

NAWJ Administrative Judiciary Committee

2022 Midyear Report

Submitted by: Emily Chafa and Susan Formaker, Co-Chairs (since October 2019)

The NAWJ Administrative Judiciary Committee meets every month on the 3rd Friday of the month at 2 p.m. CT/3 p.m. ET/12 p.m. PT. We use a co-chair's personal Zoom account to avoid schedule conflicts with other NAWJ meetings.

We are active or retired administrative adjudicators (ALJ/AJ/IJ, other job titles) at the federal, state and local levels. We handle or handled a wide variety of dockets involving appeals of administrative actions taken by governmental agencies. We currently welcome 18 members to each committee meeting, including two judges who serve in state courts, not administrative tribunals. Others are always welcome and encouraged to join us.

The committee thoughtfully and respectfully discusses various topics and issues of interest to the administrative judiciary at each meeting. Through these conversations, we learn about the diversity of our experiences, jurisdictions, hiring processes, and agency hierarchy.

The committee will present a webinar on April 21, 2022, with panelists describing their paths to the administrative judiciary. This program will include judges in federal, state and local administrative tribunals. We're seeking co-sponsorship from other affinity bars to help us spread the word on the webinar and promote attendance. The NAWJ Immigration Committee is co-sponsoring this program.

The committee will present a program at the 2022 NAWJ Annual Conference, focusing on commercial truck drivers and new laws relating to human trafficking and driving while impaired for CDL (Commercial Drivers License) holders. This program is entitled:

"Mastering Masking: Understanding CDL Licensing Implications of Impaired Driving and Human Trafficking" – 2-hour course with an intended audience of judges and legal professionals. These criminal charges and corresponding administrative sanctions involve judges with criminal dockets and administrative law judges in state and local tribunals. Gwen D'Souza is planning this program. The NAWJ Human Trafficking Committee is co-sponsoring this program.

The committee continues to monitor and discuss the ABA JD NCALJ conversations, programs, and actions relating to a proposed federal central panel resolution. Several of our NAWJ Administrative Judiciary Committee members are also involved in ABA Judicial Division NCALJ leadership.

The committee discussed the proposed independent immigration court, receiving updates from a committee member familiar with the congressional process.

The committee continues to discuss timely topics of interest to the administrative judiciary at each meeting. Our agendas are flexible, to allow us to address the most important issues facing our members.



February 24, 2022

Report of the Awards Committee

Chairs: Honorable Ariane D. Vuono and Honorable Cindy Davis

Each year the Awards Committee requests nominations for the Honorable Joan Dempsey Klein Honoree of the Year Award and for the Florence K. Murray Award. We solicit nominations from our membership approximately three to four months in advance of the Annual Conference. Then, after consultation, the committee selects the honorees. This year the committee will meet in mid to late summer and commence the process. We encourage all of you to submit nominations for these most prestigious awards.

**The Ensuring Racial Equity in the Justice System Committee
March 10, 2022 Midyear Report**

Hon, Terri Roberts Co Chair

Hon. Maria Porras Co Chair

Regarding mission statement suggestions:

Our current mission statement:

The Ensuring Racial Equity in the Justice System committee seeks to educate its members and the general public about how racial inequity can manifest itself in the judicial system and works towards identifying specific steps through which courts can remedy the inequity.

We were hoping to change up our current mission statement a bit. The following suggestions were offered:

Judge Henry:

This is the mission statement of the MA appeals Court Diversity Equity & Inclusion Comm:

Valuing diversity, equity and inclusion is critical to achieving justice for all. Mindful of our country's history of explicit and implicit racism and discrimination based on other personal characteristic, our mission is to take immediate and ongoing steps to foster a culture that seeks out, welcomes, understands, and encourages diverse backgrounds, experiences, and viewpoints. We are committed to ensuring that the Appeals Court, by its actions, staffing, policies, and procedures, reflects and embraces the diversity of Massachusetts.

Judge Annabelle Perez

This committee is to further a meaningful commitment of the NAWJ to eliminating persistent racial disparities in the justice system with inclusion, education and policy recommendations.

Judge Roberts:

We strive to address topics that reveal how racial inequity, in various aspects of our society, can manifest itself in our judicial system and how, by educating our members and the public, we can take innovative steps to remedy this inequity – one step at a time.

If anyone has any other suggestions regarding making a change to the mission statement, please send your suggestions.

Ideas for Webinars/topics for 2022:

Suggested by Comm. Keilani: Follow up series to School to Prison Pipeline: Disparity in the Juvenile Dependency System/Foster care. Disproportionate number of children of color in the system based not just on socio-economic issue, but based on bias and how agencies deal with parents of color.

Suggested by Judge Breen-Greco: Covid- measuring the school children’s impact and access to school, in particular students of color and special needs children-what is being done to address the deficit?

Suggested by Judge Perez: Recognizing the effect of the voting laws, and the long term impact on the voters/population. What is the data? Why are there so many new voting laws? Judge Roberts suggested possible collaboration with the Judicial Independence Committee.

Suggested by Michelle Pettit, Esq.: back to basics – regain humanity. Judge Perez added it would include Diversity and Sensitivity

Suggested by Judge Puente-Porras: “Remembering Humanity” as we call our cases. We need to stop and think of what we are doing. Racial Equity is not something we will achieve by a certain year. It is a something that continues to evolve.

Suggested by Judge Breen-Greco: History of Voting Rights and the effect of the Supreme Court’s rulings regarding key provisions of the Voting Rights Act.

Michelle Pettit, Esq., also suggested the social science presentation that addresses how we communicate and listen. We often talk past each other. She mentioned Brene Brown’s approach of focusing on empathy by acknowledge the “stories in our head”. This would lead to a discussion on a plethora of issues, including bias, assumptions we make, quick decisions we make.

If you have some additional ideas on topics you would like to see us address this year, please send them our way via email: terrie.roberts@sdcourt.ca.gov or mpuente-porras@lacourt.org.

Below are some of the links we put in the chat during the meeting and some additional links we found later to give us some insight into some of the possible topics discussed today and to perhaps give us ideas on other topics going forward:

Link to article on dependency issue:

<https://abc7.com/los-angeles-county-child-welfare-services-racial-disproportionality-blind-removal-process/11577720/>

Link to College prep declined for Black, Latino students in LA during pandemic, report says
<https://abc7.com/college-prep-pandemic-black-latino/11556896/>

Link to Video showing how police treat Black and White teens in mall fight sparks outrage
<https://www.cnn.com/2022/02/16/us/video-new-jersey-police-black-and-white-teen-fight-outrage/index.html>

Link to article: More college students are dropping out during Covid. It could get worse
<https://www.theguardian.com/us-news/2022/feb/10/college-students-dropout-covid-pandemic>

Voting Rights Protections:

https://urldefense.proofpoint.com/v2/url?u=https-3A_www.publicdemocracyamerica.org_voting-2Drights-2Dprotections-2Dthreatened-2Dby-2Dfilibuster&d=DwIFAg&c=isF3lnkPBs-D7qFq7ULYLg&r=qHWZ7PU4PRbiaJ5X0N2auHaq4xgHG4qKQwje4tOqE6k&m=x_VqfKfQ5Zg9VukvLx5ctU3wZ2s0LOjpgXKArJh25197VIQ814GJoKg6E4WBVgsj&s=Nr-gco_aPDy3hHazJ0oM1TUdN5pExliY-54A-W644Jg&e=

Strengthening Voter Rights:

https://urldefense.proofpoint.com/v2/url?u=https-3A_www.brennancenter.org_issues_ensure-2Devery-2Damerican-2Dcan-2Dvote_voting-2Dreform_strengthening-2Dvoting-2Drights-2Dact&d=DwIFAg&c=isF3lnkPBs-D7qFq7ULYLg&r=qHWZ7PU4PRbiaJ5X0N2auHaq4xgHG4qKQwje4tOqE6k&m=2MvU1iFiZu4BbKllvUQlizWhixGmWNdlcS1TLs6ScSvjcfQQtVObehBhVOu_giTKu&s=Zp9OCeyf7GPYri7Gg_AmUDnoSOhLrhYtLbntv3o6OvU&e=



The National Association of Women Judges
Fairness & Access Committee
March 10, 2022

Chair: Hon. Nadia Keilani

Co-Chair: Renee Stackhouse, Esq.

1. **Meetings:** The first meeting of the Fairness & Access Committee was held on January 27, 2022 at noon PST. It was determined by the Committee all subsequent meetings would take place on the fourth Thursday of each month at noon PST, with the next meeting to be held on February 24, 2022. The Zoom information has been set to Ms. Mihoc to be added to the NAWJ Master Calendar.

2. Brainstorming & Planning:

- a. Discussed new format of Committee (no longer umbrella Committee)
- b. Discussed updating the Committee purpose statement
 - i. Adding Q+ and/or 2S to "LGBT"
 - ii. Defining "treatment" (relationships v. rehabilitation)
 - iii. Change "minorities" to "people of color"
- c. Discussed scope and audience of the Committee
- d. Brainstormed programming ideas to include:
 - i. Co-sponsor with Juvenile Committee a program on the impact of race in placing children in foster care;
 - ii. Co-sponsor "How to Become a Judge" with Administrative Judicial Committee.
 - iii. Advancement of minority judges into leadership positions within the court system.
 - iv. A program on language access. Possible collaboration with the Nat'l Center for State Courts and/or Language Line.
 - v. Co-sponsor pronouns and gender program with LGBTQ+ Committee
 - vi. How to Become a Judge Program (appointment and election)
 - vii. Remote Access to Courts
 - viii. Eliminating Bias in the Courtroom
 - ix. Invisible Barriers to Access in Courts
 - x. Systemic Barriers to Access in Courts

3. **Action Taken:** No action was taken at this initial meeting.
4. **Action Pending:** The next steps are:
 - a. Committee members will provide any feedback for programming other than what was discussed by February 4, 2022.
 - b. Co-chairs will send out a survey to Committee members to rank programming priorities.
 - c. Continue to work on re-write of Committee purpose statement.



The National Association of Women Judges
Domestic Violence Committee Report

March 10, 2022

Chairs Honorable Tracey Flemings-Davillier and Honorable Amy Ronayne Krause

The National Association of Women Judges Domestic Violence Committee respectfully submits the following report of our Committee's objectives and goals. On September 14, 2021, this Committee submitted an annual report regarding the Committee's meetings and activities. This report provides updates as of September 14, 2021.

I. Meetings

The Committee met via Zoom on September 30, 2021, October 25, 2021 and January 25, 2022. The following Committee members were able to attend:

Committee Meeting Participants - September 30, 2021:

- Hon. Tracey Flemings-Davillier - Orleans Parish Criminal District Court Judge, New Orleans, Louisiana
- Hon. Catherine Shaffer - King County Superior Court Judge, Seattle, Washington
- Ms. Lynn Schafran, Esq. - Director, Legal Momentum's National Judicial Education Program
- Hon. Diane Kiesel - Pierce County Superior Court
- Hon. Amy Ronayne Krause, Michigan Court of Appeals

Committee Meeting Participants - October 25, 2021:

- Hon. Tracey Flemings-Davillier - Orleans Parish Criminal District Court Judge, New Orleans, Louisiana
- Hon. Catherine Shaffer - King County Superior Court Judge, Seattle, Washington
- Ms. Lynn Schafran, Esq. - Director, Legal Momentum's National Judicial Education Program
- Hon. Lori Dougherty-Bichsel - Shawnee County Judge, Topeka, KS
- Hon. Doreen Boxer - Los Angeles Superior Court Commissioner, Los Angeles, California
- Laurie Denham, CAE - NAWJ Executive Director

Committee Meeting Participants - January 25, 2022:

- Hon. Tracey Flemings-Davillier - Orleans Parish Criminal District Court Judge, New Orleans, Louisiana
- Hon. Annette Karem - Jefferson District Court Judge, Louisville, KY
- Hon. Ernestine Gray - Orleans Parish Juvenile Court Judge (Retired), New Orleans, Louisiana

- Col. Linda Murnane - USAF, Retired - Xenia, OH
- Hon. Catherine Shaffer - King County Superior Court Judge, Seattle, Washington
- Hon. Julie Verheye - St. Joseph Superior Court Judge - South Bend, IN
- Ms. Lynn Schfran, Esq. - Director of the National Judicial Education Program at Legal Momentum
- Hon. Patricia Lynch - Reno Justice Court Judge – Reno, NV
- Hon. Carroll Kelly - 11th Judicial Circuit Judge – Miami, FL
- Hon. Debra Sasser - NC AOC District Court Judge – Raleigh, NC
- Hon. Lisa Coen - Los Angeles County Superior Court Judge - Bellflower, CA
- Hon. Heidi M. Pasichow - Superior Court of the District of Columbia Judge – Washington, DC

II. Meeting Discussions

A) Webinar

During the September and October meetings, discussions centered around planning, funding, panel selections, webinar topics and marketing for the DV webinar that took place on November 16, 2021 at 2:00 p.m. CST. Almost 100 participants attended the webinar.

Ms. Amalfi Parker-Elder, Senior Program & Training Specialist, Praxis International presented and led the discussion on “Disproportionate Impact on Women of Color.”

Ms. Lynn Schfran, Esq., Director of the National Judicial Education Program at Legal Momentum, presented and led the discussion on the proposed definition of “consent” recommended by the American Law Institute (ALI) in the Model Penal Code (MPC).

B) NAWJ Position Statement

The Committee has had extensive discussions regarding the American Law Institute’s proposed revisions to the Model Penal Code, specifically with respect to the definition of “consent” and the sections pertaining to sexual assault and trafficking. The Committee explored available options for presenting recommendation(s) to the NAWJ Board, expressing NAWJ’s position vis- à-vis the ALI MPC revisions at issue.

The Committee discussed research / documents provided by Ms. Schafran the following domestic violence, definition of “consent”, resistance requirements, psychological and physical responses to trauma, tonic immobility, trauma responses in victims of domestic, sexual violence and trauma related disassociation. The Committee also discussed potentially adopting the position statement previously made by the American Bar Association Commission on Domestic & Sexual Violence.

It was our understanding that the ALI scheduled the revised MPC for a vote at its January 25, 2022 Council meeting. Thus, during the October 2021 meeting, the Committee discussed the possibility of drafting a “resolution” to present to the NAWJ Board for consideration. However, The Committee was advised that a proposed resolution would have to be submitted to the NAWJ Resolutions Committee for review and consideration. The Resolutions Committee could then present the proposed resolution to the NAWJ Board for review and consideration. In addition, the Committee was advised that typically, resolutions are presented and considered by the NAWJ Board in conjunction with the NAWJ Annual Meeting in October. In the alternative, the Committee discussed potentially submitting a position statement in writing and requesting special consideration, given the urgency of the issues, that such be considered for NAWJ discussion in conjunction with the NAWJ Mid-year meeting.

During the January 25th meeting, Committee member Lynn Schafran provided a summary of ALI’s January 20, 2022 Council meeting. Ms. Schafran reported that given opposition by various notable organizations, ALI tabled their discussions regarding the revisions at issue until the March 2022 meeting.

Based on that information and in the interest of time, the Committee decided to present a draft position statement, directly to NAWJ President Elizabeth White. Ms. Schafran agreed to work on a draft, along with her colleagues, to submit to the DV Committee by February 4, 2022. The Committee agreed to attach to the proposed NAWJ DV statement pertinent documentation/reports/position statements submitted to ALI by other organizations. The Committee thought this approach, as opposed to the procedure for submitting a resolution, would be more efficient in light of the urgency of the issues.

On January 14, 2022, via email, NAWJ President Judge Elizabeth White advised that she had received a proposal from Judge Carolyn Kuhl, member of ALI, who suggested that NAWJ consider a discussion regarding the ALI’s revision process with respect to the MPC. We were advised that the panelists who would be able to speak about the process and the revisions at issue were Judge Liz Rosenthal, who chaired the discussions on the MPC revisions, and Stephanie Middleton, the ALI Deputy Director.

After a subsequent meeting with Judge Ronayne Krauss, Judge Davillier and Lynn Schafer, Judge Ronayne Krauss forwarded to the Committee documentation regarding the two major issues: (1) the proposed revised definition of “consent”, and (2) the proposed revised Human Trafficking / Sexual Assault sections of the MPC.

On Wednesday, February 9, 2022, Lynn Schafran and Judge Davillier met via Zoom with President White, Judge Bobbie McCartney (Chair of the NAWJ Human Trafficking Committee), Judge Lee Rosenthal and Sarah Middleton. During the meeting, Judge Rosenthal and Ms. Middleton explained the process and the issues that the ALI discussed with respect to the revisions to the “consent” definition and to the Human Trafficking / Sexual Assault sections. The following issues were noted:

(1) “Consent” definition

- Judge Davillier raised various issues expressed by committee members with respect to sections (b), (c) and (e) of the revised definition.

(2) Human Trafficking Matters

- Issues were noted regarding “competency” vis-à-vis minors, and other factors that should be included, including poverty, economic equality and financial duress.

(3) Broad Issues

We discussed the following:

- The MPC should be written with the intent that those who are not affiliated with the ALI and who may or may not review the comments will have a clear understanding of the language.
- The Black Letter Law does not require people to review comments to understand the MPC.
- The MPC sections are separate such that a person should be able to read and comprehend each MPC section separately without having to read the other sections.

The following organizations have expressed deep concerns about provisions of the American Law Institutes Revised Model Penal Code:

- Aequitas: Champions for Justice
- American Bar Association
- Department of Justice, Office of the Deputy Attorney General
- Department of Justice, Office of Legal Policy
- Legal Momentum: The Women's Legal Defense Fund
- National Alliance to End Sexual Violence
- National Association of Attorneys General
- National Center for Missing and Exploited Children
- National Center on Sexual Exploitation
- National Children's Alliance
- National Crime Victims Law Institute
- National District Attorneys Association
- National Task Force to End Sexual and Domestic Violence
- RAINN (The Rape, Abuse, and Incest National Network)
- Rights 4 Girls
- Women's Law Project

Ms. Lynn Schafran addressed the opposition that Legal Momentum and other organizations and agencies, including the US Department of Justice, Office of Legal Policy, and the National Center for Missing and Exploited Children, have raised over several years and recently. Based on the discussion, Judge Rosenthal and Ms. Middleton advised that given the concerns lodged by various organizations and agencies, there is still time to address the revisions, before such are finalized.

Judge Davillier asked Judge White to schedule another Zoom meeting with Judge Rosenthal and Ms. Middleton to allow members of the Domestic Violence and Human Trafficking Committees to participate in the discussion. President White and the NAWJ are currently working on scheduling the meeting with both committees.

NAWJ Human Trafficking Committee Midyear Report

March 10, 2022

The Human Trafficking committee works toward eliminating human trafficking, especially women and children trafficked for sexual and labor exploitation.

COMMITTEE CHAIRS:

Co-Chair Hon. Ann Breen Greco, Independent Administrative Judiciary Professional

Co-Chair Summer Stephan, Esq., San Diego District Attorney

Vice Chair : Hon. Bobbie McCartney, Chief Judge (ret.) U.S. Dept. of Agriculture

MEMBERS AS CURRENTLY LISTED ON THE NAWJ WEBSITE:

Hon. Stacy Boulware Eurie, Superior Court of California, County of Sacramento

Hon. Joan Churchill, Immigration Judge, Retired

Hon. Lisa Coen, Los Angeles County Superior Court

Hon. Ernestine Gray, Orleans Parish Juvenile Court, Retired

Hon. Chris Ann Kelley, NYS Court of Claims

Hon. Carol King, Immigration Judge, Retired

Hon. Joy Lobrano, Fourth Circuit Court of Appeal

Hon. Patricia Lynch, Reno Justice Court

Col. Linda Murnane, USAF, Retired

Professor Luz Nagle, Stetson University College of Law

Hon. Lisa Paglisotti, King County Superior Court

Lynn Schafran, Esq., Legal Momentum

Hon. Shannon Schlegel, 29th Circuit Court, Michigan

Hon. Barbara Stalder, 280th District Court, Texas

Hon. Renee Worke, Minnesota Court of Appeals

NAWJ HTC Notes and Updates from our 1/31/22 Zoom Meeting

HTC Zoom meetings are usually scheduled on the 4th Monday of the Month at 1pm PST

Co-chairs Judge Ann Breen-Greco and DA Summer Stephan welcomed our new HTC members including Judge Luz Nagle, Judge Patricia Lynch, Judge Ernestine Gray, Judge Charlotte Davidson, and Judge Shannon Schlegel, as well as our returning HTC members Judge Joan Churchill, Judge Lisa Paglisotti, Col. Linda Murnane, Judge Chris Kelley, Judge Carol King and myself, Judge Bobbie McCartney.

- **Discussion of impact of verdict in U.S. v. Maxwell, 20-cr-330, U.S. District Court for the Southern District of New York (Manhattan).**

On December 29, 2021, a jury found the British socialite Ghislaine Maxwell guilty of sex trafficking and related counts of recruiting and grooming minor girls, some as young as 14, for wealthy financier Jeffrey Epstein to sexually abuse. Epstein, himself a convicted sex offender, was apprehended in July 2019 for sex trafficking young teen girls but killed himself in a Manhattan jail cell one month later while awaiting trial.

A jury found Maxwell guilty on five of the six charges against her. She was found not guilty of only one charge, Count 4: enticing a minor to travel to engage in illegal sex acts.

Maxwell could face a maximum sentence of 65 years in prison as follows:

- **Count 1:** Conspiracy to entice a minor to travel to engage in illegal sex acts - *maximum sentence of five years*
- **Count 2:** Enticing a minor to travel to engage in illegal sex acts - *maximum sentence of five years*
- **Count 3:** Conspiracy to transport a minor with the intent to engage in criminal sexual activity - *maximum sentence of five years*
- **Count 4:** Transporting a minor with the intent to engage in criminal sexual activity - *maximum sentence of 10 years*
- **Count 5:** Conspiracy to commit sex trafficking of minors - *maximum sentence of five years*
- **Count 6:** Sex trafficking of minors - *maximum sentence of 40 years*

DA Summer Stephan provided us with an overview of the Maxwell case and the impact of her conviction on human trafficking issues nationwide and internationally.

DA Stephan pointed out this case is highly relevant to human trafficking issues for many reasons but perhaps most importantly for showcasing to the general public that the true nature of human trafficking is often far more insidious than is portrayed and is engaged in at very high levels, not just on street corners by local pimps. Rather, 90% or more of victims of human trafficking are recruited, groomed and abused using fraud and coercion, not physical force. Victims may not have visible bruising or other signs of physical violence or life threatening injuries; rather they are vulnerable young girls and boys psychologically seduced into a “circle of trust” and then coerced by dependency, fraud and shame into sexual acts for the commercial gain of the perpetrators. In the Maxwell case, the four brave witnesses who testified, Jane,

Kate, Carolyn and Annie, were not beaten but were psychologically manipulated and then shamed into silence.

Maxwell, beginning in 2001, recruited victims to engage in sex acts with and for Epstein from high schools, youth camps and through friends and relatives. To create a “circle of trust” with the minor. She then provided them with hundreds of dollars in cash and expensive gifts, including lingerie.

This case is also historic because it demonstrates that under US law no one is immune from accountability no matter how rich or famous. Human trafficking is the second largest industry in the world and one of the largest in the US. Perpetrators can be wealthy, well connected and can hide in plain view for many years but ultimately will be held accountable. These crimes occurred in 1994 and 1995 and were just coming to trial but the US Attorneys in New York did not give up prosecuting. Prosecution by Federal US Attorneys enabled the government to bring in evidence of unlawful actions across all of the states.

Whether Maxwell would be viewed as a true “aider and abettor accomplice” or just merely complicit by her silence was extremely important in the court of public opinion but the evidence at trial made it clear that she was a primary player as a recruiter and groomer. Her actions in recruiting these very young vulnerable girls represented all the various elements of human trafficking - from innocent massages to hard core sex acts for commercial gain – and Maxwell conviction of enticing, grooming and sexually abusing underage girls with Jeffrey Epstein will have a significant impact on the prosecution of human trafficking charges for many years to come. Maxwell is scheduled to be sentenced on June 28.

Discussion of American Law Institute’s proposed revision of the sex offense provisions of the Model Penal Code; including definitions of consent and knowledge

American Law Institute (ALI) has proposed revised definitions of the Model Penal Code pertaining to sexual offenses that have caused a great deal of concern throughout the legal community. In a January 19, 2021 letter from the Department of Justice to the American Law Institute’s Council Members regarding ALI’s revision of the sex offense provisions of the Model Penal Code urging ALI not to adopt the Revised Code, DOJ noted that “...Running against the historical progress in removing victim-resistance requirements from the definition of sex offenses, the Revised Code stipulates that consent may be inferred from a victim’s “inaction” and that the victim’s failure to put up “verbal [or] physical resistance” may be considered as evidence of consent. RC § 213.0(2)(e)(i)-(iii). The Revised Code’s definition would effectively place the onus on the victim to manifest physical or verbal non-consent, rather than on the actor to secure the victim’s consent, creating the risk that factfinders will erroneously conclude that a victim who was frozen by fear was communicating consent.”

Further, perpetrators must now be shown to have **actual knowledge** of the age of the victim to support a successful criminal prosecution –an almost impossible burden – mooted highly probative circumstantial evidence such as recruitment of junior high and high school students.

It is clear that the proposed revisions raise issues of grave concern to prosecutions on behalf of domestic violence and human trafficking victims. During our HTC meeting we were advised that NAWJ's Domestic Violence Committee (DVC) is actively working on a draft letter for President White's consideration to advise ALI of our concerns. Given that 21 Attorney Generals have agreed that the new definitions are extremely harmful to the ability to prosecute human trafficking of young victims, DVC has graciously offered HTC an opportunity to review the draft and if we concur to join in the submission to President White. While the DVC has not finalized the draft, they *have provided HTC with a compendium titled NAWJ-ALI MPC Discussion – Compendium of Documents from Concerned Organizations 2.4.22, (compiled by Professor Lynn Hecht Schafran)*, which we intend to attach to the statement. In addition, Judge White has reached out to ALI and conducted a Zoom call on February 9, 2022 to discuss NAWJ's concerns which was attended by Judge White, Judge Tracey Flemings-Davillier for the DVC, Judge Bobbie J. McCartney for the HTC, Chief Judge Lee H. Rosenthal and Judge Stephanie Middleton on behalf of ALI and Professor Lynn Hecht Schafran for an overview of the materials contained in the Compendium. ALI advised that they were giving all of our comments and concerns close attention and still meeting with impacted and concerned groups to address those concerns stating that "this is not a done deal" and that while changes involve a difficult process that substantive changes can still be made. All parties agreed that further discussions were needed and that a follow-up Zoom call with ALI, open to all members of the Domestic Violence Committee and Human Trafficking Committee, would be scheduled.

ISBA Seminar on Child Marriage

HTC is participating in the planning and organization of a seminar on child marriage on behalf of the Illinois State Bar Association Administrative Law Section, and other bar and judicial organizations, and a number of service providers. The seminar is scheduled to take place on June 16, 2022, at Loyola University, School of Law. Child marriage is of concern internationally and domestically and is directly related to concerns shared by NAWJ's Human Trafficking and Domestic Violence Committees. The seminar will provide an overview and address topics such as the intersection of child marriage with human trafficking, criminal law, immigration law and family law.

***** Our next meeting is scheduled for 2/28/22 at 1pm PST (4pm EST)**



2022 Midyear Report of the Immigration Committee
March 10, 2022 Prepared February 15, 2022 by
Chair: Honorable Joan Churchill, Immigration Judge (ret)

Membership

Membership on the NAWJ Immigration Committee includes active and retired Immigration Judges, the President of NAIJ [the National Association of Immigration Judges], two past presidents of NAIJ, three past presidents of NAWJ, state court judges who have handled immigration cases as lawyers or judges and a retired judge who handles immigration cases pro bono for members of the U.S. military.

Meetings

The Committee met during the 2021 Annual Conference on October 9, 2021 and 2 times so far during the 2021-2022 term:

November 12, 2021

January 28, 2022

The next meeting is scheduled for April 7, by Zoom conference call.

Article I Immigration Court

- 1. BREAKING NEWS!! THE REAL COURTS, RULE OF LAW ACT OF 2022, H.R. 6577 TO CREATE AN INDEPENDENT ARTICLE I IMMIGRATION COURT** was introduced in Congress on February 3, 2022, by Congresswoman Zoe Lofgren, Chairwoman of the House Subcommittee on Immigration and Citizenship, H.R. 6577 is co-sponsored by House Judiciary Committee Chair Jerrold Nadler (NY-10) and Chair of the House Subcommittee on Courts, Intellectual Property, and the Internet, Hank Johnson (GA-04). A companion bill is expected to be filed in the Senate shortly.
- 2. CONGRESSIONAL HEARING.** NAWJ Vice President Mimi Tsankov testified before the Subcommittee on Immigration and Citizenship in her capacity of President of the National Association of Immigration Judges [NAIJ] in support of legislation to create an Article I Immigration Court at a hearing held on January 20, 2022.
- 3. NAWJ ENDORSEMENT.** NAWJ President Elizabeth White sent letters of endorsement on behalf of NAWJ on February 8, 2022 to the three members of Congress who sponsored HR 6577.

4. ARTICLES WRITTEN FOR PUBLICATIONS

- As reported in our 2021 Report, but worth repeating here, Committee Chair Joan Churchill's historical review of the efforts over many years to establish an Article I Immigration report was published in the Summer 2021 edition of Counterbalance, [Volume 35, Issue 2], at page 15. Her article is entitled *An Article I Immigration Court -An Idea that is Growing- A History of Efforts to Make it a Reality*. The article can be accessed online at:
<https://www.nawj.org/static/216/counterbalance-summer-2021>
- Another article authored by Judge Churchill, this one entitled *Compelling Reasons for an Article I Immigration Court*, is slated for publication in the next issue of the ABA Judges Journal.
- An article written by NAWJ Vice President Mimi Tsankov entitled *Human Rights at Risk: The Immigration Courts Are in Need of an Overhaul*, previously published in the April 27, 2020 issue of the ABA Human Rights Magazine, will be reprinted in the same upcoming issue of the ABA *Judges Journal*. The article can be accessed at:
https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/immigration/human-rights-at-risk/

WEBINARS

1. **Immigration Update** – The Committee is organizing an NAWJ webinar to present an update of different immigration related topics, ranging from the immigration judiciary, immigration issues connected to juvenile justice, immigration issues affecting members of the military, and immigration issues facing Afghan evacuees. The webinar is scheduled for Tuesday, April 12, 4pm Eastern time.
2. **Paths to the Administrative Judiciary** – The Immigration Committee is co-sponsoring a webinar on *Paths to the Administrative Judiciary* with the NAWJ Administrative Judiciary Committee. We have arranged for a speaker from the Executive Office for Immigration Review, Deputy Chief Immigration Judge Sheila McNulty to be on the panel to share about the duties of Immigration Judges and how to apply. The Immigration Courts are currently expanding and looking for more judges.

NAIJ

1. NAWJ Vice President Mimi Tsankov was elected President of NAIJ at its 2021 election.
2. On January 20, 2022, the Federal Labor Relations Authority, in a decision denying NAIJ's motion for reconsideration, reconfirmed its 2020 decision which ordered that NAIJ be decertified as a bargaining unit, notwithstanding that the Department of Justice has withdrawn the petition seeking decertification that had been filed by the

prior administration and stated no objection to the motion for reconsideration. The Department of Justice continues to recognize NAIJ as a bargaining unit. Another Motion for Reconsideration is being filed, along with an action in Federal court.

Afghan Women Judges.

We have been heavily involved in following the plight of sister members of the International Association of Women Judges who have been dismissed from their positions by the new Taliban leadership in Afghanistan and who feel at risk in their home country. Past President Vanessa Ruiz who is the Immediate Past President of IAWJ, has kept us up to date on the progress in helping them evacuate from Afghanistan and relocate elsewhere. Members of our Committee have provided suggestions and a variety of forms of assistance. So far only a handful of women judges have arrived in the United States.

NAWJ JUDICIAL INDEPENDENCE COMMITTEE REPORT



MARCH 2022 UPDATE



Introduction

The Judicial Independence Committee of the National Association of Women Judges is co-chaired by Justice Robin Hudson, Supreme Court of North Carolina, and Justice Debra Stephens, Washington State Supreme Court. The committee provides leadership to the Informed Voters, Fair Judges Project, a public education and outreach initiative. The goals of the project are to strengthen public knowledge and understanding of the courts and the judiciary; heighten awareness of attempts to weaken the power of the judicial branch; and to build skills in evaluating and responding to unfair attacks on the judicial branch including political and other external influences. This reporting period has generated the completion of a two-year pilot project with the American College of Trial Lawyers involving team presentations in fifteen states; finishing an imminent release of a new jury education video in collaboration with the American Board of Trial Advocates (ABOTA) Foundation; and greater growth in membership interest and involvement in outreach and educational partnerships and projects.

Our Committee description has been updated for the NAWJ website, and for other Committee listings. We applaud the ongoing efforts of current NAWJ President White to emphasize and enlarge upon the vital work of NAWJ Committees. Our Committee is also engaged with NAWJ to update and manage the IVP website, which will improve continuity and access to our materials. This update should be completed and ready to go live before the mid-year meeting March 10, 2022.

In addition, the Committee will present a webinar for NAWJ on **March 18, 2022, at Noon EST**, addressing contemporary challenges to judicial independence. **Save the date!**

To address the current and ongoing threats we see to the independence of the judiciary in America, we continue to emphasize public education about the important design of our courts as an impartial and nonpolitical branch of our democratic republic. Key messages of the NAWJ Informed Voters, Fair Judges Project include:

- Our courts should be the one branch of government free from politics.
- The courts need protection from special interests and political influences.
- We need to educate the public about the unique role of the judicial branch, judges, and juries in our constitutional design.
- The judicial branch is a coequal branch of government.
- Judges should make decisions based on the facts and the law. The judicial branch is not a representative or political entity.

The Judicial Independence Committee has actively pursued the development of educational programming, resources, and partnerships this period to impact public knowledge and understanding of the judicial branch and its role in our constitutional structure. Such programs emphasize how the judicial branch differs from the other branches of government; how judges make decisions; judicial selection processes; and the importance of maintaining a fair, impartial, and independent judiciary. Education resources and models for use and adaptation by all states are available through the Informed Voters, Fair Judges Project. These resources and current partnerships with ABOTA and ACTL have increased outreach, education, and involvement.



Informed Voters, Fair Judges Project Leadership

In addition to Judicial Independence Committee Co-Chairs Justice Robin Hudson (Supreme Court of North Carolina) and Justice Debra Stephens (Washington State Supreme Court), the leadership team of the Informed Voters, Fair Judges Project includes co-chairs Chief Justice Tani Cantil-Sakauye, California Supreme Court, and attorney Linda Leali of Florida. Annette Boyd Pitts, Florida Southern College, serves as the National Education Chair for the Informed Voters, Fair Judges Project.



IVP was the brainchild of Justice Joan Irion of California in 2012. Under Justice Irion's leadership, an Emmy-Award winning film (*Fair and Free*) was produced by Jonathan Shapiro. United States Supreme Court Justice Sandra Day O'Connor (retired) narrated the film. Today the Informed Voters Project has evolved into a national education initiative providing a variety of resources and model initiatives to NAWJ members, courts, bar associations, and the public-at-large. A new public education video designed for use with juror orientation programs and civic education programming is under final review. Presentations have increased nationally with the assistance of new partnerships.

The Judicial Independence Committee met recently via Zoom to discuss upcoming projects and accomplishments. Their new video for use with public education and outreach initiatives as well as juror training will be available soon. JIC Co-Chair Justice Robin Hudson of the North Carolina Supreme Court has been instrumental in the production of the JIC video. Members of the Committee collaborated on the script and provided feedback on the final productions. To learn more about the video and how to gain access or distribute to appropriate entities in your state, please contact Annette Boyd Pitts at apitts@flsouthern.edu.

The Judicial Independence Committee will be implementing a Judicial Independence Clearinghouse function in 2022 to provide a wide range of resources to NAWJ members including a literature review, as well as access to animations, videos, lessons, and essays/speeches to assist with public presentations and other educational initiatives. These resources will be available through the NAWJ website in 2022 and will be updated regularly. A new coding and indexing system are currently being developed. Annette Boyd Pitts, National Education Chair serves on this subcommittee along with Nicole Bautista and Dorothy Proudfoot.

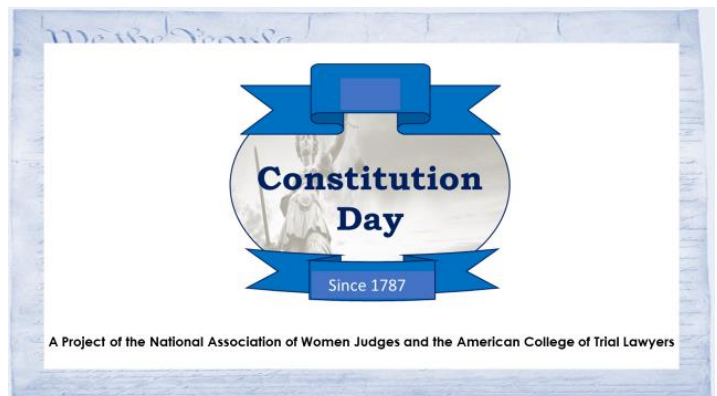
Educational Presentations and Resources

The National Association of Women Judges and the American College of Trial Lawyers have completed their pilot project of presentations in targeted states. The two organizations executed a Memorandum of Understanding to set



in motion a joint effort to educate the public about the important role of the American judiciary. Members of both organizations worked collaboratively to implement public education programs during in California, Florida, North Carolina and Washington, among other locations. New presentations for Law Week, Constitution Week, and other commemorative programs are under

construction or updated annually. The working subcommittee has created presentations to use with face-to-face or remote programs, due to the pandemic. NAWJ and ACTL are working with civic organizations, libraries, colleges and universities, and other public forums to host the educational programs. Created by a collaborative team



representing both organizations, the Constitution Day programs received positive feedback and engagement. Virginia Nelson and Kathleen Trafford, of the American College of Trial Lawyers worked with NAWJ Judicial Independence Committee members to create a forty-minute nonpartisan presentation to use in local communities. The materials include a PowerPoint presentation, handouts, presenter's guide, and a prerecorded training to assist with implementing the Constitution Day program locally. Most presentations have been adapted to a virtual environment. The presentations are designed for use throughout the year with targeted public outreach and community events.

Each presentation has been conducted by a team consisting of an NAWJ/IVP member alongside an ACTL Fellow from the state in which the presentation has been given. For example, in August 2021, Co-Chair Justice Robin Hudson and ACTL Fellow Brian Beverly presented a shortened Constitution Day slide program to a lunchtime Kiwanis Club meeting in Raleigh, NC. The program was conducted as a hybrid; Justice Hudson and Mr. Beverly appeared in person at the luncheon, while members of the club had the option of in-person attendance or logging in on Zoom. Similar programs were presented for general audiences (not legal professionals) throughout the nation, as the collaboration expands and continues.

Twenty-two ACTL Fellows participated in the project working in eleven states. A total of 15 public education presentations using NAWJ - IVP materials and volunteers were conducted during the pilot project period. Six judges and multiple NAWJ members also participated.

Date/Location	Host/Presenters
9/30/20 San Diego, CA	League of Women Voters Justice Judith McConnell & Virginia (Ginny) Nelson
10/26/20 Seattle, WA	University of Washington Chief Justice Debra Stephens & Natalie Tarantino
10/31/20 Columbus, OH	The Godman Guild William Porter & Kathleen Trafford
5/6/21 Brooklyn, NY	Brooklyn Public Library Judge Ann Donnelly, FACTL & Matthew Fishbein
5/11/21 Binghamton, NY	Binghamton Rotary Club Justice Molly Reynolds Fitzgerald & James Gleason
5/12/21 Columbus, OH	Tri-Village Rotary Aneca Lasley & David Thomas
7/28/21 Denver, CO	Lions Club Timothy McDonald & Mary Wells

8/4/21 St. Paul, MN	Selim Center for Lifelong Learning St. Thomas University Jan Conlin & Michael Ciresi
8/13/21 Raleigh, NC	Kiwanis Club Justice Robin Hudson & Brian Beverly
9/13/21 Birmingham, AL	Business Club (all ages & genders) Sam Franklin & Joe Miller
9/21/21 Binghamton, NY	Binghamton University Lyceum Justice Molly Reynolds Fitzgerald & James Gleason
9/27/21 Chula Vista, CA	South Bay Community Services Justice Judith McConnell & Virginia "Ginny" Nelson
10/4/21 Philadelphia, PA	Chestnut Hill College Timothy Lawn & Frederick Buck
10/27/21 Portland, OR	Arlington Club Judge Michael Simon, FACT David Angeli & Sarah Crooks
11/4/21 Chicago, IL	Chicago State University Judge Sophia Hall & Andrew Porter

In addition to ACTL partnership presentations, JIC members have presented in a variety of other settings including universities, bar associations, and civic organizations. Judge Cymonie Rowe (FL) and Annette Boyd Pitts have presented this year at the University of Miami as well as the Palm Beach County Bar Association. Earlier in the summer, they presented at the Louisiana State Bar Association convention.

The Judicial Independence Committee, chaired by Justice Robin Hudson, North Carolina Supreme Court, and Justice Debra Stephens, Washington State Supreme Court work annually with a committee of volunteers to implement the Informed Voters Project. We would appreciate your assistance in completing this anonymous survey to provide insight to the challenges facing judicial independence and the judiciary from your perspective. This will assist us in creating valuable programs and presentations. The link follows.

<https://www.surveymonkey.com/r/judindep>

The Judicial Independence Committee will present a webinar for NAWJ members on March 18, 2022, at noon to address why courts are under attack and what judges can do about it. Please save the date and remember to register. Speakers include Justice Robin Hudson, Justice Debra Stephens, Annette Boyd Pitts (National Education Chair IVP), and Judge Cymonie Rowe (FL). The webinar will address challenges and threats to judicial independence while examining public knowledge, trust, and confidence in the judicial branch. Judges will learn interactive, effective strategies for engaging with the public and how to access valuable resources and

opportunities for such engagements. This webinar will highlight attempts to politicize the judicial branch and possible consequences. Materials will address nonpartisan messaging and outreach for public engagement useful throughout the year and during elections in helping the public understand the unique elements of the judicial branch in our constitutional design, as well as what to look for in judges. We will incorporate polling, videos, and animations throughout the webinar as well as available resources.

The National Association of Women Judges Judicial Independence Committee and Informed Voters, Fair Judges Project have remained active despite pandemic-related delays and setbacks. A new video targets juror education and public outreach programs. Funding from the ABOTA Foundation provided resources for the project to finalize production of videos for use in jury assembly orientation programs nationwide as well as public education and community outreach initiatives. We have been very fortunate to be working with our Producer, long-time public television producer Tom Earnhardt, who is also a 50-year attorney and law professor based in Raleigh, North Carolina. Justice Robin Hudson has been coordinating this initiative, which is nearly complete. A draft has been



ABOTA
FOUNDATION

reviewed by the IVP Committee and the ABOTA team, and when finalized, will be added to the materials available to the public. IVP leadership expects to roll out the new video, which we are calling “Liberty and Justice for All,” in the very near

future. With education about the role of the judicial branch at the forefront of the IVP mission, the videos will continue to serve a critical function in informing the public about the courts and the constitutional significance of judges and jurors. The videos will provide an important tone-setting backdrop and conversation starter for judicial independence education presentations.

Additionally, with a lack of universal juror education programs nationwide, these videos will fill a critical need for content-based juror education initiatives about the judicial branch. A preliminary inventory of juror education programs throughout the country revealed inconsistent and sometimes nonexistent educational programming for jurors. Often juror information or education programs only provide logistical details about reporting for jury service including what to wear, where to park and other generic information. The promotion of this new video resource will be the Committee’s next priority within the NAWJ structure and network.

The use of the original Emmy Award-winning video *Fair and Free*, featuring retired United States Supreme Court Justice Sandra Day O’Connor continues throughout the country in a variety of education and outreach venues. Shorter variations of the original film are available for special events such as Constitution Day. The JIC asks all members to research the inclusion of the video on their court or bar websites. The Ninth Judicial Circuit of Florida has integrated the *Fair and Free* video in the content of its jury duty page at <https://www.ninthcircuit.org/jurors>. Use of the video is free and available to courts and bar associations upon request. Visit our webpage to view the videos at <https://ivp.nawj.org/fair-and-free-public-service-announcement-video/>.

An animation created by the NAWJ Judicial Independence Committee and Informed Voters Project is also available for use with education programs to teach about judicial selection methods. The three-minute innovative nonpartisan animation, (https://ivp.nawj.org/app/uploads/2016/06/NAWJ_YourVoiceMatters_Video_Small.mp4) is available for use with public presentations as well as on web-based platforms. *Your Voice Matters* is available at no cost upon request to courts, bar associations, and other entities.

A social media campaign to alert voters not to leave the ballot blank for judges is available for interested groups. During the 2016 elections in Florida, over 1.7 million voters left the ballot blank for judges in merit retention elections in Florida. Print and digital resources were recycled for subsequent elections and are accessible to attorneys and judges throughout the country to utilize in public education and outreach. Contact our Committee for the use of these digital materials.

Website and Partnerships

The IVP website (ivp.nawj.org) houses information and resources to assist judges and attorneys with education and community outreach presentations in a variety of forums. The website provides a variety of programming models that can be adapted for specific state use. Certain materials have been designed for use exclusively at state or national conferences. These are not available through our website directly but can be requested individually by judges or attorneys. IVP can also assist with designing content specific presentations for programming in specific states. Special events such as Law Day and Constitution Day as well as judicial selection resources are designed for use with public audiences.

Partnerships this year with the American Board of Trial Advocates and the American College of Trial Lawyers have enhanced the programming and outreach impact of the Informed Voters Project. These unique partnerships are

Juries and judges work together as partners in the administration of justice. Judges make legal rulings and juries decide factual issues in a trial.

"Jurors are judges of the facts and we are judges of the law."

-Judge Cymonie Rowe




assisting with our efforts to educate the public on the unique role of the judicial branch in our constitutional design and present day challenges to a fair and impartial judiciary. The partnership with ABOTA provides resources for the development of video resources for use in juror education and community outreach programs. The partnership with ACTL provides member volunteers to expand outreach to pilot states during Constitution Week, Law Week, and other times throughout the year. All materials provided are adaptable for use within any state or jurisdiction and are like a deck of cards with the flexibility to

remove or add slides pertinent to your audience and specific presentation. Judicial Independence Committee member Judge Cymonie Rowe of Florida has created a special *She the People* resource presentation highlighting the 19th Amendment. Special presentations at the University of Miami, Florida Atlantic University, and other venues are scheduled throughout Constitution month festivities and beyond.

Other Initiatives

Other initiatives underway this year include a Judicial Independence Literature Review. This project provides insight into areas for future research and publication. Annette Boyd Pitts has worked with multiple students to generate an annotated bibliography for use with the literature review on judicial independence. The product will examine patterns in scholarly approaches to the topic, practitioner and public feedback, gaps in articles and other forms of publications, and the identification of current needs, messaging, and publications to target for future outreach. These materials will be available to assist judges in educating the public about judicial independence and provide resources to respond to attacks on the judiciary. The materials will be updated annually to maintain current documentation.



Evaluating Judicial Candidates

How should I judge a judicial candidate?
Resources for an informed decision

Each year, voters make their voices heard on the ballot, selecting public officials to represent them and judges to serve on the bench to interpret and apply the law. And yet, millions of voters leave the ballot boxes when it comes to judges. Many voters do not know what to look for in selecting judges or why they are on the ballot. Additionally, voters are not sure what resources exist to help them evaluate judicial candidates. To assist an informed vote, voters should consider how judges are elected. Additionally, voters are not sure what resources exist to help them evaluate judicial candidates. To assist an informed vote, voters should consider how judges are elected. Additionally, voters are not sure what resources exist to help them evaluate judicial candidates. To assist an informed vote, voters should consider how judges are elected.

What to Consider

- ✓ **Experience**
What is the judicial candidate's background and legal experience? How many years has the candidate been a lawyer and/or judge? What type of law have they practiced?
- ✓ **Professional Competence**
How is the candidate viewed by others in the legal field? Has he/she received any professional certifications or recognitions? What specific type of law does the candidate practice? Evaluate the qualifications for judges in your state.
- ✓ **Demeanor**
Is the judicial candidate respectful, fair, neutral, and professional in and out of the courtroom?
- ✓ **Integrity**
Is the judicial candidate honest, impartial, and committed to the rule of law?
- ✓ **Service**
Is the judicial candidate committed to public service and the administration of justice? What types of community service have they participated in? What boards or organizations are they affiliated with? Have they provided counsel or legal assistance in the community?
- ✓ **Other important considerations:**
Who is paying for the advertising promoting or opposing a judicial candidate? Who is publishing voter information materials for judicial candidates?

A project of
The National Association of Women Judges

Resources for Researching Judicial Candidates


- **Review profiles and bios** on court and bar association websites to gain information about a judicial candidate's education, background, and legal experience including: areas of practice, years of experience, and types of cases they have experience with.
- **Review voter guides** prepared by state and local bar associations and/or nonpartisan organizations which often provide resource links and provide answers to frequently asked questions.
- **Seek out resources like judicial performance evaluations and polls** conducted by local bar associations.
- **Attend local judicial candidate forums** sponsored by local bar associations or nonpartisan civic groups. Often these forums are videotaped.
- **Examine the eligibility requirements** and selection processes for state judges by looking in your state constitution or state statutes.
- **Talk to people in the community** or lawyers who may know the judge or judicial candidate.
- **Review nonpartisan resources, candidate voluntary self-disclosure forms, and other materials** to learn more about each candidate.
- **Check your state and local bar associations** for additional materials. Example: The Florida Bar has a page devoted on its website to judicial voter education <http://www.floridabar.org/ivp>
- **Review and analyze media communications** including news articles, social media posts, candidate websites, and campaign advertisements. Consider funding and publication sources for each media communication.

www.ivp.nawj.org

About the Informed Voters, Fair-Judges Project

IVP provides critical resources for informing the public about the unique role of the judicial branch in our constitutional design.

- Interactive, educational, presentation, multimedia and resources.
- Jury assembly and community outreach videos and resources.
- Emmy Award-winning video featuring retired United States Supreme Court Justice Sandra Day O'Connor.



"When a judge does what is right according to the law, when a judge decides each case strictly on the merits, when a judge gives every case and every person the same treatment, our courts are what they have always been and must always be... fair and free!"

From "Fair and Free" featuring Supreme Court Justice Sandra Day O'Connor, Ret.

A project of
The National Association of Women Judges

The Judicial Independence Committee is looking forward to continuing its work this year, and to strengthening its integration into the NAWJ organization, and collaborating with other organizations as well. Please contact our Committee Leadership with any ideas or suggestions at any time.



The National Association of Women Judges
Juvenile Justice and Child Welfare
March 1, 2022

Co-Chairs: Hon. Ernestine Gray and Hon. Joy Cossich Lobrano

The Juvenile Justice and Child Welfare (“JJCW”) Committee established the following 2021 goals: host a webinar on current juvenile justice issues; collaborate with other NAWJ committees and national associations that address juvenile justice and child welfare issues; publish the JJCW committee’s projects; and increase committee membership. In furtherance of its goals, the JJCW committee participated in the following two webinars in collaboration with the NAWJ Ensuring Racial Equity in the Justice System Committee: *Disrupting the School to Prison Pipeline, Part 1* (Aired on July 22, 2021) and *Part 2* (Aired on November 18, 2021). The JJCW committee will continue to collaborate with other NAWJ committees that may involve child welfare issues, including the following NAWJ committees: Human Trafficking; Domestic Violence; Ensuring Racial Equity in the Justice System; Fairness and Access; Immigration; LGBTQ; Mothers in Court; Women in Prison. The committee will utilize the new NAWJ Master Internal Calendar to access other NAWJ committee activities and meetings.

The JJCW committee also hosted its own webinar entitled “Community Support – Supporting Children and Strengthening Families” and aired on November 9, 2021 under the leadership of committee member Hon. Amy Nechtem, Chief Justice of Massachusetts Juvenile Court. Panelist included Hon. Nechtem; Shana Cashman, Program Manager for Pathway Initiative and Juvenile Initiatives at the Massachusetts Juvenile Court; and Marisa Hebble, MPH, Manager, Massachusetts Community Justice Project. The webinar highlighted the UPSTREAM model. This model is being rolled out across Massachusetts as part of the state’s Pathways initiative focused on differentiated case management and effective prevention and intervention strategies. UPSTREAM is the first of its kind in the nation and state leaders are collaborating with national partners to develop a blueprint and toolkit to be adapted in communities nationwide. UPSTREAM is based in public health and collective impact approaches, creating a community-based map of the local child welfare landscape to: Identify resources and gaps in practices, protocols, and programs; Collectively agree on priorities for change; and Develop an action plan to improve system and service-level responses. Hon. Nechtem explained, “During my six years as chief justice, I have been working toward a change of judicial practice in child welfare cases in Massachusetts. Together with my team, we launched Pathways, using a multidisciplinary approach inclusive of all child-serving stakeholders. Pathways has become a national model of practice for differentiated case management of these very complex cases. At the heart of each case is a vulnerable child waiting for a permanent, stable home.” The JJCW

Committee's 2021 webinar was a great success with much thanks to Hon. Nechtem and her fellow panelist.

The JJCW committee has set forth the following six 2022 committee goals: (1) JJCW committee will focus on three designated juvenile justice issues. The focused topics for 2022 are as follows: a) "Racial Disparity in Juvenile Justice System" b) "Foster Care Safety Net Initiatives" and c) "Opioid and Addiction Crisis." The committee will continue to collaborate with Hon. Nechtem and provide the committee with an update on the UPSTREAM model within the Massachusetts Juvenile Court system. (2) JJCW committee will continue to collaborate with other national associations regarding juvenile justice and child welfare with a 2022 focus on the following three organizations: a) National Council of Juvenile and Family Court Judges; b) American Bar Association, Judicial Division, ABA Center on Children and the Law and ABA Youth at Risk Commission; and c) National Center for State Courts. (3) JJCW committee will organize Coordinated Community Volunteering, such as volunteering as judges for high school mock trial competitions and May 1st Law Day coordinated activities within each of our communities and present it as a NAWJ coordinated committee event. (4) The committee would like to develop a process for juvenile justice resource distribution in which committee members can be provided with resources and information on innovative child welfare practices throughout the country and provide links to those resources. (5) JJCW committee will host another webinar in 2022; and (6) JJCW committee will continue in its committee recruitment efforts.

The JJCW committee will also reach out to and obtain information regarding various congressional caucuses, including the Congressional Children's Caucus, Children's Coalition Health Care Caucus, Congressional Coalition on Adoption, Congressional Kids' Safety Caucus, Caucus on Missing and Exploited Children, Congressional Caucus on Foster Care, and the Baby Caucus.

The upcoming JJCW Zoom committee meetings will be held at 1pm CST on May 27, 2022, August 26, 2022, and November 18, 2022.

Report of the NAWJ Membership Outreach and Retention Committee
for the 2022 Midyear Conference Board Meeting
Co-Chair: Honorable Doreen B. Boxer, Los Angeles Superior Court
Co-Chair: Honorable Beverly Cutler, 3rd Jud. Dist., AK, retired

The NAWJ Membership Outreach and Retention Committee is a small, 6-member committee. Our mission is to encourage women judges to join NAWJ, and to help engage existing NAWJ members to make them feel involved and connected to NAWJ.

Membership

Our committee membership includes judicial officers located on the East Coast and the West Coast, but we have no members from states in the heartland. As well, our membership includes only state judges (albeit in a variety of types and levels of courts.) The committee has no federal judges, administrative, or military judges. No NAWJ Past Presidents are on the Committee. We hope after the Board Meeting that President White will solicit and appoint additional members to better represent NAWJ's geographically broad, and personally and professionally diverse membership.

Meetings

We aim to meet monthly. Attendance at our first virtual meeting was not complete because of several judges' bench duties.

CounterBalance

We hope to work with the NAWJ's Vice-President for Publications toward making CounterBalance more generally available to expand the public's awareness of NAWJ and to inspire eligible non-members to join.

Direction We Seek

We note that the NAWJ Website includes the following information about the Committee:

The Membership Outreach and Retention committee ensures NAWJ includes members from each of the major judicial groups, helps to recruit and meet the special needs of each group, and formulates and implements a plan for membership recruitment and retention. The committee analyzes statistical data and other information that may assist in identifying issues relevant to retaining and increasing membership.

We have no members on the committee who have been on this committee in the past few years, so we request the statistical data referred to in this description, the current membership information, as well as the plans for membership recruitment and retention developed in recent years. Further, we request guidance from NAWJ's Board as to the Board's goals as they relate to membership outreach and retention, and how to prioritize and achieve these goals. Finally, we seek direction on whether it is, or is not, important that members actually be a "female judge or retired judge."

Conferences

Midyear 2022 - March 10-12 -- Arlington VA

A majority of the committee will be at the Midyear and meet in person at the time set for committee meetings.

Annual 2022 - October 19-22, 2022 -- Detroit 2022

Several of our committee members are planning to attend.



The National Association of Women Judges
Military and Veteran Judges Committee
March 10, 2022

Co-Chair: Honorable Kirsten Brunson

Co-Chair: Honorable Linda Strite Murnane

The Military and Veterans Judges Committee of the NAWJ met with its members on 22 Feb 22. A copy of the agenda for the meeting is attached.

During the meeting, the Military and Veteran Judges Committee decided upon the following issues of concern on which it will focus during this association year:

1. Undiagnosed Post Traumatic Stress Disorder, Self-Medication leading to criminal justice and civilian court involvement, Traumatic Brain Injury and related impacts on the military and veteran populations, the families of those members and the communities in which those members reside.
2. Afghan interpreters, Afghan pilots trained by the U.S., Afghan women judges, family members of U.S. servicemembers abandoned in Afghanistan and immigration and relocation efforts resulting from the Taliban take over in Afghanistan
3. Military Family Housing and undrinkable water and uninhabitable privatized housing
4. Transition issues for military judges, lawyers and family members leaving military service
5. LGBTQ+ service members and gender discrimination issues in the military
6. Sexual assault in the military

Planned activities for the coming year include:

1. A proposed webinar on undiagnosed PTSD, TBI and consequent engagement of military and veteran members in the court systems.
2. Program proposal for the 2023 NAWJ National Meeting "War Crimes and Child Custody"
3. Focus and information sharing on gender discrimination in the military
4. Monitoring the upcoming changes to the Uniform Code of Military Justice and the removal of command from its responsibilities in addressing sexual assault and sexual harassment cases on military installations.

Significant accomplishments during this period include the following:

- Revision of the Mission statement of the Committee. During the meeting on 22 Feb 22, the Mission statement was agreed to be further revised and the further revised mission statement is also forwarded with this report.
- Assisting in the organizing of a panel held by the American Bar Association's Standing Committee on Armed Forces Law during the virtual Mid Year Meeting. (Co-Chair The

Honorable (Colonel, USA, Ret) Kirsten Brunson)

- Argument in favor of American Bar Association Resolution 608 seeking to streamline the immigration process for Afghan Women Judges, and allies of the US (Co-Chair The Honorable (Colonel, USAF, Ret) Linda Strite Murnane)
- Organizing presentations by The Honorable Vanessa Ruiz and The Honorable Patricia Whalen on the relocation and rescue of Afghan Women Judges presented by the IAWJ, the NAWJ, the ABA International Law Section's Women's Interest Network, International Human Rights Committee and Middle East Committee
- Publication of the updates to the Uniform Code of Military Justice in the National Defense Authorization Act

THE FURTHER REVISED MISSION STATEMENT OF THE COMMITTEE:

Military and Veterans ~~Judges~~ Committee

The Military and Veterans ~~Judges~~ Committee includes military judges (active duty, guard, and reserve), judges serving in any judicial capacity who qualify as veterans of any branch of the Armed Forces, retired military members in any capacity, ~~and~~ spouses of U.S. military members (active duty, guard, and reserve) and those whose practice includes representation of military members and veterans. The committee ensures that these members and their concerns and issues are included and reflected in all aspects of NAWJ membership, leadership, networking, and educational programming and other activities.

The Committee also seeks to educate the judiciary on how involvement in the courts affects servicemembers, veterans, and their families. The Committee ensures the sharing of information unique to military members and military judges, as well as the family life issues that impact servicemembers, veterans, military spouses, and their families, including, but not limited to: specialized information on the Uniform Code of Military Justice and the court-martial process, military equality for women, men, and the LGBTQ+ community, issues related to visitation, custody, family housing, dual punishment of military members and their families in the criminal justice system, licensing challenges, medical care access, Veterans Administration benefits and access challenges, and related matters.

The revision to the mission statement including the title is intended to include not only military judges, veterans who are judges not in the military, judges who serve on courts determining cases related to veterans such as on the Court of Appeals for Veterans Claims, the US Federal Circuit, Veteran Appeals judges, judges determining eligibility for veteran benefits, judges who are not veterans or military members but who may operate a Veterans Treatment Court or docket and, importantly, family members of military members and veterans and those who have dedicated some part of their legal practice to representing military members and veterans before courts, boards and tribunals or other types of proceedings.

The Military and Veteran Judges Committee of the NAWJ plans to meet quarterly and its next meeting will be held on Monday, May 23, 2022 at 7 p.m. EST.



The National Association of Women Judges
Mothers in the Court
March 10, 2022

Co-Chair: Honorable Faye R. Chess

Co-Chair: Honorable Elizabeth Weishapl

1. Meetings: The Sub-Committee is scheduled to meet on March 3, 2022, via Zoom. This will be the first meeting of the year.
2. The sub-committee will discuss the old business which includes:
 - Implementation of Google Groups for use as a listserve. It will serve as a vehicle to mentor and gather information to build resources.
 - Creation of a databank of policies, ethics opinions, etc.
 - Survey membership on issues like lactation rooms, maternity leave policies, children in chambers policies, and ethics rules which exist related to mothers/children in courts.
 - Drafting articles for Counterbalance.
3. The sub-committee will discuss whether there is new business.
4. The sub-committee will determine future meeting dates and times.



Report of the Retired/Senior Judges Committee
for the March 10, 2022 Midyear Conference Board Meeting
prepared on 2/16/22 by
Chair: Honorable Joan Churchill, Immigration Judge, retired

The NAWJ Retired/Senior Judges Committee is a large, vibrant committee, with about 30 members. Our mission is to assure that retired/senior judges continue to feel involved and connected to NAWJ.

Membership

Our membership spans the USA, with members from Florida to Alaska, from East Coast to West Coast, and from many states in the heartland. Our membership includes state and federal judges, who have served on a variety of types and levels of courts: Federal and State, administrative, Military, trial and appellate, including a state Supreme Court. Several NAWJ Past Presidents are on the Committee.

Meetings

We meet quarterly. Attendance at our meetings is robust. We have met once so far this term, December 2, 2021. Our next meeting is scheduled for February 17.

Counterbalance

We provide articles for Counterbalance, making sure we have at least one article each issue for the *Life After the Bench* column.

- 2022 Winter Issue Judge Emily Chafa's article about volunteer activities for retired judges is entitled "*Retired. Now What? Give Your Time, Talent and Treasure to Your Community!*". Reprinted from the *ABA Judges Journal*, Vol 59, No. 4, Fall 2020, it can be found at p. 19 of the just released issue of *Counterbalance*, Winter 2022, Vol 36, Issue 1 and accessed online at: <https://www.nawj.org/static/230/counterbalance-winter-2022>
- 2022 Fall Issue – Justice Cynthia Baldwin has committed to write an article about serving as a Fulbright teacher.

Conferences

Midyear 2022 - March 10-12 -- Arlington VA

Members of our committee, Beverly Cutler and Barbara Levenson will be serving on the panel entitled *Judges in Transition*.

Annual 2022 - **October 19-22, 2022** -- Detroit 2022

There is considerable enthusiasm on our Committee for the upcoming Annual Meeting in Detroit. Several of our members are planning to attend. Committee Member Susan Moiseev is on the conference planning committee for the Annual Meeting. She is working on putting together a panel modeled after our Committee's focus on *Life After the Bench*, to feature prominent Michiganders. Our December meeting was dominated by discussion of ideas and suggestions for the annual meeting, which I conveyed to the Conference Planning Chair, Judge Michelle Rick. Judge Rick responded very warmly to the suggestions.



Rural Courts Committee Midyear Report to the Board

April 2022

Presented by

Hon. Stephanie L. Davis, *Co-Chair*

and

Hon. Elisabeth Reynoldson, *Co Chair*

Summary:

The Rural Courts Committee is energized and working towards increasing its membership and presence within the NAWJ. The Committee desires to build a more inclusive and diverse NAWJ membership through recruiting other rural court judges across the nation. The Rural Courts Committee is committed to issues revolving around access to services in rural courts and has set a goal to present its findings and solutions at a panel at the 2023 NAWJ Annual Conference.

Committee Membership:

The Rural Courts Committee is currently a small committee. While the committee has only 12 members from 7 states, we expect membership to increase significantly through the recruitment efforts of current committee members.

Committee Meetings:

The Committee is committed to meeting every month via the Zoom video conference platform. This Committee chairs were on a Committee Chairs meeting in January 2022 and are meeting together via zoom to schedule future meetings during the lunch hour on the 3rd Monday of each month.

Issues

- *Access to Services in Rural Courts.*
 - Pro-se litigants in rural courts is on the rise. This Committee is interested in discovering what it can do to help create solutions in providing access to legal resources for pro-se individuals who appear before rural courts.
 - There is limited availability of support services in rural areas. Services such as counseling, etc. are many times available only in more urban areas. Transportation from rural areas to urban areas can be an issue for those who are unemployed or have no driver's license. Often, public transportation is not an available option in rural areas. This Committee is interested in exploring how we can bring the rural need for these services and urban availability together in a meaningful and productive way.

2022-2023 Goals:

- Increase membership of the Rural Courts Committee via recruitment of current members on the membership roster of the NAWJ that are from rural areas. Rural Court Committee members will also reach out and network with other rural court judges in their areas/state to increase membership.

2023 Goals:

- A panel presentation at the 2023 Annual Conference. The specific topic is still under consideration but will primarily deal with *Access to Justice in Rural Courts*.



The National Association of Women Judges

Site Selection Committee

March 10, 2022

Co-Chairs: Honorable Marcella Holland and Honorable Marguerite D. Downing

The co-chairs “met” with ED Laurie Denham on January 27th to discuss updating the RFP and the site selection process utilizing the hybrid process approved by the Board.

Then on February 17th, the committee met virtually to welcome and introduce the committee members to one another. The co-chairs shared the site selection process, our responsibility as a committee and the changes to the RFP with the committee members. The committee as whole then selected new dates for the submission of the RFP, discussed concerns about getting cities to volunteer to host a committee, the role the NAWJ staff plays in site selection and suggestions for getting the RFP out to as many members and others that we can.

The committee also discussed future meeting dates once the RFP deadline has passed. The committee discussed and recommended that the goal of the local Friends Committee be located to \$200,000. The goal for the Detroit Committee has already been adjusted to that amount.

The RFP will now be due on May 15, 2022.

The next meeting for the committee will be in June or July. The committee may meet sooner if there is not a submitted RFP for the 2024 conference.

The committee will be prepared to submit our report prior to the September Executive Committee so the recommendation can be voted on and then approved at the Board meeting at the annual conference in Detroit (October).



The National Association of Women Judges
Women in Prison Committee
March 2022

Chair: Honorable Pennie K. McLaughlin

Co-Chair: Honorable Lisa Coen

The Women in Prison Committee met in February to discuss potential areas of focus for the year.

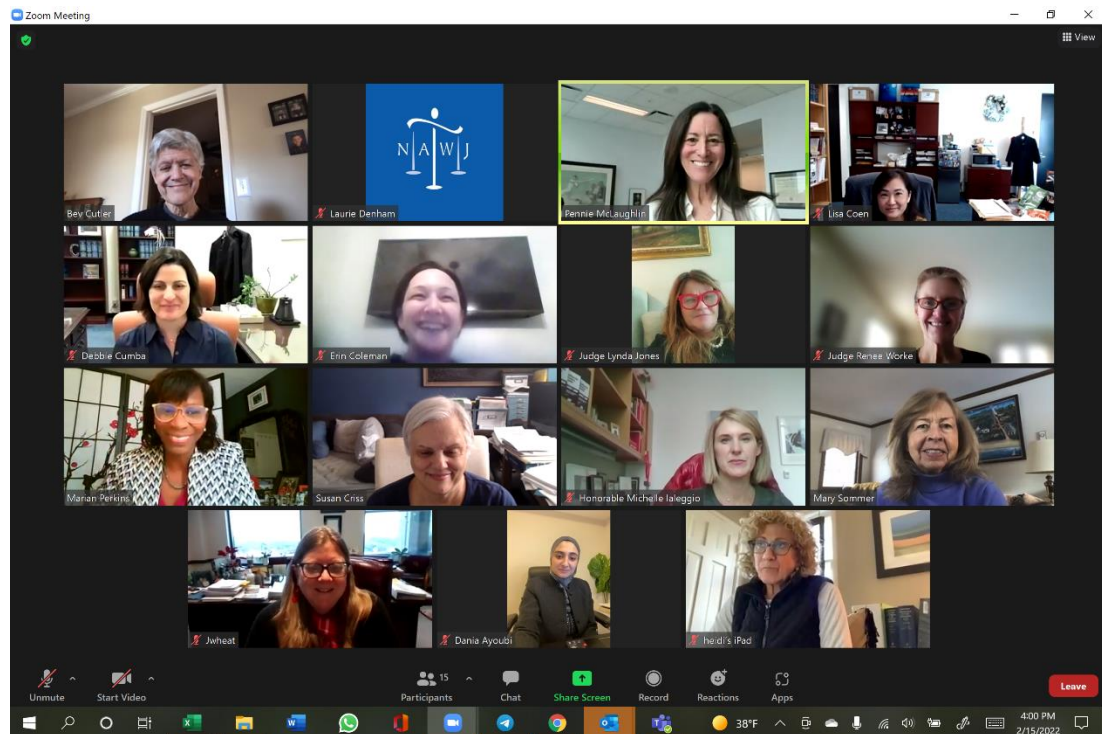


Photo of meeting attendees.

Ideas for this year include:

1. *New Name for this Committee*

There was a suggestion to modernize the name to exclude the word prison and replace it with something else. A small group will come up with ideas that can be presented to the Board for approval.

2. *Improving Prison Conditions*

- a. General purpose of our committee
- b. Small farm program from Maryland- getting it started in each district to connect local produce to prisons for enhanced nutrition and well-being.
- c. Programs that keep incarcerated women connected to their families, such as the Storybook Project.

3. *Disproportionality Reality*

- a. Awareness on the bench and in the community of the large ratio of incarcerated men and women of color.
- b. Other ideas to address this common condition in most jails and prisons

4. *Language Project*

- a. Assist with the movement to change our language when we refer to formerly incarcerated/convicted.

5. *Nationalize Success Inside and Out*

- a. Help bring this workshop program to women facilities throughout the country.
- b. Join existing programs under this program name.

6. *Legislation that provides solutions.*

- a. Collect and share data and ideas from States which have already implemented new legislation to address juvenile incarceration alternatives, expanded diversion programs and other approaches to criminal penalties in the form of solutions.

7. *Redefining "Chronic Homelessness" in Congress*

We are looking into how to assist with broadening the definition to allow for newly released and homeless women to qualify for federal subsidies to gain housing.

We have a wonderful group of committee members who will be active in helping up meet our broad goals for this year. The next meeting will take place at the Midyear Conference, and then we will meet as a group by Zoom in April.

Respectfully submitted,

Pennie McLaughlin and Lisa Coen, Co-Chairs