



DMCJA Board of Governors Meeting
Friday, February 7, 2020, 12:30 p.m. – 3:30 p.m.
AOC SeaTac Office
SeaTac, WA

MEETING MINUTES

Members Present:

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

Guests:

Judge Tam Bui, BJA (via phone)
Judge Mary Logan, BJA
Judge Kevin Ringus, BJA
Judge David Steiner (via phone)
Dawn Williams, DMCMA

Administrative Office of the Courts (AOC)

J Benway (via phone)
Vicky Cullinane
Sharon R. Harvey

Members Absent:

Judge Thomas Cox
Judge Robert Grim
Judge Drew Ann Henke
Judge Charles Short

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 approximately 12:30 p.m. Judge Meyer asked meeting attendees to introduce themselves.

GENERAL BUSINESS

A. Minutes

The Board moved, seconded, and passed a vote (M/S/P) to approve the Board Minutes for December 13, 2019.

B. Treasurer's Report

Judge Meyer reported that the US Bank savings account is now closed and the seventy-thousand nine hundred forty-six dollars (\$70,946) from the account has been transferred to the Bank of America (BoA) savings account. Judge Gehlsen explained that the US Bank account was opened when banking rules only allowed a certain amount of funds in the BoA savings account. These banking rules have changed, and, therefore, there is no need to have a separate savings account at US Bank. Additionally, Commissioner Leo, DMCJA Treasurer, reported that he has received dues from approximately seventy percent of the membership. He further reported about a DMCJA Treasurer duty to complete both the L-1, *Lobbyist Registration*, and L-3, *Lobbyist Employer's Annual Report*. He reminded members that both forms must be completed and thanked Sharon Harvey, AOC Primary Staff for the DMCJA, for ensuring that this process had been completed for the past five years.

C. Special Fund Report

Judge Meyer directed Board members to review the Special Fund report located in the meeting packet. Approval of this report is deferred to the next meeting that Judge Short, DMCJA Special Fund Custodian, is available to attend.

D. Standing Committee Reports

1. Legislative Committee

Commissioner Wohl, DMCJA Legislative Committee Chair, reported on bills addressed by the committee. He first informed of bills proposed by the DMCJA, which are as follows:

- **Affidavit of Prejudice (Notice of Disqualification) - House Bill (HB) 1305**

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. This bill did not move forward.

- **Discover Pass – HB 1293**

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. The current bill has the 75/25 split, in which 75% of the discover pass violation fee revenue is deposited into the state’s Recreation Access Pass Account and 25% of the funds are retained locally. Melanie Stewart, DMCJA lobbyist, is continuing to encourage legislators to pass the bill.

- **Interlocal Agreements for Probation Services – HB 2605 (Bill Number for 2018 Session)**

This bill would allow courts to enter interlocal agreements for probation services. This bill was not introduced this session but is set to be introduced next year. In 2018, this bill was introduced but failed to pass the Legislature.

- **Small Claims – HB 2295**

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. This bill has passed the House and is set to pass the Senate for final passage of the Legislature.

- **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

Commissioner Wohl reported that this bill failed to receive a sponsor, thus, it was not introduced this Session because Senator Manka Dhingra does not think the bill is necessary. Melanie Stewart, DMCJA Lobbyist, and Judge Finkle, who proposed the bills, continue to work with Senator Dhingra and other legislators regarding the matter.

The following are other bills of interest to the DMCJA:

- **HB 2567 (Courts/arrests)** – This bill is a response to arrests of non-citizens in and around state courthouses by federal agents. Chief Justice Mary Fairhurst, during her time in office, made a request to state presiding judges to do all they can do to ensure that local courthouses and courtrooms remain open and accessible to all seeking justice from the judicial branch. DMCJA supports the bill with minor concerns regarding technical aspects. The modified version eliminates judicial problems, and, thus removes previous concerns. This bill continues to move

through the Legislature. The Board for Judicial Administration's (BJA's) Legislative Committee has a point of contention with the bill, namely, the technical aspects create a heavy burden on the judicial system that should not be our burden. Judge Ringus, BJA Legislative Chair, suggested that judges may be individually liable for not fully complying with the bill. Board members, however, noted that this suggestion is not stated in any version of the bill. The BJA has supported the concept and principle but remains concerned about actual implementation of the bill, such as increased duties for court staff and for AOC to generate forms. There was also the suggestion that the Executive branch should perform the duties expected of the Judicial branch in the bill.

- **HB 2622 (Firearm orders compliance)** – This bill relates to firearm surrender orders, and, seeks to ensure compliance with orders after they are issued. The DMCJA supports the concept of the bill but had concerns about the different processes regarding contempt proceedings. There were multiple versions of the bill, and, the current version eliminates problematic language regarding the court initiating contempt proceedings instead of the prosecutors. Additionally, defendants were asked to perform acts that would violate their 5th Amendment rights. The issue has impacted many association members in that judges are initiating search warrants. This bill is likely to pass the Legislature.
- **HB 2644 (AI-enabled profiling)** – This bill relates to artificial Intelligence profiling. It concerns the DMCJA because the association wants to make sure that judges are not inadvertently prohibited from using risk assessment tools. Judge Logan, co-chair of the Pretrial Reform Task Force, informed the Board that the Pretrial Justice Institute (PJI) has backed away from supporting risk assessment tools because of its racial impacts. The bill is likely not to pass the Legislature.
- **SB 6438 (Public records act/judiciary)** – This bill seeks to make the Judiciary subject to the Public Records Act (PRA). The bill appears to be a response to Associated Press v. Washington State Legislature, 454 P.3d 93 (2019), which held that the Legislature and legislators are subject to the PRA. The DMCJA opposes the bill because General Rule 31 and General Rule 31.1 satisfy public records requests for the Judicial Branch. This bill did not pass the Senate, thus, it has failed to pass the Legislature.
- **HB 2863 (Therapeutic alternatives)** – This bill was created to provide funding for therapeutic courts in district and municipal courts. The idea was formed from meetings in November 2019 that included DMCJA Therapeutic Courts Co-Chairs, DMCJA President, Therapeutic Court judges, the State Court Administrator, AOC Legislative Relations Associate Director, and other interested guests. DMCJA representatives requested funding for therapeutic courts that is not taken from the Criminal Justice Treatment Account (CJTA). The bill, however, states that funds for district and municipal courts will be taken from the CJTA because monies swept by the account has been used for homeless populations. Hence, at 4:00 p.m. today, Representative Lauren Davis, primary bill sponsor, will meet with Judge Scott Ahlf, Olympia Municipal Court, Melanie Stewart, DMCJA Lobbyist, Judge Samuel Meyer, DMCJA President, and Commissioner Paul Wohl, DMCJA Legislative Committee Chair, to further discuss the bill and express that DMCJA does not want to take funds from the CJTA, which is the primary source of funding for drug courts, which are primarily located in Superior Court. Commissioner Wohl expressed that legislators are supportive and eager to assist district and municipal therapeutic courts.
- **HB 2793 (Criminal records/vacation aka "Clean Slate Act")** – This bill provides for an automated process to vacate certain convictions. Legislative requirements in the bill are challenging for the Administrative Office of the Courts (AOC). The current bill language causes the process of vacating to occur without the prosecutor or defendant, which will greatly increase caseloads. The bill has a "contested" vacation provision. Here, the burden is on the AOC to conduct an analysis to see whether a defendant meets the criteria to vacate a criminal record. The AOC has expressed that its agency currently lacks the resources to perform the duty.

2. Rules

The Rules Committee provided the Board with a memorandum regarding (1) Rules Proposals related to Immigration Enforcement, and (2) Rules Proposals related to the Death Penalty. The Rules Committee has taken no position on either rule because (a) the Immigration Enforcement rule is outside the scope of the Committee's purview, and (b) the death penalty has no substantive impact on courts of limited jurisdiction. J Benway, AOC Staff for the DMCJA Rules Committee, was present via telephone for any questions regarding the Committee's memorandum. The rule discussion

raised concerns about House Bill 2567, which relates to the Immigration Enforcement rule because it seeks to protect non-citizens when visiting state courthouses. Judge Coburn, DMJCA representative on the Supreme Court Minority and Justice Commission, encouraged members not to become distracted with technicalities and to focus on the purpose of the bill. Judge Ringus cautioned that technicalities in the bill may be difficult to fix once the bill is enacted and compared it to the Uniform Guardianship Act that recently passed the Legislature. Judge Gehlsen expressed that the concerns in the bill will likely be corrected prior to the passage of the bill. Judge Meyer expressed that the Judiciary is united in supporting the concept of both the rule and the bill related to immigration enforcement, which seeks to make all court customers safe when visiting state courthouses. The DMCJA will take no action on either the Death Penalty rule or Immigration Enforcement rule. The association has taken a position on HB 2567, however, which is to support it with concerns related to how the bill may be implemented.

E. Judicial Information System (JIS) Report

Ms. Cullinane reported on the Courts of Limited Jurisdiction Case Management System (CLJ-CMS) Project. She informed the Board that the Administrative Office of the Courts (AOC) is still in negotiations with Tyler Technologies, which is the chosen vendor for the new CLJ case management system. A contract is expected to be approved by April 2020. Ms. Cullinane further reported that the Court User Work Group (CUWG) has resumed meeting and are now beginning the process of analyzing the gaps between our needs and the out-of-the-box product. On the recommendation of the CUWG, the CLJ-CMS Project Steering Committee (PSC) made a decision to eliminate the jury management feature because, although Tyler has the module, the costs of the feature outweighed its benefit. However, because jury management is software-as-a-service, it can be added later. Ms. Cullinane reported that the Project plans to roll out the pilots about eighteen months from contract signing. Immediately following the pilot rollout, there will be a six month stabilization period. The following were chosen as pilot courts: (1) Pierce County District Court, (2) Tacoma Municipal Court, (3) Fircrest/Ruston Municipal Court, and (4) Gig Harbor Municipal Court. In selecting the group of pilot courts, the CLJ-CMS Project considered a number of important factors: courts that cover multiple jurisdictions, courts with a broad variety of case types, both large and small courts, and proximity to AOC. It is important to cover as many different scenarios as possible with the pilot courts, and to have the stabilization period, to make the rest of the rollout go more smoothly. Full statewide implementation of the new CLJ-CMS is expected to take approximately five years. Judge Meyer thanked Ms. Cullinane and DMCJA judicial officers who have dedicated hundreds of hours to the CLJ-CMS Project, which is the association's number one priority.

Secondly, Ms. Cullinane reported on the plan to implement e-filing for limited jurisdiction courts ahead of the rest Odyssey rollout. The benefits of implementing e-filing first are that it familiarizes users and court staff with electronic documents, and it reduces the number of documents that will need to be scanned into Odyssey later.

Thirdly, Ms. Cullinane reported on AOC efforts to improve the data errors caused by the data exchanges between differently structured applications. The first is the AOC project to link Odyssey directly to the Enterprise Data Repository (EDR), which is the first step in being able to shut off the current data exchange going directly between Odyssey and JIS. There is also a project to break up names into first, middle, and last, which will increase data accuracy. And lastly, AOC is working on other ways to improve person matching in the EDR. At present, only King County Superior Court is transferring data to the EDR, but in the future more courts with their own case management systems will transfer data to the statewide system through the EDR.

Ms. Cullinane received inquiries from the Board regarding the following: (1) electronic filing, (2) document sharing amongst all courts of limited jurisdiction, (3) public access to electronic documents, and (4) whether access to all court documents will be free. Ms. Cullinane explained the differences between the issues related to document sharing between limited jurisdiction courts and limited jurisdiction judicial officers' access to Odyssey superior court documents. Regarding access to King County Superior Court documents, Judge Meyer reported that he and Judge Robertson had a conference call with Barbara Miner, King County Clerk, and Judge James Rogers, King County Superior Court (KCSC) Presiding Judge. During this meeting, Ms. Miner and Judge Rogers explained that document sharing is

governed by county rule or ordinance, which state that courts have to pay for access, with the exception of King County District Court. Judge Meyer inquired whether the ordinance may be changed to provide free access to all judges needing crucial information to perform their judicial duties. Ms. Miner and Judge Rogers informed that they will discuss the matter internally and get back with Judge Meyer and Judge Robertson. Ms. Cullinane also informed that she will work with Curtis Dunn, AOC JIS Business Liaison for the Superior Court CMS, to track the issue.

LIAISON REPORTS

A. Board for Judicial Administration (BJA)

Judge Logan and Judge Ringus, DMCJA representatives on the BJA, reported on various topics relating to the BJA. The last meeting was in November 2019. The next BJA meeting is February 21, 2020 at the AOC SeaTac Office. For more information about the BJA please visit the following web link:

https://www.courts.wa.gov/programs_orgs/pos_bja/?fa=pos_bja.meetings.

B. District and Municipal Court Management Association (DMCMA)

Ms. Dawn Williams, DMCMA liaison, reported that the DMCMA conference is May 16-20, 2020. Judge Meyer, DMCJA President plans to attend a portion of the conference.

C. Superior Court Judges' Association (SCJA)

Judge Gehlsen, DMCJA Liaison for the SCJA, reported that the SCJA circulated GR 38, Immigration Enforcement, to its membership. The Board noted confusion regarding proposed rule GR 38, which relates to Immigration Enforcement and proposed GR 38 that relates to the LFO Remission rule.

D. Washington State Bar Association (WSBA)

Although she had planned to attend, Ms. Hunter was unable to join this meeting.

ACTION

A. **Legal Financial Obligations (LFO) Remission Rule**

The Board moved, seconded, and passed a vote (M/S/P) to support the proposed Legal Financial Obligations (LFO) Remission Rule proposed by the LFO Stakeholder Consortium. The proposed rule creates a process for a defendant to request remission or reduction of LFOs in all cases, except for restitution and victim penalty assessment.

B. **YMCA Mock Trial Donation Request**

M/S/P to approve donating sixteen hundred dollars (\$1600) to the YMCA Youth & Government program. This donation will be retrieved from the DMCJA Judicial Community Outreach line item.

DISCUSSION

A. **Legal Financial Obligations (LFO) Remission Rule – Judge David Steiner**

Judge Steiner, LFO Remission Rule Spokesperson for the LFO Stakeholder Consortium, presented on a proposed rule that creates a process for a defendant to request remission or reduction of LFOs. The exception, however, is for restitution and victim penalty assessment. Judge Steiner reported that the proposed rule will provide a uniform process for courts to handle requests for reduction or remission of court costs, fees, fines, penalties, assessments, and restitution imposed by Washington courts. He informed that King County does not currently have a uniform process to handle these requests. For instance, people write a letter to the judge requesting LFO reduction or remission, however, nothing is uniform, according to Judge Steiner. He further reported that the General Rule (GR) 9 Cover Sheet includes all of the statutory and case laws related to the proposed rule. Judge Steiner stressed that this proposed rule does not include restitution but instead LFOs that deal with fees and fines, as stated in section a) of the proposed rule. He addressed each section of the proposed rule and noted that a mandated pattern form petition created by the Administrative Office

of the Courts will help to streamline the LFO remission process. This form should be short and simple to allow any judge to look at it and know what to expect. There was mention of prosecutors' involvement in the process, which may be found in section f) of the rule. Also, a judge will have discretion whether to hold a telephonic hearing under section g).

Judge Steiner reported that the Superior Court Judges' Association's Board of Trustees has approved the proposed LFO Remission rule. He noted that the SCJA made edits to a previously proposed rule, which are present in the version presented to the DMCJA today. Judge Steiner requests support of the rule from the DMCJA. Upon DMCJA approval, he will seek approval of the rule from the prosecutors and defense organizations. Judge Coburn, a member of the LFO Stakeholder Consortium, thanked Judge Steiner for all of his work on the proposed rule, especially since he is a Superior Court judge and the rule will mostly impact courts of limited jurisdiction. M/S/P to make this discussion topic an action item.

B. YMCA Mock Trial Donation Request

The Board reviewed a request from the YMCA to donate at least sixteen hundred dollars (\$1600) for the Youth and Government Program. The Board had a robust discussion and decided to make this issue an action item. M/S/P to move to an action item.

C. Status Update: State of Washington v. Stevens County District Court Judge

Judge Meyer reported that the Washington State Supreme Court decided the Superior Court may conduct preliminary appearance hearings for misdemeanors and gross misdemeanors originally filed in district court in the case, *State of Washington v. Stevens County District Court Judge*, 7 Wn. App. 2d 927, 436 P.3d 430 (2019). Judge Meyer reported that the decision was largely based on court rules, thus, Judge Meyer met with the DMCJA Rules Committee to discuss a possible change in the rule. He informed that thirty-eight of thirty-nine counties handle preliminary hearings the same way. Hence, an adjustment of the rule may benefit Stevens County. Judge Meyer informed that the DMCJA Rules Committee will draft a proposed rule regarding the issue for the Board's review on March 13, 2020. Judge Meyer gave a big thank you to J Benway, AOC Staff for the DMCJA Rules Committee for her work with the proposed rule.

INFORMATION

The following information was provided to the Board:

- A. 2020 DMCJA Annual Report
- B. TVW is featuring Washington Courts. For interviews regarding district and municipal courts and therapeutic courts, please visit the following web links:
 - <https://www.tvw.org/watch/?eventID=2019111019>
 - <https://www.tvw.org/watch/?eventID=2019111111>
 - <https://youtu.be/ahBL0p3Te3c>
- C. Judicial Institute presents: *Bridging the Gavel Gap, Exploring the Journey to the Bench*, on March 18, 2020, 4:30 p.m., at the Gonzaga School of Law. Judge Aimee Maurer, Spokane District Court, will serve on the panel. The Judicial Institute also presents, *Pathways to the Bench*, on March 17, 2020 at 1:00 p.m. in Yakima, WA.
- D. The DMCJA Legislative Reception is February 28, 2020, from 10:30 a.m. to 1:15 p.m., in the Chief Justice Reception Room, at the Temple of Justice.
- E. DMCJA *Chief Justice Fairhurst National Leadership Grant* is available for eligible DMCJA members. See Guidelines.

Further, Judge Meyer informed that the Board Retreat is scheduled for May 8-9, 2020 in Walla Walla.

OTHER BUSINESS

Admission and Practice Rule 26 – Mandatory

The Board was requested to support mandatory insurance for all practicing attorneys by Kevin Whatley, Equal Justice Washington representative, who attended the Board meeting. Ms. Harvey agreed to work with Kevin Whatley to get the issue on the Board's agenda. Ms. Harvey provided her business card to him and requested that he contact her to prepare for the issue to be presented to the Board.

Next Board Meeting

The next DMCJA Board Meeting is March 13, 2020, from 12:30 p.m. to 3:30 p.m., at the AOC SeaTac Office Center.

ADJOURN

The meeting was adjourned at approximately 3:00 p.m.