Cindy Bricker, AOC

3:00 pm	<u>Next Meeting:</u> <ul style="list-style-type: none"><li>• March 8, 2021</li></ul>	Justice Barbara Madsen, Co-Chair
	Adjournment	Justice Barbara Madsen, Co-Chair
	<u>2021 Meetings:</u> March 8, 2021 May 3, 2021 September 27, 2021 December 13, 2021	



**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 cannons 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 Lewis 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 3<sup>rd</sup> 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.**

DRAFT

## History of Commission on Children (CCFC) in Foster Care Support of Policies and Legislation

*Background: At the September 2020 CCFC meeting The Mockingbird Society requested a statement of support for: 1) legal representation issue for children and youth in foster care, and 2) the intergovernmental task force for Native American young people. Commission members were unclear as to whether they could take such a position and if the Commission has done so in the past regarding legislative bills and specifically regarding any positions taken regarding child representation. Research of Commission minutes was requested to determine: 1) whether the topic of child representation has been supported and 2) if there has been any discussion or decision about whether the Commission as a group has previously decided to support something that is a legislative policy and/or budget issue.*

Research shows that the Commission has expressed support for children's representation in varying degrees at different times. Also, except for that which is proposed by the Commission, the Supreme Court Commission on Children in Foster Care will not take positions on proposed legislation. The following provides historical detail to support these statements.

On February 17, 2005, Washington Courts issued a press release regarding the newly formed Commission on Children in Foster Care, which included the following statement:

Commission members will monitor the effectiveness of policies and programs in the foster care system and the courts; **recommend changes in policies, laws and court rules**; and report their findings to lawmakers and the public in an annual report, with a goal of increasing awareness of child welfare trends and issues.

At the Commission's first meeting held February 24, 2005, the Commission discussed the mission and goals. The strategic goals were unchanged, and the statement following the strategic goals was revised as indicated below:

**The Commission can achieve its goals through *initiating* policy decisions and needed legislative and court rule changes.**

The following are the mission, value statement and goals they agreed on:

**Mission:** Provide all children in foster care with safe, permanent families in which their physical, emotional, intellectual, and social needs are met.

**Value statement:** All children need safe, permanent families that love, nurture, protect and guide them.

**Tactical goals:** Improve collaboration between the courts, child welfare partners and the education system to achieve the mission.

**Strategic goals:**

- The Commission will monitor and report on the extent to which child welfare programs and courts are responsive to the needs of the children in their joint care.

- The Commission will broaden public awareness of and support for meeting the needs of children and families in foster care.
- The Commission will institutionalize collaboration beyond the terms of office of individual agency directors and elected officials.

At the June 21, 2007, meeting of the Commission, it was moved and unanimously carried that: **Except for that which is proposed by the Commission, the Supreme Court Commission on Children in Foster Care will not take positions on proposed legislation.** At the previous meeting this discussion occurred after the Pew Commission Resolution approval and at the end of the agenda after child welfare budget and legislative proposals had been discussed earlier in the meeting. No details were given regarding the discussion, but proposed language was to be developed for review at next Commission meeting,

Work Groups were developed, and the March 6, 2006, agenda included reports from several work groups, including Rules for Expedited Appeal and also Legal Representation/Advocacy for Parents and Children. So child representation has been an issue of discussion and action throughout the life of the commission. The attached document provides excerpts from CCFC minutes over the years that describes the presentations and involvement of the Commission regarding child representation. The following is a short synopsis of CCFC agenda items regarding child representation:

- A motion was approved on October 1, 2007, for the Commission to adopt the *Proposed Principles of Law Regarding Foster Child Representation*. At that same meeting a motion passed unanimously that the Commission pursue legislation removing the “Good Cause” language from RCW Chapter 13.34 and requesting funding for conducting a study on child representation.
- At the next meeting, it was noted that there is another group that is proposing a children’s representation pilot project. The Commission members discussed holding off on legislation for this year and supporting the other group’s proposal. The overall concern was the negative impact of seeking legislation with a large fiscal note during the short session, and not having clear information on fiscal impact. The following motion carried: Should a proposal move forward, the Commission support legislation for a children’s representation pilot project; and The Children’s Representation Work Group, be requested to develop a proposal for a study of children’s representation that includes: quality of practice, how to measure the practices, data to collect, fiscal impact and an overall outline for a good pilot.
- December 2008, proposed legislation was presented to the Commission: children age 12 or older shall receive notification of their right to request an attorney. Rep. Kagi said that there is value in putting this before the Legislature, but that she will abstain from the vote because of the possible financial ramifications and in light of the huge financial crisis. She said that she cannot support any bill that requires new resources. The motion to accept the report and move forward with legislation of this nature passed. However, the bill didn’t proceed due to concerns expressed by the courts and the counties that this would result in an increase in counsel being appointed, adding the responsibility to the counties.
- December 2009, Mr. Hassett noted that the Commission had, in years past, approved the adoption of the concept that 12-year-old children should have access to attorneys. The Commission, however, has made it a policy not to support specific pieces of legislation. Mr. Hassett said he had put together a discussion paper with things to consider short of legislative options.

- December 2010, it was determined that the Children’s Representation Workgroup is recommending to the commission, which will recommend to AOC, which will recommend to the legislature a report regarding training of child attorneys. The Commission voted unanimously to adopt the report regarding training of child attorneys to be transmitted to AOC.
- May 2011, QIC Project on Representation of Children in Child Welfare System. Justice Bridge explained that the Commission’s role will be to have general oversight for the progress of both studies in Washington.
- December 2012, a staff attorney with Columbia Legal Services asked for support of the Commission regarding a legislative proposal they are working on with Mockingbird and Partners for our Children regarding legal representation for most vulnerable children: whose parents’ parental rights have been terminated; who have lived in multiple foster homes or who have been in care for many years; who may be institutionalized; who have been suspended or expelled from school; who have run from their foster care placement; and, who are prescribed psychotropic medications. Justice Bridge summed up the discussion and said there are concerns about the fiscal implications and concerns about competing interests from the levels of government and other stakeholders (i.e. CASA).
- September 2014, Columbia Legal Services proposed that the Commission convene a workgroup to examine some of the issues and develop policy recommendations for child representation. Children’s Representation Workgroup was reconstituted to investigate requesting counsel, referring counsel and retaining counsel for children in dependencies.
- December 2015, the workgroup provided a report and there were dissenting opinions from the Commission.
- May 2016, Ms. Kelly reviewed the mission of the Child Rep Workgroup and hoped that this discussion would result in the Commission taking action on areas where everyone agrees and then have a conversation about how to address the disagreements in the interpretation of statutes and in policy and practice. The motion was approved for the agreed recommendations A-F. Justice Bridge stated that they would determine the best way to disseminate the recommendations at a later time. Ms. Kelly then led a discussion on the disagreements within the Workgroup. The two issues of contention arise out of a disagreement in policy and practice and in statutory interpretation. Justice Bridge moved on to say that she would find the original language of the Commission’s response to the Workgroup’s first convening, share it with Commission members, and draft a response to the Workgroup recommendations before the next meeting. *(I couldn’t find any follow up to this—it may exist, but I couldn’t find it)*

**Other Examples of CCFC Supporting policies and legislation:**

**The Expedited Appeals Work Group** developed a proposed rule RAP 18.13, and at the December 12, 2006 meeting the Commission approved authorization for the Expedited Appeals Work Group to move forward with the procedure required for its adoption. The work group also developed forms to direct the changes.

At that same meeting, **Standards for Experts/Evaluators’ Evaluations Work Group** requested the Commission’s endorsement for implementing the guidelines and Court Improvement Program (CIP) funding for a Guidelines training for evaluators. It was moved and carried that the Experts and

Evaluators guidelines implementation plan be endorsed in concept and that the work group move forward in seeking funding for Guidelines training.

Pursuant to a motion and approval, the Commission adopted the "**Resolution Commending the Pew Commission on Children in Foster Care and Recommending the Supreme Court Adopt the Commission's Recommendations**", April 2, 2007.

Report on, but no action taken by Commission, regarding **Family court proposed legislation** creating a family court division in the superior court. Representative Kagi and the Superior Court Judges' Association were working on the language of the bill. At the February 11, 2008, Commission meeting, Justice Bridge stated that at the last meeting there was discussion of the legislation for the Unified Family Court. Members were asked to review that information and be prepared to vote on whether or not to adopt the recommendations of the workgroup. The following motion carried: The Supreme Court Commission on Children in Foster Care adopt the recommendations of the Unified Family Court workgroup.

March 2011, the Commission voted unanimously to formally endorse Mark Courtney's study of the **Parents Representation Program** and its recommendations.

December 2012, the Commission voted unanimously to approve the **Washington State Dependency Best Practices Report**, developed by the Dependency Best Practices Workgroup of the Commission.

#### **Reauthorization of the Court Improvement Program**

Justice Bridge informed the commission that the Court Improvement Program ("CIP") will expire at the end of the current fiscal year, on September 30, 2016. CIP funds support critical work in Washington State. Justice Bridge urged the Commissioners to reach out to their constituents and encourage them to write a letter either as an organization or as an individual to our Congressional delegation. She noted that the Commission could send out addresses of delegates to assist in this effort. Ms. Bricker noted that action on CIP grant bills will likely be delayed until the federal tax bill is passed and requested interested members of the Commission to write a letter of support to Washington senators and representatives. Motion passed to draft a letter in support of the CIP grants on behalf of the Commission.

#### **ICWA Tribal Rights and Pro Hac Vice Rules**

Ms. Healing of the Northwest Intertribal Council shared with the Commission a proposed change to Washington State Court Rules. She explained that the proposed changes stem from shortfalls in protections of the Indian Child Welfare Act (ICWA). The act allows the Indian custodian of the child and the Indian child's tribe to intervene at any point in a State court proceeding for the foster care placement of, or termination of parent rights to, an Indian child. Each tribe typically designates a representative when intervening in these proceedings and the representatives serve a number of roles, sometimes as tribal Chairman, social workers, or in-house attorneys. However, Ms. Healing explained that many of these representatives are being denied their right to intervene due to established law defining "pro se" and "pro hac vice" representation. Ms. Healing proposed that Washington State essentially pass the same rule changes that Oregon has passed. Justice Bridge asked what the vehicle for this change should be, noting that passing the change through the courts would only take 9 votes and could be feasible. Ms. Wayno recommended that the Commission be the vehicle for the proposal. Justice Bridge agreed and requested that Ms. Healing return to the Commission with a formal proposal.

Compiled by Cindy Bricker, AOC

11/30/2020



At a later meeting Ms. Healing updated the group on the proposed rule change to Washington State Court Rules, APR 8. The proposed changes were reviewed by the Supreme Court and is anticipated for publication in January 2018.

### **National Summit on Child Welfare**

- April 2, 2007 meeting reported on the National Summit on Children. Justice Bridge reported that she lead a team, comprised of Cheryl Stephani, incoming Superior Court Judges' Association Chair, Judge Vickie Churchill, Janet Skreen and Michael Curtis (AOC), to "A Summit on Children", a follow-up summit to the National Leadership Summit on the Protection of Children held in the fall of 2005. The Washington State action plan, revised from the 2005 Summit, was reviewed.
- December 21, 2009 meeting, Justice Bridge discussed the third judicial summit of five that will be held by the pew Commission to reform child welfare finance and child welfare court strengthening. She noted that those who were in attendance included Secretary Dreyfus, Judge van Doorninck, Rep. Kagi, Mr. Jeff Hall, Mr. Curtis, and herself. She said that the Summit III Action Plan included in the meeting packet is for the committee's review. She said that all items listed are considered priority items and regular reports will be given.
- December 12, 2019, Report on National Judicial Leadership Summit IV on Child Welfare. This was a discussion on the fourth convening of the National Judicial Leadership Summit on Child Welfare, bringing together judicial systems with child welfare leadership. Information on the Summit, themes, and strategies was provided to CCFC members and proposed plans were discussed. Justice Madsen noted how, while CCFC members work on realizing the Summit themes, there may be further ideas that members want to bring to the Commission. Justice Madsen discussed the possibility of creating a workgroup of Commission members to organize continual ideas. Another option discussed was a means through the Innovative Dependency Court Collaborative (IDCC) to plan and implement future plans. Justice Madsen concluded that the Commission has multiple avenues where certain additional plans can fit best.

## Child Representation – Excerpts from CCFC Minutes 2005-2019

3/30/06	<p>Agenda included Work Group Reports:</p> <ul style="list-style-type: none"> <li>A. Rules for Expedited Appeal</li> <li>B. <b>Legal Representation/Advocacy for Parents and Children</b></li> <li>C. Unified Family Court</li> <li>D. Court Performance Standards</li> <li>E. Standards for Experts/Evaluators Evaluations</li> <li>F. CIP Oversight</li> <li>G. Tribal IV-E Funding</li> </ul>
6/22/06	<p>Legal Representation of Children Workgroup: Concern was expressed with the possibility of an attorney representing a position that might not be in the child’s best interest and that perhaps CASA representation is better suited for dependency cases. Lisa responded that she doesn’t believe the two are mutually exclusive and that in a best case scenario a youth would have both a CASA and an attorney.</p>
12/12/06	<p><u>Child Representation</u>          Lisa Kelly submitted a written report on the Child Representation Work Group activities. The Work Group has drafted proposed revisions to a court rule and is requesting Commission input. (NOTE: <i>The proposed revisions to JuCR 9.2 were included in the materials distributed at the meeting</i>). Comments on the proposed rule should be e-mailed to Michael Curtis.</p>
6/21/07	<p><b><i>Children’s Representation</i></b>          The work group is hoping to come forward with recommendations for statute change and subsequent to statute revision, identify standards for what it means to be a representative for a child. The bulk of the Commission’s October 1 meeting will focus on the recommendations from the Children’s Representation Work Group.</p>
10/1/07	<p><b><i>Children’s Representation</i></b>          Lisa. Kelly provided an update on the work of the Children’s Representation Workgroup and reviewed the Workgroup report and recommendations (distributed to Commission members prior to the Commission meeting). Commission members reviewed the proposal and discussed the concerns of changing current laws on children’s representation and the pros and cons of bringing forward all workgroup recommendations combined into a single legislative proposal. Justice Bridge suggested that the commission vote on adoption of the proposed “Principles of Law Regarding Foster Child Representation” and then discuss approaches for advancing related legislation.</p> <p><b>Ross Dawson moved and Steve Hassett seconded, that - <i>The Commission adopt the Proposed Principles of Law Regarding Foster Child Representation. The motion was approved with one opposed and one abstention.</i></b></p> <p>The Commission continued the discussion on the best approach for advancing related legislation. Suggestions for proceeding were to either create a bill incorporating all the recommendations of the Workgroup or to request funding for conducting a more detailed analysis of the issue (similar to activity preceding OPD’s Parent Representation program.) Commission members agreed that elimination of the “good cause” language in Chapter 13.34 RCW, which allows the court to proceed without a</p>

	<p>child having GAL representation, should be pursued during the 2008 session. In addition to this legislation, the Commission supported seeking funding for further analysis of the children’s representation.</p> <p><b>Mr. Hassett moved and it was seconded that - <i>the Commission pursue legislation removing the “Good Cause” language from RCW Chapter 13.34 and requesting funding for conducting a study on child representation. The motion passed unanimously.</i></b></p>
12/10/07	<p><b><i>Children’s Representation:</i></b> Justice Bridge reminded Commission members that at the last meeting the Commission voted on and approved the adoption of the proposed “Principles of Law Regarding Foster Child Representation”</p> <p>It was unanimously agreed that the Commission supports the workgroup’s proposed revisions to RCW 13.34.100 (1) and (6), providing for the elimination of the “good cause” language in subsection one, and mandating attorney appointments under subsection six. Members discussed possible ways to move the proposal through legislation. Suggestions included pushing forward with the changes to get the information out to legislators, asking for funding to conduct a survey on the proposal’s fiscal impact, creating a pilot project for a few counties, and holding off on legislation until the next year at the beginning of a regular session.</p> <p>It was noted that there is another group that is proposing a children’s representation pilot project. The Commission members discussed holding off on legislation for this year and supporting the other group’s proposal. The overall concern was the negative impact of seeking legislation with a large fiscal note during the short session, and not having clear information on fiscal impact.</p> <p>It was moved by Joanne Moore, seconded by Judge vanDoorninck and carried that: <b><i>Should a proposal move forward, the Commission support legislation for a children’s representation pilot project; and The Children’s Representation Work Group, be requested to develop a proposal for a study of children’s representation, that includes: quality of practice, how to measure the practices, data to collect, fiscal impact and an overall outline for a good pilot.</i></b></p>
4/14/08	<p><b><i>Children’s Representation</i></b> Justice Bridge explained that the idea that kids should be able to appear in court and hear what’s happening to them came out of a National Conference of State Legislators meeting in June, 2007, which Rep. Dickerson attended. However, it collided with the bill that would have provided legal counsel for children involved in the foster system, which did not pass. Rep. Dickerson said that there is the potential for problems if kids can be present in court but don’t have the right to an attorney. The proponents are now looking into whether or not there should be a study about ongoing practices and what the difference in the outcomes are between those counties</p>

	<p>that provide counsel and those that don't. There will be an effort to complete a study before the next legislative session.</p> <p>Mr. Hasset observed that a recurring theme in the Work Group is: Where do the attorneys come from and what are the skills needed? He suggested that the Juvenile Law section of the state Bar Association should put on some training for these attorneys. Justice Bridge added that ABA could provide some training materials, and Ms. Stephani referenced the video that the youth from her church had put together. Ms. Herrick suggested, "Foster Care to College: and other guides Educational Advocacy and Resource. There was further discussion about available resources and materials to provide for youth to education them about the courts.</p> <p>Mr. Carranza stated that, when all is said and done, the representation is not there because children are not given an attorney. <b><i>Mr. Carranza made a motion to reconvene the Youth Representation Work Group for the purpose of providing direction to the Commission on this matter. The motion was seconded by Ms. Joanne Moore. Motion to reconvene the Youth Representation Work Group passed.</i></b></p> <p>Ms. Moore commented that there is another part of the mandate – a survey on what counties do have representation.</p> <p>Justice Bridge replied that those discussions were going on throughout the legislative process. Jim Bamberger at the Office of Civil Legal Aid, which is the civil companion to the OPD, has expressed an interest in doing such a study and could contribute some portion of his budget. This would at least provide a starting point on what's going on here. Justice Bridge added that it was an initial request on the part of the Work Group that they do such a survey. The fact is that conversations are going on now about trying to put together enough money to get this study done.</p> <p>Mr. Hasset said that his recollection is that the Commission voted to adopt the recommendation that an attorney be appointed for every child and not necessarily wait on a study. He added that the experience of this legislative session should not mean that this concept is dead.</p> <p>Justice Bridge replied that it is certainly not her intention [to abandon the concept]. She added that it appears that what the Legislature wants is a fiscal note, so it seems practical to provide them with that.</p>
12/15/08	<p><i>Children's Representation</i></p> <p>Prior to Professor Kelly's presentation, Mr. Bamberger distributed a booklet entitled, "Practices Relating to the Appointment of Counsel for Adolescents in Juvenile Court Dependency Proceedings in Washington State." He said that that the Office of Civil Legal Aid (OCLA) had agreed to undertake this study. They then convened a working group and undertook to do what he said became a somewhat unscientific assessment of various practices by conducting online surveys of participants, judicial officers, and stakeholders. They did receive a</p>

large response, which resulted in three core findings: 1) except for King County and Benton-Franklin Counties, there is not a uniform practice for appointing counsel for adolescents in juvenile courts; 2) there are no consistent practices relative to the notification of children of their right to request counsel or what role counsel plays in these proceedings and there is a need for consistent practices concerning existing rights to counsel; 3) current tracking systems don't make it possible to quantify what actually happens out there. At the very minimum there is a need for a consistent practice relative to the notification of the current existing rights to counsel.

Prof. Kelly then distributed a copy of proposed legislation regarding children's representation. She said that, in drafting the legislation, the charge was to try to find a way to move the principals down the field, keeping in mind the fiscal challenges. Given the challenging times, she said, they will try to come up with a way to work with what is already in place with the pilot project. Their proposal goes to amending Section 6, which basically reads that a court may appoint counsel to children under the age of 12 upon recommendation by the GAL. They have broken it down into a couple of sections. Subsection A and Subsection B are both along the lines of the pilot project: Children age 12 or older shall receive notification of their right to *request* an attorney (not just a right to *have* an attorney), and their right to attend all hearings. These go directly to the child's right to be engaged and have full participation.

Prof. Kelly said that they felt that it's important that this not be just a one time opportunity for the child, noting that things might be going along well at the beginning, but other issues could arise later. They weighed whether or not to guide the court's discretion, and decided not to, but included "legislative intent". They contemplated the assumption that it is always in the child's best interest to have an attorney and decided that it is important to stay consistent with the principles that the roles of the GAL and the attorney are both important, and one should not be necessarily replaced by the other.

Ms. Stephani recommended a twofold action: 1) accept the report, and 2) make a decision about how to move forward with this recommendation.

Mr. Bamberger made a motion to accept the report and to move forward with legislation of this nature. Mr. Carranza seconded the motion and there was further discussion about it.

Rep. Kagi said that there is value in putting this before the Legislature, but that she will abstain from the vote because of the possible financial ramifications and in light of the huge financial crisis. She said that she cannot support any bill that requires new resources.

There was a call for the question, and the motion passed: 8 in favor; 0 opposed; 2 abstentions.

<p>3/16/09</p>	<p><i>Children's Representation</i></p> <p>Justice Bridge said that there is nothing new to report on the Children's Representation matter. She noted that, due to fiscal realities, rather than a bill requiring provision of counsel, the commission chose to put forward legislation that would require judges to notify kids that they are entitled to legal counsel. However, the bill didn't proceed due to concerns expressed by the courts and the counties that this would result in an increase in counsel being appointed, adding the responsibility to the counties. The advocates are happy that at least the issue was in front of the legislature.</p> <p>Justice Bridge added that the bill that passed in 2008 having to do with kids appearing in court will be fully implemented on June 1 this year, with data being collected to June 1, 2010. It got a little off the track but is now back on the track, she said. It will include some qualitative and some quantitative data to evaluate the differences in outcomes for having kids appear at their own hearings and be allowed to speak to the judge. The pilot is being done in Benton-Franklin County, Thurston County, and King County. Janet Skreen, a former court administrator, has been given the management of this program. A report on the study will be presented to the legislature in time for the next legislative session.</p>
<p>8/7/09</p>	<p><i>CCFC Planning Retreat:</i></p> <p><b><u>Issue: Children's Representation</u></b></p> <p>With respect to previous legislation pertaining to children's representation, there were questions and discussion about the Commission's current position to not support specific pieces of legislation. Justice Bridge noted that it was decided by the Commission a couple years ago that it would not support specific pieces of legislation, in part so that the Commission could be a body that could work through consensus. However, she said, that does not stop the CCFC from supporting concepts and principals and sending letters to legislators letting them know of the CCFC's support of various concepts. Also, individual members of the Commission can and do support specific pieces of legislation, but the Commission as a whole does not take a vote. Mr. Curtis added that each member of the Commission supports agencies that do take positions on legislation. There was additional discussion on this topic.</p> <p>Mr. Hassett opined that, although the broader issue of Children's Representation is probably not going to go anywhere in the state for awhile due to both financial and philosophical reasons, it would be a good idea for the Commission to address what the expectations are for those attorneys who represent kids now, and to work on developing best practices and standards there. He added that it is important to remember that foster kids may need attorneys for other reasons besides the foster care issue, but it still involves representation of youth.</p> <p>Ms. Stockman Reid commented that there are situations when children have both an attorney and a CASA and suggested that there may be a need to clarify what the rules are regarding interaction between the attorney and the CASA. Mr. Hassett commented that these all relate to Child Representation. Addressing the attorney and CASA roles and determining what the expectations should be may be something that is doable at this time.</p>

10/19/09	<p><b><u>CCFC Work Plan &amp; the Pew Commission Recommendations</u></b></p> <p>Justice Bridge reviewed the Pew Recommendations briefly with the commission members.</p> <p>There was discussion about implementation of children’s representation legislation. Justice Bridge said that Janet McLane at AOC is working on it but, with regard to outcome evaluations, not enough time has gone by to evaluate outcomes, however the process itself will make a difference in creating a much more heightened awareness of the need to get children into court. Those kids who don’t go to court generally say that it is because they had school activities. Transporting kids to court has not been a problem. Most kids are not asking for the opportunity to meet with the judge in private; most are willing to say what they want to say in open court, whether they are represented by attorneys, CASA’s, or none. There have been over 200 kids who had hearings; about half of them didn’t attend their hearings. But, there will be a record of why they did not.</p> <p>Mr. Bamberger asked if we have, in fact, adopted court performance measures. Justice Bridge replied that we had trial court performance standards. They’ve been floating around and have been redesigned. Mr. Curtis said that the NCSC is working on court performance measures.</p> <p>Justice Bridge noted that Rick Coplen, who oversees the Court Improvement Fund, did share that first report with the Commission. She said that a lot of this goes back to data, and the first draft of the first report was June 5<sup>th</sup>, so it was presented at the June 8<sup>th</sup> Commission meeting and everyone should have a copy of it in their Commission binders.</p> <p>There was discussion about how to go about setting up guidelines to make sure attorneys have a certain level of experience before taking on child dependency cases. There were several suggestions. It was decided that this activity is most appropriate for the Juvenile Law Committee at the WA State Bar Association.</p>
12/21/09	<p><i>Children’s Representation</i></p> <p>Mr. Hassett noted that the Commission had, in years past, approved the adoption of the concept that 12-year-old children should have access to attorneys. The Commission, however, has made it a policy not to support specific pieces of legislation. Mr. Hassett said he had put together a discussion paper with things to consider short of legislative options. He discussed these options with the Commission:</p> <ol style="list-style-type: none"> <li>1. Working with the courts and judiciary to help make the issue of appointment of an attorney for a youth 12 or older something that is routinely considered in dependency proceedings.</li> <li>2. Increase training for attorneys who are interested in representing youth. <ul style="list-style-type: none"> <li>• Developing minimal standards</li> <li>• Training for current and potential attorneys for youth through CITA or the Juvenile Law Section of WSBA</li> <li>• Increase use of law school clinic students and pro-bono attorneys.</li> </ul> </li> </ol>

	<p>3. Working with the state CASA program to increase legal training opportunities for CASA program attorneys and especially for pro bono attorneys who volunteer.</p> <p>He informed the members that a bill will be submitted by Columbia Legal Services, Mockingbird Society and others. He said he had agreed to distribute this to let people know what they are thinking, but they are not looking for an endorsement. He said that he is not comfortable with one section, but it is a scaled back bill that is cost neutral. It has no mandates; would provide notification that the youth has a right to an attorney. The provision that is on the last page – New Section 5, addresses the issue of voluntary standards for training and caseloads. This would place additional requirements on the Commission and on AOC. Mr. Bamberger observed that the Commission’s silence on this legislation could be a bit difficult. Justice Bridge replied that, since it does name the Commission specifically, we would have to at least address that portion.</p> <p>Justice Bridge encouraged everyone to take a look at this bill and provide comments on it.</p> <p>Rep. Roberts noted that, because the legislative session is a short one, we are on a short timeline, so comments can’t wait until February. Justice Bridge replied that comments can be made electronically and should be sent in early January.</p> <p>Mr. Hassett asked if the Commission wishes to endorse the three recommendations that have been made by the Children’s Representation Work Group. <b>Mr. Bamberger made a motion to accept the recommendations of the Children’s Representation Work Group, with the request that the Work Group continues to develop them. Justice Bridge seconded the motion and it passed unanimously.</b></p> <p>Justice Bridge strongly recommended to the members that they review the legislation no later than early January and exchange comments via email to get a sense of the Commission on whether or not to take a position on this bill. She added that, notwithstanding whether or not the Commission decides to take a position the bill, we also need to decide whether or not the Commission will speak to the specific section (Section 5) that Mr. Hassett has concerns about.</p> <p>Rep. Roberts recommended that this also be discussed with members of the legislature, because it does raise a question about fiscal notes.</p>
9/27/10	<p><b><u>Children’s Representation Workgroup</u></b></p> <p>Justice Bridge introduced Professor Lisa Kelly, who presented information regarding HB2735, voluntary training and caseload standards. Professor Kelly distributed a meeting schedule of the Children’s Representation Workgroup and a list of its members. She reported that this work group has been reconvened with new members to address the Legislature’s charge to the Commission and to AOC to develop recommendations for voluntary standards requiring that young people be informed of</p>



their right to request counsel under HB2735. The AOC is to report to the Legislature by December 30 with those recommendations.

Prof. Kelly said that the workgroup is very large and expert and includes some CCFC members (Ms. Moore and Mr. Hassett). She added that it is divided into three smaller focus groups: Caseload Standards, Training Standards, and General Practice Standards. The groups meet separately and then the entire workgroup meets together. They have had two meetings that have been very good, she said. Each individual child counts as a case for purposes of counting caseload standards. Sibling groups don't count as one case. She said that there is a conversation that the General Practice Standards group will be having around this whole issue on how to deal with sibling representation.

She said that they hope to have their final meeting on November 3, and anticipate that, at that point, they will be fine tuning the written recommendations from the three subgroups and synthesizing the information into one final document. That document will be given to Janet Skreen at AOC and to Joseph for distribution to the Commission members.

Justice Bridge said that the focus of the Commission's December 20 meeting agenda will be to discuss those recommendations. Given the timelines agreed to, Commission members will have a month to review the information that they will be discussing, and she said she anticipates and encourages that level of interaction.

Ms. Moore added that there was a concern about it being weighted to King County, so the OPD sent out a survey across the state to parents and attorneys. That will help to bring in some statewide expertise, she said. Ms. Kelly commented that the group was comprised of people on the west side of the mountains, which was a difficult decision to make. But they wanted to have people in attendance, so the survey was a good way to get broader input. Ms. Moore noted that one thing of interest is that children are being represented in many counties of our state and the number is going up. She said that it is naturally happening, even though the law only requires that the judge informs.

Ms. Revels Robinson asked Professor Kelly if there are discussions about funding for attorneys, because the legislation doesn't address that.

Professor Kelly replied that they want to create standards that will make counsel meaningful for young people, but at the same time won't be so costly that no one will buy it. So, they are working on a compromise that will keep those two issues always in sight. She added that they do want to set the bar at a level that everyone will be proud of.

Professor Kelly thanked everyone for their participation. A brief question and answer period followed.

12/20/10

Children's Representation Workgroup

Using a Power Point Presentation, Dr. Kelly went through the information about the report. Portions of the report were distributed as hard copy to the members; the remainder was emailed to them.

Dr. Kelly discussed the membership of the work group, saying members were representative of as many stakeholders as they could think of and had very robust participation by everyone. Representatives of the subgroups are also present.

This was a charge given by the legislature under HB 2735, with December 31 being AOC's deadline. Ms. Skreen participated in many of the meetings to make sure that what AOC would need was clear to the members. Another piece of HB 2735 to keep in mind is that there be well trained lawyers, that the child should be heard, should be engaged, and should be informed.

The Workgroup is recommending to the commission, which will recommend to AOC, which will recommend to the legislature.

Expert people and a large set of issues. Broke the workgroup into three subgroups. General Practice Standards (Patrick Dowd); Caseload Standards (Heidi Nagel and Ruvin Munden); Voluntary Training (Tim Jaasko Fisher).

They met every other Wednesday for a few months, but the subgroups met in between and issued their own reports. The final product was a compilation of all the subgroups' reports with much discussion.

The questions are not new; many have looked at the issue of children's representation; there was a lot of information to study.

Core values and assumptions from the House bill and understanding of our role as lawyers in the field: "Stated Interest" model rather than "best interest" approach. Rules of professional responsibility apply and are consistent. Also, there special things that lawyers for children must know that are different from lawyers in other contexts. Training must address those, which means more interdisciplinary understanding of the system.

Standards are 15 pages long. The big picture context for the conversation: We believe that, foundationally, one of the things that lawyers can bring to the relationship with the child is Trust. Lawyers have the confidentiality piece that is rare, but it is important to be able to communicate that to the child. Standards here are explicit about the importance of confidentiality and the importance of trust. Trust takes quite a bit of time in dealing with children in care. Diligence is the second part of that. Advocacy is the third thing – the knowledge and skills to do the job.

Additional discussion about the aspects of those three things.

Trust requires: communication, confidentiality (especially when representing sibling groups), being client directed, continuity of representation.

Diligence – Maintaining client relationship by meeting regularly with the client, investigation – making sure you know what you need to know (i.e. school records, etc.), preparation – filing the papers, moving for visitation, etc., collaboration across disciplines.

Advocacy – in court, out of court, to maintain services for clients and achieve goals.

Specific questions asked by the legislature

What should the caseload standards be?

They used the OPD standards for the Parent Representation project as a reference. Lawyers for children should not have more cases than those for parents, but not less, either. No more than 60 individual clients, with the assumption that 60 clients would require 80 proceedings, but leaving room for adjustment.

Voluntary training recommendations: 40 initial hours of training over three years, with at least ten hours per year to certify that they are getting training. The WSBA isn't in favor of specialized certifications, but judges don't know who is qualified to represent youth when it comes to appointing someone. So, there ought to be a certificate of completion, which signals to the court and the community who the people are who have purposefully decided they want to do this and are being trained for it.

Recommended that individuals who continue to want to be known that they are interested, do ten hours of training per year during the course of the years that they want to do this. Forty hours is based on the training that CASA gives, but there is additional information to be learned beyond the forty hours.

A question and answer period followed. There were questions and discussion about the financial resources available to implement this in light of the current budget problems. Mr. Jaasko Fisher observed that there are a lot of these types of trainings being provided across the state, and that someone who is dedicated to doing this could get the required training as things are now.

Rep. Kagi said she didn't see any reference to the CASA's. Dr. Kelly said that they were just asked to do standards for lawyers. In part of the report, there is discussion about communicating with the CASA's. There were two CASA's that participated in several of the meetings. But the training was focused on lawyers. Justice Bridge noted that the mandate from the statute involves training for attorneys.

Mr. Bamberger said that he would like to move the adoption of the report and its transmittal to AOC. Judge Kitty Van Doorninck seconded the motion. Ms. Revels Robinson asked if there is any discussion. Ms. Skreen said that she wants to share that there are concerns about AOC being the entity to track this training.

The Commission voted unanimously to adopt the report to be transmitted to AOC.

5/23/11	<p><u><i>QIC Project on Representation of Children in Child Welfare System</i></u></p> <p>Justice Bridge reminded Commission members of the opportunity she had mentioned at the last meeting, in which Washington State had been invited to be a part of a national study with the University of Michigan Law School. The study involves the representation of youth in the child welfare system (assessing youth with lawyers trained on best practices in representing youth in the dependency process with those who are not, as well as comparing outcomes of youth with lawyers vs. youth without lawyers), and is being funded by the federal Children’s Bureau.</p> <p>Justice Bridge said that everyone involved has been working very hard to make this project happen. Thanks to all of them—including Jim Bamberger, Joanne Moore, Dr. Carl McCurley, Tim Jaasko-Fisher, Lisa Kelly of the University of Washington Law School, and Gina Cumbo and Hathaway Burden of CCYJ—we were selected to receive the contract. The state of Washington, through the Commission, will receive a grant in the amount of \$250K, for each of the next four years, to do this work.</p> <p>Justice Bridge explained that the Commission’s role will be to have general oversight for the progress, both studies in Washington. She said she and Jim will be on the front lines initially—recruiting the lawyers to participate in the study, visiting various courts and explaining how the study will work, etc.—and that will be going on this summer and into fall. She said that more details will be given at the September meeting, but some additional information, may be available before the next meeting.</p>
12/17/12	<p><b><u>Providing Legal Representation to Vulnerable Foster Care Youth</u></b></p> <p>Ms. Erin Shea McCann, a staff attorney with the Children and Youth Project at Columbia Legal Services, reported about a legislative proposal they are working on with the Mockingbird Society and Partners for Our Children regarding legal representation for children and youth in dependency and termination proceedings. She said they have support from Mike and Beth Canfield of the Foster Parents Association of Washington, the Center for Children and Youth Justice (CCYJ), Catholic Community Services, and several other community organizations.</p> <p>Ms. McCann provided a quick historical overview of the issue of legal representation, discussed the statute as it currently reads, and said that the landscape of the Supreme Court changed earlier this year when the Washington State Supreme Court issued <i>In re Dependency of M.S.R. and T.S.R.</i> In that case, the Supreme Court held that children have at least as great a right to an attorney as do their parents. The Court, however, declined to create a universal right to counsel, stating that each child’s circumstances are different and that it should be on a case-by-case basis as to whether an individual child should have an attorney.</p> <p>Ms. McCann then distributed a handout titled <i>Providing Legal Representation to Vulnerable Foster Children &amp; Youth</i> and gave a quick overview of what they are proposing this legislative session. The proposed legislation provides attorneys for the most vulnerable foster children, including those:</p> <ul style="list-style-type: none"> <li>➤ Whose parents’ parental rights have been terminated;</li> <li>➤ Who have lived in multiple foster homes or who have been in care for many years;</li> <li>➤ Who may be institutionalized;</li> <li>➤ Who have been suspended or expelled from school;</li> <li>➤ Who have run from their foster care placement; and</li> <li>➤ Who are prescribed psychotropic medications.</li> </ul>

	<p>The proposed legislation clarifies who can request that an attorney be appointed for a child, including a parent, the DSHS, the GAL/CASA, the child, or the court on its own initiative. The legislation also lowers the age a child is notified of their right to request counsel, from age 12 to age 7, and provides that an attorney may file a motion for a child to be appointed an attorney at public expense. Ms. McCann noted that a study conducted by Chapin Hall found that legal representation of children significantly reduced the cost to DSHS, because permanency was achieved more quickly—resulting in less time in care. She stated that there may also be significant savings to the courts and discussed a DIY study that indicated children should have a trained legal advocate if they are attending court.</p> <p>Ms. McCann asked for support for their legislation. She pointed out that Washington State ranks 48<sup>th</sup> in the nation in protecting the legal rights of foster children and youth, above only Hawaii, Idaho and Indiana. The Child and Youth Project feels like now is the time to relook at the most vulnerable populations and try to strengthen the legal protections for them.</p> <p>Judge van Doorninck asked who would pay for the attorneys? Ms. McCann said hopefully it would be a state and county cost. Mr. Bamberger asked if the bill would actually include that language, and Ms. McCann responded that it required further conversation. Judge van Doorninck discussed the language she would like to see in the bill and that ultimately she would like to see every child have an attorney.</p> <p>Ms. McCann asked for input from the foster care alumni. Mr. Cummings said he understands that money is always going to be a problem, but that he had an attorney when he was 13 years old who fought for his wants and needs so he knows why having an attorney is important.</p> <p>Ms. Kee agreed that this is something that should automatically be done. She said having an attorney has saved lives, and believes that if she would have had an attorney representing her, she could have avoided being in an abusive foster home for her first two years of foster care. She also believes having an attorney can help with the issue of sibling connection as well as connection with other members of their biological families.</p> <p>Ms. Folkman asked whether legal representation would be mandated or encouraged. Ms. Shea McCann said, as much as they would like to mandate caseloads and training standards, she doesn't think they are there yet but there may be some good things to learn from the WA-QIC project. Mr. D'Annunzio said he thinks there is a certain point in time where parents' rights are terminated and kids are left with no one advocating for them, and that period of time is very crucial.</p> <p>Justice Bridge summed up the discussion and said there are concerns about the fiscal implications and concerns about competing interests from the levels of government and other stakeholders (i.e. CASA). Justice Bridge asked Ms. McCann to keep the Commission apprised.</p>
5/12/14	<p><b><u>New Children's Representation Program</u></b></p> <p>Mr. Jim Bamberger introduced Ms. Jill Malat, the Program Director of the new Children's Representation Program in the Office of Civil Legal Aid. SB 6126 requires that counsel be appointed for eligible children &amp; youth starting July 1, 2014. Ms. Malat said her first focus is determining where these cases are and how many kids qualify. Her overall goal is to ensure the highest possible quality representation. She welcomed input and help from Commission Members now and in the future. Mr. Michael Heard asked if they were any closer to knowing</p>

	<p>how many children qualify for attorneys. Ms. Malat said they do not yet have precise numbers but she is hopeful they will know by July 1<sup>st</sup>.</p> <p>Mr. Bamberger said OCLA convened a working group to address implementation issues and challenges. They will likely use a county reimbursement model at first so that money flows to the counties. Eventually OCLA is looking to transition to the Office of Public Defense model where it works directly with and trains attorneys to ensure that standards are effectively complied with. Justice Bridge asked if there was going to be an evaluation component of the legal representation program. Mr. Bamberger said there will be one.</p>
<p>9/22/14</p>	<p><b><u>Implementation of Right to Counsel for Juveniles in Dependency/Termination Proceedings</u></b></p> <p>Ms. Hilary Madsen introduced Ms. Alicia LeVezu, University of Washington School of Law. Ms. Madsen, the new staff attorney for Columbia Legal Services in Olympia, proposed that the Commission convene a workgroup to consider some of the issues that have arisen in implementation of children in dependency proceedings. Materials were distributed to Commission members that included background information, the formal request to create a workgroup, the Office of the Family and Children’s Ombuds 2013 Annual Report, and an op-ed by Justice Bridge on the provision of attorneys’ for children in foster care.</p> <p>The nexus for the workgroup formation is Senate Bill 6126. SB 6126 requires counsel to be appointed to each “legally free” child six months after the order making them legally free. Pursuant to RCW 12.34.100(7)(a), the court may appoint an attorney on its own initiative or following the request of a child, caregiver, or parent. The combination of the new law and court opinions will mean more kids in care are going to be requesting attorneys.</p> <p>Ms. Madsen hoped the proposed workgroup could examine some of the issues and develop policy recommendations for the respective agencies and commissions in order to establish a statewide universal approach to the new legislation. Ms. Madsen listed the following opportunities for dialogue within the workgroup:</p> <ul style="list-style-type: none"> <li>- the application of attorney-client privilege to children in dependency cases;</li> <li>- the negotiation of transportation for a child involved in proceedings; and,</li> <li>- the extent to which records will be shared between interested parties.</li> </ul> <p>Justice Bridge suggested that rather than forming a new workgroup, the Commission should reconstitute the Children’s Legal Representation workgroup from 2010. The 2014 workgroup would search for a systemic solution, as well as follow up on progress from its recommendations from 2010.</p> <p>Justice Bridge suggested the idea be developed over the next couple months. Ms. Molly Donahue, new CCFC Intern, will draft a formal charter and list of prospective participants for the workgroup to be presented at the next Commission meeting in December.</p>

<p>12/8/14</p>	<p><b><u>WA-QIC Update</u></b></p> <p>Justice Bridge introduced Ms. Hannah Gold, who has taken over the WA-QIC project. Ms. Gold introduced herself and her background working with families and legal issues. The data collection process of the QIC program is ongoing. The surveys are in place until March. The Center for Children &amp; Youth Justice (CCYJ) will continue working on this through the fall of 2015. Ms. Gold reported 80-90% compliance rate from all the attorneys, and that the data is rich and thorough. The program has distributed \$26,000 in incentive checks every quarter.</p> <p>Ms. Gold reported that the financial assessment reveals a bit of extra money, and some has been moved towards CITA to continue their participation for about 6 more months. Since the goal is to build a connected and learning community of child welfare attorneys across the state, continuing the relationship with CITA is essential.</p> <p>Ms. Gold also announced plans to organize a summit in November 2015 to discuss the project, present initial results from the survey, and decide how to move forward.</p> <p><b><u>Children’s Representation Workgroup</u></b></p> <p>Justice Bridge introduced the charter draft for the Children’s Representation Workgroup. The workgroup will be headed by Professor Lisa Kelly again. This is the first time the Commission has created a charter for one of these workgroups before being convened.</p> <p>Mr. Bamberger suggested tasking the workgroup with developing strategies to address the culture of foster care to attorneys, and adding a cultural competency piece to the charter.</p> <p>Justice Bridge asked Commission members to submit feedback to Ms. Donahue by email before the end of the year. The workgroup will be meeting for its first meeting before the next Commission meeting.</p>
<p>3/16/15</p>	<p><b><u>WA-QIC Update</u></b></p> <p>Justice Bridge introduced the new project manager for the QIC program, Ms. Gina Cumbo. Ms. Cumbo is returning to CCYJ after several years of private law practice. This is the fifth and final year of the QIC study. March marks the end of data collection. Analysis of the data will extend for the next six months. Results of the study will be available in the fall.</p> <p>Looking ahead, the Court Improvement Training Academy (CITA) will continue to run their Communities of Practice around the state. The funding extends through the next six months, allowing for those communities to build additional competencies to move forward independently once the funding ends.</p> <p>There will be a half-day meeting to celebrate and present the results of the study. More information on that event will be distributed closer to the fall. Justice Bridge added that the rate of compliance for this program is remarkably high. Ms. Jill Mallet added that she and Mr. Jim Bamberger will be meeting with CITA to facilitate OCLA involvement to continue the Communities of Practice.</p>

	<p><b><u>Children’s Representation Workgroup</u></b>  Justice Bridge introduced Ms. Lisa Kelly from the Children and Youth Advocacy Clinic and the chair of the newly re-constituted Children’s Representation Workgroup. Ms. Kelly summarized the scope of the Workgroup as investigating the three Rs – requesting counsel, referring counsel, and retaining counsel for children in dependency.</p> <p>Ms. Kelly reported that the Workgroup met last week, determined a work plan and identified other stakeholders it would like to have at the table. The workplan includes teams of constituent groups who will work on the assigned tasks, and then come back together. Their goal is to have recommendations to the Commission by August.</p> <p>Ms. Bricker asked if anyone on the courts is represented on the Workgroup. Ms. Kelly, Justice Bridge and Ms. Donahue are meeting Wednesday to figure out who else to get on board. Ms. Kee offered a recommendation for a foster alum representative.</p>
5/18/15	<p><b><u>Children’s Representation Workgroup</u></b>  Mr. Patrick Dowd provided an update to the Commission on the Children’s Representation Workgroup. Chaired by Lisa Kelly, the group also includes members from (listed orgs). The purpose of the workgroup is to review barriers for children in dependency and termination hearings who are requesting counsel, as well as barriers to individuals who make referrals for the those children.</p> <p>The workgroup met March 6, and May 8. They reviewed the relevant statutes to the charge, and broke into four subcommittees to begin addressing the specific recommendation areas. Agencies, Counsel for Parents and children, Caregivers/Service Providers, Executive and</p> <p>May 8<sup>th</sup> meeting ended with a decision to review and edit of documents online. Next meeting is set for Monday, June 1<sup>st</sup>.</p> <p>Ms. Parker asked for the motivation of why this workgroup was founded. Ms. Wayno explained the RCW. Ms. Parker asked if considerations were being made in the workgroup for extended foster care.</p>
12/7/15	<p><b><u>Quality Improvement Center (QIC) Update</u></b>  Ms. Gina Cumbo reported on the QIC project – a research and demonstration project court training model for representatives of children in dependency proceedings. A QIC celebration was held on November 6th to recognize the hard work and cooperation of the WA attorneys who participated in the study. At the celebration, the preliminary results were unveiled and potential next steps and how to utilize the resulting analyses were discussed.</p> <p>Washington’s participation in the study was exceptional. Washington implemented the study protocol with greater fidelity than Georgia, the second research and demonstration site. Participation rates for all WA study attorneys were very high – close to 90% each quarter. Preliminary study results indicate that the treatment group attorneys had increased contact with caregivers, spent more time thinking about theory of case and</p>



	<p>assessing the safety of the child, and tended to advocate non-adversarial methods of case resolutions when compared to the control group of attorneys. The treatment group attorneys were also more likely to report that their advocacy did not agree with the child’s wishes. Ass’t Secretary Strus asked clarifying questions about the scope of the study and the implication of its findings and Ms. Cumbo informed the Commission that they could refer to the Chapin Hall evaluation summary document (pages 19-26 of the meeting packet) if they wanted more detailed information about the research.</p> <p>Ms. Cumbo relayed that King County has discussed bringing on the training as a part of their procedures for attorneys and that further discussion will happen around the infrastructure of follow up training.</p> <p><b>Children’s Representation Workgroup</b></p> <p>Ms. Lisa Kelly reported on the Children’s Representation Workgroup. She began with a presentation reminding the Commission members about the 13.34.100(7) RCW implementation and its goal of removing the barriers to children and other individuals as they seek to exercise their right to request counsel for children at public expense. The mission of the Workgroup was to address the ongoing barriers and help major players develop policies and practices to implement the provisions of the RCW and its legislative changes.</p> <p>Ms. Kelly then led a discussion on what the Commission would now do with the Workgroup report and dissenting opinions. Various Commission members provided their opinions on the Workgroup recommendations. Justice Bridge requested that Commission members send their questions and further comments to Ms. Kelly before the next meeting at which time the Commission will formally respond to the Workgroup’s recommendations.</p>
3/21/16	<p><b>Children’s Representation Workgroup</b></p> <p>Justice Bridge noted that the Commission was running short on time and asked everyone whether or not they felt that devoting a longer time to the discussion at the next meeting would be better than discussing for a short time now. Judge van Doorninck agreed that the Commission table the conversation until the May meeting. Justice Bridge asked that all Commission members please prepare for the discussion in May.</p>
5/16/16	<p><b>ChildRep Workgroup Recommendations &amp; Discussion</b></p> <p>Ms. Kelly reviewed the mission of the ChildRep Workgroup and expressed her thanks to Patrick Dowd for filling in when she wasn’t able to attend the last meeting. She said she hoped that this discussion would result in the Commission taking action on areas where everyone agrees and then have a conversation about how to address the disagreements in the interpretation of statutes and in policy and practice. Ms. Kelly also gave contextual data to reveal that these recommendations actually refer to a very small number of cases in Washington State.</p> <p>Judge Van Doorninck asked for clarification on what the Commission’s purpose is in addressing the Workgroup recommendations. Justice Bridge explained that we are either to approve the recommendations of our Workgroup or not. Judge Van Doorninck asked if these recommendations are already being implemented. Ms. Kelly responded that the UW Law Clinic has already filed a number of motions on these issues, but if the recommendations could be approved by the Commission, it would allow</p>

practitioners to share and publicize the recommendations. Ms. Wayno acknowledged that endorsement from the Commission would be the additional gravitas and lend more authority to the implementation recommendations. Justice Bridge added that the endorsement would also help to make the implementation more uniform.

Judge Van Doorninck moved to approve the agreed recommendations A-F. The motion was seconded by Mr. Murrey and no Commission members opposed. Justice Bridge stated that they would determine the best way to disseminate the recommendations at a later time.

Ms. Kelly then led a discussion on the disagreements within the Workgroup. The two issues of contention arise out of a disagreement in policy and practice and in statutory interpretation.

Judge Van Doorninck stated that the recommendations that have consensus were not difficult to agree on. She proposed that the Workgroup either continue working on the remaining issues or set aside these issues.

Ms. Malat responded that it would not be useful to reconvene the Workgroup as its members were deadlocked. She suggested that the Commission reiterate that this vague legislation does not solve the problem and that children who need to be appointed a lawyer get one during shelter care. Ms. Wayno added that the system needs one approach, that the approach taken by the Legislature does not currently help, and that it is difficult to come to consensus on proposals within the current context. Justice Bridge summed up the statements to state that the Commission's actions on the Workgroup recommendations would be to accept what the Workgroup has agreed on and also reiterate a positive statement from the original Workgroup's convening.

Mr. Hart asked if there were other states that implement attorney assignments for youth as soon as they need it and suggested that doing so would fund itself through fewer hearings and reentry. Justice Bridge explained that the problem with that argument is that the Legislature does not see the benefit come back for a few years, whereas the cost is immediate. Mr. Hart asked what the power the Workgroup has in this. Justice Bridge responded that the Workgroup and the Commission have the power of persuasion and that they can write an endorsement to support the recommendations and figure out the best way to disseminate the information.

Justice Bridge moved on to say that she would find the original language of the Commission's response to the Workgroup's first convening, share it with Commission members, and then revise as needed. Mr. Murrey shared that he was nervous about including what the Commission said before without reviewing it first and that he was worried about this move being used as a reaffirmation when this particular Workgroup was not intending for their work to be used as a reaffirmation. He felt comfortable as long as nothing was binding except for recommendations A-F until the next Commission meeting. Justice Bridge stated that she would draft a response to the Workgroup recommendations before the next meeting.

3/19/18	<b>Children's Representation Study Update</b>
---------	---

**Ms. Jill Malat shared updates from the Office of Civil Legal Aid Children's Representation**

Study. Senate Bill 5890 was passed last legislative session that mandated a study of the impact of appointment of lawyers for all children at Shelter Care hearings in two Washington State counties. The two counties identified will be compared to two control counties. The Washington Center for Court Research will conduct the study. The counties selected to require legal representation were Grant and Lewis County, Douglas and Whatcom counties as the control counties. These counties were chosen to reflect both Eastern and Western Washington and to provide a sample size sufficient to provide data for sufficient analysis. The goal of the study is to determine whether children with attorneys will have different outcomes than those without legal representation. The outcomes will be measured by wellbeing and time to permanency.

Ms. Malat explained further that the legislation required the formation of an advisory group to assist in developing the outcome indicators of the study. The advisory group consists of foster youth alumni, two legislators, Laurie Lippold, a representative from Columbia Legal Services, a representative from the Court Improvement Training Academy, and judicial officers.

Ms. Malat then described the indicators for the study. Twenty-five indicators were developed for the study. OCLA is working with CA and OSPI to create a data sharing agreement. The number of final indicators may change as a result of the data sharing agreement. In addition to administrative data collected from CA and OSPI, the study will also conduct youth surveys, focus groups, judge surveys, and attorney surveys.

Ms. Malat then explained there are six study attorneys. Three reside in Grant County and three reside in Lewis County. They are experienced attorneys with some having over twenty years' experience. Grant County uses a team-based model to collaboratively manage their caseloads.

OCLA conducted a full day intensive training with the study attorneys. The training covered topics such as the culture of foster care, representing pre-verbal children, and interacting with young children. In addition, there was a full day race-equity training.

Ms. Malat then shared anecdotal evidence emerging from the study. In one case, a group of Latino children were removed, but not all siblings could be placed together due to a Behavioral Rehabilitation Services placement recommendation. The child stayed at a Crisis Residential

Center for seven weeks pending a BRS placement determination. The child was found not to need a BRS placement and the attorney motioned to have the child placed with his siblings in their grandfather's care. In another case involving infant twins, the attorney met with the children before other professionals were able to and discovered the child needed an urgent medical procedure. The attorney was able to contact the social worker to get approval for the procedure.

Justice Bridge then opened the floor for questions. Ms. Joanne Moore asked how many cases the study expects to examine and when the report of findings is due. Ms. Malat answered the study anticipates approximately 300 cases with a report due by December 2019. Mr. Sabian Hart asked if differences between the counties are emerging. Ms. Malat responded by noting Grant County operates primarily by attorneys filing motions to make progress. She also explained that Lewis County

	<p>judges are not as receptive to attorney arguments as other counties and may need to use different approaches. Justice Bridge then asked whether CASAs will be surveyed in the study.</p> <p>Ms. Malat agreed that CASA input would be valuable. Mr. Hart asked whether the control counties have CASA representation. Mr. Murrey explained that Douglas County has CASAs, Whatcom County has 40 volunteers representing approximately 20% of cases plus contracted guardian ad litem. Ms. Tonia Morrison asked if a birth parent advocate is part of the advisory group. Ms. Malat explained there is not a birth parent advocate, nor a parent attorney representative, but is happy to reach out about this question.</p>
5/6/19	<p><b>Children’s Legal Representation Pilot Update</b></p> <p>Ms. Jill Malat next provided updates on the ongoing Children’s Legal Representation Pilot study in Grant and Lewis Counties. The study began in 2017 to assess the effects of appointing lawyers to all kids at the initial shelter care hearing. The outcomes – case load standards and impacts to timeliness and wellbeing outcomes – are being compared to Whatcom and Douglas Counties among kids that do not have standard based representation. The Washington State Center for Court Research has contracted with the University of Washington School of Social Work to conduct the study, and they said they need more permanency episodes to have enough data samples to produce a statistically reliable dataset. Ms. Malat said the study recently received a year-long extension to collect the additional data. It did not require more money.</p> <p>However, in Grant County there is a judicial officer who does not want to participate in the study. Ms. Malat said this is an isolated incident and not indicative of any larger movement. One attorney filed a Notice of Disqualification, which a lawyer files if they do not think the judge can be fair in a case. The judge does not have a choice when such a notice has been filed, but this judge did not accept the notice and heard the case.</p> <p>Ms. Malat said she tried to initiate a conversation with the bench in Grant County to resolve the issue, but the bench did not seem open to doing so. She next found out the bench issued a letter in response to the Notice of Disqualification deciding to no longer appoint lawyers to kids in these shelter care hearings. Ms. Malat noted that counties do not have to participate in the study, and the legislation does not require that judges appoint lawyers to these kids. She also said she recognizes that the legislature imposed this study on counties without getting buy-in from them; however, the study has been ongoing for two years. She said if the judges did not appoint lawyers to the kids, the study would have to end, and they would not have a statistically valid data set.</p> <p>Ms. Malat notified the legislator who sponsored the original legislation creating the study and drafted a letter to the presiding judge. She said even though the judges were not appointing attorneys to these kids, the lawyers still showed up to the hearings and provided a Notice of Appearance, which were recognized by the bench. Therefore, the study will continue on for the time being.</p>



# Conference of Chief Justices Conference of State Court Administrators

Association Services  
Williamsburg, Virginia 23185  
(757) 259-1841, FAX: (757) 259-1520

## CCJ PRESIDENT

Hon. Nathan L. Hecht  
Chief Justice  
Supreme Court of Texas  
P.O. Box 12248  
Austin, TX 78711

## COSCA PRESIDENT

Mr. J. Joseph Baxter  
State Court Administrator  
Rhode Island Supreme Court  
Licht Judicial Complex  
250 Benefit Street, Room 705  
Providence, RI 02903

Dear Colleagues:

We invite you to assemble and lead a state team for an important virtual follow-up event to the *National Judicial Leadership Summit IV on Child Welfare* that took place in Minneapolis, Minnesota, September 24–25, 2019. The event entitled *Ensuring Justice in Child Welfare* will take place via Zoom over Monday, August 10<sup>th</sup> from 12:00 to 2:30 ET and Tuesday, August 11<sup>th</sup> from 12:00-2:00 ET. Connection details will be sent prior to the event.

This convening will allow teams to revisit the action plans they developed over the course of the Summit's presentations and discussions, which centered around five themes:

1. Incorporating the Voice of Families in the Court Process;
2. Delivering High Quality Legal Representation to Families in Child Welfare;
3. Safely Preventing the Unnecessary Entry of Children into Foster Care Through Meaningful Initial Hearings;
4. Courts Ensuring Procedural Fairness, Equity, and Access to Justice for All Families; and
5. Leading Child Welfare Reform from the Supreme Court and AOC

The historic times through which we are living make the focus on families and children more urgent than ever. Since the Minneapolis Summit, courts have had to develop virtual court environments and adapt other processes to maintain essential justice services. Closing the justice system is not an option. Further, courts and child welfare partners must seize the opportunity to examine attitudes and practices in light of the national dialogue on racial justice. The status quo is not an option. The current dialogue about systemic racism in law enforcement and the criminal justice system requires contemplating the future direction of child welfare and juvenile dependency courts.

Accordingly, in this event, Summit teams will be asked to renew their commitments to reform and to reexamine their plans with a particular focus on Theme 4 and racial justice in child welfare and the courts. The agenda is still being confirmed but will include inspiring presentations, a renewed call to action, and an opportunity for team planning discussions and sharing ideas in breakout sessions with other jurisdictions.

Invited states, territories, and tribes are encouraged to register teams of up to ten members. The virtual format allows for larger teams; however, we ask you to limit participation to the designated maximum in order to facilitate productive team discussions. The team should include the Chief Justice (or designee), State Court Administrator, Court Improvement Program Director, state Child Welfare Director, trial court judge, agency attorney, parent attorney, and children's attorney. In the interest of continuity, we assume that many team members will have attended last year's Summit. Upon selection of your team members, please complete the attached Team Designation Form and return it to Nora Sydow at [nsydow@ncsc.org](mailto:nsydow@ncsc.org) **no later than July 24<sup>th</sup>**. Upon receiving the form, instructions for registration and other information will be sent to individual participants.

Summit IV and this follow-up event are hosted by the Conference of Chief Justices and Conference of State Court Administrators, in partnership with the Children's Bureau, Casey Family Programs, Annie E. Casey Foundation, and the National Center for State Courts. We look forward to seeing each of you at this important virtual event to ensure the continued transformation of access to justice for children and their families.

Sincerely,



Chief Justice Loretta Rush  
Indiana Supreme Court



Mr. Corey Steel  
State Court Administrator, Nebraska Supreme Court

**2020 NATIONAL JUDICIAL LEADERSHIP SUMMIT ON CHILD WELFARE: FOLLOW-UP EVENT,  
ENSURING JUSTICE IN CHILD WELFARE**

**TEAM DESIGNATION FORM**

INVITED TEAM FROM       WASHINGTON STATE      

**Instructions:**

The NCSC is asking each state's chief justice to appoint the members of their state or territory's team.

Please return the team designation form to Nora Sydow [nsydow@ncsc.org](mailto:nsydow@ncsc.org) by July 24, 2020.

<b>NAME</b>	<b>TITLE</b>	<b>ADDRESS</b>	<b>TELEPHONE</b>	<b>E-MAIL</b>
1. Chief Justice (or designee) Barbara Madsen	Supreme Court Justice	Temple of Justice P.O. Box 40929 Olympia, WA 98504-0929		
2. State Court Administrator (or designee) Dawn Marie Rubio	State Court Administrator	Administrative Office of the Courts P.O. Box 41170 Olympia, WA 98504-1170		
3. Cindy Bricker	CIP Director	Administrative Office of the Courts P.O. Box 41170 Olympia, WA 98504-1170		
4. Steve Grilli	Director, Division of Child Welfare Programs	Department of Children, Youth, and Families PO Box 40983 Olympia, WA 98504-0983		
5. Elizabeth Berns	Superior Court Judge	King County Superior Court 516 Third Avenue, C-203 Seattle, Washington 98104		
6. Lisa LaGuardia	Assistant Attorney General	Attorney General's Office 2211 Rimland Drive, Suite 325 Bellingham, WA 98226		
7. Jacob D'Annunzio	Managing Attorney, Parent's Representation Program	Office of Public Defense P.O. Box 40957 Olympia, WA 98504-0957		
8. Jill Malat	Children's Representation Program Manager	Office of Civil Legal Aid 110 Prefontaine Place South Suite 610 Seattle, WA 98104		
9. Shrounda Selivanoff	Contracted Social Service Worker Parent Representation Program	Office of Public Defense P.O. Box 40957 Olympia, WA 98504-0957		
10. Barbara Harris	Disproportionality Legal Training Coordinator	Office of Public Defense P.O. Box 40957 Olympia, WA 98504-0957		

# ENSURING JUSTICE IN CHILD WELFARE

August 10–11, 2020 at 12 ET | Virtual



Dear Summit Team Participants:

Thank you for your participation in the **August 10-11 Virtual Summit, *Ensuring Justice in Child Welfare***. Almost 500 team members attended, representing every state, three territories, and five tribes, in addition to several hundred observers. Thank you also for the comments and feedback provided in chat as well as in the post-Summit survey. We have been inspired by the feedback received so far.

To continue the forward momentum, and with the support of the Summit Partners, **we encourage you to meet with your teams during the month of September to revisit your team's Action Plan** from the Summit in Minneapolis with the new information and inspiration from the virtual summit. We have attached a template to guide that discussion and ask that teams share their completed template with Nora Sydow at [nsydow@ncsc.org](mailto:nsydow@ncsc.org) prior to the October follow-up virtual meeting described below.

This template asks each team to identify the following information:

- Your team's top takeaways from the *Ensuring Justice in Child Welfare* virtual summit
- The strategies that your jurisdiction is working on or plans to implement in these areas:
  - (1) **Reducing racial injustice** in the child welfare system;
  - (2) **Reducing the number of children unnecessarily entering foster care**, including strategies specifically designed to disentangle poverty from neglect; and
  - (3) **Improving high quality legal representation upstream** and with a multidisciplinary team approach including constituent voice.
- One successful strategy or innovation from your jurisdiction (either statewide or local) in one of the above areas.

Experienced facilitators are available on a limited basis to support these meetings and your conversations going forward. Email [nsydow@ncsc.org](mailto:nsydow@ncsc.org) to make a request on a first-come, first-served basis if you would like facilitation assistance.

National partners will host a series of virtual small group meetings in early October to allow teams to connect with other teams around Summit themes. Each team would attend just one meeting, and each meeting will include 4-5 teams. The available time slots will be every Monday/Wednesday/Friday from 3:00-4:30 ET the first three weeks in October. The purpose of these meetings is for teams to network and share ideas around implementing strategies, overcoming challenges, and innovations. Look for additional individual team support and peer learning opportunities around Summit themes beginning in October for the remainder of the calendar year.

For additional support, for more information or to submit your completed template, please email Nora Sydow at [nsydow@ncsc.org](mailto:nsydow@ncsc.org). Please submit your completed template by September 30<sup>th</sup>. Please let us know if you have any questions and stay tuned for the dates and registration information for the follow-up virtual events.

Sincerely,  
The Summit Partners





# ENSURING JUSTICE IN CHILD WELFARE

August 10–11, 2020 at 12 ET | Virtual



## Washington State

Team Contact:

Cindy Bricker

cindy.bricker@courts.wa.gov

## Ensuring Justice in Child Welfare Take-Aways

(1) Active efforts should apply to all children.

(2) Child welfare system is focused on the wrong thing and needs to shift resources, and judges need to hold system accountable. Use David Kelly's four questions as a constant state of inquiry.

(3) Mandatory supporters vs. mandatory reporters. If we focus on the community as a whole, the need for removal will be reduced.

## Post Summit Strategies

### Reducing racial injustice in the child welfare system

- 1) Review statutory definition of neglect and how it is currently used and by whom as a standard for removal, including substance abuse, which is currently given great weight in the decision to remove.
- 2) Draft legislative proposal to require active efforts for all children pre and post removal, including a definition/description of active efforts.
- 3) Research case law and definitions of neglect and active efforts that other states are using. Form a multidisciplinary workgroup to draft legislative proposals.
- 4) Remove barriers to placement with family—criminal history, prior founded allegations.

### Reducing unnecessary removals

- 1) Provide meaningful parent representation PRIOR to shelter care hearing by enforcing RCW 13.34.090 regarding the provision of counsel and discovery prior to shelter care. Research how/when counsel is being appointed and how discovery is occurring in each county. Develop best practices and possibly court rule to implement practice standards statewide. AOC/CITA to include these expectations in annual judicial training and other training venues.
- 2) Improve practice at shelter care hearings by emphasizing safety planning and utilize court as next step with in-home dependencies. Require specific findings regarding reasonable efforts - not just a checked box. In order to make accurate reasonable efforts findings, AOC work with

DCYF on providing information regarding available resources in each community to courts and court partners.

- 3) Support further development of Family Intervention Response to Stop Trauma (F.I.R.S.T.) Clinic in Snohomish County. This is a medical-legal partnership that provides pregnant women with legal advocacy and connection to services to prevent not only a removal now and future involvement with CPS as well. The team includes volunteer attorney, parent ally, community resource navigator and hospital staff.

### **Improving high quality legal representation upstream**

- 1) Utilize IV-E reimbursement to support multidisciplinary parent representation to include social workers and parent allies in order to engage parents earlier.
  - Monitor Multidisciplinary Pilot adding more social workers.
  - Redesign P4P to allow parent allies to be available to families during investigation/FAR.
  - Consider changing RCW 10.101 to provide indigent legal representation to families during investigations/FAR
  - Incorporate additional workload into caseload standards and funding models.
  - Revisit DCYF agreement with OPD for IV-E funding.
- 2) Utilize IV-E reimbursement to expand provision of representation for all dependency youth.
  - Evaluation of study of legal representation for all youth will be complete December 2020. Provide legislative advocacy and education about the benefits of legal representation for children and youth in dependency cases.
  - Revisit DCYF agreement with OCLA for IV-E funding.
  - Require training for child attorneys hired by counties to improve high quality legal representation. OCLA provides training to their contracted attorneys, but county-hired attorneys are not held to the same standards.
- 3) Monitor Family Advocacy Center (CCYJ/King County) using upstream legal services to prevent or reduce removal. The team of civil legal aid attorney and parent ally receive referrals from child welfare, defense attorneys and community partners. They include racial justice at key points in system.

### **Success Story**

Family Intervention Response to Stop Trauma (FIRST) launched in July of 2019. Since July, the FIRST Legal Clinic has helped dozens of mothers in multiple counties avoid CPS removal and the filing of a dependency petition in court. This interdisciplinary and cross-discipline upstream approach to child welfare combines legal advocacy with connecting a family first-hand with services to prevent not only a removal now, but future involvement with CPS as well. Think of the FIRST legal clinic as a “first responder” to a mother facing the risk of CPS removal and family separation. Within minutes of calling, the advocacy process begins, and the average response time for the legal team to participate in a family team decision making meeting is less than 30 minutes.

The idea for the FIRST Clinic came after a CIP sponsored Permanency Summit, September 2018, in Everett, Washington, where data was presented showing a significant increase in the number of babies entering the child welfare system in their community. Conversations and creative action planning around that resulted in the concept for the FIRST Clinic.

With legal advocacy that helps mothers understand their legal rights and the implications of ignoring CPS, families can make informed decisions not based on fear but from a safe space where “fight or flight” reactions to CPS, which are common, can be avoided. Along with an attorney, the FIRST clinic partners with a parent ally who has successfully completed treatment and navigated CPS involvement to now help other parents do the same. This provides an entirely new level of emotional support that ensures parents know that the clinic is truly designed to be a source of advocacy and resources for the family.

FIRST Clinic clients also have access to “fast-tracked” drug and alcohol assessments through a partnership with a local treatment provider, and a new 30-day inpatient treatment program allowing mother’s to discharge immediately from the hospital to a supervised CPS approved program has just been implemented and has already prevented the filing of a dependency petition by allowing mother an opportunity to go into treatment with her baby.

The FIRST clinic also connects new mothers with a nurse partnership for the first two years of a baby’s life allowing a nurse to come out to the family whenever health issues may arise preventing a huge barrier for care for most families, transportation.

The parent ally also assists with access to housing resources for 12-18 months, well above the typical timeline for supportive housing in their community. This housing resource allows parents a safe space to which provides them access to life skills classes and resources through a partnership with a local community college.

As the FIRST Clinic expands so will local partnerships. The Washington State University School of Medicine in Everett, Washington has agreed to partner with the FIRST Clinic to explore health outcomes for children and families participating in the clinic. At present, a physical clinic space has almost completed construction at Providence Women’s Pavilion in Everett and will usher in a new era in medical-legal partnership and a framework for how to change child welfare across the country.

Having our CBCAP prevention partner as part of our State Team planning sessions has resulted in a recent decision for the Department of Children, Youth, and Families to provide prevention funding to support the FIRST Clinic. Also, Casey Family Programs is considering providing technical assistance with the evaluation.