# THE COMMISSION FOR FAIRNESS

# justice in the balance



2010 2011 ANNUAL REPORT The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness

# CRIMMALOR

# LOOK CLOSELY

The eyes of one teenage prostitute might reveal a history of sexual abuse at home, followed by years of being exploited and sold by a pimp on the streets, then incarceration or even death by age 20. The cycle of despair is rarely broken.

> Fortunately, America is beginning to examine the complex realities of sex trafficking, and Pennsylvania is poised to play a leadership role. The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness—The Commission for Fairness—is helping to promote a collaborative, proactive approach that focuses on identifying high-risk victims, rescuing sexually exploited teens, and prosecuting traffickers.

Read on and discover how the Commission works to raise awareness, address inequities, and secure fairness and equal justice in Pennsylvania's court system. Every day, justice hangs in the balance.

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Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness Current Members

Hon. Pedro A. Cortés, *Chair* Burrell A. Brown, Esq. Helen E. Casale, Esq. Hon. Kim Berkeley Clark Jacqueline D'Angelo, Esq. Khadija T. Diggs, Esq. Harold Dunbar, Esq. Lazar H. Kleit Hon. Ted V. Kondrich Roberta D. Liebenberg, Esq. Robert L. Listenbee, Esq. Lynn A. Marks, Esq. Lucille Marsh, Esq. Gladys Miller-Russell Burton D. Morris, Esq. Leonard J. Rivera, Esq. Bernadette Eyler Smith, CFP Kathleen D. Wilkinson, Esq. Nora Winkelman, Esq.

#### Staff

Lisette M. McCormick, Esq. Sarah Breslin, Esq. Janet Bollers

Hugh Organ of Covenant House Pennsylvania leads the Philadelphia Anti-Trafficking Coalition, an alliance of social service, government, and law enforcement agencies. The Coalition provides a coordinated response to identifying and assisting human trafficking victims.

# Domestic Violence and Sexual Assault Victims Committee



# REDEFINING HUMAN TRAFFICKING

In Pennsylvania, and throughout the United States, thousands of women and children are being lured into human trafficking, often through prostitution. The average age of entry into the commercial sex industry here is between 12 and 14 years old. Statistics show most of these children live only five to seven more years. The law enforcement response is typically to prosecute the victim, not the traffickers or pimps.

100,000 to 300,000 American children are sold for sex each year. Experience teaches that arresting victims of prostitution doesn't address the many underlying issues or stem the flow of criminal activity. The problems are complex but one thing is certain: an integrated approach is needed.

The Commission for Fairness is playing a key role as part of its mandate to address disparities and seek fairness throughout the state's justice system. Our Domestic Violence and Sexual Assault Victims Committee is collaborating with anti-human trafficking coalitions and supporting mandatory posting of hotline information and other legislation. In October 2011, the Committee will host comprehensive training for law enforcement, prosecutors, and child protective services workers. Attendees will be taught how to identify high-risk victims and better use existing human trafficking laws against the perpetrators of these heinous crimes. Our goal is to create a multidisciplinary approach to fairness for Pennsylvania's women and children caught in commercial sexual exploitation.

# **Increasing Courthouse Safety**

Victims of domestic violence and sexual assault are finding relief in the form of increased courthouse safety thanks to another initiative of the Commission. The Domestic Violence and Sexual Assault Victims Committee continues to educate court administrators, judges, and victims' advocates on how to implement recommenda-

tions in the Commission's 2010 report "And Safety for All: A Guide for Making the Courts Safe for Victims of Domestic Violence and Sexual Assault." The Commission widely distributed the publication during the year.

fety for All: Domestic violence cases

Domestic violence cases present safety challenges to the victims and to the courts. The Commission's manual, "And Safety for All," includes a safety checklist for courthouses and courtrelated facilities.

# Equal Opportunity and Diversity Committee

Current Committee Members Samuel S. Yun, Esq., *Chair* Kathleen D. Wilkinson, Esq. Jacqueline D'Angelo, Esq. Helen E. Casale, Esq. Hon. Doris Smith-Ribner

# INCREASING FAIRNESS IN APPOINTMENTS AND EMPLOYMENT

Honorable Kim Berkeley Clark (left) of the Court of Common Pleas of Allegheny County appointed LaTammie D. Bivins, Esq., to the Juvenile Division of the Allegheny County Office of Conflict Counsel

Delaware County provides a statewide model for procedures guiding the appointment of counsel for indigent defendants. A recent survey of judicial districts shed light on the county's best practices, including written guidelines, rotating appointment systems, and independent administration of appointments.

> As a follow-up to the survey, The Commission for Fairness is now working with the Pennsylvania Supreme Court to inform judges and administrators about these and other models that increase diversity and inclusiveness in court appointments.

The Commission recently submitted to a new Ad Hoc Pennsylvania Supreme Court Committee proposed amendments to the Pennsylvania Code of Judicial Conduct prohibiting discrimination and harassment by judges and courthouse personnel. The Commission's Equal Opportunity and Diversity Committee also continues to work with regional bar associations to gain support for proposed changes that strengthen the rules of professional conduct for attorneys in the same manner.

The Commission's manual on creating a diverse court workforce is now the go-to guide for judges and administrators looking to increase minority and female employment and ensure that their courthouse workforces better reflect society as a whole. The Commission will continue to widely distribute "Creating a Diverse Workforce in the Pennsylvania Courts: A Manual for Success," as well as "Achieving Fairness Through Bias-Free Behavior."









#### Current Committee Members

Hon. Ted V. Kondrich Burton D. Morris, Esq. Leonard Rivera, Esq. Charles Cunningham, Esq. Hon. Stephanie A. Domitrovich Paula Hannaford-Agor, Esq. Greg Hurley Hon. Thomas King Kistler G. Thomas Munsterman Rick Pierce E. Marie Queen

Lynn A. Marks, Esq., Chair

# **INTEGRATING PENNSYLVANIA'S JURIES**

Jury pools should represent a fair cross section of their local communities, but unfortunately, throughout the Commonwealth some of them do not.

### **Quantifying Minority Representation**

Statistics show minority representation on juries to be lacking but the extent of the problem varies by judicial district. The Commission for Fairness continues to advance its recommendations to standardize jury selection, including key steps courts can take to quantify minority participation, as outlined in its report to the Pennsylvania Supreme Court.

Jury Service Committee members and Commission staff are currently preparing a supplement to districts' standard jury questionnaires to obtain demographic information, specifically race and ethnic background, from prospective jurors. The Commission's goal is to help judicial districts establish minority representation baselines to track jury diversity on an ongoing basis.

"Because our judicial system depends on the public's confidence, increased minority representation on Commonwealth juries ensures our judicial system is fair and impartial in the eyes of the people we serve."

-Judge Stephanie A. Domitrovich Court of Common Pleas, Erie County

# Surveying Statewide Juror List

Pennsylvania owes its citizens nothing less than fair and systematic jury selection and a significant increase in diversity and public participation. An inclusive juror source list is an important part of this equation. After playing a key role in the passage of Act 37 and the creation of the Statewide Juror List, the Commission is

now surveying judicial districts on their use of the new list. The survey results will be shared with the AOPC to make the list as easy for the districts to use as possible.

#### **Creating More Success**

The Commission's suggested standardized procedures for jury selection are finding success. The Supreme Court Rules Committee consulted the recommendations when drafting a new rule governing changes in the voir dire process. The Jury Service Committee is now collaborating with regional groups of trial attorneys and others to implement additional recommendations.



The Honorable Stephanie A. Domitrovich of the Court of Common Pleas of Erie County, Jury Committee member, observes a citizen reviewing the draft addition to the PA juror questionnaire.

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# The Commission for Fairness Members

# **CRIMINAL JUSTICE COMMITTEE** DOMESTIC VIOLENCE AND SEXUAL **EQUAL OPPORTUNITY ASSAULT VICTIMS COMMITTEE** Roberta D. Gladys Miller-Russell Samuel S. Yun, Liebenberg, Bernadette Esq., Chair Eyler Smith Esq., Chair Honorable Honorable Samuel Tyrone Elizabeth Doyle, Khadija T. Diggs, Esq.*, Chair* Kimberly Cooper, III, Esq., Robert L. Burrell A. Brown, Esq. Berkeley Clark Listenbee Jr., Esq. former member Lucille Marsh, Esq. former member

AND DIVERSITY COMMITTEE	G.L.B.T. RIGHTS COMMITTEE			INTERPRETER SERVICES COMMITTEE		JURY SERVICE COMMITTEE	
Jacqueline D'Angelo, Esq.	Lisette M. McCormick, Esq., Executive Director	Lazar H. Kleit		Leonard J. Rivera, Honorable Ida K. Cher Esq., Chair former member		Harold Dunbar, Esq.	
Kathleen D. Wilkinson, Esq.		Helen E. Casale, Esq., <i>Chair</i>	Nora Winkelman, Esq.	Hi Pe	onorable edro A. Cortés	Lynn Marks, Esq., <i>Chair</i>	

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# G.L.B.T. Rights Committee

Current Committee Members Helen E. Casale, Esq., *Chair* Lazar H. Kleit Lucille Marsh, Esq. Nora Winkelman, Esq. Lee Carpenter, Esq. Hon. Kathryn Mary Hens-Greco

## REMOVING DISCRIMINATION

Even Pennsylvania's youngest citizens have an ally in The Commission for Fairness. Our Gay, Lesbian, Bisexual, and Transgendered Rights Committee addresses discrimination based on sexual orientation, including legal barriers preventing adoption of children by same-sex couples.

> In 2010, having completed a comprehensive investigation of second-parent adoption issues in the state, the Commission drafted a proposed rule to standardize procedures by judicial districts and eliminate barriers to such adoptions. A select group of practitioners and judges reviewed the procedural rule and the steps that must be followed when the adopter is the unmarried same-sex or heterosexual partner of the adoptee's parent. The Commission has submitted the proposed rule to the Pennsylvania Supreme Court and is currently awaiting the Court's response.

In the coming months, the G.L.B.T. Rights Committee will begin educating the courts on other legal issues affecting members of the G.L.B.T. community, including complications Pennsylvania residents face in dissolving same-sex marriages obtained in other states.

> Amara S. Chaudhry, Esq. heads the legal department of The Mazzoni Center in Philadelphia. Among other services, the Center helps individuals facing discrimination based on sexual orientation or gender identity.



Same-Sex Marriages, Civil Unions, and Domestic Partnerships

- Issues marriage licenses to same-sex couples
   Recognizes same-sex marriages from other states
- Allows civil unions that provide statelevel spousal rights to same-sex couples
- Statewide law provides nearly all state-level spousal rights to unmarried couples (domestic partnerships)
- No recognition of same-sex relationships



# Interpreter Services Committee



Leonard J. Rivera, Esq., Chair Hon. Pedro A. Cortés Lazar H. Kleit Lisa Herbert, Esg. Andrés Urdaneta

Bilingual criminal protective orders in five of the state's most commonly encountered languages are now online.

# EXPANDING **INTERPRETER SERVICES**

The basic fairness of the Pennsylvania court system is jeopardized if litigants with limited English proficiency do not have access to competent interpreters and other language assistance.

> The Commission continues its work to improve the availability of interpreter and translation services in the Commonwealth's courts and administrative agencies. Among last year's initiatives, the Commission co-sponsored training for Haitian Creole interpreters with Widener University's Legal Education Institute and the First Judicial District of Pennsylvania. In September of this year, the Commission supported a similar program for interpreters working in the Vietnamese language. Both followed the 2010 training for professionals interested in becoming certified interpreters in the Pennsylvania courts.

Also during 2010, the Interpreter Services Committee arranged for the translation of key court documents in five languages, including Vietnamese, Kmer, Russian, Spanish, and Chinese. The documents are now available on the Administrative Office of Pennsylvania Courts (AOPC) website for easy access by judicial districts.

Next up? The committee is considering ways to assist the AOPC in training judicial district personnel on Act 172 interpreter-services regulations passed in 2010.

Members are also working with the Philadelphia Bar Association to assist its Language Access Task Force and are planning ongoing training for attorneys on effective use of interpreter

services during litigation. The 2011 sessions will follow up on an initial workshop for members of the Bar Association's Family Law Section, The Philadelphia Story: The Language of Justice in Family Court.

*"Demography is destiny."* To grow, Pennsylvania must welcome work-authorized immigrants with open arms."

# —Anne O'Callaghan

President, The Welcoming Center for New Pennsylvanians



The Welcoming Center for New Pennsylvanians opens the doors of opportunity for new arrivals through vocational English and other initiatives, thereby enhancing the economic development of our state.

# Criminal Justice Committee

#### Current Committee Members

Khadija T. Diggs, Esq., *Chair* Burrell A. Brown, Esq. Honorable Kim Berkeley Clark Daniel E. Fitzsimmons, Esq. Robert L. Listenbee, Esq. Gladys Miller-Russell Honorable Elizabeth Doyle Honorable Doris Smith-Ribner

# IMPROVING FAIRNESS IN PENNSYLVANIA'S CRIMINAL JUSTICE SYSTEM

The Commission for Fairness continues its important work to reduce disparities in the imposition of the death penalty, reform indigent defense, and improve juvenile justice.



Gary Zagac (left), John Kramer (center), and Jeffery Ulmer of the Pennsylvania State University are collecting and compiling data for the Commission's death penalty study.

Over the past 11 years, Pennsylvania's death row has cost taxpayers over \$27 Million.

## **Examining the Death Penalty**

In 2010, the Commission launched a major study of Pennsylvania's capital justice system to consider whether racial, ethnic, or socioeconomic status influences administration of the death penalty. With the endorsement of the state's Supreme Court, researchers from the Pennsylvania State University began collecting data in April 2011. While that phase advances, the Commission continues to seek additional funds to ensure that

the comprehensive study can be completed within 24 months.

#### **Considering Juvenile Justice**

The Commission's Criminal Justice Committee also supported multiple juvenile justice initiatives. In 2010, the committee created model procedures for juvenile record expungement and assisted the Juvenile Indigent Defense Action Network with planning to implement model units in several Pennsylvania counties. Committee member Robert L. Listenbee, Esq., played a critical role in the investigation of the failure of the juvenile justice system in Luzerne County. The committee continues to work in support of legislation designed to institutionalize the study's reform recommendations.



State Funding and Oversight of Indigent Defense Systems

- Statewide defender agency or oversight body with full state funding
- Partial statewide defense services (appellate, post-conviction, and/or capital) and partial state funding

# Partial statewide oversight body with partial state funding

- No statewide oversight body but partial state funding
- No statewide oversight body and no state funding

## **Reforming Indigent Defense**

The reform of Pennsylvania's indigent defense system will take an important step forward with completion of the Pennsylvania Joint State Government Commission's study.

The result could be historic changes to our system and a future where the merits of a case, not the defendant's socioeconomic status or access to fair representation, determine its outcome. The Commission, along with other stakeholders, plans to initiate a public awareness campaign focused on systematic reform.

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# AMERICAN BAR ASSOCIATION 10 PRINCIPLES OF A PUBLIC DEFENSE DELIVERY SYSTEM

- 1. The public defense function, including the selection, funding, and payment of defense counsel, is independent.
- 2. Where the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar.
- 3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel.
- 4. Defense counsel is provided sufficient time and a confidential space within which to meet with the client.
- 5. Defense counsel's workload is controlled to permit the rendering of quality representation.
- 6. Defense counsel's ability, training, and experience match the complexity of the case.
- 7. The same attorney continuously represents the client until completion of the case.
- 8. There is parity between defense counsel and the prosecution with respect to resources, and defense counsel is included as an equal partner in the justice system.
- 9. Defense counsel is provided with, and required to attend, continuing legal education.
- 10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards.



The Honorable Ronald D. Castille Chief Justice of the Supreme Court of Pennsylvania



The Honorable Pedro A. Cortés, Chair



Lisette M. McCormick, Esg. Executive Director



Sarah Breslin, Esg., Staff Attorney (left), and Janet Bollers, Paralegal (right), with Lisette M. McCormick

# **MESSAGE FROM THE CHAIR AND THE EXECUTIVE DIRECTOR**

### Dear Colleagues,

Thank you for your interest in The Commission for Fairness.

Pennsylvania citizens of every age and circumstance are benefitting from the important work we share in addressing disparities, fostering diversity, and seeking equal justice throughout the state's court system. Since the Commission was established in 2005, our members and staff have dedicated countless hours and made great strides toward achieving the Commission's goals.

Recently, among other accomplishments, the Commission advanced two important objectives in our work to institute reform within our criminal justice system. In 2010 with the support of the Pennsylvania Supreme Court, we launched a major study of racial, ethnic, and socioeconomic disparities in the imposition of the death penalty. We began collecting data in early 2011, and the study will be completed by 2013.

Similarly, the Commission continued its work to improve the quality of indigent defense in Pennsylvania. We played a key role in the recent indigent defense study by the Pennsylvania Joint State Government Commission. Our members are now poised to help launch a statewide coalition to educate the public and legislators about the need for the long-lasting reforms recommended in the study.

And Criminal Justice is only one of our committees. The Commission's five others have equally compelling stories to tell about seeking fairness in our justice system. Each year, the Commission issues a report to share these stories and the accomplishments being made every day across the Commonwealth.

The Commission welcomed three new members and said farewell to two long-serving colleagues this year. The Honorable Kim Berkeley Clark of the Allegheny County Court of Common Pleas, Attorney Robert Listenbee, chief of the Juvenile Unit of the Philadelphia Defender Association, and Attorney Harold Dunbar of the Pennsylvania Attorney General's Office are now on board and have already made excellent contributions to our work. We also recognize the fine work of two Commission members whose terms expired this year: The Honorable Ida K. Chen, who served as chair of the Interpreter Services Committee, and Samuel Tyrone Cooper, III, who served on the Equal Opportunity and Diversity Committee. We thank them both for their dedicated service.

And we thank you for your support of The Commission for Fairness. Please visit our website often for updates on the Commission's role in creating an integrated approach to human trafficking in Pennsylvania—one of the topics covered in this annual report—and all current initiatives.

Lisetteppe Cornick Lisette M. McCornick Pedro C. Con Lie

Honorable Pedro A. Corté





The Pennsylvania Interbranch Commission for Gender, Racial, and Ethnic Fairness U.S. Steel Tower, Suite 4830, 600 Grant Street Pittsburgh, Pennsylvania 15219 412.261.0679 www.pa-interbranchcommission.com

Members of The Commission for Fairness share an unguarded moment. Appointed by the majority and minority parties of the Pennsylvania House and Senate, the Governor's office, and the Supreme Court, members dedicate countless hours to the Commission each year in service to their fellow Pennsylvanians. Read more about their work on the Commission's new website.



#### SOURCE LISTINGS

National Report on Domestic Minor Sex Trafficking: America's Prostituted Children, Shared Hope International Women in the Profession 2006–2011 Report Cards, Pennsylvania Bar Association National Conference of State Legislatures Interpreter Program, Administrative Office of Pennsylvania Courts "Killer Costs," The Morning Call and Pennsylvania Department of Corrections Report of the National Right to Counsel Committee, The Constitution Project Read more in the annual report online.

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