



WASHINGTON
COURTS

**DISTRICT AND MUNICIPAL
COURT JUDGES' ASSOCIATION**

BOARD MEETING

FRIDAY, DECEMBER 13, 2013

**AOC SEATAC OFFICE
SEATAC, WASHINGTON**



DMCJA BOARD MEETING
FRIDAY, DECEMBER 13, 2013
12:30 P.M. – 3:30 P.M.
AOC SEATAC OFFICE
SEATAC, WA

PRESIDENT JUDGE DAVID SVAREN
A G E N D A

TAB

Call to Order	
Minutes – November 15, 2013	1
Treasurer’s Report – Judge Marinella	2
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CLJ Case Management System Update – Vonnie Diseth, Callie Dietz, and Dirk Marler – AOC	3
JIS Status Update- Vicky Cullinane	
Action A. Policy for Payment of Dues when Vacant Positions Filled (full or pro-rata) <i>Judge Marinella</i> B. Legislative Committee – <i>Judge Meyer</i> 1. Imposing Misdemeanor Jury Fees 2. Therapeutic Courts	4
Discussion A. JISC CLJ Workgroup Request for Guidelines for Flagging Cases for Permanent Retention- <i>Judge Svaren</i> B. Office of Trial Courts (OTC) Update – <i>Judge Svaren & Judge Steiner</i> C. Long Range Planning Recommendations to the Board – <i>Judge Steiner</i> D. System Improvement Committee Update – <i>Judge Steiner</i> E. Court Security Workgroup Status Update – <i>Judge Svaren</i>	5
Liaison Reports DMCMA MCA SCJA WSBA WSAJ AOC BJA	

<p>Information</p> <ul style="list-style-type: none"> A. 2013 Annual Report B. Leadership Meeting DOL/DMCJA/DMCMA/AOC Letter C. Recent Long Range Planning Committee Meeting Minutes D. Recent Rules Committee Meeting Minutes E. Recent Legislative Committee Meeting Minutes F. Impaired Driving Work Group Report – <i>Judge Meyer</i> 	<p>6</p>
<p>Other Business</p> <ul style="list-style-type: none"> A. Legislative Efforts to Increase Criminal Conviction Filing Fee – <i>Doug Levy, Outcomes By Levy, and Candice Bock, AWC</i> 	<p>7</p>
<p>Adjourn</p>	



DMCJA Board of Governors Meeting
Friday, November 15, 2013, 12:30 p.m. – 3:30 p.m.
AOC SeaTac Office

MEETING MINUTES

Members:

Chair, Judge Svaren
Judge Alicea-Galvan
Judge Allen
Judge Burrowes
Judge Derr
Judge Garrow (non-voting)
Judge Jahns
Judge Jasprica (non-voting)
Judge Lambo (non-voting)
Judge Logan
Judge Marinella
Judge Meyer
Judge Olwell
Judge Ringus (non-voting)
Judge Robertson
Commissioner Smiley
Judge Smith
Judge Steiner

Guests:

Judge Jeffrey Ramsdell, SCJA
Judge Patricia Clark (ret.)
Mr. David Speikers, WSAJ
Ms. Aimee Vance, DMCMA

AOC Staff:

Ms. J Krebs
Ms. Vicky Cullinane
Ms. Michelle Pardee
Mr. Dirk Marler
Ms. Jennifer Creighton
Ms. Stephanie Happold

President Svaren called the meeting to order at 12:30 p.m. and noted there was a quorum present.

ASSOCIATION BUSINESS

Minutes

M/S/P to approve September 22, 2013 minutes.

Treasurer's Report

Judge Marinella included a written account statement in the materials. Shannon Hinchcliffe advised Judge Marinella that the 2013-2013 Budget line item for Judicial Assistance Committee should equal \$10,000 instead of \$5,000 and that will be adjusted. Also, he will be contacting Dino Traverso, CPA, to find out when an audit will take place. Judge Marinella also submitted a memo and reported that DMCJA owed SCJA a refund related to JASP funds in the amount of \$2,499.48 from the 2012-2013 Budget.

M/S/P to approve the Treasurer's Report.

Policy for payment of dues when a vacant position is filled (full or pro-rata)

M/S/P to make this an Action item

The Board asked for language to better clarify the expectations for payment when a judge pays the dues versus when a jurisdiction pays the dues, to be congruent with the Bylaws. The Board

briefly discussed whether, if a judge pays the dues and then leaves office, would that judge receive a refund on pro-rated dues. Judge Marinella will continue to work on clarifying the expectations based on who paid the dues and submit a policy for action at the December meeting.

Special Fund Report

Judge Svaren reported on behalf of Judge Steiner that the recommendation is for no action at this time, but in the spring the new Vice President will submit a proposal to the Board for action on this fund. Judge Svaren, who is still on the account will work with the new Vice President to close the current fund and transfer money to an alternative banking option.

M/S/P to approve the Special Fund Report.

LEGISLATIVE COMMITTEE REPORT

1. Removal of Municipal Court Judges

The Legislative Committee has approved language that would create parity between district and municipal courts with regard to terminating courts. The recommendation is to work with the BJA to pursue legislation.

M/S/P to adopt the recommendation of the Legislative Committee with the caveat that it be referred back to the Legislative Committee to add language addressing when a jurisdiction contracts with another jurisdiction. Judge Jahns voted opposed.

2. Imposing Misdemeanor Jury Fees

Courts of limited jurisdiction lack clear authority to impose jury fees when defendants are convicted of misdemeanors. This proposal would authorize municipal and district courts to impose these fees.

No action taken. Sent back to the Legislative Committee for further review.

3. Discover pass fee allocations

All revenue from discover pass violations currently is remitted only to the state, despite the burden on courts and local jurisdictions to process these infractions. The Legislative Committee proposes working with the counties on legislation that would provide that at least a portion of the money would go to the local jurisdiction.

M/S/P to adopt the recommendation of Legislative Committee.

4. Therapeutic Courts (SB 5797) Workgroup

This will be discussed at the December Legislative Committee meeting and brought for action at the December 13th Board Meeting.

FUTURE SECURITY CHANGES RELATED TO COURT INFORMATION

Mr. Marler reported on the memo sent out by Callie Dietz, Court Administrator, regarding future security changes. The catalyst for the changes was the breach in AOC data security. AOC is giving notice to affected parties so they have time to prepare, and will also follow up with affected parties after the changes are made to make sure things are still running smoothly. Some highlights of the security changes are: change in password requirements to make them stronger; Inside Courts will time out after a specified period of inactivity and all users will be logged off at 3am each day; future changes to JABS log in will keep in mind ease of use for those users.

DISCUSSION

A. Office of the Trial Courts

Judge Svaren requested Board members send him their ideas of how they envision this group would operate, as well as what its responsibilities, structure, and actions would look like. Judge Svaren sees it as an advisory group for issues of the trial courts. He does not see committees being formed but rather the group would vet information on trial court issues to enhance and improve communication with an ultimate goal of having unified support of the trial courts on issues affecting trial courts. The group would be made up of SCJA and DMCJA representatives, along with court administrator representation. Judge Derr referred to a structure similar to Court Management Council and that this group does not have title authority. Judge Lambo inquired if the group would be an advisory board that reports to BJA and that could free BJA up to focus on policy making. Judge Ramsdell said SCJA is interested in DMCJA's ideas for what this group should be and encouraged the trial courts to come together and coordinate efforts. Judge Jahns inquired if this group would be ad hoc or a continuing group that would require bylaws, charter, etc. Judge Svaren said the group would be continuing and that bylaws and a charter will be created, which is why DMCJA Board input is important. Judge Ramsdell said this would be a good way to continue Justice in Jeopardy and that Judge Michael Downes sees this group as more than just a name but having a real function and control of issues affecting the trial courts. The next meeting is December 6th and Judge Svaren will provide DMCJA Board feedback for discussion with SCJA. Ms. Vance requested DMCMA representation in this group.

B. Rules Committee Report on Court Security

The Rules Committee was charged with evaluating the efficacy of a general court rule to address court security. After reviewing other state rules, it is the recommendation of the Rules Committee that the process be opened up to include more stakeholders and to consider more comprehensive solutions to issues with courthouse security. Judge Svaren agreed with this proposal and will contact groups regarding putting together a task force to address the topic.

C. Data Dissemination

1. Policy Change for Juvenile Offender Records
Reviewed email sent out to LISTSERV about changes.
2. Records Retention Schedule
JISC, through the CLJ Workgroup, is asking DMCJA to create guidelines or criteria for judges to follow when flagging a case for permanent retention, which diverts from the standard retention schedule. Many Board members had concerns including whether it might increase the incidence of appeals, concern regarding it being purely a judge's decision, and whether there would be a notification process. Judge Svaren asked Board members to email him possible criteria for permanent retention to be discussed at the December Board meeting.

D. YMCA Mock Trial Program Contribution Request

M/S/P to donate \$1,600 which is the remaining balance of the Judicial Community Outreach budget. The request was for \$2,500.

E. Request for Scholarships for Mental Health Court Presentation

The Board reviewed the proposal and expressed concern that it did not fit in with the typical scholarship process. Board members suggested other avenues for funding, such as the Education Committee. Also, if requestors are going to be presenters at the conference, then they should first seek money from the group putting on the conference. Judge Svaren will let Judge Finkle know what was discussed and suggestions. The issue was tabled.

LIAISON REPORTS

DMCMA- Ms. Vance thanked DMCJA on behalf of DMCMA for its contribution to the presiding judges' education conference and for the efforts to work with SCJA to contribute enough money so that money would not be requested from the administrators. A line staff conference was held in early October and was successful. Next week pilot courts will begin printing warrants on plain paper; all courts should have this ability by December.

SCJA – SCJA met DMCJA's challenge of contributing \$12,500 to the presiding judges' education conference and also contributed \$1,400 to the Judicial College. SC-CMS is working through County Clerks' concerns over retaining local custody and control over court documents. The next Office of the Trial Courts meeting is on December 6, 2013.

WSAJ – Mr. Speikers reported that WSAJ is reviewing legislation for public access to probation files but has not yet taken a position on this.

WSBA – Judge Derr attended their meeting and reported back that they provide free CLEs.

BJA - Judge Lambo gave a re-cap of the November 15th BJA meeting. There was a lengthy discussion about the Unification Committee report recommendations. There were three recommendations and #2 (letter to courts and associations with BJA recommendations) & #3 (track committee work through web-based tools) were approved. #1 (BJA committees standardize charters and formation) was approved with additions.

STANDING COMMITTEE REPORTS

- A. Legislative Committee – Judge Meyer included the committee's minutes in the materials.
- B. Rules Committee – Judge Garrow included the committee's minutes in the materials.

INFORMATION

AOC is working with DMCJA & DMCMA to have a case management summit which will bring together DMCJA, DMCMA, and courts that are actively pursuing new case management systems. The purpose of the meeting is to discuss timelines, funding, and resources available for a statewide CLJ CMS.

Letter from Chief Justice Madsen seeking a DMCJA representative for a Stalking Protection Order workgroup. Judge Svaren will follow up with Judge Stiener to see if he can attend.

Judge Derr asked for an update on the Judicial Needs Estimate Workgroup. Judge Burrowes and Judge Jahns reported that the group had been meeting is planning to make recommendations for improvement by March.

OTHER BUSINESS

Tribal State Consortium Presentation

Judge Patricia Clark (ret.) gave a presentation Interested Judges should contact AOC staff (Michelle Pardee) for more information. Judge Alicea-Galvan thought it was important to participate in this consortium.

Meeting Adjourned at 3:27 p.m.



**WASHINGTON
COURTS**

District and Municipal Court Judges' Association

December 13, 2013

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Okanogan County District Court
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To: President Svaren, DMCJA Officers; DMCJA Board of Governors;
From: G. Scott Marinella, DMCJA Treasurer
Subject: Monthly Treasurer's Report for December, 2013

Dear President Svaren, Officers and Members of the DMCJA Board of Governors.

The following is a summary of the total DMCJA accounts, expenditures and deposits, as well as an update regarding the finances of our association.

ACCOUNTS

US Bank Platinum Business Money Market Account
Fund Balance - \$100,343.85, as of November 29, 2013.

Bank of America Accounts
Investment Account - \$129,149.38, as of November 30, 2013.
Checking Account - \$7,389.73, as of November 30, 2013.

Total for all Accounts: \$236,882.96

EXPENDITURES

Total 2013/2014 adopted budget:	\$228,900.00
Total expenditures to date (12-2-13):	<u>\$ 30,730.31</u>
Total remaining budget as of December 2, 2013:	\$198,169.69

DEPOSITS

Total deposits 2013/2014: \$6,631.16

DMCJA 2013-2014 Budget

ITEM	COMMITTEE	Beginning Balance	Total Costs	Ending Balance
1	Access to Justice Liaison	\$500.00		\$500.00
2	Audit	\$2,000.00		\$2,000.00
3	Bar Association Liaison	\$5,000.00		\$5,000.00
4	Board Meeting Expense	\$30,000.00	\$5,340.07	\$24,659.93
5	Bookeeping Expense	\$3,000.00	\$1,275.00	\$1,725.00
6	Bylaws Committee	\$250.00		\$250.00
7	Conference Committee	\$3,500.00		\$3,500.00
8	Conference Incidental Fees For Members Spring Conference 2012 & 2013	\$40,000.00		\$40,000.00
9	Diversity Committee	\$2,000.00	\$24.30	\$1,975.70
10	DMCMA Education	\$5,000.00		\$5,000.00
11	DMCMA Liaison	\$500.00		\$500.00
12	DOL Liaison Committee	\$500.00	\$27.32	\$472.68
13	Education Committee**	\$8,500.00		\$8,500.00
14	Educational Grants	\$5,000.00	\$830.44	\$4,169.56
15	Judicial Assistance Committee	\$10,000.00	\$6,448.74	\$3,551.26
16	Legislative Committee	\$6,000.00	\$999.39	\$5,000.61
17	Legislative Pro-Tem	\$2,500.00		\$2,500.00
18	Lobbyist Expenses	\$1,000.00		\$1,000.00
19	Lobbyist Contract	\$55,000.00	\$6,000.00	\$49,000.00
20	Long-Range Planning Committee	\$1,500.00	\$441.82	\$1,058.18
21	MCA Liaison	\$1,500.00	\$373.26	\$1,126.74
22	National Leadership Grants	\$3,000.00	\$3,000.00	\$0.00
23	Nominating Committee	\$400.00		\$400.00
24	President Expense	\$7,500.00	\$451.16	\$7,048.84
25	Reserves Committee	\$250.00		\$250.00
26	Rules Committee	\$1,000.00	\$15.45	\$984.55
27	Rural Courts Committee	\$0.00	Not Funded	\$0.00
28	Salary and Benefits Committee	\$0.00	***Not Funded	\$0.00
29	SCJA Board Liaison	\$1,000.00	\$21.48	\$978.52
30	Technology Committee	\$5,000.00		\$5,000.00
31	Therapeutic Courts	\$2,500.00	\$532.06	\$1,967.94
32	Treasurer Expense and Bonds	\$1,000.00		\$1,000.00
33	Judicial Community Outreach	\$3,000.00	\$3,000.00	\$0.00
34	Uniform Infraction Committee	\$1,000.00		\$1,000.00
35	Regional Courts (ad hoc to 2015)	\$5,000.00		\$5,000.00
36	Professional Services	\$15,000.00	\$1,949.82	\$13,050.18
TOTAL		\$228,900.00	\$30,730.31	\$198,169.69
37	TOTAL DEPOSITS MADE	\$6,631.16		
38	CREDIT CARD	\$0.00		
***funding will come from special funds				



ADMINISTRATIVE OFFICE OF THE COURTS

CLJ Case Management System Update

DMCJA Board Meeting

December 13, 2013

Callie Dietz, AOC State Court Administrator
Dirk Marler, Director, Judicial Services Division
Veronica Diseth, CIO/Director, Information Services Division

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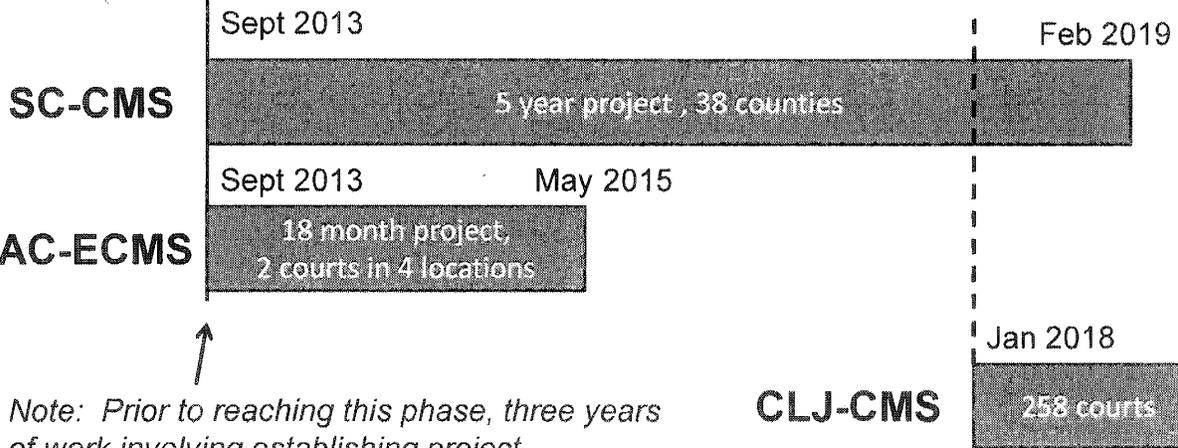
Agenda

- Background – a brief history of current IT projects.
- Priority of CLJ IT requests.
- Why a statewide approach/system is critical.
- AOC's high-level timeline for gathering the CLJ business requirements.
- Update on recent events and discussions.
- Some considerations.
- Next steps.



Configuration and Implementation Phase

Original Plan for CLJ - CMS



Note: Prior to reaching this phase, three years of work involving establishing project governance, feasibility studies, documenting business requirements, developing RFP's, evaluating and scoring vendor proposals, etc.

Begin the project

Who Sets The Priorities?

- AOC adheres to the IT Governance process established by the Judicial Information System Committee (JISC) in 2010.
- IT project priorities are determined by the Court Level User Groups (CLUGS) and the JISC, not AOC.
- Priorities are based on business need and value provided to the Court Level User Groups.
- Projects are started based on the required knowledge and skill set to do the work and the availability of technical resources.



JISC Priorities

Priority	ITG #	Request Name	Status	CLUG Importance
1	121	Superior Court Data Exchange (SC-DX)	In Progress	High
2	002	Superior Court Case Management System (SC-CMS)	In Progress	High
3	045	Appellate Court Enterprise Content Management System (AC-ECMS)	In Progress	High
4	041	CLJ Revised Computer Records and Destruction Process	In Progress	High
5	027	Expanded Seattle Muni Case Data Transfer	Not Started	High
6	102	New Case Management System to Replace JIS	Not Started	High
7	062	Automate Courts DCXT Table Entries	Not Started	Medium



JISC Priorities

Priority	ITG #	Request Name	Status	CLUG Importance
8	007	SCOMIS Field for CPG Number	Not Started	High
9	026	Prioritize Restitution Recipients	Not Started	Medium
10	031	Combine True Name and Aliases for Timepay	Not Started	Medium



Courts of Limited Jurisdiction CLUG Priorities of IT Requests

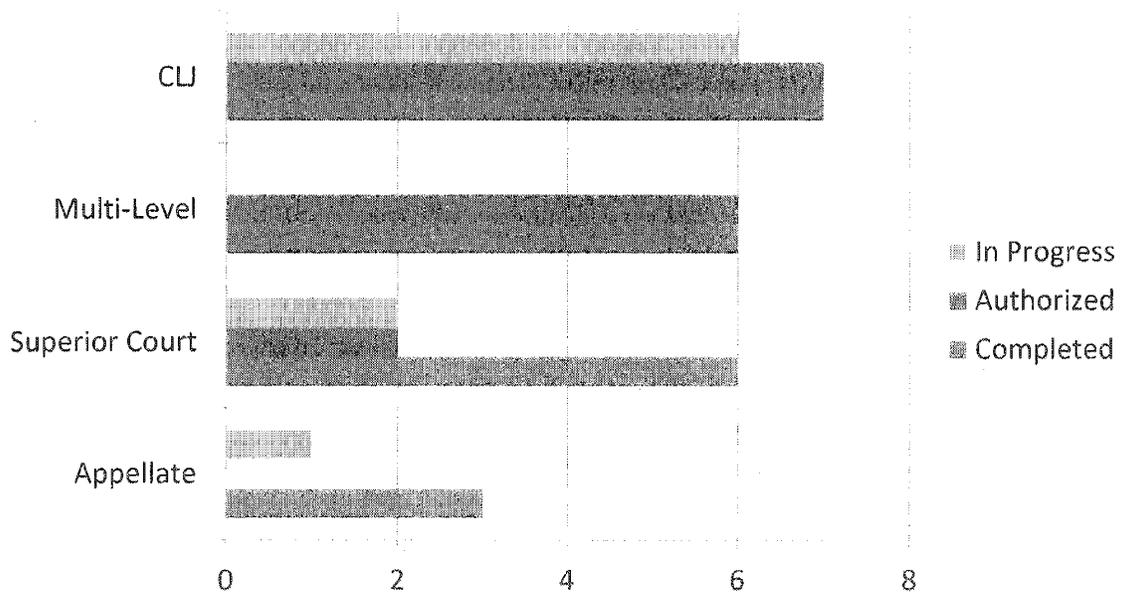
Priority	ITG #	Request Name	Status	CLUG Priority
1	027	Expanded Seattle Muni Case Data Transfer	Not Started	High
2	102	New Case Management System to Replace JIS	Not Started	High
3	174	CLJ Probation Case Management System	Not Started	Medium
4	156	Court Notification When Critical Identifiers Change	In Progress	High
5	041	CLJ Revised Computer Records Retention and Destruction Process	In Progress	High
6	058	CLJ Warrant – Print Page	In Progress	High
7	037	CLJ Warrant – Comment Line	In Progress	Medium
8	079	WRO Screen Change Under Bail Options	In Progress	High



Courts of Limited Jurisdiction CLUG Priorities of IT Requests

Priority	ITG #	Request Name	Status	CLUG Priority
9	032	Batch Enter Attorneys to Multiple Cases	Not Started	Medium
10	068	Full Print on Docket Public View	Not Started	Medium
11	046	CAR Screen in JIS	Not Started	Medium
12	171	Connect CDT and AKA	Not Started	Medium
13	077	Allow FTAs to Issue When AR is Zero	Not Started	Medium
14	031	Combine True Name & Aliases for Time Pay	Not Started	Medium
15	026	Prioritize Restitution Recipients	Not Started	Medium

Summary of IT Requests by CLUG



Importance of a Statewide System From a Business Perspective

Problems created when a court goes off the statewide system:

- Loss of availability of statewide data to make sound judicial decisions (e.g. criminal case/defendant history information).
- Requires duplicate data entry on the part of the separated court to keep the appropriate JIS systems updated with current information so that other state courts have the ability to retrieve case history information.

Importance of a Statewide System From a Business Perspective

Problems created when a court goes off the statewide system (continued):

- Requires the separated court to use two separate systems if they want to gather defendant criminal history – increasing research time.
- Loss of ability to gather meaningful, consistent, and accurate statewide data needed for:
 - The Judicial Needs Assessment,
 - Legislative Fiscal Analysis for Court Impacts,
 - Evaluation of best practices,

Importance of a Statewide System From a Business Perspective

Problems created when a court goes off the statewide system (continued):

- Inconsistent training and documentation,
- No Customer Service “Help Desk” that understands the system and business.
- Impedes the ability to communicate effectively among courts using a common language that fosters consistency and collaboration throughout the state.

Importance of a Statewide System From a Technical Perspective

- AOC must maintain a focus on providing “statewide” systems that benefit all.
- AOC does not have the resource capacity to work individually with each court to integrate their own case management systems with a statewide system.
- Integration work is high risk, complex, time consuming, and expensive.

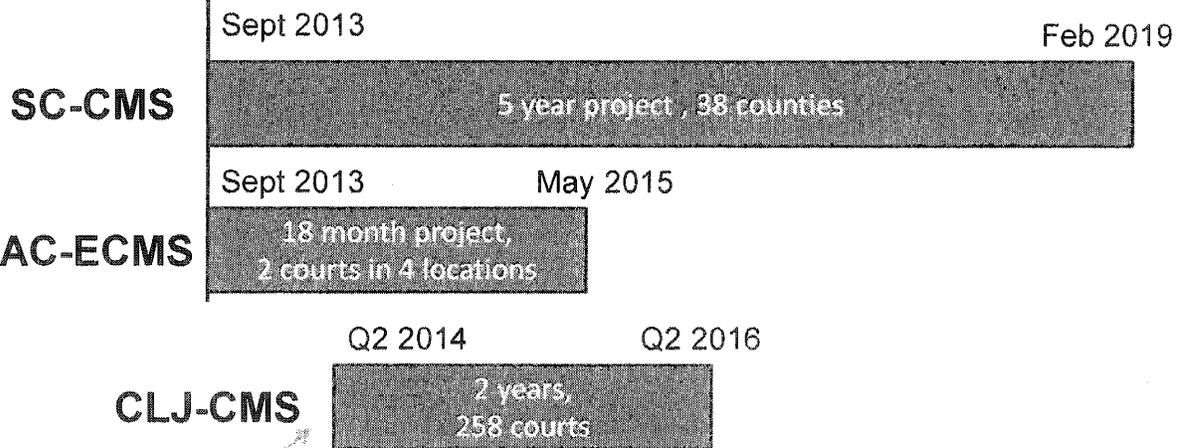
Prior Discussions & Agreements

DMCJA & DMCMA	Meeting Dates
<p>Callie Dietz, Dirk Marler, and Vonnie Diseth met with the DMCJA Board regarding concerns about the timeline and available funding to begin work on ITG #102. Options were presented to shorten the timeline. AOC agreed that business requirements gathering could start in 2014 – subject to funding and staff availability.</p>	<p>February 8, 2013</p>
<p>Callie Dietz received a letter from DMCMA President, LaTricia Kinlow, documenting their commitment to support a commercial off the shelf (COTS) case management system for the CLJ's.</p>	<p>March 14, 2013</p>
<p>Callie Dietz received a letter from DMCJA President, Judge Sara Derr, documenting their commitment to support a commercial off the shelf (COTS) case management system for the CLJ's.</p>	<p>April 24, 2013</p>



Configuration and Implementation Phase

Current Project Timelines



Business Process and Requirements Capture

- Establish Governance Structure – 3 months
- Requirements Management Plan – 1 month
- Document Current State – 8 months
- Document Future State – 3 months
- Develop RFP for Acquisition – 10 months



Recent Events and Discussions

King County District Court	Meeting Dates
E-mail from Judge Harn to Chief Justice Madsen, Justice Fairhurst, and Callie Dietz requesting a meeting.	Sept. 22, 2013
Meeting w/Judge Harn, Council Member Lambert, KCDC Court Administrator, and Judge Svaren. <ul style="list-style-type: none">➤ They don't want to go off on their own, but need action soon or they will have to.➤ They have money to buy a new system for King County.➤ What can they do now?	Oct. 31, 2013
Follow-up meeting with King County District Court and DMCMA representatives on the SC-CMS Project.	Nov. 26, 2013

Some Considerations

Staffing:

- AOC capacity issues.
- Numerous projects with limited resources to do the work.

Financial - JIS Account:

- Numerous projects with limited funding.
- The outcome of some decisions made with current projects could have a substantial impact on the availability of JIS funds for the CLJ CMS.

Technical:

- Need for maintaining a focus on providing "statewide" systems that benefit all.
- AOC does not have the resource capacity to work individually with each court to integrate their own case management systems.
- Integration work is complex, time consuming, risky, and expensive.

Next Steps

- Review of the CLJ CLUG priorities for IT requests.
- Schedule a CLJ CMS Summit in January to develop a strategy for working together toward a *statewide* case management system for the Courts of Limited Jurisdiction. (*scheduling is in process*)
- Development of Business Requirements – spring of 2014 (*subject to funding and staff availability*).
- Planning for a Decision Package Request for the 15-17 Biennium.
- Other ideas or alternatives to consider for moving forward?



Contact Information

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- **Dirk Marler**
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Policy for payment of dues when vacant position filled

These were the original rules/policy with notes added regarding the "DV" & "Permanently retain" flags and retain all cases at least 5 years.

Retention of Records Summary

Casetype	Cause Code	Retention
CV-Civil	DVP, HAR, SXP, STK	Never Purge
CV-Civil	Any other	10 years & 4 months
SC-Small Claims PR - Parking (VRV)	Any	5 years

Notes:

- > All retention periods begin after case is closed
- > Case is retained based on the longest retention period for any violation on the case
- > Retention not based on a finding of Amended (AM) It is based solely on issues with findings other than AM
- > See Plea / Sentencing codes at Inside Courts website for code descriptions

Finding / Judgment Types	Casetype of Charge		IT, IN	Finding / Judgment Codes Included
	CT, CN	PC, CF		
Guilty / Committed	Never purged	Never purged	5 yrs	AS, BF, C, P, G, GO, GS, GV, GR, PI, RP, GY, GZ
Not Guilty / Not Committed	10 yrs	10 yrs	5 yrs	NG, NC
46.63.070 Deferred Finding (IT only)	NA	NA	7 yrs	CD, DD
Dismissed - Incompetency, or Not Guilty - Insanity	Never purged	Never purged	5 yrs	D, DO, DW with reason code of IC; or NS
10.05 Deferred Prosecution	Never purged	Never purged	5 yrs	GO, GD; or D, DO, DW with dismissal reason code of DP
Dismissed for all other reasons	10 yrs	5 yrs	5 yrs	D, DO, DS, DW, or OD, with a dismissal reason code of blank or anything other than IC, DP, or FD
Vacated	Never purged	Never purged	N/A	V
Domestic Violence Flag	15 yrs	15 yrs	15 yrs	Applies to cases where a violation has a DV flag = yes, and the retention of the case without the DV flag was less than 15 years.
Retain Case Flag	Never purged	Never purged	Never Purged	A new flag will be available in JIS to designate that a case should be retained regardless of any other rule. Case will be retained as long as flag = Yes.
Case Transferred	5 yrs	5 yrs	5 yrs	BO, CV; or D with a reason of FD

The system will determine retention based on overall casetype & cause code

The system will determine retention based on casetype and disposition of each charge as well as looking for DV flag and Retain Case flag

Long Range Planning Committee Report

October 18, 2013

Having met in person on October 18, 2013, the Long Range Planning Committee submits the following report. The committee recognizes that its charge is to annually review issues relating to long range planning and review processes. In this context, the committee reviewed 7 areas of concern to the DMCJA, discussed approaches in addressing these issues and roughly prioritized these issues. In approximate order of priority, these issues are:

1. Courthouse Security. The safety of all of the participants in our courthouses remains a top priority for the DMCJA. Without adequate security, the safety of all participants is in needless jeopardy, including:
 - Members of the public summonsed for jury duty; traffic infractions; civil cases and criminal cases.
 - Every party involved in domestic violence cases, including alleged victims and witnesses, who appear to deal with: domestic violence criminal cases; protection order cases; stalking and anti-harassment cases.
 - Courthouse staff who are required to work every day in a building where disputes are resolved and where some of those involved in those disputes will present a risk for violence.
2. JIS/Case Management. Our current case management system is, in the world of computer software, a Model T in a Tesla world. We remain vulnerable to system failure and are forced to work every day with an antiquated system. Last year we saw our Courts of Limited Jurisdiction (CLJ) priority slip when the system being designed for the Court of Appeals was upgraded to a full case management system. We need to continue to state our case for high priority so that, if anything, we move up, rather than down in priority.
3. Adequate Court Funding. The CLJ cannot provide services or justice when we are chronically underfunded. We need to educate the public, from the voters to the legislators, regarding the effect that minimal funding has on our ability to serve the public's constitutionally protected interests. This includes legislative cuts to AOC's budget that resonate through every level of the courts. We should assess the mandated services the court provides and question how we are expected to provide these services in an environment of shrinking budgets.
4. Improve the Quality and Consistency of all CLJ. The DMCJA needs to work to improve the quality and consistency of justice across all CLJ. We must continue

to work to remove statutory disparities between district and municipal courts and monitor regional courts initiatives.

5. Educate Justice Partners. When we educate our judges we must not forget our justice partners. Topics of importance to the judiciary may be just as important to our city, county and state partners. These topics include, but are not limited to security concerns, court funding, the separation of powers, court administration, access to justice and access to court records and court information. Committee members suggested several ways to begin educating our partners at AWC, WAPA, WASAMA, WSAC, risk management agencies, city and county councils, including: letters offering to teach on appropriate topics, inviting them to meet with us and encouraging our judges to educate justice partners on a local level.
6. Interpreter Issues. Several issues related to interpreters were highlighted, including highlighting distinctions between ADA/foreign language interpreters, the quality of interpretation options and access to interpreters.
7. Member Involvement. The Board should encourage the participation of DMCJA members in the committee work and governance of our organization. Face to face committee meetings during the spring conference may still help in this regard.



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District and Municipal Court Judges' Association

ADMINISTRATIVE OFFICE OF THE COURTS

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Callie T. Dietz
State Court Administrator

November 25, 2013

Honorable Barbara A. Madsen
Washington State Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Dear Chief Justice Madsen,

RE: 2013 DMCJA Annual Report

I am submitting this Annual Report on behalf of the Washington State District and Municipal Court Judges' Association (DMCJA) pursuant to the dictates of RCW 3.70.040 (3).

The Courts of Limited Jurisdiction (CLJ) have continued to labor under the difficult conditions created by the recent recession. Although we are required to impose mandatory terms on some criminal offenders due to the nature of their crimes, lack of local funding for enforcement often hampers the courts' ability to vigilantly enforce those terms. Mandatory jail terms pose a challenge when local jails are full to capacity. The CLJ's continue to use an archaic case management system designed in the 1970's, and several jurisdictions have employed or are considering acquisition of their own systems with varying levels of successful communication with the state's system. This complicates efforts to meet enforcement efforts dictated by recent legislation—particularly in the area of impaired driving enforcement.

Notwithstanding the many challenges facing the CLJs, I am pleased to note that our member judges and their respective courts take great pride in their roles handling over 2.1 million cases in 2012, including misdemeanors, infractions, civil matters and felony complaints, and receipting over 277 million dollars. Through September 2013, the reported caseload approaches 1.7 million cases.

Case Management System

While the Superior Courts are in the process of implementing their newly-acquired case management system and the Appellate Courts

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are in line to obtain a case management system and document retrieval system, the CLJ's are still using technology that is four decades old.

Clearly, the sheer volume of cases and quantity of money being handled by the CLJ's reflected in the numbers reported above call for a more updated system. It is not just a matter of handling money and docketing cases, because when judges are unable to access information about defendants' criminal histories, proper law enforcement, and public safety are implicated. The DMCJA certainly appreciates the recent efforts of the Administrative Office of the Courts (AOC), Justice Fairhurst, and you in trying to move the process of identifying and obtaining a proper case management system forward.

System Improvement Committee

The DMCJA has convened this committee for purposes of examining the potential benefits of joint operations (sometimes called regionalization), considering whether performance benchmarks/best practices should be adopted as a baseline for evaluating court performance, exploring and recommending services beneficial to the public, and generally making recommendations for steps that can be taken to improve service to the public while preserving the Court's role as a coequal branch of government. No organization or its individual components can be considered perfect. The recent downturn in the economy and the financial stresses placed upon local governments has played a significant role in the creation of this committee. Recognizing that the branches of government must learn to do more while having less, the DMCJA seeks to identify efficiencies and methods to improve services to the public.

Security

Court and personal security remain a concern for DMCJA member judges. Many, if not most, of the CLJs lack the most basic security measures. Generally speaking this occurs in the smaller courts that convene infrequently. Notwithstanding the cost of security, DMCJA strongly holds that the public has an inherent right to expect a safe environment when they are summoned to the court. Establishing minimum standards for courtroom security remains a priority for the DMCJA. Personal security is another matter altogether. Limited Jurisdiction judges may not be high profile, but they are as subject to physical attack and confrontation as judges from any other level—perhaps more so. Short of insulating oneself from the world, the DMCJA believes that training and education will instill a heightened sense of awareness that will go a long way toward improving member judges' level of personal security.

Judicial Needs Estimates

The AOC has for many years prepared judicial needs estimates for the courts. These estimates are based on various forms of statistical data collected from DISCIS, the current case management system for CLJ's. As it appeared that certain case types were not being accurately tabulated, the DMCJA requested that the AOC undertake a new judicial needs estimate study. This is currently underway. Initial reports indicate that certain

case types were being grossly underreported or that no distinction was being made between the judicial needs impact of a brief hearing versus a multi-day trial. While many issues can and are being corrected in the course of this study, the limitations of the current case management system will preclude other corrections that should be undertaken.

Therapeutic Courts

As a result of SB 5797, a collaborative workgroup was formed to discuss therapeutic courts and methods to institute systemic improvements. This workgroup is co-chaired by Judges Clarke and Finkle from the Superior Court Judges' Association (SCJA) and the DMCJA respectively. This group has considered a number of proposals, including one for regional therapeutic courts by geographical region regardless of court level. The workgroup is drafting proposed legislation to assist in the development of a consistent therapeutic court model while ensuring local court autonomy in decision making.

Municipal Court Consolidation

In the past couple of years, some municipalities have elected to contract with counties or other municipalities for court services to be provided by their district or municipal courts. Such contracts are allowed by statute. Unfortunately, in some instances, the municipal court being decommissioned is served by a judge who is in the middle of his or her term of office. Whether elected or appointed, municipal court judges' terms are four years pursuant to the Revised Code of Washington. The DMCJA is seeking legislation that would prohibit entering into such agreements where the effective date falls in the middle of a sitting judge's term. A model for such legislation already exists in situations involving municipalities withdrawing from agreements for court services provided by district courts.

Community Service Fraud

The DMCJA became aware that some groups are advertising the purchase and sale of fraudulent documents reflecting community service hours. Many times CLJ's will order community service work as an alternative to fines or incarceration on the theory that such service will benefit the community. It appears that this scheme was detected fairly early on and the DMCJA has reported it to the Attorney General's Office.

If this report raises any questions, I would be pleased to respond. The DMCJA continues to appreciate the support of the Supreme Court and the Legislature as its member judges strive to provide meaningful access to justice to the citizens of our state.

Sincerely,



Judge David A. Svaren
DMCJA President



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December 4, 2013

Callie T. Dietz
State Court Administrator

Ms. Pat Kohler, Director
Department of Licensing
PO Box 9020
Olympia, WA 98507-9020

Dear Ms. Kohler,

RE: October 31, 2013 Annual DOL/AOC/DMCJA/DMCMA
Leadership Meeting

On behalf of the District and Municipal Court Judges' Association (DMCJA), I want to thank you and your staff for the positive and productive meeting which took place on October 31, 2013. As members of the court community, we are collectively committed to accurate and timely reporting of offenses which impact drivers' records.

We are encouraged by the progress that the organizations have made to be responsive to the concerns of the court communities. This letter represents an effort to memorialize the conversation and outline the next steps.

Since 2010, the courts have requested a more expeditious return of inaccurate citations. The Administrative Office of the Courts (AOC) and the Department of Licensing (DOL) jointly worked on ideas regarding electronic returns until 2012. At the meeting, the DOL announced that they are planning a system release in November 2013 in which citations would be electronically mailed back to courts. The DOL has been working with the DMCMA DOL Committee members to obtain individual court email addresses to implement the system. Also, since the AOC has not been working with the DOL on this electronic return process, they are optimistic that they will receive information about this process in advance of the release. The AOC can assist in distributing that information to all levels of courts and AOC customer service.

Everyone agreed that recent Commercial Driver's License (CDL) compliance presents reason to celebrate cooperative and collaborative achievements. The DMCJA, with Ms. Weaver's and the District Court

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Judges Association's assistance, have reached a 90 percent compliance rate, and as of the last distributed report are in the green zone of compliance, instead of red.

When attendees expressed concerns about keeping up the CDL reporting compliance rate within acceptable levels, Ms. Pashon explained that Ms. Carla Weaver and Mr. Matthew Marrin, Federal Motor Safety Carrier Administration (FMSCA), were planning on visiting with problem courts quarterly and reviewing their processes to alleviate the issues.

Ms. Cullinane noted an ongoing technical issue that continues to interfere with ongoing compliance. When dispositions are sent with a "P" for paid and sent through the system, and then the payment bounces and the disposition is changed to "C" for committed, this change in disposition is then counted as out of compliance with the 10 days. When the AOC discussed the issue with the DOL, the DOL verified that the issue is within the system which reports from the DOL to the FMSCA.

With the DOL's development of the new web-based alternative dispute resolution (ADR), courts were concerned that the DOL would cease supporting the current ADR.

Ms. Knudsen and Ms. Knittle confirmed that the old ADR will continue to be supported by the DOL for as long as the AOC needs it to, until such time the AOC is ready to move to the new ADR service.

Ms. Bernstein advised the members that the DOL is working on a campaign to modernize their legacy systems, starting with the vehicle side and then moving to the driver's side. Hopefully, all members can be supportive of this undertaking which will provide enhanced services.

Ms. Kohler wanted to make sure that the courts knew the consequences to blood draw suspensions as a result of recent legislation. The DOL cannot take administrative actions on drivers' licenses when there is a refusal of a blood draw. They are hopeful that legislation will be introduced in the upcoming session which will fix this issue.

Next Steps:

- Ms. Knittle and Mr. Marler will continue their commitment to meeting quarterly and sharing any relevant information with staff and court communities.
- Ms. Knittle advised the meeting members that the DOL previously had filled a position to compliment the current liaison, Ms. Weaver, in her duties. The DOL continues to recruit for a backup position for Carla Weaver, which was a commitment made at last year's meeting. Ms. Knittle promised to talk to Mr. Marrin about courts getting credit for reporting within the 10-days when original dispositions are sent *within* the 10 days, but then the disposition is changed (like NSF checks) after the 10 days. The replacement disposition is recognized by the DOL's reporting service to the Federal Government as an original disposition and reported as late, when it should not be. Ms. Knudsen also promised to look into modifying the DOL's reporting service to the Federal Government.

Ms. Pat Kohler, Director
December 4, 2013
Page 3

- There is a new requirement that judges must order pre-trial ignition interlocks. Currently, there is only a form for post-conviction ignition interlock. The DOL will follow-up on getting the form created.
- Ms. Knutson will follow-up on the issue of maintenance of individual court email addresses as a part of the DOL's electronic return process.
- Ms. Knittle offered to assemble a list of DOL roles and responsibilities document like the one Ms. Hinchcliffe created for the AOC, including contact information for DOL staff.
- The AOC/DOL Technical Team spreadsheet is out of date and currently unavailable. Ms. Bruner and Ms. Diseth committed to working together to come up with a way to view and update the table
- Commitment was given from all attending members to participate in a one-day CDL Stakeholder Summit, which would include members of the criminal justice community including the National Center for State Courts (NCSC), Washington Traffic Safety Commission (WTSC), FMCSA, Washington State Patrol (WSP), Washington Association of Sherriff's and Police Chiefs (WASPC), DOL, AOC, and leadership from court communities. The purpose of the summit is to establish relationships and processes in order to continue the current success of compliance with 10 day reporting requirements.

Sincerely,



Judge David A. Svaren
DMCJA President

cc: Ms. Callie Dietz, State Court Administrator, AOC
Ms. Aimee Vance, President, DMCMA



WASHINGTON
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DMCJA Long Range Planning Committee
Friday October 18, 2013 (1:30 p.m. – 3:30 p.m.)
SeaTac Office

MEETING MINUTES

Members:

Chair, David Steiner
Judge Steven R. Buzzard
Judge Franklin L. Dacca
Judge Richard Fitterer
Judge Willie Gregory
~~Judge Dan Kathryn~~
~~Judge David A. Larson~~
Judge Marilyn G. Paja

Guests:

Judge Kevin Ringus

AOC Staff:

Ms. Michelle Pardee
Ms. Shannon Hinchcliffe

1. Minutes

M/S/P to adopt the February 15, 2013, minutes

2. Recent Committee and Board Minutes

Members reviewed past minutes and recommendations from the Long Range Planning Committee to the Board

3. Discussion- Priorities

Judge Steiner shared with the Committee his discussion with Judge David Svaren on the issue of Court Security. It is evident from past years and continuing on now that court security is a priority and requires more than just a subcommittee of the DMCJA Rules Committee. Judge Svaren is hopeful that through the newly formed Office of the Trial Courts within AOC, that the joint effort of CLJ courts and Superior Courts can make some progress in this area.

The Committee had set out three priorities prior to the meeting:

- Court Security
- Judicial education and education of other partners
- Reconciliation of competing interests in Municipal and District Courts as to regionalization and consolidation of court services.

The Committee was asked if there were any other priorities. Judge Paja referred to the April 5, 2012, Long Range Planning Committee Report. Some of the issues listed in that report have moved beyond just DMCJA issues including but not limited to GR 31A, Public Defense, and Therapeutic Courts. However, some on the list are still DMCJA priorities such as, #2 court funding, #3 Case Management system. Judge Gregory suggested that #9 Interpreters is still a priority.

Judge Decca referred to #5 Regional Courts and #11 Identify disparities and competing interests in statutes and rules. How is there reconciliation of competing interests and what is important to Municipal and District courts?

The Committee chose the following as priorities for discussion:

- A. Court Security
- B. Judicial education and education of other partners
- C. Regionalization and competing interests
- D. Interpreters
- E. Court funding
- F. Case management system
- G. Member involvement

A. Court Security

The Committee referenced #1 from the April 2012 Long Range Planning Report and felt that it addressed concerns and would only make a change to add in civil proceedings as well. Civil and criminal cases can cause individuals to appear in court under duress and courts struggle to provide a safe environment.

B. Judicial education and education of other partners

The Committee found that the education focus should be among the judicial branch and their partners. Topics of judicial independence, risk management, security risks, funding, access to justice, court administration, access to records are all topics that would be good to discuss with Mayors, City Councils, County Commissioners, WSAC (Washington State Association of Counties) WASAMA (Washington State Association of Municipal Attorneys), AWC (Association of Washington Cities). These conversations or educational sharing could be done through conferences, presentations, and small meetings. We want to build relationships and create a collaboration of judges and partners sharing information on judicial issues.

C. Regionalization and competing interests

The Committee discussed #5 & #11 from the April 2012 Long Range Planning Report and discussed how to combine those two statements so that it examines methods for quality and consistency in judicial proceedings. This can be done through reconciliation of statutes and rules that create disparities and competing interests between District and Municipal Courts and the idea of regionalization should be looked at more as how to improve courts to provide consistency and quality of justice. Some areas that could be discussed for improvements: universal cashiering, court administration, share duties with other local jurisdictions, reconcile statutes and rules, regionalize court locations. The Committee preferred to call this priority Court Improvement.

D. Interpreters

The Committee discussed #9 from the April 2012 Long Range Planning Report and adding language about education on the different types of interpreters (ADA vs. foreign language), access to justice issues, and ensuring quality interpreters are provided.

E. Court funding

The Committee discussed #2 from the April 2012 Long Range Planning Report and thought it properly represented the concern and priority with the removal of the last sentence.

F. Case management system

The Committee discussed #3 from the April 2012 Long Range Planning Report and thought it properly represented the concern and priority.

G. Member involvement

The Committee discussed #4 from the April 2012 Long Range Planning Report and thought it properly represented the concern and priority.

The Committee then voted on the order of priority for these topics, which resulted in:

1. Court Security
2. Case Management System
3. Court Funding
4. Court Improvement
5. Education of partners
6. Interpreters
7. Member involvement.

The Committee will present its report to the Board at the December 2013 meeting.

The next meeting is tentatively scheduled for six months out.

Meeting Adjourned at 3:25 p.m.



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DMCJA Rules Committee

Thursday, September 26, 2013 (12:00 p.m. – 1:00 p.m.)

Via Teleconference

MEETING MINUTES

Members:

Chair, Judge Garrow
Vice Chair, Judge Dacca
~~Judge Bender~~
Judge S. Buzzard
Judge Grant
Judge Heller
~~Judge Portnoy~~
~~Judge Robertson~~
~~Judge Steiner~~
~~Judge Szambelan~~
Ms. Linda Hagert, DMCMA Liaison

AOC Staff:

Ms. J Krebs

Judge Garrow called the meeting to order at 12:05 p.m.

The Committee discussed the following items:

1. August 2013 meeting minutes

The August 2013 Rules Committee meeting minutes were approved as presented.

2. Discussion regarding possible court rule regarding uniform court security standards, requested by the DMCJA Board

This item was referred to the Rules Committee by the Board when proposed court security legislation was unsuccessful. Judge Robertson researched court rules pertaining to court security in different states and compiled that information for the Committee's review. The consensus of the Committee was that it would be important to work with other stakeholders to develop a comprehensive plan for court security that would include more than just judicial officers. The Rules Committee agreed to provide the DMCJA Board with the information compiled by Judge Robertson with a request for further direction as appropriate. Judge Garrow will draft a memo from the Rules Committee for the Board's consideration.

3. Discussion of amendment to CJC 2.9, Comment 5, proposed by the SCJA

Judge Garrow stated that the SCJA had proposed changes to CJC 2.9, Comment 5, regarding ex parte communications among judicial officers. The Supreme Court adopted language that differs somewhat from that proposed by the SCJA. The adopted language allows a judicial officer to confer with a retired judge that is a member of the SCJA Mentor judge program. It was unknown to the Committee whether the DMCJA Judge Mentor Program allows for participation by retired judges. This item will be included as part of the Rules Committee minutes so the

DMCJA Board is aware of the rule amendment and can discuss whether the DMCJA mentor program should allow for participation by retired judges as judicial mentors.

4. Other Business & Next Meeting Date

The next Rules Committee meeting will be held on Wednesday, October 23, 2013 at noon via conference call, unless too many Committee members are unavailable at that time.

There being no further business, the meeting was adjourned.

Pardee, Michelle

From: Doug Levy <levy4@msn.com>
Sent: Tuesday, December 03, 2013 5:44 AM
To: Pardee, Michelle
Cc: 'Candice Bock'
Subject: Documents for copying and use on Dec. 13 with DCMJA
Attachments: 11-26-13 DRAFT Indig Def \$\$ BILL.docx

Good morning, Michelle:

Per your e-mail of Monday asking that we have to you, by 5 p.m. today, any materials we want copied and used for Dec. 13, we have two things:

- 1) **Attached is a first-cut *DRAFT* of legislation that would provide courts with new fee authority**, under both RCW 3.62.085 and RCW 10.01.160(2), to generate revenue to help offset expected indigent defense costs. Please bear in mind that we have approval from Rep. Roger Goodman to get this put in Code Reviser Draft form, but the Appropriations Committee staffer we have been asked to work with, Alex MacBain, does not return to the office until Wednesday of this week. While we'd prefer to have a Code Reviser Draft for handout, given your timelines, we are providing this Draft – please help us emphasize that it is just that.

- 2) **Linked below is an AWC Fact Sheet on indigent defense standards.** Please note that at the time AWC put this together, September 2013 was the implementation date for new caseload limits imposed under the State Supreme Court standards. That has since been delayed to January 2015 – please help us ensure that is clarified for those who will receive the handout.

See you on Dec. 13 – and thanks!

Doug Levy, Owner
Outcomes By Levy
(425)922-3999
Levy4@msn.com

<http://www.awcnet.org/portals/0/documents/legislative/IndigentDefenseSupremeCourt1012.pdf>

DRAFT

DRAFT

DRAFT

DRAFT

DRAFT

H- _____

HOUSE BILL _____

State of Washington 63rd Legislature 2014 Regular Session

By Representatives _____

READ FIRST TIME xx/xx/14.

1 AN ACT Relating to establishing new authority for courts to assess cost-recovery fees for costs associated with new indigent defense standards; amending RCW _____;

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The legislature finds that the State Supreme Court has adopted new standards and caseload limits for public defenders, which were originally scheduled to take effect in September 2013 but will not become effective in January 2015.

The legislature finds that while these standards of 400 misdemeanor cases per public defender per year, or weighted-system standards of 300 misdemeanor cases per public defender per year, are intended to raise the quality of counsel provided to low-income and indigent populations, they also will have a very real fiscal impact on the criminal justice and courts operations of cities and counties which already are struggling to address these costs.

The legislature therefore intends to provide local courts and courts of limited jurisdiction with additional fee authority to assess costs on offenders that can be used to offset growing expenditures associated with indigent defense and public defender caseload limits.

Sec. 2. RCW 3.62.085 is hereby reenacted and amended to read as follows:

Upon conviction or a plea of guilty in any court organized under this title or Title 35 RCW, a defendant in a criminal case is liable for a fee of ~~forty-three dollars~~ fifty-five dollars. This fee shall be subject to division with the state under RCW *3.46.120(2), 3.50.100(2), 3.62.020 (2), 3.62.040(2), and 35.20.220(2).

Sec. 3. RCW 10.01.160(2) is hereby reenacted and amended to read as follows:

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant or in administering the deferred prosecution program under chapter 10.05 RCW or pretrial supervision. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190 may be included in costs the court may require a defendant to pay. Costs for administering a deferred prosecution may not exceed three hundred ~~<two hundred fifty>~~ dollars. Costs for administering a pretrial supervision may not exceed two ~~<one>~~ hundred ~~<fifty>~~ dollars. Costs for preparing and serving a warrant for failure to appear may not exceed one hundred fifty dollars. Costs of incarceration imposed on a defendant convicted of a misdemeanor or a gross misdemeanor may not exceed the actual cost of incarceration. In no case may the court require the offender to pay more than one hundred dollars per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision take precedence over the payment of the cost of incarceration ordered by the court. All funds received from defendants for the cost of incarceration in the county or city jail must be remitted for criminal justice purposes to the county or city that is responsible for the defendant's jail costs. Costs imposed constitute a judgment against a defendant and survive a dismissal of the underlying action against the defendant. However, if the defendant is acquitted on the underlying action, the costs for preparing and serving a warrant for failure to appear do not survive the acquittal, and the judgment that such costs would otherwise constitute shall be vacated.

NEW SECTION. Sec. 4. Courts utilizing the fee authority under Sections 2 and 3 of this Act shall use funds from criminal conviction assessments for court operations, prosecutorial functions, and other criminal justice matters connected with indigent defense cases.

--- END ---



Supreme Court adopts new standards governing indigent defense

The Washington State Supreme Court adopted standards for public defenders on June 15th, 2012. The first phase of these standards that went into effect on October 1, 2012 requires Public Defenders to certify to the Court that they comply with the new standards. The second phase requires public defenders to meet specific caseload requirements by September 1, 2013.

The Supreme Court adopted rules can be found at the following link - <http://tinyurl.com/c3mlh5h>.

What do the new standards do?

The following briefly outlines the standards currently in effect as of October 1, 2012.

- **Administrative costs** - Requires contracts for public defense to provide for items such as travel, telephones, law library, case management systems, computers, software, access to an office that accommodates confidential meetings with clients, etc. This includes using investigation services as appropriate.
- **Limitations on private practice** - Private attorneys who provide public defense are required to set limits on the amount of privately retained work they accept. This is based on percentage of full-time caseload which public defense cases represent.
- **Qualifications of attorneys** - Sets minimum professional qualifications for attorneys providing defense services some of which include familiarity with statutes, rules, consequences of conviction or adjudication, and mental health issues including identifying the need for expert services.

The following standards regarding caseload limits take effect September 1, 2013.

- **Caseload requirements** - 400 Misdemeanor cases per attorney per year for full-time public defense attorney's or assigned counsel OR jurisdictions that have adopted a numerical case weighting system, 300 per year. There are also limits for Juvenile, Civil, Felony, and Appellate case types.

Why are cities concerned about the new standards?

Cities are committed to providing and funding effective indigent defense to those who qualify. AWC's opposition to the standards is no reflection on that commitment. Cities are concerned that the new standards will not significantly improve the quality of indigent defense, but will significantly increase the cost at a time when we are already struggling to fund criminal justice. The new caseload limits in particular will likely require the hiring of additional public defenders. Public defenders will be limited to no more than 400 misdemeanor cases per year (300 if the jurisdiction adopts a case weighting system).

continued

Cities are concerned that without any consideration given to the experience of the attorney the new standard will discourage veteran public defenders and result in many new, inexperienced attorneys filling the void.

Additionally, proponents of the rule seem to suggest that cities can comply by simply not prosecuting certain cases like DWLS, DUIs and drug possession. While cities may use a variety of deferral approaches with some of these types of cases, the proponents of the new standards are using them to effectively decriminalize these crimes instead of letting the policy makers in the Legislature weigh the issues.

What do cities do now?

Per RCW 10.101.030, cities should have in place adopted standards for public defenders. Cities now should be evaluating the impact of the new rule and updating their standards to comply with the new rule. As of October 1, Judges should be requiring all public defenders to certify their compliance with the standards (except the caseload limits) on a quarterly basis. Cities may need to evaluate and revise their contracts for public defense services in light of the new standards.

Cities should also begin the process of evaluating their caseloads and preparing for the implementation of the caseload limit requirements on September 1, 2013. Jurisdictions may adopt a case weighting system that counts certain less complicated cases as less than 1 case. A jurisdiction considering adopting a case weighting system should work closely with their City Attorney, public defenders and Judge to develop the system. If a city adopts a case weighting system, then public defenders may handle no more than 300 misdemeanor cases in a year.

What do cities need?

Cities should talk with their legislators about the challenges created by the new standards. The Supreme Court has created a new unfunded mandate for local government.

Encourage legislators to maintain and enhance funding for public defense grants to cities.

Ask legislators to support potential legislation that would ask the Court to reconsider and revise the rules to address cities' concerns.

AWC contact

Candice Bock, candiceb@awcnet.org
Legislative & Policy Advocate

Brittany Sill, brittanys@awcnet.org
Legislative & Policy Analyst



WASHINGTON
COURTS

DMCJA BOARD MEETING
FRIDAY, DECEMBER 13, 2013
12:30 P.M. – 3:30 P.M.
AOC SEATAC OFFICE
SEATAC, WA

Supplemental Agenda		TAB
Call to Order		
Minutes – November 15, 2013		1
Treasurer’s Report – <i>Judge Marinella</i>		2
Special Fund Report – <i>Judge Steiner</i>		X
CLJ Case Management System Update – <i>Vonnie Diseth, Callie Dietz, and Dirk Marler – AOC</i>		3
JIS Status Update- <i>Vicky Cullinane</i>		
Action		4
A. Policy for Payment of Dues when Vacant Positions Filled (full or pro-rata) – <i>Judge Marinella</i>		X
B. Legislative Committee – <i>Judge Meyer</i>		
1. Imposing Misdemeanor Jury Fees		X
2. Therapeutic Courts		X
Discussion		5
A. JISC CLJ Workgroup Request for Guidelines for Flagging Cases for Permanent Retention – <i>Judge Svaren</i>		X
B. Office of Trial Courts (OTC) Update – <i>Judge Svaren & Judge Steiner</i>		
C. Long Range Planning Recommendations to the Board – <i>Judge Steiner</i>		
D. System Improvement Committee Update – <i>Judge Steiner</i>		
E. Court Security Workgroup Status Update – <i>Judge Svaren</i>		
Liaison Reports		
DMCMA MCA SCJA WSBA WSAJ AOC BJA		

<p>Information</p> <ul style="list-style-type: none"> A. 2013 Annual Report B. Leadership Meeting DOL/DMCJA/DMCMA/AOC Letter C. Recent Long Range Planning Committee Meeting Minutes D. Recent Rules Committee Meeting Minutes E. Recent Legislative Committee Meeting Minutes F. Impaired Driving Work Group Report – <i>Judge Meyer</i> 	6
<p>Other Business</p> <ul style="list-style-type: none"> A. Legislative Efforts to Increase Criminal Conviction Filing Fee – <i>Doug Levy, Outcomes By Levy, and Candice Bock, AWC</i> 	7
<p>Adjourn</p>	

Your Business Interest Checking

DMCJA SPECIAL FUND

Account summary

Beginning balance on November 1, 2013	\$6,365.24
Deposits and other credits	0.05
Withdrawals and other debits	-0.01
Checks	-0.00
Service fees	-0.00
Ending balance on November 30, 2013	\$6,365.28

of deposits/credits: 1
 # of withdrawals/debits: 1
 # of days in cycle: 30
 Average ledger balance: \$6,365.24

Annual Percentage Yield Earned this statement period: 0.01%
 Interest Paid Year To Date: \$0.55
 Federal Withholding This Period: \$0.00

Deposits and other credits

Date	Description	Amount
11/29/13	Interest Earned	0.05
Total deposits and other credits		\$0.05

Withdrawals and other debits

Date	Description	Amount
11/29/13	Federal Withholding	-0.01
Total withdrawals and other debits		-\$0.01

Your Business Investment Account

DMCJA SPECIAL FUND

Account summary

Beginning balance on November 1, 2013	\$42,172.66	# of deposits/credits: 1
Deposits and other credits	0.69	# of withdrawals/debits: 1
Withdrawals and other debits	-0.19	# of days in cycle: 30
Service fees	-0.00	Average ledger balance: \$42,172.67
Ending balance on November 30, 2013	\$42,173.16	Average collected balance: \$42,172.67

Annual Percentage Yield Earned this statement period: 0.02%.
 Interest Paid Year To Date: \$7.73.
 Federal Withholding This Period: \$0.00

Deposits and other credits

Date	Description	Amount
11/29/13	Interest Earned	0.69
Total deposits and other credits		\$0.69

Withdrawals and other debits

Date	Description	Amount
11/29/13	Federal Withholding	-0.19
Total withdrawals and other debits		-\$0.19

DISTRICT AND MUNICIPAL COURT JUDGES ASSOCIATION – DUES

Statute requires all District and Municipal Court Judges be members of the District and Municipal Court Judges Association. (See RCW 3.70.010).

Payment of regular dues and assessments, if any, are required to be an active member in good standing. (See Article III, Sec. 1(a) of Bylaws).

Annual dues paid by a judicial officer are associated with the judicial officer and if replaced mid-term, the successor judicial officer must also pay dues. Annual dues paid by a governmental entity, are associated with the position and if the judicial officer in that position is replaced mid-term, the dues shall be applied to the successor judicial officer. (See Article IV, Sec. 4 of Bylaws).

To be consistent with the Bylaws set forth above and to guide current and future Secretary-Treasurers of the Association in properly accounting for dues paid, the following policy(ies) is/are hereby adopted:

1. A judicial officer appointed or elected to *new* judicial position shall pay association annual dues in the full amount, for the year in which the judicial officer takes office. Payment shall be made by the jurisdiction or the judicial officer personally, consistent with the practice of the jurisdiction.

2. If a judicial officer is appointed or elected in mid-term, to a *previously existing position*, and annual dues are paid by the jurisdiction, the dues paid shall be credited to the newly appointed or elected judicial officer to that position.

3. If a judicial officer is appointed or elected in mid-term, to a *previously existing position*, and annual dues are paid by the prior judicial officer, the dues shall be pro-rated to year end and the newly appointed or elected judicial officer to that position shall be responsible to pay the pro-rated amount to the Association to be in good standing with the Association.

ADOPTED _____, 2013.

RCW 10.01.160

(2) Costs shall be limited to expenses specially incurred by the state in prosecuting the defendant or in administering the deferred prosecution program under chapter 10.05 RCW or pretrial supervision. They cannot include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Expenses incurred for serving of warrants for failure to appear and jury fees under RCW 10.46.190, _____, _____ and _____ may be included in costs the court may require a defendant to pay. Costs for administering a deferred prosecution may not exceed two hundred fifty dollars. Costs for administering a pretrial supervision may not exceed one hundred fifty dollars. Costs for preparing and serving a warrant for failure to appear may not exceed one hundred dollars. Costs of incarceration imposed on a defendant convicted of a misdemeanor or a gross misdemeanor may not exceed the actual cost of incarceration. In no case may the court require the offender to pay more than one hundred dollars per day for the cost of incarceration. Payment of other court-ordered financial obligations, including all legal financial obligations and costs of supervision take precedence over the payment of the cost of incarceration ordered by the court. All funds received from defendants for the cost of incarceration in the county or city jail must be remitted for criminal justice purposes to the county or city that is responsible for the defendant's jail costs. Costs imposed constitute a judgment against a defendant and survive a dismissal of the underlying action against the defendant. However, if the defendant is acquitted on the underlying action, the costs for preparing and serving a warrant for failure to appear do not survive the acquittal, and the judgment that such costs would otherwise constitute shall be vacated.

New Chapters of 3.66, 3.50 and 35.20

Liability of convicted person for costs – Jury fee

Every person convicted of a crime or held to bail to keep the peace shall be liable to all the costs of the proceedings against him or her, including, when tried by a jury in the **district or municipal** court or before a committing magistrate, a jury fee as provided for in civil actions for which judgment shall be rendered and collected. The jury fee, when collected for a case tried by the **district or municipal** court shall be paid to the clerk and applied as the jury fee in civil cases is applied.

Recommendations on Therapeutic Courts' Structure and Standards

Report to the Legislature
as requested in SB 5797

December 1, 2013

Judge Harold D. Clarke, III
Superior Court Judges' Association

Judge Michael Finkle
District & Municipal Court Judges' Association



WASHINGTON
COURTS

DATE December 1, 2013

To: Senator Mike Padden, Chair, and Members of the Senate Law and Justice Committee

Representative Jamie Pedersen, Chair, and Members of the House Judiciary Committee

From: Judge Harold D. Clarke, III, Spokane County Superior Court
Judge Michael Finkle, King County District Court

Subject: Requested Report and Recommendations on Therapeutic Courts

Introduction

Senate Bill 5797 (Chapter 257, Laws of 2013) encouraged the Superior Court Judges' Association and the District and Municipal Court Judges' Association "to invite other appropriate organizations and convene a workgroup to examine the structure of all specialty and therapeutic courts in Washington."

The two associations did, in fact, create such a workgroup, and this document constitutes the report requested by the Legislature.

Workgroup Structure

Leadership:

The workgroup was convened by:

Judge Harold D. Clarke, III

- Spokane Superior Court
- Superior Court Judges' Association

and

Judge Michael Finkle,

- King County District Court
- District & Municipal Court Judges' Association

Members:

Members of the workgroup were:

Ron Anderson

- National Alliance on Mental Illness
- Representing mental health providers

Honorable Greg Canova

- King County Superior Court
- Representing Superior Court Judges' Association

Marianne Clear

- Behavioral Health Resources
- Representing therapeutic court coordinators, district and municipal courts

Kevin Devine

- Veteran's Administration Puget Sound Health Care System
- Representing veterans' health care

Diana Erickson

- Northwest Defenders Association
- Representing defense counsel

Brad Finegood

- Clark County Superior Court
- Representing therapeutic court coordinators, superior courts

Judge Debra Hayes

- Spokane County District Court
- Representing District and Municipal Court Judges' Association

Judge Karli Jorgensen

- Kent Municipal Court
- Representing District and Municipal Court Judges' Association

Judge Scott Sparks

- Kittitas County Superior Court
- Representing Superior Court Judges' Association

Senator Steve Hobbs

- 44th Legislative District
- Representing State Legislature

Richard Weyrich

- Skagit County Prosecuting Attorney's Office
- Representing prosecuting attorneys

Consultants:

Several individuals acted as consultants to the workgroup:

Bob Cooper

- Evergreen Public Affairs, LLC

Alice Im

- Code Reviser's Office

Earl Long

- DSHS Division of Behavioral Health Recovery

Tom Parker

- Parker Northwest Associates

Mary Taylor

- Washington State Association of Drug Court Professionals

Kyle Thiessen

- Code Reviser's Office

The workgroup was staffed by Janet Skreen of the Administrative Office of the Courts.

Meetings:

Three in-person meetings were held on July 1, August 12, and September 9, 2013. Minutes of the meetings were approved by the workgroup. All meetings were held at the SeaTac location of the Administrative Office of the Courts. A telephone conference was held on October 16, 2013. Additional work was done by email.

Recommendations

The workgroup recommends that existing statutes authorizing and governing therapeutic courts – including provisions in SB 5797 – be consolidated into a single chapter under Title 2 RCW. As such, the group drafted a bill (attached) to accomplish that goal.

The two associations will work with the judicial branch to continually review and revise the court rules that govern the process.

The workgroup drafted a bill for your consideration. The bill is structured as follows:

Section 1.

- Re-states finding in SB 5797 that therapeutic courts are effective; that such courts reduce recidivism, improve public safety, and creates better outcomes for families.
- Recognizes inherent authority of judicial branch to create such courts.
- Lists examples of therapeutic courts and the issues they may address (from SB 5797).
 - Note: Regarding dependency and truancy cases, normal civil rules, current statutory authority, and the court's inherent contempt powers are already sufficient to provide the remedies necessary to effectuate those types of cases.
 - Note: The list contains some examples of courts that are not traditionally considered therapeutic courts, such as a community court, which is generally considered to be a "problem solving court". This proposed bill adopts the language of SB 5797. In doing so, the list takes a very broad view of the definition of a therapeutic court. This list may not fit precisely within the definition of "Specialty Court" and "Therapeutic Court" as set out in section 2 (6) of the proposed legislation. The workgroup makes this comment to assist those reviewing this bill.

Section 2:

- Definitions drawn from existing statutes (repealed in section 9) to be applied across all therapeutic courts.

Section 3:

- Authorizes therapeutic courts; defines structure, entrance requirements; expectations of how they will be operated; lists charges / convictions that usually prevent participation in therapeutic courts. (Drawn from statutes repealed in section 9)
- Lists over-arching principals of how therapeutic courts should operate (from the best practices models currently available).
 - Note: Most therapeutic courts are pre-sentence and require defendants to opt-in and give up their right to trial. Charges are dismissed upon completion. That model works well. However, post-sentence, the courts are either allowed or mandated (in DUI cases) to place appropriate probation and treatment requirements on the defendant. A post-sentence Therapeutic Court does not allow for a dismissal upon successful completion. There may be other incentives, such as shortening or ending probation time, but the mandatory jail time must be served and conditions must be met pursuant to the judgment and sentence order. If a reduction of the five-year probation is allowed after a defendant completes intensive supervision using therapeutic principles, it should be

encouraged. For example, in Spokane, that is exactly what happens with frequent DUI offenders. They are ordered into a year-long DUI therapeutic court program. The program's requirements and restrictions are lessened as they progress through the phases, and probation is reduced significantly. If they choose not to do the program, they are allowed to serve the balance of their sentence. Surprisingly, only a small number do not choose the program. The goal of the DUI post-sentence court is to apply therapeutic principles and intensive supervision which results in a sober and successful participant.

- Allows fee waiver for people who are indigent under RCW 10.101.010.
- Allows multiple therapeutic courts in a jurisdiction to be combined (expansion of current RCW 2.28.190).

Section 4:

- Requires seeking federal funds before seeking state funds for therapeutic courts; requires 1:1 match for state funds expended (drawn from statutes repealed in section 9).

Section 5:

- Relocates requirement that counties levying 1/10% mental health sales tax operate dependency courts and authorizes such courts in counties not levying the tax (from 26.12.250).

Section 6:

- Authorizes inter-local agreements to consolidate therapeutic courts from multiple jurisdictions.

Section 7:

- Grandfathers authorization for currently operating therapeutic courts.

Section 8:

- Repeals scattered sections of RCW authorizing various, discrete, therapeutic courts.

Section 9:

- Consolidates all parts of the bill authorizing and governing therapeutic courts in a new, separate chapter in Title 2 RCW.

Section 10:

- Standard severability clause.

Section 11:

- Federal Severability Clause (to prevent any unintended consequence of language that might prevent receipt of federal funds).

Regionalization

There may be jurisdictions that would like to create a therapeutic court but lack sufficient volume to justify the cost on their own. One solution is to authorize multiple jurisdictions to pool resources and create a “regional” therapeutic court without requiring that they combine their entire court systems. The regional therapeutic court could be limited to one particular type, such as a drug court or a mental health court, or it could combine several types in a “one-stop shop” concept.

Because significant statutory amendments would be necessary to implement such a proposal, the work group determined regionalization was beyond the scope of its charge. However, the work group stands ready to explore this issue in more depth and make appropriate recommendations should the Legislature so request.

Standards

There are no standards or best practices that apply to every kind of therapeutic court. Therapeutic courts may find guidance in:

- *10 Key Components to Drug Courts*
Bureau of Justice Assistance, 1997
- *Adult Drug Court Best Practice Standards, Vol. I*
National Association of Drug Court Professionals, 2013
- *The Drug Court Judicial Benchbook*
National Drug Court Institute, 2011
- *16 Strategies of Juvenile Drug Courts*
Bureau of Justice Assistance, 2003
- *The Ten Guiding Principles of DWI Courts*
National Center for DWI Courts, 2006
- *Recommendations for Developing Family Drug Court Guidelines*
Office of Juvenile Justice Delinquency Prevention, 2013
- *Mental Health Court Performance Measures Introduction and Overview*
National Center for State Courts, 2010
- *Mental Health Court Performance Measures Implementation & User's Guide*
National Center for State Courts, 2010
- *Mental Health Courts: A Guide to Research-Informed Policy and Practice*
Council of State Governments Justice Center, 2009

Therapeutic courts are strongly encouraged to adopt these components, strategies, and best practice standards as appropriate completely or in part.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0480.4/14 4th draft

ATTY/TYPIST: AI:akl

BRIEF DESCRIPTION: Encouraging the establishment of therapeutic courts.

1 AN ACT Relating to authorizing, funding, and encouraging the
2 establishment of therapeutic courts; amending RCW 82.14.460; adding a
3 new chapter to Title 2 RCW; creating a new section; and repealing RCW
4 2.28.170, 2.28.175, 2.28.180, 2.28.190, 13.40.700, 13.40.710,
5 26.12.250, 2.28.165, and 2.28.166.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that judges in the
8 trial courts throughout the state effectively utilize what are known as
9 therapeutic courts to remove a defendant's or respondent's case, with
10 the consent of the defendant or respondent and the consent of a
11 government authority, from the criminal and civil court traditional
12 trial track and allow those defendants or respondents the opportunity
13 to obtain treatment services to address particular issues that may have
14 contributed to the conduct that led to their arrest or other issues
15 before the court. Trial courts have proved adept at creative
16 approaches in fashioning a wide variety of therapeutic courts
17 addressing the spectrum of social issues that can contribute to
18 criminal activity and engagement with the child welfare system.

1 (2) The legislature further finds that focusing on the specific
2 individual's needs, providing treatment for the issues presented, and
3 ensuring rapid and appropriate accountability for program violations,
4 therapeutic courts may decrease recidivism, improve the safety of the
5 community, and improve the life of the program participant and the
6 participant's family by decreasing the severity and frequency of the
7 specific behavior addressed by the therapeutic court.

8 (3) The legislature recognizes the (a) inherent authority of the
9 judiciary under Article IV, section 1 of the state Constitution to
10 establish therapeutic courts, and (b) outstanding contribution to the
11 state and a local community made by the establishment of therapeutic
12 courts, and desires to provide a general provision in statute
13 acknowledging and encouraging the judiciary to provide for therapeutic
14 court programs to address the particular needs within a given judicial
15 jurisdiction.

16 (4) Such therapeutic court programs may include, but are not
17 limited to:

18 (a) Adult drug court;

19 (b) Juvenile drug court;

20 (c) Family dependency treatment court or family drug court;

21 (d) Mental health court, which may include participants with
22 developmental disabilities;

23 (e) DUI court;

24 (f) Veterans treatment court;

25 (g) Truancy court;

26 (h) Domestic violence court;

27 (i) Gambling court;

28 (j) Community court;

29 (k) Homeless court;

30 (l) Treatment, responsibility, and accountability on campus (Back
31 on TRAC) court.

32 NEW SECTION. **Sec. 2.** The definitions in this section apply
33 throughout this chapter unless the context clearly requires otherwise:

34 (1) "Emerging best practice" or "promising practice" means a
35 program or practice that, based on statistical analyses or a well-
36 established theory of change, shows potential for meeting the evidence-

1 based or research-based criteria, which may include the use of a
2 program that is evidence-based for outcomes other than those listed in
3 this section.

4 (2) "Evidence-based" means a program or practice that has been
5 tested in heterogeneous or intended populations with multiple
6 randomized, or statistically controlled evaluations, or both; or one
7 large multiple site randomized, or statistically controlled evaluation,
8 or both, where the weight of the evidence from a systemic review
9 demonstrates sustained improvements in at least one outcome.
10 "Evidence-based" also means a program or practice that can be
11 implemented with a set of procedures to allow successful replication in
12 Washington and, when possible, is determined to be cost-beneficial.

13 (3) "Government authority" means prosecutor or other representative
14 initiating action leading to a proceeding in therapeutic court.

15 (4) "Participant" means an accused person, offender, or respondent
16 in the judicial proceeding.

17 (5) "Research-based" means a program or practice that has been
18 tested with a single randomized, or statistically controlled
19 evaluation, or both, demonstrating sustained desirable outcomes; or
20 where the weight of the evidence from a systemic review supports
21 sustained outcomes as described in this subsection but does not meet
22 the full criteria for evidence-based.

23 (6) "Specialty court" and "therapeutic court" both mean a court
24 utilizing a program or programs structured to achieve both a reduction
25 in recidivism, increase the likelihood of rehabilitation, or reduce
26 child abuse and neglect, out-of-home placements of children,
27 termination of parental rights, and substance abuse and mental health
28 symptoms among parents or guardians and their children through
29 continuous and intense judicially supervised treatment and the
30 appropriate use of services, sanctions, and incentives.

31 (7) "Trial court" means a superior court authorized under Title 2
32 RCW, and/or a district or municipal court authorized under Title 3 or
33 35 RCW.

34 (8) "Therapeutic court personnel" means the staff of a therapeutic
35 court including, but not limited to: Court and clerk personnel with
36 therapeutic court duties, prosecuting attorneys, the attorney general
37 or his or her representatives, defense counsel, monitoring personnel,
38 and others acting within the scope of therapeutic court duties.

1 NEW SECTION. **Sec. 3.** (1) Every trial and juvenile court in the
2 state of Washington is authorized and encouraged to establish and
3 operate therapeutic courts. Therapeutic courts, in conjunction with
4 the government authority and subject matter experts specific to the
5 focus of the therapeutic court, develop and process cases in ways which
6 depart from traditional judicial processes. Defendants or respondents
7 may apply to participate only with their consent and, in criminal
8 cases, the consent of the prosecutor, to allow those defendants or
9 respondents the opportunity to obtain treatment services to address
10 particular issues that may have contributed to the conduct that led to
11 their arrest or involvement in the child welfare system in exchange for
12 resolution of the case or charges.

13 (2) While a therapeutic court judge retains the discretion to
14 decline to accept a case into the therapeutic court, and while a
15 therapeutic court retains discretion to establish processes and
16 determine eligibility for admission to the therapeutic court process
17 unique to their community and jurisdiction, the effectiveness and
18 credibility of any therapeutic court will be enhanced when the court
19 implements evidence-based practices, research-based practices, emerging
20 best practices, or promising practices which have been identified and
21 accepted at the state and national levels. Promising practices,
22 emerging best practices, and/or research-based programs are authorized
23 where determined by the court to be appropriate. As practices evolve,
24 the trial court shall regularly assess the effectiveness of its program
25 and the methods by which it implements and adopts new best practices.

26 (3) Except under special findings by the court, the following
27 individuals are not allowed into therapeutic courts:

28 (a) Individuals who are currently charged or who have been
29 previously convicted of a serious violent offense or sex offense as
30 defined in RCW 9.94A.030;

31 (b) Individuals who are currently charged with an offense alleging
32 intentional discharge, threat to discharge, or attempt to discharge a
33 firearm in furtherance of the offense;

34 (c) Individuals charged with or previously convicted of vehicular
35 homicide or an equivalent out-of-state offense; or

36 (d) Individuals who are currently charged with or previously
37 convicted of: An offense alleging substantial bodily harm or great
38 bodily harm as defined in RCW 9.94A.030, or death of another person.

1 (4) Any jurisdiction establishing a therapeutic court shall
2 endeavor to incorporate the therapeutic court principles of best
3 practices as recognized by state and national therapeutic court
4 organizations in structuring a particular program, which may include:

- 5 (a) Determining the population;
- 6 (b) Performing a clinical assessment;
- 7 (c) Developing the treatment plan;
- 8 (d) Monitoring the participant, including any appropriate testing;
- 9 (e) Forging agency, organization, and community partnerships;
- 10 (f) Taking a judicial leadership role;
- 11 (g) Developing case management strategies;
- 12 (h) Addressing transportation, housing, and subsistence issues;
- 13 (i) Evaluating the program;
- 14 (j) Ensuring a sustainable program.

15 (5) Upon a showing of indigence under RCW 10.101.010, fees may be
16 reduced or waived.

17 (6) The department of social and health services shall furnish
18 services to therapeutic courts addressing dependency matters where
19 substance abuse or mental health are an issue unless the court
20 contracts with providers outside of the department.

21 (7) Any jurisdiction that has established more than one therapeutic
22 court under this chapter may combine the functions of these courts into
23 a single therapeutic court.

24 (8) Nothing in this section prohibits a district or municipal court
25 from ordering treatment or other conditions of sentence or probation
26 following a conviction, without the consent of either the prosecutor or
27 defendant.

28 NEW SECTION. **Sec. 4.** Jurisdictions seeking state funding for
29 therapeutic courts must exhaust all federal funding available to
30 support the operation of its therapeutic court and associated services
31 and match, on a dollar-for-dollar basis, state moneys allocated for
32 therapeutic courts with local cash or in-kind resources. Moneys
33 allocated by the state may be used to supplement, not supplant other
34 federal, state, and local funds for therapeutic courts. However, until
35 June 30, 2015, no match is required for state moneys expended for the
36 administrative and overhead costs associated with the operation of a
37 therapeutic court authorized under this chapter.

1 **Sec. 5.** RCW 82.14.460 and 2012 c 180 s 1 are each amended to read
2 as follows:

3 (1)(a) A county legislative authority may authorize, fix, and
4 impose a sales and use tax in accordance with the terms of this
5 chapter.

6 (b) If a county with a population over eight hundred thousand has
7 not imposed the tax authorized under this subsection by January 1,
8 2011, any city with a population over thirty thousand located in that
9 county may authorize, fix, and impose the sales and use tax in
10 accordance with the terms of this chapter. The county must provide a
11 credit against its tax for the full amount of tax imposed under this
12 subsection (1)(b) by any city located in that county if the county
13 imposes the tax after January 1, 2011.

14 (2) The tax authorized in this section is in addition to any other
15 taxes authorized by law and must be collected from those persons who
16 are taxable by the state under chapters 82.08 and 82.12 RCW upon the
17 occurrence of any taxable event within the county for a county's tax
18 and within a city for a city's tax. The rate of tax equals one-tenth
19 of one percent of the selling price in the case of a sales tax, or
20 value of the article used, in the case of a use tax.

21 (3) Moneys collected under this section must be used solely for the
22 purpose of providing for the operation or delivery of chemical
23 dependency or mental health treatment programs and services and for the
24 operation or delivery of therapeutic court programs and services. For
25 the purposes of this section, "programs and services" includes, but is
26 not limited to, treatment services, case management, transportation,
27 and housing that are a component of a coordinated chemical dependency
28 or mental health treatment program or service. Every jurisdiction that
29 authorizes the tax provided in this section shall, and every other
30 jurisdiction may, establish and operate a therapeutic court component
31 for dependency proceedings designed to be effective for the court's
32 size, location, and resources.

33 (4) All moneys collected under this section must be used solely for
34 the purpose of providing new or expanded programs and services as
35 provided in this section, except as follows:

36 (a) For a county with a population larger than twenty-five thousand
37 or a city with a population over thirty thousand, which initially
38 imposed the tax authorized under this section prior to January 1, 2012,

1 a portion of moneys collected under this section may be used to
2 supplant existing funding for these purposes as follows: Up to fifty
3 percent may be used to supplant existing funding in calendar years
4 2011-2012; up to forty percent may be used to supplant existing funding
5 in calendar year 2013; up to thirty percent may be used to supplant
6 existing funding in calendar year 2014; up to twenty percent may be
7 used to supplant existing funding in calendar year 2015; and up to ten
8 percent may be used to supplant existing funding in calendar year 2016;

9 (b) For a county with a population larger than twenty-five thousand
10 or a city with a population over thirty thousand, which initially
11 imposes the tax authorized under this section after December 31, 2011,
12 a portion of moneys collected under this section may be used to
13 supplant existing funding for these purposes as follows: Up to fifty
14 percent may be used to supplant existing funding for up to the first
15 three calendar years following adoption; and up to twenty-five percent
16 may be used to supplant existing funding for the fourth and fifth years
17 after adoption;

18 (c) For a county with a population of less than twenty-five
19 thousand, a portion of moneys collected under this section may be used
20 to supplant existing funding for these purposes as follows: Up to
21 eighty percent may be used to supplant existing funding in calendar
22 years 2011-2012; up to sixty percent may be used to supplant existing
23 funding in calendar year 2013; up to forty percent may be used to
24 supplant existing funding in calendar year 2014; up to twenty percent
25 may be used to supplant existing funding in calendar year 2015; and up
26 to ten percent may be used to supplant existing funding in calendar
27 year 2016; and

28 (d) Notwithstanding (a) through (c) of this subsection, moneys
29 collected under this section may be used to support the cost of the
30 judicial officer and support staff of a therapeutic court.

31 (5) Nothing in this section may be interpreted to prohibit the use
32 of moneys collected under this section for the replacement of lapsed
33 federal funding previously provided for the operation or delivery of
34 services and programs as provided in this section.

35 NEW SECTION. **Sec. 6.** Individual trial courts are authorized and
36 encouraged to establish multijurisdictional partnerships and/or
37 interlocal agreements under RCW 39.34.180 to enhance and expand the

1 coverage area of the therapeutic court. Specifically, district and
2 municipal courts may work cooperatively with each other and with the
3 superior courts to identify and implement nontraditional case
4 processing methods which can eliminate traditional barriers that
5 decrease judicial efficiency.

6 NEW SECTION. **Sec. 7.** Any therapeutic court meeting the definition
7 of therapeutic court in section 2 of this act and existing on the
8 effective date of this section continues to be authorized.

9 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each
10 repealed:

11 (1) RCW 2.28.170 (Drug courts) and 2013 2nd sp.s. c 4 s 952, 2013
12 2nd sp.s. c 4 s 951, 2013 c 257 s 5, 2009 c 445 s 2, 2006 c 339 s 106,
13 2005 c 504 s 504, 2002 c 290 s 13, & 1999 c 197 s 9;

14 (2) RCW 2.28.175 (DUI courts) and 2013 2nd sp.s. c 35 s 2, 2013 c
15 257 s 6, 2012 c 183 s 1, & 2011 c 293 s 10;

16 (3) RCW 2.28.180 (Mental health courts) and 2013 c 257 s 7, 2011 c
17 236 s 1, & 2005 c 504 s 501;

18 (4) RCW 2.28.190 (DUI court, drug court, and mental health court
19 may be combined) and 2013 c 257 s 8, 2011 c 293 s 11, & 2005 c 504 s
20 502;

21 (5) RCW 13.40.700 (Juvenile gang courts--Minimum requirements--
22 Admission--Individualized plan--Completion) and 2012 c 146 s 2;

23 (6) RCW 13.40.710 (Juvenile gang courts--Data--Reports) and 2012 c
24 146 s 3;

25 (7) RCW 26.12.250 (Therapeutic courts) and 2005 c 504 s 503;

26 (8) RCW 2.28.165 (Specialty and therapeutic courts--Establishment--
27 Principles of best practices--Limitations) and 2013 c 257 s 2; and

28 (9) RCW 2.28.166 (Definition of "specialty court" and "therapeutic
29 court") and 2013 c 257 s 4.

30 NEW SECTION. **Sec. 9.** Sections 1 through 4, 6, and 7 of this act
31 constitute a new chapter in Title 2 RCW.

32 NEW SECTION. **Sec. 10.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
4 conflict with federal requirements that are a prescribed condition to
5 the allocation of federal funds to the state, the conflicting part of
6 this act is inoperative solely to the extent of the conflict and with
7 respect to the agencies directly affected, and this finding does not
8 affect the operation of the remainder of this act in its application to
9 the agencies concerned. Rules adopted under this act must meet federal
10 requirements that are a necessary condition to the receipt of federal
11 funds by the state.

--- END ---

November 7, 2013

Honorable David A. Svaren
District and Municipal Court Judges' Association
Skagit County District Court
600 S 3rd Street
PO Box 340
Mount Vernon, WA 98273-0340

Dear Judge Svaren:

Since July, the JISC CLJ workgroup has met regularly to analyze the remaining issues and to provide recommendations to the JISC on the retention of JIS court records for CLJs. At the October 25 JISC meeting, the CLJ workgroup informed the JISC that the workgroup members were unable to unanimously agree on a policy that would satisfy all concerns. The workgroup presented six options and asked the JISC to provide direction so the workgroup could bring back a proposed policy for the December 6 JISC meeting. Instead, the JISC discussed the options and voted on the policy at the October 25 meeting. The JISC decided that the records would be destroyed as originally proposed by the Data Dissemination Committee, with the following exceptions:

- Criminal cases with a Domestic Violence (DV) flag are retained for 15 years; and
- Case data is retained for five years until the Judicial Needs Estimate work is resolved and then the retention for the applicable cases will be three years; and
- Judges are allowed to flag individual cases for permanent retention subject to a set of criteria to be established by the DMCJA and then approved by the DDC and the JISC. The guidelines would be published by the AOC in its Data Destruction Policy.

During the JISC meeting, Judge Rosen and Judge Heller were directed to provide guidance to the DMCJA on the individual case flagging criteria. Therefore, with Court Administrator Aimee Vance, we now provide the following recommendations:

- In flagging individual cases for permanent retention, judges should consider these non-exclusive factors:
 - Defendant criminal history;
 - Nature of the current crime;
 - If the case involves any mental health issues;
 - If the case involves any substance abuse issues;
 - If the Defendant has a high risk of repetitive contact with the court system;
 - If the alleged crime was sexual in nature;
 - If the Defendant has a history of repetitive contact, or has the potential of repetitive contact, with the alleged victim; and
 - If domestic violence was involved.

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- Judges should consider these factors with the knowledge that the dismissed record is not a record of conviction and therefore, if retained, it may have negative consequences for the Defendant in acquiring employment or housing.
- Flagging of individual cases, especially those that are dismissed, should be considered the exception and not the norm in judicial proceedings.
- If a judge decides that a case should be flagged, findings supporting the flag must be put on the record and docket entries must show the criteria used in making that decision.
- A flag may be removed from a case upon good cause shown. The record and docket entries must reflect the reasons as to why the case was un-flagged.

The CLJ Workgroup hopes it has provided a good starting point for the DMCJA in establishing the guidelines for judges to use when flagging individual cases. In order to meet all the schedule deadlines and properly vet the proposed criteria per JISC direction, it is requested that the DMCJA provide the individual case flagging guidelines to the Data Dissemination Committee by February 15, 2014. If you have any questions, Judge Heller and Judge Rosen are available to discuss the policy and the proposed criteria presented in this letter.

Sincerely,

Judge James R. Heller
Pierce County District Court

Judge Steven Rosen
Seattle Municipal Court

Aimee Vance, Administrator
Kirkland Municipal Court