



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

Meeting Minutes / October 8, 2015

MEETING DATE	October 8, 2015
TIME	10:30 a.m. – 1:30 p.m.
LOCATION	NCJC, 901 Corporate Center Drive, Raleigh NC, 27607

Attendees

Chair: J. Bradley Wilson

Members: Dean Martin H. Brinkley, Sheriff Earl Butler, Douglas Clark, Frank Emory Jr., Juan Flores Jr., Representative Ken Goodman, Frank B. Holding, Jr., John Hood, Senator Floyd B. McKissick Jr., Robert C. Stephens; Dean Suzanne Reynolds, Dean Michael R. Smith (Ex-Officio), and Representative Sarah Stevens (Ex-Officio).

NCCALJ Staff: Will Robinson and Emily Portner

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

Administrative Matters

The committee members unanimously approved the meetings from the September 30, 2015 minutes.

Mission

Mr. Wilson discussed his vision for the committee. The work of the committee and the Commission has not been undertaken in a long time. He challenged the members to think big, but also to think practically. The committee members must find where policy and political realities align, so the committee can recommend changes that have adequate support to result in implementation.

Discussion

The group discussed items that had been identified as possible topics for discussion, topics that should be consolidated and/or removed from that list, and the means by which the committee can explore those topics. The committee did not seek to develop solutions at this time. The committee will evaluate and rank the remaining issues to see if there is common agreement as to which issues should be prioritized. Specific points from the discussion are summarized below.

Discussion of New Topics

- The committee elected to consider reviewing how the efficiency of superior court judges can be evaluated and how that efficiency can be improved by developing a system to redeploy judges that are not being utilized fully.
 - This could include rearranging of districts and may require constitutional amendment. Relatedly, there may also need to be an assessment of how judges are allocated across the State.
 - More efficiency could be gained from electronic filings and tracking.
 - The Confrontation Clause requirement in *Melendez-Diaz* was raised as a possible impediment.
 - Redeployment of judges would require a person in AOC that could make such assignments on short notice.
 - Many cases are continued by the DA by agreement, and advance notice could be required to shorten the docket.
 - The committee received a brief introduction to how the assignment of judges currently works in both the superior and district courts.
 - The public thinks that that resolution of cases takes so long due to lawyers drawing things out, not lack of public funding.
 - The public often encounters courts in their service in a jury pool, where they frequently feel their time is wasted.
 - Efficient use and scheduling of superior court judges is an important topic that the committee should continue to consider.
- North Carolina is one of two states where 16 and 17-year-olds are tried as adults.
 - This conversation may fit in the larger context of another related topic, overcriminalization of conduct.
 - Reducing the juvenile age is often met with opposition from the Sheriffs' Association and the General Assembly.
 - Opposition from the sheriffs generally is based on capacity issues associated with housing juveniles. Jails are not set up for housing many juveniles, who must be separated from adults. The capacity in juvenile detention centers is an issue. Capacity issues also result in law enforcement time involved in transporting offenders.
 - There is concern about keeping 16 and 17-year-olds with younger juveniles in such facilities.
 - There has been an increasing amount of violent conduct from juveniles, with a view that 16 and 17-year-olds are given an increasing amount of freedom, but then are not being held responsible for their conduct.
 - The juvenile system has more flexibility to sentence juveniles than adult courts.
 - The conversation likely should be centered on what types of offenses are covered under each system.
 - For what crimes can treatment be effective to decrease recidivism?
 - The committee may want to consider what discretion judges have and how exceptions can be made.
 - The committee was given a brief summary of how the juvenile system currently functions and how 16 and 17-year-old offenders are treated in the system. Significant variation exists among the different counties, as many have diversion programs.

- Funding appears to be a significant issue that would need to be addressed to implement changes.
- Reducing the juvenile age will be kept on the list for consideration, though there would have to be an evaluation as to whether it truly belonged primarily in this committee.
- Overincarceration was raised as a possible topic for discussion, as some believe it creates a crisis in public perception of the court system.
 - Perhaps the opposite may be true, and maybe we are incarcerating people for the wrong things.
 - Many people are sitting in jails for years just waiting to be tried.
 - This results in a significant number of lawsuits against law enforcement.
 - Reducing the prison population would have significant cost savings that could be used to implement other changes.
 - Lots of prisoners are in prison due to probation violations. Giving more discretion to probation officers may be effective (e.g. “quick dip” programs).
 - The Justice Reinvestment Act has been successful in reducing the prison population, which results in savings.
 - The issue of overincarceration should be included in the committee’s initial list, but it must be evaluated as to whether it belongs primarily in this committee.
 - Overincarceration and overcriminalization should be treated as separate topics.

Discussion of Previously Identified Topics

- Item #7 from “Potential Topics for Exploration/Member Suggestions”
 - The legislature already has adopted retention elections for Supreme Court Justices.
 - The Court of Appeals, however, is not elected by retention and now, while nonpartisan, candidates are identified by partisan affiliation.
 - This field has been plowed and there is a lot of information about this issue. Hopefully, the committee will be able to use that information, and not reinvent the wheel. What does this committee hope to do that has not been done?
 - Partisan consideration likely lead to retention in only the Supreme Court.
 - States that have retention elections have noted a high retention rate.
 - Partisan identification can lead to a perception of how that individual will decide, whether or not it is actually true.
 - The move to some retention elections could possibly provide momentum to address this issue.
 - There is truly no such thing as nonpartisan elections, which may provide a reason not to elect judges.
 - This committee intends to suggest what is best for the State, regardless of party interest. It may be worthwhile to set a standard to aspire to.
 - The committee should determine whether this actually matters to the public.
 - It can be difficult to completely remove partisanship from the process.
- Item #5 from “Potential Topics for Exploration/Member Suggestions”
 - The issue of whether defendants have fair representation with court-appointed attorney seems a better fit for the Criminal Investigation and Adjudication Committee, and was removed from further consideration by the committee.

- The Chair will share this topic suggestion with the Criminal Investigation and Adjudication Committee for further consideration.
- Items # 9, 15, 16, and 25 from “Potential Topics for Exploration/Member Suggestions”
 - These issues all deal with the current view of the citizenry’s level of trust in the judiciary, and should be combined into one topic for further consideration.
- Items # 3, 10, 14, 23, 26, and 27 from “Potential Topics for Exploration/Member Suggestions”
 - These issues all deal with variations of access to the court system and the impact of socioeconomic status, and should be combined into one topic for further consideration.
- Items #24 from “Potential Topics for Exploration/Member Suggestions”
 - Helping to educate the public about the role of lawyers was viewed as outside the purview of the committee, and this topic will be removed from further consideration.
- Items # 1, 2, 7, and 11 from “Potential Topics for Exploration/Member Suggestions”
 - These all deal with elections and financing of elections, and will be combined into one topic for further consideration.

Public Polling

The committee briefly discussed public polling, and suggested that polling specific to North Carolina would be beneficial. The general view is that national polling was not extremely useful for our purposes.

Survey Procedures

The reporters will compile all topics for exploration into a document. Members who wish to submit additional topics for consideration may continue to submit ideas until October 12, 2015. The reporters will draft and submit the compilation to the members, who will rank the topics in priority order consistent with the charter of the group. The ranking should be based on the importance of the issues as a whole and the potential for practical solutions. The ranking of the topics will be available by the next meeting.

Next Meeting

Date: Tuesday, November 17, 2015

Time: 10:30 a.m. to 3:30 p.m.

Location: North Carolina Judicial Center, 901 Corporate Center Drive, Raleigh NC, 27607