

THE OREGON SUPREME COURT
COUNCIL ON INCLUSION & FAIRNESS

Meeting Minutes

Date: Friday, November 19, 2021
Time: 1:00-2:41 P.M.
Location: Virtual only; WebEx

Members Present:	Hon. Adrienne Nelson (chair); Hon. Sheryl Bachart; Jim Belshe; Cathryn Bowie; Mariann Hyland; Ed Johnson; Hon. Melvin Oden-Orr; Kimberly Rockeman; Jessica Roeser; Gina Marie Stewart; Hon. Debra Velure
Members Absent:	Sophorn Cheang; Helen Hirschbiel; Karen Lee
Presenter(s):	
Guest(s):	Edward Alletto (CLAS); Blake Dye (HRSD); Rep. Maxine Dexter; JB Kim (OSB); Jon Pugsley (Representative Sanchez’s Office); Shannon Singleton (Governor’s Office);
Others Present:	Valerie Colas (OSCCIF Staff Counsel)

The meeting was called to order at 1:02 P.M.

WELCOME AND INTRODUCTIONS

Welcome and check in with Council members.

Justice Nelson introduced JB Kim, who is with OSB and will be appointed to finish serving Karen Lee’s term and Ed Alletto will be asked to serve on the Council as the interim program manager for CLAS. In addition, Justice Nelson thanked Judge Melvin Oden-Orr for agreeing to serve a second term.

Justice Nelson thanked members whose terms ended in November for their service to the Council: Representative Tawna Sanchez; John Haroldson.

MINUTES

Cathryn Bowie moved to approve the minutes from the May 2021 meeting. Jim Belshe seconded the motion.

ACTION: Council members approved the minutes from May 2021 meeting.

COUNCIL ON COURT PROCEDURE

Presenter: Hon. Adrienne Nelson

Materials: None

PRESENTATION:

- The Council on Court Procedure (CCP) created the Unconscious Bias Juror Video and asked that our Council recommend the use of the video in Oregon Courts, which we did. The video is being shown in several courts at this time on a voluntary basis – the number of courts is increasing. As a result of the video, the jury instructions in civil and criminal cases were updated at the beginning of this year.
- There has been a discussion by the CCP regarding ORCP 57 (peremptory challenges – which allows the parties to exclude a certain number of jurors without providing a reason). There are limitations to the peremptory challenges. Under the *Batson* case, jurors cannot be excluded based on race. Now, states and the CCP are exploring as to whether peremptory challenges should be modified or eliminated. This issue was also addressed by the Willamette University College of Law Racial Justice Task Force in which they recommended to abolish peremptory challenges in criminal proceedings. Arizona has eliminated the use of peremptory challenges. CCP recommends changes to ORCP and they have created a working group on peremptory challenges. The working group met in late October and has requested that OSCCIF send a representative. (There is a recording of the October meeting if anyone would like to review the discussion of the meeting). The working group includes judges, district attorneys, public defenders, and others.
- Justice Nelson asked whether any OSCCIF members would like to be the representative for the working group.

DISCUSSION

- Question regarding the work of Willamette University College of Law Racial Justice Task Force and their position on peremptory challenges.



FINAL DRAFT -
WUCL Task Force 2.0.

EQUITY FRAMEWORK FOR OJD

Presenter: Valerie Colas

Materials: Equity Framework Document

PRESENTATION:

- Valerie reviewed the Equity Framework document with the Council.

DISCUSSION

- There is no timeline as to when the Equity Framework must be complete, but this would be helpful to have sooner rather than later. Some of the different programs, divisions, and grants require that the use of an equity framework/lens. For instance, the Juvenile and Family Court Programs Division has been exploring as to whether they should adopt their own equity framework or use the one adopted by DHS.
- Recommend that add a definition or explanation for what “white supremacy” means.
- Review of underserved communities and marginalized individuals:
 - Justice Nelson recommended that a note be added to state that this is a living document and that other groups may be added as necessary to the list of those who may experience disparate outcomes.
 - Ed Johnson noted that there needs to be consistency in the document on whether we are referring to communities or individuals.
 - Discussion about whether we should identify those living in rural communities.
 - Communities identified should be guided as to whether the community experiences disparate outcomes.
 - Those in rural communities have been noted to have difficulty in accessing our courts due to the distance. There is also information that many issues for the other communities listed happen in rural communities.
 - Question about whether juveniles in accessing the system and houseless individuals need to be added or would that be included under economically disadvantaged -- the broader descriptor?

- Believe that the broader descriptor encompasses this but open to further discussion
 - Would recommend that we not use the acronym for LGBTQIA+ because people may not know this acronym.
 - We should highlight that this list is not ranked in any order. This should not be in a list.
 - Perhaps we can use a graphic (pie chart or Venn diagram) that shows these groups overlap to move away from a list. These are not exclusive, there is intersectionality in these groups.
- Definitions not provided in this document to make this document accessible and easier. Will provide definitions on the OJD EDI and Belonging SharePoint site to keep it updated.
 - Recommended that we connect with the Governor's Office to ensure consistency in the definitions across the executive and judicial branch.
- The tone of document is very accessible, easy to read and explains the why. Would suggest that the document includes in the understanding section the trauma-informed, like ACES (adverse childhood experiences, racism is being recognized as a form of trauma, and interfacing with the system is a form of trauma as well).
 - We should think about this even if it cannot be added this round perhaps in the future.
 - We should also explore training around trauma. Would recommend Alisha Moreland-Capuia.
- How will judges use this or impact their judicial authority?
 - This would be a guide for judges to use as a tool to ensure that their courtrooms are inclusive.
 - Judges are being asked to review the policies and procedures through an equity lens. In addition, our specialty courts are also being asked to have a framework to guide their policies and procedures.
 - The framework is about the way we operate our courtrooms not how to apply the law to a particular case. Perhaps provide other examples; however, there is a concern about making this document too long. Instead, could we provide additional resources for individuals to refer to.
 - Would recommend that we move the example to another part of the document.
- What does final vote adoption mean for OJD?

- It is a directive to use in making decisions whether these decisions are made by our OSCA divisions or in our courts. Also hoping to provide more education and training to staff through the webinar series on how to apply the equity framework in our work.

Judge Melvin Oden-Orr moved that the Council recommend that OJD adopt the Equity Framework document with amendments and feedback from Council. Jim Belshe seconded the motion.

ACTION: Council members approved the motion.

SUBCOMMITTEE AND WORK GROUP UPDATES

We have three standing subcommittees: Community Engagement, Data Analysis, and Workforce Development. We also a standing Work Group for the Equity Framework. The adoption of Equity Framework document by Council sunsets the Equity Framework Work Group currently. The only substantive report on subcommittees to provide to Council is on the Data Analysis Subcommittee.

Data Analysis Subcommittee

Presenters: Valerie Colas and Hon. Adrienne Nelson

Materials: None

PRESENTATION:

- The subcommittee continues to have ongoing, monthly meetings to provide recommendations on OJD adopting a policy to collect race, ethnicity, and gender demographic data in cases.
- We are reaching out to the Law and Policy Work Group to get their feedback especially on what protections there may be to this information we collect. Some of this information will be public but will see what we can protect or keep confidential or de-identify the data to ensure the privacy of the individual.
- We are also engaging with other community organizations about our efforts to draft this policy.
- OJD is also having its own discussions with Tyler to determine whether changes could be made to Odyssey to allow for the recommendations by the subcommittee on the categories to use. Other states have joined those discussions. In the meantime, OJD may still have to create a separate database to collect and store this information because there may still be limitations to the changes that Tyler can make.

DISCUSSION:

- Did we check with anyone from Criminal Justice Commission?
 - We did but their data is from Department of Corrections and the categories they use are limited.
- Another source to help with identifying categories would be Court Language Access Services. Another to help us identify categories would be our treatment courts.
 - Recommended that OJD also reach out to OPDS for the PCRCP data that they have in parent-child representation cases.

UPDATES ON OJD STRATEGIC CAMPAIGN INITIATIVES AND OTHER PROJECTS

OJD Strategic Campaign Initiatives 2.1 and 4.1

Presenter: Valerie Colas

Materials: Strategic Campaign 2020 Two-Pager



PRESENTATION:

OJD is going to extend its strategic campaign to next year. The strategic campaign teams continue to work on the projects/actions identified.

Initiative 2.1 – We will launch and participate in collaborative initiatives to better serve self-represented litigants throughout the state.

(Team: Valerie Colas and Nanci Thaemert – Co- Leads; Erin Pettigrew – Executive Lead; Judge Jenefer Grant and Judge Maureen McKnight – Judge Sponsors; Tina Qualls – Trial Court Administrator Sponsor)

- We are still moving forward with this initiative. Efforts include:
 - Legal portal project: The OSB has drafted an MOU for the primary stakeholders to sign. We are also working with ThinkShout to help engage with users and get their feedback about design and accessibility.
 - We are working on increasing facilitation services and remote facilitation services.

- Developed legislation and received funding to support a centralized remote facilitation program in child support cases (Title IV-D cases).
 - Recruited and hired dedicated staff to implement a remote facilitation program.
 - Developing IV-D partnerships for facilitation in child support cases including negotiating an agreement with the Oregon Department of Justice to provide for pass-through federal funding for Title IV-D eligible work.
 - Exploring a pilot project for expanded remote facilitation services to provide necessary information, modeling, and support.

Initiative 3.1 – We will enhance the public’s trust and confidence ... by listening and responding to the needs of those we serve[.]

(Team: Valerie Colas – Lead; Erin Pettigrew – Executive Lead; Justice Adrienne Nelson -- Judge Sponsor; Trina Swaja – Trial Court Administrator Sponsor)

- The initiative team has been working with the Community Engagement subcommittee and developed an outreach toolkit in addition to updating the Access and Fairness Survey, which is a key performance measure (KPM) for OJD.
 - Court Language Access Services (CLAS) has translated the Access and Fairness Survey to the top 5 languages used in our courts.
 - We had to postpone the launch of this survey due to another survey that was going to overlap with some of the questions of the Access and Fairness Survey about the court’s response to COVID and providing remote hearings.
 - The Access and Fairness survey will launch next year, giving TCAs more time to assist in the campaign to get responses.
- We will work on developing webinars or other helpful materials to provide courts guidance on how to engage in their own community outreach and to develop their community outreach plans as was recommended by the Council.

Initiative 4.1 – We will provide judges and staff with ongoing education and training in the areas of diversity, equity, and inclusion. (There is another similarly related initiative to provide training to court security personnel – Initiative 4.2).

(Team: Valerie Colas – Lead; Kimberly Rockeman – Executive Lead; Judge Darleen Ortega – Judge Sponsor; Barb Marcille – Trial Court Administrator Sponsor; Blake Dye - HRSD)

- Ongoing projects are OJD webinar series, SharePoint Site, Signature Counter Experience pilot project with Massachusetts court DEI office.
 - We have our ongoing webinar series. Blake Dye and Valerie Colas are planning next year's webinars, finding ways to increase and track attendance, and getting feedback from participants.
 - SharePoint site continues to be updated, and it is a resource for staff and judges.
 - Signature Counter Experience Pilot training at Marion County Circuit Court was done virtually. We also provided the Signature Counter Experience training in person at Multnomah County Circuit Court. However, Multnomah County Circuit Court was able to get through only the first part of the training and the second part was postponed due to the pandemic.
- Next year, we will be focusing on providing self-guided trainings, rolling out the signature counter experience, and starting the Office of Engagement, Equity, and Inclusion as well as recruiting for another staff attorney.

DISCUSSION

- Justice Nelson wanted to acknowledge the work and efforts of OSCCIF to help in the establishment of the Office of Engagement, Equity, and Inclusion.
- Jim Belshe also shared that the trial court administrators had their meeting and started to have statewide discussions about how to support and engage in EDI efforts as well as engaging in their own trainings. This is a significant for OJD to have these conversations statewide and willingness of leadership to move this with urgency.

OTHER BUSINESS

- CLAS has drafted their Language Access Plan and is asking for feedback, which is due December 3rd. Ed Alletto thanked the Council for their assistance and feedback at the May 2021 meeting. Everyone should have received an email from the State Court Administrator with the draft plan asking for further feedback. Please share this with your networks.

THE GOOD OF THE ORDER

- Mariann Hyland shared that OSB Labor and Employment is having its conference on December 3rd and the keynote speaker will be Chief Justice Walters. There is great programming and encourages everyone to check it out.

- Justice Nelson wanted to acknowledge Judge Melvin Oden-Orr and Valerie Colas for the work and video for the Convocation on Equality that happened earlier this month.