

STATEWIDE ADR COMMISSION

Meeting Notes

9.30.16 10:00am – 12:30pm

Metro Court, ABQ

Attendees: Elizabeth Jeffreys, Staff & Statewide ADR Coordinator

David Levin, Chair	Susan Barnes Anderson	Sharon Ortiz
Laura Bassein	Kevin Spears (V)	Sara Stevens
Mary Jo Lujan	Phil Dabney (P)	Torri Jacobus (P)
Judge Sánchez	Jennifer Foote	

Guests: Shannon Driscoll, AOC Magistrate Court Mediation Program Manager

Absent: David Smoak (travelling) Mari Gish (@work) Judge Castleberry
Justice Nakamura, N.M. Supreme Court Liaison

I. Welcome & Introductions

Chair Levin opened the meeting with an overview of the agenda, and a statement of appreciation to Kevin Spears for his work with the new Data Cmte. In turn Mr. Spears acknowledged the work of Shannon Driscoll, Chair of the Data Cmte.

II. Announcements & Updates

- A. **Metro. Ct. Mediation Program’s 30th Anniversary.** Susan Barnes-Anderson extended an invitation to the celebration on October 13th, 5:30pm – 7:30pm, and requested an RSVP.
- B. **Mediation Week & Excellence in ADR Award.** Chair Levin noted that Justice Nakamura will try to attend the celebration, and that preparations are underway to issue an award to the program and to coordinate with the Metro Ct. to distribute a press release.
- C. **JEC Scholarships.** Elizabeth Jeffreys announced the recipients for the Fall Basic Mediation course: Jamie Lindemann, Ct. Mngr. II, Roosevelt Co. Mag. Ct. & Elizabeth Garcia, Gen. Counsel, 2nd J.D.. Laura Bassein announced that applicant April Sessions of the municipal courts was also funded for the training through a separate JEC funding source.

JEC Scholarship Selection Procedure. David Levin explained that the process has changed over time. Initially it was the Co-Chair of the Commission making the selections. Since we now have a single Chair, a temporary cmte was formed to make the selections this round: Torri Jacobus, Susan Barnes-Anderson, Laura Bassein, himself (participation was somewhat limited b/c he was out of the country) and Justice Nakamura (who was unable to participate). Chair Levin asked the Commission if it would sanction the continuation of the cmte’s role in selecting the applicants.

MOTION: Judge Sánchez moved that the Chair and four (4) senior members of the Commission, to include J.Nakamura, serve to select the JEC scholarship recipients on behalf of the Comm. **SECOND:** Susan Barnes-Anderson.

DISCUSSION: Laura Bassein added that her role was as a JEC representative, not as a Commissioner, so she makes recommendations but does not vote. She wants her role to be clear and transparent.

AMENDED MOTION: Judge Sánchez amended the motion that the group act in consultation with the JEC to select the scholarship recipients.

Chair Levin noted that if a conflict of interest should arise, the process should be of disclosure and waiver. He added that Laura Bassein’s contributions are pivotal in the decision making process, and that the system works well.

VOTE: All were in favor.

- D. S.Ortiz not present at the call of this item, so it was deferred.
- E. **FY18 Budget and Legislative Updates.**
 - a. ADR Comm. Chair Levin announced that a request for \$50,000 survived for “administrative support” for the Comm. Elizabeth Jeffreys clarified that the request for the \$50,000 is currently in the budget category of “other”, and that the Comm’s needs are greater in the contractual and PS/B categories, so if the funding request succeeds, the funding category will need to change to allow the Comm. to make the best use of the funds.
 - b. CCMP. Elizabeth Jeffreys announced that a request for \$50,000 survived to support the Children’s Ct. Mediation Program, and that the money was requested to replace the federal funds lost in FY17. The money would be used for services.
 - c. Legislation. None of the legislative requests survived.
- F. **MCMP.** Shannon Driscoll reported that the FY18 budget requests for the Magistrate Ct. Mediation Program did not survive. The requests will be put forward in the next budget cycle because the current funding stream is insufficient to sustain the program. Meanwhile she is applying for grants. Current funding will support services through FY18, unless the AOC uses the funds for other purposes, which it has done in the past. The fee-based funding stream is not sufficient to cover the Program Manager position, so the program will likely be discontinued in FY19.

Chair Levin stated that the Commission will support, promote and protect the MCMP as it is able. He asked if a diplomatically crafted letter of support, perhaps signed by the Justice, would help in the grant applications. Shannon Driscoll responded that it may be helpful at a later point, but is not needed now. She will communicate her needs to the Commission. Chair Levin asked for unanimous consent to write a letter with the Justice in support of the program. All were in support.

Shannon Driscoll was asked to provide more information about the scope of her program. Six (6) magistrate courts are served: Las Cruces, Taos, Clovis, Bernalillo, Belen and Los Lunas. She noted that if she could obtain funding to sustain the program, she could potentially begin to expand into other courts. She said that she was late to recognize in the FY18 budget cycle that some judges would be reluctant to support her request because they are not current beneficiaries of the program. Laura Bassein said it was good to hear of the potential for expansion because she feels there is some strain with the provision of training in areas that the program does not currently serve. Knowing that the potential for expansion is present helps to justify and support continued training in other areas. Shannon Driscoll noted that there are a few courts where the program could expand without additional training. She added that it is difficult to operate a state-wide program with just two (2) part-time contractors and one (1) program manager. She may meet with courts to

communicate the current situation regarding funding needs and potential for expansion. Portales, Anthony and Santa Fe are courts that could develop services without further training, and Farmington and Aztec are courts with high caseloads that would need training to develop a mediator pool.

Susan Barnes-Anderson noted that technology can be utilized to help reach outlying areas. The use of video to conduct mediations and to support mediator development has potential.

Sara Stevens asked if Mag.Ct. Judges are given information about the program. Shannon Driscoll said no, that she is working with the Statewide Operation Managers of the Mag. Cts. to communicate the program's issues. Judge Sánchez said that District Ct. Judges generally view Mag. Ct. Judges as having the most political power. Sara Stevens suggested in-person meetings with Judges could be beneficial. Laura Bassein said that the JEC has an annual training for the Mag. Ct. Judges and staff, and that the topic could be addressed in that forum, although it just passed for this year. Shannon Driscoll submitted a topic through Rosemary (Director of Mag.Cts), and it wasn't selected. Laura said to send the requests to JEC, as they make the determinations for the agenda. Judge Sánchez said that since a statewide filing fee is already collected it would help to speak with the Judges. Sara Stevens offered to speak with Judges in her area, but asked for a summary. Shannon Driscoll agreed to provide one to the Commissioners for use in supporting the program. Chair Levin said that there is a Mag.Ct. Judges Association that takes an active role in the budget process with the AOC Director and Justices. Sharon Ortiz said that in her research, developing a strong relationship with the Judges was effective, especially in rural areas, to garner support for ADR. The communication could be in person, by letter or email, but had to be present.

Chair Levin said that the MCMP was the 'canary in the coal mine', and that the Commission needs to engage and build wide spread support. Laura Bassein said that she would report to the JEC the desire to communicate the need for information on the value of mediation, but it would help to have requests come in from outside of the JEC. Susan Barnes-Anderson suggested that enlisting some Mag.Ct. Judges to communicate the value to other Mag.Ct. Judges could also be effective. Laura Bassein agreed and shared that the Taos Mag.Ct. Judge (Judge Shannon) stood before her peers at the last conference and spoke highly of the value of mediation. Chair Levin asked that the Commission move forward on the agenda.

- D. **Dissertation.** Sharon Ortiz reported that she's busy with her prospectus, which is under review, and with researching. She is working on a comparative study of party satisfaction, fairness, and outcomes between the mediation programs of the Metro & Mag.Cts and the adjudication process in the same courts, particularly for small claims cases. She is interested in any related research that Commissioners might be able to share. The last Metro Ct. Med. Study was in 1993, which was revisited in 2008, but without the gathering of any new data. She notes that few people are aware of the availability of mediation services. She is interested in doing a follow-up study, and is interested in the enforcement rates for mediated agreements vs. court orders. Susan Barnes-Anderson added that the 1993 study was regarding the effects of mediation on gender and race, so it is very different that the study that Sharon Ortiz is undertaking, but she would also like to see a re-visit of the 1993 study with new data. Sharon Ortiz offered to share the 1993 report, and Elizabeth Jeffreys offered to start a website library. Chair Levin offered that he had studies done by Mark

Bennett and Deborah Duncan that he could share. He will compile a list of studies on ADR in New Mexico and share.

III. **Recognition of Louise Baca Sena**

Chair Levin noted that there would not be a commission, or many of the court-connected ADR programs, without the efforts of Louise Baca Sena [AOC's Court Services Division Director]. There would be no NCSC study, which resulted in the formation of the Commission. Louise Baca Sena asked Terresa Berry to do a study, and when the results were reviewed she was not satisfied, so she then wrote an RFP and the NCSC was awarded the grant. The Commission has an opportunity to express its gratitude at her retirement party on November 3rd. Elizabeth Jeffreys added that she was instrumental in the formation and longevity of the Children's Court Mediation Program, which is the only statewide court-connected ADR program that has operated for 16 years. Chair Levin asked for consent of the Commission to create a certificate of appreciation for Louise Baca Sena. All supported recognition of her efforts.

IV. **ADR Symposium**

The Symposium is a free event with growing participation, and there's concern for some of the presentations getting crowded. So, this year there will be an effort to keep the numbers of participants in each room at a safe level. There's space for 200 participants, and the current registration count is at about 140.

The Commission has a 90-minute slot to present the important work of the commission and to build awareness of the value of ADR in the courts. Chair Levin would like to collect ideas, and requests that Commissioners participate in the presentation. Some ideas include the presentation of the Metro Ct. data and the mediation guidelines. The guidelines are specific to courts, but maybe the ethics section would be of interest. Other ideas are to present a history of the Commission and the NCSC Report, and give a progress report on the 10 recommendations since five (5) years have passed. For example, the efforts to build public awareness include the development of the website and video. Mary Jo Lujan said that the audience likes networking and growth opportunities, and maybe JEC and MCMP could talk about training and opportunities. Sharon Ortiz and Laura Bassein agreed to assist in the presentation.

V. **Data Project**

Shannon Driscoll reported that the newly formed Data Cmte had its first meeting on Wednesday, with good participation. The members are:

Shannon Driscoll, Cmte Chair, MCMP
Susan Barnes Anderson, Metro Ct.
JoAnne Trujillo, 1st JD
Lisa Betancourt, 3rd JD
Annabelle Lucero, 4th JD
Melissa Frost, 6th JD
Barbara Arnold, 8th JD
Marion Payton, 10th JD
Jodie Schwebel, 11th JD
Beth Williams, 13th JD
Joey Moya, Sup.Ct.

David Levin, Comm. Chair
Elizabeth Jeffreys, CCMP
Elizabeth Garcia, 2nd JD
James Noel, 2nd JD
Kennon Crowhurst, 5th JD
Alexis Jojola, 7th JD
Kevin Spears, 9th JD
Ben Cross, 9th JD
Andrea Carrillo, 12th JD
Robert Rambo, Ct.Ap.

Shannon Driscoll notes that the Supreme Court does not offer mediation, and likely does not need to participate in the Data Project. Chair Levin said that he will speak to his involvement later. The cmte will start with a review of the ADR Odyssey codes to identify what data is collected, and what is needed. There's a need to inventory and compile what the current practices are across the state. Both qualitative and quantitative data will be addressed. The cmte expressed interest in making Odyssey more useful to ADR programs and services. Judge Sánchez expressed concern that the cmte work through the proper channels when considering changes to the Odyssey codes, as JIFFY has a subcmte (OJUG) that has a matrix of the codes and would likely need to review any changes. The process would require not only the identification of changes, but estimates of time and cost and potential benefits. Shannon Driscoll said that she understood the process, and that the cmte is going to first focus on identifying needs for ADR so as to try to reach consensus on contemplated changes before going to JIFFY. There are likely more codes than are needed, and some might need to be hidden. Judge Sánchez added that if reports are developed in Odyssey, then they will be available for others, such as Judges to run, so it is good to be aware of the impact changes will have. He said that there are ways for folks to get the raw data from Odyssey and then use the data to run reports outside of Odyssey. Elizabeth Jeffreys noted that in previous efforts to gather data the data was found to be unreliable because of data entry errors, which is another area that the cmte will address. Chair Levin noted that both the JIFFY Chair and the head of JID were already alerted to the Data Project's activities. Shannon Driscoll said that she would like to see the development of written protocols. Susan Barnes Anderson said that she has an employee working on written protocols who is actually using screen shots of Odyssey to help guide the reader to the appropriate data entry point in the system. It's a helpful approach, and it will be shared with the Mag. Cts.

Chair Levin said that this is a huge, thankless task that the future of ADR may depend upon. He was at the cmte meeting and there was clear communication and wonderful participation. He extends thanks for the efforts, and asks that the cmte let the Commission know what is needed to assist. Sharon Ortiz offered to help with the data and statistics. Shannon Driscoll said that she'll keep the offer in mind, but it is still too early in the process. Kevin Spears agreed that it was a good cmte meeting, and enlightening – some districts may not even be using the Odyssey codes. The mtg was well attended and he reiterated that the cmte would follow the appropriate protocols and channels when it is ready to propose any changes to Odyssey.

Metro Ct. Data Susan Barnes Anderson provided the data report from her internal efforts, which are now official. She said it was a huge project to collect and present the data, and that the results speak to the provision of justice and the saving of both time and money. Sharon Ortiz noted that the results (86.5% compliance rate) were consistent with her research findings, and asked if she could use the report in her research for her dissertation. Susan Barnes Anderson will check and report back on the permissions. Susan Barnes Anderson asked if the research ever noted whether the courts had paid staff; S.Ortiz responded yes, and added that the Metro court study was referenced in many reports on ADR.

Susan Barnes Anderson stressed the importance of designated staff, and reports that 26% of the agreements were facilitated by her staff. Sixty (60) cases settled after mediation, and the staff are involved in assisting some resolutions by phone or letter (esp. helpful with debt cases). Judge Sánchez asked if mediation was compulsory. It is not, it is completely voluntary, and while they may feel obligated when a judge offers mediation, there is no requirement for the parties

to participate. Magistrate Court Judges order mediation, but it varies by court which cases are ordered. A foundation of party self-determination is that the participation be voluntary. Susan Barnes Anderson again shared the idea that the courts, and particularly smaller courts, combine the self-help offices with ADR in order to provide a broad range of services in a budget conscience manner. She advised that when courts report data they look for and control outliers that may skew the data: a few cases may take years to resolve, and the removal of those cases will give you a more accurate reflection of the 'norm' in terms of time to disposition. Sharon Ortiz reports that her research suggests that (1) people don't know about mediation, (2) they may have had bad experiences, and (3) they don't like being told to mediate. Metro court will not force participation even if parties are told that they must appear. Sharon Ortiz added that rural areas are distinguishable in several areas, and that offices with staff have better statistics.

VII. **Mediation Guidelines**

Three documents were distributed showing the prior version, the new version and a red-line/track-changes between the two. Chair Levin acknowledged the labor of Susan Barnes Anderson, Laura Bassein and Neil Bell (Sup.Ct. Atty) in getting to this point. Changing the proposed rules to a set of guidelines wasn't as straight-forward as anticipated, the audience had to be considered with the selection of terminology, and the extensive public commentary received in earlier versions was contemplated with the rewrites. The cmte was careful in its review at every stage. Chair Levin would like to see the Guidelines submitted to the Sup.Ct. for approval before the end of the year. Judge Sánchez moved that the redline version be approved. Elizabeth Jeffreys interjected that what was needed was a vote to have the final version submitted to the Sup.Ct.

MOTION: Judge Sánchez moved that the latest version of the Mediation Guidelines e submitted to the Supreme Court for approval. **SECOND** by David Levin.

DISCUSSION: Laura Bassein provided a history of the work on the guidelines, saying that the initial publication resulted in over 150 pages of comments that were carefully considered, responses were developed and the rules were revised. The second publication resulted in fewer comments, which were also carefully considered, responses were developed and the rules were revised. Then there was a change in approach by the Commission, and the rules were revised into a set of guidelines. Again, a lot of work went into the revision, and the changes were carefully considered. The version before the Commission is a reflection of years of work by the cmte, and the red-line version is only a reflection of the last set of revisions. Judge Sánchez asked about the process for approval by the court. Chair Levin responded that he had a discussion with Joey Moya [Sup.Ct. Clerk] regarding the submission of guidelines as opposed to rules. He believed that the Judicial Selection Commission started with guidelines that were later submitted as rules, and that the Language Access Service has guidelines approved by the court. The Guidelines could be used for public outreach and education, and could be a working document. Judge Sánchez wondered if the rules for District Courts should be amended to say that mediators and parties are encouraged to follow the guidelines. Chair Levin doesn't want the guidelines to sit on a shelf and gather dust. He suggested a campaign to use the guidelines as an educational tool and to get buy-in. Judge Sánchez noted that they are not rules, but would communicate the Commission's standards. Elizabeth Jeffreys noted that there were prior discussions about whether the guidelines would create a standard with the potential for a cause of action to develop. Laura Bassein noted that the guidelines state that they should not be used to develop a cause of action. Chair Levin said the guidelines could be used as a rallying point. Susan Barnes Anderson said that the Commission could go to each court and present the guidelines. Elizabeth Jeffreys suggested

that the guidelines be given to the data cmte to review, since the cmte was comprised of ADR representatives from around the state. Chair Levin said that the Commission could offer trainings, and do another summit. He noted the motion on the table is to send the guidelines to the Supreme Ct.. Laura Bassein has worked on the guidelines for years, and strongly prefers that they be rules, but wants to move forward because they are in quite good shape. Judge Sánchez's suggestion that we continue to build on the guidelines and take steps towards developing rules is reasonable. Last week she had a judge ask for the ADR rule numbers, because some people think they've already been approved. They have been out of the public's eye for way too long.

Susan Barnes Anderson apologized that she identified something that needed to be removed from the guidelines. Chair Levin said that something could be removed, but the guidelines needed to move forward. Shannon Driscoll noted that she also had concerns, if the Commission was interested in hearing them. She identified Susan Barnes Anderson's concern on page 12 regarding a conflict between the first and second bulleted points. Laura Bassein pointed out that the bullets do not conflict because the section is entitled, "some options include ...". The concern was withdrawn. Sharon Ortiz said that we need to do something, as this process has taken a long time.

Shannon Driscoll was encouraged to share her concerns, and reported the following:

1. As a whole, the comments were cumbersome, and the guidelines are written well enough so that many of the comments are not needed. Some comments would be more appropriately placed in the toolbox or other reference.
2. Definition of court-connected mediation services is ambiguous. For example, what happens if a court refers a case to mediation program vs. a specific mediator? It may be helpful to have a definition of "referral". Chair Levin stated a definition was in the comments. Shannon Driscoll responded that if the clarification is critical, it should be in the guidelines and not in the comments.
3. Confidentiality (Section 3.D). That mediation parties should be bound by confidentiality provision was problematic because there are no "teeth" – an agreement of the parties needs to be written into an agreement. The guidelines should bind the mediators and observers, not the parties. Judge Sánchez asked if the MPA bound the parties and mediators. Chair Levin looked it up and reported that Section 44-7B-4 said that all communications in the mediation were confidential and not subject to disclosure, and exceptions were listed. Judge Sánchez suggested the use of "are" instead of "should". Chair Levin said that the language of "should" was inserted when the proposed rules were changed to guidelines. Judge Sánchez noted that the rules of evidence provided that settlement negotiations are not disclosable, and that there's a distinction between 'confidential' and 'privilege'. Laura Bassein said that in N.M., only the Supreme Court can create a privilege, so the use of the word is touchy. The choice of words in the guidelines was carefully considered, and the cmte recognized in the drafting and redrafting over the years that the words on the page were operating in a wider context. Chair Levin added that the Legislature can make a confidential process, but the Supreme Court can make a privilege. He asked Shannon Driscoll to continue sharing her concerns. She responded with a suggestion that a definition of confidential be added, as "confidential" can be thought of in different ways: mediators shouldn't share with neighbors vs. the information can't be used in court.
4. Capacity to mediate (Page 12 of the red-line version, bullet #8 of the commentary), concern that the burden regarding a report of capacity issues 'should be shared'. Laura Bassein noted that this was also under the "some options include ..." section. She doesn't love all of the options listed, and notes that not all are best practices. Conceptually she agrees with the concern.

Sharon Driscoll suggests that the offering of options may be better placed in the toolbox, where the options can be flushed out and the decision making process can be described. Judge Sánchez noted that there is more freedom with guidelines to amend. Laura Bassein noted that if the guidelines were adopted by the Sup.Ct., they would be fixed until the court changed them again. Elizabeth Jeffreys said that the guidelines could be changed, with a notation that the change was not yet approved by the court. Chair Levin agreed, but said that the Sup.Ct. is expecting the guidelines, so the Commission needs to decide and inform them. He noted that everyone at the table, including himself, would likely have different suggestions for how to amend the guidelines.

Shannon Driscoll said that she hates to suggest a major revamp, but there are a couple of places, words and sentences that she could help with, and she recognizes that she's not been around since the beginning so she may be missing some of the history and thought process. Judge Sánchez suggested that there were some philosophical differences on capacity and confidentiality. Elizabeth Jeffreys added that she also described issues with definitions, such as 'referral'. Laura Bassein said that she wants to accommodate everyone, but if too many changes are made then the guidelines will need to go out for public comment. Judge Sánchez asked where we were in the process. Chair Levin responded that we changed the rules to guidelines and there will not be another publication unless we trigger one. Sara Stevens said this is the best iteration to date, and that the comments are important – it helps people to understand that the process took forever. Judge Sánchez said there are some urgent things Shannon has to say, and I want to hear them.

Shannon offered two more pieces, which were smaller concerns: Section 5.B1 on disclosure of "significant" relationship(s), she noted that the word had no definition and could be stricken. Laura Bassein offered that much of the language was from the model standards of conduct, but she would have to look to see if that's where the word derived. Judge Sánchez offered that a legal definition would turn on whether there was a material conflict of interest. Elizabeth Jeffreys noted that non-attorneys may be using the guidelines in ct. ADR programs, so the language needed to be clear to a layperson. Susan Barnes Anderson said that she always discloses relationships, significant or not. Shannon Driscoll agreed that it was important to disclose all relationships. Laura Bassein noted that the comment was made in the first public submissions – people were very concerned about over-coverage and the obligations placed on mediators, so the wording may have been in there to reduce the pressure on mediators. Chair Levin stated that it may be language taken from other source. Shannon Driscoll stated that the conflict of interest provision for mediators shouldn't be the same as for an attorney, but that she would be less concerned if the language derived from the model standards. Sharon Ortiz shared that in her research she found similar language used in other policies.

Section 5G, regarding domestic violence, was another concern, where some of the items offered for consideration were not repeated in the first section, and that she supported the consideration of termination for capacity issues. Chair Levin said that he is going to let it go – whatever we want to do with the guidelines is fine. Laura Bassein said there are opt out provisions throughout. Judge Sánchez stressed that if capacity is lacking, self-determination is lost.

Chair Levin said we are at a cross road, and that we can't let exhaustion lead us to a bad result. Shannon Driscoll clarified that she thought the guidelines were well written, not "bad", and that

she now understood that some of the wording was reflecting the struggles of the writers. Chair Levin said some of Shannon's concerns need to be understood to help people to understand the guidelines. These are guidelines and not rules. What they provide is a beginning point for discussion. We can do some healthy education to the courts. Some of this can be misconstrued – can be done better. There is an absolute responsibility to help them to be a living aid. As Chair, we need to let the court know what we're doing. Shannon Driscoll pointed out that she does not get a vote. Judge Sánchez said that it was good that she was thinking about concerns that may arise. Mary Jo Lujan wondered if the guidelines were ready to be tested, even though they weren't fully "cooked", and should be sent for approval. Chair Levin said that we're never going to put out something that's fully cooked. The rules [Sup.Ct. Committee Rules] do not necessarily apply to the Commission, and Neil Bell said that some steps are not needed. Elizabeth Jeffreys asked for clarification, sharing that in her discussions with Joey Moya a year ago, she was informed that guidelines are not subject to the rules on rule making, and could be submitted at any time without going out for public comment. Chair Levin said that he was not told anything different. Laura Bassein said that eventually she would like to see the guidelines become rules, maybe in 2 years. Judge Sánchez shared that there's a natural life span for these things, and that the Language Access Services guidelines were later adopted as rules. Mary Jo Lujan suggested that the guidelines need to be in use and revised, not given an overnight fix. Chair Levin said that there's a motion, so we need to decide. Susan Barnes Anderson suggested that the Commission approve the current version, submit it and review it again in a year or two. Chair Levin said that we could do that, and asked if we should work on it more or send it forward without further revisions? He asked for responses from all those present, and stated that he wants to approve and move forward and then work on them.

VOTE: The Commission voted unanimously in support of submitting the latest version of the guidelines to the Supreme Court for review and approval. Chair Levin commented that the guidelines are a process, not an event, and that we will work with the data cmte.

VIII. **Commission Organization, Vacancies & Rule 23-106**

Chair Levin asks for the Commission to stay a bit later to cover some agenda items. He spoke with Joey Moya [Clerk of Sup.Ct.] and shared that the Commission cannot recommend someone for the open positions, but Commissioners can encourage applicants to apply, and can write letters of support to the Sup.Ct.. There are vacancies [3] that can't be filled except at the end of the calendar year. Most of it we cannot influence. There are different slots, ex. University position. The roster needs to match the Sup.Ct. Order. A mid-term vacancy can be filled at the court's leisure. The law school can make a recommendation to fill its slot, but general members have to apply.

Chair Levin has a spreadsheet from his discussion with Joey. The rule [Sup.Ct. rule for rule making committees] is not suited for the Commission. Essentially the Commission will run the way the Justice wants it to run. If you miss three [3] meetings, it is mandatory to report. Elizabeth Jeffreys explained that the requirement is to send a notice to the Commissioner that misses two consecutive meetings, and then to report the third consecutive absence to the Sup.Ct., as the Commissioner is then "deemed to have resigned". There may be excusable absences, but that is not addressed in the rule. Chair Levin will send an email.

Meeting adjourned at 12:45pm.