

**Philadelphia Bar Association
Board of Governors Meeting
June 24, 2020**

The meeting was called to order by Chair Kamau at 4:05pm.

The minutes from the May 28, 2020 Board meeting were considered. A motion to approve the minutes was made and seconded and passed unanimously.

Judge Charles Hayden presented a Resolution Urging the Pennsylvania Judicial Center be Renamed the Chief Justice Robert N.C. Nix, Jr. Judicial Center. He thanked the Board for hearing the proposed resolution and introduced himself as a judge of the Philadelphia Municipal Court, but he addressed the Board in his capacity as the Chair-Elect of the Clifford Scott Green Chapter of the National Bar Association. He also thanked Chancellor Snyder for taking such quick action to get this resolution before the Board, and acknowledged that based upon all the Association has been doing, he should have expected it.

He referred the Board to the text of the resolution and highlighted a few points: When Congressman Nix and Chief Justice Nix, who each graduated from the University of Pennsylvania Law School in 1924 and 1953 respectively practiced there were fewer than eighty-two African Americans admitted to the Bar in Philadelphia by 1953, no one would rent any African American lawyer office space in Center City, when they went to court they could not sit in the front of the courtroom with the other lawyers, they had to sit in the gallery with their clients, and his “favorite” because it has actually happened to him-being mistaken for the defendant instead of the lawyer no matter how well dressed you are-and neither were invited to practice in any white law firms or would be permitted to join the Philadelphia Bar Association.

He recalled that when he was sworn in ten years ago and then Chief Judge of the Third Circuit, Ted McKee, presided over his robing ceremony, he invoked the names of the five Judges who had inspired him to want to become a jurist-Chief Justice Nix, Judge Lawrence Prattis, Judge A. Leon Higgenbotham, Judge Clifford Scott Green and Judge William Hall. He mentioned their names, because they all represent excellence and the public needs to know, especially during these times, that there was, is and always shall be an abundance of Black excellence and talent.

He also referred the Board to Association history, indicating that on September 24, 1998, the Philadelphia Bar Association passed a similar resolution, when Mark Aronchick was the Chancellor, urging that the Criminal Justice Center be renamed after Justice Juanita Kidd Stout. Sadly, it took nearly fourteen years - until May 31, 2012 - for that renaming to occur. He was one of the three members of the Ad Hoc Committee created by the NBA Judicial Council that helped in that initiative. The other two members were Judges Jacqueline Allen, who truly spearheaded the effort, and Lydia Kirkland.

He indicated that if this resolution passes he will work tirelessly, in coordination with the Philadelphia Bar Association, to make this a reality.

Larry Felzer asked for clarification as to whether the word “judicial” will be part of the name and Judge Hayden indicated that it was to be part of the name. It was suggested that the

resolution be amended so that it is consistent within the resolution. Larry Beaser indicated he would make that revision.

A motion to approve the Resolution as amended was made, seconded and passed unanimously.

Christopher Markos, Co-chair of the Civil Rights Committee presented a Resolution Supporting Police Reform Measures at Local, State and National Levels. He introduced himself and indicated that the resolution is being presented by the Civil Rights Committee and has support of the Criminal Justice and Public Interest Sections. He indicated that this is a critical time to raise this resolution. It is important not to forget that the demonstrations that have been taking place all month all over the country are nothing new. In a less-famous passage from his *I Have a Dream* speech, Dr. King said “We can never be satisfied [as long as black Americans continue to be] the victim[s] of the unspeakable horrors of police brutality.” Every few years, it seems, this unfulfilled vision results in ebbs and flow of demonstrations and unrest, followed by calm and commissioned studies, and after the country witnessed the killings, by police, of Breonna Taylor, George Floyd, and Rayshard Brooks in quick succession, efforts to enact incremental, piecemeal change have revealed themselves to be mostly hollow.

The history of policing in America is co-extensive with the history of police brutality. Many have remarked recently about the origins of modern policing in the slave-patrols of the pre-war south. And that is true, but not the complete story. In the north, modern policing had its origins in imposing “social control,” which, not surprisingly, was defined by the prevailing economic and political powers of the time. This social control was first imposed on marginalized communities of immigrants, and before labor organized and coordinated strikes, that behavior was deemed “rioting” and another early target of police violence. Pennsylvania’s state police force was founded for these dual purposes: strike-breaking and controlling immigrant communities.

As freed Blacks traveled to northern cities after the civil war, they too became targets, and victims, of police violence. A study from a hundred years ago in the Chicago area found that while Black Americans made up just five percent of the area's population, they constituted 30 percent of the victims of police killings.

And here’s a snapshot of how things stand today. The Washington Post recently published a qualitative study of people who live in communities with heavy police presence and a history of police violence that reflects the foregoing history: a “deep-rooted perception that the police are there to monitor you, not protect you.” Quantitatively, the numbers are startling. From 2010 through 2018, more Americans died at the hands of police officers (about 14,400) than died while on active military duty (about 9,400). Of these victims, the most disproportionately represented are Black Americans, who comprise approximately 13% of the population but account for approximately 24% of those killed by police each year. On average, 96 out of every 100,000 black men will be killed by police, while just 39 out of every 100,000 white men will be killed by police. In Philadelphia, compared to whites, Black Americans are more than 50% more likely to be stopped without reasonable suspicion and are 40% more likely to be frisked without reasonable suspicion; a disparity that can be neither explained nor justified by non-racial factors.

In that same speech, Dr. King cautioned against gradual change. The history I just discussed, and this resolution, speak to the structural nature of the issue of police brutality, its racially disparate impact, and the need for systemic change as the best way forward.

The resolution clause references specific legislative proposals that are currently percolating, but is broad enough that will allow revision based upon any legislation that may be proposed in the future. Arly Smith-Pearson applauded Mr. Markos for his work and for finding the correct balance in the wording of the proposed resolution. Larry Beaser was also thanked for his contributions to the current version of the resolution.

A motion to approve the Resolution as amended was made, seconded and passed unanimously.

Susan Pearlstein, Family Law Unit, Philadelphia Legal Assistance presented a Resolution Addressing Urgent Domestic Relations Issues During and After the COVID-19 Pandemic. She thanked the Board for considering this resolution. There was a similar resolution addressing issues in landlord/tenant court. The Family Law Section, Public Interest Section and several members of the Civil Gideon Task Force believe this resolution is necessary, because since the re-opening of the court, the procedures implemented have resulted in confusion and lack of communication as to the procedures that will be utilized. There has not been a uniform procedure for notice provided for proceedings and there is a lack of information known by court staff and even some members of the judiciary. Therefore, the Family Law Section believed that there was some clarity that was needed. It should also be noted that the Section understands the challenges that the court is facing from a logistical standpoint. This is not the first time the Section has endeavored to assist the court on these tasks. However, attempts to reach out for collaboration with the court did not go far enough. The resolution is asking for more uniformity, explanation of procedures and adequate notice to be provided. It also asks for the formation of a working group to address these issues. There have been very few cases or matters that have been scheduled to date so there is a significant backlog and the issues need to be addressed.

Randi Rubin, Chair of the Family Law Section, thanked Susan for her work on this and explained that she is the common glue in this situation between the Family Law Section, Public Interest Section, the Civil Gideon Task Force and other interested parties. She explained various dire situations that are litigated through family court and the basic logistical issues in even getting a pleading filed. Even the voicemail system did not explain that the court was closed. It was difficult for the lawyers, but even more challenging for pro se litigants, who represent the majority of those appearing in family court. She indicated that she and Chancellor Snyder had a 1.5-hour conversation with Chief Judge Murphy in the family court. The Section compiled a five-page document with suggestions for improved procedures to be implemented. However, the suggestions could not be employed.

Kris Calalang explained that a lot of detailed work was done to ensure that specific suggestions are included. She explained that it is important for attorneys, clients and pro se litigants so that all parties involved know the procedures to follow so there is clear communication. She invited suggestions from the Board as to revisions for the action points. Lou Rulli thanked Susan and the others who worked on the resolution. He indicated he believes this is part of a broader issue and the Bar Association and the courts should be working together and collaborating. However, despite excellent leadership by Chancellor Snyder, there are still challenges and we must ensure the Bar Association's voice is heard to protect all Philadelphians.

Chancellor Snyder also thanked Susan Pearlstein and Randi Rubin for this work, as it's an excellent resolution and he hopes it leads to meaningful changes in the court.

A motion to approve the Resolution as amended was made, seconded and passed unanimously.

Diane Pennys Edelman, International Law Committee Co-chair and Board Member presented a Resolution supporting Independence of the International Criminal Court and Freedom to Travel of its Members. She thanked the Chancellor, Cabinet and Board for hearing the resolution. She also thanked her co-chair Jeremy Heep, who is a wonderful partner. She also thanked Enid Adler, a member of the committee and past chair, who helped propel the resolution into existence. It developed when Ms. Adler informed the Committee Chairs that the Trump Administration is taking action to impede the International Criminal Court, which is an entity Ms. Adler helped to develop. The International Criminal Court is one of a small number of international courts, based in the Netherlands, and it deals with prosecutions of individuals accused of international crimes (genocide, war crimes, etc.). This is a court of last resort and countries are free to prosecute, but the ICC can prosecute if countries fail to do so.

In 1998 the Philadelphia Bar passed a resolution urging the establishment of the court and in 2002 it passed a resolution expressing support of the court. In the past six months the court has become more controversial, because the court is investigating prosecutions of American citizens, and the current Administration opposes these investigations. In March, Secretary of State Pompeo issued a statement criticizing the ICC. Thereafter, on June 11, 2020, the President issued an Executive Order blocking the property of certain people associated with the court, which includes blocking access the United States. This isn't limited to the defendants, but includes attorneys, personnel, their family members and others associated with the court.

There are several organizations that have taken issue with this Executive Order. Recently, the ABA, the Washington working group, the NY City Bar Association, and the member countries who are parties to the statute creating the ICC have taken issue with the Executive Order and have issued a statement encouraging independence of the ICC. The Association of American Law Schools also has taken a position supporting the court. There is a current of swell of support for the court and this resolution asks the Association to support the court and communicate the support of the Association to the Washington Working group, the President, the Congress and others. It is unlikely that the President will rescind the Executive Order, but we can be among the groups calling for the order to be rescinded or overturned.

Chancellor Snyder thanked Ms. Edelman and Mr. Heep for producing the resolution so quickly and for the excellence of the resolution. Chair Kamau encouraged the Board to read the article attached to the Resolution and additional supporting documentation was also provided in the chat for the meeting.

A motion to approve the Resolution as amended was made, seconded and passed unanimously.

Judy Berkman, Co-chair of the Women's Rights Committee presented a Resolution regarding Amendments to the Rules of Disciplinary Enforcement Rule 404 regarding Resignation from the Bar. However, the resolution was drafted at the request of the Chancellor following the committee chairs meeting the same morning. On May 23, the Disciplinary Board

of the Supreme Court of Pennsylvania published notice in the Pennsylvania Bulletin relating to new section 404 added to the enforcement rules relating to voluntary resignations. The current situation is that the Board of Law Examiners Rules cover voluntary resignation from the Bar, and the new rule would require a \$250 fee to be imposed and would require that resignation would be permanent rather than voluntary. The third change is that once you permanently resign, you would have to re-apply for admission in accordance with Bar admission rules, including passage of the Bar Exam. It is also punitive and carries a stigma in that it comes from the disciplinary aspect, as opposed to the admission side of the Board. The request in the resolution would oppose the changes currently proposed.

Judy suggested a friendly amendment to her own resolution. The last whereas clause is standard, but she is suggesting that “before the courts” should be added to the second line of this whereas clause based on the language of the Notice in the Bulletin. She also suggested that it might be a good time to look into those who are looking to retire and conduct a study of their needs so the Association can work to meet those needs.

Chancellor Snyder explained how they became aware of this issue on the morning of the meeting and the timeframe for response. Ms. Berkman raised the issue in the chat at the Chairs meeting this morning. She provided the PA Bulletin notice and the resolution that the PBA is putting forward. So, this resolution was put together on incredibly short notice. He reiterated the current procedure for resigning from practice and the reason that the resolution is so important to so many of the Association’s members. The comment period expires on June 26, 2020 so there is a very short timeframe for response from when we were made aware. Secretary Coatsworth explained that the PBA Civil Litigation Section took a position in support of a similar resolution from the PBA opposing this rule change. She noted that Tom Wilkinson had some very thoughtful insight to the wording of the PBA’s resolution and the distinction of resignation as opposed to retirement. However, the primary reason the Section supported the PBA resolution was the onerous fee and requirements for reinstatement.

Charlie Klitsch pointed to some minor typos which were noted by Treasurer Marc Zucker, which will be fixed as friendly amendments. A motion to approve the Resolution subject to the friendly amendments was made, seconded and passed unanimously.

Chancellor Snyder thanked Judy Berkman and pointed to the benefit of the committee structures and engagement of the committees. Chair Kamau echoed these sentiments.

Treasurer Zucker presented the Treasurer’s Report. The financial statement for the Association’s operations through the end of May is a reflection of the difficult times that the it is experiencing right now, and also reflects the tremendous efforts that the Bar Association has gone to in order to keep the organization afloat, which should be applauded.

First, regarding the month of May:

- The Association brought in revenues of about \$78,000, well below the \$115,00 that we had projected, and about \$187,000 less than last May. This reflects a decline in dues revenue and CLE revenue. That being said, \$41,000 in dues revenue came in before a new dues notice was sent out, and the Association collected \$13,000 in CLE revenue with purely online courses that required very little expense outlay.

- The good news, as usual is on the expense side for the month—the Association spent \$195,000, about \$58,000 less than expected, and about \$65,000 less than the Association spent *last* May, but unfortunately not enough of a savings to offset the loss of income.

Likewise, for the first 5 months of the year:

- The Association brought in revenues of \$1.7 million, about \$500,000 less than expected
- Again, on the good news front, the Association *spent* \$1.2 million, about \$213,000 less than expected, and about \$200,000 less than what the Association spent last year. These yeoman efforts were meaningful and appreciated.
- Going forward, the revenues can be increased by raising dues revenue from those who haven't yet paid. That's why such a big push has been made to encourage each Board member to play a role in approaching members who haven't yet paid.
- The Association also made a decision that the budget forecast itself needs to be adjusted, in order to recognize the impact of this crisis going forward. There will be more details on the budget later in the meeting.

After today, the Treasurer's Report will begin comparing actual revenues and expenses to the revised budget --assuming it is approved by the Board. He recommended that the revised budget be approved.

Consistent with that, and in light of the fact that the Association has more money in equities than the investment policy recommends, the Association is planning to liquidate about \$300,000 of those equity investments in order to balance out the portfolio and keep it more liquid for the difficult days ahead.

Chancellor Snyder thanked Treasurer Zucker for the detail of the report. He also congratulated Marc on the birth of his granddaughter, Leah Eleanor, the first grandchild for Treasurer Zucker and his wife, Karen. Treasurer Zucker thanked the Chancellor for the kind words and expressed the joy and hope the family has for his granddaughter.

A motion to approve the Treasurer's report was made, seconded and unanimously approved.

Executive Director Hurdle presented the Revised 2020 Association budget. The Association expects revenues will be down by \$900,000 for the year. This consists of \$300,000 in membership dues, \$170,000 in CLE revenue, \$150,000 in special, \$155,000 in LRIS, \$185,000 in special events, so the Association has taken a hit in every aspect. These numbers have some optimism, because of the level of activity and engagement. The Board needs to convert that engagement into membership.

The goal of the revised budget was to reduce the amount of the operating deficit, which was accomplished by doing three things. First, the Association realized it has the availability of a \$90,000 payroll tax credit as part of the CARES Act, which it will apply for if the Association

is not eligible for a PPP loan. The Association also furloughed three employees for June and July, which has placed a strain on staff. It is the hope and goal that those employees can be brought back. The revised budget has a \$247,000 operating deficit, but this will need to be monitored very closely. The good news is that as part of the budget, the Association needs to collect \$160,000 in membership dues after May to make the revenue budget and through June, and the Association has already collected \$76,000.

Treasurer Zucker and the finance committee looked at the numbers and reviewed what was adjusted and what cost-saving measures are being taken. The finance committee supports the updated budget as well as the decision to liquidate certain equity from the Association's investments. The finance committee recommends the budget. It's not ideal, and it can always be exceeded and the Board's efforts should continue.

Larry Felzer pointed out that the Senior Law Center also just passed a revised budget, which was one of the most difficult budgets they've ever had.

A motion to approve the revised budget was made, seconded and passed unanimously. The Chancellors and Finance Committee were thanked for their efforts. The Finance Committee and CFO Susan Knight and the staff were thanked for their hard work on this in re-working the numbers, which is an additional task, which was unexpected and difficult in light of being short-staffed.

Executive Director Hurdle presented the remainder of his Executive Director's report. The picture of the Association is much different than the picture that the finances reflect. The Bar Association has never been as productive or relevant in his time with the Association as it is now and the level of activity and engagement is the best he has seen. This includes town halls, CLEs, resolutions and advocacy, and collaboration with the courts. He is incredibly proud of the team and thanked them for doing such great work.

The dues revenue to date is \$76,000 of the \$160,000 that is needed. The Association needs approximately 300 renewals to make the numbers. The Board was encouraged to make their calls, because personal outreach is how the numbers can be achieved. The staff is also making calls and they are getting results. Andre Webb was given special congratulations and thanks for renewing 16-17 members.

CFO Knight and Executive Director Hurdle were on a call with the building and the renovation process continues. They are hoping that when the staff returns to the office, it will be to new space. They discussed designing the new space with social distancing and updated A/V requirements. The renovations are on schedule, and being out of the office creates opportunities for the work to be completed more easily.

There continues to be great engagement on email open rates. Arly Smith-Pearson, Andre Webb, Hillary Ladov, Kristine Calalang and Amber Racine were thanked for their testimonials that are being used in social media. Board members were encouraged to share these posts, because the Association is getting good results from the social media campaign. There are still great numbers for the Association's CLE programs. The Association cross-promoted an Allegheny County Bar Association CLE and Chester and Dauphin County Bar Associations are also sharing our programs. This is part of a continued effort at collaboration and strengthening relationships with other Bar Associations. The quality of programming is due to Tara's work

along with the work of committees and sections in creating content. LRIS numbers are down and the social media campaign was paused, because of the court closures. CFO Knight reported that during the meeting the Association received a referral check for LRIS, which is helpful. He is optimistic because of the engagement levels, but he is leery because of the uncertainty of the environment and the fact that this leads to economic slow-downs.

Chancellor Snyder presented regarding an Amicus Brief request that was received. He indicated that just before the Cabinet meeting he heard from Board Counsel, Larry Beaser, that the Bar Association was invited by the Governor's Office of General Counsel to prepare an amicus brief in an action he is filing against the General Assembly related to their concurrent resolution to have the emergency stay order rescinded. Subsequently, a King's Bench petition that was presented to the PA Supreme Court. The issue being raised related to the process being used, because the proper concurrent resolution procedure was not utilized. The General Assembly said that this is a power we gave you, and we can take it away. Consequently, the substance of the concurrent resolution was not being addressed, just the procedural aspect, because the concurrent resolution was not presented to the governor with sufficient requirements. They discussed the issue with the ACBA whether it was feasible for the ACBA and Philadelphia Bar to participate in an amicus brief. The decision was made that each of the bar associations had processes in place that would allow them to sign off on an amicus brief. The briefing schedule would not permit these processes to be followed, so participation by the bar associations was not possible. The Governor's Office of General Counsel indicated an appreciation for the willingness to participate, and understood there was not sufficient time to allow the process to be followed. Chancellor Snyder did communicate to the Office of General Counsel that if another opportunity arose that would allow sufficient time to comply with the Association's process to determine whether to participate, it would be happy to consider the request. So, the Association gained appreciation from the governor's office for our willingness to address the issue.

Chancellor Snyder made the remainder of his announcements. He stressed the importance of membership and encouraged the Board to make the calls that were requested for membership renewals. He also reiterated that the Association has experienced exceptional engagement. The information that the Association is disseminating is really bringing the Association into the spotlight. He thanked the Board for their engagement and congratulated the Board on the speed in which the five resolutions passed were developed. He also thanked the staff for their incredible work.

He reported that last week he participated with the Montgomery County Bar Association in a piano bar program. Tomorrow, he will be participating in the ACBA passing of the gavel. These are activities that are possible because of the good relationships that were formed with those bar associations. This helps disseminate the good work our Association is putting forward. He also participated in a town hall of the National Council of Bar Presidents, which included breakout sessions. It became apparent that our Association was really a leader in our engagement and our guidance was sought for the efforts the Association has made in being a leader.

The summer quarterly will be August 7, 2020 and the keynote speaker has been confirmed and will be Professor Evelyn Brooks, Higginbotham, the widow of Justice Higginbotham. She will present the Higginbotham lecture. She holds an endowed Chair at Harvard University and she speaks frequently on women's history and the Suffrage movement,

particularly the impact of the movement on women of color. She is a noted scholar in her own right. Her talk will be relevant to Judge Higginbotham's work and the 100th anniversary of the passage of the 19th amendment. The event will have pre-recorded and live elements and it will be free for members. Judge Higginbotham will be posthumously awarded the Bar Medal for his body of work. The event will be virtual and unique and 50 and 60-year members will be honored with a speech by Judge Marlene Lachman. It will be free for members, which is another incredible value-add. He is hoping that the event breaks records for attendance.

Chancellor also announced that the Justice Sotomayor Diversity Award will be presented to Reggie Shuford. Shelli Fedullo and Nikki Johnston-Huston participated in putting together the nominating papers. Reggie Shuford also indicated that Larry Felzer also put forward a letter in support and he thanked everyone for the kind words.

He indicated that even when the Association is able to return to in-person programs, there will still be a hybrid aspect with Zoom elements, because it has opened opportunities for new ways for engagement and has been extremely successful. He thanked Director of Meetings and Events, Tracey McCloskey, and others who were able to secure large dollar sponsorships is truly a tribute to the work of the staff. He also thanked Tracey for her work with the vendor to bring unique and exciting elements to the meeting.

Chair Kamau made his announcements. He congratulated Reggie Shuford again and he congratulated Marc Zucker on the birth of his granddaughter. He reminded the Board to make the membership phone calls! Treasurer Zucker asked that talking points be circulated to the Board for these calls and it was promised that this would be circulated. Chair Kamau also directed the Board to the membership brochure. The deadline for joining is June 30, so please make the calls before that date.

YLD Chair Hillary Ladov announced Affinity Bar Quizzo. She explained that it will be done via Zoom and thanked Tracey McCloskey for working out the technology. The winning team will be able to make a donation to pre-selected organizations of the winning team's selection. The winning team will also get Amazon gift cards for each member of the winning team. Chancellor Snyder indicated that you don't need to be a member of YLD to register. You can select with which Affinity Bar to participate.

The meeting was then adjourned at 5:44pm.

Respectfully submitted,
Jennifer S. Coatsworth
Secretary

Board of Governors
Attendance
June 24, 2020

Voting members
Present

Hon. A. Michael Snyder (Ret.)
Lauren McKenna

Wesley Payne
Jennifer Coatsworth

Marc Zucker
Matthew Olesh
Nicholas Kamau
Riley Ross
Alisha Rodriguez
Michael van der Veen
Dominique Ward
Diane Penneys Edelman
Lawrence Felzer
Dino Privitera
Neelima Vanguri
Wendi Barish

Absent:

Kathleen Kirkpatrick
Benjamin Barnett
Meghan Claiborne
Francesca Iacovangelo
James Berardinelli
P. Douglas Sisk
Craig Levin

Non-voting members present:

Lawrence Beaser
Leslie John

Absent:

Abraham Reich
Butler Buchanan

Invited guests present:

Louis Rulli
Nikki Johnson-Huston

Kris Calalang
Erin Lamb
Andre Webb
Hillary Ladov
Randi Rubin
Maureen Farrell
Arly Smith-Pearson
James Tolerico
Rochelle Fedullo
Amber Racine
Reginald Shuford

Nipun Patel
Michael Zanan
Tom Innes
Reuben Asia
Cheryl Upham
Mark Mazzanti

Harvey Hurdle

Hon. Sandra M. Moss (Ret.)

