

Inside

Chief Justice Barbara Madsen explains what a state court administrator does ... Page 2

Excerpt; "Procedural Fairness: A Key Ingredient in Public Satisfaction" ... Page 5

Interested in a presentation about the Plain Language Court Forms project? ... Page 10

Next steps in the Superior Court Case Management System project ... Page 11

Human trafficking summit, proposed rule on judicial branch administrative records, awards, etc; see News Briefs ... Page 12

National Adoption Day: Join the fun! ... Page 13

Of Interest

A Victim Impact Panel (VIP) registry maintained by the Washington Traffic Safety Commission has been updated per a July 2011 law requiring regular updates and qualifications for such committees. The updated registry can be found at www.wtsc.wa.gov/programs-priorities/impaired-driving/victim-impact-panels/

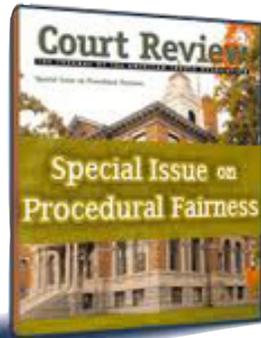
Webinar on procedural justice tailored for Wash. courts

Riddle: What can cause a litigant who wins in court to walk away frustrated and questioning the justice system, while a litigant who loses can walk away satisfied and planning to comply with a judge's orders?

Answer: Perception.

Perception of fairness, perception of being heard, perception of being respected during court proceedings.

Procedural fairness, also called



procedural justice, is a philosophy based on research that the visible actions and communications of decision-makers — such

as judges — strongly impact the public's perception and acceptance of those decisions.

It has become something of a small movement with its own Web site and Wikipedia page, and supporters believe the practice of procedural fairness techniques could vastly improve public trust and confidence in the courts with little or no cost.

A webinar exploring procedural fairness — specifically tailored to Washington judicial officers and administrators — is scheduled for Tuesday, Sept. 18 from 12:15 p.m. to 1:15 p.m. (see page 4 for details on how to participate).

Education committee members and coordinators hope to have as many judicial officers as possible participate

(Continued on page 4)

Court forms: From stumbling block to stepping stone

Υποχρεωτικό πρότυπο συνέδριο forms are αποτελεί σημαντικό and — for most pro se των εγκαλουμένων προσώπων — bewildering μέρος του αστικού νομική process.

This is not surprising. Legal language looks like, well, Greek for many pro se litigants, most of whom are unlikely to know what “pro se” means at first.

It would be far preferable for

people who need the courts' help to have access to attorneys, but the massive increases in pro se litigants since 1980 — particularly in family court — have not reversed, proving that many do not. The impacts of this overwhelming trend on individuals, families and courts have left judicial branch leaders across the U.S. concluding that it's time to find resources and processes to aid pro se

(Continued on page 9)

New state court administrator will face challenges and opportunities

At the height of the budget crisis, some county commissioners and mayors focused on their courts as places to save money. Proposals ranging from closing superior court one day a week, to de-funding judicial positions, to asking judicial candidates whether they take budget into account in their rulings were being discussed.

When news of these plans reached state Court Administrator Jeff Hall, he immediately contacted jurisdictions about constitutional requirements and judicial branch independence, informed the Supreme Court about these proposals, directed the drafting of a response from Chief Justice Alexander for use by the judges and court administrators, and alerted the judicial associations so they could inform their members.

That is an example of the role of the state court administrator — to act as a liaison for the courts with lawmakers (state and sometimes local), with other judicial branch entities and with government agencies. But, it's only one in a long list of roles that belong to the “point” person on statewide issues affecting Washington's courts.

If legislators have questions about judicial branch budgets or technology, they turn to the Administrative Office of the Courts (AOC). If the Supreme Court establishes a new commission, we turn to the Court Administrator and her staff to get it done. The media often call the AOC first to get answers about news affecting the courts.

The Supreme Court is now searching for Washington's ninth state court administrator, after Jeff Hall resigned in June to take his dream job in Oregon (see July edition of *Full Court Press*). The search committee includes representatives from every court level and from county clerk offices and court administrators, recognizing the wide-ranging impact of the AOC and its chief administrator.

Interviews begin this week with the final candidates. We hope to introduce the new state court administrator before year's end.

The person in this position is the public face of the courts. However, because the position does most of its important work behind the scenes, I'd like to explain what the position is and what it does.

Born in a hurry

The state court administrator position (called the “administrator for the courts” then) was created by state lawmakers in 1957. Using an emergency clause, the legislature hoped to have someone appointed immediately and begin right away. Governor Albert Rosellini vetoed the emergency clause, saying the position was too important to rush.

So what was the urgency?

A population explosion in the 50's brought home to legislators that they knew almost nothing about the state's courts — no one had a list of courts, where they were located, how many judges there were, how courts were funded, how many cases were adjudicated or what the outcomes were.

Judges in smaller counties were travelling widely to help the courts in the hardest hit, high-growth counties, but pro tem judges couldn't earn more than \$10 a day, per the 1889 state constitution.

There were no judicial conferences or training of any kind. Witnesses in civil cases did not have to appear if the trial was more than 20 miles away from their homes.

These issues and many more were starting to be heard loudly by the Supreme Court and state lawmakers. The new state court administrator office was designed to be an administrative arm for the Supreme Court which would gather information, track the problems and needs of the state's courts and help facilitate solutions.



From the desk of Chief Justice Barbara Madsen

The state court administrator acts as a liaison and a point person for the judicial branch.

(Continued from previous page)

Washington's first state court administrator was a retired FBI agent named Al Bise, chosen unanimously by the Supreme Court from five names submitted by Gov. Rosellini.

Bise's first job was to start collecting facts on the state courts — names of judges, locations of courthouses, expenditures — and statistics on numbers of cases, trials and outcomes. His second job was to establish an annual judicial conference for the courts of record (he would soon fight for CLJ courts to be included in conferences).

Bise started with one secretary, though he was soon begging legislators for more help. Now AOC has about 160 staff members, with roughly half of those dedicated to the statewide Judicial Information System and technical support of the courts.

Choosing the next SCA

Because the state court administrator serves as point person for a wide variety of judicial branch issues (not unlike a local court administrator at the local level), the list of duties for the position is long. Here are few:

- **Serve as** advocate and liaison for the judicial branch in its relations with the legislature and executive branches.
- **Direct development** of the legislative agenda and annual appropriation; coordinate the judiciary's testimony at numerous legislative hearings.
- **Provide advice** and support to trial court associations.
- **Oversee innovative** projects and programs that meet the current and future needs of the state courts.
- **Provide leadership** and coordination of AOC services.
- **Provide fiscal** policy and direction for the judiciary's budget, including audit and budget development.

- **Identify emerging** issues that may impact courts.
- **Coordinate with** county and municipal governments to support local courts.
- **Provide appropriate** public accountability through media relations and efforts designed to retain public trust and confidence.
- **Serve as** an advocate for an independent judiciary.
- **Provide leadership** in the area of information technology and ensure major project initiatives receive support necessary to drive successful implementation.
- **Serve as** the Supreme Court's liaison to, and work cooperatively with, directors of other state judicial branch agencies.

The recruitment opened in mid-June with the announcement disseminated widely. It was posted on legal and court-related Web sites, and sent to several organizations with the goal of creating a good candidate pool with diverse applicants.

The recruitment remained open for eight weeks, closing on August 10. We received more than 30 applications.

An initial screening group consisting of myself, Justice Mary Fairhurst, Interim State Court Administrator Callie Dietz and AOC Judicial Services Division Director Dirk Marler reviewed all applications and identified those that did not meet the qualifications of the position or that were minimally qualified.

Then a search committee was assembled and included representatives from the Supreme Court, Court of Appeals, superior, district and municipal courts, county clerks and court administrators. This group reviewed the applications screened by the first group and provided input about each applicant, ranking each in order of his or her suitability for the position.

Washington Court Administrators

1957-1972: Al Bise

1972-1979: Phil Winberry

1979-1986: James Larsen

1986-2004: Mary McQueen

2004-2006: Janet McLane

2006-2008: Butch Stussy

2008-2012: Jeff Hall



McQueen, Winberry and McLane

This input resulted in the decision of which applicants were selected for the interview stage.

The search committee will meet the candidates and carefully evaluate each of them on their knowledge and experience in a number of areas including the hard-skill elements of the job as well as "soft skills" such as leadership and management. The rankings from the search committee will be used by the Court to determine which candidate will be extended a job offer.

Selecting the right person for this position is critical as the courts work to develop best practices, tackle the issues related to the expanding use of, and need for, technology, and embark on strategic planning that will take us into the next decade and beyond.

The search process has been first rate, including highly experienced individuals from across the state. We believe this process will produce the best person to lead our courts in these times of great challenges and great opportunities.

Procedural fairness webinar, continued from Page 1

in the interactive webinar, which is the final element of an educational program that began development last year and has included sessions at spring judicial conferences and an online self-assessment for judicial officers and court officials.

Nearly 200 self-assessments have been completed, the results of which are one focus of the webinar.

“I’ve learned how deeply motivated the judges of this state are to be fair and to appear fair,” said Snohomish County Superior Court Judge Eric Lucas, who suggested and helped plan the program as a member of the SCJA Diversity and Fairness Committee. “The reception for the program was outstanding. The webinar is a continuation of this process.”

Tailored for Washington

The concept of procedural fairness as a discipline that could benefit the judicial system began around 2007 when Hennepin County (Minnesota) District Judge Kevin Burke and Kansas Court of Appeals Judge Steve Leben presented a white paper to the American Judges Association titled, “Procedural Fairness: A Key Ingredient in Public Satisfaction.” (See excerpt of the white paper in this edition.)

Burke will be among the presenters of Tuesday’s webinar.

The concept has grown to become part of judicial education programs around the U.S. and to have its own Web site, www.proceduralfairness.org.

Last year, the Administrative Office of the Courts (AOC) Court Education Services Department was exploring topics for a blended learning program — a newer method

of providing education that combines interactive webinars, online resources and in-person sessions. Lucas and Medical Lake Municipal Court Judge Richard Kayne, a member of the DMCJA Education Committee, both expressed interest in pursuing

Procedural Fairness Webinar: Please Join Us!

Tuesday, Sept. 18, 12:15 p.m. - 1:15 p.m., open to all Washington judges, commissioners and court administrators.

This webinar provides suggestions that can be implemented immediately in the court as well as strategies for long-term projects.

Registration is required. Visit: <https://www.surveymonkey.com/s/XFXCMJ5>

If you experience challenges registering, contact Missy Wicks at 360-705-5308 or at missy.wicks@courts.wa.gov.

procedural fairness as a topic.

Lucas had first learned of it as an administrative appeals judge with the state Environmental Hearings Office. The agency conducted a survey of its customers and some of the survey’s conclusions related directly to procedural fairness elements and how each judge was perceived.

“Based on my experience, it was my desire to introduce these ideas to the others on the superior court bench,” Lucas wrote in an email about the program.

AOC Court Education Professional Nancy Smith had worked with Burke on prior topics, such as

leadership, and had spoken with him about developing procedural fairness as a program for Washington judges.

Soon others became intrigued by the subject and the program is now co-sponsored by the Minority and Justice and the Gender and Justice commissions.

“We ended up with a number of people interested in working on this,” Smith said. “We started last summer and we’ve been working to make it a more profound learning experience.”

In addition to in-person sessions at the SCJA and DMCJA spring conferences, AOC staff borrowed a California template and developed an online self-assessment for judges and court officials (which can be found at www.courts.wa.gov/education/?fa=education.pfasurvey) and used results of nearly 200 assessments to tailor the webinar toward elements that seemed of interest to participants.

“The conference was big-picture. For the webinar, we’re honing it down,” Smith said.

Specifically, many of those completing the assessment felt their courts could use improvement in helping court customers understand proceedings and in methods for ensuring court customers have a voice in their cases. Both will be discussed during the webinar.

Leap of faith

Along with Burke, faculty for the webinar includes Lucas, Spokane District Court Judge Patricia Walker and Cowlitz County Superior Court Judge Michael Evans.

The faculty members agreed to have themselves videotaped during court proceedings, and clips of the recordings will be played while

Continued from previous page

judges discuss what they learned from the recordings. “It’s a leap of faith on their part. It takes courage,” Smith said.

The webinar will be recorded and available to view at www.courts.wa.gov after Tuesday, but Smith said she hopes judicial officers and court officials can participate in the live program because it is a better experience.

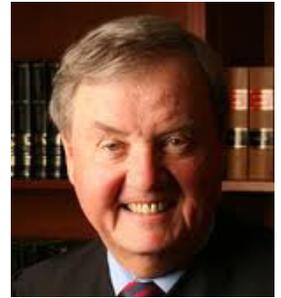
Evans said he was interested in participating because he has been impressed with how well the judicial system works — that when judges reach decisions, “almost everyone in the courtroom accepts the decision... This response to judicial orders has been won through the hard work of judicial officers of the past and it behooves each of us to work equally hard to continue it.”

Evans said focusing on procedural fairness techniques can help remind judicial officers and court officials of the importance of treating all court customers with respect.

“I’ve learned that doing the little things that make sure litigants know judges hear, understand and consider their viewpoint makes all the difference,” he said. “When a judge summarizes a party’s argument or makes eye contact and engages in other non-verbal communication, that party knows they are getting a fair shake.”

Lucas said the webinar will be of interest whether or not judges or court officials took part in spring conference sessions.

“For judges who have heard Judge Burke before, they will have a deeper discussion of the process of procedural fairness and how it can be achieved. The webinar has information not utilized at spring conference,” he said. “For judges who are new to this, it can serve as an introduction and give them information on how to develop the program in their jurisdiction.”



Judges Kevin Burke (above) and Steve Leben wrote a white paper on procedural fairness for the American Judges Association that is now an element in education programs around the U.S.



Procedural Fairness: A Key Ingredient in Public Satisfaction

Excerpt from a White Paper of the American Judges Association by Kevin Burke and Steve Leben, reprinted with permission from The Court Review, Volume 44, 2007

Americans are highly sensitive to the processes of procedural fairness. It is no surprise, then, that the perception of unfair or unequal treatment is the single most important source of popular dissatisfaction with the American legal system.

Even first-graders react negatively to a situation where a mother punishes her child for a broken vase without consulting a witness first. If children in early elementary school already react negatively to perceived violations of procedural fairness, it is only that much more imperative to address the needs of the adults who appear in the courts.

Judges can alleviate much of the public dissatisfaction with the judicial branch by paying critical attention to the key elements of procedural fairness: voice, neutrality,

respectful treatment, and engendering trust in authorities.

While judges should definitely continue to pay attention to creating fair outcomes, they should also tailor their actions, language, and responses to the public’s expectations of procedural fairness. By doing so, judges will establish themselves as legitimate authorities and substantial research suggests that increased compliance with court orders and decreased recidivism by criminal offenders will result.

Procedural fairness also will lessen the difference in how minority populations perceive and react to the courts.

Overwhelmed

Many people have little contact with the court system in their daily life, so it is understandable that they feel overwhelmed and lost when they are confronted with an unfamiliar legal system. In many ways, procedural fairness

(Continued on next page)

bridges the gap that exists between familiarity and unfamiliarity and the differences between each person regardless of their gender, race, age, or economic status.

Most people care more about procedural fairness—the kind of treatment they receive in court—than they do about “distributive justice,” *i.e.*, winning or losing the particular case. This discovery has been called counterintuitive and even wrong-headed, but researcher after researcher has demonstrated that this phenomenon exists.

Thus, procedural fairness is a critical part of understanding how the public interprets their experience with the court system and translates that experience into a subjective valuation of the court system as whole.

Citizens have high expectations for how they will be treated during their encounters with the judicial system. In particular, they focus on the principles of procedural fairness because people view fair procedures as a mechanism through which to obtain equitable outcome.

Psychology professor Tom Tyler, a leading researcher in this area, suggests that there are four basic expectations that encompass procedural fairness:

- **Voice:** the ability to participate in the case by expressing their viewpoint;
- **Neutrality:** consistently applied legal principles, unbiased decision makers, and a “transparency” about how decisions are made;
- **Respectful treatment:** individuals are treated with dignity and their rights are obviously protected;
- **Trustworthy authorities:** authorities are benevolent, caring, and sincerely trying to help the litigants—this trust is garnered by listening to individuals and by explaining or justifying decisions that address the litigants’ needs.

People are in fact more willing to accept a negative outcome in their

case if they feel that the decision was arrived at through a fair method.

Significantly, even a judge who scrupulously respects the rights of litigants may nonetheless be perceived as unfair if he or she does not meet these expectations for procedural fairness.

Procedural fairness reduces recidivism because fair procedures cultivate the impression that authorities are both legitimate and moral. Legitimacy is created by respectful treatment, and legitimacy affects compliance.

Powerful need

People have a powerful urge and need to express their thoughts, experiences, even their questions. Litigants make a strong correlation between the ability to speak and a judge’s respectful treatment of them as individuals; it demonstrates civic competence. After all, from a litigant’s point of view, if the judge does not respect litigants enough to hear their side or answer their questions, how can the judge arrive at a fair decision?

The belief that one can go to legal authorities with a problem and receive a respectful hearing in which one’s concerns are taken seriously is central to most people’s definition of their rights as citizens in a democracy.

The old adage that actions speak louder than words holds a powerful amount of truth for attorneys, litigants and judges alike. In interpersonal communication generally, studies indicate that nonverbal behaviors account for 60% to 65% of the meaning conveyed. Significantly, when nonverbal cues conflict with what is actually being said, people are more likely to believe what is being conveyed to them nonverbally.

In 2001, researcher Laurinda Porter conducted in-court observations of trial judges’ nonverbal behavior

in the Fourth Judicial District of Minnesota (Hennepin County). She followed up these observations with an attitude survey that explored how those judges felt about nonverbal communication.

Porter noted that “almost all the judges observed used nonverbal behaviors . . . that are considered to be ineffective and in need of improvement. About one-third of the judges used these ineffective behaviors frequently.”

Some of these behaviors on the bench included the more obvious concerns such as a failure to make eye contact, focusing on a cup of coffee, and the use of a sarcastic, neutral, or exasperated tone of voice. She also noted actual displays of negative emotions, such as anger or disgust, sighing audibly, kicking feet up on the table, and “using self-oriented gestures such as rubbing, scratching, picking, licking, or biting parts of the body (to excess).”

Examples of nonverbal communication include facial expressions, the speed of speech, the pitch and volume of the voice, the use of gap-fillers like “uh” and “umm,” gestures, posture and body position, attire, eye contact, and the distance between speaker and listener. Nonverbal communication cues may differ from culture to culture; some might be offended by too much eye contact, while others would find the presentation more engaging.

Porter’s study of judges in Hennepin County, combined with general research on the importance of nonverbal communication, suggests this is an area of great potential for improvement by judges.

Educators, psychologists, speech and communication researchers have done significant work on ways to improve nonverbal communication skills. Most trial judges could benefit

(Continued on next page)

from objective feedback about the nonverbal cues they are giving in the courtroom.

Outcome vs. process

While the public emphasizes fair procedures, judges and attorneys focus on fair outcomes, often at the expense of attention to meeting the criteria of procedural fairness that are so important to the public's perception of the court.

An interesting study provides some insight. A number of federal appellate judges reviewed police-citizen encounters raising Fourth Amendment issues. Half the judges read about a search that was conducted fairly, with polite police who identified themselves from the outset and who listened to the citizen's side of the story; the other half read about a search that was conducted without much procedural fairness, with rude and hostile officers who didn't initially identify themselves and who never gave the citizen a chance to explain the situation.

While judges recognized differences in the police behavior, those differences made no difference in the way the judges decided the cases under the Fourth Amendment. Judges are trained to focus on the relevant legal issues and to provide fair outcomes.

In the public's eye, however, disrespect and blatant bias are certain ways to create dissatisfaction and to be perceived as procedurally unfair. This dissonance between the expectations of judges and the public suggests that the meaning of fairness among judges is considerably different . . . and outcome concerns had a greater influence among judges than the procedural criteria of trust, neutrality, and standing that constitute the public's conception of procedural fairness.

This difference may be more than just a little problematic since perceptions of procedural fairness have a substantial impact on both

satisfaction *and* compliance for the public.

However, this is not a difference that affects only judges and litigants; this is perhaps the inherent dissonance that exists between all decision makers and decision recipients.

Social psychology professor Larry Heuer found generally in an experiment involving college students, who were tasked randomly either to be the decision maker or the decision recipient, that "decision recipients [were] oriented primarily to procedural information, while decision makers [were] oriented primarily to societal benefits," which are generally the outcomes.

Decision makers, or judges, who are aware of these differences can better cater their remarks to the needs and expectations of litigants and the public so as to ensure better satisfaction and compliance.

Real world intrudes

All judges face real-world pressures. For many judges, volume creates pressure to move cases in assembly-line fashion—a method that obviously lacks in opportunities for the people to feel they were listened to and treated with respect.

The vast majority of cases do not go to trial, so judges cannot rely on the trial to provide litigants and others with a feeling of respect, voice, and inclusion. Their impressions of judges and our justice system—for better or worse—largely will be formed by their participation in mass-docket arraignments, probation revocations, calendar calls and other settings.

Due process is a legal term, and judges are trained to provide due process. Litigants, jurors, witnesses, and courtroom observers are not trained in due process, but they do form opinions of us based on their observations.

This may be reflected in the results of a California survey that found

significantly greater dissatisfaction with the courts by respondents who had court experience in traffic or family-law cases, which often are handled in high-volume dockets.

Diverse perceptions

A wide division exists among different minority populations in the frequency with which people express approval of the court system. Asian populations generally hold significantly higher approval ratings for the judicial branch than do Hispanics, African-Americans, or even Caucasians. However, when asked about the probability of fair outcomes in court, all of these major ethnic groups "... perceive 'worse results' in outcomes for African-Americans, low-income people, and non-English speakers."

It is troubling that a wide consensus believes these groups consistently receive less fair outcomes.

As a group, African-Americans feel that they receive less fair outcomes in their cases. When compared to Hispanics and Caucasians, 70 percent of African Americans believe that they are treated "somewhat" or "far" worse. African-Americans are also two times more likely to believe that a court's outcome will "seldom" or "never" be fair as they would believe that the outcome will "always" or "usually" be fair.⁶

And these perceptions may well be reality-based: though true apple-to-apple case comparisons are difficult to make, African-Americans are 4.8 times more likely to be incarcerated and are generally given much harsher sentences than white defendants.⁶⁴

While people with different ethnic and racial backgrounds differ in the degree to which they have trust and confidence in the legal system, people are concerned about fair procedures irrespective of their ethnicity and economic status and are willing to defer

(Continued on next page)

The **BENCH-BAR-PRESS COMMITTEE** of WASHINGTON presents

Obstacles to access: Legitimate and Ill

Washington judicial officers are invited to join the Bench-Bar-Press Committee of Washington for its annual luncheon on Nov. 2, 2012, at the Washington Athletic Club in Seattle. The luncheon will feature a panel discussion and debate about obstacles faced by members of the public and media in accessing court information and records, including exploration of which obstacles are legitimate and which are not.



Panelists will include national broadcast veteran Peter Shaplen, Seattle Times reporter Christine Willmsen,

Tacoma News Tribune reporter Sean Robinson and others.

The Bench-Bar-Press Committee was established in 1963 to foster better understanding and working relationships between Washington judges, lawyers and journalists. Its mission is to find as much common ground as possible in the sometimes competing constitutional interests of free press and fair trial.

Cost of the luncheon event is \$45, and the deadline for registering is Friday, Oct. 19.

For information or to register, please contact Wendy Ferrell at (360) 705-5331 or at Wendy.Ferrell@courts.wa.gov.

(Procedural fairness, continued from page 7)

to a court's judgment if procedural fairness exists.⁶⁵ Procedural fairness is the primary factor that shapes perceptions of the judicial system.⁶⁶ However, since African-Americans perceive less fairness, it is critical to focus on what alleviates or aggravates that difference.

WHAT CAN AN INDIVIDUAL JUDGE DO?

1. As a matter of practice, explain in understandable language what is about to go on to litigants, witnesses, and jurors. The more they know what to expect, the more likely they will be able to comprehend.
2. Learn how to listen better -- the first step is good self-analysis. Each of us has different strengths and weaknesses, and all of us can become a better listeners.
3. While it is understandable to believe a lawyer will explain judicial orders, not every litigant has a lawyer who will ensure an order is understood. It's your order -- you have a responsibility to explain it in understandable terms.
4. Put something on the bench as a mental reminder that patience is a

virtue not always easily practiced.

5. At the start of a docket, explain the ground rules for what will happen. For example, explain why certain cases will be heard first or why what litigants or defendants can say is limited in time or scope.
6. Court staff can play a critical role in giving a judge feedback, reminders, and support.
7. Arrange to have yourself videotaped, particularly when you preside in heavy calendars. Ideally, review the tape with a professional or colleagues who will aid your analysis, but even if no one sees it except you (and perhaps a partner or spouse), you can still learn a lot about how you are perceived by the people before you.
8. Thank people for their patience.

WHAT CAN YOUR COURT DO?

1. Adopt the National Center for State Courts' *CourtTools*, a set of ten trial-court-performance measures that offer perspective on court operations. If all ten are more than is feasible, start with number one: Access and Fairness.
2. Examine how your court deals with the three most troubling areas courts have in affording a high degree of

procedural fairness: self-represented people, family law, and traffic offenses.

3. Consider how procedures may affect perceptions of fairness.

WHAT CAN COURT ADMINISTRATORS DO?

1. Discuss public perception with court employees. How litigants are treated by court employees from the moment they enter the courthouse door—or the moment they encounter security personnel at a metal detector—sets the tone.
2. Make it a project to analyze the tone of public interaction that is set in your courthouse. Does it convey respect and care for the people who, often in stress, come there? Could it be improved?
3. Treat employees fairly. If court employees do not feel that they are fairly treated in their jobs by court leaders, it is unlikely that they will treat the public any better.
5. Provide opportunities for courthouse visitors to evaluate their experience before they leave the courthouse. Doing so communicates respect and gives an opportunity for voice.

From Page 1: Statewide project will translate family law forms into plain language

litigants and the courts they are flooding into.

The Washington state court community is currently working on that goal with the Plain Language Forms Project, a statewide collaborative effort that involves multiple agencies and sponsors, an oversight committee, five workgroups and a company nationally known for such translation.

Project coordinators hope Washington's 200-plus mandatory family law forms will be translated, reviewed statewide, approved and ready for use by the end of 2013.

"Plain language and more accessible formats allow parties to understand our forms and the legal concepts they convey easily and completely," wrote Washington Supreme Court Chief Justice Barbara Madsen in a letter of support for the project signed by all nine justices. "The benefits of plain language forms extend to attorneys and the courts as well."



Administrators (COSCA) and the Conference of Chief Justices (CCJ) both identified as a priority the need for courts to design processes and create systems that work for cases involving pro se litigants.

- **2009** — Washington's Access to Justice Board (ATJ) created the Pro Se Project in cooperation with the Administrative Office of the Courts (AOC) and the Office of Administrative Hearings (OAH) in

a commitment to helping the state's self-represented litigants. Participants spent nine months developing the Plan for Integrated Pro Se Assistance Services. The plan calls for a phased development of a technology-based self-help center.

Step one of phase one is conversion of existing family law forms into plain language format. It's the first large undertaking of the Pro Se Project and it started

modestly in early 2011, seeking volunteers, staff help and funding.

- **September 2012** — Fast-forward a bit to today, the Plain Language project has evolved to include an executive oversight committee and four workgroups as well as the sponsorship and/or collaboration of the Washington Pattern Forms Committee (with experienced members serving on workgroups), WSBA (which provided the majority of funding), the Supreme Court (which also provided funding), the Office of Civil Legal Aid (also providing some funding), Gender & Justice Committee, the Minority & Justice Committee, the Northwest Justice Project (which dedicated 75 percent of attorney Lori Garber's time to the project), courthouse facilitators, dispute resolution centers and more.

Not born yesterday

The Plain Language Forms Project launched modestly in 2011, but its roots go back to 2009, 2001 and the 1980's. Here's why:

- **1980's** — Not a lot of research existed on pro se litigants in 1980 — it hadn't become a national issue — but a study in Connecticut in the mid-70s found that only 3 percent of "domestic" cases involved persons representing themselves.

During the 80's and early 90's however, the courts began to experience massive increases in the number of family law cases involving at least one pro se litigant. A National Center for State Courts study in 1992 found an average of 72 percent of family law cases in urban courts involved at least one self-represented litigant. A 1994 study in Washington state found 54 percent in Kitsap County and more than 70 percent in King County.

- **2001** — After the trend had been studied and discussed for years, with concerns about "access to justice" growing, the Conference of State Court

Stepping carefully

Though the project involves making forms easier to comprehend, it's not an easy thing to do and is not being taken lightly.

"It deserves to be a well-thought-out process.

(Court forms, continued from page 9)

It's harder than you think to put legalese into plain language," said Janet Skreen, a senior court program analyst with AOC who works directly on family law issues. Skreen serves on the ATJ Board's Justice Without Barriers Committee and one of the project's workgroups.

With so much time and funding being donated from different organizations, "It has been a massive coordination effort," she said "What's impressive is we didn't get a million dollars to do this."

So how is the translation proceeding?

With funding help from the WSBA and the Supreme Court, the nationally known firm of Transcend Translations takes the first step of drafting the forms into plain language format which utilizes principles such as direct voice, headings, using commonly understood words in place of complex legal terms, numbering steps, employing graphics and placing content in logical sequence.

Once a first draft is completed by the company, it is reviewed by Garber, an experienced family law attorney on loan from the Northwest Justice Project. The form then goes to one of three workgroups consisting of county clerks, judges, family law practitioners, courthouse facilitators, a judicial branch attorney (such as a staff member from AOC) and Garber, who convenes all workgroups.

The three workgroups (Red, Green and Blue) split the work of reviewing the forms, focusing in batches on those connected by topic.

"The yeoman's work is being done by the review workgroups," Skreen said. "It's more than 200 forms, going through line by line to make sure they are substantively legally correct and they meet statutes. That's a tremendous amount of work."

After all of that review and refinement, the drafted forms will be tested by non-attorneys to ensure they are truly understandable by members of the public, and then will be released for public review and comment by all.

"This has been a long-term goal of the Pattern

Forms Committee," said Merrie Gough, a senior legal analyst with AOC who has served as the staff member for the committee for 14 years. The committee and its membership were established by order of the Supreme

Court to implement the adoption of statewide mandatory forms, to consider requests for the redrafting of adopted forms, and to oversee all necessary redrafting.

King County Superior Court Judge Laura Middaugh is chair of the Pattern Forms Committee and serves as chair of the Blue workgroup.

The committee has never had the resources to develop a plain-language project, Gough said, but with all the effort from multiple fronts coming together, "the time is now."

Changing mandatory forms used across the full judicial branch and by many thousands of pro se litigants is a weighty venture needing input from

every corner of the court community, say coordinators, and impacts are not being taken lightly.

However, the need is extremely high and the outcome "will have a significant and positive impact on family law litigants," Justice Madsen wrote in her letter of support. When that happens, courts and the judicial branch as a whole benefit as well.

Translation of opening paragraph on Page 1: "Mandatory pattern court forms are a vital -- and for most pro se family law litigants -- bewildering part of the civil legal process."

For more information on the Plain Language Forms Project, please contact AOC Senior Court Analyst Janet Skreen at Janet.Skreen@courts.wa.gov or AOC Senior Legal Analyst Merrie Gough at Merrie.Gough@courts.wa.gov or (360) 705-5252. If you would like a presentation for your court or group about the plain-language forms project, contact Janet Skreen at the above email address to schedule a time and place.

Watch for an in-depth article on the forms project scheduled for the winter edition of the Seattle University School of Law "Journal for Social Justice."

"Each is given a bag of tools;
A shapeless mass; a book of rules.
And each must fashion ere life is flown,
A stumbling block or a Stepping Stone."

-- RL Sharpe, circa 1809



JIS News



Superior Court Case Management System...What Happens Next?



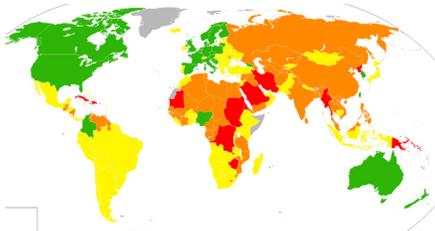
The next steps are underway in the Superior Court Case Management System (SC-CMS) project which seeks to locate, configure and implement a modern and efficient case management system for Washington superior courts. The Judicial Information System Committee (JISC) unanimously approved release of a Request For Proposal (RFP) on June 22, a major milestone arrived after comprehensive examination concluded that implementation of a modern system is feasible.

The next milestone of the project involves naming a successful vendor to provide and configure a system for Washington courts. Preparations include finalizing business requirements and progressing through a phased process of scoring vendor proposals, hosting vendor demonstrations, and conducting client onsite visits.

Specifically:

- ☐ Business analysts with the Administrative Office of the Courts (AOC) are working closely with court stakeholders to validate and clearly document court business requirements. Court Business Office Manager Dexter Mejia is spearheading the development of a Requirements Management Plan. This plan outlines how AOC will work with, organize and reference SC-CMS requirements. The requirements preparation work is scheduled to be completed by the end of September 2012.
- ☐ ISD Vendor Relations Coordinator Cheryl Mills is leading the phased process of determining the successful vendor. Vendor proposals have been received and are currently being evaluated. Vendor demonstrations and client onsite visits are scheduled to begin in October and November 2012.
- ☐ The AOC will use two teams or “tiers” of vendor evaluators. Tier I evaluators will score vendor proposals and vendor demonstrations. Tier II evaluators will score vendor demonstrations and client onsite visits.
- ☐ Throughout the evaluation process, Mills will compile results of each phase and present them to the Project Steering Committee. This committee will confirm the top ranking vendors, who will proceed to the next phase.
- ☐ Once the client onsite visits are complete, Mills will compile the final vendor evaluation results into a summary report for the Project Steering Committee, which will examine the reports and make a recommendation for a vendor. The Project Steering Committee will then present the recommendation to the JISC for approval and potential contract award.
- ☐ The AOC is scheduled to invite the successful vendor into contract negotiations in the first quarter of 2013. The selected vendor is scheduled to begin work in the second quarter of 2013.





At any given time across the world, about 2.4 million people are victims of human trafficking, a crime that generates \$32 billion annually, rivalling the profits of illicit trade in arms and drugs. Every year, thousands of people fall into the hands of traffickers in their own countries and abroad, with girls and women comprising two thirds of trafficking victims

Judicial officers, attorneys and project coordinators are welcome to attend the **2012 Northwest Human Trafficking Summit** scheduled for Oct. 13 from 8 a.m. to 4 p.m. at the Westin Hotel in Seattle. The summit is co-sponsored by the American Bar Association, the Washington State Gender & Justice Commission and the Washington State Minority & Justice Commission.

The summit will include morning training sessions and an afternoon summit with keynote speakers and breakout sessions. Co-chairs of the event include Washington Supreme Court Chief Justice Barbara Madsen and ABA President Laurel Bellows. For information, contact Kathleen Hopkins at khopkins@rp-lawgroup.com.

The Washington Supreme Court has revised a **proposed rule on access to judicial administrative records** and has re-published GR 31.1 for further public comment until Dec. 31, 2012. The Court held a televised public hearing on the proposed rule in February, during which several changes to the proposal were requested. Due to the significant scope of the changes adopted in response, the Court is republishing the new proposal for additional comment.

The proposed rule defines the types of records it pertains to, procedures for obtaining access to records, sanctions on courts or agencies for non-compliance, exemptions, creation of best practices, tools for handling particularly burdensome requests and an effective date that would give courts and judicial agencies time to train staff and develop best practices.

The proposed rule can be found at: www.courts.wa.gov/court_rules/?fa=court_rules.proposedRuleDisplay&ruleId=285

The Washington State Association for Justice named Supreme Court **Justice Tom Chambers** as its 2012 Judge of the Year. The award honors “a judge, who through the exercise of outstanding judicial ruling or leadership, promotes our civil justice system to serve the people.” In 1989, Chambers received the organization’s Trial Judge of the Year Award.

The WSAJ has also honored several judges for more than 20 years of service to the Washington bench: Pacific County District Court Judge Douglas Goelz, Grays Harbor County District Court Judge Stephen Brown, Grays Harbor County Superior Court Judge Gordon Godfrey, Hoquiam Municipal Court Judge Bill Steward, Oakville Municipal Court Judge Kyle Imler, and Elma Municipal Court Judge Art Blauvelt.

The Washington State **Gender & Justice Commission** has launched a new Web site with new resources, photos, links to publications and more. Visit www.courts.wa.gov/programs/orgs/gjc/?fa=gjc.home

News Briefs



National Adoption Day 2012

WHEN: On or around
Friday, November 16

Please Join Us!

WHAT: National Adoption Day is a growing nationwide event in which courts open their doors to their communities for a couple of hours to celebrate foster adoptions.

WHY: The goal is to raise awareness among potential parents that thousands of local foster children are waiting to find permanent families.

WHO: Sponsored by the Washington Supreme Court Commission on Children in Foster Care, co-sponsored by DSHS and the SCJA. Many courts have started hosting events, big or small.

HOW: Events can be simple – similar to hosting a reception for a retiring judge – **and we can help!** We have an NAD Toolkit to help you plan an event, contacts with a group that provides free cakes, connections with local DSHS offices that can help plan and we provide all media outreach.



Commissioner Rich Adamson signs adoption paperwork during Mason County Superior Court's National Adoption Day celebration in 2010.

HOW DO I GET STARTED?

Whether you're ready to start planning or just considering and want more information, contact Lorrie Thompson at (360) 705-5347, or Lorrie.Thompson@courts.wa.gov. The Washington State National Adoption Day Web page with resources, photos and reports can be found at www.courts.wa.gov, click on "Boards and Commissions," then "National Adoption Day."