

Task Force on Public Information and Education
Commission for Impartial Courts
Judicial Council of California
San Francisco, California

November 6, 2007
10 a.m. to 2 p.m.

Summary Minutes

Task Force members present: Presiding Justice Judith D. McConnell, Fourth Appellate District; Dr. Frances Chadwick, Professor, California State University at San Marcos; Ms. Nanci Clarence, President of the Bar Association of San Francisco; Mr. Marshall Croddy, Director of Programs, Constitutional Rights Foundation; Judge Lynne Duryee, Superior Court of Marin County; Ms. Martha M. Escutia, attorney and former state Senator; Mr. John Fitton, Court Executive Officer, Superior Court of San Mateo County; Judge Edward Forstenzer, Superior Court of Mono County, by telephone; Mr. José Octavio Guillén, Court Executive Officer, Superior Court of Imperial County; Judge Steven E. Jahr, Superior Court of Shasta County; Judge Linda Lofthus, Superior Court of San Joaquin County; Judge Franz Miller, Superior Court of Orange County; Ms. Elizabeth Rindskopf Parker, Dean, University of Pacific, McGeorge School of Law; Presiding Judge David Sargent Richmond, Superior Court of Amador County; Mr. Jonathan Shapiro, Writer/Producer; Ms. Theresa Stewart, Chief Deputy City Attorney, San Francisco.

Advisory member: Mr. Timothy A. Hodson, Executive Director, Center for California Studies;

Steering Committee liaisons: Ms. Janis R. Hirohama, President, League of Women Voters

Task Force consultant: Mr. Bert Brandenburg, Executive Director, Justice at Stake Campaign, by conference call.

Staff: Mr. Peter Allen, Program Director; Mr. Philip Carrizosa, Communications Specialist; Mr. Douglas Denton, Senior Court Services Analyst; Ms. Lynn Holton, Public Information Officer; Leanne Kozak, Communications Specialist; Ms. Lynne Mayo, Administrative Secretary; Linda Theuriet, Special Assignments; and Ms. Daisy Yee, Administrative Coordinator.

Welcoming Remarks and Introductions

Presiding Justice McConnell, Chairperson, called the meeting to order at 10:10 a.m. For the benefit of new attendees, she invited those present to introduce themselves and provide brief background information.

Minutes

The minutes were approved without objection.

Chairperson's Report

Justice McConnell reported that the task force chairs met with Justice Ming W. Chin, chairperson of the commission, and it was decided that policy decisions would be made by an executive committee consisting of the chair of the commission and the chairs of each task force. The underlying theme of the commission's work is judicial accountability. The steering committee meets on December 3. For the sake of continuity, Justice Chin emphasized that only appointed members attend task meetings and not substitute representatives. Justice McConnell noted that task force meetings are also open to the public.

The commission will hold public hearings, probably in Los Angeles and San Francisco and possibly Fresno. Any related correspondence received by a member should be forwarded to Justice McConnell or Peter Allen.

Justice McConnell reported that she created three working groups to divide the work of the task force and asked a representative of each group to report on their work since the September 11 meeting.

Education Working Group

Working group reporter, Marshall Croddy reported on the group's teleconference stating that his group concluded that civics education for kindergarten through 12th grade students is needed because students currently lack the knowledge and skills to participate effectively in government. Accordingly, they are less likely to understand and support the judicial branch. The judicial branch does not reflect the diversity of California's population. To compound the problem, the federal "No Child Left Behind Act" does not teach civics and instead focuses on testing for math, literacy and science. That affects the least empowered students the most. There are standards for civics education, but they are not enforced. Civics is imbedded, not highlighted. (One member handed out copies of the California State Board of Education history-social science academic standards for kindergarten through grade 12.)

The underlying problem is with the state Department of Education, which responds to the wishes of legislators. Business interests were very effective in expanding the education and testing to include financial literacy and we need to enlist the support of business and other allies to include civics in the curriculum and testing. We should become involved in the development and modification of current and future standards. This is a long-term project and recommendation.

One mid-level recommendation concerns teacher development. The materials are available but not the resources to develop the teachers. The California Campaign for the Civic Education of Schools provides professional development for teachers. We should become a partner with that group. There is significant research on what is effective.

Task force chair reminded the members that they should think in terms of concrete proposals because specific recommendations are due in less than six months.

Public Outreach and Response to Criticism Working Group

Working group reporter, Nanci Clarence reported on the group's teleconference discussion remarking that we should partner with existing programs (bar associations, local courts, CJA) to provide education about the courts. The creation of a video on impartial courts should be considered. Point out recent events, e.g. contrast ours to societies without an impartial or independent judicial system.

It was pointed out that there could be an opportunity to educate young people about the courts by requiring some knowledge about the judicial branch on driver license tests. Another opportunity would be to teach high school students how to be jurors. We could teach through a video about the courts at Department of Motor Vehicles offices because it is one place that nearly everyone has to go to at some point in their lives.

Jurors should also be shown a video explaining why they are so important to the justice system. It would help if we enlisted celebrities or professional actors. Jury assembly rooms are equipped with audio-video. Jury videos exist which can be revised to include more on impartiality and accountability and tailored to fit the local community.

To avoid offending jurors who waited in a jury assembly room only to be informed that they are not needed, the judge (not attorney) should explain what happened and thank jurors for their patience and understanding. That task should be done by the judge and not a jury commissioner. A "thank you" postcard or a letter personally signed by the judge sends a nice message.

It is important to determine what we want the messages to be for the California audience. AOC staff reported that the Judicial Council Procedural Fairness Initiative Report contains messages relative to public perspective that might be of assistance.

The bar associations with developed programs could partner with sister counties on outreach programs and responses to criticisms.

Regarding response to criticism, Mr. Brandenburg said judges need to be in front of such efforts, not lawyers, because they are most credible. Throughout the public outreach discussion, members kept returning to the need for a short film or video that can be used by judges, teachers and presented to jurors. One member said it was important to have a video with an emotional impact, but also important to underscore the video message with a live presentation. Judges, for instance, could use the video for outreach to community groups.

The task force agreed there is no need for a separate working group on response to criticism but that we should evaluate how well such rapid response teams are working. The California Judges Association already has a rapid response protocol so we should include that as a resource.

Voter Education Working Group

Working group reporter, Janis Hirohama reported on the teleconference work of the group. The vital question is – what information do voters want and what can we give them? Voters do want information on qualifications, but they also want to know how judges will rule on specific issues. There is inconsistent availability of information regarding judicial candidates and their qualifications. Bar associations in some counties, for instance, conduct and publish judicial candidate evaluations, while others do not. Some counties charge for candidate statements in the ballot pamphlet, and others do not.

It was noted that work needs to be done with both the public and the judiciary in facilitating the availability of information. On the public side of the equation, voters need to be directed to useful sources of information on judicial candidates and educated as to what to consider when voting for candidates for judicial office. On the courts/judges side of the equation, judicial officers need to be encouraged to provide useful information to potential voters.

The working group discussed a number of ideas and potential projects, which can be roughly categorized into those that are relatively straightforward and could be implemented over a relative short period of time, and those that will require more time, more research, or more political will to implement.

Potential projects in the easier/shorter-term category include: creation of educational PSAs and video voter guides; use of multimedia tools such as podcasts, online videos; instant messaging, etc. to deliver voter education; compilation of best practices or toolkits for courts and judges on public outreach and voter education; educating judges about, and encouraging their participation with, nonpartisan sources of voter information (candidates forums, smartvoter.org, etc.); and working in partnership with bar associations and other groups to direct the public to nonpartisan sources of information on courts, judges, and judicial elections.

Potential projects that may require a longer time horizon include: reviewing costs of placing candidate statements in ballot pamphlets; federal franking privileges for information about judicial elections; and use of judicial performance evaluations.

Accountability (Judicial Performance Evaluations)

Consultant Brandenburg described judicial performance evaluation commissions and how they work. It was remarked that one problem is that voters *do* want to know how a judge would decide particular issues. Mr. Brandenburg said there is no good way of answering that question if it is asked. Others observed that there are relevant, quantifiable measures, such as reversal rates, or the time used by a judge to decide cases.

The group concluded that one task is defining what is meant by “judicial accountability.” The judiciary needs to take back the term and redefine it. It was suggested that it be defined as transparency and demystification of the judicial process. It was also recommended that the term be defined in terms of the rule of law. Include the word

integrity and the concept of a “nation of laws,” not individuals. Justice McConnell noted that *California Courts Review* magazine is supposed to publish opposing viewpoint articles on the concept in its next issue.

Reference Materials and Member Links

Mr. Eddie Davis, Senior Education Specialist with the Administrative Office of the Courts Education Division, provided an overview of Moodle and said it will be the repository for background information gathered by and for the task force. Each member will have to create a Moodle account, which is password-protected. Task force members will be e-mailed instructions.

Justice McConnell asked the members if we are missing any aspects of the task force charge. One member reiterated that we need to work with existing entities, e.g. California Campaign for Civic Education.

Proposed Schedule

Justice McConnell noted that the next task force meetings are scheduled for February 8 and May 2, 2008. It was agreed that future meetings will be held on August 26, November 7, 2008, and January 23, 2009.

A task force report is due in April so task force members must agree on a set of recommendations in February.

Working Groups

The following members have been appointed to or have volunteered to serve on the four working groups:

Education Working Group

Justice Judith McConnell
Bert Brandenburg
Marshall Croddy (reporter)
Dr. Frances Chadwick
Dean Elizabeth Parker
Timothy Hodson
Jose Guillen

Public Outreach and Response to Criticism Working Group

Justice Judith McConnell
Bert Brandenburg
Judge Linda Lofthus
Judge Lynn Duryee
Hon. Martha Escutia
Nanci Clarence (reporter)
Judge Steven Jahr
Judge David Sargent Richmond
Stephen Bouch
John Fitton
Jose Guillen

Doug Denton (staff)
Leanne Kozak (staff)

Voter Education Working Group

Justice Judith McConnell
Bert Brandenburg
Judge Franz Miller
Janis Hirohama (reporter)
Terry Stewart
John Hancock
Dr. Frances Chadwick
Judge Ed Forstenzer

Accountability (Judicial Performance Evaluation) – Appointed following meeting

Justice Judith McConnell
Bert Brandenburg
Jonathon Shapiro
Judge Lynn Duryee
Terry Stewart (reporter)

The meeting adjourned at 1:57 p.m.