



PENNSYLVANIA INTERBRANCH COMMISSION FOR GENDER, RACIAL, AND ETHNIC FAIRNESS

U.S. STEEL TOWER, SUITE 4830
600 GRANT STREET
Pittsburgh, Pennsylvania 15219
Website: www.pa-interbranchcommission.com

2017 Pennsylvania State Report for the Annual Conference of the National Consortium for Racial and Ethnic Fairness in the Courts

Submitted by Executive Director, Lissette McCormick, Esq.
(Lissette.mccormick@pacourts.us)

The 24-member Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness (“Commission”) was established in January 2005. Its broad-based membership consists of appointments from both the majority and minority parties of the House and Senate, the Governor, and the Supreme Court. The Commission’s recent work is highlighted below.

Criminal Justice Committee

Death Penalty Studies: The Commission’s study of racial, ethnic, and socio-economic disparities in Pennsylvania’s capital justice system has been completed and the report is undergoing expert peer review. The second death penalty study, undertaken by the PA legislature’s Joint State Government Commission’s Death Penalty Task Force in 2013, continues to work on a broader examination of the death penalty’s administration. When completed, the reports will be submitted to all three branches of Pennsylvania government for review and use in implementing reforms.

Opposition to Reinstitution of Mandatory Minimum Sentences: The committee is working to defeat recent proposed state legislation that would reinstitute Pennsylvania’s mandatory minimum sentences for drug and other offenses. The PA Supreme Court declared the sentences unconstitutional in 2015.

Juvenile Life Without Parole Resentencings (“JLWOP”): Following the Miller decision on the constitutionality of mandatory JLWOP sentences and the subsequent decision on retroactive application, the committee began monitoring the conduct of resentencing hearings in PA. The committee is working with legislators to draft legislation to address, among other constitutional deficiencies, the lack of consistent protocols within PA judicial districts for resentencing hearings.

Indigent Defense Reform: The committee is seeking passage of S.B. 61, to establish a statewide training institute to improve indigent defense representation in PA. In a privately-funded initiative, Allegheny County has been chosen to participate in a pilot program to provide indigent representation to defendants at arraignments to determine the effect on pretrial release.

Debtors' Prisons: The committee completed its research on the incarceration of indigent individuals for failure to make bail or failing to pay court costs or fines, often for minor offenses. The resulting report and recommendations will be sent to the PA Supreme Court and to President Judges throughout the state for implementation.

Juvenile Record Expungement: Based upon its recently completed study, the committee is now drafting a report with recommendations for establishing a model system for juvenile record expungements, that will be shared with all PA court administrators and President Judges.

Jury Service Committee

Updated Standard Jury Selection Procedures: In October 2016, the committee published its new report entitled *Best Practices for Jury Selection and Service in Pennsylvania*. This report focuses on suggested strategies to streamline jury service, minimize negative effects on prospective jurors, and increase participation and diversity in venire pools across the Commonwealth.

Legislation re Juror Compensation and Juror Exemptions and Excusals: The committee is collaborating with legislators to increase juror compensation and reduce juror exemptions.

Statewide Juror List: The committee is working with the four state juror list sources to include birth dates with the names they provide to the Administrative Office of Pennsylvania Courts ("AOPC") for the statewide juror list. This would help reduce the name duplication problems that prevent many Pennsylvania judicial districts from using the list to diversify their juries.

Interpreter Services Committee

Statewide Language Access Plan: On March 28, 2017, the PA Supreme Court adopted a comprehensive Language Access Plan for the PA Unified Judicial System to improve access to justice for those with limited English proficiency and those who are deaf or hard of hearing. The plan provides for increased language access training and data collection procedures in all judicial districts, increased availability of translated forms and signage, and methods for identification of the need for language services at the earliest possible point in the judicial proceedings. The plan also requires judicial districts to appoint a language access coordinator to oversee the availability of services in their courts and includes timeframes for completion of the recommended actions.

Equal Opportunity and Diversity Committee

Amendments to Rules of Professional Conduct: The Commission submitted to the PA Supreme Court and the Attorney Disciplinary Board proposed amendments to the PA Rules of Professional Conduct, prohibiting discriminatory conduct by attorneys in the course of representing a client. The amendments are currently under consideration by the Court. Similar amendments, also drafted by the committee, were added to the Pennsylvania Judicial Conduct Code in 2014.

Mandatory Training: In December 2016, the PA Supreme Court adopted mandatory continuing judicial education requirements for judges in the appellate, trial and municipal courts. Currently under consideration by the Court is a request from the PA Bar Association and the Commission to include anti-bias/diversity training as a part of attorneys' mandatory CLE requirements.

Intersection of Race and Gender: Last year, the committee co-sponsored two programs for law students and young attorneys on the special challenges faced by women of color in the legal profession. A third program on the issue is scheduled to take place on June 27, 2017 in Pittsburgh.

Diversifying the Pennsylvania Judiciary: The committee conducted two trainings on this topic during the annual “Ready to Run” programs, sponsored by the PA Center for Women and Politics. The committee also co-sponsored training sessions for female and minority attorneys in southwest PA who are interested in running for judicial office. The committee’s 2013 guidebook, *Creating a Diverse Bench in Pennsylvania*, was the main written resource for all of these programs.

State Judiciary and Bar Demographics: The committee is compiling a current demographic listing of the PA judiciary and the bar. The AOPC also has begun collecting data on the race, gender and ethnicity of court employees, including judges, that will aid the committee’s efforts.

Domestic Violence and Sexual Assault Victims Committee

Human Trafficking: The committee has established an Anti-Human Trafficking Stakeholders’ Task Force to draft a statewide model protocol to address emergency housing and other vital needs of victims, as an alternative to arrest and criminal detention. The committee is also advocating for passage of S.B. 554, the “Safe Harbor Act”, to assist victims of human trafficking with support services and to decriminalize offenses victims are forced to commit by their traffickers.

Online Harassment of Women: The committee is working on legislation to address online harassment of women and to broaden the application of an existing law, prohibiting the dissemination of victims’ intimate images by individuals whom the victim does not know.

Rape Kit Backlog: The committee is collaborating with the Joyful Heart Foundation to eliminate the national rape kit backlog, by advocating for passage of amendments to the Debbie Smith Act. The amendments would increase funding for rape kit testing and require that rape kits receive priority by crime labs.

G.L.B.T. Rights Committee

Training on Treatment of LGBTQ Youth: The committee is working with Lambda Legal to conduct cost-free training sessions for judges, juvenile detention facility staff and juvenile probation officers on managing the special needs of LGBTQ youth in delinquency and dependency status.

Voir Dire and LGBT Bias: The committee is also collaborating with Lambda Legal on developing training sessions for judges and attorneys on how to conduct effective *voir dire* in a manner that uncovers possible LGBT bias among prospective jurors.

Protection Against Bias Based on Gender Identity or Expression: The PA Supreme Court amended its UJS Policy on Non-Discrimination and EEO and the PA Code of Judicial Conduct to prohibit bias based on gender identity or expression.

ABA Forum on LGBT Issues: The Commission served on the Host Committee for the Inaugural LGBT Forum at the May meeting of the ABA Civil Litigation Section. Program topics include, among others, *A Practical Guide to Creating an Inclusive Workplace; LGBT Rights and Religious Exemptions Claims; and LGBTQ Youth: Conditions in Foster Care, Juvenile Justice and Homeless Service Systems.*