



DMCJA Board of Governors Meeting
Sunday, September 22, 2019, 9:00 a.m. – 12:00 p.m.
Heathman Lodge
Vancouver, Washington

MEETING MINUTES

Members Present:

Chair, Judge Samuel Meyer
Judge Linda Coburn
Judge Thomas Cox
Judge Michelle Gehlsen
Judge Drew Ann Henke
Judge Tyson Hill
Commissioner Rick Leo (via phone)
Judge Aimee Maurer
Judge Rebecca Robertson
Judge Charles Short
Judge Jeffrey Smith
Judge Laura Van Slyck
Commissioner Paul Wohl

Guests:

Judge Tam Bui, BJA
Judge Dan Johnson, BJA
Judge Mary Logan, BJA
Judge Kevin Ringus, BJA

AOC Staff:

Sharon R. Harvey
J Benway
Vicky Cullinane

Members Absent:

Judge Robert Grim

CALL TO ORDER

Judge Meyer, 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 9:11 a.m. Meeting participants introduced themselves.

GENERAL BUSINESS

A. Minutes

1. July 12, 2019
2. August 20, 2019 – Special Meeting

The Board moved, seconded, and passed a vote (M/S/P) to approve Minutes for both July 12, 2019 and August 20, 2019.

B. Treasurer's Report

Commissioner Leo referred Board members to the August 2019 Treasurer's Report located in meeting materials. This report includes the (a) statement of financial position, (b) monthly statement of activities, (c) bank reconciliation reports, (d) transaction detail report (year-to-date), (e) current budget balance, and (f) prior budget. Commissioner Leo requested that the Board accept both the August and July 2019 Treasurer's Report. The July Treasurer's Report was not previously accepted because Commissioner Leo was unavailable to attend the July meeting.

M/S/P to accept both July and August 2019 treasurer reports.

C. Special Fund Report

Judge Short requested that the Board accept the Special Fund Report located in meeting materials. Judge Short reported that the five thousand dollar (\$5,000) fee for services to draft and file an amicus brief was taken from the DMCJA Special Fund.

D. Standing Committee Reports

1. Rules Committee
 - a. Minutes for February 28, 2019
 - b. Minutes for March 27, 2019
 - c. Minutes for June 4, 2019
 - d. Minutes for July 24, 2019

Ms. Benway, AOC Staff for the DMCJA Rules Committee, informed that the Rules Committee report consists of Minutes from four committee meetings.

2. Legislative Committee
 - a. Proposed DMCJA Bills for 2020 Legislative Session (Supplemental Materials)

On behalf of the DMCJA Legislative Committee, Commissioner Wohl, Committee Chair, presented the following five proposed DMCJA bills for the 2020 Legislative Session:

1. **Affidavit of Prejudice (Notice of Disqualification)**

This bill would change, "affidavit of prejudice" language to "Notice of Disqualification" for consistency with the Superior Court statute. The amendment would (1) allow a disqualified judge to conduct arraignment and set conditions of release, and (2) allow a disqualified judge to serve upon agreement of parties.

2. **Discover Pass**

This bill seeks to keep monies collected from Discover Pass violations local; initially, all money stayed local from discover pass violations; however, the state receives all revenue now; the Committee for a number of years has been trying to introduce a split of funds between the state and local government. This is primarily important for the smaller counties such as Skamania and Pacific counties. Ultimately, the Committee would like a state and local split and therefore, the Committee agrees to run this back again. The DMCJA Legislative Committee recommends proposing the original Discover Pass bills (Senate Bill (SB) 6297 and House Bill (HB) 2529).

3. **Interlocal Agreements for Probation Services**

This bill would allow courts to enter interlocal agreements for probation services. A detailed analysis was provided in the supplemental agenda packet.

4. **Small Claims**

This bill amends HB 1048, Small Claims Judgment, which was proposed by the DMCJA and passed the 2019 Legislature. The request is to amend [RCW 12.40.105](#) to allow a 30 day appeal window before a judgment is issued to the defendant.

5. **Competency Statutes**

- a. [RCW 10.77.068](#) - Amendment request to (a) align statutory timelines with those set forth in *Trueblood v. Washington State Department of Social and Health Services*, 73 F.Supp.3d 1311 (2014), and (b) render bases for continuances in the statute consistent with *Trueblood*.

- b. [RCW 10.77.010](#) (13) - Amendment request to define history of violent actions to include non-exclusive list of types of evidence Court may consider; [RCW 10.77.088](#) amendment request to add a standard for determining whether a defendant has a history of violent acts
- c. [RCW 10.77.088](#) - Amendment request to eliminate renumbering confusion related to RCW 10.77.088(3) pursuant to 2ESSB 5444 and SB 5205

The Board reviewed the list, which was sent to them prior to the Board meeting. M/S/P to move this to an action item to vote on whether to approve the DMCJA Legislative Committee's proposed DMCJA bills for the 2020 Legislative Session.

E. Judicial Information System (JIS) Report

Ms. Cullinane reported that the Judicial Information System Committee (JISC) approved the Courts of Limited Jurisdiction Case Management System (CLJ-CMS) Project Steering Committee's recommendation that the Administrative Office of the Courts (AOC) open contract negotiations with Tyler Technologies. Tyler's product has made significant improvements since the original request for proposal (RFP), and the CLJ-CMS Project has ongoing meetings with Tyler Technologies in the coming weeks to review the previously identified gaps and determine if they can be met before moving on to negotiations. The CLJ-CMS Court User Work Group (CUWG), which had been on hiatus, has now reconvened. The project is targeting the start of the work with Tyler for early next year.

LIAISON REPORTS

A. Board for Judicial Administration (BJA)

Judges Bui, Ringus, and Johnson, DMCJA representatives on the BJA, reported on BJA activities related to education, adequate court funding, court infrastructure, the Judicial Leadership Summit in August, court security task force, and the BJA Legislative Committee. The BJA Education Committee is discussing methods, such as online education, to provide more judicial educational opportunities for Washington judges. The BJA Policy and Planning and Committee will identify options for addressing adequate court funding, including behavioral courts, and bring back to the Board for review. The BJA Legislative Committee is soliciting from court associations legislative requests that may impact the entire judicial community. For more information on BJA activities, please visit the following web site: http://www.courts.wa.gov/programs_orgs/pos_bja/.

ACTION

1. Proposed DMCJA Bills for 2020 Legislative Session

M/S/P to approve the DMCJA Legislative Committee's proposed DMCJA bills for the 2020 Legislative Session. These proposed bills are as follows: (1) Affidavit of Prejudice (Notice of Disqualification), (2) Discover Pass, (3) Interlocal Agreements for Probation Services, (4) Small Claims, and (5) Competency Statutes cleanup related to (a) statutory timelines, (b) whether defendant has a history of violent acts, and (c) renumbering confusion.

2. Audit Update

M/S/P to hire Fruci & Associates to perform a 5 year audit for 2015-2020 not to exceed ten thousand dollars (\$10,000). M/S/P to table the issue until the 2020 DMCJA Board Retreat.

3. Information Technology Governance Request for DMCJA Endorsement: Snohomish County District Court

M/S/P to endorse Snohomish County District Court's ITG 272 request to receive AOC assistance with a data exchange with the Enterprise Data Repository (EDR) subject to Snohomish County District Court's oral agreement to perform the necessary tasks to ensure data is received statewide.

4. Proposal to CrRLJ 1.3

The Board voted to forward the DMCJA Rules Committee's proposal to amend CrRLJ 1.3 to the Washington Supreme Court for consideration as part of its rule review cycle.

5. Judicial Assistance Services Program (JASP) – Amendments to JASP Bylaws

The Board approved JASP's request to amend its bylaws to remove a member who is absent from two consecutive meetings and two consecutive JAPS Peer Counselor trainings.

DISCUSSION

A. DMCJA Amicus Curiae Brief: The DMCJA Board has filed an amicus brief for the appeal of *State of Washington v. Stevens County District Court*, 7 Wn. App. 2d 927, 436 P.3d 430 (2019).

Judge Meyer reported that the Board voted to file an amicus brief in the case, *State of Washington v. Stevens County District Judge*, in which a memorandum was issued to superior court and district court judges, prosecutors, and court personnel notifying them that all in-custody first appearances for both courts are to be heard by the Superior Court. Judge Gina Tveit, Stevens County District Court Judge, opposed this memorandum and issued a memorandum stating that the court administrator should not file any orders in Stevens County District Court unless signed by a district court judge or district court administrator. This dispute ended in court with a Superior Court judge ruling in favor of Judge Tveit in a Writ of Mandamus lawsuit. This case was appealed to the Court of Appeals, which ruled in favor of the State of Washington (prosecutor). The case is currently on appeal to the Washington State Supreme Court.

On September 9, 2019, Katherine George, Esquire, filed an amicus curiae brief on behalf of the DMCJA. The prosecutor (state) has until October 7, 2019 to respond. Ms. George was retained by the DMCJA in August 2019 for a fee of five thousand dollars (\$5,000). This fee covers the cost of the brief and any oral argument made by the attorney. Judge Meyer reported that the Supreme Court hearing is October 24, 2019 at 1:30 p.m. Ms. Harvey and Judge Meyer will send Board members more information regarding this October hearing.

B. Audit Update

1. Proposal by Fruci & Associates
2. Fruci & Associates performed Agreed Upon Procedures (AUPs) for DMCJA in 2015

Commissioner Leo, DMCJA Treasurer, reported on the status of an audit of DMCJA financial accounts. He provided a brief twenty year history of DMCJA audits from 1999 to 2019. In 1999, there was an IRS audit of DMCJA accounts. In 2002, the DMCJA sought a limited audit. In 2012, Fruci & Associates performed an Agreed Upon Procedures audit, which is known as a limited audit. In 2015, Fruci & Associates performed an AUP for 2013-2014.

Commissioner Leo reported that Dino Traverso, DMCJA accountant, informed that he is not available to perform an audit of the DMCJA because of his ties with the DMCJA bookkeeper, however, he provided the following three references for audit services: (1) Fruci & Associates, (2) Brantley Jansen, and (3) Shannon & Associates. Ms. Harvey, AOC Primary DMCJA Staff, contacted each referral for a quote. Only Fruci &

Associates, which provided services to DMCJA in the past, were available to provide services to the DMCJA. Fruci & Associates provided a quote for the Board's review that is located in meeting materials. Services for an AUP, limited audit, are between seven thousand dollars (\$7,000) and ten thousand dollars (\$10,000). In contrast, a full audit is approximately twenty-two thousand dollars (\$22 K). Commissioner Leo informed that a limited audit is a sampling of the association's transactions while a full audit is a review of all DMCJA financial transactions.

Commissioner Leo recommended a five year limited audit from Fruci & Associates. Judge Meyer recommended tabling this audit decision to the 2020 DMCJA Board Retreat in which members will order the five year audit at this time. This would allow the five year audit to cover 2015 to 2020.

M/S/P to move this discussion topic to an action item.

C. Information Technology Governance Request for DMCJA Endorsement: Snohomish County District Court

1. Important Information for Courts Planning to Connect to the Enterprise Data Repository

Commissioner Leo reported that the Snohomish County District Court has decided to obtain its own case management system (CMS), namely, Journal Technologies, Inc. Ms. Cullinane informed the Board of the Information Technology Governance (ITG) process a court must follow when deciding to leave JIS and obtain a new CMS. First, a court must initiate a request using the ITG website. Here Snohomish County has initiated ITG 272 seeking to connect with AOC's Enterprise Data Repository when they acquire their own electronic case management system. Second, the request must be endorsed by the DMCJA Board, which serves as the endorsement body for the DMCJA. Third, the AOC performs a ballpark analysis of costs and resources to perform the request, and informs the endorsing group for a confirmation to proceed to step four. Fourth, the request and AOC analysis goes to either the CLJ Court Level User Group (CLUG) or Multi-Court Level User Group (MCLUG) for approval and prioritization. Fifth, for large requests, which this would be, the JISC approves and prioritizes requests from all court level user groups. The JISC has final approval authority on all information technology requests. For more information on the ITG process, please visit the following website: <https://www.courts.wa.gov/content/ItgPortal/IT%20Governance%20Process%20Flow.pdf>

Ms. Cullinane informed that courts desiring to leave JIS are required to send data from their case management systems to the Enterprise Data Repository so courts statewide can view their court records. If the work for the data exchange cannot be completed before the court implements its own case management system, the court is responsible for manual data entry into JIS until the data exchange is complete. The Board discussed concerns regarding courts leaving JIS and not performing necessary tasks to ensure that JIS courts can view the non-JIS court's data. Commissioner Leo and Judge Bui, who sit on this court's bench, confirmed that Judge Douglas Fair, Presiding Judge, has expressed that Snohomish County District Court will take all necessary actions to ensure the court's data is viewable to all Washington courts. Thus, after robust discussion, the Board by general consensus decided to endorse courts as long as the court assures the Board that it will perform necessary tasks to allow JIS courts to view the data.

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

D. Judicial Assistance Services Program (JASP) – Amendments to JASP Bylaws

JASP requests the Board to approve the following amendment to its bylaws:

(F) If a member fails to attend two (2) consecutive JASP committee meetings, or does not attend two (2) consecutive JASP Peer Counselor trainings, the JASP Executive Committee will directly contact the member. If the member does not wish to continue on the committee or does

not respond, the JASP Executive Committee will notify the Association the member represents, requesting the member be removed from the committee and a replacement named.

A Board member inquired whether this JASP bylaw amendment must be presented to the DMCJA membership since it is a bylaw amendment. Ms. Benway, AOC Staff for the DMCJA Bylaws Committee, informed that the DMCJA Bylaws Committee discussed this issue when previous JASP Bylaws were changed and decided by general consensus that JASP Bylaws relate to a DMCJA Standing Committee only and not the entire association's bylaws; thus, there is no need to present the amendment before the entire association. Article XI, Amendments, of the DMCJA Bylaws govern amendments to association bylaws. M/S/P to make an action item.

E. Proposal to CrRLJ 1.3

Ms. Benway reported that the DMCJA Rules Committee requests expedited Board approval of its proposed amendments to Criminal Rules for Courts of Limited Jurisdiction (CrRLJ) 1.3, *Effect*, which clarify the rule and make it consistent with case law. If the Board approves, the committee request the Board forward the proposal to the Supreme Court for consideration as part of its rule review cycle. M/S/P to make this discussion item an action item.

Ms. Benway also reported on the status of the following rules amendments addressed by the DMCJA Rules Committee:

1. Rule 82.5, Tribal State Court Consortium Rule Request – Committee drafted rule similar to Superior Court Rule
2. GR 7, Local Rulemaking – Committee needs more information because it is not clear whether it relates to courts of limited jurisdiction; Committee needs clarity regarding “emergency provision” related to whether local rules are subject to the provision
3. GR 29, Presiding Judges – will be submitted to the Washington Supreme Court by October 15, 2019
4. Access to Court Records, GR 31 – will be submitted to the Washington Supreme Court by October 15, 2019

F. U.S. Immigration and Customs Enforcement (ICE) Practices at Courthouses: WA Attorney General Request For Feedback Regarding The Impact On Courts Of Limited Jurisdiction

Judge Meyer reported that the Washington Attorney General's Office has reached out to him requesting information from district and municipal court judges regarding any impact ICE practices at courthouses have had on the administration of justice. Judge Meyer encouraged judges to contact Mitchell Riese at Mitchell.riese@atg.wa.gov or 206-587-5094 to express any court impact from ICE practices. Judge Meyer informed the Board of an incident in which undercover ICE agents detained an alleged non-documented immigrant in front of the courthouse. There was also mention of individuals hesitant to enter the Temple of Justice for fear of being detained by ICE agents. A Board member requested that the Washington Attorney General's Office present the issue to the Board.

G. Ratification of Commissioner Board Position Appointment

Judge Meyer expressed that Position 7, Commissioner, is vacant. He anticipates having a nominee for Board ratification at the next Board meeting.

INFORMATION

Judge Meyer shared the following information with Board meeting participants:

- A. The DMCJA sent flowers to the family of Judge Peter Nault, King County District Court, who passed away on July 19, 2019.
- B. Pretrial Reform: Thurston County and Pierce County were two of five counties chosen to participate in a five-year initiative to improve pretrial justice systems and reduce jail populations. For more information, please see the following article: [Thurston 1 of 5 counties nationwide chosen for pretrial justice initiative](#)

OTHER BUSINESS

- A. The next DMCJA Board Meeting is October 11, 2019, 12:30 p.m. to 3:30 p.m., at the AOC SeaTac Office Center.
- B. Search Warrants (After-Hours) – Judge Gehlsen informed that the Superior Court Judges' Association (SCJA) has concerns about the number of after-hours search warrants. For this reason, the SCJA is considering assigning a commissioner or other person to sign after-hours search warrants. This practice would benefit only superior courts, however, Judge Gehlsen suggested that the DMCJA may consider a similar practice for its benefit.

ADJOURN

The meeting was adjourned at approximately 12:00 p.m.