



**North Carolina Commission on the Administration of Law and Justice
Committee on Public Trust and Confidence**

Meeting Minutes / May 17, 2016

MEETING DATE	May 17, 2016
TIME	10:30 a.m. – 2:00 p.m.
LOCATION	NCJC, 901 Corporate Center Drive, Raleigh NC, 27607

Attendees

Chair: J. Bradley Wilson

Members: Dean Martin Brinkley, Sheriff Earl Butler, Douglas Clark, Franke Emory, Juan Flores Jr., John Hood, Dale Jenkins, Dean Suzanne Reynolds, and Dean Michael R. Smith (Ex-Officio).

NCCALJ Staff: Will Robinson and Emily Portner

Reporters: Jon Williams (Chief Reporter), Andrew Atkins, and Mildred Spearman.

Administrative Matters

The Committee previously reviewed the topics Strengthening Civics Education, Public Survey, and Access to Information, and Fair and Equal Access. The Committee was provided the opportunity to review the revised preliminary draft recommendations and make further comments. Will Robinson updated the committee on the plans for the August public meetings, asking that two members from the PTCC agree to be present at each of the four public meetings.

Discussion

1. Elimination of Bias

The Committee discussed the concept of procedural fairness. The term procedural fairness is a term of art, and it was noted that the introductory paragraph needs to make that clear. The Committee decided to change the term “elements” to something like “principles.” The committee reviewed the components of procedural fairness as described in a white paper (voice, neutrality, respectful treatment, and engendering trust in authorities). The Committee also discussed the importance of ensuring that the public survey be aimed at measuring how well the courts are adhering to the public’s expectation of procedural fairness.

The Committee discussed the concept of implicit bias. The Committee believed the recommendation for training initiatives and educational materials should be combined. The Committee also discussed that surveys should go beyond “court participants” and include family members or other observers who are familiar with the process.

The Committee discussed the recommendations under the heading Institutionalizing a Bias-Free Environment. The Committee discussed what data is already collected and what data is not currently collected. It was suggested that the recommendation may be more effective to the extent it recommended a research program rather than specifically recommending the collection of data. The Committee also discussed whether the recommendation to measure disparate impact should be written more broadly, and if not, whether the term “minorities” should be defined. The Committee generally moved towards public survey of both participants and observers. The Committee discussed whether these recommendations were duplicative of the implicit bias recommendations, but the Committee generally determined that they were two different concepts that should be addressed separately.

The Committee did not review recommendations that were already reviewed and/or that were in other sections.

2. Just, Timely and Economical Scheduling and Disposition of Cases

The Committee discussed the case management recommendations. The Committee raised the concern that specialty courts may erode the General Court of Justice. Nonetheless, the Committee believes there may be benefits to specialty courts and, therefore, continues to recommend that the Judicial Branch evaluate when they are feasible and appropriate.

The Committee discussed performance metrics and data analytics. The Committee decided to add a recommendation for the Judicial Branch to evaluate how data collection could be standardized across judicial districts.

The Committee discussed the recommendations under the Technology heading. The Committee decided to add a recommendation that would provide for increased access of information to the public through web-based technology.

The Committee reviewed the general recommendation regarding evaluating the Judicial Branch’s fee structure. The Committee noted that the recommendation should explicitly include an evaluation of a person’s income.

3. Judicial Selection

The Committee agreed with the bullet points under the Separation of Powers heading. The Committee then discussed what “competitive” meant in terms of judicial salaries. It was noted that the best comparison may be to judicial officers in other states, where North Carolina ranks low. The Committee noted that it was unlikely that the State could compete with private salaries, except with intangibles. The Committee further decided to change the term “increase” to “establish.”

The Committee discussed the selection and retention of judges. At the outset, it was noted that the NCBA Standing Committee on Judicial Independence provided a draft white paper with a recommendation; however, that recommendation has not been voted on by the NCBA. Nonetheless, the Committee was in general agreement that that proposal provided a good place to start, acknowledging the general need for change to the judicial selection process. The Committee noted that, generally, a system with gubernatorial appoint, Senate confirmation, and retention would be helpful in reducing the degree of influence politics had in judicial selection. However, politics could never be completely removed. Some concern was also raised as to whether district court judges should be treated differently as per the NCBA Committee's proposal. The Committee also discussed the comment that many judges are already appointed and essentially run unopposed, effectively creating *de facto* retention. The Committee will also consider whether it should make a recommendation on how to formalize the lobbying efforts surrounding judicial appointments.

The Committee discussed qualifications for judicial candidates. It was determined that a constitutional amendment would be required. The Committee requested more information about qualifications for judicial officers in other states prior to making a recommendation.

The Committee discussed the recommendation related to conflicts of interest. The Committee noted issues tied to independent expenditures being permitted to required judges to recuse. The Committee decided that it would need additional information on how Judicial Standards functions to determine if it should make a recommendation.

Next Meeting

Date: Friday, June 10, 2016

Time: 10:30 a.m. to 2:30 p.m.

Location: North Carolina Bar Center, 8000 Weston Parkway, Cary, NC 27513