**Beyond the Bench**

**Law, Justice, and Communities Summit**

Planning Committee Meeting Summary

October 13, 2016

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| **Attendees:** |  |
| Justice Eva Guzman (Supreme Court of Texas) | Sarah Cotton Nelson (CFT) |
| Reverend Dannie Archer (Waco) | Carmen Roe (Carmen Roe Law Firm) |
| Justice Ada Brown (5th COA) | David Slayton (OCA) |
| Judge Darlene Byrne (126th ‐ Austin) | Tina Vagenas (NCSC, on behalf of Chief Justice Eric Washington) |
| Sheila Craig (CEDD) | Judge Carlos Villalon, Jr. (CPC ‐ Edinburg) |
| Rick Figueroa (TJC) | Judge Cyndi Wheless (417th – McKinney) |
| Michelle M. Fraga (Fraga Law Firm) | Nina Hess Hsu (Supreme Court of Texas) |
| Chantel Hobbs (Dallas Faces Race) | Michael Cruz (Supreme Court of Texas) |
| Sam Houston (TYLA) | Tina Amberboy (Supreme Court Children’s Commission) |
| Marie Jamison (Wright & Close) | Kristi Taylor (Supreme Court Children’s Commission) |
| Judge Sharon Keller (Court of Criminal Appeals) | Jamie Bernstein (Supreme Court Children’s Commission) |
| Mary McQueen (NCSC) | Monica Mahoney (Supreme Court Children’s Commission) |
|  | Jessica Arguijo (Supreme Court Children’s Commission) |
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**1) Welcome / Planning Committee (PC) member introductions**

**2) Background.** The content will be focused on the following ideas:

a) Despite courts’ substantial efforts to address issues of racial and ethnic fairness,

public skepticism remains widespread.

b) A recent survey conducted for the National Center for State Courts found that only

32 percent of African Americans believe that state courts provide equal justice to all.

c) We want to explore with state leaders how to improve the public’s trust in the

judicial system and to what extent unconscious bias may explain this disconnect.

d) Research shows that individuals develop implicit associations and stereotypes as a routine process of sorting and categorizing the vast amounts of sensory information they encounter on an ongoing basis.

e) Intuition can be accurate, but can also be a source of erroneous judgment.

f) Unconscious bias affects everyone, but as judges we can bring people together and lead the discussion.

g) The concept is bringing together representatives from multiple perspectives (judiciary, city leaders, community leaders, faith based leaders, law enforcement, service providers, attorneys, etc.) to discuss the impact of unconscious bias and to provide opportunities for listening and learning.

h) Dr. Jeffrey Rachlinski, a professor at Cornell Law School and expert on the topic, suggests a new model: “intuitive‐override” which provides a more accurate account of judging and points to several reforms that the civil and criminal justice systems could implement to produce more just and accurate outcomes.

**3) Event Agenda**

a) **Welcoming Remarks** from Chief Justice Nathan Hecht

b) **Keynote Speaker.** Justice Guzman will introduce keynote speaker. Some ideas include Chief David Brown of Dallas Police Dept. or Sherrilyn Ifill from the NAACP.

c) **Testimonials.** After a short break, we propose 3 testimonials from community, law enforcement, and judicial leaders.

*Comments from the PC:*

 *Service providers who advocate for the community would be a good choice for*

*testimonials because they understand those impacted by injustice.*

 *Consider video testimonials if there is concern that testimonials might be unwieldy.*

 *Some of the discussion will be uncomfortable, but the event should be a safe space*

*to work through the discomfort toward better understanding.*

 *A good moderator can also help maintain a constructive environment.*

 *Mary McQueen noted that the testimonials had the greatest impact in past two*

*listening tours; she highly recommends.*

 *The invitee list is mostly decision‐makers, so we need to ensure that testimonials*

*are from those impacted by the decision‐makers.*

d) **Working lunch.** Dr. Rachlinski will give a PowerPoint presentation on unconscious bias and its impact on decision‐making.

e) **Fact Pattern Panel Discussion**. Dr. Rachlinski will moderate a panel discussion based on the Beyond the Bench model. It will include a fictitious fact pattern and the panelists will present different perspectives at various decision‐making points.

Current concept involves a 16 year old African American boy who is placed in a foster home in a rural community. The youth gets into a fight where the other boy hits his head as he falls, so the youth is ultimately charged with assault with seriously bodily injury, which is a second degree felony creating the possibility that the youth could be tried as an adult. As the young man is detained by the police

there is a question of excessive force. The panel members would be asked to discuss

their perspectives at the following decision points:

 School Administrator – whether or not to recommend an arrest; whether to pursue in‐school discipline.

 School Resource Officer ‐ whether to arrest or not; whether to detain youth or not; and how much force to control situation;

 Back up police officers – how much force to use to control situation.

 Prosecutor – whether to prosecute case; and whether to certify as an adult.

 Defense lawyer – whether to research and introduce mitigating information; and whether to counsel client to accept a plea.

 Judge – whether guilty or innocent; sentence or accept plea agreement.

 Media – which angle is highlighted: the hometown kid injured by African

American foster kid, or possible excessive force used in arrest.

 Police Chief – whether to investigate excessive force.

 Caseworker – whether to reconsider placement and mental health needs of youth.

*Comments from the PC:*

 *The Beyond the Bench model is a very powerful engagement opportunity. (Another judge seconded this comment.)*

 *The fact pattern choice is great because it can draw in both criminal and civil courts.*

 *Including the educational system is a good idea. (This was seconded.)*

 *Twelve panel members may be too many. Consider 8‐10 members, or bringing out*

*6 and then another 6.*

f) **Deliverables.** To ensure takeaways for the participants, there will be a breakout session.

*Comments from the PC:*

 *The breakout session should be multi‐disciplinary. (This was seconded.)*

 *Each breakout group should have a facilitator.*

 *Consider giving the breakout groups 2‐3 discussion points based on the fact pattern.*

 *Ask each participant to submit one idea on how to improve court and community engagement. This could be written anonymously, scored by another participant, and then exchanged again until the highest scored ideas are given to the closing speaker to integrate into the closing remarks.*

 *Planning Committee members can help facilitate the breakout sessions.*

 *Justice Ada Brown and Chantel Hobbs volunteered to facilitate.*

g) **Closing remarks** will tie in all the themes of the day and energize the participants with a call to action.

*Comments from the PC:*

 *Michael Sorrell, President of Paul Quinn College, is a wonderful orator and should be considered for the closing speaker role.*

**4) Invitation List**

 Judges

 Lawyers (District and County Attorneys, PD, Legal Aid Providers, Bar

Associations)

 Law Enforcement

 State and Local leaders (mayors)

 Systems representatives (TJJD, Health and Human Services, Education)

 Legislators

 Faith Community

 Service Providers

 Nonprofits/Philanthropy/Advocacy Organizations (NAACP, United Way, etc.)

 National Organizations

 Academia (Law Schools, HBCUs)

 Media

*Comments from the PC:*

 *We must ensure that we have enough community representation.*

 *Include representatives from each of the three federally‐recognized tribes in Texas.*

 *Tiered invitations are recommended.*

 *Invite non‐profit leaders with experience building bridges.*

 *Add representation from Health, Mental Health, Housing and Employment systems.*

**5) Next Steps**

a) **Two more meetings**

 Week of 11/07

 Week of 11/28

b) **Action Items**

 Please send your suggested additions to the invitation list by Friday, October

14th at 5pm. We hope to send a save the date on Monday and it will be helpful to have your suggestions as soon as possible.

 To expedite securing speakers and finalizing the attached agenda, please send in suggestions for the following no later than 5pm Friday, October 21st:

o Keynote speaker

o Testimonial speakers

o Testimonials moderator

o (6‐12) Panelists for the fact pattern

o Facilitators for the breakout sessions

o Speaker for closing remarks