DISTRICT AND MUNICIPAL COURT JUDGES' ASSOCIATION

BOARD MEETING

May 7, 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***~~ ***CANCELLED***	~~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	Bd Mtg: 1:00-2:00 p.m. Retreat: 2:00-5:00 p.m.	DMCJA Board Retreat, ZOOM Video Conference
~~***June 2021 – TBD***~~ ***CANCELLED***	~~9:00 a.m. – 12:00 p.m.~~	DMCJA Spring Program, Location: TBD

AOC Staff: Stephanie Oyler

Updated: April 1, 2021

DMCJA BOARD MEETING
FRIDAY, MAY 7, 2021
1:00 PM – 2:00 PM
ZOOM VIDEO CONFERENCE

PRESIDENT MICHELLE GEHLSEN

AGENDA	PAGE
Call to Order	
Welcome and Breakout Sessions – Judge Michelle Gehlsen	
1. General Business A. Minutes for April 9, 2021 Meeting B. Standing Committee Reports 1. Rules Committee 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 Jennifer Forbes, President-Elect F. Washington State Association for Justice (**WSAJ**) – Mark O'Halloran, Esq. G. Washington State Bar Association (**WSBA**) – Bryn Peterson, Esq.	
3. Action A. Proposal from DMCJA Rules Committee to adopt new ARLJ 14 – Judge Jeffrey Goodwin and Ms. J Benway	6
4. Discussion A. Board Vacancy – Judge Tyson Hill appointed to Grant County Superior Court B. DMCJA Social Media Accounts – Judge Michelle Gehlsen	
5. Information A. Amendments to GR7, subsection (b), taking effect on February 1, 2021. B. Court Review Essay – "Why Judges Should Not Mistake the Norm for the Neutral" by Justice Debra Stephens & Judge Veronica Galván. C. WA Supreme Court Symposium Announcement – "Beyond Bars: The Increased Incarceration of Women and Girls of Color." D. DHS Announces New Guidance to Limit ICE and CBP Civil Enforcement Actions In or Near Courthouses E. Estimated ARPA Funding Distribution to Counties and Cities	11 12 16 17 18

F. Court of Appeals Unpublished Decision – State v. Stevens County District Court Judge & Stevens County District Court G. 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: • June 1, 2021	23
6. Other Business A. The DMCJA Annual Business Meeting, held in conjunction with the Annual Spring Conference, is scheduled for Monday, June 7, 2021, from 12:15 p.m. to 1:15 p.m. held via Zoom video conference.	
7. Adjourn	

DMCJA Board of Governors Meeting
Friday, April 9, 2021, 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
Commissioner Rick Leo
Judge Samuel Meyer
Judge Kevin Ringus
Judge Charles Short
Judge Laura Van Slyck
Judge Karl Williams
Commissioner Paul Wohl

Members Absent:
Judge Anita Crawford-Willis
Judge Aimee Maurer
Judge Jeffrey Smith

Guests:
Judge Tam Bui, BJA Representative
Judge Mary Logan, BJA Representative
Judge Rebecca Robertson, BJA Representative
Patricia "Patti" Kohler, DMCMA
Bryn Peterson, WSBA
Judge Lisa Mansfield
Judge Jessica Giner
Judge Fa'amomoi Masaniai Jr.
Judge Catherine McDowall
Judge Charles "Bruce" Hanify
Commissioner Paul Nielsen
LaTricia Kinlow, Tukwila Muni Court Administrator

AOC Staff:
Stephanie Oyler, Primary DMCJA Staff
J Benway, Legal Services Senior Analyst
Vicky Cullinane, Business Liaison
Tracy Dugas, Court Program Specialist
Sondra Hahn, Court Program Analyst
Dirk Marler, Chief Legal Counsel, CSD Director
Dawn Marie Rubio, State Court Administrator

CALL TO ORDER
Judge Gehlsen, District and Municipal Court Judges' Association (DMCJA) President, noted a quorum was present and called the DMCJA Board of Governors (Board) meeting to order at 12:32 p.m. Judge Gehlsen also noted that new judges were invited to this meeting to observe, and asked attendees to introduce themselves.

BREAKOUT SESSIONS
Meeting participants were split into five informal breakout groups, and members were invited to discuss DMCJA membership and participation with the new judges in their group, or other topics of interest. Following the breakouts, designees from each group briefly shared what was discussed in their breakout room.

1. GENERAL BUSINESS

A. Minutes
The Board moved, seconded, and passed a vote (M/S/P) to approve the Board Meeting Minutes for March 12, 2021. Judges Van Slyck and Short abstained.

B. Treasurer's Report for March
Commissioner Leo reported on behalf of Judge Smith. M/S/P to approve the Treasurer's Report for March.

C. Special Fund Report for March
M/S/P to approve the Special Fund Report for March.

D. Standing Committee Reports

1. Rules Committee

J Benway noted that the special meeting minutes (from Rules) are in the packet.

2. Diversity Committee

Judge Short reported that the committee recently finished hosting a pro tem training in collaboration with the Washington State Bar Association (WSBA), which had excellent turnout with over 200 participants, and a list of attendees will be sent to membership for future reference. He noted that both WSBA and the minority bar associations have been great partners in collaboration to reach more potential participants. Judge Williams also reported that the breakout sessions in the pro tem trainings were especially notable, and that he appreciated that pro tems were given the opportunity to speak directly to judges. He felt that participants came away from the training with a sense that they would be able to take action immediately, and that the committee was dedicated to reaching potential pro tems from all across the cultural spectrum. He felt that the experience of seeing pro tems be appointed was very rewarding, as many judges get their start as pro tems, and strong training can contribute to producing better judges overall. Judge Short agreed that participants this year seemed particularly engaged and asked excellent questions.

3. Legislative Committee

Judge Gehlsen thanked the Co-Chairs for their hard work during this very busy session. Commissioner Wohl shared that there have been several bills this session with substantial impacts. DMCJA's own bill, HB 1294, has passed both houses and been delivered to the governor for signature. This bill will give CLJs the ability to share probation services between courts without having to present to local legislative authorities, as long as no payment is required for the services. Another major bill of note this year is SB 5226, which removes financial based suspensions, allows for more payment plan opportunities, and creates restrictions on when collection activities can begin for unpaid balances. Commissioner Wohl shared that this bill has passed the Senate, is currently in the House, and is likely to pass. The bill that has required the most attention this year is HB 1320, which is a major and comprehensive rewrite of the various kinds of civil protection orders. Commissioner Wohl explained that this bill has many implications for superior courts, courts of limited jurisdiction, and the Administrative Office of the Courts (AOC), including a requirement that AOC redraft all forms associated with protection orders. In addition, this bill requires an electronic filing system, and has short timeframes for implementation, because the intention of the bill is to remove obstacles for individuals requiring protection orders. Due to the many requirements of the bill and the short implementation timelines, the full bill is not technically feasible at the moment but some of the upcoming technological enhancements already in the pipeline (such as the new case management system) will overlap with the requirements of the bill. Commissioner Wohl also noted that this bill restricts the court's ability to livestream hearings related to protection orders, and would require consent of all parties prior to livestreaming. The Legislative Committee Co-Chairs feel this creates an issue with open courts, and Judge Gehlsen and Judge Ramseyer, SCJA President, have signed a letter directed to the bill sponsors requesting them to remove or rewrite this provision. The bill has passed the House and is current in the Senate, where it is expected to pass. Commissioner Wohl summarized that this bill will create major changes to court operations in the future.

Judge Ringus briefly noted that here is a proviso related to the Criminal Justice Treatment Account, currently utilized by drug courts, which would carve out funds for cities to establish or maintain therapeutic courts, which would be beneficial as the *Blake* decision will create a need for more therapeutic courts in CLJs as these cases will no longer be charged as felonies. Judge Ringus thanked Judge Gehlsen for all of her efforts, especially regarding the efforts to secure this funding, and noted that there were over 1500 bills this legislative session.

Ms. Rubio requested support for HB 1532 from the Association, as this bill removes the sunset provision so that courts may continue to collect civil filing fees. Judge Gehlsen stated that DMCJA will sign in to the hearing as "pro" for the bill.

E. Judicial Information Systems (JIS) Report
Ms. Cullinane briefly reported on this item under CLJ-CMS Project instead of as a separate item.

F. CLJ-CMS Project for Rules for E-filing
Judge Gehlsen introduced this item by mentioning that she recognizes that there are many outstanding questions and concerns about the CLJ-CMS project, and that DMCJA leadership is working to increase communication and collaboration with the project team. Ms. Cullinane reported that there have now been seven webinars for local bar associations to learn about the project, that there has been a good amount of participation, and questions are being addressed.

2. LIAISON REPORTS

A. Administrative Office of the Courts AOC
Ms. Rubio reported that this legislative session has been especially challenging due to the departure of Dory Nicpon, Associate Director of Judicial and Legislative Relations, from AOC. Ms. Rubio shared that she has been working closely with AOC's contract lobbyist Devon Conner-Green and has been pleased with his work. Over 300 bills that could impact the courts, from small changes to sweeping reform, are still moving through the legislative process. In addition, last year AOC submitted a decision package for several items including behavioral health, equity and access, modifying judicial needs estimate methodology, and expanded trial court legal services. She expects that some of these packages will ultimately be included in the budget, but some will not. Ms. Rubio reported that she has heard positive comments about vaccine distribution for the courts and she welcomes comments or questions. In addition, she shared that AOC applied for CARES funding through the Office of Financial Management and were awarded about $13.5 million to disseminate to local jurisdictions. The work group responsible for reviewing requests for these funds have focused primarily on reducing backlog, but there is approximately $2.2 million left in the fund, and she encouraged additional jurisdictions to apply for the funds if they need it. Judge Meyer asked if there was still an issue in the budget where the CLJ-CMS project would be moved under OFM oversight, and Ms. Rubio responded that this language does still appear to be in the budget.

B. Board for Judicial Administration (BJA)
Judge Robertson reported that court security funding is not currently in the Senate budget but that she is hopeful it will be added.

C. District and Municipal Court Management Association (DMCMA)
Ms. Kohler reported that DMCMA has been hosting workshops called "Silence = Acceptance" and throughout the three sessions now complete, they have had over 600 participants.

D. Misdemeanant Probation Association (MPA)
Ms. Scarpaci was not present.

E. Superior Court Judges' Association (SCJA)
Judge Estudillo was not present.

F. Washington State Association for Justice (WSAJ)
Mr. O'Halloran was not present.

G. Washington State Bar Association (WSBA)
Mr. Peterson was present but had no report.

3. ACTION

A. *Recommendation from DMCJA Rules Committee regarding new GR 39 published for comment – Judge Jeffrey Goodwin and Ms J Benway*
M/S/P for DMCJA to adopt the position of Rules Committee as provided in the materials and to submit a comment in favor of the proposed rule prior to the April 30, 2021 comment deadline.

B. *Recommendations from DMCJA Rules Committee regarding proposed amendments to CrRLJ 3.2 published for comment – Judge Jeffrey Goodwin and J Benway*
M/S/P for DMCJA to support proposed amendment to CrRLJ 3.2b and oppose proposed amendment to 3.2a as provided in the materials.

C. *Report from Bylaws Committee regarding proposed amendments to the Bylaws – Judge Hedine and Ms. J Benway*
M/S/P to support Bylaws Committee proposed amendments and send them to full membership for vote with the other Spring Conference ballot items.

4. DISCUSSION

A. Options for Funds Surplus – Judge Smith
Judge Smith was not present and this item was not discussed.

B. Balanced budget Discussion – Judge Short
Judge Short reported that the Reserves Committee will be meeting soon to draft recommendations for the budget discussion at the Retreat, with an eye towards drafting a budget that is more balanced than in recent years. Due to decreased expenses from the pandemic and online meetings, the committee expects to present some recommendations for budget items that are new to DMCJA but that should be very helpful to members.

C. Lobbyist Contract – Judge Smith
Judge Gehlsen shared that long-time DMCJA lobbyist, Melanie Stewart, will be retiring at the end of the legislative session after working with us for 41 years. Judge Gehlsen reported that she has requested a work group be established, Chaired by Judge Robertson, to discuss all aspects of hiring a new lobbyist including reviewing the most recent contract and drafting a new version, researching salaries, and prioritizing qualities the association would hope to find in a new lobbyist. Judge Gehlsen asked that any members who are interested in

D. Proposal from the DMCJA Rules Committee to adopt new ARLJ 14 – Judge Goodwin and Ms. J Benway
Ms. Benway introduced LaTricia Kinlow (DMCMA) to present this joint proposal. Ms. Kinlow explained that this proposal, which has been in progress for several years, has the purpose of ensuring that court administrators are receiving continuous education. She went on the share that this proposal provides the additional benefits of ensuring that the training received by administrators is appropriate and substantial, while allowing administrators to more easily transition between courts. Ms. Kinlow stated that in the past when budgets have been reduced, non-mandatory training has been cut. Judge Gehlsen shared that she believes the Association should support this proposal, as having well-trained administrators is imperative to a well-run court. Judge Robertson mentioned that this rule proposal has previously been discussed and vetted by Education and other committees. The judges briefly discussed whether DMCMA education would become self-sufficient in the future, and Ms. Kinlow stated that the funding has been rolled over in previous years. Most of the training required by this proposal is already provided, and DMCMA will be working with AOC staff to establish criteria for CLEs. She shared that the goal is for DMCMA to be financially self-sufficient so that the training is sustainable in the future, and when Judge Williams asked if there will be additional financial obligations to individual jurisdictions, Ms. Kinlow responded that the financial obligations

would not be more substantial than what jurisdictions pay now if the jurisdiction currently pays for administrator training. She also mentioned that scholarships are offered to DMCMA members if there is no jurisdiction funding available. This item will be moved to Action for the next DMCJA meeting agenda.

E. Report by Bylaws Committee regarding proposed amendments to the Bylaws – Judge Hedine and Ms. J Benway

Ms. Benway explained that this item is information t that the recommendations need to be made at annual meeting. M/S/P to move this item to Action today.

5. INFORMATION

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

A. Letter of Concern regarding jail interpreting received from the Supreme Court Interpreter Commission

B. SCJA/DMCJA joint statement denouncing racism and bias

C. Webinar – Meaningful Communication in Complicated Times; Sponsored by the Interpreter and Gender & Justice Commissions

D. Letter to lobbyist Melanie Stewart from DMCJA President Michelle Gehlsen congratulating her on her upcoming retirement

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:
   - June 1, 2021

F. New DMCJA Appointments to External Committees:
   1. Council on Public Defense: Judge Drew Henke
   2. JASP: Judge Timothy Jenkins & Judge Michael Finkle

The next DMCJA Board Meeting is scheduled for Friday, May 7, 2021 from 1:00 p.m. to 2:00 p.m. followed by the DMCJA Retreat from 2:00 p.m. to 5:00 p.m.; both held via Zoom video conference.

The meeting was adjourned at 2:09 p.m.

TO:	Judge Michelle Gehlsen, President, DMCJA Board
FROM:	Judge Jeffrey Goodwin, Chair, DMCJA Rules Committee
SUBJECT:	Proposal to Adopt New ARLJ Pertaining to Mandatory Continuing Court Administrator Education
DATE:	March 30, 2021

As you know, the District & Municipal Courts Management Association (DMCMA) requested input from the DMCJA on a proposed new Administrative Rule for the Courts of Limited Jurisdiction (ARLJ) and the matter was referred to the Rules Committee. The new rule, which would require continuing education for court administrators, was reviewed by the Rules Committee and amended during subsequent discussions with the DMCMA. The Rules Committee unanimously approved the resulting product and recommends that the DMCJA co-sponsor the proposal to the WSSC Rules Committee.

The new rule's requirement of mandatory continuing legal education for court managers is similar to what is required for judges under GR 26. The DMCMA currently offers such training; making it mandatory will ensure uniformity across courts of limited jurisdiction. 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 New ARLJ 14

CC: DMCJA Rules Committee

GR 9 COVER SHEET

Suggested New
WASHINGTON STATE COURT RULE:
ADMINISTRATIVE RULES FOR COURTS OF LIMITED JURISDICTION

RULE [14]
MANDATORY CONTINUING COURT ADMINISTRATOR EDUCATION

A. **Names of Proponents:** District & Municipal Courts Management Association (DMCMA)
District & Municipal Courts Judges' Association (DMCJA)

B. **Spokespersons:** LaTricia Kinlow, DMCMA Representative
Margaret Yetter, DMCMA Representative
Judge Michelle Gehlsen, President, DMCJA

C. **Purpose:** The DMCMA and DMCJA recommend adopting a new Administrative Rule for the Courts of Limited Jurisdiction, which would mandate minimum education requirements for court managers. The rule was written to parallel GR 26 regarding mandatory continuing education for judges, but be specific to courts of limited jurisdiction. Both associations have vetted the rule and unanimously recommend adoption.

Court managers are often responsible for ensuring court compliance with the General Rules and other statutes and ordinances. Effective and efficient management of courts requires knowledge and skills in administrative roles and responsibilities, budgeting, human resource management, and related topics. Mandatory training will help address overall court management needs and ongoing education in order to more effectively serve the public and community.

The BJA Court Education Committee Funding Task Force conducted a survey in January 2018 and found that:

1) Training opportunities are limited for court administrators;

2) Court administrators were least likely to receive training early in their tenure - 63% of new court administrators received no training during their first six months on the job.

3) Court administrators should have mandatory training requirements and more training opportunities.

GR 26 established minimum requirements for continuing judicial education of judicial officers. However, there is no rule that establishes minimum requirements for court managers.

The DMCMA currently offers appropriate training that is available to court managers. A rule requiring such training will ensure uniformity across courts of limited jurisdiction as well as fair access to resources. The DMCMA and the DMCJA worked together to craft the language of this new rule, intended to fill this important gap in training for court personnel.

D. **Hearing:** A hearing is not recommended.

E. **Expedited Consideration:** Expedited consideration is not requested.

Proposed New:

ARLJ [14]
MANDATORY CONTINUING COURT ADMINISTRATOR EDUCATION

(a) Purpose. The protection of the rights of free citizens depends upon the existence of an independent and competent judiciary. Courts require skilled court administrators to ensure an open, fair and efficient justice system. This is particularly true in courts of limited jurisdiction—the court level the public most often turns to for services. This rule establishes minimum requirements for education and training of court administrators and equivalent employees in courts of limited jurisdiction.

(b) Definitions.

(1) "Court administrator", as used in this rule, means the court administrator or equivalent employee in a court of limited jurisdiction to whom the presiding judge may delegate administrative functions described in GR 29(f). The presiding judge of each district and municipal court shall designate a minimum of one court administrator or equivalent employee per court to comply with this rule.

(2) "Designee", as used in this rule, means the court administrator or equivalent employee as designated by the presiding judge.

(3) "CEC" means the Board for Judicial Administration's Court Education Committee.

(4) "Academy" means the Washington Court Administrator Academy.

(5) "DMCMA" means the District and Municipal Court Management Association.

(6) "AOC" means the Administrative Office of the Courts described in Ch. 2.56 RCW.

(c) Minimum requirement. Each designee shall complete a minimum of fifteen credit hours of continuing education approved by the CEC every three years.

(d) Court Administrator Academy Attendance.

(1) Each designee shall attend and complete the Academy within twelve months of initial appointment.

(2) Each designee holding this position for fewer than four years at the time this rule becomes effective shall attend and complete the Academy within twenty-four months.

(3) The Academy shall consist of no fewer than fifteen hours of education and shall include instruction about roles and responsibilities of court administration, ethics, GR 29, executive branch collaboration, court finances, human resources, and AOC resources and requirements.

(4) The Academy will be offered in conjunction with the annual DMCMA program that receives funding allocated by the CEC. Subject to the availability of CEC and AOC resources, the Academy may also be offered remotely.

(5) In the event of extreme hardship, a presiding judge may request on behalf of their designee a delay of not more than one year to complete the Academy.

(6) The local court jurisdictions lack of adequate budgeting for the designee to attend the Academy shall not constitute an extreme hardship.

(e) Accreditation. The CEC shall, in consultation with the DMCMA and subject to the approval of the Washington Supreme Court, will establish and publish the required curriculum and accreditation standards for the Mandatory Continuing Court Administrator Education.

(f) Compliance. Each designee shall confirm with the AOC on or before January 31 each year, in such form as the AOC shall prescribe, the designee's progress toward the minimum education requirements of section (c) of this rule during the previous calendar year. If the designee does not respond by January 31, their credits will be confirmed by default. A designee who does not have the requisite number of hours at the end of their three-year reporting period will have until March 1 to make up the credits for the previous three-year reporting period. These credits will not count toward their current three-year reporting period.

(g) Non-Compliance. Notification of non-compliance shall be reported to the chair(s) of the CEC and the presiding judge of the appropriate court.

(h) Effective date. This rule becomes effective January 1, 2023.

GR 7
LOCAL COURT RULEMAKING

(a) Generally. One copy of rules of court authorized by law to be adopted or amended by courts other than the Supreme Court must be filed with the state Administrative Office of the Courts. New proposed rules and amendments must be filed on or before July 1, to be effective September 1 of the same year. Promulgation or amendment of rules that describe only the structure, internal management and organization of the court but do not affect courtroom procedures are not governed by the time limitations above.

(b) Review and Comment

(1) No court may adopt an amended or new local rule without first distributing the proposal and allowing at least 30 days for comment. The court shall distribute the proposal by posting it on the court's website and sending the proposal to the county prosecutor, the county clerk, a representative of the county public defender, and the local bar association (with a request that the association notify its members). The court may also take other actions to distribute the proposal.

(2) The court shall direct that all comments on the proposal be submitted in writing to the court by a deadline the court sets. The court shall post on its website all comments it receives.

(3) After the comment period closes and the court considers any comments, the court may adopt, amend, or reject the proposal or take such other action as the court deems appropriate.

(c) Form. All local rules shall be consistent with rules adopted by the Supreme Court, and shall conform in numbering system and in format to these rules to facilitate their use. Each rule and amendment filed shall state its effective date in brackets following the rule. Prior to adopting a local rule, the court may informally submit a copy of its local rule to the Administrative Office of the Courts for comments as to its conformity in number and format to the Official Rules of Court, and suggestions with reference thereto.

(d) Distribution. On or before September 1 of each year, the Administrator for the Courts shall distribute all local rules, and amendments thereto, to the state law library, the libraries of the three divisions of the Court of Appeals, all county law libraries, Washington law school libraries, and to such other places as are deemed appropriate by the Administrative Office of the Courts.

(e) Availability of Local Rules. The clerk of the court adopting the rules shall maintain a complete set of current local rules, which shall be available for inspection and copying.

(f) Emergency Rules.

(1) In the event a court other than the Supreme Court deems that an emergency exists which requires a change in its rules, such court shall, in addition to filing the rules or amendments as provided in section (a), distribute them to all county law libraries.

(2) A rule or amendment adopted on an emergency basis shall become effective immediately on filing with the Administrative Office of the Courts. The rule or amendment shall remain effective for a period of 90 days after filing, unless readopted in accordance with section (f)(1) or submitted as a permanent rule or amendment under section (a) within the 90-day period.

(g) Filing Local Rules Electronically. The Administrative Office of the Courts shall establish the specifications necessary for a court to file its local court rules electronically.

[Adopted effective January 1, 1981; Amended effective September 1, 1991; March 19, 1993; November 25, 2003; July 30, 2019; February 1, 2021.]

ESSAY

Why Judges Should Not Mistake the Norm for the Neutral

Justice Debra Stephens & Judge Veronica Galván

> "The injustice still plaguing our country has its roots in the individual and collective actions of many, and it cannot be addressed without the individual and collective actions of us all."
>
> – Washington State Supreme Court
> Open Letter to the Legal Community, June 4, 2020.

This statement from the Washington Supreme Court Open Letter, issued after Minneapolis police officers killed George Floyd on May 25, 2020, reflects both an acknowledgment of responsibility and a commitment to action. The Washington Supreme Court's letter was one of many written by courts and individual judges across the United States, who felt compelled to speak out about racial injustice and our role as keepers of a system called Justice. Questions quickly followed: Are those who speak out against racial injustice taking sides on a social issue? What can a judge do or say within the ethical constraints of codes of judicial conduct? How can courts as neutral arbiters of disputes address systemic racism in the court system?

To be clear, judges were asking such important questions long before 2020. The judicial profession is a path of public service, and most of us would say we became judges because we want to "make a difference." But what it means to remain impartial while making a difference has become an increasingly urgent question as we are all called to reckon with our nation's history of racial injustice and the role that we, as judges, play. None of us put on a black robe to become an instrument of discrimination and oppression, so it is fair to ask what we can do—indeed what we must do—as individuals committed to the values of impartiality and equal justice.

We write to you as a Supreme Court justice and a trial judge in Washington State. One deals daily with the doctrines and broad themes that shape our law, while the other applies such doctrines every day to real people facing difficult situations. When we attended the state judicial college together 13 years ago, our training in judicial ethics focused on caution. We were taught—like generations of judges before and since—that the surest way to stay out of trouble with the judicial conduct commission was to follow the old adage: "When in doubt, don't do it." But today we suggest that advice must be reconsidered in the face of an unavoidable reality: Doing nothing to address systemic injustice *is* doing something. Every judicial decision we make exists within a legal structure that does not impact everyone equally. Moreover, many of our decisions allow for significant discretion, interpretation, and the application of our considered judgment. So, when we apply a precedent, rule, or common-law doctrine to a set of facts, it is important to critically evaluate what we are doing and consider the broader context.

Throughout this country's history, our courts have played a primary role as architects for the construct of race within our society. It is built into our legal structure. From the moment a court determined that a black man had no cognizable right to even seek justice, as he could not be deemed a citizen under law (*Dred Scott v. Sanford*, 60 U.S. 393 (1857)), and later allowed its citizens to be imprisoned for simply belonging to a particular ethnic group (*Korematsu v. United States,* 323 U.S. 214 (1944)), it became apparent that interpreting and applying the law too often results in decisions that stray in practice from the principles of equity espoused in our venerated Constitution. Nevertheless, it is important also to recognize our courts have been a primary vehicle for redressing racial injustices and correcting historical inequities. Through case law, changes in court rules, and policy advocacy, courts at all levels have tackled the issue of race head on and forced institutions (including our own) to confront the legacy of systemic injustice we have inherited.

We must accept the role of the judicial system in both legitimating and challenging the history of race and bias in America. This understanding carries with it a responsibility to confront how bias and racism play out in the justice system, and how we individually and collectively have the ability to either re-entrench the status quo or instead help bend the long arc of the moral universe ever toward justice.[1]

Court decisions have recognized that unconscious, implicit bias permeates human decision making. The Supreme Court of Washington in *State v. Saintcalle*, 178 Wn.2d 34, 46, 309 P.3d 326 (2013), observed that racism today often "lives not in the open but beneath the surface—in our institutions and our subconscious thought processes—because we suppress it and because we create it anew through cognitive processes that have nothing to do with racial animus." In *Peña-Rodriguez v. Colorado*, 580 U.S ___, 137 S. Ct. 855 (2017), the United States Supreme Court affirmed this concept when it held that the no-impeachment rule pertaining to jury verdicts could not stand in the face of racial animus in jury deliberations. The court recognized that racial bias is "a familiar and recurring evil that, if left unad-

Footnotes

1. Dr. Martin Luther King, during the 1965 march in Selma, paraphrased 19th-century Unitarian minister and abolitionist Theodore Parker, when he said: "The arc of the moral universe is long, but it bends towards justice." In a sermon in 1853, Parker wrote: "I do not pretend to understand the moral universe. The arc is a long one. My eye reaches but little ways. I cannot calculate the curve and complete the figure by experience of sight. I can divine it by conscience. And from what I see I am sure it bends toward justice."

dressed, would risk systemic injury to the administration of justice." *Id.* at 868. While these particular decisions concerned jurors, the cognitive processes judicial officers employ in making decisions are no different. The black robe is not an inoculation against bias.

Courts have unique authority to address racial bias in judicial systems, including through court rules. The Washington Supreme Court recently exercised this authority in promulgating General Rule (GR) 37. Recognizing the inadequacies of the *Batson*[2] framework to safeguard against racial bias in jury selection, the rule modified the analysis to require the court to determine whether an objective observer could view race or ethnicity as a factor in a party's use of a peremptory challenge. It further defines an objective observer as someone who is aware that implicit, institutional, and unconscious biases have resulted in the exclusion of potential jurors and recognizes that some proffered race-neutral justifications for striking jurors, such as demeanor, are anything but. The effect of GR 37 is that judicial officers in Washington are obligated to know about the science and history of bias and to consciously and openly discuss the issues of race and bias with attorneys, parties, and jurors. By its operation, the rule makes understanding bias and its impacts not merely a theoretical exercise for judicial officers, but also a substantive point of decision. The rule is but one example of how a change in procedure can produce a change in thinking and create a rubric of decision making around race-informed practices.

Another example of how court rules and their application can address disproportionate impacts of entrenched practices is in the area of risk assessment and pretrial release decisions. These decisions involve the exercise of significant judicial discretion—a fact that was brought into stark relief last year when Washington trial courts were directed to reevaluate bail decisions in an effort to reduce jail populations due to the risk of COVID-19.[3] The language of the governing court rule, Criminal Rule 3.2, did not change. Yet in hearing motions for release and in making pretrial release decisions in new cases, courts dramatically reduced jail populations—by as much as 40% in some counties. The release decisions have proven consistent with public safety and, moreover, have been life-changing for many defendants who were black, indigenous, and people of color (BIPOC) and who would otherwise still be waiting in jail for criminal trials that continue to be delayed due to the pandemic. While appreciating some of the positive outcomes of this COVID-19 emergency measure, we must acknowledge what it reveals about the biases inherent in the exercise of judicial discretion. Every trial judge knows public criticism will follow if they release a pretrial defendant who commits a new crime awaiting trial, yet detaining a person who might be appropriate for release will never hit the front page of the newspaper. Though we may strive to effectuate the presumption of release, we often in close cases err on the side of "caution" in a way that leans on implicit biases about who is a flight risk or a public safety risk. These decisions inevitably perpetuate racial disparities. While it should not take a pandemic to see how bias permeates human decisions, the lesson learned from pretrial release decisions made during the COVID-19 emergency can guide us in making better decisions going forward.

Perhaps no area of policy consideration for judicial decision making has received more attention than legal financial obligations (LFOs). In March of 2015, The U.S. Department of Justice issued a report following the investigation of the Ferguson Police Department and the impacts of LFOs there. The report not only questioned the culture of policing in Ferguson, Missouri, but also the practices and policies of the local court that created substantial barriers to fairly resolving violations. These barriers included a lack of transparency, failure to explain court processes and potential consequences of adjudication, and the imposition of fines, which, if unpaid, led to the issuance of arrest warrants, which resulted in the disproportionate detention of African Americans. The DOJ report on Ferguson illustrates how court policies that may appear race-neutral on their face can produce dramatic racial disparities in practice. The judges making decisions in individual cases likely saw themselves as treating everyone equally, but when there is clear bias in who is impacted by a law and how it is enforced, as the report found, then the seemingly neutral application of the law by the courts merely reinforces disparities and re-entrenches racial bias.

Courts are not powerless to address these disparities, just as they are not excused from seeing them. As a result of the findings in Ferguson, many courts have looked critically at their own policies and practices, particularly surrounding legal financial obligations. Many have actively tried to redress the harms caused in their communities by instituting programs such as LFO reconsideration days, promulgating new court rules for imposing LFOs, and supporting legislative reform efforts to mitigate the harm caused by practices that needed only to be examined to be changed.

These few examples serve to highlight the ways in which everyday judicial decisions directly impact issues of race and inequity. It is no exaggeration to say that the daily decisions judges make in individual cases are intertwined with the success—or failure—of the justice system to eradicate racism. The system was built over time through a series of individual and collective actions, and that's how it will continue to be shaped. If ever there was a time when judges could separate their decisions from the disparate impacts of those decisions, that time has long since passed.

We should never forget that the law is a social construct reflecting our shared values, and it is, therefore, in constant motion. In this sense, systemic racism follows Newton's First Law of motion, in that legal doctrines tend to be propelled forward until met by a force capable of stopping them. As the writer Tim Wise observed, "unless that force not only stops the forward motion but then repairs the damage the moving object created—in this case, the moving object of discrimination and unequal opportunity—the shock waves of that motion will con-

2. Batson v. Kentucky, 476 U.S. 79 (1986).
3. See Amended Order, In the Matter of Statewide Response by Washington State Courts to the COVID-19 Public Health Emergency (March 20, 2020)(and subsequent revised and extended emergency orders), http://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20Orders/Supreme%20Court%20Emergency%20Order%20re%20CV19%20031820.pdf (last visited Jan. 28, 2021).

tinue to travel, seen or unseen, well into the future."[4] Our responsibility as keepers of the law is to recognize that our decisions—even the decision to do what we've always done—inevitably affect the momentum of the law and, by extension, the society we are creating.

Recognizing the central role of judicial decision making in advancing or impeding racial justice marks an important step in understanding why "don't do it" is sometimes the wrong advice for judges. While that advice may be useful in deciding whether to refrain from nonessential social or business activities that may call into question a judge's impartiality, it is not possible to refrain from making difficult decisions on the bench. Indeed, judges are valued and respected precisely because we exercise informed judgment. Further, making decisions with a full and honest assessment of their impacts, including racial impacts, is consistent with the highest standards of neutrality and impartiality. No decision exists in a vacuum but rather as a conscious choice measured against a set of values.

When courts fail to make decisions that promote justice and equity in practice, the rule of law itself is delegitimized. Claims that judges are simply applying the law neutrally and that justice is blind ring hollow when we acknowledge all the ways in which judicial decisions shape the direction of the law. We must acknowledge that, for many individuals in this country, the status quo has never been neutral. We should embrace our responsibility as stewards of justice and resist the myth that being neutral requires rote obeisance to settled traditions or norms. Precedent does not prevent us from moving toward a more equitable future. The young poet laureate, Amanda Gorman, perhaps said it best when she observed that our experience has taught us: "the norms and notions of what 'just' is isn't always justice."[5] Law and justice are not one. They often travel parallel, even divergent, paths. As judicial officers, we should seek to have them intersect more often by not being afraid to acknowledge, confront, and correct past practices that have far too often led to unjust results.

Debra Stephens is a member of the Washington State Supreme Court, where she has served since 2008. As Chief Justice in 2020, she received the "Innovating Justice Award" for her leadership of the judiciary's response to the COVID-19 pandemic with a focus on race equity and access to justice. Justice Stephens was a longtime Gonzaga University adjunct law professor, and remains deeply involved in legal education for judges, lawyers and the public, including as Co-Chair of the National Association of Women Judges Judicial Independence Committee.

Veronica Galván is the Chief Judge of Maleng Regional Justice Center in Washington State and a 1994 graduate of the University of Washington. Judge Galván Has been recognized through a number of awards for her outstanding service to the law, including implementing Washington's only Spanish-language court to provide litigants direct communication with the court. Judge Galván is also Dean of the Washington State Judicial College, also teaching courses including Emerging Through Bias: Toward a More Fair and Equitable Courtroom.

4. Tim Wise, *Systemic Racism, Explained by Newton's First Law of Motion*, Good Men Project, Nov. 16, 2020, https://goodmenproject.com/featured-content/systemic-racism-explained-by-newtons-first-law-of-motion/.
5. Amanda Gorman, *The Hill We Climb*, in The Hill We Climb and Other Poems (forthcoming Sept. 2021).

The Supreme Court
State of Washington

June 4, 2020

Dear Members of the Judiciary and the Legal Community:

We are compelled by recent events to join other state supreme courts around the nation in addressing our legal community.

The devaluation and degradation of black lives is not a recent event. It is a persistent and systemic injustice that predates this nation's founding. But recent events have brought to the forefront of our collective consciousness a painful fact that is, for too many of our citizens, common knowledge: the injustices faced by black Americans are not relics of the past. We continue to see racialized policing and the overrepresentation of black Americans in every stage of our criminal and juvenile justice systems. Our institutions remain affected by the vestiges of slavery: Jim Crow laws that were never dismantled and racist court decisions that were never disavowed.

The legal community must recognize that we all bear responsibility for this on-going injustice, and that we are capable of taking steps to address it, if only we have the courage and the will. The injustice still plaguing our country has its roots in the individual and collective actions of many, and it cannot be addressed without the individual and collective actions of us all.

As judges, we must recognize the role we have played in devaluing black lives. This very court once held that a cemetery could lawfully deny grieving black parents the right to bury their infant. We cannot undo this wrong—but we can recognize our ability to do better in the future. We can develop a greater awareness of our own conscious and unconscious biases in order to make just decisions in individual cases, and we can administer justice and support court rules in a way that brings greater racial justice to our system as a whole.

As lawyers and members of the bar, we must recognize the harms that are caused when meritorious claims go unaddressed due to systemic inequities or the lack of financial, personal, or systemic support. And we must also recognize that this is not how a *justice* system must operate. Too often in the legal profession, we feel bound by tradition and the way things have "always" been. We must remember that even the most venerable precedent must be struck down when it is incorrect and harmful. The systemic oppression of black Americans is not merely incorrect and harmful; it is shameful and deadly.

Finally, as individuals, we must recognize that systemic racial injustice against black Americans is not an omnipresent specter that will inevitably persist. It is the collective product of each of our individual actions—every action, every day. It is only by carefully reflecting on our actions, taking individual responsibility for them, and constantly striving for better that we can address the shameful legacy we inherit. We call on every member of our legal community to reflect on this moment and ask ourselves how we may work together to eradicate racism.

As we lean in to do this hard and necessary work, may we also remember to support our black colleagues by lifting their voices. Listening to and acknowledging their experiences will enrich and inform our shared cause of dismantling systemic racism.

We go by the title of "Justice" and we reaffirm our deepest level of commitment to achieving justice by ending racism. We urge you to join us in these efforts. This is our moral imperative.

Sincerely,

Debra L. Stephens, Chief Justice
Charles W. Johnson, Justice
Barbara A. Madsen, Justice
Susan Owens, Justice
Steven C. González, Justice
Sheryl Gordon McCloud, Justice
Mary I. Yu, Justice
Raquel Montoya-Lewis, Justice
G. Helen Whitener, Justice

Washington State Supreme Court
Minority and Justice Commission &
Gender and Justice Commission

2021 SUPREME COURT SYMPOSIUM

June 2, 2021, 8:45 a.m. – 1:00 p.m

BEHIND BARS:
The Increased Incarceration of Women and Girls of Color

Keynote Address by
Angela Davis

The Symposium will detail the unequal toll that mass incarceration has taken on women and girls of color in Washington State. Original research into racial inequality in WA jails and prisons will be presented alongside scholarship and testimony from impacted communities to provide a glimpse into the harmful consequences of imprisonment for women and gender nonconforming persons.

How did we get here, and how can we possibly achieve racial justice in our current system?

Watch the Livestream on TVW:
www.tvw.org/watch/?eventID=2021061001

GENDER AND JUSTICE COMMISSION
GENDER EQUALITY IN THE JUSTICE SYSTEM

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U.S. DEPARTMENT OF HOMELAND SECURITY

Office of Public Affairs

DHS Announces New Guidance to Limit ICE and CBP Civil Enforcement Actions In or Near Courthouses

Today, Secretary of Homeland Security Alejandro N. Mayorkas directed U.S. Immigration and Customs Enforcement (ICE) and U.S. Customs and Border Protection (CBP) to place new limits on civil immigration enforcement actions in or near courthouses. Acting Director of ICE Tae Johnson and Acting CBP Commissioner Troy Miller have issued a memorandum to ICE and CBP personnel pertaining to the limited circumstances in which civil immigration enforcement actions may be carried out in or near a courthouse. The interim guidance is intended to balance the importance of preserving access to courts in the fair administration of justice with legitimate civil immigration enforcement interests. Additional guidance will be forthcoming following the release of updated immigration enforcement priorities. This policy supersedes an ICE Directive issued in 2018 and marks the first time CBP has ever had formal policy guidance regarding civil immigration enforcement in or near courthouses.

"Ensuring that individuals have access to the courts advances the fair administration of justice, promotes safety for crime victims, and helps to guarantee equal protection under the law," said Secretary Mayorkas. "The expansion of civil immigration arrests at courthouses during the prior administration had a chilling effect on individuals' willingness to come to court or work cooperatively with law enforcement. Today's guidance is the latest step in our efforts to focus our civil immigration enforcement resources on threats to homeland security and public safety."

A civil immigration enforcement action may be taken in or near a courthouse only in certain limited instances, including the following: (1) it involves a national security matter, (2) there is an imminent risk of death, violence, or physical harm to any person, (3) it involves hot pursuit of an individual who poses a threat to public safety, or (4) there is an imminent risk of destruction of evidence material to a criminal case. The interim guidance also makes clear that civil immigration enforcement is permitted against public safety threats in the absence of hot pursuit where necessary and with prior approval.

The memorandum directs supervisors to ensure that all employees are trained annually on this policy and that such training is documented and reviewed by agency counsel. ICE and CBP will each provide a monthly report to Secretary Mayorkas, and to the DHS Office for Civil Rights and Civil Liberties upon request, detailing all planned or executed civil immigration enforcement actions in or near courthouses, including the basis under this policy for each enforcement action.

# # #

WASHINGTON COURTS

ADMINISTRATIVE OFFICE OF THE COURTS

Dawn Marie Rubio, J.D.
State Court Administrator

TO: Presiding Judges and Court Administrators

FROM: Ramsey Radwan

SUBJECT: Estimated American Rescue Plan (ARPA) Funding

DATE: April 21, 2021

Attached are the estimated amounts that each county and city will receive from the federal ARPA funds. These estimates are based on information provided by House staff as well as information from the Governor's Washington D.C. office.

I would encourage you to begin, or in some cases continue, discussions with your local funding bodies to ensure that trial courts receive a portion of these funds to help offset the impacts of the COVID-19 pandemic.

Please note that these are estimates, but the order of magnitude for each city and county is accurate.

Please let me know if you have any questions. I can be reached at Ramsey.radwan@courts.wa.gov or 360-357-2406.

Estimated ARPA Funding-Washington Counties

County	Amount	County	Amount	County	Amount	County	Amount
Adams	$3,880,000	Franklin	$18,470,000	Lewis	$15,650,000	Snohomish	$159,440,000
Asotin	$4,380,000	Garfield	$430,000	Lincoln	$2,120,000	Spokane	$101,390,000
Benton	$39,640,000	Grant	$18,950,000	Mason	$12,950,000	Stevens	$8,870,000
Chelan	$14,970,000	Grays Harbor	$14,560,000	Okanogan	$8,190,000	Thurston	$56,350,000
Clallam	$15,000,000	Island	$16,510,000	Pacific	$4,360,000	Wahkiakum	$870,000
Clark	$94,690,000	Jefferson	$6,250,000	Pend Oreille	$2,660,000	Walla Walla	$11,780,000
Columbia	$770,000	King	$436,910,000	Pierce	$175,520,000	Whatcom	$44,460,000
Cowlitz	$21,450,000	Kitsap	$52,650,000	San Juan	$3,410,000	Whitman	$9,720,000
Douglas	$8,420,000	Kittitas	$9,300,000	Skagit	$25,060,000	Yakima	$48,660,000
Ferry	$1,480,000	Klickitat	$4,350,000	Skamania	$2,340,000	**Total**	**$1,476,860,000**

Estimated ARPA Funding-Washington Metro Cities

City	Amount	City	Amount	City	Amount
Anacortes	$2,890,000	Kennewick	$17,010,000	Richland	$7,610,000
Auburn	$15,760,000	Kent	$28,410,000	Seattle	$239,020,000
Bellevue	$20,750,000	Lakewood	$14,860,000	Spokane	$84,360,000
Bellingham	$21,000,000	Longview	$8,320,000	Tacoma	$63,030,000
Bremerton	$11,370,000	Marysville	$9,600,000	Vancouver	$32,610,000
East Wenatchee	$3,560,000	Mount Vernon	$9,570,000	Walla Walla	$9,990,000
Everett	$22,630,000	Olympia	$10,060,000	Wenatchee	$5,920,000
Federal Way	$18,330,000	Pasco	$18,400,000	Yakima	$25,520,000
				Total	**$700,580,000**

Estimated ARPA Funding-Washington Non-Metro Cities & Towns

City	Amount	City	Amount	City	Amount	City	Amount
Aberdeen	$3,650,000	Carnation	$500,000	Cusick	$50,000	Forks	$840,000
Airway Heights	$2,070,000	Cashmere	$690,000	Darrington	$310,000	Friday Harbor	$560,000
Albion	$130,000	Castle Rock	$500,000	Davenport	$380,000	Garfield	$130,000
Algona	$700,000	Cathlamet	$120,000	Dayton	$530,000	George	$110,000
Almira	$60,000	Centralia	$3,860,000	Deer Park	$950,000	Gig Harbor	$2,330,000
Arlington	$4,470,000	Chehalis	$1,670,000	Des Moines	$7,040,000	Gold Bar	$510,000
Asotin	$280,000	Chelan	$920,000	DuPont	$2,070,000	Goldendale	$760,000
Bainbridge Island	$5,510,000	Cheney	$2,730,000	Duvall	$1,770,000	Grand Coulee	$230,000
Battle Ground	$4,630,000	Chewelah	$580,000	Eatonville	$660,000	Grandview	$2,410,000
Beaux Arts Village	$70,000	Clarkston	$1,610,000	Edgewood	$2,840,000	Granger	$830,000
Benton	$760,000	Cle Elum	$440,000	Edmonds	$9,280,000	Granite Falls	$920,000
Bingen	$160,000	Clyde Hill	$740,000	Electric	$220,000	Hamilton	$70,000
Black Diamond	$1,040,000	Colfax	$630,000	Ellensburg	$4,600,000	Harrah	$140,000
Blaine	$1,220,000	College Place	$2,030,000	Elma	$730,000	Harrington	$90,000
Bonney Lake	$4,610,000	Colton	$100,000	Elmer	$50,000	Hartline	$30,000
Bothell	$10,330,000	Colville	$1,050,000	Endicott	$70,000	Hatton	$20,000
Brewster	$510,000	Conconully	$50,000	Entiat	$280,000	Hoquiam	$1,880,000
Bridgeport	$570,000	Concrete	$160,000	Enumclaw	$2,650,000	Hunts Point	$90,000
Brier	$1,520,000	Connell	$1,210,000	Ephrata	$1,770,000	Ilwaco	$220,000
Buckley	$1,100,000	Cosmopolis	$360,000	Everson	$620,000	Index	$50,000
Bucoda	$130,000	Coulee	$120,000	Fairfield	$140,000	Ione	$100,000
Burien	$11,220,000	Coulee Dam	$240,000	Farmington	$30,000	Issaquah	$8,600,000
Burlington	$2,010,000	Coupeville	$430,000	Ferndale	$3,240,000	Kahlotus	$40,000
Camas	$5,320,000	Covington	$4,610,000	Fife	$2,220,000	Kalama	$610,000
Carbonado	$160,000	Creston	$50,000	Fircrest	$1,490,000	Kelso	$2,700,000

Estimated ARPA Funding-Washington Non-Metro Cities & Towns

City	Amount	City	Amount	City	Amount	City	Amount
Kenmore	$5,030,000	Marcus	$40,000	Nooksack	$360,000	Prosser	$1,390,000
Kettle Falls	$360,000	Mattawa	$1,040,000	Normandy Park	$1,440,000	Pullman	$7,510,000
Kirkland	$20,260,000	McCleary	$380,000	North Bend	$1,620,000	Puyallup	$9,230,000
Kittitas	$330,000	Medical Lake	$1,080,000	North Bonneville	$220,000	Quincy	$1,750,000
Krupp (Marlin)	$10,000	Medina	$720,000	Northport	$70,000	Rainier	$500,000
La Center	$740,000	Mercer Island	$5,640,000	Oak Harbor	$5,130,000	Raymond	$650,000
La Conner	$210,000	Mesa	$110,000	Oakesdale	$100,000	Reardan	$130,000
LaCrosse	$70,000	Metaline Falls	$50,000	Oakville	$150,000	Redmond	$15,660,000
Lacey	$11,450,000	Metaline	$40,000	Ocean Shores	$1,410,000	Renton	$22,160,000
Lake Forest Park	$2,940,000	Mill Creek	$4,550,000	Odessa	$190,000	Republic	$230,000
Lake Stevens	$7,380,000	Millwood	$390,000	Okanogan	$560,000	Ridgefield	$1,990,000
Lamont	$20,000	Milton	$1,810,000	Omak	$1,040,000	Ritzville	$360,000
Langley	$250,000	Monroe	$4,310,000	Oroville	$360,000	Riverside	$60,000
Latah	$40,000	Montesano	$880,000	Orting	$1,880,000	Rock Island	$240,000
Leavenworth	$440,000	Morton	$260,000	Othello	$1,830,000	Rockford	$110,000
Liberty Lake	$2,390,000	Moses Lake	$5,250,000	Pacific	$1,560,000	Rosalia	$120,000
Lind	$120,000	Mossyrock	$180,000	Palouse	$230,000	Roslyn	$210,000
Long Beach	$330,000	Mountlake Terrace	$4,650,000	Pateros	$160,000	Roy	$180,000
Lyman	$100,000	Moxee	$890,000	Pe Ell	$150,000	Royal	$490,000
Lynden	$3,320,000	Mukilteo	$4,670,000	Pomeroy	$300,000	Ruston	$180,000
Lynnwood	$8,520,000	Naches	$180,000	Port Angeles	$4,410,000	Sammamish	$14,350,000
Mabton	$490,000	Napavine	$440,000	Port Orchard	$3,180,000	SeaTac	$6,330,000
Malden	$40,000	Nespelem	$90,000	Port send	$2,140,000	Sedro-Woolley	$2,630,000
Mansfield	$70,000	Newcastle	$2,680,000	Poulsbo	$2,430,000	Selah	$1,760,000
Maple Valley	$5,920,000	Newport	$480,000	Prescott	$70,000	Sequim	$1,660,000

Estimated ARPA Funding-Washington Non-Metro Cities & Towns

City	Amount	City	Amount	City	Amount
Shelton	$2,320,000	Toledo	$170,000	Woodinville	$2,890,000
Shoreline	$12,420,000	Tonasket	$240,000	Woodland	$1,410,000
Skykomish	$50,000	Toppenish	$1,920,000	Woodway	$300,000
Snohomish	$2,210,000	Tukwila	$4,430,000	Yacolt	$390,000
Snoqualmie	$2,970,000	Tumwater	$5,230,000	Yarrow Point	$250,000
Soap Lake	$350,000	Twisp	$210,000	Yelm	$2,060,000
South Bend	$370,000	Union Gap	$1,350,000	Zillah	$680,000
South Cle Elum	$120,000	Union	$70,000		
South Prairie	$100,000	University Place	$7,400,000		
Spangle	$70,000	Vader	$150,000		
Spokane Valley	$22,010,000	Waitsburg	$270,000		
Sprague	$100,000	Wapato	$1,090,000		
Springdale	$70,000	Warden	$610,000		
St. John	$120,000	Washougal	$3,510,000		
Stanwood	$1,590,000	Washtucna	$50,000		
Starbuck	$30,000	Waterville	$260,000		
Steilacoom	$1,390,000	Waverly	$20,000		
Stevenson	$350,000	West Richland	$3,280,000		
Sultan	$1,170,000	Westport	$460,000		
Sumas	$330,000	White Salmon	$590,000		
Sumner	$2,270,000	Wilbur	$190,000		
Sunnyside	$3,660,000	Wilkeson	$110,000		
Tekoa	$170,000	Wilson Creek	$50,000		
Tenino	$410,000	Winlock	$310,000		
Tieton	$280,000	Winthrop	$100,000	**Total**	**$483,380,000**

FILED
APRIL 27, 2021
In the Office of the Clerk of Court
WA State Court of Appeals Division III

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION THREE

STATE OF WASHINGTON, Appellant, v. STEVENS COUNTY DISTRICT COURT JUDGE & STEVENS COUNTY DISTRICT COURT, Respondent.	)	No. 37483-1-III UNPUBLISHED OPINION

FEARING, J. — In our second review of this case, we must decide whether the Stevens County Superior Court complied with the Washington Supreme Court's mandate commanding the Superior Court to issue a writ of mandamus directing the Stevens County District Court to accept certain Superior Court orders for filing. We hold in the affirmative and confirm the Superior Court's order for writ.

FACTS

On January 29, 2018, the Stevens County Superior Court ordered all preliminary appearance hearings for misdemeanors and gross misdemeanors to be heard by the Superior Court, including cases initially filed in the Stevens County District Court. The Superior Court justified this order as preventing scheduling conflicts between the courts, court clerks, prosecutors, defense counsel, and the county jail.

On February 2, 2018, District Court Judge Gina Tveit ordered the district court staff not to file any orders in a district court case unless those orders had been signed by a district court judge. This direction barred the filing of orders signed by a superior court judge and effectively barred the handling of any misdemeanor proceedings by a superior court judge. The February 2 district court order obviously conflicted with the January 29 superior court order.

On February 8, 2018, the State of Washington sought a writ of mandamus with the Stevens County Superior Court directing the Stevens County District Court to permit filing of orders signed by superior court judges. The superior court subsequently ordered an alternative writ against the district court directing the court to comply with the writ or to show cause as to why she has not complied. The district court objected to the writ.

On March 7, 2018, a visiting judge in the Stevens County Superior Court held the Stevens County District Court was not required to recognize the superior court's orders in cases originally filed in the district court. The visiting judge observed that neither party

cited to any case law or statute granting the superior court the authority to sign orders for misdemeanors absent the district court's authorization.

The State of Washington appealed to this court, which reversed and held that the district court could not refuse to file superior court orders. *State v. Stevens County District Court Judge*, 7 Wn. App. 2d 927, 936, 436 P.3d 430, *aff'd*, 194 Wn.2d 898, 453 P.3d 984 (2019). This court remanded to the superior court with instructions to grant the State's writ of mandamus petition.

The district sought review from the Washington Supreme Court, and the high court granted review. The Washington Supreme Court addressed the issue of whether a superior court may "conduct preliminary appearance hearings and enter related orders in all county misdemeanors and gross misdemeanors, even when a charge has been filed in the country's district court and the district court assumed exclusive jurisdiction over the trial process[.]" *State v. Stevens County District Court Judge*, 194 Wn.2d 898, 902, 453 P.3d 984 (2019). The opening sentence to the Supreme Court's opinion states:

> This case asks us to determine whether a superior court may conduct preliminary appearance hearings for misdemeanors and gross misdemeanors originally filed in district court.

State v. Stevens County District Court Judge, 194 Wn.2d at 900.

The state high court affirmed this court's judgment and remanded to the superior court to issue a writ of mandamus against the district court. At the conclusion of the opinion, the court wrote:

> We hold the Superior Court may preside over preliminary appearance hearings for misdemeanors and gross misdemeanors originally filed in the District Court. Court rules authorize the Superior Court to preside over these hearings regardless of whether the case was originally filed in the Superior Court or the District Court. Furthermore, RCW 3.66.060 does not restrict the Superior Court's authority to preside over these hearings. Accordingly, we affirm the Court of Appeals' judgment and remand the case to the Stevens County Superior Court to issue a writ of mandamus against the Stevens County District Court to accept cases from the Superior Court.

State v. Stevens County District Court Judge, 194 Wn.2d at 908. The Supreme Court issued a mandate on January 15, 2020, which writ read:

> This case is mandated to the superior court from which the appellate review was taken for further proceedings in accordance with the attached true copy of the opinion.

Clerk's Papers (CP) at 71.

PROCEDURE

On remand to the Stevens County Superior Court, the State of Washington presented a proposed peremptory writ of mandamus, which would order the Stevens County District Court as follows:

> The Stevens County District Court is further permanently and in perpetuity COMMANDED to accept, file, and comply with all orders signed by a Stevens County Superior Court Judge or Stevens County Superior Court Commissioner in a Stevens County criminal matter, including but not limited to Rule 3.2 Hearing Orders Conditions of Release, Warrants, or Orders Quashing Warrants.

CP at 3.

The Stevens County District Court objected to the State's proposed writ. The district court characterized the proposed writ as overly broad in that it required the district court to accept, file, and comply with all orders from the superior court. The district court contended that the Supreme Court's ruling only addressed the superior court's authority to preside over preliminary appearances in misdemeanor prosecutions.

A visiting judge of the Stevens County Superior Court agreed with the district court's position. The visiting judge, on February 18, 2020, signed an "Order for Peremptory Writ of Mandamus." The order reads as follows:

> [T]his court does hereby:
> ORDER That the Stevens County District Court shall accept for filings those orders signed by the Stevens County Superior Court judges and commissioners from preliminary appearance hearings for misdemeanors and gross misdemeanors in cases originally filed in said district court.

CP at 12. The visiting judge concluded that the Supreme Court's mandate did not authorize or require the superior court to hear proceedings with regard to all defendants being held in custody on district court charges. The judge noted that the State did not argue on appeal to either this court or the Supreme Court that the proposed writ was intended to apply to situations other than preliminary appearances. The visiting judge did not insert a return date on the order for writ.

LAW AND ANALYSIS

On appeal, the State of Washington challenges the Stevens County Superior Court ruling's format and substance. The State seeks to invalidate the ruling because the court signed an "order for writ," rather than a "writ." The State also seeks to void the ruling because of the lack of a return date. In addition, the State complains that the superior court order does not comply with the Supreme Court ruling in that the superior court narrowly defined the directions of the Supreme Court.

Writ Format

Issue 1: Whether the superior court erred when entering an "Order for Peremptory Writ of Mandamus," rather than a "Writ?"

Answer 1: No.

The State contends that the Stevens County Superior Court order for writ lacks a proper format in violation of RCW 7.16.180. The State argues that the Supreme Court mandated that the superior court issue a writ, not an order for writ, and therefore, the superior court erred.

RCW 7.16.180 governs the format of writs of mandamus. The statute declares:

> The *writ* may be either alternative or peremptory. The alternative writ must state generally the allegation against the party to whom it is directed, and command such party, immediately after the receipt of the writ, or at some other specified time, to do the act required to be performed, or to show cause before the court, at a specified time and place, why he or she has not done so. The peremptory writ *must be in some similar form*, except

> the words requiring the party to show cause why he or she has not done as commanded must be omitted and a *return day inserted*.

(Emphasis added.) The writ challenged on appeal is a peremptory writ.

The Stevens County Superior Court captioned its February 20, 2020 directive as an "Order for Peremptory Writ of Mandamus." We hold that the issuance of an order, rather than a writ, does not invalidate the validity of the writ or excuse the district court from following the order. Nothing in RCW 7.16.180 requires any magic words or voids the writ if the phrase "order for" proceeds the word "writ" in the title. The substance of the order, in compliance with RCW 7.16.180, included the party required to act and the instruction with which the party must comply.

Issue 2: Whether the superior court erred when failing to insert a return date in the order for writ?

Answer 2: Because of the unique directions in the order, no.

We have some concern that the peremptory writ fails to insert a return date as directed by RCW 7.16.180. Nevertheless, the writ demands continuing compliance of its terms, rather than demanding that the district court complete a discrete task by a date certain. Under these circumstances, a return date makes little sense. For this reason, we conclude that the lack of a return date does not void the order for writ.

Issue 3: Whether the superior court erred by narrowing the State's proposed writ to instances of misdemeanors rather than all in-custody criminal proceedings?

Answer 3: No.

The State contends that the superior court interpreted the Supreme Court's mandate too narrowly. The State argues that the Supreme Court held that the writ should direct the district court to accept all filings related to in-custody criminal proceedings. The State contends that the superior court thereby erred by failing to include in its order: (1) cases not originally filed in district court, (2) arrests and initial appearances based on a district court's bench warrant, and (3) arrests and initial appearances based on probation violations from a district court.

In support of its assignment of error, the State requests this court to direct the Stevens County Superior Court to strictly follow the Supreme Court's ruling and mandate. In turn, the district court asks this court to limit its review to whether the superior court abused discretion in following the Supreme Court's ruling. We believe we can follow each request and arrive at the same decision.

The Washington Supreme Court's opening line in its opinion declared:

> This case asks us to determine whether a superior court may conduct *preliminary appearance hearings for misdemeanors and gross misdemeanors originally filed in district court*.

State v. Stevens County District Court Judge, 194 Wn.2d 898, 900 (2019) (emphasis added). The Supreme Court concluded its opinion as follows:

> We hold the Superior Court may preside over *preliminary appearance hearings for misdemeanors and gross misdemeanors originally filed in the District Court*. Court rules authorize the Superior Court to

> preside over these hearings regardless of whether the case was originally filed in the Superior Court or the District Court. Furthermore, RCW 3.66.060 does not restrict the Superior Court's authority to preside over these hearings. Accordingly, we affirm the Court of Appeals' judgment and remand the case to the Stevens County Superior Court to *issue a writ of mandamus against the Stevens County District Court to accept cases from the Superior Court*.

State v. Stevens County District Court Judge, 194 Wn.2d at 908 (emphasis added). Note that the closing line, highlighted by the State, reads broadly, while two other lines in the opinion mention only preliminary appearances for misdemeanors and gross misdemeanors.

While we agree with the State that the superior court must strictly follow the Supreme Court's decision, we also conclude that the superior court and this court must consider the entirety and context of the Supreme Court decision. The Supreme Court stated twice that the only issue before it concerned the superior court's authority to preside over preliminary appearances in misdemeanor cases. During litigation, the State only mentioned preliminary appearances in misdemeanor cases. We conclude that the superior court did not err when refusing to sign the State's proposed writ of mandamus and when signing the court's own writ.

In advancing its own proposed writ of mandamus, the State emphasizes some broad language in this court's first opinion. We previously wrote:

> This matter is reversed and remanded to superior court with instructions to grant the State's petition for writ of mandamus.

State v. Stevens County Dist. Court Judge, 7 Wn. App. 2d 927, 936 (2019). Nevertheless, the superior court must follow the ruling of the Supreme Court, not the Court of Appeals.

Finally, the State asserts that the superior court misapprehended CrR 3.2 and CrRLJ 3.2. The State highlights that CrR 3.2 and CrRLJ 3.2 apply to all in-custody appearances, not merely preliminary appearance hearings. The district court responds that the Supreme Court did not require the superior court to construe the criminal rules. Rather, the high court ordered the superior court only to enter an order consistent with the Supreme Court's mandate. We agree with the district court.

The Supreme Court's opinion observed that the court rules authorize the superior court to preside over preliminary appearance hearings for misdemeanors and gross misdemeanors:

> We hold the Superior Court may preside over preliminary appearance hearings for misdemeanors and gross misdemeanors originally filed in the District Court. *Court rules authorize the Superior Court to preside over these hearings* regardless of whether the case was originally filed in the Superior Court or the District Court.

State v. Stevens County District Court Judge, 194 Wn.2d 898, 908 (2019). The Supreme Court itself construed the criminal rules relevant to this case. The Supreme Court did not direct the superior court to construe the rules further. The superior court's only duty is to follow the Supreme Court's instructions.

CONCLUSION

We affirm the Stevens County Superior Court's order for writ entered on February 20, 2020.

A majority of the panel has determined this opinion will not be printed in the Washington Appellate Reports, but it will be filed for public record pursuant to RCW 2.06.040.

Fearing, J.

Fearing, J.

WE CONCUR:

Lawrence-Berrey, J.

Staab, J.

Staab, J.