



**DISTRICT AND MUNICIPAL
COURT JUDGES' ASSOCIATION**

BOARD MEETING

JANUARY 8, 2021

**ZOOM VIDEO
CONFERENCE**

DISTRICT AND MUNICIPAL COURT JUDGES' ASSOCIATION SCHEDULE OF BOARD MEETINGS

2020-2021

DATE	TIME	MEETING LOCATION
Friday, July 10, 2020	12:30 – 3:30 p.m.	ZOOM Video Conference
Friday, Aug. 14, 2020	12:30 – 3:30 p.m.	ZOOM Video Conference
Sunday, Sept. 13, 2020 Friday, Sept. 11, 2020	9:00 a.m. – 12:00 p.m. 12:30 – 3:30 p.m.	2020 Annual Judicial Conference, Spokane, WA ZOOM Video Conference
Friday, Oct. 9, 2020	12:30 – 3:30 p.m.	AOC SeaTac Office Center ZOOM Video Conference
Friday, Nov. 13, 2020	12:30 – 3:30 p.m.	AOC SeaTac Office Center ZOOM Video Conference
Friday, Dec. 4, 2020	12:30 – 3:30 p.m.	ZOOM Video Conference
Friday, Jan. 8, 2021	12:30 – 3:30 p.m.	AOC SeaTac Office Center ZOOM Video Conference
Friday, Feb. 12, 2021	12:30 – 3:30 p.m.	AOC SeaTac Office Center ZOOM Video Conference
Friday, March 12, 2021	12:30 – 3:30 p.m.	AOC SeaTac Office Center ZOOM Video Conference
Friday, April 9, 2021	12:30 – 3:30 p.m.	AOC SeaTac Office Center ZOOM Video Conference
Friday, May 7, 2021 & Saturday, May 8, 2021	May 7: 12:00-5:00 p.m. May 8: 9:00-1:00 p.m.	2021 DMCJA Board Retreat, Location: TBD
May/June 2021 – TBD	9:00 a.m. – 12:00 p.m.	2021 DMCJA Spring Conference, Location: TBD

AOC Staff: Dory Nicpon

Updated: October 9, 2020



DMCJA BOARD MEETING
FRIDAY, JANUARY 8, 2021
12:30 PM – 3:30 PM
ZOOM VIDEO CONFERENCE

PRESIDENT MICHELLE GEHLSSEN

AGENDA

PAGE

Call to Order

General Business

- A. Minutes for December 4, 2020
- B. Special Guest, Margaret Fisher

Breakout Sessions

- C. Discussion Question (break out rooms; pick a spokesperson to report back to the group):
 - *What are you doing differently due to the pandemic (innovation, helpful tip, etc.) that is helping your court?*

General Business, Continued

- D. Judicial Information System (“JIS”) Report – Vicky Cullinane
- E. Treasurer’s Report
- F. Special Fund Report
- G. Standing Committee Reports
 1. Rules Committee – October 28, 2020 Minutes
 2. Diversity Committee
 3. Legislative Committee

1-2

Liaison Reports

- A. Administrative Office of the Courts (**AOC**) – Dawn Marie Rubio, State Court Administrator
- B. Board for Judicial Administration (**BJA**) – Judge Mary Logan, Judge Dan Johnson, Judge Tam Bui, and Judge Rebecca Robertson
- C. District and Municipal Court Management Association (**DMCMA**) – Patricia Kohler, President
- D. Misdemeanant Probation Association (**MPA**) – Stacie Scarpaci, Representative
- E. Superior Court Judges’ Association (**SCJA**) – Judge David Estudillo, President-Elect
- F. Washington State Association for Justice (**WSAJ**) – Sean Bennet Malcolm, Esq.
- G. Washington State Bar Association (**WSBA**) – Kim E. Hunter, Esq.

<p>Discussion</p> <p>A. CLJ-CMS Project and Rules for E-filing – Judge Kimberly Walden</p> <p>B. DMCJA Rules Committee Update on Court Rule Amendments Effective in February – Judge Jeffrey Goodwin and Ms. J Benway</p> <p>C. Proposal from the DMCJA Rules Committee regarding amending CRLJ 43 – Judge Jeffrey Goodwin and Ms. J Benway</p> <p>D. Bench Warrant Suspension and Letter from DMCJA – Judge Doug Fair</p> <p>E. Ad Hoc Committee Examining Ethics Advisory Opinion 20-07 (Update) – Judge Sam Meyer</p>	<p>3-46</p> <p>47-49</p>
<p>Information</p> <p>A. 2020 DMCJA Annual Report</p> <p>B. BJA Innovating Justice Award: To nominate someone for this award, please use the attached Award Nomination Form. Nominations will be received on an ongoing basis and should be received by the following dates to be considered for the next selection process:</p> <ul style="list-style-type: none"> • January 4, 2021 • March 29, 2021 • June 1, 2021 <p>C. New DMCJA Appointments to External Committees:</p> <ol style="list-style-type: none"> 1. <u>Civic Learning Council</u>: Judge David Larson, Federal Way Municipal Court 2. <u>Minority & Justice Commission</u>: Judge Karl Williams, Pierce County District Court 3. <u>Pattern Forms Committee</u>: Judge W.H. “Bill” Hawkins, Island County District Court 4. <u>WSBA Court Rules and Procedures Committee</u>: Judge Jeffrey Goodwin, Snohomish County District Court 	<p>50-53</p>
<p>Other Business</p> <p>A. The next DMCJA Board Meeting is scheduled for Friday, February 12, 2021, from 12:30 p.m. to 3:30 p.m., via Zoom video conference.</p>	
<p>Adjourn</p>	



DMCJA Rules Committee Annual Meeting

Wednesday, October 28, 2020 (Noon – 1:00 p.m.)

Via Zoom

MEETING MINUTES

Members:

Chair, Judge Goodwin
~~Judge Antush~~
Judge Buttorff
~~Judge Campagna~~
Judge Eisenberg
Judge Finkle
~~Commissioner Hanlon~~
Judge Oaks
~~Judge Padula~~
~~Judge Paja~~
~~Judge Samuelson~~
Ms. Patti Kohler, DMCMA Liaison
Ms. Melanie Conn, DMCMA Liaison

AOC Staff:

Ms. J Benway

Judge Goodwin called the meeting to order at 12:04 p.m.

The Committee discussed the following items:

1. Welcome & Introductions

Judge Goodwin welcomed the Committee members in attendance.

2. Approve Minutes from the August 26, 2020 Meeting

It was motioned, seconded, and passed to approve the minutes from the August 26, 2020 Rules Committee meeting. The approved minutes will be provided to the DMCJA Board.

3. Update Regarding Proposal to Amend GR 31

Judge Eisenberg reported that concerns that had been raised by the Washington State Association of County Clerks (WSACC) regarding the DMCJA proposal to amend GR 31 to protect certain materials in therapeutic courts. As a result, the DMCJA has voted to request that the proposal be withdrawn, and Judge Eisenberg is working with a WSACC representative on a proposal to amend GR 22 that is intended to accomplish the same result. When an amended proposal has been developed, Judge Eisenberg will present it to the Committee for review.

4. Discuss Potential Amendments to CrRLJ 3.4

Judge Oaks stated that he had reviewed CrRLJ 3.4 and thinks that it provides enough discretion for judges to allow video conferences if necessary. However, he is concerned about the

provision that requires interpreters to be “located next to the defendant,” and recommends that that provision be forwarded to the Interpreter Commission for further review. The Committee agreed with this approach. Judge Goodwin stated that he would convey the Committee’s recommendation to Judge Gehlsen, DMCJA Board President.

5. Discuss Potential Amendments to CRLJ 43

Judge Gehlsen requested that the DMCJA Rules Committee consider whether CRLJ 43 should be identical to CR 43. Judge Paja agreed to look at this issue but was unable to attend subsequent meetings. Judge Goodwin stated that he would reach out to Judge Paja with regard to this issue. This item will be continued to the next Committee meeting.

6. Discuss Potential Amendments to CRLJ 5

Judge Finkle sent a message to the DMCJA listserv regarding how and whether various courts are using CRLJ 5. He has requested Ms. Benway compile the results, which will be presented to the Committee at the next meeting.

7. Discuss Potential Model Electronic Filing (GR 30) Rule

Ms. Benway stated that this issue had arisen because many courts were adopting an electronic (e-)filing component as part of the CLJ-CMS roll-out. GR 30 requires courts to adopt a local rule when implementing an e-filing system, so it had been suggested that a model local rule be available to courts to adopt. Judge Oaks stated that his jurisdiction (Pierce County District Court) was participating in the CLJ-CMS pilot program; they do not intend to adopt a local rule at this time and are waiting to see what is suggested as part of the statewide process. He stated that he is happy to serve as a resource for Vicky Cullinane of AOC, who works with the CLJ-CMS steering committee. He stated that a model rule would need to accommodate the different technologies used by various courts statewide. Judge Goodwin stated that the Rules Committee could monitor the process but would not lead the effort, lacking a directive from the DMCJA Board to that effect.

8. CRLJ Review

Judge Goodwin stated that the Committee had agreed to review the CRLJ and suggest potential changes to the DMCJA Board as part of a proactive effort to review the CLJ rules. However, the workload of the Committee has been such that the Committee has been kept busy commenting on rules proposals and other items referred to the Committee by the Board. Judge Goodwin suggested that the general CRLJ review be deferred but that the Committee continue to poll the DMCJA membership on an annual basis for suggestions regarding potential CLJ rule amendments. The Committee agreed.

9. Other Business and Next Meeting Date

The next Committee meeting is scheduled for Wednesday, November 25, 2020 at noon, via zoom video conference. The September 2020 Committee meeting was consolidated into the October Committee meeting. There being no further business, the meeting was adjourned at 12:55 p.m.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED
AMENDMENT TO GR 11.3—TELEPHONIC
REMOTE RECORDING

ORDER

NO. 25700-A-1325

The Washington State Supreme Court Interpreter Commission, having recommended the expeditious adoption of the suggested amendment to GR 11.3—Telephonic Remote Recording, and the Court having considered the suggested amendment, and having determined that the suggested amendment will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the suggested amendment as attached hereto is adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested amendment will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of December, 2020.

ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENT TO GR 11.3—TELEPHONIC
REMOTE RECORDING

Johnson, J.

Madsen, J.

Owens, J.

Leonard, J.

Stephens, C.J.

Gearty, McLeod, J.

Lu, J.

Montgomery, J.

Whitener, J.

GR 11.3
TELEPHONIC REMOTE INTERPRETING

- ~~(a)~~ Interpreters may be appointed to serve by telephone for brief, nonevidentiary proceedings, including initial appearances and arraignments, when interpreters are not readily available to the court. Telephone interpretation is not authorized for evidentiary hearings.
- (a) Whenever an interpreter is appointed in a legal proceeding, the interpreter shall appear in person unless the Court makes a good cause finding that an in-person interpreter is not practicable, and where it will allow the users to fully and meaningfully participate in the proceedings. The court shall make a preliminary determination on the record, on the basis of testimony of the person utilizing the interpreter services, of such ability to participate and if not, the court must provide alternative access.
- (b) RCW 2.42, RCW 2.43 and GR 11.2 must be followed regarding the interpreter's qualifications and other matters. code of professional responsibility for judiciary interpreters.
- (c) In all remote interpreting court events, both the litigant and the interpreter must have clear audio of all participants throughout the hearing. In video remote court events, the litigant and interpreter must also have a clear video image of the participants throughout the hearing.
- (d) ~~(c)~~ Electronic equipment used during the hearing must ensure that the non-English speaking party hears all statements made by the participants. If electronic equipment is not available for simultaneous interpreting, the hearing shall be conducted to allow consecutive interpretation of each sentence. If the telephonic or video technology does not allow simultaneous interpreting, the hearing shall be conducted to allow consecutive interpretation of all statements.
- (e) ~~(d)~~ Attorney-client consultations must be interpreted confidentially. The court must provide a means for confidential attorney-client communications during hearings, and allow for these communications to be interpreted confidentially.
- (f) To ensure accuracy of the record, the court and the parties should, where practicable, provide the following to the interpreter, electronically or by other means, in advance of the hearing, allowing the interpreter sufficient time to review the information and prepare for the hearing:
- i. Case information and documents pertaining to the hearing.
 - ii. Names and spellings of all participants in the hearing to include but not limited to: litigants, judge, attorneys, and witnesses.
 - iii. Evidence related to the hearing, to include but not limited to: documents, photographs and images, audio and video recordings and any transcription or translations of such materials.
- ~~(e)(g)~~ Written documents, the content of which would normally be orally translated interpreted, by the interpreter must be read aloud by a person other than the interpreter to allow for full oral translation interpretation of the material by the interpreter.
- ~~(g)(h)~~ An audio recording shall be made of all statements made on the record during their interpretation, and the same shall be preserved. Upon the request of a party, the court may make and

maintain an audio recording of the spoken language interpretations or a video recording of the signed language interpretations made during a hearing. Any recordings permitted by this subparagraph shall be made and maintained in the same manner as other audio or video recordings of court proceedings. This subparagraph shall not apply to court interpretations during jury discussions and deliberations.

(i) When using remote interpreter services in combination with remote legal proceedings, courts should ensure the following: the LEP person or person with hearing loss is able to access the necessary technology to join the proceeding remotely; the remote technology allows for confidential attorney-client communications, or the court provides alternative means for these communications; the remote technology allows for simultaneous interpreting, or the court shall conduct the hearing with consecutive interpretation and take measures to ensure interpretation of all statements; translated instructions on appearing remotely are provided, or alternative access to this information is provided through interpretation services; audio and video feeds are clear; and judges, court staff, attorneys, and interpreters are trained on the use of the remote platform.

Comments:

- 1) Section (a) is a significant departure from prior court rule which limited the use of telephonic interpreter services to non-evidentiary hearings. While remote interpretation is permissible, in-person interpreting services are the primary and preferred way of providing interpreter services for legal proceedings. Because video remote interpreting provides the litigants and interpreters the ability to see and hear all parties, it is more effective than telephonic interpreter services. Allowing remote interpretation for evidentiary hearings will provide flexibility to courts to create greater accessibility. However, in using this mode of delivering interpreter services, where the interpreter is remotely situated, courts must ensure that the remote interpretation is as effective and meaningful as it would be in-person and that the LEP litigant is provided full access to the proceedings. Interpreting in courts involves more than the communications that occur during a legal proceeding and courts utilizing remote interpretation should develop measures to address how LEP and persons with hearing loss will have access to communications occurring outside the courtroom where the in-person interpreter would have facilitated this communication. Courts should make a preliminary determination on the record regarding the effectiveness of remote interpretation and the ability of the LEP litigant to meaningfully participate at each occurrence because circumstances may change over time necessitating an ongoing determination that the remote interpretation is effective and enables the parties to meaningfully participate.

Interpreting in courts involves more than the communications that occur during a legal proceeding and courts utilizing remote interpretation should develop measures to address how LEP and persons with hearing loss will have access to communications occurring outside the courtroom where the in-person interpreter would have facilitated this communication.

- 2) Section (b) reinforces the requirement that interpreters appointed to appear remotely must meet the qualification standards established in RCW 2.42 and 2.43 and they must be familiar with and comply with the code of professional responsibility for judiciary interpreters. Courts

are discouraged from using telephonic interpreter service providers who cannot meet the qualification standards outlined in RCW 2.42 and 2.43.

- 3) Section (c) discusses the importance of courts using appropriate equipment and technology when providing interpretation services through remote means. Courts should ensure that the technology provides clear audio and video, where applicable, to all participants. Because of the different technology and arrangement within a given court, audio transmissions can be interrupted by background noise or by distance from the sound equipment. This can limit the ability of the interpreter to accurately interpret. Where the litigant is also appearing remotely, as is contemplated in (h), courts should also ensure that the technology allows litigants full access to all visual and auditory information.

When utilizing remote video interpreting for persons with hearing loss, the following performance standards must be met: real-time, full-motion video and audio over a dedicated high-speed, wide-bandwidth video connection or wireless connection that delivers high-quality video images that do not produce lags, choppy, blurry, or grainy images, or irregular pauses in communication; a sharply delineated image that is large enough to display the interpreter and person using sign language's face, arms, hands, and fingers; and clear, audible transmission of voices.

- 4) Section (e) reiterates the importance of the ability of individuals to consult with their attorneys, throughout a legal proceeding. When the interpreter is appearing remotely, courts should develop practices to allow these communications to occur. At times, the court interpreter will interpret communications between a litigant and an attorney just before a hearing is starting, during court recesses, and at the conclusion of a hearing. These practices should be supported even when the court is using remote interpreting services.
- 5) Section (h) contemplates a situation where the legal proceeding is occurring remotely, including the interpretation. In this situation, all or most parties and participants at the hearing are appearing remotely and additional precautions regarding accessibility are warranted. This section highlights some of the additional considerations courts should make when coupling remote interpretation with a remote legal proceeding.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED NEW
RULE GR 11.4—TEAM INTERPRETING

ORDER

NO. 25700-A-1326

The Washington State Supreme Court Interpreter Commission, having recommended the expeditious adoption of the suggested new rule GR 11.4—Team Interpreting, and the Court having considered the suggested new rule, and having determined that the suggested new rule will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the suggested new rule as attached hereto is adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested new rule will be expeditiously published in the Washington Reports and will become effective upon publication.

DATED at Olympia, Washington this 2nd day of December, 2020.

Johnson, J.

Madsen, J.

Owens, J.

Conzalez, J.

Stephens, C.J.

Healy McLeod, J.

Lu, J.

Mintzberg, J.

Whitener, J.

GR 11.4 TEAM INTERPRETING

(a) **Definitions.**

- (1) Team interpreting for spoken languages – the practice of using two interpreters of the same language pair (e.g. English - Spanish) who take turns interpreting.
- (2) Team interpreting for sign languages – the practice of using multiple interpreters, which might include Deaf Interpreters.
- (3) Simultaneous mode of interpreting – the rendering of a speaker’s or signer’s message into another language while the speaker or signer continues to speak or sign. Parties speak or sign at the same time.
- (4) Consecutive mode of interpreting – the rendering of a speaker’s or signer’s message into another language when the speaker or signer pauses to allow interpreting. Parties take turns speaking or signing.
- (5) Relay interpreting is the practice of interpreting from one language to another through a third language. It is necessary when no single interpreter commands the required language pair.

(b) **Spoken Languages.**

- (1) To provide for accurate and complete interpreting, a team of two (2) interpreters must be appointed when it is anticipated that an assignment will require more than one (1) hour of simultaneous interpreting or two (2) hours of consecutive interpreting.
- (2) If relay interpreting is required, a team of two (2) interpreters for each language pair must be appointed pursuant to (1) above.

(c) **Sign Languages.**

- (1) To provide for accurate and complete interpreting, a team of interpreters must be appointed for each participant who needs sign language interpreting when the event will last more than one (1) hour, as well as in challenging linguistic situations.
- (2) If the team requires intermediary Deaf Interpreters, a team of two (2) Deaf Interpreters and a team of two (2) American Sign Language (ASL) interpreters must be appointed.

(d) Good Cause Exception.

When a team of interpreters is required under this rule, it is permissible to proceed with a single interpreter only when:

- (1) a team of interpreters is not reasonably available, and it is found and noted on the record that given the totality of the circumstances, there is good cause to proceed with only one interpreter; and
- (2) the single interpreter is given breaks at regular intervals. An interpreter working alone must be given a ten-minute (10) break after every twenty (20) minutes of interpretation.

Comments:

[1] Simultaneous mode of interpreting is used when the recipients of interpretation are listening or watching, and the flow of information is in one direction only, such as during trials, motion hearings and classes.

[2] Research has established that simultaneous interpreting involves intensive cognitive activity. Interpreter fatigue—both physical and mental—results from the high degree of concentration an interpreter must employ to hear, analyze, and understand ideas in one language and then render those same ideas coherently in another. This research has demonstrated that accuracy begins to decline within 15 to 30 minutes of simultaneous interpreting, before interpreters are even aware of the fatigue that leads to this increase in errors. After 30 minutes, the decline is precipitous. Therefore, it is imperative that interpreters alternate every 15 to 30 minutes, as agreed upon by members of the interpreting team.

[3] Consecutive mode of interpreting is used when the recipients of interpretation are responding to questions and the exchange of information is two-directional, such as during testimony, interviews, and depositions.

[4] In consecutive mode, the interpreter must focus intensely to memorize substantial chunks of information and then render them precisely.

Consecutive mode requires the same amount of cognitive work as simultaneous, but the fatigue builds up over a longer period of time.

[5] Communication through sign language can be particularly broad and challenging. Not all Deaf, Deafblind, or hard of hearing participants use the same sign language dialect, and some have specialized linguistic needs. A Deaf Interpreter (DI) may be needed in addition to an ASL interpreter. A DI is a professional interpreter who is Deaf, an expert in ASL linguistics, and a native user of ASL. These skills uniquely qualify them to meet the linguistic and cultural needs of a Deaf person. The requester should look to the expertise of the sign language interpreter and the knowledge and experience of the parties to identify such needs and assign a team of sign language interpreters where appropriate.

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSED
AMENDMENTS TO CrRLJ 3.4—PRESENCE OF
THE DEFENDANT AND CrR 3.4—PRESENCE OF
THE DEFENDANT

ORDER

NO. 25700-A-1319

The Washington Defender Association, having recommended the adoption of the proposed amendments to CrRLJ 3.4—Presence of the Defendant and CrR 3.4—Presence of the Defendant, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the proposed amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

ORDER

IN THE MATTER OF THE PROPOSED AMENDMENTS TO CrRLJ 3.4—PRESENCE OF THE DEFENDANT AND CrR 3.4—PRESENCE OF THE DEFENDANT

Johnson, J.

Madsen, J.

Owens, J.

Conzalez, J.

Stephens, C.J.

Gearty, M. L., J.

Lu, J.

Montgomery, J.

Whitener, J.

CrRLJ 3.4
PRESENCE OF THE DEFENDANT

(a) Presence Defined. Unless a court order or this rule specifically requires the physical presence of the defendant, the defendant may appear remotely or through counsel. Appearance through counsel requires that counsel either (i) present a waiver the defendant has signed indicating the defendant wishes to appear through counsel, or (ii) affirm, in writing or in open court, that this is the defendant's preference.

(a) (b) When Necessary. The defendant shall be present physically or remotely (in the court's discretion) at the arraignment (if one is held), at every stage of the trial including the empaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

(b) (c) Effect of Voluntary Absence. The defendant's voluntary absence after the trial has commenced in his or her presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by its lawyer for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

(e) (d) Defendant Not Present. In order to require the defendant's physical or remote presence at any hearing other than those listed in subpart (b), the court must find good cause. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

(d) (e) *[unchanged]*

(e) (f) *[unchanged]*

CrR 3.4
PRESENCE OF THE DEFENDANT

(a) Presence Defined. Unless a court order or this rule specifically requires the physical presence of the defendant, the defendant may appear remotely or through counsel. Appearance through counsel requires that counsel either (i) present a waiver the defendant has signed indicating the defendant wishes to appear through counsel, or (ii) affirm, in writing or in open court, that this is the defendant's preference.

(a) (b) When Necessary. The defendant shall be present physically or remotely (in the court's discretion) at the arraignment (if one is held), at every stage of the trial including the empanelling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules, or as excused or excluded by the court for good cause shown.

(b) (c) Effect of Voluntary Absence. The defendant's voluntary absence after the trial has commenced in his or her presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by its lawyer for all purposes. In prosecutions for offenses punishable by fine only, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence.

(e) (d) Defendant Not Present. In order to require the defendant's physical or remote presence at any hearing other than those listed in subpart (b), the court must find good cause. If in any case the defendant is not present when his or her personal attendance is necessary, the court may order the clerk to issue a bench warrant for the defendant's arrest, which may be served as a warrant of arrest in other cases.

(d) (e) [*unchanged*]

(e) (f) [*unchanged*]

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSEDED
AMENDMENTS TO CrR 3.1 Stds, CrRLJ 3.1 Stds,
JuCR 9.2 Stds, AND NEW MPR 2.1 Stds

ORDER

NO. 25700-A-1309

The Washington State Bar Association Board of Governors, having recommended the adoption of the proposed amendments to CrR 3.1 Stds, CrRLJ 3.1 Stds, JuCR 9.2 Stds, and new MPR 2.1 Stds, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

(a) That the proposed amendments as attached hereto are adopted.

(b) That pursuant to the emergency provisions of GR 9(j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

ORDER

IN THE MATTER OF THE PROPOSED AMENDMENTS TO CrR 3.1 Stds, CrRLJ 3.1 Stds,
JuCR 9.2 Stds, AND NEW MPR 2.1 Stds

Johnson, J.

Madsen, J.

Owens, J.

Leonard, J.

Stephens, C.J.

Healy, Michael, J.

Lu, J.

Montgomery, J.

Whitener, J.

STANDARDS FOR INDIGENT DEFENSE (SID)

[Note: The following will apply to CrR 3.1 STDS, JuCR 9.2 STDS, CrRLJ 3.1 STDS, and MPR 2.1]

Preamble

The Washington Supreme Court adopts the following Standards to address certain basic elements of public defense practice related to the effective assistance of counsel. The Certification of Appointed Counsel of Compliance with Standards Required by CrR 3.1/CrRLJ 3.1/JuCR 9.2/MPR 2.1 references specific “Applicable Standards.” The court adopts additional Standards beyond those required for certification as guidance for public defense attorneys in addressing issues identified in State v. A.N.J., 168 Wn.2d 91 (2010), including the suitability of contracts that public defense attorneys may negotiate and sign. To the extent that certain Standards may refer to or be interpreted as referring to local governments, the Court recognizes the authority of its Rules is limited to attorneys and the courts. Local courts and clerks are encouraged to develop protocols for procedures for receiving and retaining Certifications.

STANDARDS FOR INDIGENT DEFENSE (SID)

STANDARD 14 Qualifications of Attorneys

1 Standard 14.1. In order to assure that indigent accused receive the effective assistance of counsel
2 to which they are constitutionally entitled, attorneys providing defense services shall meet the
3 following minimum professional qualifications:

4 *Unchanged.*

5 A. – C. [Unchanged.]

6
7 D. Be familiar with the Performance Guidelines for Criminal Defense Representation
8 approved by the Washington State Bar Association; ~~and~~, when representing youth, be familiar
9 with the Performance Guidelines for Juvenile Defense Representation approved by the
10 Washington State Bar Association; and when representing respondents in civil commitment
11 proceedings, be familiar with the Performance Guidelines for Attorneys Representing
12 Respondents in Civil Commitment Proceedings approved by the Washington State Bar
13 Association; and

14 E. – G. [Unchanged.]

15 Standard 14.2 – 14.4 [Unchanged.]

STANDARDS FOR INDIGENT DEFENSE (SID)

[Note: The following will apply to CrR 3.1 STDS, JuCR 9.2 STDS, CrRLJ 3.1 STDS, and MPR 2.1]

CERTIFICATION OF COMPLIANCE

1
2 For criminal and juvenile offender cases, and civil commitment proceedings under
3 Chapter 71.05 RCW, a signed Certification of Compliance with Applicable Standards must be
4 filed by an appointed attorney by separate written certification on a quarterly basis in each
5 court in which the attorney has been appointed as counsel.

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The certification must be in substantially the following form:

STANDARDS FOR INDIGENT DEFENSE (SID)

[Note: The following will apply to CrR 3.1 STDS, JuCR 9.2 STDS, CrRLJ 3.1 STDS, and MPR 2.1]

SEPARATE CERTIFICATION FORM

1 2 3 4 5 6 7 8	<p>_____ Court of Washington</p> <p>for _____</p> <p>State of Washington _____,</p> <p>Plaintiff</p> <p>vs.</p> <p>_____</p> <p>Defendant</p>	<p>[] No.: _____</p> <p>CERTIFICATION OF APPOINTED COUNSEL OF COMPLIANCE WITH STANDARDS REQUIRED BY CrR 3.1 / CrRLJ 3.1 / JuCR 9.2/<u>MPR</u> <u>2.1</u></p>
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The undersigned attorney hereby certifies:

1. Approximately _____% of my total practice time is devoted to indigent defense cases.
2. I am familiar with the applicable Standards adopted by the Supreme Court for attorneys appointed to represent indigent persons and that:

a. Basic Qualifications: I meet the minimum basic professional qualifications in Standard 14.1.

b. Office: I have access to an office that accommodates confidential meetings with clients, and I have a postal address and adequate telephone services to ensure prompt response to client contact, in compliance with Standard 5.2.

c. Investigators: I have investigators available to me and will use investigative services as appropriate, in compliance with Standard 6.1.

d. Caseload: I will comply with Standard 3.2 during representation of the defendant in my cases. [Effective October 1, 2013 for felony and juvenile offender caseloads; effective January 1, 2015 for misdemeanor caseloads; effective _____ for civil commitment caseloads.; I should not accept a greater number of cases (or a proportional mix of different case types) than specified in Standard 3.4, prorated if the amount of time spent for indigent defense is less than full time, and taking into account the case counting and weighting system applicable in my jurisdiction.]

e. Specific Qualifications: I am familiar with the specific case qualifications in Standard 14.2, Sections B-K (criminal) and Section M (civil commitment) and will not accept appointment in a case as lead counsel unless I meet the qualifications for that case. [Effective October 1, 2013; effective _____ for civil commitment cases.]

Signature, WSBA No.

Date

SUPERIOR COURT
MENTAL PROCEEDINGS RULES (MPR)

TABLE OF RULES

1. General

[Unchanged.]

2. Proceedings for Initial Detention

2.1 Summons

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2.2 – 2.5 [Unchanged.]

3. Proceedings For Ninety Or One Hundred
Eighty-Day Commitment

[Unchanged.]

4. Proceedings For Conditional Release And
Revocation Or Modification

[Unchanged.]

5. Venue

[Unchanged.]

6. Petitions

[Unchanged.]

3. – 6. [Unchanged.]

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1
2 SID

3 **Standard 1. Compensation [Reserved]**

4 **Standard 2. Duties and Responsibilities of Counsel [Reserved]**

5 **Standard 3. Caseload Limits and Types of Cases**

6 3.1

7 3.2

8 3.3 General Considerations.

9 3.4 Caseload Limits.

10 3.5 Case Counting and Weighting

11 3.6 Case Weighting Examples

12 **Standard 4. Responsibility of Expert Witness [Reserved]**

13 **Standard 5. Administrative Costs**

14 5.1 [Reserved]

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16 **Standard 6. Investigators**

17 6.1

18 **Standards 7 to 12. [Reserved]**

19 **Standards 13. Limitations on Private Practice**

20 13 Limitations to Private Practice

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23 14.2 Attorneys' Qualifications According to Severity or Type of Case

24 14.3 Appellate Representation

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1 14.4 Legal Interns

2 **Standards 15 to 18. [Reserved]**

3 Certificate of Compliance

4 _____
5 **PREAMBLE**

6 The Washington Supreme Court adopts the following Standards to address certain basic
7 elements of public defense practice related to the effective assistance of counsel. The
8 Certification of Appointed Counsel of Compliance with Standards required by CrR 3.1/CrRLJ
9 3.1/JuCR 9.2/MPR 2.1 references specific “Applicable Standards.” The Court adopts
10 additional Standards beyond those required for certification as guidance for public defense
11 attorneys in addressing issues identified in *State v. A.N.J.*, 168 Wn.2d 91 (2010), including the
12 suitability of contracts that public defense attorneys may negotiate and sign. To the extent that
13 certain Standards may refer to or be interpreted as referring to local governments, the Court
14 recognizes the authority of its Rules is limited to attorneys and the courts. Local courts and
15 clerks are encouraged to develop protocols for procedures for receiving and retaining
16 Certifications.

17 [Adopted effective October 1, 2012. Amended Effective _____.]

18 **STANDARD 1. COMPENSATION**

19 **[RESERVED.]**

20 **STANDARD 2. DUTIES AND RESPONSIBILITIES OF COUNSEL**

21 **[RESERVED.]**

22 **STANDARD 3. CASELOAD LIMITS AND TYPES OF CASES**

23 **STANDARD 3.1.** The contract or other employment agreement shall specify the types
24 of cases for which representation shall be provided and the maximum number of cases which
25 each attorney shall be expected to handle.

26 [Adopted effective October 1, 2012.]

STANDARD 3.2. The caseload of public defense attorneys shall allow each lawyer to
give each client the time and effort necessary to ensure effective representation. Neither
defender organizations, county offices, contract attorneys, nor assigned counsel should accept
workloads that, by reason of their excessive size, interfere with the rendering of quality
representation. As used in this Standard, “quality representation” is intended to describe the

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1 minimum level of attention, care, and skill that Washington citizens would expect of their
2 state’s criminal justice system.

3 [Adopted effective October 1, 2012.]

4 **STANDARD 3.3. GENERAL CONSIDERATIONS.** Caseload limits reflect the
5 maximum caseloads for fully supported full-time defense attorneys for cases of average
6 complexity and effort in each case type specified. Caseload limits assume a reasonably even
7 distribution of cases throughout the year.

8 The increased complexity of practice in many areas will require lower caseload limits.
9 The maximum caseload limit should be adjusted downward when the mix of case assignments
10 is weighted toward offenses or case types that demand more investigation, legal research and
11 writing, use of experts, use of social workers, or other expenditures of time and resources.
12 Attorney caseloads should be assessed by the workload required, and cases and types of cases
13 should be weighted accordingly.

14 If a defender or assigned counsel is carrying a mixed caseload including cases from
15 more than one category of cases, these standards should be applied proportionately to
16 determine a full caseload. In jurisdictions where assigned counsel or contract attorneys also
17 maintain private law practices, the caseload should be based on the percentage of time the
18 lawyer devotes to public defense.

19 The experience of a particular attorney is a factor in the composition of the case types
20 in the attorney’s caseload, but it is not a factor in adjusting the applicable numerical caseload
21 limits except as follows: attorneys with less than six months of full time criminal defense
22 experience as an attorney should not be assigned more than two-thirds of the applicable
23 maximum numerical caseload limit. This provision applies whether or not the public defense
24 system uses case weighting.

25 The following types of cases fall within the intended scope of the caseload limits for
26 criminal and juvenile offender cases in standard 3.4 and must be taken into account when
27 assessing an attorney’s numerical caseload: partial case representations, sentence violations,
28 specialty or therapeutic courts, transfers, extraditions, representation of material witnesses,
29 petitions for conditional release or final discharge, and other matters that do not involve a new
30 criminal charge.

31 Definition of case. A case is defined as the filing of a document with the court naming a
32 person as defendant or respondent, to which an attorney is appointed in order to provide
33 representation. In courts of limited jurisdiction multiple citations from the same incident can
34 be counted as one case.

35 [Adopted effective October 1, 2012; amended effective January 1, 2015.]

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1 **STANDARD 3.4. CASELOAD LIMITS.** The caseload of a full-time public defense
attorney or assigned counsel should not exceed the following:

2 150 felonies per attorney per year; or

3 300 misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a
4 numerical case weighting system as described in this standard, 400 cases per year; or

5 250 juvenile offender cases per attorney per year; or

6 80 open juvenile dependency cases per attorney; or

7 250 civil commitment cases per attorney per year; or

8 1 active death penalty trial court case at a time plus a limited number of non-death-
9 penalty cases compatible with the time demand of the death penalty case and consistent with
10 the professional requirements of standard 3.2; or

11 36 appeals to an appellate court hearing a case on the record and briefs per attorney per
12 year. (The 36 standard assumes experienced appellate attorneys handling cases with transcripts
13 of an average length of 350 pages. If attorneys do not have significant appellate experience
and/or the average transcript length is greater than 350 pages, the caseload should be
14 accordingly reduced.)

15 Full-time rule 9 interns who have not graduated from law school may not have
caseloads that exceed twenty-five percent (25%) of the caseload limits established for full-time
16 attorneys.

17 In public defense systems in which attorneys are assigned to represent groups of clients
18 at first appearance or arraignment calendars without an expectation of further or continuing
19 representation for cases that are not resolved at the time (except by dismissal) in addition to
20 individual case assignments, the attorneys' maximum caseloads should be reduced
proportionally recognizing that preparing for and appearing at such calendars requires
21 additional attorney time. This provision applies both to systems that employ case weighting
22 and those that do not.

23 Resolutions of cases by pleas of guilty to criminal charges on a first appearance or
24 arraignment docket are presumed to be rare occurrences requiring careful evaluation of the
25 evidence and the law, as well as thorough communication with clients, and must be counted as
26 one case. This provision applies both to systems that employ case weighting and those that do
not.

27 In public defense systems in which attorneys are assigned to represent groups of clients
in routine review hearing calendars in which there is no potential for the imposition of

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1 sanctions, the attorneys' maximum caseloads should be reduced proportionally by the amount
2 of time they spend preparing for and appearing at such calendars. This provision applies
3 whether or not the public defense system uses case weighting.

4 [Adopted effective October 1, 2013, except paragraph 3, regarding misdemeanor caseload
5 limits, effective January 1, 2015; amended effective January 1, 2015.]

6 **STANDARD 3.5. CASE COUNTING AND WEIGHTING.** Attorneys may not
7 count cases using a case weighting system, unless pursuant to written policies and procedures
8 that have been adopted and published by the local government entity responsible for
9 employing, contracting with, or appointing them. A weighting system must:

- 10 **A.** recognize the greater or lesser workload required for cases compared to an
11 average case based on a method that adequately assesses and documents the
12 workload involved;
- 13 **B.** be consistent with these Standards, professional performance guidelines, and the
14 Rules of Professional Conduct;
- 15 **C.** not institutionalize systems or practices that fail to allow adequate attorney time
16 for quality representation;
- 17 **D.** be periodically reviewed and updated to reflect current workloads; and
- 18 **E.** be filed with the State of Washington Office of Public Defense.

19 Cases should be assessed by the workload required. Cases and types of cases should be
20 weighted accordingly. Cases which are complex, serious, or contribute more significantly to
21 attorney workload than average cases should be weighted upward. In addition, a case
22 weighting system should consider factors that might justify a case weight of less than one case.

23 [Adopted effective October 1, 2012; amended effective January 1, 2015.]

24 **STANDARD 3.6. CASE WEIGHTING EXAMPLES.** The following are some
25 examples of situations where case weighting might result in representations being weighted as
26 more or less than one case. The listing of specific examples is not intended to suggest or imply
27 that representations in such situations should or must be weighted at more or less than one
28 case, only that they may be, if established by an appropriately adopted case weighting system.

- 29 **A.** **Case Weighting Upward.** Serious offenses or complex cases that demand
30 more-than-average investigation, legal research, writing, use of experts, use of
31 social workers, and/or expenditures of time and resources should be weighted
32 upward and counted as more than one case.

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- 1 **B. Case Weighting Downward.** Listed below are some examples of situations
2 where case weighting might justify representations being weighted less than one
3 case. However, care must be taken because many such representations routinely
4 involve significant work and effort and should be weighted at a full case or
5 more.
- 6 i. Cases that result in partial representations of clients, including client
7 failures to appear and recommencement of proceedings, preliminary
8 appointments in cases in which no charges are filed, appearances of
9 retained counsel, withdrawals or transfers for any reason, or limited
10 appearances for a specific purpose (not including representations of
11 multiple cases on routine dockets).
- 12 ii. Cases in the criminal or offender case type that do not involve filing of
13 new criminal charges, including sentence violations, extraditions,
14 representations of material witnesses, and other matters or
15 representations of clients that do not involve new criminal charges.
16 Noncomplex sentence violations should be weighted as at least 1/3 of a
17 case.
- 18 iii. Cases in specialty or therapeutic courts if the attorney is not responsible
19 for defending the client against the underlying charges before or after the
20 client's participation in the specialty or therapeutic court. However,
21 case weighting must recognize that numerous hearings and extended
22 monitoring of client cases in such courts significantly contribute to
23 attorney workload and in many instances such cases may warrant
24 allocation of full case weight or more.
- 25 iv. Representation of a person in a court of limited jurisdiction on a charge
26 which, as a matter of regular practice in the court where the case is
 pending, can be and is resolved at an early stage of the proceeding by a
 diversion, reduction to an infraction, stipulation on continuance, or other
 alternative noncriminal disposition that does not involve a finding of
 guilt. Such cases should be weighted as at least 1/3 of a case.

[Adopted effective October 1, 2012; amended effective January 1, 2015.]

Related Standards

ABA Standards for Criminal Justice: Prosecution Function and Defense Function
Defense Function std. 4-1.2 (3d ed. 1993)

ABA Standards for Criminal Justice: Providing Defense Services std. 5-4.3 (3d ed.
1992)

Am. Bar Ass'n, Guidelines for the Appointment and Performance of Defense Counsel
in Death Penalty Cases (rev. ed. 2003)

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1 ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 06-441 (2006) (*Ethical*
2 *Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive*
3 *Caseloads Interfere With Competent and Diligent Representation*)

4 Am. Council of Chief Defenders, *Statement on Caseloads and Workloads* (Aug. 24,
5 2007)

6 ABA House of Delegates, *Eight Guidelines of Public Defense Related to Excessive*
7 *Caseloads* (Aug. 2009)

8 TASK FORCE ON COURTS, NAT'L ADVISORY COMM'N ON CRIMINAL STANDARDS &
9 GOALS, COURTS std. 13.12 (1973)

10 MODEL CODE OF PROF'L RESPONSIBILITY DR 6-101.

11 ABA House of Delegates, *The Ten Principles of a Public Defense Delivery System*
12 (Feb. 2002)

13 ABA House of Delegates, *Standards of Practice for Lawyers Who Represent Children*
14 *in Abuse and Neglect Cases* (Feb. 1996)

15 Nat'l Legal Aid & Defender Ass'n, Am. Council of Chief Defenders, *Ethical Opinion*
16 03-01 (2003).

17 Nat'l Legal Aid & Defender Ass'n, *Standards for Defender Services* std. IV-1 (1976)

18 Nat'l Legal Aid & Defender Ass'n, *Model Contract for Public Defense Services* (2000)

19 Nat'l Ass'n of Counsel for Children, *NACC Recommendations for Representation of*
20 *Children in Abuse and Neglect Cases* (2001)

21 Seattle Ordinance 121501 (June 14, 2004)

22 Indigent Defense Servs. Task Force, Seattle-King County Bar Ass'n, *Guidelines for*
23 *Accreditation of Defender Agencies* Guideline 1 (1982)

24 Wash. State Office of Pub. Defense, *Parents Representation Program Standards of*
25 *Representation* (2009)

26 BUREAU OF JUDICIAL ASSISTANCE, U.S. DEP'T OF JUSTICE, *INDIGENT DEFENSE SERIES*
NO. 4, *KEEPING DEFENDER WORKLOADS MANAGEABLE* (2001) (NCJ 185632)

STANDARD 4. RESPONSIBILITY OF EXPERT WITNESSES

[RESERVED.]

STANDARD 5. ADMINISTRATIVE COSTS

STANDARD 5.1. [RESERVED.]

STANDARD 5.2.

A. Contracts for public defense services should provide for or include
administrative costs associated with providing legal representation. These costs should include
but are not limited to travel; telephones; law library, including electronic legal research;
financial accounting; case management systems; computers and software; office space and
supplies; training; meeting the reporting requirements imposed by these standards; and other
costs necessarily incurred in the day-to-day management of the contract.

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1 B. Public defense attorneys shall have (1) access to an office that accommodates
2 confidential meetings with clients and (2) a postal address, and adequate telephone services to
3 ensure prompt response to client contact.

4 [Adopted effective October 1, 2012.]

STANDARD 6. INVESTIGATORS

5 STANDARD 6.1. Public defense attorneys shall use investigation services as
6 appropriate.

7 [Adopted effective October 1, 2012.]

STANDARDS 7-12

[RESERVED.]

STANDARD 13. LIMITATIONS ON PRIVATE PRACTICE

11 Private attorneys who provide public defense representation shall set limits on the
12 amount of privately retained work which can be accepted. These limits shall be based on the
13 percentage of a full-time caseload which the public defense cases represent.

14 [Adopted effective October 1, 2012.]

STANDARD 14. QUALIFICATIONS OF ATTORNEYS

15 STANDARD 14.1. In order to assure that indigent accused receive the effective
16 assistance of counsel to which they are constitutionally entitled, attorneys providing defense
17 services shall meet the following minimum professional qualifications:

- 18
- 19 A. Satisfy the minimum requirements for practicing law in Washington as
20 determined by the Washington Supreme Court; and
- 21 B. Be familiar with the statutes, court rules, constitutional provisions, and case law
22 relevant to their practice area; and
- 23 C. Be familiar with the Washington Rules of Professional Conduct; and
- 24 D. Be familiar with the Performance Guidelines for Criminal Defense
25 Representation approved by the Washington State Bar Association, and when
26 representing youth, be familiar with the Performance Guidelines for Juvenile
Defense Representation approved by the Washington State Bar Association; and

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1 , when representing respondents in civil commitment proceedings, be familiar
2 with the Performance Guidelines for Attorneys Representing Respondents in
3 Civil Commitment Proceedings approved by the Washington State Bar
4 Association.

- 5
- 6 **E.** Be familiar with the consequences of a conviction or adjudication, including
7 possible immigration consequences and the possibility of civil commitment
8 proceedings based on a criminal conviction; and
- 9 **F.** Be familiar with mental health issues and be able to identify the need to obtain
10 expert services; and
- 11 **G.** Complete seven hours of continuing legal education within each calendar year
12 in courses relating to their public defense practice.

13 [Adopted effective October 1, 2012; amended effective April 24, 2018.]

14 **STANDARD 14.2. ATTORNEYS' QUALIFICATIONS ACCORDING TO**
15 **SEVERITY OR TYPE OF CASE¹:**

- 16 **A. Death Penalty Representation.** Each attorney acting as lead counsel in a
17 criminal case in which the death penalty has been or may be decreed and which
18 the decision to seek the death penalty has not yet been made shall meet the
19 following requirements:
- 20 i. The minimum requirements set forth in Section 1; and
- 21 ii. At least five years' criminal trial experience; and
- 22 iii. Have prior experience as lead counsel in no fewer than nine jury trials of
23 serious and complex cases which were tried to completion; and
- 24 iv. Have served as lead or co-counsel in at least one aggravated homicide
25 case; and
- 26 v. Have experience in preparation of mitigation packages in aggravated
homicide or persistent offender cases; and
- vi. Have completed at least one death penalty defense seminar within the
previous two years; and

¹ Attorneys working toward qualification for a particular category of cases under this standard may associate with lead counsel who is qualified under this standard for that category of cases.

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vii. Meet the requirements of SPRC 2.²

The defense team in a death penalty case should include, at a minimum, the two attorneys appointed pursuant to SPRC 2, a mitigation specialist, and an investigator. Psychiatrists, psychologists, and other experts and support personnel should be added as needed.

B. Adult Felony Cases—Class A. Each attorney representing a defendant accused of a Class A felony as defined in RCW 9A.20.020 shall meet the following requirements:

- i. The minimum requirements set forth in Section 1; and
- ii. Either:
 - a. has served two years as a prosecutor; or
 - b. has served two years as a public defender; or two years in a private criminal practice; and
- iii. Has been trial counsel alone or with other counsel and handled a significant portion of the trial in three felony cases that have been submitted to a jury.

2

SPRC 2
APPOINTMENT OF COUNSEL

At least two lawyers shall be appointed for the trial and also for the direct appeal. The trial court shall retain responsibility for appointing counsel for trial. The Supreme Court shall appoint counsel for the direct appeal. Notwithstanding RAP 15.2(f) and (h), the Supreme Court will determine all motions to withdraw as counsel on appeal.

A list of attorneys who meet the requirements of proficiency and experience, and who have demonstrated that they are learned in the law of capital punishment by virtue of training or experience, and thus are qualified for appointment in death penalty trials and for appeals will be recruited and maintained by a panel created by the Supreme Court. All counsel for trial and appeal must have demonstrated the proficiency and commitment to quality representation which is appropriate to a capital case. Both counsel at trial must have five years' experience in the practice of criminal law (and) be familiar with and experienced in the utilization of expert witnesses and evidence, and not be presently serving as appointed counsel in another active trial level death penalty case. One counsel must be, and both may be, qualified for appointment in capital trials on the list, unless circumstances exist such that it is in the defendant's interest to appoint otherwise qualified counsel learned in the law of capital punishment by virtue of training or experience. The trial court shall make findings of fact if good cause is found for not appointing list counsel.

At least one counsel on appeal must have three years' experience in the field of criminal appellate law and be learned in the law of capital punishment by virtue of training or experience. In appointing counsel on appeal, the Supreme Court will consider the list, but will have the final discretion in the appointment of counsel.

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1 **C. Adult Felony Cases—Class B Violent Offense.** Each attorney representing a
2 defendant accused of a Class B violent offense as defined in RCW 9A.20.020
shall meet the following requirements.

3 i. The minimum requirements set forth in Section 1; and

4 ii. Either:

5 a. has served one year as a prosecutor; or

6 b. has served one year as a public defender; or one year in a private
7 criminal practice; and

8 iii. Has been trial counsel alone or with other counsel and handled a
9 significant portion of the trial in two Class C felony cases that have been
10 submitted to a jury.

11 **D. Adult Sex Offense Cases.** Each attorney representing a client in an adult sex
12 offense case shall meet the following requirements:

13 i. The minimum requirements set forth in Section 1 and Section 2(C); and

14 ii. Has been counsel alone of record in an adult or juvenile sex offense case
15 or shall be supervised by or consult with an attorney who has experience
16 representing juveniles or adults in sex offense cases.

17 **E. Adult Felony Cases—All Other Class B Felonies, Class C Felonies,**
18 **Probation or Parole Revocation.** Each attorney representing a defendant
19 accused of a Class B felony not defined in Section 2(C) or (D) above or a Class
20 C felony, as defined in RCW 9A.20.020, or involved in a probation or parole
21 revocation hearing shall meet the following requirements:

22 i. The minimum requirements set forth in Section 1, and

23 ii. Either:

24 a. has served one year as a prosecutor; or

25 b. has served one year as a public defender; or one year in a private
26 criminal practice; and

27 iii. Has been trial counsel alone or with other trial counsel and handled a
28 significant portion of the trial in two criminal cases that have been
29 submitted to a jury; and

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- 1 iv. Each attorney shall be accompanied at his or her first felony trial by a
2 supervisor if available.

3 **F. Persistent Offender (Life Without Possibility of Release) Representation.**

4 Each attorney acting as lead counsel in a “two strikes” or “three strikes” case in
5 which a conviction will result in a mandatory sentence of life in prison without
6 parole shall meet the following requirements:

- 7 i. The minimum requirements set forth in Section 1;³ and
- 8 ii. Have at least:
- 9 a. four years’ criminal trial experience; and
- 10 b. one year’s experience as a felony defense attorney; and
- 11 c. experience as lead counsel in at least one Class A felony trial;
12 and
- 13 d. experience as counsel in cases involving each of the following:
- 14 1. Mental health issues; and
- 15 2. Sexual offenses, if the current offense or a prior
16 conviction that is one of the predicate cases resulting in
17 the possibility of life in prison without parole is a sex
18 offense; and
- 19 3. Expert witnesses; and
- 20 4. One year of appellate experience or demonstrated legal
21 writing ability.

22

23 **G. Juvenile Cases—Class A.** Each attorney representing a juvenile accused of a
24 Class A felony shall meet the following requirements:

25

26 ³ RCW 10.101.060(1)(a)(iii) provides that counties receiving funding from the state Office of Public Defense under that statute must require “attorneys who handle the most serious cases to meet specified qualifications as set forth in the Washington state bar association endorsed standards for public defense services or participate in at least one case consultation per case with office of public defense resource attorneys who are so qualified. The most serious cases include all cases of murder in the first or second degree, persistent offender cases, and class A felonies.”

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- 1 i. The minimum requirements set forth in Section 1, and
- 2 ii. Either:
- 3 a. has served one year as a prosecutor; or
- 4 b. has served one year as a public defender; or one year in a private
5 criminal practice; and
- 6 iii. Has been trial counsel alone of record in five Class B and C felony
7 trials; and
- 8 iv. Each attorney shall be accompanied at his or her first juvenile trial by a
9 supervisor, if available.

9 **H. Juvenile Cases—Classes B and C.** Each attorney representing a juvenile
10 accused of a Class B or C felony shall meet the following requirements:

- 11 i. The minimum requirements set forth in Section 1; and
- 12 ii. Either:
- 13 a. has served one year as a prosecutor; or
- 14 b. has served one year as a public defender; or one year in a private
15 criminal practice, and
- 16 iii. Has been trial counsel alone in five misdemeanor cases brought to a
17 final resolution; and
- 18 iv. Each attorney shall be accompanied at his or her first juvenile trial by a
19 supervisor if available.

19 **I. Juvenile Sex Offense Cases.** Each attorney representing a client in a juvenile
20 sex offense case shall meet the following requirements:

- 21 i. The minimum requirements set forth in Section 1 and Section 2(H); and
- 22 ii. Has been counsel alone of record in an adult or juvenile sex offense case
23 or shall be supervised by or consult with an attorney who has experience
24 representing juveniles or adults in sex offense cases.

25 **J. Juvenile Status Offenses Cases.** Each attorney representing a client in a “Becca”
26 matter shall meet the following requirements:

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- 1 i. The minimum requirements as outlined in Section 1; and
- 2 ii. Either:
- 3 a. have represented clients in at least two similar cases under the
4 supervision of a more experienced attorney or completed at least
5 three hours of CLE training specific to “status offense” cases; or
- 6 b. have participated in at least one consultation per case with a
7 more experienced attorney who is qualified under this section.

8 **K. Misdemeanor Cases.** Each attorney representing a defendant involved in a matter
9 concerning a simple misdemeanor or gross misdemeanor or condition of
10 confinement, shall meet the requirements as outlined in Section 1.

11 **L. Dependency Cases.** Each attorney representing a client in a dependency matter
12 shall meet the following requirements:

- 13 i. The minimum requirements as outlined in Section 1; and
- 14 ii. Attorneys handling termination hearings shall have six months’
15 dependency experience or have significant experience in handling
16 complex litigation.
- 17 iii. Attorneys in dependency matters should be familiar with expert services
18 and treatment resources for substance abuse.
- 19 iv. Attorneys representing children in dependency matters should have
20 knowledge, training, experience, and ability in communicating
21 effectively with children, or have participated in at least one consultation
22 per case either with a state Office of Public Defense resource attorney or
23 other attorney qualified under this section.

24 **M. Civil Commitment Cases.** Each attorney representing a respondent shall meet
25 the following requirements:

- 26 i. The minimum requirements set forth in Section 1; and
- ii. Each staff attorney shall be accompanied at his or her first 90 or 180 day
 commitment hearing by a supervisor; and
- iii. Shall not represent a respondent in a 90 or 180 day commitment hearing
 unless he or she has either:

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- a. served one year as a prosecutor; or
- b. served one year as a public defender; or one year in a private civil commitment practice, and
- c. been trial counsel in five civil commitment initial hearings; and
- iv. Shall not represent a respondent in a jury trial unless he or she has conducted a felony jury trial as lead counsel; or been co-counsel with a more experienced attorney in a 90 or 180 day commitment hearing.

N. Sex Offender “Predator” Commitment Cases. Generally, there should be two counsel on each sex offender commitment case. The lead counsel shall meet the following requirements:

- i. The minimum requirements set forth in Section 1; and
- ii. Have at least:
 - a. Three years’ criminal trial experience; and
 - b. One year’s experience as a felony defense attorney or one year’s experience as a criminal appeals attorney; and
 - c. Experience as lead counsel in at least one felony trial; and
 - d. Experience as counsel in cases involving each of the following:
 - 1. Mental health issues; and
 - 2. Sexual offenses; and
 - 3. Expert witnesses; and
 - e. Familiarity with the Civil Rules; and
 - f. One year of appellate experience or demonstrated legal writing ability.

Other counsel working on a sex offender commitment case should meet the minimum requirements in Section 1 and have either one year’s experience as a public defender or significant experience in the preparation of criminal cases, including legal research and writing and training in trial advocacy.

SUGGESTED AMENDMENT
STANDARDS FOR INDIGENT DEFENSE (SID)

MPR 2.1 – STANDARDS

1 **O. Contempt of Court Cases.** Each attorney representing a respondent shall meet
2 the following requirements:

- 3 i. The minimum requirements set forth in Section 1; and
4 ii. Each attorney shall be accompanied at his or her first three contempt of
5 court hearings by a supervisor or more experienced attorney, or
6 participate in at least one consultation per case with a state Office of
7 Public Defense resource attorney or other attorney qualified in this area
8 of practice.

9 **P. Specialty Courts.** Each attorney representing a client in a specialty court (e.g.,
10 mental health court, drug diversion court, homelessness court) shall meet the
11 following requirements:

- 12 i. The minimum requirements set forth in Section 1; and
13 ii. The requirements set forth above for representation in the type of
14 practice involved in the specialty court (e.g., felony, misdemeanor,
15 juvenile); and
16 iii. Be familiar with mental health and substance abuse issues and treatment
17 alternatives.

18 [Adopted effective October 1, 2012.]

19 **STANDARD 14.3. APPELLATE REPRESENTATION.** Each attorney who is
20 counsel for a case on appeal to the Washington Supreme Court or to the Washington Court of
21 Appeals shall meet the following requirements:

22 **A.** The minimum requirements as outlined in Section 1; and

23 **B.** Either:

- 24 i. has filed a brief with the Washington Supreme Court or any Washington
25 Court of Appeals in at least one criminal case within the past two years;
26 or
27 ii. has equivalent appellate experience, including filing appellate briefs in
28 other jurisdictions, at least one year as an appellate court or federal court
29 clerk, extensive trial level briefing, or other comparable work.

SUGGESTED AMENDMENT
STANDARDS FOR INDIGENT DEFENSE (SID)

MPR 2.1 – STANDARDS

- 1 C. Attorneys with primary responsibility for handling a death penalty appeal shall
2 have at least five years' criminal experience, preferably including at least one
3 homicide trial and at least six appeals from felony convictions, and meet the
4 requirements of SPRC 2.

5 RALJ Misdemeanor Appeals to Superior Court: Each attorney who is counsel alone for
6 a case on appeal to the Superior Court from a court of limited jurisdiction should meet the
7 minimum requirements as outlined in Section 1, and have had significant training or
8 experience in either criminal appeals, criminal motions practice, extensive trial level briefing,
9 clerking for an appellate judge, or assisting a more experienced attorney in preparing and
10 arguing a RALJ appeal.

11 [Adopted effective October 1, 2012.]

12 **STANDARD 14.4. LEGAL INTERNS.**

- 13 A. Legal interns must meet the requirements set out in APR 9.
- 14 B. Legal interns shall receive training pursuant to APR 9, and in offices of more
15 than seven attorneys, an orientation and training program for new attorneys and
16 legal interns should be held.

17 [Adopted effective October 1, 2012.]

18 **STANDARDS 15-18**

19 **[RESERVED]**

20 **CERTIFICATION OF COMPLIANCE**

21 For criminal and juvenile offender cases, and civil commitment proceedings under
22 RCW 71.05, a signed Certification of Compliance with Applicable Standards must be filed by
23 an appointed attorney by separate written certification on a quarterly basis in each court in
24 which the attorney has been appointed as counsel.

25 The certification must be in substantially the following form:

SUGGESTED AMENDMENT
STANDARDS FOR INDIGENT DEFENSE (SID)

MPR 2.1 – STANDARDS

SEPARATE CERTIFICATION FORM

<u>Court of Washington</u>
for _____
<u>State of Washington</u> , _____ <u>Plaintiff</u>
<u>vs.</u> _____ <u>Defendant</u>

[] No.: _____

CERTIFICATION OF APPOINTED
COUNSEL OF COMPLIANCE WITH
STANDARDS REQUIRED BY CrR
3.1 / CrRLJ 3.1 / JuCR 9.2/MPR
2.1

The undersigned attorney hereby certifies:

1. Approximately _____ % of my total practice time is devoted to indigent defense cases.
2. I am familiar with the applicable Standards adopted by the Supreme Court for attorneys appointed to represent indigent persons and that:

a. Basic Qualifications: I meet the minimum basic professional qualifications in Standard 14.1.

b. Office: I have access to an office that accommodates confidential meetings with clients, and I have a postal address and adequate telephone services to ensure prompt response to client contact, in compliance with Standard 5.2.

c. Investigators: I have investigators available to me and will use investigative services as appropriate, in compliance with Standard 6.1.

d. Caseload: I will comply with Standard 3.2 during representation of the defendant in my cases. [Effective October 1, 2013 for felony and juvenile offender caseloads; effective January 1, 2015 for misdemeanor caseloads; effective _____ for civil commitment caseloads. I should not accept a greater number of cases (or a proportional mix of different case types) than specified in Standard 3.4, prorated if the amount of time spent for indigent defense is less than full time, and taking into account the case counting and weighting system applicable in my jurisdiction.]

e. Specific Qualifications: I am familiar with the specific case qualifications in Standard 14.2, Sections B-K (criminal) and M (civil commitment proceedings) and will not accept appointment in a case as lead counsel unless I meet the qualifications for that case. [Effective October 1, 2013. Effective _____ for civil commitment cases.]

Signature, WSBA#

Date

CERTIFICATION OF APPOINTED COUNSEL OF COMPLIANCE WITH STANDARDS

SUGGESTED AMENDMENT
STANDARDS FOR INDIGENT DEFENSE (SID)
MPR 2.1 – STANDARDS

1 REQUIRED BY CrR 3.1/CrRLJ 3.2/JuCR 9.2/MPR 2.1

2 [Adopted effective October 1, 2012. Amended Effective September 1, 2013; September 17, 2013; October 1, 2013; _____.]

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THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE PROPOSED
AMENDMENTS TO CrR 8.2—MOTIONS, AND
CrRLJ 8.2—MOTIONS

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ORDER

NO. 25700-A-1314

The Washington State Bar Association Court Rules and Procedures Committee, having recommended the adoption of the proposed amendments to CrR 8.2—Motions, and CrRLJ 8.2—Motions, and the Court having considered the proposed amendments, and having determined that the proposed amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the proposed amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the proposed amendments will be published in the Washington Reports and will become effective on February 1, 2021.

DATED at Olympia, Washington this 6th day of November, 2020.

Johnson, J.
Madsen, J.
Owen, J.
Gonzalez, J.

Stephens, C.J.
Gentry, M. L., J.
Liu, J.
Montgomery, J.
Whitener, J.

SUPERIOR COURT CRIMINAL RULES (CrR)
RULE 8.2 MOTIONS

1 Rules 3.5 and 3.6 and CR 7(b) shall govern motions in criminal cases. A motion for
2 reconsideration shall be governed by CR 59(b), (e), and (j).

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**CRIMINAL RULES FOR COURTS OF LIMITED
JURISDICTION (CrRLJ)**

RULE 8.2 MOTIONS

1 Rules 3.5 and 3.6 and CRLJ 7(b) shall govern motions in criminal cases. A motion for
2 reconsideration shall be governed by CRLJ 59(b), (e), and (j).

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TO: Judge Michelle Gehlsen, President, DMCJA Board
FROM: Judge Jeffrey Goodwin, Chair, DMCJA Rules Committee
SUBJECT: Proposal to Amend CRLJ 43
DATE: December 21, 2020

One of the DMCJA Rules Committee charges is to “evaluate and report on proposed rules and amendments... requested by DMCJA members... or referred by the DMCJA Board.” The DMCJA Board directed the Rules Committee to determine if language in CR 43 pertaining to remote testimony should be incorporated into CRLJ 43. The DMCJA Rules Committee considered and discussed the matter and unanimously recommends that the DMCJA Board request that the Washington State Supreme Court amend CRLJ 43(a)(1) to be identical to CR 43(a)(1) through the addition of the phrase “For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.”

Please let me know if you have any questions. I can be reached through 425-744-6800 or jeffrey.goodwin@snoco.org.

Attachment: GR 9 Cover Sheet and Proposed Amendment to CRLJ 43

CC: DMCJA Rules Committee

GR 9 COVER SHEET
Suggested Amendment to
WASHINGTON STATE COURT RULES:
CIVIL RULES FOR COURTS OF LIMITED JURISDICTION

Amend RULE 43
TAKING OF TESTIMONY

Submitted by the District & Municipal Courts Judges Association

- A. **Name of Proponent:** District & Municipal Courts Judges Association
(DMCJA)
- B. **Spokesperson:** Judge Michelle Gehlsen, President
DMCJA
- C. **Purpose:** It was recently brought to the attention of the DMCJA that CR 43(a)(1) includes a sentence pertaining to remote testimony that is absent from CRLJ 43(a)(1). The sentence reads, “For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.” Having considered the matter, the DMCJA Board determined that courts of limited jurisdiction would benefit from similar flexibility in permitting remote testimony. Further, it is good practice for the rules of the trial courts to remain congruent. Therefore, the DMCJA requests that an additional sentence be added to CRLJ 43(a)(1) making that subsection identical to CR 43(a)(1).
- D. **Hearing:** A hearing is not recommended.
- E. **Expedited Consideration:** Expedited consideration is not requested.

Proposed Amendment:

CRLJ 43
TAKING OF TESTIMONY

(a) Testimony.

(1) *Generally.* In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise directed by the court or provided by rule or statute. For good cause in compelling circumstances and with appropriate safeguards, the court may permit testimony in open court by contemporaneous transmission from a different location.

(2) *Multiple Examinations.* When two or more attorneys are upon the same side trying a case, the attorney conducting the examination of a witness shall continue until the witness is excused from the stand; and all objections and offers of proof made during the examination of such witness shall be made or announced by the attorney who is conducting the examination or cross examination.

(b) - (k) [Unchanged.]



District and Municipal Court Judges' Association

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Grant County District Court
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Fife Municipal Court
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JUDGE LAURA VAN SLYCK
Everett Municipal Court
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JUDGE KARL WILLIAMS
Pierce County District Court
(253) 798-3312

COMMISSIONER PAUL WOHL
Thurston County District Court
(360) 786-5562

December 24, 2020

Honorable Debra L. Stephens
Washington State Supreme Court
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Mr. Brad Hendrickson
Secretary of the Senate
Washington State Senate
PO Box 40482
Olympia, WA 98504-0482

Honorable Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

Mr. Bernard Dean
Chief Clerk of the House
House of Representatives
PO Box 40600
Olympia, WA 98504-0600

RE: 2020 ANNUAL REPORT

Dear Chief Justice Stephens, Governor Inslee, Mr. Hendrickson, and Mr. Dean:

On behalf of the District and Municipal Court Judges' Association (DMCJA), I submit this annual report on the condition of business in the courts of limited jurisdiction (CLJs) to the Washington State Supreme Court, Governor, and Legislature, pursuant to Revised Code of Washington (RCW) 3.70.040(3).

Historically, district and municipal courts process about eighty-seven percent of Washington State's judicial caseload. In 2020, the Coronavirus (COVID-19) public health emergency impacted court operations significantly, causing courts to adapt and administer justice through remote or socially-distanced proceedings. From January 2020 to June 2020, CLJs handled six hundred sixty eight thousand two hundred twenty-nine (668,229) cases. See *Administrative Office of the Courts' Caseload Report for January 2020 to June 2020*. The revenue collected from CLJs during this period was ninety million, three hundred eighty-six thousand, seven hundred ten dollars (\$90,386,710), according to the caseload report.

The DMCJA has performed its duties¹ as follows:

Co-Hosted Weekly Friday Forums

In 2020, the DMCJA partnered with the Administrative Office of the Courts (AOC) and the Superior Court Judges' Association (SCJA) to host a series of webinars, also known as "Friday Forums," in order to assist trial courts during the COVID-19 pandemic. Topics included: (1) Telephonic and Video Hearings and Public Access, (2) Remote Hearing Logistics; (3) Protection and Emergency Orders; (4) Returning to "Normal" – Staff Morale, Self-Care, and Resuming Court Operations in a Social Distancing Environment; (5) Returning

to “Normal” – Jury Trials & Case Backlogs; and (6) Returning to “New Normal” – Permanent Operational Changes to Washington Courts Post Pandemic.

Identifying and Eliminating Systemic Racism in our Justice System

In 2020, the DMCJA made its number one priority, *Identifying and Eliminating Systemic Racism in our Justice System*. A fair justice system relies on the public’s trust and confidence in order to function properly. Therefore, district and municipal courts will work to eradicate racial injustice within the justice system, cognizant that courts of limited jurisdiction are the courts with which the most people interact. Our Diversity Committee created an action plan that includes recruiting more judges of color to better reflect communities across the state and expanding relevant judicial education. The DMCJA also seeks to improve data and research available to judges as they lead the work, which permeates all of the DMCJA’s priorities.

Adequate Court Funding

The DMCJA Board of Governors (Board) has found that adequate court funding is a continual issue for courts of limited jurisdiction. In 2020, the DMCJA Board identified the criticality of funding for (1) a new statewide CLJ case management system, (2) courthouse security, and (3) access to justice initiatives. In Washington State, only 17 percent of state funds are allotted to courts, which places Washington near the bottom among the 50 states receiving state monies to fund courts.ⁱⁱ Despite challenges, we continue to endeavor to provide mandatory services in an environment of shrinking budgets.

a. Courts of Limited Jurisdiction Case Management System (CLJ-CMS)

In 2020, the state signed with Tyler Technologies to provide an integrated case management system for district and municipal courts. Adequate court funding is needed to continue the CLJ-CMS Project. The volume of cases and transactions at our level of court is overloading the state’s current case management system for CLJs, which was developed and implemented in the 1980s. Thus, the DMCJA has partnered with AOC, the District and Municipal Court Management Association (DMCMA), and Misdemeanant Probation Association to select a case management system that meets the needs of modern courts and efficiently administers justice for the public. The DMCJA continues to work with the Judicial Information System Committee and the CLJ-CMS Project Steering Committee, which governs the project and serves as the business and strategic decision-making team that speaks for the CLJs with a unified voice and vision. The CLJ-CMS Project is among the highest priorities for the DMCJA.

b. Court Security

In December 2019, there were more mass shootings in America than days in the year.ⁱⁱⁱ However, many of our district and municipal courts lack the most basic security measures. For this reason, court funding for courthouse security remains crucial. There have been numerous events in our courts that may have been prevented with adequate courthouse security. General Rule (GR) 36, *Trial Court Security*, provides recommended minimum security standards for trial courts, yet many local courts lack resources for complying with the minimum standards. In our effort to support trial courts, DMCJA leaders have educated all judges, court staff, and funding bodies of GR 36 requirements. A former DMCJA President serves as co-chair of the Board for Judicial Administration (“BJA”) Court Security Task Force, which was created to ensure that all trial courts are able to comply with GR 36. Adequate funding, however, is needed for some courts to obtain basic security equipment. Our association

strongly holds that the public and all court users have an inherent right to expect a safe environment while in court.

a. Access to Justice

Access to justice is critical to the citizens of Washington State. Thus, the DMCJA determined that adequate court funding for court education, interpreter services, and technology expansion is a significant priority. The DMCJA has supported the efforts of the BJA Court System Education Funding Task Force and BJA Interpreter Services Funding Task Force. In 2020, the Legislature funded the BJA Education Task Force request for online court education. In 2019, the BJA Interpreter Task Force received monies requested for court interpreter services.

Educate Justice Partners

In 2020, the DMCJA Public Outreach Committee continues its charge (1) to educate justice partners on the accomplishments and challenges of district and municipal courts, and (2) to provide resource materials to assist DMCJA members when communicating with local governmental entities and stakeholders. This Committee will continue to partner with the Council on Independent Courts to collaborate with justice partners.

Judicial Independence

Maintaining independence as the third branch of government is difficult at the CLJ level. The legislative and executive branches of government control the funding of local courts. Occasionally, in the funding process, the other branches of government attempt to exert undue control over the judicial and personnel decisions of the courts. Judges should not be penalized or in jeopardy of losing their positions based on the exercise of judicial independence. Hence, in 2020, the DMCJA Council on Independent Courts (CIC) continues to meet in order to fulfil its charge to protect, promote, and maintain the respect and dignity of courts of limited jurisdiction as a co-equal branch of local government.

Therapeutic Courts

Addressing pressing issues of mental health and drug addiction in Washington communities is a priority for the DMCJA. The DMCJA Therapeutic Courts Committee continues to address how the COVID-19 pandemic impacts therapeutic courts. Therapeutic court judges continue to attend educational programs, albeit virtually, and meet with legislators to express the accomplishments and challenges of therapeutic courts in Washington State. The DMCJA continues to seek innovative ways to address the needs of court users with mental health and drug-related issues.

Legislation

The DMCJA plans to take the following action during the 2021 Legislative Session:

1. **Support reintroduction of Senate Bill (“SB”) [2605](#), *Interlocal Agreements for Probation Services*, which was introduced but did not pass in 2018. The bill would allow courts to have interlocal agreements to consolidate probation services and supervision for defendants. This would enable cooperation among jurisdiction and reduce confusion and conflicts related to probation.**
2. **Support legislation related to therapeutic alternatives.** The DMCJA supports expansion of, and state funding for, district and municipal therapeutic courts.

Members of the DMCJA will participate in the legislative process by speaking with legislators about district and municipal court-related bills.

Department of Licensing (DOL) Court Leadership Meeting

The DMCJA, DOL, DMCMA, and AOC continue to meet annually and work together to resolve administrative issues that may arise from the high volume of cases administered.

Thank you for the opportunity to report on the business of the DMCJA. On behalf of the DMCJA Board of Governors and officers, I thank the Washington State Supreme Court and the Board for Judicial Administration for its continued support of all district and municipal courts.

Sincerely,

s/Judge Michelle K. Gehlsen
DMCJA President

ⁱ RCW 3.70.040 prescribes the DMCJA's duties as: "The Washington state district and municipal court judges' association shall: (1) Continuously survey and study the operation of the courts served by its membership, the volume and condition of business of such courts, the methods of procedure therein, the work accomplished, and the character of the results; (2) Promulgate suggested rules for the administration of the courts of limited jurisdiction not inconsistent with the law or rules of the supreme court relating to such courts; (3) Report annually to the supreme court as well as the governor and the legislature on the condition of business in the courts of limited jurisdiction, including the association's recommendations as to needed changes in the organization, operation, judicial procedure, and laws or statutes implemented or enforced in these courts."

ⁱⁱ Jennifer Bronson, Ph.D., *Justice Expenditure and Employment Extracts 2015, Preliminary NCJ 251780*, U.S. Dep't of Justice Bureau of Justice Statistics, <http://www.bjs.gov/index.cfm?ty=pbdetail&iid=6310> (2018).

ⁱⁱⁱ Jason Silverstein, *There have been more mass shootings than days in 2019*, CBS NEWS, <https://www.msn.com/en-us/news/breakingnews/there-have-been-more-mass-shootings-than-days-in-2019/ar-AAF8L02> (2019).



DMCJA BOARD MEETING
FRIDAY, JANUARY 8, 2021
12:30 PM – 3:30 PM
ZOOM VIDEO CONFERENCE

PRESIDENT MICHELLE GEHLSSEN

SUPPLEMENTAL AGENDA

PAGE

Call to Order

General Business

- A. **Minutes for December 4, 2020**
- B. Special Guest, Margaret Fisher

X1-X5

Breakout Sessions

- C. Discussion Question (break out rooms; pick a spokesperson to report back to the group):
 - *What are you doing differently due to the pandemic (innovation, helpful tip, etc.) that is helping your court?*

General Business, Continued

- D. Judicial Information System (“JIS”) Report – Vicky Cullinane
- E. **Treasurer’s Report**
- F. **Special Fund Reports for November 2020 and December 2020**
- G. Standing Committee Reports
 1. Rules Committee – October 28, 2020 Minutes
 2. Diversity Committee
 3. Legislative Committee

X6-X18
X15-X16

1-2

Liaison Reports

- A. Administrative Office of the Courts (**AOC**) – Dawn Marie Rubio, State Court Administrator
- B. Board for Judicial Administration (**BJA**) – Judge Mary Logan, Judge Dan Johnson, Judge Tam Bui, and Judge Rebecca Robertson
- C. District and Municipal Court Management Association (**DMCMA**) – Patricia Kohler, President
- D. Misdemeanant Probation Association (**MPA**) – Stacie Scarpaci, Representative
- E. Superior Court Judges’ Association (**SCJA**) – Judge David Estudillo, President-Elect
- F. Washington State Association for Justice (**WSAJ**) – Sean Bennet Malcolm, Esq.
- G. Washington State Bar Association (**WSBA**) – Kim E. Hunter, Esq.

<p>Discussion</p> <p>A. CLJ-CMS Project and Rules for E-filing – Judge Kimberly Walden</p> <p>B. DMCJA Rules Committee Update on Court Rule Amendments Effective in February – Judge Jeffrey Goodwin and Ms. J Benway</p> <p>C. Proposal from the DMCJA Rules Committee regarding amending CRLJ 43 – Judge Jeffrey Goodwin and Ms. J Benway</p> <p>D. Proposal from the DMCJA Rules Committee regarding amending GR 22 – Judge Jeffrey Goodwin and Ms. J Benway</p> <p>E. Possible Financial Contribution to the Racial Justice Consortium</p>	<p>X19-X34</p> <p>3-46</p> <p>47-49</p> <p>X35-X40</p>
<p>Information</p> <p>A. 2020 DMCJA Annual Report</p> <p>B. BJA Innovating Justice Award: To nominate someone for this award, please use the attached Award Nomination Form. Nominations will be received on an ongoing basis and should be received by the following dates to be considered for the next selection process:</p> <ul style="list-style-type: none"> • January 4, 2021 • March 29, 2021 • June 1, 2021 <p>C. New DMCJA Appointments to External Committees:</p> <ol style="list-style-type: none"> 1. <u>Civic Learning Council</u>: Judge David Larson, Federal Way Municipal Court 2. <u>Minority & Justice Commission</u>: Judge Karl Williams, Pierce County District Court 3. <u>Pattern Forms Committee</u>: Judge W.H. “Bill” Hawkins, Island County District Court 4. <u>WSBA Court Rules and Procedures Committee</u>: Judge Jeffrey Goodwin, Snohomish County District Court <p>D. Bench Warrant Suspension Letter from DMCJA</p>	<p>50-53</p> <p>X41-X42</p>
<p>Other Business</p> <p>A. The next DMCJA Board Meeting is scheduled for Friday, February 12, 2021, from 12:30 p.m. to 3:30 p.m., via Zoom video conference.</p>	
<p>Adjourn</p>	



DMCJA Board of Governors Meeting
Friday, December 4, 2020, 12:30 p.m. – 3:30 p.m.
Zoom Video Conference

MEETING MINUTES

Members Present:

Chair, Judge Michelle Gehlsen
Judge Thomas Cox
Judge Robert Grim
Judge Drew Ann Henke
Judge Tyson Hill
Judge Aimee Maurer
Judge Samuel Meyer
Judge Kevin Ringus
Judge Charles Short
Judge Jeffrey Smith
Judge Laura Van Slyck
Commissioner Paul Wohl

Members Absent:

Judge Anita Crawford-Willis
Commissioner Rick Leo
Judge Karl Williams

Guests:

Chief Justice-Elect Steven González
Judge Tam Bui, BJA Representative
Judge Mary Logan, BJA Representative
Judge Rebecca Robertson, BJA Representative
Judge David Ebenger
Patricia “Patti” Kohler, DMCMA
Margaret Yetter, DMCMA

AOC Staff:

Dory Nicpon, Judicial and Legislative Relations
Susan Goulet, Court Program Specialist
Michelle Gulden, Court Program Specialist
Vicky Cullinane, Business Liaison
Dawn Marie Rubio, State Court Administrator
Cat Robinson, AOC Project Manager
Dexter Mejia, AOC Court Business Office Manager
Jennifer Wagner, OCM Coordinator, CLJ-CMS Project

CALL TO ORDER

Judge Gehlsen, District and Municipal Court Judges’ Association (DMCJA) President, called the DMCJA Board of Governors (Board) meeting to order at 12:36 p.m. and noted a quorum of members were present. Judge Gehlsen asked telephonic participants to identify themselves and introduced Chief Justice-Elect González as a guest.

BREAK OUT SESSIONS

- A. Discussion Questions (break out rooms; pick a spokesperson to report back to the group) – Judge Mary Logan
 - 1. Please share the greatest obstacle that you have overcome in your job during this time.
 - 2. What can you do for yourself AND your court staff to commit to self-care.

Judge Logan spoke about the Judicial Assistance Support Program (JASP) as a resource, the stress of the pandemic, the importance of self-care, and introduced the breakout room exercise. Meeting participants were randomly assigned to breakout rooms for small group discussion. After small group discussions, the Board reconvened and a spokesperson from each small group summarized the group’s discussion.

GENERAL BUSINESS

A. Minutes

The Board moved, seconded, and passed a vote (M/S/P) to approve the Board Meeting Minutes for November 13, 2020. Judges Maurer, Cox, and Grim abstained.

B. Treasurer's Report

Judge Smith briefed the Board about the report, and updated the Board on the purchase of D&O insurance and the upcoming dissemination of the dues letters. M/S/P to approve the Treasurer's Report.

C. Special Fund Report

Approval of the report was deferred to the January meeting when Commissioner Leo returns.

D. Standing Committee Reports

1. *Legislative Committee*

Commissioner Wohl reported that DMCJA is meeting with legislators. He spoke of recent meetings with Representatives Stokesbary and Ybarra, who were receptive to the DMCJA legislative and CLJ-CMS project priorities. The DMCJA Legislative Committee has many meetings with legislators in coming weeks. Judge Ringus reported that DMCJA Legislative Committee offered input on a driving while suspended proposal from the Legislature.

2. *Rules Committee*

No report this month.

3. *Diversity Committee*

No report this month.

E. Judicial Information Systems (JIS) Report

This report was offered under the discussion section of the agenda.

LIAISON REPORTS

A. Administrative Office of the Courts AOC

Ms. Rubio reported on Congressional discussion of a federal stimulus bill, and the AOC's effort to ensure courts receive appropriations from funds that may become available in the future. From current CARES funds, the AOC initially received \$11.8M, and is likely to receive an additional \$1.5M, to distribute to local courts. Judge Henke asked how much of the \$11.8M CARES appropriation is still available until December 31, 2020. Ms. Rubio explained there is \$2.5M remaining to distribute and that there are pending requests. Funds must be encumbered by the local court by December 31, 2020, and work/contracts must be completed by March 2021, in order for the expenditure to be eligible for reimbursement from the currently appropriated funds.

B. Board for Judicial Administration (BJA)

Judge Logan reported on BJA budgeting processes and decisions, and the BJA's decision regarding the BJA Court Security Task Force funding request. The BJA decided not to advance the funding request. Judge Logan explained that the next step in the budget approval process is the Supreme Court review, followed by transmittal to the Legislature.

Judge Bui spoke about the new AOC Distance Learning Coordinator, Scott Hillstrom, and the projects that he will be developing to support the educational need of the judiciary.

Judge Robertson reported that although the court security decision package will not be advanced this year, the BJA Courthouse Security Task Force will begin working with legislators about the need in preparation for requesting funding in the future. Judge Robertson spoke about the Innovating Justice awards. Judge Gehlsen reminded members of the opportunity for rolling nominations and acknowledged recent recipients. Judge Gehlsen invited members to send nominations to her for submittal by DMCJA as well.

C. District and Municipal Court Management Association (DMCMA)

Ms. Kohler reported that the DMCMA and AOC conducted implicit bias training with 227 participants, and have scheduled a second session in coming weeks.

D. Misdemeanant Probation Association (MPA)

No report this month.

E. Superior Court Judges' Association (SCJA)

No report this month.

F. Washington State Association for Justice (WSAJ)

No report this month.

G. Washington State Bar Association (WSBA)

No report this month.

ACTION

1. Diversity Committee Action Plan – Board Approval

M/S/P to approve the DMCJA Diversity Committee Action Plan in the materials.

DISCUSSION

A. CLJ-CMS Project Team Update – Cat Robinson, AOC Project Manager; Dexter Mejia, AOC Court Business Office Manager; and Vicky Cullinane, AOC Business Liaison

Mr. Mejia spoke with the Board about his role as the Court Business Office Manager, including as a project advisor for the CLJ-CMS project team. Since Ms. Robinson was called away, Mr. Mejia briefed the Board about project status, the roles of key project team members, and communications related to it. The project has three main components: 1) Odyssey case management system used for data entry and case management of person records, which includes sub-functions such as clerks' edition, public portal, financial manager for banking functions, and judges' edition; 2) Tyler Supervision, a probation component that integrates with Odyssey case management; and 3) e-File and Serve. The AOC's business team is organized to support the three components of the project. The AOC project team just completed the first week of gap analysis with Tyler Technology. The team is finalizing the schedule now and anticipates the first pilot court will have e-filing in Summer 2021, with other courts having e-filing by year-end 2021. The project is working closely with justice partners about e-filing. Pierce County District Court and Tacoma, Gig Harbor and Fircrest/Ruston Municipal Courts are pilot courts. Rollout continues through 2025. After pilot, there are six remaining "events" (i.e., regions for rollout): 1) eastside counties; 2) north counties; 3) central counties; 4) northwest/middle counties; 5) southwest counties; and 6) south central counties. The project anticipates completing the schedule by year-end 2020. The project will conduct a second week of gap analysis next week to identify requirements that need custom development for Washington. Odyssey installation on AOC servers will occur in January 2021. Once installation is complete, then configuration will begin, along with data mapping, conversion, and testing. Judge Bui spoke about participating in gap analysis as a methodical and voluminous collaboration among the project team, Tyler team, and involved local courts. Judge Bui described the value of sharing case scenarios with Tyler staff.

B. CLJ-CMS and JIS Funding (Update on DMCJA Public Outreach Committee Materials)

Judge Gehlsen referred to the materials and encouraged members to contact legislators over the next two weeks to support continued funding for the CLJ-CMS project.

C. DMCMA Education Proposal

Ms. Yetter spoke about funding and educational needs for court managers. She explained the history and development of the court rule proposal in the materials. She explained the need for state funding and that DMCJA allocated \$20,000 in initial funding for use through June 2021. Those funds have not been used yet, but can be used to fund training in the spring. The DMCMA seeks DMCJA support for the court rule proposal. Judge Gehlsen and Judge Robertson spoke in support of the court rule proposal. Judge Gehlsen proposed referring the proposal to the DMCJA Rules Committee for review. Ms. Yetter asked for DMCJA's continued support for using the already allocated funds for spring training. Judges Gehlsen and Smith confirmed that those funds have been allocated and can be dispersed as originally contemplated.

D. Ad Hoc Committee Examining Ethics Advisory Committee (EAC) Opinion 20-07 (Update) – Judge Sam Meyer

Judge Meyer briefed the Board about the composition, meeting, and discussion of the Ad Hoc Committee. Concerns identified included: 1) eliminating criminal defense attorneys (and potentially prosecutors although not specifically addressed in the opinion), as prospective pro tems, reduces or eliminates the number of qualified pro tems available; 2) the civil bar available to serve as pro tems is less knowledgeable about criminal issues that make up a significant portion of the court's work; and 3) the pool of pro tem candidates will be less diverse if criminal defense (and/or prosecutors) are ineligible to serve, which hampers efforts to diversify the bench. Judge Meyer indicated that the issue is what to do, given the concerns. The Committee recommends sending a letter under the DMCJA President's signature, which outlines the concerns but without posing additional questions to the EAC. Judge Meyer identified a potential court rule as another option. Judge Meyer offered to prepare a draft letter for Judge Gehlsen's signature. Judge Cox asked whether there is a supervisory survey that the judge can or should use to monitor pro tems. Judge Ringus discussed inquiring of prospective pro tems about any pro tem training that they have participated in. Judge Meyer spoke of the utility of judges conferring with clerks for feedback about pro tems as an informal oversight mechanism. Judge Gehlsen indicated she will offer Judge Cox the guide used in King County.

Judge Gehlsen introduced Judge David Ebenger and invited him to speak about EAC Opinion 20-08, which was published on November 24, 2020, and addresses whether individuals may fulfill certain duties in the executive and judicial branches of local government. Judge Ebenger spoke of the impact of the opinion on small courts. Judge Ebenger suggested exploring options for addressing the concerns in the opinion but in a manner consistent with the realities facing small courts. Judge Gehlsen indicated the Board will make this a discussion item for the January meeting, and in the meantime, she will contact Judge Ebenger to discuss further.

E. Dues Surplus and Investment Options

Judge Gehlsen referenced the dues notification letters being disseminated soon. She indicated there had been discussion of how to responsibly administer current funds. Judge Smith will develop a proposal for presentation at the January meeting.

F. Diversity Committee Action Plan – Board Approval

The Board discussed the materials. Judge Short confirmed that no suggested amendments had been received, so the materials reflected the draft Action Plan reviewed by the Board in November. M/S/P to move approval of the Diversity Committee Action Plan to an action item.

INFORMATION

Judge Gehlsen brought the following informational items to the Board's attention.

- A. DMCJA Racial Justice Commitment Letter
- B. Coronavirus Aid, Relief, and Economic Security Act (CARES) Funding – [Application](#) for Reimbursement: before time or funds run out, apply for reimbursement of your court's unbudgeted COVID-19 related expenditures, such as PPE, Plexiglas or signage, public communications, technology for remote hearings, etc.
- C. Examples of emergency administrative orders from Olympia Municipal Court, Spokane County District Court and Snohomish County District Court
- D. *"My COVID-19 Story and Judicial Assistance Services Program (JASP),"* by Judge Christopher Culp, Okanogan Superior Court
- E. [BJA Innovating Justice Award](#): To nominate someone for this award, please use the attached Award Nomination Form. Nominations will be received on an ongoing basis and should be received by the following dates to be considered for the next selection process:
 - January 4, 2021
 - March 29, 2021
 - June 1, 2021
- F. New DMCJA Appointments to External Committees:
 - 1. [Access to Justice Board Liaison](#): Judge Marcine Anderson, King County District Court
- G. DMCJA Letter to Interpreter Commission regarding Proposed Changes to CrRLJ 3.4.

OTHER BUSINESS

Judge Charles Short sought feedback on behalf of the Education Committee regarding preferred days/times for upcoming meetings. Judge Smith spoke about timing meetings to increase attendance. The Board discussed the necessity of having a quorum.

Judge Gehlsen noted that the next DMCJA Board Meeting is scheduled for January 8, 2020, from 12:30 a.m. to 3:30 p.m., via Zoom video conference.

The meeting was adjourned at 3:29 p.m.

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E-Mail: piercecountybookkeeping@outlook.com

SUMMARY OF REPORTS

**WASHINGTON STATE
DISTRICT AND MUNICIPAL COURT JUDGES' ASSOCIATION**

For the Period Ending December 31st, 2020

Please find attached the following reports for you to review:

- Statement of Financial Position
- Monthly Statement of Activities.
- Bank Reconciliation Reports
- Transaction Detail Report (year-to-date)
- Special Fund Bank Statement
- Current Budget Balance

Please contact me if you have any questions regarding the attached.

PLEASE BE SURE TO KEEP FOR YOUR RECORDS

Washington State District And Municipal Court Judges Assoc.
Statement of Financial Position
As of December 31, 2020

	Dec 31, 20
ASSETS	
Current Assets	
Checking/Savings	
Bank of America - Checking	5,777
Bank of America - Savings	189,016
Washington Federal	43,889
Total Checking/Savings	238,682
Accounts Receivable	
Accounts Receivable	(400)
Total Accounts Receivable	(400)
Total Current Assets	238,282
Fixed Assets	(124)
Other Assets	
Prepaid Expenses	28,000
Total Other Assets	28,000
TOTAL ASSETS	266,158
LIABILITIES & EQUITY	
Equity	266,158
TOTAL LIABILITIES & EQUITY	266,158

Washington State District And Municipal Court Judges Assoc.
Statement of Activities
For the Six Months Ending December 31st, 2020

	Jul 20	Aug 20	Sep 20	Oct 20	Nov 20	Dec 20	TOTAL
Ordinary Income/Expense							
Income							
Interest Income	20.20	20.20	15.61	13.33	10.58	10.89	90.81
Total Income	20.20	20.20	15.61	13.33	10.58	10.89	90.81
Gross Profit	20.20	20.20	15.61	13.33	10.58	10.89	90.81
Expense							
Special Fund Expense	0.00	0.00	0.00	29.45	0.00	0.00	29.45
Prior Year Budget Expense	0.00	2,599.88	0.00	1,252.12	0.00	0.00	3,852.00
Board Meeting Expense	0.00	0.00	0.00	489.80	0.00	0.00	489.80
Bookkeeping Expense	0.00	536.00	318.00	318.00	318.00	318.00	1,808.00
Judicial Assistance Com...	0.00	0.00	1,200.00	0.00	0.00	2,150.00	3,350.00
Legislative Committee	0.00	0.00	0.00	734.70	0.00	0.00	734.70
Legislative Pro-Tem	244.90	0.00	244.90	0.00	210.00	244.90	944.70
Lobbyist Contract	6,666.66	6,666.66	6,666.66	6,666.66	6,666.66	6,666.66	39,999.96
President Expense	0.00	0.00	0.00	244.90	0.00	213.33	458.23
Professional Services	0.00	700.00	0.00	0.00	250.00	0.00	950.00
Treasurer Expense and B...	0.00	0.00	10.00	0.00	0.00	0.00	10.00
Insurance Expense	0.00	0.00	0.00	0.00	3,715.00	0.00	3,715.00
Total Expense	6,911.56	10,502.54	8,439.56	9,735.63	11,159.66	9,592.89	56,341.84
Net Ordinary Income	(6,891.36)	(10,482.34)	(8,423.95)	(9,722.30)	(11,149.08)	(9,582.00)	(56,251.03)
Net Income	<u>(6,891.36)</u>	<u>(10,482.34)</u>	<u>(8,423.95)</u>	<u>(9,722.30)</u>	<u>(11,149.08)</u>	<u>(9,582.00)</u>	<u>(56,251.03)</u>

8:36 PM

01/04/21

Washington State District And Municipal Court Judges Assoc.

Reconciliation Detail

Bank of America - Checking, Period Ending 12/31/2020

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						5,703.52
Cleared Transactions						
Checks and Payments - 7 items						
Check	12/01/2020		Melanie Stewart	X	-2,000.00	-2,000.00
Check	12/09/2020		Pierce County Book...	X	-318.00	-2,318.00
Check	12/09/2020		Tags Awards & Spe...	X	-101.74	-2,419.74
Check	12/17/2020		Susanna Neil Kanth...	X	-2,150.00	-4,569.74
Check	12/17/2020		King County District ...	X	-244.90	-4,814.64
Check	12/24/2020		Tags Awards & Spe...	X	-111.59	-4,926.23
Check	01/01/2021		Melanie Stewart	X	-2,000.00	-6,926.23
Total Checks and Payments					-6,926.23	-6,926.23
Deposits and Credits - 1 item						
Transfer	12/02/2020			X	5,000.00	5,000.00
Total Deposits and Credits					5,000.00	5,000.00
Total Cleared Transactions					-1,926.23	-1,926.23
Cleared Balance					-1,926.23	3,777.29
Register Balance as of 12/31/2020					-1,926.23	3,777.29
Ending Balance					-1,926.23	3,777.29

8:36 PM

01/04/21

Washington State District And Municipal Court Judges Assoc.

Reconciliation Detail

Bank of America - Savings, Period Ending 12/31/2020

Type	Date	Num	Name	Clr	Amount	Balance
Beginning Balance						194,014.21
Cleared Transactions						
Checks and Payments - 1 item						
Transfer	12/02/2020			X	-5,000.00	-5,000.00
Total Checks and Payments					-5,000.00	-5,000.00
Deposits and Credits - 1 item						
Deposit	12/31/2020			X	1.60	1.60
Total Deposits and Credits					1.60	1.60
Total Cleared Transactions					-4,998.40	-4,998.40
Cleared Balance					-4,998.40	189,015.81
Register Balance as of 12/31/2020					-4,998.40	189,015.81
Ending Balance					-4,998.40	189,015.81

Washington State District And Municipal Court Judges Assoc. Transaction Detail by Account

July through December 2020

Type	Date	Num	Name	Memo	Amount	Balance
Bank of America - Checking						
Check	07/01/2020		Melanie Stewart	July Payment	(2,000.00)	(2,000.00)
Check	07/31/2020		King County District Court	Judge Michelle Gehlsen 7-10-20	(244.90)	(2,244.90)
Check	08/03/2020		Melanie Stewart	August invoice 4818	(2,000.00)	(4,244.90)
Check	08/14/2020		Pierce County Bookkeeping	June invoice 1000	(318.00)	(4,562.90)
Check	08/14/2020		Pierce County Bookkeeping	July invoice 1002	(218.00)	(4,780.90)
Check	08/20/2020		Dino W Traverso, PLLC	Invoice 19729 2019 Tax return	(700.00)	(5,480.90)
Check	08/20/2020		AOC	Conference Calls for June	(194.88)	(5,675.78)
Check	08/21/2020		Superior Court Judges Association	1/2 of unused balance	(2,405.00)	(8,080.78)
Check	09/01/2020		Melanie Stewart	September payment	(2,000.00)	(10,080.78)
Check	09/11/2020		Susanna Neil Kanther-Raz	July/Aug/Sept	(1,200.00)	(11,280.78)
Check	09/15/2020		Pierce County Bookkeeping	August Invoice 1020	(318.00)	(11,598.78)
Check	09/21/2020		Sharon Harvey	Corp License Renewal	(10.00)	(11,608.78)
Check	09/29/2020		King County District Court	Judge Valerie Bouffiuou 8/25/20	(244.90)	(11,853.68)
Check	10/01/2020		King County District Court	9/15/20 Pro Tem Judge Nguyen	(244.90)	(12,098.58)
Check	10/01/2020		King County District Court	9/11 Judge Powell / 9/11 Judge Walls	(489.80)	(12,588.38)
Check	10/01/2020		Melanie Stewart	October payment	(2,000.00)	(14,588.38)
Check	10/14/2020		Pierce County Bookkeeping	Invoice 1050 for September	(318.00)	(14,906.38)
Check	10/14/2020		AOC	Special fund expense	(29.45)	(14,935.83)
Check	10/21/2020		King County District Court	Pro Tem Valerie Bouffiuou 10-9-20 Pro Tem	(489.80)	(15,425.63)
Check	10/21/2020		King County District Court	9/22/20 Pro Tem Judge Gehlsen	(244.90)	(15,670.53)
Check	10/26/2020		4imprint	President Line item from 2019-2020 Budget	(1,252.12)	(16,922.65)
Check	11/02/2020		Melanie Stewart	November payment	(2,000.00)	(18,922.65)
Check	11/09/2020		Snohomish Co. District Court	DMCMA meeting 10/22/20	(210.00)	(19,132.65)
Check	11/09/2020		Pierce County Bookkeeping	August Invoice	(318.00)	(19,450.65)
Check	11/12/2020		Travelers Insurance		(3,715.00)	(23,165.65)
Check	11/13/2020		Dino W Traverso, PLLC	Invoice 20296	(250.00)	(23,415.65)
Check	12/01/2020		Melanie Stewart	November payment	(2,000.00)	(25,415.65)
Transfer	12/02/2020			Funds Transfer	5,000.00	(20,415.65)
Check	12/09/2020		Tags Awards & Specialties	President Expense	(101.74)	(20,517.39)
Check	12/09/2020		Pierce County Bookkeeping	November invoice	(318.00)	(20,835.39)
Check	12/17/2020		Susanna Neil Kanther-Raz		(2,150.00)	(22,985.39)
Check	12/17/2020		King County District Court	11/30/20	(244.90)	(23,230.29)
Check	12/24/2020		Tags Awards & Specialties	President Expense	(111.59)	(23,341.88)
Total Bank of America - Checking					(23,341.88)	(23,341.88)
Bank of America - Savings						
Deposit	07/31/2020			Interest	1.64	1.64
Deposit	08/31/2020			Interest	1.64	3.28
Deposit	09/30/2020			Interest	1.59	4.87
Deposit	10/31/2020			Interest	1.64	6.51
Deposit	11/30/2020			Interest	1.59	8.10
Transfer	12/02/2020			Funds Transfer	(5,000.00)	(4,991.90)
Deposit	12/31/2020			Interest	1.60	(4,990.30)
Total Bank of America - Savings					(4,990.30)	(4,990.30)
Washington Federal						
Deposit	07/31/2020			Interest	18.56	18.56
Deposit	08/31/2020			Interest	18.56	37.12
Deposit	09/30/2020			Interest	14.02	51.14
Deposit	10/31/2020			Interest	11.69	62.83
Deposit	11/30/2020			Interest	8.99	71.82
Deposit	12/31/2020			Interest	9.29	81.11
Total Washington Federal					81.11	81.11
Prepaid Expenses						
Genera...	07/31/2020	CEH		1/12 of Contract	(4,666.66)	(4,666.66)
Genera...	08/31/2020	CEH		1/12 of Contract	(4,666.66)	(9,333.32)
Genera...	09/30/2020	CEH		1/12 of Contract	(4,666.66)	(13,999.98)
Genera...	10/31/2020	CEH		1/12 of Contract	(4,666.66)	(18,666.64)
Genera...	11/30/2020	CEH		1/12 of Contract	(4,666.66)	(23,333.30)
Genera...	12/31/2020	CEH		1/12 of Contract	(4,666.66)	(27,999.96)
Total Prepaid Expenses					(27,999.96)	(27,999.96)

**Washington State District And Municipal Court Judges Assoc.
Transaction Detail by Account**

July through December 2020

Type	Date	Num	Name	Memo	Amount	Balance
Interest Income						
Deposit	07/31/2020			Interest	(1.64)	(1.64)
Deposit	07/31/2020			Interest	(18.56)	(20.20)
Deposit	08/31/2020			Interest	(1.64)	(21.84)
Deposit	08/31/2020			Interest	(18.56)	(40.40)
Deposit	09/30/2020			Interest	(1.59)	(41.99)
Deposit	09/30/2020			Interest	(14.02)	(56.01)
Deposit	10/31/2020			Interest	(1.64)	(57.65)
Deposit	10/31/2020			Interest	(11.69)	(69.34)
Deposit	11/30/2020			Interest	(1.59)	(70.93)
Deposit	11/30/2020			Interest	(8.99)	(79.92)
Deposit	12/31/2020			Interest	(1.60)	(81.52)
Deposit	12/31/2020			Interest	(9.29)	(90.81)
Total Interest Income					(90.81)	(90.81)
Special Fund Expense						
Check	10/14/2020	AOC		Special fund expense	29.45	29.45
Total Special Fund Expense					29.45	29.45
Prior Year Budget Expense						
Check	08/20/2020	AOC		Conference Calls for June	194.88	194.88
Check	08/21/2020	Superior Court Judges Association		1/2 of unused balance	2,405.00	2,599.88
Check	10/26/2020	4imprint		President Line item from 2019-2020 Budget	1,252.12	3,852.00
Total Prior Year Budget Expense					3,852.00	3,852.00
Board Meeting Expense						
Check	10/01/2020	King County District Court		9/11 Judge Walls	244.90	244.90
Check	10/21/2020	King County District Court		Pro Tem Renee Walls 10-9-20	244.90	489.80
Total Board Meeting Expense					489.80	489.80
Bookkeeping Expense						
Check	08/14/2020	Pierce County Bookkeeping		June invoice 1000	318.00	318.00
Check	08/14/2020	Pierce County Bookkeeping		July invoice 1002	218.00	536.00
Check	09/15/2020	Pierce County Bookkeeping		August Invoice 1020	318.00	854.00
Check	10/14/2020	Pierce County Bookkeeping		Invoice 1050 for September	318.00	1,172.00
Check	11/09/2020	Pierce County Bookkeeping		August Invoice	318.00	1,490.00
Check	12/09/2020	Pierce County Bookkeeping		November invoice	318.00	1,808.00
Total Bookkeeping Expense					1,808.00	1,808.00
Judicial Assistance Committee						
Check	09/11/2020	Susanna Neil Kanther-Raz		July/Aug/Sept	1,200.00	1,200.00
Check	12/17/2020	Susanna Neil Kanther-Raz		Oct/Nov/Dec	1,200.00	2,400.00
Check	12/17/2020	Susanna Neil Kanther-Raz		Therapy Session	150.00	2,550.00
Check	12/17/2020	Susanna Neil Kanther-Raz		Peer Counselor Training	800.00	3,350.00
Total Judicial Assistance Committee					3,350.00	3,350.00
Legislative Committee						
Check	10/01/2020	King County District Court		9/15/20 Pro Tem Judge Nguyen	244.90	244.90
Check	10/01/2020	King County District Court		9/11 Judge Powell	244.90	489.80
Check	10/21/2020	King County District Court		9/22/20 Pro Tem Judge Gehlsen	244.90	734.70
Total Legislative Committee					734.70	734.70
Legislative Pro-Tem						
Check	07/31/2020	King County District Court		Judge Michelle Gehlsen 7-10-20	244.90	244.90
Check	09/29/2020	King County District Court		Judge Valerie Bouffuou 8/25/20	244.90	489.80
Check	11/09/2020	Snohomish Co. District Court		DMCMA meeting 10/22/20	210.00	699.80
Check	12/17/2020	King County District Court		11/30/20	244.90	944.70
Total Legislative Pro-Tem					944.70	944.70

Washington State District And Municipal Court Judges Assoc.
Transaction Detail by Account
 July through December 2020

Type	Date	Num	Name	Memo	Amount	Balance
Lobbyist Contract						
Check	07/01/2020		Melanie Stewart	July Payment	2,000.00	2,000.00
Genera...	07/31/2020	CEH		1/12 of Contract	4,666.66	6,666.66
Check	08/03/2020		Melanie Stewart	August invoice 4818	2,000.00	8,666.66
Genera...	08/31/2020	CEH		1/12 of Contract	4,666.66	13,333.32
Check	09/01/2020		Melanie Stewart	September payment	2,000.00	15,333.32
Genera...	09/30/2020	CEH		1/12 of Contract	4,666.66	19,999.98
Check	10/01/2020		Melanie Stewart	October payment	2,000.00	21,999.98
Genera...	10/31/2020	CEH		1/12 of Contract	4,666.66	26,666.64
Check	11/02/2020		Melanie Stewart	November payment	2,000.00	28,666.64
Genera...	11/30/2020	CEH		1/12 of Contract	4,666.66	33,333.30
Check	12/01/2020		Melanie Stewart	December payment	2,000.00	35,333.30
Genera...	12/31/2020	CEH		1/12 of Contract	4,666.66	39,999.96
Total Lobbyist Contract					39,999.96	39,999.96
President Expense						
Check	10/21/2020		King County District Court	Pro Tem Valerie Bouffiou 10-9-20	244.90	244.90
Check	12/09/2020		Tags Awards & Specialties	President Expense	101.74	346.64
Check	12/24/2020		Tags Awards & Specialties	President Expense	111.59	458.23
Total President Expense					458.23	458.23
Professional Services						
Check	08/20/2020		Dino W Traverso, PLLC	Invoice 19729 2019 Tax return	700.00	700.00
Check	11/13/2020		Dino W Traverso, PLLC	Invoice 20296	250.00	950.00
Total Professional Services					950.00	950.00
Treasurer Expense and Bonds						
Check	09/21/2020		Sharon Harvey	Corp License Renewal	10.00	10.00
Total Treasurer Expense and Bonds					10.00	10.00
Insurance Expense						
Check	11/12/2020		Travelers Insurance		3,715.00	3,715.00
Total Insurance Expense					3,715.00	3,715.00
TOTAL					0.00	0.00

Other current information not included in reports



Statement of Account

PAGE 1 OF 1

Statement End Date November 30, 2020

Statement Begin Date November 1, 2020

Account Number

To report a lost or stolen card,
call 800-324-9375.

For 24-hour telephone banking,
call 877-431-1876.

WA STATE DIST & MUNICIPAL COURT JUDGES' 8836
JUDGE MICHELLE K GEHLEN
10116 NE 183RD ST
BOTHELL, WA 98011-3416

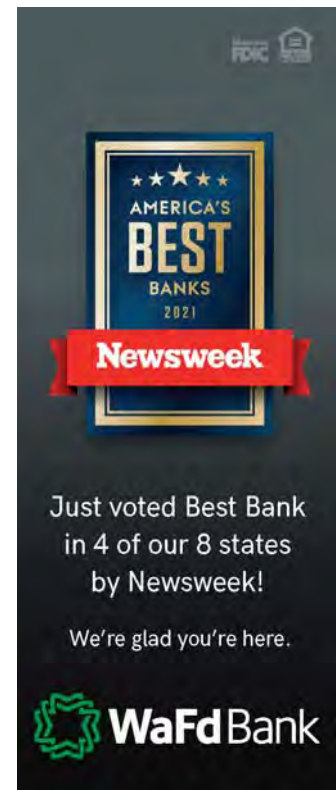
*For questions or assistance with your account(s),
please call 800-324-9375, stop by your local branch,
or send a written request to our Client Care Center
at 9929 Evergreen Way, Everett WA 98204.*

Business Premium Money Market Summary - #

Annual Percentage Yield Earned for this Statement Period	0.250%
Interest Rate Effective 11/01/2020	0.250%
Interest Earned/Accrued this Cycle	\$8.99
Number of Days in this Cycle	30
Date Interest Posted	11-30-2020
Year-to-Date Interest Paid	\$242.81

Beginning Balance	\$43,870.98
Interest Earned This Period	+8.99
Deposits and Credits	+0.00
Checks Paid	-0.00
ATM, Electronic and Debit Card Withdrawals	-0.00
Other Transactions	-0.00
Ending Balance	\$43,879.97

	Total for This Period	Total Year-to-Date
Total Overdraft Fees	\$0.00	\$0.00
Total Returned Item Fees	\$0.00	\$0.00



Interest Earned This Period

Date	Description	Amount
11-30	Credit Interest	8.99
Total Interest Earned This Period		8.99

Visa may provide updated debit card information, including your expiration date and card number, with merchants that have an agreement for reoccurring payments. You may opt out of this service by calling 1-800-324-9375.



Statement of Account

PAGE 1 OF 1

Statement End Date December 31, 2020

Statement Begin Date December 1, 2020

Account Number

To report a lost or stolen card,
call 800-324-9375.

For 24-hour telephone banking,
call 877-431-1876.

WA STATE DIST & MUNICIPAL COURT JUDGES' 12302
JUDGE MICHELLE K GEHLEN
10116 NE 183RD ST
BOTHELL, WA 98011-3416

For questions or assistance with your account(s),
please call 800-324-9375, stop by your local branch,
or send a written request to our Client Care Center
at 9929 Evergreen Way, Everett WA 98204.

Business Premium Money Market Summary - #

Annual Percentage Yield Earned for this Statement Period	0.250%
Interest Rate Effective 12/01/2020	0.250%
Interest Earned/Accrued this Cycle	\$9.29
Number of Days in this Cycle	31
Date Interest Posted	12-31-2020
Year-to-Date Interest Paid	\$252.10

Beginning Balance	\$43,879.97
Interest Earned This Period	+9.29
Deposits and Credits	+0.00
Checks Paid	-0.00
ATM, Electronic and Debit Card Withdrawals	-0.00
Other Transactions	-0.00
Ending Balance	\$43,889.26

	Total for This Period	Total Year-to-Date
Total Overdraft Fees	\$0.00	\$0.00
Total Returned Item Fees	\$0.00	\$0.00



Interest Earned This Period

Date	Description	Amount
12-31	Credit Interest	9.29
Total Interest Earned This Period		9.29

Visa may provide updated debit card information, including your expiration date and card number, with merchants that have an agreement for reoccurring payments. You may opt out of this service by calling 1-800-324-9375.

DMCJA 2020-2021 Adopted Budget

Item/Committee			
Access to Justice Liaison	\$ 100.00		\$100.00
Audit (every 3 years)	\$ 10,000.00		\$10,000.00
Bar Association Liaison	\$ 1,500.00		\$1,500.00
Board Meeting Expense	\$ 30,000.00	\$490.00	\$29,510.00
Bookkeeping Expense	\$ 3,500.00	\$1,808.00	\$1,692.00
Bylaws Committee	\$ 250.00		\$250.00
Conference Calls	\$ 750.00		\$750.00
Conference Planning Committee	\$ 4,000.00		\$4,000.00
Conference <u>Incidental</u> Fees For Members for	\$ 40,000.00		\$40,000.00
Council on Independent Courts (CIC)	\$ 1,000.00		\$1,000.00
Diversity Committee	\$ 2,000.00		\$2,000.00
DMCJA/SCJA Sentencing Alternatives aka	\$ -		
DMCMA Liaison	\$ 500.00		\$500.00
DMCMA Mandatory Education	\$ 20,000.00		\$20,000.00
DOL Liaison Committee	\$ 200.00		\$200.00
Education Committee	\$ 14,500.00		\$14,500.00
Education - Security	\$ 2,500.00		\$2,500.00
Educational Grants	\$ 5,000.00		\$5,000.00
Judicial Assistance Service Program (JASP) Committee*	\$ 16,000.00	\$3,350.00	\$12,650.00
Insurance	\$ 3,715.00	\$3,715.00	\$0.00
Judicial College Social Support	\$ 2,000.00		\$2,000.00
Judicial Community Outreach	\$ 4,000.00		\$4,000.00
Legislative Committee	\$ 4,000.00	\$735.00	\$3,265.00
Legislative Pro-Tem	\$ 2,500.00	\$945.00	\$1,555.00
Lobbyist Contract	\$ 80,000.00	\$68,000.00	\$12,000.00
Lobbyist Expenses	\$ 1,500.00		\$1,500.00
Long-Range Planning Committee	\$ 750.00		\$750.00
MPA Liaison	\$ 1,000.00		\$1,000.00
Municipal/District Court Swearing In - Every 4	\$ -		
National Leadership Grants	\$ 5,000.00		\$5,000.00
Nominating Committee	\$ 400.00		\$400.00
President Expense	\$ 5,000.00	\$458.00	\$4,542.00
Pro Tempore (committee chair approval)	\$ 10,000.00		\$10,000.00
Professional Services	\$ 5,000.00	\$950.00	\$4,050.00
Public Outreach (ad hoc workgroup)	\$ 2,500.00		\$2,500.00
Rules Committee	\$ 500.00		\$500.00
SCJA Board Liaison	\$ 1,000.00		\$1,000.00
Special Fund	\$ -	\$29.00	
Therapeutic Courts**	\$ 2,500.00		\$2,500.00
Treasurer Expense and Bonds	\$ 250.00	\$10.00	\$240.00

Trial Court Advocacy Board	\$	-	
Uniform Infraction Citation Committee	\$	1,000.00	\$1,000.00
Totals	\$	282,200.00	\$80,490.00 \$201,710.00
*Includes \$8,000 from the SCJA			
DMCJA\Board\Budget\2010-Present\2020-2021 Adopted		updated 12/31/20	



CLJ CMS UPDATE

Odyssey File & Serve (OFS)

CLJ CMS OVERVIEW E-FILING IS COMING...AND FAST



HOW IT WORKS



NEXT STEPS



Overview

- **CLJ-CMS Steering Committee**
- **Tyler Technologies contract effective 9/1/20**
- **Key positions/teams being filled**
- **Expect communication**
- **CUWG - GAP/FIT analysis**



How it Works: Pilot Courts

**Odyssey File and Serve (eFile), Odyssey CM,
and Tyler Supervision – spring 2021.**

- **Fircrest/Ruston Municipal Court**
- **Gig Harbor Municipal Court**
- **Pierce County District Court**
- **Tacoma Municipal Court**



HOW IT WORKS - OFS

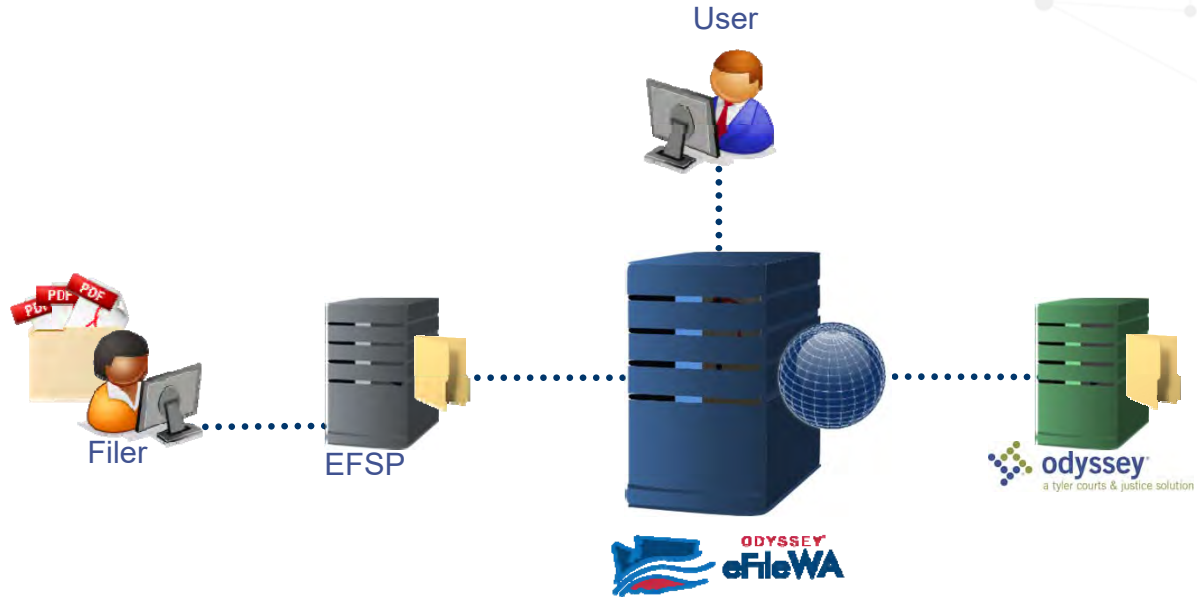
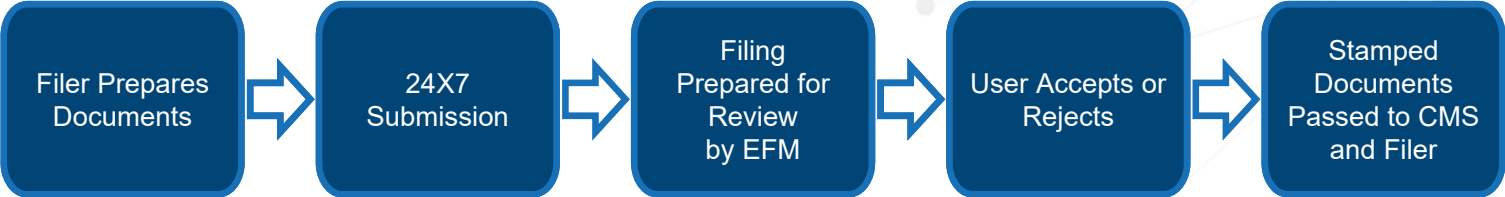
- After eFiling completed for pilots, statewide rollout
- After 30 days, all CLJ-CMS courts will require eFiling for attorneys
- Each court adopts a mandatory eFile local rule



HOW IT WORKS - OFS

- **\$5 service fee to Tyler per envelope for OFS.**
- **Fee waived for PO's, cases with no filing fees, indigent filers, & government.**
- **Tyler responsible for implementation, training of court staff, and legal community. Provides Help Desk and system maintenance.**

EFSP eFiling Model



© Tyler Technologies 2020





HOW IT WORKS - DMS

- eFiled docs searchable
- All non-Odyssey courts may view filed docs in JABS
- Courts with existing DMS, docs integrated into CMS



HOW IT WORKS –Electronic Forms

- Project team will create statewide forms
- Training provided for creation of local forms



HOW IT WORKS –IT Support

- AOC sharing IT readiness checklist in early 2021
 - Expectations
 - Tech specifications
 - Implementation tasks
- Local preparedness
- Future support



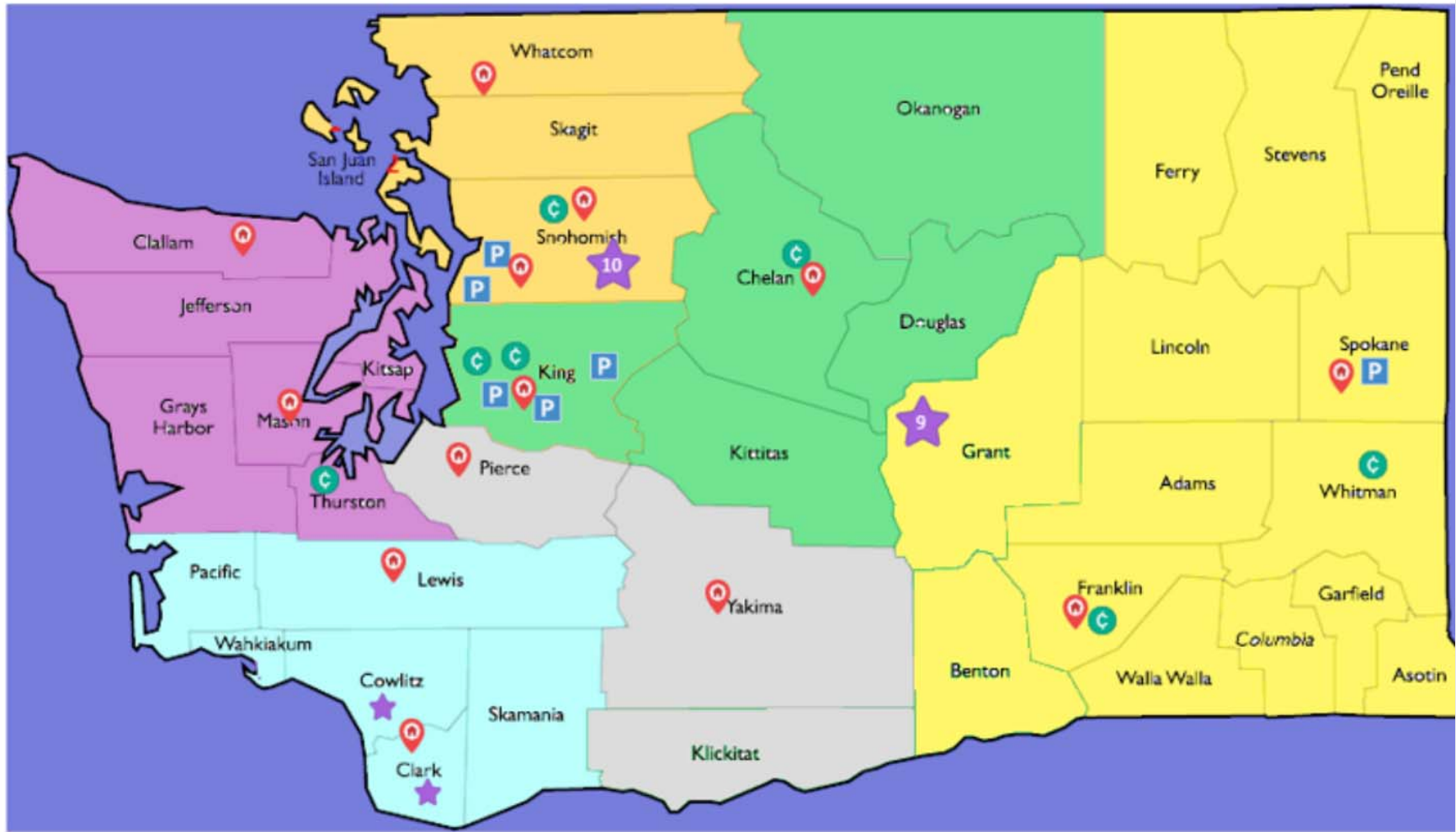
HOW IT WORKS – Statewide Rollout

- **Pilot implementation in spring 2021 – stabilization period**
- **Group 1**: Eastern WA. Largest geographical area: Ferry, Stevens, Pend Oreille, Grant, Lincoln, Spokane, Adams, Whitman, Benton, Franklin, Walla Walla, Columbia, Garfield, & Asotin. 434 users, 37 courts, 12 probation offices, 9 violation bureaus. AOC hubs in Spokane & Tri Cities



HOW IT WORKS – Statewide Rollout

- **Group 2**: Northern WA. Largest numbers of users implemented. Island, San Juan, Whatcom, Skagit, and Snohomish. 1053 users, 33 courts, 13 probation offices, and 10 violations bureaus. AOC hubs in Whatcom, Snohomish, and Skagit





HOW IT WORKS – Statewide Rollout

- Roll out is expected to last 5 years. Each scheduled for spring and fall to avoid weather impacts. Tyler will assist in pilot and first 2
- Remaining regions will be scheduled



NEXT STEPS

- Each court adopt a mandatory eFiling local rule
- Model rule



CLJ CMS UPDATE

Odyssey File & Serve (OFS)

TO: Judge Michelle Gehlsen, President, DMCJA Board
FROM: Judge Jeffrey Goodwin, Chair, DMCJA Rules Committee
SUBJECT: Proposal to Amend GR 22 [formerly proposal to amend GR 31]
DATE: December 29, 2020

As you know, earlier this year, the DMCJA requested that the Washington State Supreme Court (WSSC) amend GR 31 to protect the confidentiality of certain therapeutic court records. After the proposal was submitted, the Washington Association for County Clerks (WSACC) contacted the DMCJA and requested that the proposal be modified to address WSACC's concerns. Subsequently, the DMCJA requested that its proposal be withdrawn, and representatives of WSACC and the DMCJA Rules Committee prepared a revised proposal to amend GR 22. The revised GR 22 proposal has now been reviewed and approved by the DMCJA Rules Committee and WSACC, and has been submitted to the SCJA for review.

The DMCJA Rules Committee recommends that the DMCJA Board submit the attached GR 9 Cover Sheet and proposed rule amendment to the WSSC for consideration.

Please let me know if you have any questions. I can be reached through 425-744-6800 or jeffrey.goodwin@snoco.org.

Attachment: GR 9 Cover Sheet and Proposed Amendment to GR 22

CC: DMCJA Rules Committee

GR 9 COVER SHEET

Suggested Amendments to

WASHINGTON STATE COURT GENERAL RULES:

RULE 22: ACCESS TO FAMILY LAW AND GUARDIANSHIP COURT RECORDS

Submitted by the District & Municipal Courts Judges Association

- A. **Name of Proponent:** District & Municipal Courts Judges Association
- B. **Spokesperson:** Judge Michelle Gehlsen, DMCJA President
- C. **Purpose:** The DMCJA recommends amending GR 22 to include therapeutic court records. Therapeutic courts are defined under RCW 2.30.010. This amendment would further the goal of therapeutic courts to provide individualized treatment intervention. Limited public access to assessments and treatment reports would help encourage defendants to cooperate more honestly with risk/needs assessments, mental health and chemical dependency evaluations, and treatment.

In RCW 2.30.010, the Legislature recognized the unique ability of therapeutic courts to help defendants address their individual treatment needs:

(1) The legislature finds that judges in the trial courts throughout the state effectively utilize what are known as therapeutic courts to remove a defendant's or respondent's case from the criminal and civil court traditional trial track and allow those defendants or respondents the opportunity to obtain treatment services to address particular issues that may have contributed to the conduct that led to their arrest or other issues before the court. Trial courts have proved adept at creative approaches in fashioning a wide variety of therapeutic courts addressing the spectrum of social issues that can contribute to criminal activity and engagement with the child welfare system.

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

(3) The legislature recognizes the inherent authority of the judiciary under Article IV, section 1 of the state Constitution to establish therapeutic courts, and the outstanding contribution to the state and local communities made by the establishment of therapeutic courts and desires to provide a general provision in

statute acknowledging and encouraging the judiciary to provide for therapeutic court programs to address the particular needs within a given judicial jurisdiction.

Successful completion of a therapeutic court program by a defendant is dependent on the defendant being honest throughout the entire process. Initial evaluations require defendants to be honest about their personal history, their addiction issues, their mental health issues, etc. Having such evaluations and treatment reports be restricted will help facilitate this goal because defendants can speak freely to evaluators, treatment providers and probation counselors without fear their personal private information will be released to the general public.

To further this end, the DMCJA proposes an amendment to GR 22 that would create restricted access to certain critical records used in therapeutic courts. This amendment would facilitate public access to court records while also protecting personal privacy and not unduly burdening the ongoing business of the courts.

- D. **Proposed Amendments:** [set forth below]
- E. **Hearing:** A hearing is not recommended.
- F. **Expedited Consideration:** Expedited consideration is not requested.

PROPOSED AMENDMENT:

GR 22
ACCESS TO FAMILY LAW, ~~AND~~ GUARDIANSHIP, AND THERAPEUTIC COURT RECORDS

(a) Purpose and Scope of this Rule. This rule governs access to family law, ~~and~~ guardianship, and therapeutic court records, whether the records are maintained in paper or electronic form. The policy of the courts is to facilitate public access to court records, provided that such access will not present an unreasonable invasion of personal privacy, will not permit access to records or information defined by law or court rule as confidential, sealed, exempted from disclosure, or otherwise restricted from public access, and will not be unduly burdensome to the ongoing business of the courts.

(b) Definition and Construction of Terms.

(1) – (8) [Unchanged.]

(9) “Therapeutic court cases” means any case in which a party is receiving treatment pursuant to a therapeutic court program under Chapter 2.30 RCW, and any case in which treatment is court-ordered.

(c) Access to Family Law, ~~or~~ Guardianship, and Therapeutic Court Records.

(1) *General Policy.* Except as provided in RCW 26.26.610(2) and subsections (c)(2) and (c)(3) below, all court records shall be open to the public for inspection and copying upon request. The Clerk of the court may assess fees, as may be authorized by law, for the production of such records.

(2) *Restricted Access.* The Confidential Information Form, Sealed Financial Source Documents, Domestic Violence Information Form, Notice of Intent to Relocate required by RCW 26.09.440, Sealed Personal Health Care Record, Retirement Plan Order, Confidential Reports as defined in (e)(2)(B), copies of any unredacted Judicial Information System (JIS) database information considered by the court for parenting plan approval as set forth in (f) of this rule, ~~and~~ any Personal Information Sheet necessary for JIS purposes, and evaluations and reports pursuant to chapter 10.77 RCW, therapeutic court risk/needs assessments, treatment evaluation and treatment compliance forms used in therapeutic court cases or otherwise ordered by a court, shall only be accessible as provided in sections (h) and (i) herein.

(3) *Excluded Records.* This section (c) does not apply to court records that are sealed as provided in GR 15, or to which access is otherwise restricted by law.

(d) Restricted Personal Identifiers Not Required—Except. Parties to a family law case or the protected person in a guardianship case or defendants in a therapeutic court or those ordered to do treatment by a therapeutic court shall not be required to provide restricted personal identifiers in any document filed with the court or required to be provided upon filing a family law or guardianship case, except:

(1) “Sealed financial source documents” filed in accordance with (g)(1).

(2) The following forms: Confidential Information Form, Domestic Violence Information Form, Notice of Intent to Relocate required by RCW 26.09.440, Vital Statistics Form, Law Enforcement Information Form, Foreign Protection Order Information Form, and any Personal Information Sheet necessary for JIS purposes.

(3) Court requested documents that contain restricted personal identifiers, which may be submitted by a party as financial source documents under the provisions of section (g) of this rule.

Comment

Court records not meeting the definition of “Sealed Financial Source Documents,” “Personal Health Care Records,” Retirement Plan Orders, Confidential Reports or court records that otherwise meet the definition but have not been submitted in accordance with (g)(1) are not automatically sealed. Section (3) provides authority for the court to seal court records containing restricted personal identifiers upon motion of a party, or on the court’s own motion during a hearing or trial.

(e) Filing of Reports in Family Law, ~~and~~ Guardianship, and Therapeutic Court cases--Cover Sheet.

(1) This section applies to documents that are intended as reports to the court in Family law, ~~and~~ Guardianship, and therapeutic court cases including, but not limited to, the following:

(A) Parenting evaluations;

(B) Domestic Violence Assessment Reports created by Family Court Services or a qualified expert appointed by the court, or created for a therapeutic court purpose or otherwise ordered by a court;

(C) Risk Assessment Reports created by Family Court Services or a qualified expert, or created for a therapeutic court purpose or otherwise ordered by a court;

(D) Treatment evaluation and compliance reports required by a therapeutic court or otherwise ordered by a court;

(E) Mental health competency evaluations;

~~(F)~~ CPS Summary Reports created by Family Court Services or supplied directly by Children’s Protective Services;

~~(G)~~ Sexual abuse evaluations; and

~~(H)~~ Reports of a guardian ad litem or Court Appointed Special Advocate.

(2) – (3) [Unchanged.]

(f) – (g) [Unchanged.]

(h) Access by Courts, Agencies, and Parties to Restricted Documents.

(1) Unless otherwise provided by statute or court order, the following persons shall have access to all records in family law, ~~or~~ guardianship, or therapeutic court cases:

(A) – (B) [Unchanged.]

(2) Except as otherwise provided by statute or court order, the following persons shall have access to all documents filed in a family law, ~~or~~ guardianship, or therapeutic court case, except the Personal Information Sheet, Vital Statistics Form, Confidential Information Form, Domestic Violence Information Form, Law Enforcement Information Form, and Foreign Protection Order Form.

(A) – (C) [Unchanged.]

(i) [Unchanged.]



District and Municipal Court Judges' Association

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Okanogan County District Court
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JUDGE DREW ANN HENKE
Tacoma Municipal Court
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JUDGE TYSON R. HILL
Grant County District Court
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JUDGE AIMEE MAURER
Spokane County District Court
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JUDGE KEVIN G. RINGUS
Fife Municipal Court
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JUDGE LAURA VAN SLYCK
Everett Municipal Court
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JUDGE KARL WILLIAMS
Pierce County District Court
(253) 798-3312

COMMISSIONER PAUL WOHL
Thurston County District Court
(360) 786-5562

December 30, 2020

VIA EMAIL

Honorable Debra L. Stephens
Chief Justice of the Washington State Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

RE: COVID - WDA/WACDL Request to Suspend the Issuance of Warrants

Dear Chief Justice Stephens,

The District and Municipal Court Judges' Association (DMCJA) Board has reviewed the request from WDA and WACDL (WDA/WACDL) to halt the issuance of all bench warrants and would like the Supreme Court to consider our response prior to making any decision. We appreciate the concerns expressed by WDA/WACDL but reach a different conclusion regarding the appropriate course of action to take.

First, we would like to start with the current Supreme Court Order ("Order"). The Order was thoughtfully crafted and took into consideration the viewpoints of all interested parties. The current Order grants the trial courts the discretion necessary to make informed decisions and balance the safety needs of criminal justice participants and the public. In addition, the Order requires judicial officers to determine whether issuing the warrant is necessary for public or individual safety, the subject of the warrant received actual notice of the hearing, and that there is no viable alternative to issuing a warrant to securing the appearance of the subject. At this point no evidence has been demonstrated that the order has failed in its desired goals.

The WDA/WACDL letter provides anecdotal evidence of jurisdictions issuing warrants and the resultant impact on criminal justice participants. The current Order provides the necessary means to safeguard criminal justice participants and the public, by limiting the issuance of warrants. In our review of the current practice of issuing warrants, we do not see the problem as widespread as indicated and adherence to the current Order will alleviate many of the concerns expressed by WDA/WACDL. The issues presented are more appropriately addressed through educating courts and criminal justice partners of the requirements of the current Order.

The second point to consider is the opinion of our constituency. In response to a recent survey involving the issuance of warrants posed to DMCJA courts in October, an overwhelming majority of the respondents favored the ability to issue warrants: 42% favored issuing warrants pursuant to the current court

rule and 57% favored issuing warrants upon a certain number of unexcused FTA regardless of imminent danger.

We have serious concerns about increasing recidivism, the impact on our various communities of increasing recidivism, and respect for court orders and procedures. We also face a tidal wave of cases and resets once any moratorium is lifted. This has the potential to negatively impact the speedy trial rights of those defendants who were responsive to court orders.

The DMCJA recognizes that these are difficult times and that we are all faced with difficult decisions. The current Order has demonstrated that it provides appropriate safeguards for the public, the defendants, and the attorneys. Each of the judges of the DMCJA have been elected or appointed and swore an oath to support the Constitutions of the United States and the State of Washington and we urge the Supreme Court to continue to trust the judges of Washington to faithfully execute their duties.

Sincerely,

s/Judge Michelle K. Gehlsen
DMCJA President