

# CHIEF'S COMMISSION ON THE LEGAL PROFESSION

## MINUTES OF MEETING

**December 5, 2013**

**2 E. 14th Ave., 4th Floor**

**3:00–4:00 PM**

<b>MEMBERS IN ATTENDANCE</b>	Chief Justice Michael Bender, John Baker, Kristen Burke, Judge Russell Carparelli, Sarah Clark, Jim Coyle, Al Dominguez, Katy Donnelly, John Eckstein, Barbara Ezyk, Mark Fogg, Andy Frohardt, Marci Fulton, Charley Garcia, Emma Garrison, Ed Gassman, Alli Gerkman, Carol Haller, Tess Hand-Bender, Chief Judge Bob Hyatt, Dean Marty Katz, Kenzo Kawanabe, Margrit Lent Parker, David Little, Presiding Judge John Marcucci, Patty Powell, Chief Justice-Designate Nancy Rice, Judge Terry Ruckriegle, Jan Spies, Dave Stark, Judge Liz Starrs, Shannon Stevenson, Judge Dan Taubman, Lorenzo Trujillo, Mimi Tsankov, Chuck Turner, Ellen Wakeman, State Representative Mark Waller, U.S. Attorney John Walsh, and Kim Willoughby.
<b>OTHERS IN ATTENDANCE</b>	Farhren Devine, Denver County Court; Brendan Powers, Colorado Defense Lawyers Association; Scot Smith, State Court Administrator's Office
<b>ATTACHMENTS</b>	The meeting agenda, materials, and handouts are available at: <a href="http://www.courts.state.co.us/Courts/Supreme_Court/Committees/Committee.cfm?Committee_ID=35">http://www.courts.state.co.us/Courts/Supreme_Court/Committees/Committee.cfm?Committee_ID=35</a> .
<b>NEXT MEETING</b>	February 27, 2014 at 3:00 PM

### AGENDA ITEMS

#### **WELCOME AND ANNOUNCEMENTS**

**CHIEF JUSTICE BENDER**

Chief Justice Bender welcomed the Commission Members and Liaison Members, and those in attendance introduced themselves.

#### **APPLICATIONS OF MOTIVATIONAL INTERVIEWING**

**SCOT SMITH**

Scot Smith—Staff Development Administrator, Division of Probation Services, State Court Administrator's Office—presented introduced the concept of Motivational Interviewing ("MI") to the Commission. Scot explained that MI is a communication technique aimed at triggering and strengthening an individual's internal motivation to change by helping them to listen to their own words and feelings. He cautioned that MI is neither a sales pitch nor an interrogation method because it respects the autonomy of the individual to make their own decision. Scot noted that although MI may

appear passive, it requires listening with an intense attention to detail and engagement with the other person that is artistically directive.

As described in Handout A, which is available along with these minutes, MI revolves around four basic principles: (1) expressing empathy; (2) rolling with resistance; (3) developing discrepancy; and (4) supporting self-efficacy. Scot expanded on these principles, observing that expressing empathy requires building rapport; that developing discrepancy involves eliciting where the individual is and where he or she wants to go, and revealing the difference between those two places; and that rolling with resistance is antithetical to a direct or confrontational style, and is neither condoning nor criticizing. Scot summarized that MI is less you telling them and more them telling you.

Scot described his experience with MI and the practice that it requires, describing Colorado's EPIC Project, which is a state-funded program created by the Colorado Commission on Criminal and Juvenile Justice in 2009 to improve the criminal justice system in effective and long-lasting ways. Scot indicated that although MI is not strictly an evidence-based practice, there are indicators that MI combined with cognitive behavior therapy is helpful because it is designed to respond to "change talk" – that is, an individual's desire, ability, reason, or need to change. More information about the EPIC Project can be found at: <http://www.colorado.gov/cs/Satellite/CDPS-CCJJ/CBON/1251624416183>

Scot also introduced an MI-based method of coaching that he thought might be of use to attorneys in working with others in their offices and even, perhaps, with clients. That coaching method is called the Elicit-Provide-Elicit technique. Like MI, Scot explained, EPE is person-centered and strength-based. In an observation exercise, for example, feedback is provided by:

1. Elicit – asking the other person what they are looking to gain and focusing the feedback on those areas
2. Provide – asking the other person how they think things went, then asking permission to provide your observations and focusing on what the person is doing well
3. Elicit – asking the other person what they want to work on next and perhaps asking permission to make a suggestion about how they can improve in that area

Katy Donnelly asked about the use of MI by judges, to which Scot replied that MI's microskills – listening, reflecting, etc. – can be helpful even in short interactions.

Carol Haller added that judges are using MI techniques primarily in problem-solving courts, but that judges are beginning to learn and understand the microskills for possible and appropriate use, especially when sentencing a criminal defendant to probation.

Chief Justice Bender noted issues that would arise with use of MI when a victim is present in the courtroom, but added that MI can be used elsewhere and seems like it could be helpful generally in life.

Charley Garcia was impressed by the amount of feedback that goes into training in MI.

#### **WORKING GROUP D**

**DAVE STARK**

Dave Stark, Chair of Working Group D—development of the relationship between the legal profession and the community to enhance access to justice, delivery of justice, and education of the public—delivered the report for the Working Group (Materials Pages 1–3). Dave reminded the Commission

about the kick-off event for the new federal pro bono program, at which Commission Member U.S. Attorney John Walsh would be the keynote speaker. Dave thanked Commission Member Mimi Tsankov for her work in establishing the program to enable attorneys who work for the federal government to participate in pro bono work. Dave then updated the Commission on the status of the model pro bono policies drafted by Working Group D for government agencies and in-house legal departments (Materials Pages 4–19). The draft policies have been submitted to the Standing Committee on the Colorado Rules of Professional Conduct for consideration to be added to the comments of Rule 6.1.

**WORKING GROUP A**

**LORENZO TRUJILLO**

Lorenzo Trujillo, Chair of Working Group A—development of professional identity, social responsibility, and practice skills in law school, and involvement of judges and leaders of the bar in law school—delivered the report for Working Group A (Materials Pages 20–24). Lorenzo provided the results of the feedback surveys collected from the students, attorneys, judges, and clients who participated in the joint 1L orientation event, noting improvement from last year and overall satisfaction with the event. Lorenzo reported that Working Group A, in response to law students’ concern that the event is duplicative of other orientation events, has decided to move next year’s event from September to January. The event will also include curriculum stations set up in the Ralph Carr Judicial Center for students to explore during the breakfast/mingling time. The Working Group will also organize the attorney-judge-client groups earlier, and will plan a pre-event meeting of those groups in an effort to create more consistency in the quality of the small-group discussions.

In addition to evaluating the joint 1L orientation event, Working Group A has been taking stock of the legal community’s efforts to increase the number of diverse individuals who are in the pipeline to become lawyers. Lorenzo summarized the issues surrounding the problem, including the need to expose students to the possibility of a career in law early in life, the limited effectiveness of one-touch programs, and the economic forces at play that can derail students at many different stages. Lorenzo reported that the Working Group’s meeting with the law schools, IAALS, Colorado Bar Association, and Chief Justice-designate Rice was informative and even generated some new ideas. Lorenzo indicated that the Working Group would await direction from Chief Justice-designate Rice and the Commission before continuing with this effort.

**WORKING GROUP C**

**JUDGE CARPARELLI**

Judge Russell Carparelli, Chair of Working Group C—development of communication and professionalism between and among judges and attorneys—delivered the report for Working Group C. Judge Carparelli reported on the success of the second-annual October Legal Professionalism Month. He noted that the Working Group accomplished one of its main goals, which was to have the October issue of The Colorado Lawyer dedicated to the subject, with 10 articles that could be read for CLE credit. He also described some of the many events that were held by local and specialty bar associations, Inns of Court, and other groups during the month, many focused on this year’s theme of diversity and inclusiveness. Judge Carparelli thanked Commission Member Karen Hester and the Center for Legal Inclusiveness for their participation in developing the curriculum and/or providing the speakers for many of the programs. He also described the program for this year’s Assembly of Lawyers (Materials Pages – 26), to which the lawyers who were being sworn in were invited this year. The panel talk focused on the

topic of mentoring and diversity and inclusiveness. There was consensus the having this type of discussion at a forum as important as the swearing-in ceremony was impactful and meaningful.

## **WORKING GROUP B**

**MARK FOGG**

Mark Fogg delivered the report for Working Group B—development of professional identity and social responsibility for new attorneys and thereafter. Mark recapped Working Group B’s focus on two main projects: mentoring and Colorado Lawyers for Colorado Veterans. Regarding Colorado Lawyers for Colorado Veterans, Mark noted that the Colorado Bar Association approved the creation of its 29th committee—the Military and Veterans’ Affairs—where the program will be permanently housed. He noted that the program has helped between 300 and 400 veterans, and that 189 pro bono cases have been taken by attorneys. Attorneys who have taken those pro bono cases can have their costs reimbursed out of a \$10,000 grant that was just received.

Regarding mentoring, Commission Member John Baker reported (Materials Pages 27–34) that his goal is to have Colorado Attorney Mentoring Program (“CAMP”) mentoring pairs in all 22 judicial districts. He explained that while he thought the structure of the mentoring program might be interpreted as too restrictive by some groups, almost all participants find the structure to be helpful and an asset. John noted his recent finding that many new lawyers do not belong to a bar association and informed the Commission of his plan to reach out to those lawyers directly to steer them toward their local bar association and to get them involved with CAMP.

Mark also reported on the efforts of the Colorado Bar Association’s Modest Means Task Force, which over the last year has compiled a book of information to help lawyers—particularly, new lawyers—develop a business plan to build a law practice aimed at serving individuals of moderate income. The task force most recently put on a half-day CLE and is collaborating with the Judicial Branch’s courthouse self-help centers to help connect individuals with attorneys seeking to serve moderate income clients, as well as with the law schools to deliver this information to law students.

## **ANNOUNCEMENTS AND FURTHER DISCUSSION**

Al Dominguez suggested the MI training could be helpful for mentors.

Terry Ruckriegle explained that he’s been promoting CAMP during his visits around the state as President of the Colorado Bar Association. He observed that one issue is a lack of mentors and suggested that the Commission could have an impact on the number of mentors by talking about the importance of CAMP and the work it’s doing with other lawyers.

Judge Carparelli commended the Commission for not just talking about issues but taking action and making an impact in its areas of focus.

## **SPECIAL AWARDS**

As his last words as Chair of the Commission, Chief Justice Bender thanked the Commission Members and Liaison Members for their participation in the Commission, and for taking the ball and running with it. He emphasized that the Commission was vital to his ability to communicate and carry out his vision of improving the legal profession to the Colorado legal community. Chief Justice Bender presented the

chairs of the Working Groups—Lorenzo Trujillo, Mark Fogg, Judge Carparelli, and Dave Stark—with plaques in appreciation for their leadership.

Chief Justice Bender then turned the Commission over to Chief Justice-designate Rice who shared that her goal for the future and for the Commission is sustainability, meaning that she'd like to keep the Commission going. She expressed her belief that her role is to sustain the Commission as a link between Chief Justice Bender and the next Chief Justice.

On behalf of the Commission, Mark Fogg and Lorenzo Trujillo presented Chief Justice Bender and Sarah Clark with gifts in appreciation of their vision and leadership. Mark thanked Chief Justice Bender for bringing the Commission together and remarked that the goal of increasing and improving communication between the law schools, bar, and bench had been achieved. He noted that Chief Justice Bender served as the moral force that enabled the Commission to accomplish so much by reminding lawyers and judges that public service is at the heart of what they do. Lorenzo Trujillo thanked Sarah Clark for her direction, initiative, and presence in all that the Commission has done.

**ADJOURN**

Minutes of Meeting submitted by Sarah Clark, December 17, 2013

**2014 COMMISSION MEETING DATES**

**KRISTEN BURKE**

After the Commission meeting, Kristen Burke, Counsel to Chief Justice-Designate Rice, sent out an email to the Commission announcing the following meeting dates for 2014:

- February 27, 2014
- May 29, 2014
- September 11, 2014
- December 11, 2014

All meetings are held on Thursday afternoons from 3:00–5:00 PM in the Supreme Court Conference Room on the 4th Floor of the Ralph L. Carr Colorado Judicial Center at 2 E. 14th Ave., Denver, Colorado 80203.