

## **Pennsylvania NCREFC 2016 Status Report**

**Lisette McCormick, Executive Director (Lisette.mccormick@pacourts.us)**

**Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness**

The 24-member Pennsylvania Interbranch Commission for Gender, Racial and Ethnic Fairness 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's office, and the Supreme Court. The membership is organized into six committees whose recent work is highlighted below.

### **Criminal Justice Committee**

**Death Penalty Studies** - The committee's study of racial, ethnic and socio-economic disparities in Pennsylvania's capital justice system has been completed and the report is expected in June of 2016. The Pennsylvania Joint State Government Commission's Death Penalty Task Force, on which Executive Director Lisette McCormick serves, continues to work on a broader examination of the death penalty application. When completed, the reports will be submitted to all three branches of Pennsylvania government for review and use in implementing reforms recommended by the studies. In particular, the Governor will use the reports to inform his decision on whether to lift the execution moratorium he imposed last year.

**Indigent Defense Reform** - The committee continued its efforts to institute reforms in the indigent defense system by seeking passage of S.B. 276, which would establish, as an initial step, a statewide training institute to improve indigent defense representation in Pennsylvania.

**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 court administrators and President Judges.

**Debtors' Prisons** - The committee has also completed its research on the incarceration of indigent individuals for failure to make bail or to pay large court costs or fines, often for minor offenses. The committee is now working to support proposed legislation to address this problem and to educate judges about alternative means of ensuring a defendant's appearance at trial, other than cash bail, and alternative sanctions for nonpayment of fines and court costs.

### **Interpreter Services Committee**

**Language Access Advisory Group ("LAAG")** – The Administrative Office of the Pennsylvania Courts ("AOPC") recently established this group to draft a language access plan ("LAP") for the Pennsylvania Unified Judicial System. It is co-chaired by two president judges and comprised of foreign and sign language interpreters, district court administrators, lawyers, and representatives of state and county government. The LAP is expected to be completed within the year.

**Form Formatting and Translation** - Pennsylvania has obtained a grant to translate and format court forms under the Protection from Abuse Act and Protection of Victims of Sexual Violence Act. Additionally, court forms used in landlord/tenant cases have been translated by members of the Interpreter Services Committee of the Interbranch Commission.

**Language Access Data Collection** - The AOPC has produced an IT application, Language Access Data Collection (“LADC”), to track provision of interpreters by PA judicial districts.

**Training on Language Access** - The AOPC’s Coordinator for Court Access continues to present training on language access as part of the Minor Judiciary Education Board’s mandatory annual continuing education program for Magisterial District Judges. In addition, the First Judicial District has developed a multi-faceted Shadowing Program for prospective interpreters, providing a practical perspective on the daily work of interpreters employed by the courts.

**Interpreter Services Grant** - With the Governor’s support, the Pennsylvania Legislature appropriated \$1.5 million for an interpreter services reimbursement grant to help defray the cost of compliance with Title VI and the Pennsylvania Interpreter Act and regulations.

### **Equal Opportunity and Diversity Committee**

**Amendments to Rules of Professional Conduct** - The committee has submitted to the Pennsylvania Supreme Court and the Attorney Disciplinary Board proposed amendments to the Pennsylvania Rules of Professional Conduct, expressly 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 last year.

**Intersection of Race and Gender** - The committee co-sponsored two interactive programs on the special challenges faced by women of color in the legal profession: the first program took place in May 2015 and focused on young female attorneys of color; the second program took place in March 2016 and focused on female law students of color, as well as gay and transgendered students, from two local law schools.

**Diversifying the Pennsylvania Judiciary** - The committee conducted a panel presentation on this topic at the annual “Ready to Run” program at the Pennsylvania Center for Women and Politics at Chatham University. In addition, the committee co-sponsored a series of “Lunch and Learn” training sessions for female and minority attorneys in southwestern Pennsylvania who are interested in running for judicial office. The committee’s 2013 guidebook, *Creating a Diverse Bench in Pennsylvania*, served as the main written resource for both of these programs.

**State Judiciary and Bar Demographics** - The committee has launched an initiative to produce a current demographic listing of the Pennsylvania judiciary and the bar.

### **Domestic Violence and Sexual Assault Victims Committee**

**Human Trafficking** - The committee continued its advocacy and training efforts to bring the plight of sex trafficking victims to the attention of the legal community and the general public. Toward that end, the commission’s executive director presented educational programs for community organizations and bar associations throughout the state. The committee also supported the passage of the new Pennsylvania Comprehensive Human Trafficking Law and presented testimony before the Pennsylvania Senate Judiciary Committee in support of S.B. 851, the “Safe Harbor Act”. The Act would assist victims of human trafficking with support services and decriminalize offenses victims are forced to commit by their traffickers. The committee’s testimony helped secure a

unanimous vote by the Judiciary committee in favor of the legislation. The current challenge is to establish safe housing facilities for victims, where they can receive intensive services for their recovery but which do not result in re-traumatization of the victims.

**Online Harassment of Women** - The committee has also launched a new effort to help craft legislation to address online harassment of women in the gaming industry, and to broaden the application of an existing law prohibiting the dissemination of victims' intimate images to individuals whom the victim does not know.

### **Jury Service Committee**

**Updated Standard Jury Selection Procedures** - The committee has completed a major update and expansion of its 2007 report, *Suggested Standardized Procedures for Jury Selection*. The new report includes specific recommendations for making the selection process more efficient and the resulting jury pool more diverse. The recommendations are based on the committee's research of best jury selection practices around the country, including topics such as Jury Source Lists; Juror Summons Process; Jury Exemptions, Deferrals and Excusals; Collecting Juror Demographics; Juror Childcare; Jury *Voir Dire*; Juror Compensation; Juror Qualifications; Term of Service; Peremptory Challenges; Juror Security; Juror Privacy; Juror Failure to Report; and Standard Jury Instructions on Use of Social Media and Racial Bias During Jury Deliberations.

**Legislation re Juror Compensation and Juror Exemptions and Excusals** - The committee also submitted written comments to the Pennsylvania Senate Judiciary Committee on pending legislation on juror compensation and juror exemptions and excusals.

**Statewide Juror List** - The committee advanced its efforts to address the duplication problems with the statewide juror list by meeting with legislators to amend the law establishing the statewide system. The amendments would provide unique identification information to the AOPC to eliminate duplicate names on the list. This action would enable more Pennsylvania judicial districts to use the statewide list, thereby increasing the likelihood of establishing diverse jury pools.

### **G.L.B.T. Rights Committee**

**Whitewood Decision Impacts** - The committee has been working to amend state laws and administrative procedures that do not conform with the Supreme Court's Whitewood decision legalizing same-sex marriage in Pennsylvania. Most recently, the committee has been working with the Pennsylvania Department of Health on updating procedures governing the issuance of birth certificates for babies born to same-sex couples.

**Training on Treatment of GLBTQ Youth** - The committee arranged for Lambda Legal, a national research and legal advocacy organization, to conduct cost-free training sessions for Allegheny County judges, county juvenile detention facility staff and juvenile probation officers on managing the special needs of GLBTQ youth in delinquency and dependency status.

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