

**Commission for Impartial Courts
Steering Committee Meeting**

**Southern Regional Office
Burbank, California
December 3, 2007**

Minutes

Steering Committee Members Present: Hon. Ming W. Chin (*Chair*); Mr. Mike Brown; Mr. Joseph W. Cotchett, Jr.; Hon. Peter Paul Espinoza; Mr. John Hancock; Hon. Brad R. Hill; Hon. William A. MacLaughlin; Hon. Judith D. McConnell; Hon. Douglas P. Miller; Hon. Dennis E. Murray; Hon. William J. Murray, Jr.; Hon. Ronald B. Robie; Hon. Karen L. Robinson; Mr. Michael M. Roddy; Ms. Patricia P. White

Steering Committee Members Not Present: Ms. Janis Hirohama, Hon. Barbara J. Miller, Mr. Charles B. Reed

Steering Committee and Task Force Staff: Ms. Christine Patton, (*Project Director*), Hon. Roger K. Warren, Ret. (*Scholar-in-Residence*), Mr. Peter Allen, Mr. Chad Finke, Mr. Michael A. Fischer, Mr. Mark Jacobson, Ms. Althea Lowe-Thomas, Ms. Susan Reeves

Guests and additional attendees: Hon. Ronald M. George, Chief Justice of the California Supreme Court; Mr. William C. Vickrey, Administrative Director of the Courts; Mr. Ronald G. Overholt, Chief Deputy Director; Mr. Kelly Burke, President KELCOM; Ms. Lynn Holton, AOC Public Information Officer; Ms. Beth Jay, California Supreme Court

Item 1 Welcome and Overview of the Meeting

Associate Justice Ming Chin called the meeting of the Commission for Impartial Courts Steering Committee to order at 10:05 a.m., welcomed the attendees and outlined the day's events.

**Item 2 Public Comments Related to Commission or Steering Committee Issues
(Subject to requests)**

Justice Chin noted that no requests for public comment were received and no members of the public were present.

Item 3 Report from Task Force Chairs

All four Task Force Chairs provided a report to the Steering Committee.

Judicial Campaign Finance

Judge William MacLaughlin reported that the Judicial Campaign Finance task force met November 27, 2007 and concentrated on identifying a number of issues including concerns related to campaign contributions by special interest groups. The task force discussed the state CAL-Access website, mandatory and voluntary limits on campaign contributions and timing of contributions, and addressed questions concerning mandatory disclosure, recusal and conflict disqualifications in addition to types of elections and electronic filing for judicial candidates. Two working groups have been established.

- Working Group 1, chaired by Judge Heather Morse, met on October 22 and will focus on issues related to campaign spending.
- Working Group 2, chaired by Judge Gail Andler, met on November 5 and will look at campaign contribution disclosure. Related issues discussed include regulation of judicial campaign advertising through enhanced disclosure.

Judge MacLaughlin reiterated that the task force is in the exploration phase and is thinking and speaking about many issues concerning judicial campaign financing. He noted however that the group is not endorsing any particular actions or making recommendations at this time.

The task force will meet next in San Francisco on February 4, 2008.

Judicial Candidate Campaign Conduct

Justice Douglas Miller reported that instead of meeting as a group, two working groups were formed and they met separately:

- The *White* Working Group, chaired by Justice Richard Fybel, will address issues arising out of *Republican Party of Minnesota v. White* (2002) 536 U.S. 765. The group met on October 29, 2007, and considered, among other matters, the lack of a definition of “impartiality” as part of the judicial canons, candidate conduct related to solicitation (personal or through organizations), disqualification and disclosure, and comments on pending cases.
- The Best Practices Working Group, chaired by Justice Maria Rivera, met November 5, 2007, and looked at rules for consideration of best practices such as adopting the Oregon system of model questionnaires and whether or not to consider legislating slate mailers. The group also discussed issues surrounding judges making public comments on pending cases.

The Best Practices Working Group will be meeting again in January, 2008, and the *White* Working Group will be meeting again on January 31, 2008.

Judicial Selection and Retention

Justice Ronald Robie reported that this task force met November 5, 2007, and discussed various subjects including the Commission on Judicial Nominees Evaluation (JNE Commission)

statistics and evaluation methods, different types of judicial elections and the Missouri style merit system as compared to the selection system in California. The next meeting will be held February 4, 2008. Bill Vickrey will attend to discuss the judicial selection system in Utah.

Public Information and Education

Justice Judith McConnell reported that this task force last met on November 6, 2007. She stated that outreach to the public is instrumental in achieving an understanding of the judiciary and what the courts are about. The task force has four working groups with various goals.

- The Education Working Group, chaired by Marshall Croddy, is focusing on K-12 education and civics education in particular. The group is considering expanded teacher training and partnering with the California Campaign for Civics Education. Other ideas include providing potential jurors with pamphlets or a civics video to view while at the courthouse, and connecting with the state Department of Education to include testing of civics knowledge and the role of the judiciary as part of the school curriculum.
- The Public Outreach and Response to Criticism Working Group, chaired by Nanci Clarence, discussed methods for education of citizens and providing outreach teams. Ideas include preparation of videos and toolkits to take out to various groups, outreach to high school students, making use of juror waiting time, and visiting the Department of Motor Vehicles to see how that “waiting time” could be utilized. The California Judges Association’s response to criticism video could be helpful in developing a model protocol.
- The Voter Education Working Group, chaired by Janis Hirohama, is exploring the use of videos, candidate pamphlets, and other multimedia educational tools. Partnering with the League of Women Voters, bar associations, and other groups was also discussed.
- The Accountability/Judicial Performance and Evaluations Working Group, chaired by Therese Stewart is looking at how judicial performance evaluations are used in other states, the protocol for the performance evaluations, and if the result is to help ease attacks on judges. Judicial accountability, an important aspect of the charge, needs to be defined in terms that are transparent and demystify the judicial process.

Peter Allen referred to a National Center for State Courts (NCSC) report that compiled instances of assaults on independence in several states. The report will be distributed to the Steering Committee members.

<p><i>ACTION – Steering Committee Staff to forward the William Raftery report contained in the January 4, 2007 edition of the National Center for State Courts publication “Gavel to Gavel” to all Commission for Impartial Courts Steering Committee members</i></p>

Item 4 Law Day Event – May

Justice McConnell spoke about the importance of using Law Day as a potential vehicle to get the word out about the Commission’s work to those attending law day events. The Steering

Committee members were invited to inform Justice McConnell or Justice Chin of their thoughts and ideas related to what might be a good way to approach this. Christine Patton suggested a packet or toolkit to use as a template would be helpful for the courts as well as supplying talking points so the messages are uniform and clear at each court sponsored Law Day event. Other suggestions include working with the local Bar Associations in getting the word out however being careful to note that there could be standards or limits with Bar Association parameters involving what they can provide for Law Day activities.

ACTION – The Public Information and Education Task Force will work on the tools/materials for distribution to the courts and bar associations to utilize as a template for Law Day activities.

Item 5 Discussion of Accountability

The committee members stressed the importance of keeping in mind that accountability is a large component of the charges undertaken. Justice McConnell indicated a conference call has been scheduled with her task force to talk about accountability with former Colorado Supreme Court Justice, Rebecca Love Kourlis, as she is experienced in this field. Hon. Roger Warren noted that accountability is a fundamental element of the commission and its charge to bring understanding of what accountability as a judge means in terms the public can understand and relate to. All task forces are involved in the issues of accountability. Accountable issues mentioned include:

- To whom, what and how is accountability defined?
- What standards are used by the public when electing judges?
- What kind of accountability system would California use and how do you explain the system to others?

All agree to have Judge Warren address these definitive components.

ACTION - Judge Roger Warren will send out communication discussion points related to the issue of accountability.

Item 6 Public Hearings

Justice Chin opened discussion on the issue of public hearings. The consensus was that public hearings will be essential to obtaining community input on the issues confronting the Commission.

Motion by Justice Chin to recommend appointment of a Steering Committee Sub-Committee to develop ideas promoting public hearings.

➤ *Motion carried – none opposed.*

Justice Chin appointed the following to the Sub-Committee on Public Hearings:

- Mr. Joe Cotchett, Chair
- Mr. Mike Brown
- Hon. Brad Hill

- Hon. William MacLaughlin
- Hon. Judith McConnell
- Hon. Douglas Miller
- Hon. Ronald Robie

Action: The Sub-Committee will meet and report back to the Steering Committee on public hearings` related information and suggestions.

11:45 am – 3:40 pm

Meeting closed for Executive Session

Minutes approved as of January 23, 2008 by a quorum of voting members of the Commission for Impartial Courts Steering Committee.