



# GENDER AND JUSTICE COMMISSION (GJCOM)

AOC SEATAC OFFICE – SUITE 1106  
18000 INTERNATIONAL BLVD, SEATAC WA  
FRIDAY, NOVEMBER 14, 2014 (8:45 A.M. – 12:00 P.M.)

## MEETING NOTES

**Members Present:** Chief Justice Barbara A. Madsen, Chair; Justice Sheryl Gordon McCloud, Vice-Chair; Ms. Josie Delvin, Judge Michael Evans, Ms. Grace Huang, Judge Judy Jasprica, Ms. Judith A. Lonquist, Judge Eric Lucas, Judge Richard Melnick, Mr. Ron Miles, Judge Marilyn Paja, Judge Mark Pouley, Ms. Leslie Savina, Judge Tom Tremaine, Mr. David Ward, Ms. CaroLea Casas (Student Liaison, University of Puget Sound), Ms. Alexandra Kory (Student Liaison, Seattle University, Law School, Ms. Danielle Pugh-Markie, Supreme Court Commissions Manager, and Ms. Pam Dittman, Program Coordinator

**Members Excused:** Ms. Sara Ainsworth, Ms. Laura Contreras, Dr. Margaret Hobart, Ms. Trish Kinlow, Professor Taryn Lindhorst, Judge Ann Schindler, Ms. Gail Stone

### CALL TO ORDER

The meeting was called to order at approximately 8:45 a.m. Introductions were made. The September 5, 2014, meeting notes were approved.

### COMMISSION BUSINESS

#### Chair Report – Chief Justice Barbara A. Madsen National Association of Women Judges (NAWJ) Conference

The Chief, Judge Paja, and Danielle attended the NAWJ Conference. The content was superb and had amazing presenters. One panel included Anita Hill where she discussed her testifying to Congress during Supreme Court nominations for Clarence Thomas, the sexual harassment that took place, the fallout, the impact, and what has been accomplished since 1991. Additionally, Justice Sonia Sotomayor was the keynote speaker and part of a closing panel on access to justice and implicit bias. Justice Debra Stephens also presented on children and family issues and the emerging laws on international child surrogacy, artificial insemination, and “contractual childbirth.” Other sessions that were also of interest were around immigration and trafficking. For the past few years, the sessions have been more informative rather than providing tools or areas where courts can impact these types of cases.

Other items of interest were several documentaries including *Anita*, and one about the legal process in Mexico called *Presumed Guilty*.” The Mexican documentary really brought home the differences in the United States’ justice system and other countries. Part of the reason for this documentary was there was a contingent of international judges in attendance. Their attendance enhances the learning because you have the perspective of people who are from countries that have vastly different judicial systems from ours. They shared their perspectives on the progress that they felt they have made in their countries. The film on the Mexican system highlighted the Mexican criminal justice system and the role of the judge. The system is much more of an inquisitorial system and trying to convince the judge that there is a reasonable doubt is difficult

as the judge has already done all the research and the investigation into the case, which virtually makes it impossible for an acquittal. This is an important perspective for American judges to see and helps us share and explore alternatives with international judges.

One of the other programs that was very good, but sparsely attended, was a tribal judge presentation regarding a small tribe near Sacramento and their partnership with the local county government. The tribe built a casino in a location the county did not like, which caused a negative dynamic between the tribe and the county. At about the same time, the tribe received funds for a pilot project and chose to partner with the county to build a community center facility and wherein, the county would provide probation services. The tribe is providing treatment services and developing a mental health and a DUI/drug court.

- **Action:** Staff – Locate the documentary *Anita* and provide options on ways to use.

#### Judicial Officer and Law Student Reception

The Commission co-sponsored the 5<sup>th</sup> Annual Judicial Officer and Law Student Reception on Friday, October 24, 2014, at the Seattle University, School of Law, with special thanks to the Seattle University Women's Law Caucus, the Washington State Association for Justice, and the NAWJ. Several Commission members were in attendance along with Justices Mary Fairhurst, Sheryl Gordon McCloud, Charles Johnson, Susan Owens, and Debra Stephens.

Once again, Judith Lonquist and Judge Marilyn Paja were able to secure scholarship funds from the Washington State Association for Justice and NAWJ. One-thousand dollar scholarships were awarded to Ms. Amy Larson and Ms. Yessenia Medrano-Vossler. While the attendance was a little low due to being up against the Asian Bar Association's Annual Dinner, we still had plenty of judicial officers and law students who were able to connect and interact. We did make a promise that for 2015, we will work with Gonzaga to recognize their students.

- **Action:** Staff – work with Commission members and possibly Justice Stephens to determine how to proceed with an event at Gonzaga.

#### Recruitment of New Members

Judge Anne Schindler, Laura Contreras and Judith Lonquist will be leaving the Commission in June 2015 as their terms are up. We would definitely like to see someone from the lawyer community who has demonstrated background in gender equality issues from the legal profession side. It was suggested to maybe contact the outgoing president of the Washington Women Lawyers to see if they would be interested. If you have someone in mind that would be great to hear from you. This is an area we need to put more energy into. Justice Gordon McCloud joined the Commission because this is an area she is interested in and needs to continue to be addressed.

- **Action:** Staff and members – provide names of people who may be a good fit with the Commission.

#### Washington Initiative for Diversity (WID)

The WID has requested monetary assistance from GJCOM to help sponsor their upcoming Judicial Institute. We have supported this training since its inception. The training addresses

how to become elected or appointed as a judge and what all is involved in being a judge. This event is a collaboration with the minority bar associations and other entities such as the GJCOM, Minority and Justice Commission (MJCOM), and the District and Municipal Court Judges' Association (DMCJA) thru its Diversity Committee also support the event. The Chief has been asked to chair the event and has agreed to do so.

#### Washington Center for Court Research (WSCCR)

A new order was finalized establishing an advisory board and a strategic oversight committee for WSCCR. The GJCOM has a seat on the oversight committee, which will either be the Chair or Vice Chair. The Chief has been in discussions with Judge Schindler, Chair WSCCR board, about concerns that were voiced on the ad hoc nature of how research projects were selected. With the new advisory board and oversight committee, WSCCR can be more deliberate about projects it chooses and also will help with cross-collaboration amongst the entities. This will enable us to have more input on projects, develop best practices for projects we have worked on, measure our success on projects, and provides us another avenue for making sure that when we do provide direction or suggestions to the courts that we can back it up with success through statistical analysis.

#### Staff Report – Danielle Pugh-Markie and Pam Dittman

- Budgets

In 2015, we have three grants we will be spending down: 1) STOP grant for work related to domestic violence, sexual assault, stalking, and teen dating violence; 2) Courts Training and Improvements grant to provide training to judicial officers on sexual assault; and 3) Grants to Encourage Arrest to coordinate the work of the Tribal State Court Consortium. As a note, the STOP grant had a few changes to it and this year we are required to use a specific amount of funds solely on sexual assault related projects. We were able to get approval to use these funds to supplement and assist with the sexual assault training in the form of scholarships to judicial officers to cover pro tem and/or travel-related expenses.

Additionally, the GJCOM budget of \$150,000 each fiscal year covers not only the work of the GJCOM, but also salaries and benefits for staff. We don't like to say no to projects or programs, but we may have to be a bit more creative in coming up with funding to cover things such as committee work or educational programs that don't fall within the scope of any of the grants. Please communicate your needs to either Danielle, Pam, and/or the Chief and we will work hard to meet the needs.

We are continuing our partnership with the Commission on Children in Foster Care to address domestic minor sex trafficking and have committed to continue to work on projects for incarcerated women and girls. The fiscal year 2015-2016 GJCOM budget, which begins July 1, 2015, will be more positive as we will have finished our funded commitment to the Office of Civil Legal Aid, freeing up \$12,500 in funds for our use.

- Updates

- HB1840 – We continue to work with the Washington State Coalition Against Domestic Violence (WSCADV) on the legislative mandate in HB1840 re: surrender of firearms. We have lined up national technical assistance providers that are

willing to work with us, at their expense, when we determine a plan of action. We will be contacting the Washington Association of Chiefs & Sheriffs (WASPC) to see if there is a way we can partner with them on what they are doing from the law enforcement side of things and how they believe we could assist educating both law enforcement and courts about implementing best practices.

- Sexual assault judicial education – We are continuing to move forward on the judicial education on sexual violence, officially now called *Enhancing Courts' Response to Adult Victim Sexual Assault*. In preparation, we are holding webinar on Wednesday, December 3, 2014 on Intimate Partner Sexual Assault (IPSA). Lynn Hecht Schafran from the National Judicial Education Program will be the faculty and we also partnered with the National Council of Juvenile and Family Court Judges (NCJFCJ) to handle the registration and the technical aspects of the webinar *Intimate Partner Sexual Abuse: The Hidden Dimension of Domestic Violence*. We will be seeking .75 Continuing Judicial Education credits. We will be working with the court administrators to help reach out to pro tem judges also.
- Logos – In July, we looked at several logo submissions, which we decided were not quite what we were looking for. Therefore, CaroLea contacted approximately 55 schools and other entities in September and asked for submittals. We received several more logos from the same student who submitted in July. Commission members looked at all the logos and made several suggestions. It has been decided that Danielle and CaroLea will work with this graphic designer and have her incorporate the suggestions and provide another round of mockups for members to look at.
- Conferences
  - Domestic Minor Sex Trafficking

We were able to send a team of judicial officers to the domestic violence sex trafficking conference in Reno from November 3-5, 2014. Justice Bridge, Judge Serko, Judge Cindy K. Smith, Commissioner Jerri Potts, and Danielle attended. Also, Judge Barbara Mack was in attendance as faculty. One of the highlights of that conference was that at one point judicial officers in the room were really just going back and forth about where each state is at and how they are interacting with their communities and what steps that are being taken on addressing the issue.

One topic discussed was on how to improve standards of care and what that looks like. Our team met up to discuss the Conference and we had a conversation about how to bring pieces of this training to Washington State. There was also a bigger discussion on doing some sort of regional conference with Oregon, Nevada, Idaho, Washington, and Northern California where kids are being trafficked along the I-5 corridor and how we can work together as courts from these various states. The emphasis from the Washington team was making sure we continue the multidisciplinary conversation about this topic and continue to communicate to education communities that this is a problem, how to recognize it, and specific ways stakeholders can address the situation. Many judicial officers indicated

they were struggling with some of their colleagues around the issue because there is a belief that this is not happening in their community.

As we move forward, we need to ensure the MJCOM is involved, especially with the work they are doing about the disproportionate number of children of color in the foster system. The other piece of work that was completed this year was from the Attorney General's task force on trafficking. The AGs submitted a report to the Legislature providing information and suggestions of where to go next, especially on the demand-side reduction issue.

The Commission also had a robust discussion on prosecution around prostitution and that the legislation that was passed about vacating prostitution charges is very narrow and does not apply to most people. Furthermore, one can only vacate one charge and that does not help if you have been charged more than once, which most have been. The discussion led to suggesting education programs that target training where children/adolescents are being charged for other crimes and yet sexual abuse or trafficking is not being identified. How can we introduce the topic and provide practical tools for judicial officers to assist in these matters.

**Action:** Explore legislative potential fixes, re: vacating of prostitution charges; vacating misdemeanor convictions for juveniles – Senators Jeanne Kohl-Welles and Mike Padden and Representative Tina Orwall are interested in trafficking issues along with former Congresswoman Linda Smith. Work with AOC to see what kind of data is being gathered on prostitution charges.

- Statewide Tribal Domestic Violence and Sexual Assault Conference  
The Commission supported and participated in the 2014 Conference focused on domestic violence and sexual assault cases through the tribal lens. This was the first time this Conference had a track that was specifically aimed at court issues and judicial officers. Judges Mark Pouley and Tom Tremaine were able to provide an update on the Tribal State Court Consortium and next steps. Judge Theresa Pouley provided an update on the work the Tulalip Tribe is doing on enhanced jurisdiction provisions under VAWA 2013. Judge Cindy K. Smith, Suquamish Tribe, and Honorable Tammie Ownbey, Pend Oreille County Clerk, presented on the importance of cross-collaboration and full faith and credit.

### Guest Speaker & Exploratory Projects

- Model Policy on Rescission or Modification of No Contact Order (NCO)  
Judge Melnick and Ron Miles took the lead on following up on the modification/rescission model policy that was part of a 2010 legislative mandate. They have solicited information from the County Clerks, court administrators, and presiding judges on how or if their courts have implemented the NCO rescission/modification policy. Ron mentioned that he was collecting responses from the County Clerks and many of them had not heard of the policy while others have adopted a policy or process and are using the state forms of a

variation thereof. We will have more information to report at the next meeting. One thing to note is that most of the courts use a DV advocate to screen or interview the applicant and the advocate. There is some territorial issues between courts and prosecutors on who should actually be providing this information. One court mentioned that it may put their grant funding into jeopardy, which would delay implementation of a process.

- **Action:** Judge Melnick and Ron Miles to continue the conversation and provide a more comprehensive analysis of how each county has implemented this statute.
  - **Action:** Add the model policy to the forthcoming revision of the DV Bench Guide.
  - **Action:** Send the model policy to defense bar/public defender's office and advocates.
  - **Action:** Re-visit where it is located on AOC and GJCOM webpages.
- Mission Creek Corrections Center Conference  
Judge Evans, Judge Paja, and Danielle were involved with this Conference, which was a two-day Conference for about 150 of the incarcerated women at Mission Creek Corrections Center for Women. Everyone has a sentence of four years or less, either originally imposed or remaining on their current sentence and has a low risk assessment in the Department of Corrections' (DOC) assessment system. Mission Creek staff worked with us to add DV and vicarious trauma components to the Conference. Mission Creek has a trauma class that women can take if they choose, which covers some DV issues but certainly not all of them. The program does not cover reentry into the same community, which is of course is one of the big issues for women. As they're released from that community they're going to go back to the same family or relationships, town, whatever they came from, so that may provide opportunities for re-victimization and difficulties in reentering the system. The presentations were very well received and Debbie Brockman, the DV advocate was fantastic. We were able to have three breakout sessions which rotated participants through so everyone was able to hear all the sessions. Ms. Brockman also provided the follow-up discussion from the Girls In Trouble DVD, a story of four young women 16-to-17 years old in the juvenile system. The story speaks about their experience over a period of four years.

Other opportunities we gained are personal contacts with staff to continue discussions on future conferences and issues. One main issue that came up was law library access for the women at Mission Creek. At Purdy, the women apparently have access to a law library but at Mission Creek, they do not. Those incarcerated at Mission Creek are reliant on law students and other volunteers who provide hardcopies of documents and forms.

Justice Owens gave lovely opening remarks to the incarcerated offenders in attendance. Following the conference, Justice Owens privately remarked that the makeup of the attendees wasn't what she expected as approximately 75 percent of the women were probably under 30 and 90 percent were Caucasian. Justice Owens indicated it didn't meet the pattern she expected. One thought we had, was maybe this is due to the DOC's static risk assessment. One of the issues that the MJCOM raised was about the static risk assessment that was used as a model for the Superior Court Judges' Association (SCJA) static risk assessment and how it is used and applied by judicial officers. Alex and several other law students attended and because of the work that

they're doing through Seattle University and the student-run group providing assistance, they were able to assist the women, which was very helpful and comforting.

Judge Evans came and spoke about the Girls in Trouble DVD. He was able to have lunch with several people who expressed their appreciation of our involvement and came away from the whole experience that we are helping build people up and we're giving tools for folks that have troubles in their life and they're not going to be in prison forever. He was able to talk to them about how to deal with getting paperwork that is needed for custody issues and they expressed they were especially grateful for Alex and her cohorts in helping them. Judge Evans indicated he was encouraged by the seminar and that the Commission needs to continue to be involved in this because it's providing people with avenues and a means to deal with their past, and plan for the future.

Other items of interest were attendees are really eager for resources on domestic violence in the Eastern part of the state, how to deal with their legal financial obligations, and how to work through finding housing. Also, there may be a way through the MJCOM to talk about how they work with the population that reenters.

- **Action:** Continue contact with Mission Creek staff.
- **Action:** Preplanning for next year includes a stipend for advocates who are coming to assist with their time and/or travel to/from. We may be able to provide something through STOP grant funds. Invite advocates from other areas that may be interested in attending and providing information on services provided in their counties.
- Fundamentals of Domestic Violence for Lawyers training  
Judge Paja provided information about the American Bar Association Commission on Domestic and Sexual Violence training *The Fundamentals of Domestic Violence for Lawyers* who are representing victims of domestic violence in custody cases. Judge James Riehl, retired, is one of the faculty for this training and believes that this would be a valuable training. It may be a training where all we need to do is secure the location and participants and the faculty will be provided for through a national technical assistance provider and be free of charge.

**Action:** Judge Paja and Danielle will follow up on this training.

### Committee Reports

- Communications Committee (Ron Miles, Chair)  
As the new Chair, Ron has been working with Danielle and Pam on fine tuning the Committee work plan. The goal is to have a conference call on December 15 at 12:15 p.m. with the Committee members. The Committee is comprised of Judge Lucas, Judge Paja, Ron Miles, Gail Stone, Danielle, and Pam. Our most immediate project is the 2014 GJCOM annual report and having it compiled, drafted, and ready for an early-March release. The plan also has a project to look at the website to keep it up-to-date, vibrant, and relevant.
- Domestic Violence Committee (Judge Judy Jasprica, Chair)  
The Domestic Violence Committee as a Committee has not been real active committee-wise as we have been focused on the sentencing and monitoring project with the Center

for Court Innovation (CCI). CCI will be conducting site visits the first week of December in district courts of Benton/Franklin, Clark, and Spokane counties.

- Education Committee (Judge Rich Melnick, Chair)  
Danielle Pugh-Markie presented on behalf of Judge Melnick who was unable to attend. The meeting packet included evaluations from GJCOM-sponsored sessions at Fall Conference. The sessions were well received and we added a session on ICWA as part of the Tribal State Court Consortium meeting. Judge Theresa Pouley and Commissioner Michelle Ressa were faculty for that session. Dr. Chris Blodgett and Judge Melnick were faculty for the “Adverse Childhood Experiences, Understanding Risk and Responses to Child Trauma” and Mr. Khatib Wahid presented “Race: The Power of an Illusion,” which was cosponsored by the MJCOM.

Next step is to have a discussion about trauma-informed courts and how exposure to violence is particularly problematic and, in particular, how women are deemed culpable for exposing their kids to trauma. The discussion should include practices that support resiliency and how to support women in particular because they’re generally the ones raising children. The question then becomes how to provide a session or training for judicial officers on what is a trauma-informed court, how does the judicial officer provide that, and are there any judicial officers who have explored or implemented practices.

“Race: the Power of an Illusion” was an excellent program. It included a film that discussed real estate, “redlining,” and how the GI bill contributed to that practice. The seeds of today’s racial segregation in the housing market was laid out with the disproportionate opportunities for buying housing that African American GI’s had after they came back from the World War II. The Supreme Court is proposing it to be shown as part of their employee training. We will need to continue the discussion and also tie in much of the implicit bias information we have received from Dr. Kimberly Papillon and also the work done by Judge Kevin Burke on bias in judicial decision making.

Session proposals were due for DMCJA and SCJA. We submitted proposals on domestic violence and the surrender of firearms and abusive litigation. The abusive litigation proposal was accepted for SCJA and DMCJA has held a 90-minute spot for GJCOM. Staff will work with the Education Committee to formulate a session for DMCJA.

- Incarcerated Women & Girls (Sara Ainsworth, Chair)  
Sara was unable to attend today so Pam provided an update. Members received a notice about a meeting that is being held on November 18, 2014, in regards to a proposal by the Department of Social and Health Services (DSHS) to revise RCW 13.34.180, re: termination of parental right. This language was just added in 2013, so it is surprising that DSHS is proposing to remove the language as it was designed to promote reunification of families and to ensure that the incarcerated parents don’t lose their children automatically because of incarceration.
- Tribal State Court Consortium (Judge Mark Pouley and Judge Tom Tremaine)  
We held a meeting at Fall Conference and have continued to make progress. We will be holding a series of meetings with tribal and state court judges beginning in 2015. The first

meeting will be hosted by the Suquamish Tribe and Judge Cindy K. Smith is working with us to facilitate that meeting. The meeting at Fall Conference included a very good discussion on the makeup of the Consortium and how to go forward. We have had a lot of support and really good support from state courts, but we've not had a real good traction in the tribal setting, so this was a nice opportunity to have a more concentrated tribal audience. Pam please take a look at the following: Two of the main challenges we face are getting tribal court judges' participation because a lot of tribal court judges are contract judges and not employees and understanding and navigating the relationship of tribal court judges with their government and getting permission to participate in this type of thing. Two of the main challenges we face are getting tribal court judges' participation – a lot of tribal court judges are contract judges and not employees and understanding and navigating the relationship of tribal court judges with their government and getting permission to participate in this. We will be working with Affiliated Tribes of Northwest Indians to help garner support and get us on their meeting agenda to discuss our work and solicit input and assistance. We will be able to present them with the concept and where we're going and what the planning looks like and see about doing a resolution in support of the Consortium.

- Women in the Profession (Judith Lonquist, Chair)  
Judith reported that the Committee has not been overly active. A new Chair needs to be determined as Judith's term will end in June 2015. The two items of interest are judicial evaluations and the 1989 Study and Glass Ceiling Survey.
- Miscellaneous – DV Bench Guide Update (Grace Huang)  
Grace thanked everyone for assisting and contributing to the revision of the DV Bench Guide. It is with the copy editor and should be completed by the end of the year. There are a few appendices including recent litigation.

The meeting was adjourned at approximately 12:10 p.m.