



DMCJA Board of Governors Meeting
Friday, March 11, 2016, 12:30 p.m. – 3:30 p.m.
AOC SeaTac Office
SeaTac, WA

MEETING MINUTES

Members Present:

Chair, Judge G. Scott Marinella
Judge Scott Ahlf
Judge Joseph Burrowes
Judge Linda Coburn
Judge Karen Donohue
Judge Douglas Fair
Judge Michelle Gehlsen
Commissioner Rick Leo
Judge Samuel Meyer
Judge Kevin Ringus (non-voting)
Judge Douglas Robinson
Judge Charles Short
Judge David Svaren
Judge Tracy Staab

Guests:

Ms. Deena Kaelin, MCA
Judge Michael Downes, SCJA
Melanie Stewart, Esq., Lobbyist (via phone)
Lloyd Willaford, Esq., WSAJ

AOC Staff:

Ms. J Benway, Senior Legal Analyst
Ms. Vicky Cullinane, Business Liaison
Ms. Sharon R. Harvey, Primary DMCJA Staff
Mr. Dirk Marler, Jud. Serv. Div. Director

Members Absent:

Judge Janet Garrow (non-voting)
Judge Judy Jasprica (non-voting)
Judge Michael Lambo (non-voting)
Judge Rebecca Robertson
Judge David Steiner

CALL TO ORDER

Judge G. Scott Marinella, District and Municipal Court Judges' Association (DMCJA) President-Elect, noted a quorum was present and called the DMCJA Board of Governors (Board) meeting to order at 12:30 PM. Judge Marinella asked attendees to introduce themselves.

DISCUSSION

Judge Marinella informed that the discussion items would be addressed prior to other agenda items in order to accommodate the presenters.

A. *Request for \$400 to Film CLE in Judge Linda Portnoy's Court*

In response to the increasing number of heroin addicts appearing in her courtroom, Judge Linda Portnoy, Lake Forest Park Municipal Court, held a program in her court entitled, "The Heroin Epidemic New Challenges for the Courts." Judge Portnoy wanted to film the event in order to provide it to other courts of limited jurisdiction judges. However, she was told that it would cost approximately four hundred dollars (\$400) to videotape the three hour program. The event was also open to King County and Snohomish County probation officers. Judge Portnoy stated that she held this event in order for courts to learn more about heroin addiction. At present, there are many educational materials on alcoholism, according to Judge Portnoy, but few on other drug addictions. She then stated that this program was largely based on the Public Broadcasting Service (PBS) documentary, "Chasing Heroin." Judge Portnoy requested DMCJA funding in order to pay for a videotape of the event. Judge Portnoy stated that she would work with the

Administrative Office of the Courts (AOC) regarding video distribution if DMCJA funding is available. The program offers judges two and one-half (2.5) continuing judicial education (CJE) credits.

The Board motioned, seconded, and passed a vote (M/S/P) to make this request and action item.

B. Proposed Amendments for General Rule (GR) 14.1

The Board discussed whether to accept the DMCJA Rules Committee's recommendation to comment favorably for proposed amendments to General Rule 14.1, *Citation to Unpublished Opinions*. These amendments, which were proposed by the Supreme Court and Court of Appeals (COA), would allow parties to cite to unpublished COA opinions. Specifically, unpublished opinions may be cited as non-binding authority in which a court may accord persuasive value as the court deems appropriate. Further, only unpublished opinions that date back to March 2013 may be cited because unpublished opinions prior to March 2013 are not available online.

M/S/P to make this an action item.

C. Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) 3.2

Jaime Hawk, Esq., American Civil Liberties Union (ACLU) of Washington, requested that the Board reconsider its proposal to amend Criminal Rule for Courts of Limited Jurisdiction (CrRLJ) 3.2, *Release of Accused*. The proposed amendment strikes CrRLJ 3.2 (b)(4), which allows a criminal defendant to deposit cash or other security bond with the court registry. According to Ms. Hawk, the ACLU thinks (b)(4) should remain in CrRLJ 3.2 because it provides a helpful option for low income defendants and is not precluded by *State v. Barton*, 181 Wash. 2d 148, 331 P.3d 50 (2014). This amendment was initially proposed by the Superior Court Judges' Association (SCJA). The DMCJA submitted a comment that stated if the Supreme Court adopts the SCJA's amendment, then the DMCJA was in favor of a similar amendment to CrRLJ 3.2 (b)(4) so the trial court rules would remain congruent. In September 2015, the Supreme Court approved the SCJA proposed amendment and struck Superior Court Criminal Rule (CrR) 3.2 (b)(4). For this reason, in October 2015 the DMCJA requested that CrRLJ 3.2 (b)(4) be stricken to parallel the Superior Court rules and reflect the holding in *State v. Barton*. Some Board members noted that CrRLJ 3.2 (b)(7) may provide the same result as (b)(4). Judge Marinella informed Ms. Hawk that the DMCJA has already submitted its proposal, so it was now within the purview of the Supreme Court. He then stated that Board members, however, may individually send in comments regarding the proposed amendment to CrRLJ 3.2 (b)(4). The comment period deadline is April 30, 2016.

D. Special Legislative Update

Melanie Stewart, Esq., DMCJA Lobbyist, reported that the Legislature failed to provide a budget to the Governor on March 10, 2016, which is the last day of the regular legislative session. Thus, the Governor vetoed twenty-seven bills at approximately 10:30 pm on March 10th. The Senate budget includes a proviso that would require the AOC to transfer \$516,000 in existing resources to the SCJA to implement Senate Bill (SB) 6317, Establishing an office of superior courts, regardless of whether the bill passes the Legislature. Moreover, the JIS consultation bill, House Bill (HB) 2371, is currently on the Governor's desk to be signed. Ms. Stewart continues to work with legislators to find solutions for trial courts that process large amounts of Discover Pass violations without funding. The Senate budget provides twenty thousand dollars for these burdened courts. The DMCJA surrender of surety bond bill, HB 2462/SB 6403, died in the Legislature. Ms. Stewart further reported that the Legal Financial Obligation bill, HB 1390, also died. The omnibus driving under the influence (DUI) bill, HB 2700, passed out of the Legislature and the Governor will likely not veto this bill. Further the statewide relicensing bill, SB 6360, is on the Governor's desk.

Judge Meyer, Chair of the DMCJA Legislative Committee, reported that SB 6317 passed out of the Senate and the House Judiciary Committee held a hearing on the bill. At the hearing, the DMCJA opposed the bill because Administrative Office of the Courts (AOC) resources would be extracted if implemented.

GENERAL BUSINESS

A. Minutes

M/S/P to approve the Minutes.

B. Treasurer's Report

M/S/P to approve the Treasurer's Report. Judge Burrowes reported on the judges who have paid dues and encouraged Board members to contact the judges listed who have not paid.

C. Special Fund Report

M/S/P to approve the Special Fund Report. Judge Ahlf reported that judges continue to pay their Special Fund dues. There is no money being spent from the Special Fund at this time.

D. Standing Committee Reports

1. *Nominating Committee Slate of Candidates*

The Committee provided a report that listed the following slate of candidates for positions on the DMCJA Board and Board for Judicial Administration (BJA), pursuant to DMCJA Bylaws, Article X, Section 2 (4):

DMCJA BOARD: President – Judge G. Scott Marinella, *Columbia County District Court*; President-Elect – Judge Scott Ahlf, *Olympia Municipal Court*; Vice-President – Judge Joseph Burrowes, *Benton District Court*; Secretary/Treasurer – Judge Rebecca Robertson, *Federal Way Municipal Court*; Past- President – Judge David Steiner, *King District Court*; Position #2 (Full-time District Court) – Judge Michael Finkle, *King District Court*, Judge Debra Hayes, *Spokane District Court*; Position #3 (Part-time District Court) – Judge Charles Short, *Okanogan District Court*; Position #4 (Full-time Municipal Court) – Judge Terry Jurado, *Renton Municipal Court*. **BJA:** Municipal Court Representative – Judge Mary Logan, *Spokane Municipal Court*; Judge Damon Shadid, *Seattle Municipal Court*. Open Position – Judge James Docter, *Bremerton Municipal Court*; Judge Kevin Ringus, *Fife Municipal Court*.

2. *Bylaws Committee Report*

Ms. Benway, AOC Staff for the Bylaws Committee, reported that the Committee recommended a DMCJA Bylaws amendment to Article X, Section 2 (a) Nominating Committee and (d) Diversity Policy Implementation Committee, to include, "The Chair of the Diversity Committee shall be a member of the Nominating Committee." The Bylaws Committee's recommendation is in response to a request for bylaw language that would ensure that the Nominating Committee apply the DMCJA diversity policy in selecting its slate of candidates.

3. *Rules Committee Minutes for December 16, 2015*

Judge Marinella informed that the DMCJA Rules Committee provided Minutes for December 16, 2015 for the Board's review.

4. *Legislative Committee*

Judge Meyer provided his report during the Special Legislative Update discussion, which was heard earlier during the meeting.

E. Trial Court Advocacy Board (TCAB) Update

Judge Svaren reported that the TCAB has not met since the last update in February. The next TCAB meeting is April 8, 2016. The TCAB is also scheduled to meet in May 2016.

F. Judicial Information System Committee (JISC) Report

Judge Marinella reported that the JISC met on February 26, 2016. The JISC discussed the status of the Superior Court Case Management System (SC-CMS) Project, which has encountered some glitches regarding the transfer of case information from a legacy system to the new Odyssey system. The County Clerks have

raised concerns regarding these errors. The Administrative Office of the Courts is working with the Odyssey team to correct the errors and transfer Superior Court case data into the Odyssey system. The JISC has hired an independent quality control entity, which is required on projects of this size, to determine the risks that could possibly torpedo the SC-CMS Project. The highest risk identified for all ongoing projects was the reduction of staff. Judge Marinella then reported on Legislative funding related to the SC-CMS Project. He informed that the Senate budget does not include the \$492,000 requested by the AOC for additional staff support to assist courts in their transition from the Superior Court Management Information System (SCOMIS) to Odyssey. In contrast, the House budget includes the requested funding amount. Budget cuts will lead to a reduction of AOC Staff that will impact not only the SC-CMS Project but also the courts of limited jurisdiction case management system (CLJ-CMS) Project. Judge Marinella further reported that the Data Dissemination Committee has created a final JISC Data Dissemination Policy draft for comment.

G. Judicial Information System (JIS) Report

Ms. Cullinane reported on various issues related to the JIS. Specifically, she informed that the CLJ-CMS Project is progressing on schedule and on budget. She mentioned that neither the House nor Senate proposed budgets returned the \$5.3 million to the JIS Fund that was taken in order to fund the Expedited Data Exchange with King County. She also provided an update on the Information Technology Governance (ITG) Request 41, Destruction of Records, regarding deferred prosecutions. Ms. Cullinane explained that a new flag was created to mark those cases, and courts will receive reports identifying cases that could be deferred prosecutions. Court staff are encouraged to go through the list and flag deferred prosecution cases. The best way to ensure that future deferred prosecution cases are retained is to mark that flag any time a deferred prosecution is granted.

Ms. Cullinane further reported that there is a new reason for judges and court staff to rely on the Judicial Access Browser System (JABS) as the source for complete criminal histories. She reminded that when King County goes live on its own system, JABS will be the only AOC system for viewing King County information; it will not be in JIS. In addition, AOC has discovered that data entry errors are causing some data from Odyssey not to correctly replicate to JIS. Therefore, judges and court staff need to rely on JABS for complete data from Odyssey courts as well. She anticipates the change to having to rely on JABS for a complete criminal history will be more of an impact on court staff than judges.

LIAISON REPORTS

A. District and Municipal Court Management Association (DMCMA)

Ms. Baker, DMCMA President, thanked the DMCJA for funding the DMCMA's five thousand dollar (\$5000) portion for the Presiding Judges' Committee's education program. Ms. Baker also reported on an issue related to the Abstract Court Record (ACR) that the court reports to the Department of Licensing (DOL) via a web based form. Washington Technology Solutions (WaTech), a state agency that handles information technology security for the DOL, now requires courts to provide the username and password used to submit the ACR reports. According to the DMCMA, the requirement that passwords are shared with WaTech is an unsafe practice. For this reason, the DMCMA objects to WaTech's request. Ms. Baker, on behalf of the DMCMA, will write a letter to the DOL and WaTech expressing the Association's objection to this new procedure.

B. Misdemeanant Corrections Association (MCA)

Ms. Deena Kaelin reported that the deadline to register for the MCA Conference is March 15, 2016. The MCA Conference is April 25-27, 2016 in Olympia, WA.

C. Board for Judicial Administration (BJA)

Judge Ringus reported that on February 19, 2016, the BJA discussed the civil legal needs study, the Northwest Justice Project Relicensing Program, the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS) Program, the state budget, and the Legislative Report. He then reported that two resolutions were submitted to the BJA, namely, (1) Updated Civil Legal Needs Study Commissioned by the Office of Civil Legal

Aid, and (2) the WINGS Program. These resolutions were referred to the BJA Policy and Planning Committee. The next BJA meeting is scheduled for Friday, March 18, 2016.

D. Administrative Office of the Courts (AOC)

Mr. Marler reported that Judge Linda Portnoy and J Benway, AOC Senior Legal Analyst, have re-written the Infraction Benchbook. He encouraged Board members to view the materials on the Inside Courts website. He further informed that the AOC will soon begin working on updates to the so-called "Greenbook," which is a comprehensive guide for CLJ court managers. Ms. Shannon Hinchcliffe, AOC Legal Services Manager, plans to work with the court community on prioritizing various Benchbooks for trial court judges. Mr. Marler further addressed issues related to the Judicial Information System (JIS). Specifically, he discussed replication errors that exist when data is incorrectly transferred from the new Odyssey Case Management System (CMS) to JIS. Thus, there will be more trainings on how to properly enter data into Odyssey. The AOC created a team to address this data replication issue and the number of errors has now decreased. Mr. Marler then discussed the necessity of Legislative funding in order to successfully implement case management systems for both the superior courts and the district and municipal courts.

E. Superior Court Judges' Association (SCJA)

Judge Downes reported that the SCJA will provide ten thousand dollars in funding for the Presiding Judge and Administrator Education Committee's education program that will be held in November 2016. The Washington State Association of Superior Court Administrators contributed five thousand dollars toward the education program, however, their funds are now depleted. The SCJA is discussing the lack of funding for education programs and will work with the BJA to obtain the legislative funding needed to operate superior courts. He further reported that the SCJA had discussed having a tribal court judge liaison attend SCJA Board of Trustees meetings.

F. Washington State Association for Justice (WSAJ)

Mr. Willaford reported that the WSAJ heavily supports House Bill (HB) 1248, *Concerning court proceedings*, as it relates to mandatory arbitration. He then inquired about the DMCJA's position regarding the bill. Judge Meyer informed that the DMCJA Legislative Committee had an interest in the bill in 2015 when it contained language regarding an increase in the district court's jurisdiction amount. In 2016, this language was removed from the bill with the passage of Senate Bill 5125, which increased the jurisdiction amount in district court. Thus, the only issue in HB 1248 is mandatory arbitration, which is not a DMCJA concern. Judge Marinella recommended that the WSAJ send a letter to the DMCJA Legislative Committee next year requesting DMCJA support for the bill if it is reintroduced in the Legislature.

ACTION

1. M/S/P to pay five hundred dollars or less to film the presentation, "The Heroin Epidemic New Challenges for the Courts," which Judge Portnoy hosted in her courtroom.
2. M/S/P to adopt the DMCJA Rule Committee's recommendation to comment favorably for General Rule (GR) 14.1, *Citation to Unpublished Opinions*.

INFORMATION

Judge Marinella informed that the Board Retreat is May 13-14, 2016 at the Best Western in Dayton, WA. Board members were encouraged to return the DMCJA Board Retreat RSVP Form to Ms. Sondra Hahn, AOC staff assistant.

OTHER BUSINESS

Judge Marinella informed that the next Board meeting is Friday, April 8, 2016, at the AOC SeaTac Office.

ADJOURNED at 2:12 PM.