



DMCJA Board of Governors Meeting
Friday, March 10, 2017, 12:30 p.m. – 3:30 p.m.
AOC SeaTac Office
SeaTac, WA

AMENDED MEETING MINUTES

Members Present:

Chair, Judge G. Scott Marinella
Judge Scott Ahlf
Judge Linda Coburn (phone)
Judge Karen Donohue
Judge Douglas Fair
Judge Michael Finkle

Judge Janet Garrow (non-voting)(phone)

Judge Michelle Gehlsen
Judge Michael Lambo

Commissioner Rick Leo

Judge Mary Logan (non-voting)
Judge Samuel Meyer
Judge Kevin Ringus (non-voting)
Judge Rebecca Robertson (phone)
Judge Douglas Robinson
Judge Charles Short (phone)
Judge Tracy Staab
Judge David Steiner

Members Absent:

Judge Judy Jasprica (non-voting)

Guests:

Judge Sean O'Donnell, SCJA (phone)
Mr. Loyd Willaford, WSAJ

AOC Staff:

Ms. J Benway (phone)
Ms. Vicky Cullinane
Ms. Sharon R. Harvey
Ms. Susan Peterson

CALL TO ORDER

Judge G. Scott Marinella, District and Municipal Court Judges' Association (DMCJA) President, noted a quorum was present and called the DMCJA Board of Governors (Board) meeting to order at 12:42 p.m. Judge Marinella asked attendees to introduce themselves.

GENERAL BUSINESS

A. Minutes

The Board moved, seconded, and passed a vote (M/S/P) to approve the February 10, 2017 Minutes, with corrections to non-substantive clerical errors.

B. Treasurer's Report

M/S/P to approve the Treasurer's Report. Judge Meyer reported that money is coming in and bills are being paid from DMCJA financial accounts. In follow up to the last Board meeting, it was confirmed that the current FDIC limits are still at two hundred and fifty thousand dollars (\$250,000). It was suggested that funds could be moved to two banks instead of three, and the special fund could be kept in a separate bank. Judge Marinella asked that this be put on for discussion at the April Board meeting with specific numbers at that time. He would like to know what Judge Meyer and Judge Robertson think at that time after the figures are discussed.

C. Special Fund Report

M/S/P to approve the Special Fund report. Judge Robertson provided the Special Fund report.

D. Standing Committee Reports

1. Legislative Committee

Judge Meyer provided a legislative update on DMCJA proposed bills. He reported that House Bill (HB) 1199/ Senate Bill (SB) 5203, *Allowing Youth Courts to have Jurisdiction over Transit Infractions*, passed out of the

House unanimously, and the bill will have a hearing in the Senate. He informed that HB 1478/SB 5342, *Discover Pass Penalty Distribution*, was amended in the Senate to apply to small counties. A second amendment prevents these small counties from retaining non-interest monies if the county has a 12% or higher discover pass dismissal rate. Judge Meyer further reported that HB 1221, *Solemnization of Marriages by CLJ Commissioners*, made it through the House with only one dissent. However, it is unlikely to pass the Senate because of opposition by Senator Padden. Judge Meyer reported that HB 1196/SB 5175, *Modifying Process to Recover Judgments in Small Claims Court*, passed out of the House; however, Senator Padden told Melanie Stewart, Esq., DMCJA Lobbyist, that the bill would only pass the Senate if it is revenue neutral. Judge Meyer informed that the DMCJA Executive Legislative Committee will discuss the issue at its next meeting. The Board discussed the bill and recommended that it be tabled for next year. Judge Meyer will contact Judge Garrow and let her know the status of the small claims bill.

2. Rules Committee

a. Proposed Amendment to Evidence Rule 1101 (4), *Applications for Protection Orders*

Ms. Benway reported on the Committee's proposed amendment to Evidence Rule (ER) 1101 (4). This proposed amendment relates to Initiative 1491, which created the Extreme Risk Protection Order Act. The Committee determined that ER 1101 (c)(4), which governs applications of protection orders, should be amended to reflect the current law. Thus, the Committee requests that the Board forward to the Supreme Court Rules Committee its proposed amendment to ER 1101 (c)(4). M/S/P to make this topic a discussion item.

Judge Marinella then requested that Ms. Benway discuss the Committee's recommended amendment to CrRLJ 3.4, *Presence of Defendant*, which is an action item on the agenda. See Action.

E. Trial Court Advocacy Board (TCAB) Update

Judge Marinella reported that the TCAB met prior to the DMCJA Board meeting. They are pursuing adequate funding in the courts and rejuvenating the Justice in Jeopardy Initiative. The TCAB has created a plan that involves "layering," which would direct that the state pays 50% of district court and qualifying municipal judges' salaries, up from 15%. Judge Clarke said he will assist in that, and Judge Downes will talk to the SCJA Legislative Committee to see who could work with Judge Clarke to draft that legislation. Judge Clarke asked that Judge Meyer also talk to Melanie Stewart, Esq., who can assist with writing the legislation. Further, TCAB is seeking judicial partners, such as the Washington Association of Prosecuting Attorneys, Association of Cities, Association of Counties, and others. The group is considering presentations to the Legislature. Judge Ahlf informed that the 15% referred to earlier is Trial Court Improvement Account (TCIA) money. Originally, TCAB wanted to look at trial court funding but decided that a more focused approach would be more effective.

F. Judicial Information Systems (JIS) Report

Ms. Cullinane provided a courts of limited jurisdiction case management system (CLJ-CMS) Project update. She informed that they just finished two weeks of vendor demonstrations, and the CLJ-CMS Project Steering Committee is currently determining where the evaluators will go to the two upcoming site visits. The Project Steering Committee expects to have the apparent successful vendor named by May 2017, and expects to have the vendor on board and starting work in September 2017. Ms. Cullinane further informed that the CLJ-CMS Project team is working on earlier outreach to the court community to minimize the surprise of a new case management system. Thus, they are attending as many events as they can to let people know about the project. Ms. Cullinane said they plan to have a table at both the DMCJA Legislative Committee Reception and Board for Judicial Administration (BJA) Reception next week. She said they have also been invited to all three judicial conferences this year, and they are trying to make sure everyone has as many tools as possible to promote the CLJ-CMS Project. Ms. Cullinane also circulated a brochure and two flyers to the group, and she reminded the group that on Inside Courts, the CLJ-CMS Project website now has a complete legislative toolkit available, which includes a one-page CLJ-CMS Project fact sheet for legislators and templates for letters to their legislators.

Ms. Cullinane reported that following a major upgrade of the SECTOR system by Washington State Patrol (WSP), they are having some problems with eTickets. The most significant of these is that some tickets are missing, and never reached the court. She explained the nature of the problem and said WSP is working on fixing it, and AOC continues to monitor and test. She said there's another problem with preset court dates, and now those preset court dates are showing up incorrectly. She explained that WSP has to fix the problem on their end before the Administrative Office of the Courts (AOC) can do anything further. She encouraged members to notify the AOC of any problems that they see. She further informed that soon court staff will no longer have to manage prosecutors' and public defenders' JABS access, because the AOC will handle it.

Regarding the Expedited Data Exchange Project, Ms. Cullinane explained that there was a very aggressive deadline, and they have not had enough resources to meet the original deadline. August is the deadline for King County District Court to go live with their new system. King County modified its plan accordingly, to Go Live first with the non-well-identified person civil filings by August, and delay implementation of other case types. She explained that the project is especially short of Business Analysts. It was noted that there may be a problem with obtaining enough staff to work on the project, which could cause issues with implementation. Ms. Cullinane said the AOC has modified its project plan. The plan is to move first to the King County Clerk's Office data exchange in early 2018, and then come back to the district court data exchange. She informed they will likely need more money than they thought with the project extending past its original deadline, which could impact other projects, including the CLJ-CMS Project. In addition, a question arose about data exchange with regard to Spokane Superior Court. Ms. Cullinane explained there was originally a misunderstanding between Spokane and the AOC regarding the intent of the Odyssey implementation, so Spokane's implementation was moved to the end of the project. However, the AOC is still working with Spokane to address their needs.

LIAISON REPORTS

A. Misdemeanant Corrections Association (MCA)

Ms. Melissa Patrick was unable to attend the meeting; however, she provided flyers and a written MCA report. Judge Marinella read the following report to the Board: *The MCA would like to remind the DMCJA of our annual conference in May in Spokane; as well as the invitation to our one-day training with Dr. Ed Latessa on recidivism. Additionally, nominations are now being accepted for Probation Officer of the Year (Belinda Galde Memorial Award), Probation Department of the Year, Support Staff of the Year and Outside Partner of the Year.*

B. Superior Court Judges' Association (SCJA)

Judge O'Donnell reported that SCJA legislative bills of interest are moving forward in the Legislature. House Bill (HB) 1378, *Disqualification of Judges*, is expected to pass the Legislature. Additionally, HB 1396, *regarding Court Clerk Duties*, was labeled as a cleanup bill, but is more than that and relates to records and how those records will be managed with Odyssey, according to Judge O'Donnell. The issues with that bill have been removed, and clerks and judges will have to have a summit this summer about it. Further, HB 1603, concerning child support issues, is proceeding without controversy.

Judge O'Donnell then informed of a lawsuit in Okanogan County, where the county council has been sued. It involves the juvenile/superior court administrator and the salary the judges want to pay. The lawsuit, which was filed June 2016, has incurred hundreds of thousands of dollars in attorneys' fees for the County. Judge O'Donnell then asked the question, when issues like state/county officials going against other state/county officials occur, should that happen through the Attorney General's Office? He then explained that the SCJA bill, HB 1378, was originally entitled, "affidavit of prejudice," but is now known as "disqualification of a judge." Judge O'Donnell explained that an agreed trial continuance would not be a discretionary ruling, which makes superior court similar to courts of limited jurisdiction. The bill seeks to make trials easier for the smaller counties.

There was also a question about the hiring of an SCJA Policy Analyst. Judge O'Donnell explained that Ms. Intisar Surur was hired as the SCJA Senior Policy Analyst. Ms. Janet Skreen is Ms. Surur's direct supervisor. Ms. Surur will work with the SCJA on the 3DaysCount Initiative and Pretrial Reform Task Force. In addition, Judge Michael Downes will be Ms. Surur's general supervisor, and the SCJA Board will approve her substantive work product.

1. 3DaysCount Initiative Status Update

Judge O'Donnell provided a status update for the 3DaysCount Initiative. He informed that a Pretrial Task Force plans to look at whether they can and/or should be augmenting pretrial services for those accused of crimes. In Washington, pre-trial risk assessment tools are being used in (1) Spokane County and (2) Yakima County. He further reported that the SCJA, DMCJA, and Minority and Justice Commission (MJC) will apply for the 3DaysCount Initiative grant.

The group is planning a kickoff to explore the following three areas: (1) How are we assessing risk, and what are the best practices with that, (2) what kind of data should be collected, and how affective are we at making decisions, and (3) what are the best practices for pretrial services, and are there pretrial services that should be offered while awaiting trial? On March 31, 2017, the Pretrial Task Force will have a planning meeting. The kickoff meeting will likely happen in June 2017.

Judge Mary Logan, Trial Court Sentencing & Supervision Committee (TCSSC), informed that her Committee has done what Judge O'Donnell is seeking to do, and, therefore, offered to extend whatever her committee can do to help in their endeavor. Judge Logan said TCSSC may be able to help develop a list of who should be involved in the Pretrial Task Force. Judge O'Donnell then invited TCSSC members to the Pretrial Task Force meeting on March 31, 2017. He informed that the meeting will be held at the AOC SeaTac Office and participants may also join via Conference Call.

C. Washington State Association for Justice (WSAJ)

Mr. Willaford reported that on May 4, 2017, WSAJ is hosting its annual Law Day Celebration and Awards Dinner honoring members of the Judiciary. He informed that the Law Day Dinner supports bar scholarships to train new trial lawyers, and provided a flyer for anyone interested in attending. Mr. Willaford further reported that some individual members have reached out to presiding judges to address concerns regarding courts scheduling only one or two days for civil trials. He informed that individual WSAJ members are finding solutions to this issue. Judge Marinella stated that he wants to be sure lawyers can stick to that amount of time, and asked that the WSAJ continue to inquire with individual judges regarding the reason for scheduling one or two days for civil trials.

D. Board for Judicial Administration (BJA)

Judge Garrow reported that the BJA and its Policy and Planning Committee are working on setting strategic goals for the BJA for 2017-19. They received over 20 proposals from members of the various judicial branch entities. At the last BJA meeting, they did a session to discuss the proposed goals. During that session, members ranked those that they were interested in pursuing. Those near the top of the ranking included funding for courts, interpreters, and court security, which were goals proposed by the DMCJA. The Committee will meet again to review the results and return to the next BJA meeting for a final decision on which strategic goal(s) would be adopted. Judge Ringus reported that the Court Education Committee retreat is March 24, 2017, at the Cedarbrook Lodge in Seattle. The next BJA meeting is scheduled for March 17, 2017.

ACTION

1. *DMCJA Rules Committee Recommended Amendment to CrRLJ 3.4, Presence of Defendant*
M/S/P to approve the Rules Committee's recommendation to use permissive language instead of mandatory language regarding the use of video testimony. The Committee recommended the language be changed from shall, to may, under CrRLJ 3.4 (3)(e). An example of good cause for not using video testimony includes a court not actually having the equipment.

2. *Proposed Amendment to Evidence Rule 1101 (4)*

M/S/P to approve the Rules Committee recommendation to forward proposed amendment to ER 1101 (4) to the Supreme Court Rules Committee.

DISCUSSION

A. Salary Commission Meeting Update – Judge Robertson

Judge Robertson reported on the Salary Commission meeting January 25, 2017. **She informed that courts of limited jurisdiction judges' salaries are not on par with the federal judges' salaries.** Judge Robertson mentioned a Salary Commission flyer that she would circulate to the Board. Judge Marinella explained that the Salary Commission is requesting DMCJA support for its commission, which has no funding. The Legislature has removed all financial support from them, and they may lose the one staff person they do have if this continues. The Board discussed this, and the general consensus was that the Association should write a letter to the different entities in the Legislative Branch in support of the commission, and emphasize that the Salary Commission has done a great job, but, now cannot do anything with their limited funding.

B. 3DaysCount Initiative Update – Judge Marinella

This item was discussed above under the SCJA Liaison report.

C. Community Competency Evaluators (RCW 10.77.073) – Judge Lambo

Judge Lambo gave an update on Western State Hospital's challenges regarding timely evaluations. He addressed RCW 10.77.073, which allows courts to hire their own community competency evaluators if DSHS is unable to meet the seven-day performance target, while receiving reimbursement from DSHS for performing the service. Judge Lambo asked the Board whether any of the cities have a problem with the evaluations coming in on a timely basis, or whether they would consider going outside of their county. The Board discussed the questions. It was found that one county had experienced a quick three-day turnaround; however, two other counties have experienced some problems getting evaluations. There is also concern that if you are a municipality, you may not be able to benefit because the time, cost, and/or recording you would have to do to find your own evaluator would take more time than one could afford to spend, and it is possible if it is not a large city, like Seattle or Spokane, one may still not be able to find an evaluator. Judge Marinella said he is supportive of having the Legislative Committee look at it next year.

D. Board Operational Rules – Whether to adopt an Attendance Policy

Judge Marinella provided the Board with a copy of the DMCJA Operational Rules and reminded members of their duty to regularly attend Board meetings. He noted that the Judicial Information System Committee (JISC) has an attendance policy. He inquired whether the Board wanted to include an attendance policy in its Board Operational Rules. He reminded members it is a privilege to serve a 3-year term on the Board, and when some members are not in attendance, it creates a void. The Board discussed the pros and cons of putting an attendance policy in place.

E. BJA Representatives' Staggered Terms Proposal

Ms. Misty Butler noted a problem with the BJA Representatives' Staggered Terms and provided possible solutions, which the Board discussed. Judge Steiner will draft a proposal to be reviewed and voted on by the Board. The Board will then refer the proposed language to the DMCJA Bylaws Committee for a proposed amendment to be voted on by the DMCJA membership. This will be an Action item at the April Board meeting.

F. Mock Trial State Championship – Request for Board Representative as Rater

The Board received a request from Ms. Sara Clinton, Executive Director of YMCA Youth & Government, regarding the 2017 Mock Trial State Championship. Specifically, she requests a DMCJA member volunteer to serve as a rater for the Mock Trials on Sunday, March 26, 2017, in Olympia. The rater's job is to judge the performance of those competing in the mock trials. A request will be sent to the DMCJA listserv.

G. Comment for General Rule (GR) 36, Peremptory Challenges

This issue relates to American Civil Liberties Union (ACLU) proposed amendment to GR 35, Jury Selection. Specifically, the amendment addresses potential bias in peremptory juror exclusions. The GR number has changed many times and is listed in the June 2016 DMCJA Board minutes as GR 35. The Board decided not to endorse the proposed GR 35, Jury Selection, but instead to offer assistance in reforming the rule. The Board invited Mr. Salvador Mungia, ACLU, to its September Board meeting. There was a good discussion at the meeting; however, proposed GR 36, *Jury Selection*, remained unchanged. Thus, Judge Marinella will draft a comment regarding the Board's position, which he will submit prior to the comment period deadline of April 30, 2017.

H. Proposed Amendment to Evidence Rule (ER) 1101 (4)

M/S/P to make this topic an action item. The Rules Committee recommended that the Board forward proposed amendment to ER 1101 (c)(4) to the Supreme Court Rules Committee. The Board considered the Committee's recommendation. M/S/P to make this an action item.

INFORMATION

A. Nominating Committee Slate of Candidates

Judge Steiner provided the Board with the Slate of Candidates to date. He informed that he and the Nominating Committee were surprised at how difficult it was to get volunteers this year. The Board discussed the slate, and members suggested possible additional candidates who may be interested in running. Once the additional candidates are confirmed, the slate of candidates will be amended. The Board also discussed possible ways to obtain more membership participation in leadership and other positions.

B. Trial Court Sentencing and Supervision Committee Update

Judge Logan provided a Trial Court Sentencing and Supervision Committee update earlier in the meeting. See Discussion, 3DaysCount Initiative Status Update.

C. Implicit Bias Jury Instructions

Judge Coburn informed that jury instructions regarding unconscious bias were created by the Western District of Washington's bench and bar academic committee, which has long standing commitments to a fair and unbiased judicial process. Judge Donohue expressed that Seattle Municipal Court uses these instructions.

D. DMCJA Legislative Committee Reception

The DMCJA Legislative Committee will host its annual legislative reception on March 17, 2017, from 12:15 p.m. to 1:15 p.m., in the Chief Justice's Reception Room, at the Temple of Justice. Judge Marinella informed that the reception offers legislators an opportunity to learn more about the accomplishments and needs of courts of limited jurisdiction.

E. BJA Annual Legislative Reception

The BJA will host its annual legislative reception on March 14, 2017, from 5:30 p.m. to 7:30 p.m., at the Temple of Justice. Judge Marinella encouraged Board members to attend.

F. DMCJA Proposed Amendments to CrRLJ 3.2, Release of Accused.

The Washington State Supreme Court adopted DMCJA proposed amendments to CrRLJ 3.2.

G. Presiding Judge and Administrator Education Committee

Judge Marinella informed that Judge Nancy McAllister, South Pacific County District Court, was nominated to serve on this committee. There are still two remaining vacancies. Another meeting announcement will be sent out to the DMCJA listserv for each of these positions requesting volunteers. This is a three year position.

H. Washington State Center for Court Research (WSCCR) Advisory Board

Judge Marinella informed that Judge Laurel Gibson, King County District Court, was nominated to represent the DMCJA on the WSCCR Advisory Board. This is a three year position.

A listserv message congratulating the judges who were nominated will be sent out to the DMCJA listserv.

OTHER BUSINESS

- A. Judge Robinson informed that the 2017 Annual Washington State Misdemeanant Corrections Association Conference is May 1-3, 2017, at the Hotel Red Lion Spokane at the Park. He encouraged Board members to send their probation officers to the conference to support the program.
- B. The next DMCJA Board Meeting is April 14, 2017, 12:30 a.m. to 3:30 p.m., at the AOC Office in SeaTac.

ADJOURNED at approximately 2:57 PM.