



Board for Judicial Administration (BJA)

Friday, October 19, 2012 (9:00 a.m. – 12:30 p.m.)

AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

MEETING MINUTES

Members Present:

Chief Justice Barbara Madsen, Chair
Judge Chris Wickham, Member Chair
Judge Sara Derr
Ms. Callie Dietz
Judge Deborah Fleck
Judge Janet Garrow
Judge Jill Johanson
Judge Kevin Korsmo
Judge Michael Lambo
Judge Craig Matheson (by phone)
Justice Susan Owens
Ms. Michele Radosevich
Judge Kevin Ringus
Judge Ann Schindler
Judge Charles Snyder
Judge David Svaren (by phone)
Judge Scott Sparks

Guests Present:

Mr. Jeff Amram (by phone)
Mr. Jim Bamberger
Judge Stephen Brown
Ms. Kristi Cruz
Ms. Ishbel Dickens
Mr. Pat Escamilla
Ms. LaTricia Kinlow
Ms. Sophia Byrd-McSherry
Mr. Rand Young

Public Present:

Mr. Tom Goldsmith

AOC Staff Present:

Ms. Beth Flynn
Mr. Steve Henley
Mr. Dirk Marler
Ms. Mellani McAleenan
Mr. Ramsey Radwan
Dr. Sarah Veele

Judge Wickham called the meeting to order.

Chief Justice Madsen discussed the State Court Administrator recruitment process. Out of the candidates who applied, Ms. Dietz best met the needs of the state. The hiring process went well and many people shared in the responsibility. Chief Justice Madsen thanked the members of the Search Committee for their participation. Judge Wickham thanked Chief Justice Madsen for including so many people in the process and said that everyone appreciated being heard and being able to express their ideas.

September 21, 2012 Meeting Minutes

It was moved by Judge Sparks and seconded by Judge Garrow to approve the September 21, 2012 BJA meeting minutes. The motion carried.

Disproportionality in Washington and Juvenile Detention Alternatives Initiative (JDAI)

Mr. Rand Young, Washington State Juvenile Detention Alternatives Initiative (JDAI) Statewide Coordinator, gave a presentation regarding the JDAI. He spoke about the purpose and history of the initiative, described the eight strategies of the JDAI, explained why the JDAI is a proven

strategy to reduce disproportionate minority contact (DMC), reviewed the Washington State JDAI progress and outcomes, and discussed the future of JDAI in Washington State.

The JDAI is the largest juvenile justice improvement initiative in the country. Nationally, 200 jurisdictions are participating in 40 states and the District of Columbia. They are trying to work with young people before they progress into the adult system. The Washington State initiative is administered through the Washington State Partnership Council on Juvenile Justice and funded, in part, by the Annie E. Casey Foundation. Washington started with five pilot sites to demonstrate the effectiveness of the initiative.

The Washington JDAI has not yet been able to establish a statewide oversight committee. They established a funding base, held four conferences with over 300 attendees to discuss the initiative and now include nine counties in which 62% of all the minority youth in the Washington juvenile justice system are participating.

The initiative funding has been significant: \$1.2 million from the Annie E. Casey Foundation, \$923,000 from the Legislature, and \$1.1 million from the federal government. The funding goes toward training and travel. In addition, the JDAI has set up new data systems and there are JDAI coordinators at the local level along with the statewide coordinator.

The goals of the JDAI are to reduce unnecessary and inappropriate use of detention, develop new alternatives to detention, reduce racial disparities in the juvenile justice system, improve conditions of confinement in detention facilities, stimulate improvements in the juvenile justice system, and maintain or improve public safety.

The eight strategies of the JDAI are: collaboration and leadership, reduce disproportionate minority contact, data driven policies and practices, detention risk assessment, alternatives to detention, expedited case processing, new approaches for violations of parole and warrants, and improve conditions of confinement. Jurisdictions cannot pick and choose which strategies to use, they have to be involved in all eight. When the jurisdictions implement these eight strategies they get better outcomes, use public dollars effectively, and maintain public safety.

This is a very ambitious agenda for the juvenile courts to pursue. Admissions to detention have been reduced by 49% in the jurisdictions participating in this initiative. In addition, there is a 58% reduction in the number of youth in detention centers every day; a 52% decrease in the number of youth of color; Juvenile Rehabilitation Administration commitments decreased 54%; and felony petitions decreased 57%. Across the country this is one of the few initiatives that has proven to be effective.

Once a statewide JDAI steering committee is established, it will need people like BJA members to keep the initiative going in Washington and to expand it. The Casey Foundation realizes they cannot continue to support the initiative so new funding sources need to be identified. The JDAI is putting together a two-day trip and Mr. Young would like some BJA members to attend to see the program in action in New Jersey which implemented the initiative statewide.

Mr. Young would like to develop formal written partnerships between the Supreme Court, the Washington Association of Juvenile Court Administrators, the Washington State Partnership Council on Juvenile Justice, the Washington State Center for Court Research (WSCCR), and

the Administrative Office of the Courts (AOC) to plan how Washington is going to lead with this initiative and encourage counties to participate in this initiative.

Dr. Veele presented information about important indicators of disproportionate contact in the juvenile courts. The Relative Rate Index (RRI) allows comparisons across jurisdictions. Rates over one show disproportionality. The Task Force on Race and the Criminal Justice System presentation this to the Supreme Court and the WSCCR created a workbook with the information broken down by county as well as state averages.

State averages will be released to the public. State and county averages will be a five-year average. Averaging across five years allows the numbers to be stabilized in small jurisdictions.

At this point, the data on detention is not very strong. Some counties do not track detention through the AOC system. There needs to be a way to track multiple races. As disproportionate minority contact decreases, the data is needed to track what is happening. An IT Governance request would allow all counties to track the necessary data. If there is not great data coming in, the WSCCR cannot provide great outputs.

Judge Wickham stated that it seems this is a great opportunity to begin a conversation with our communities. The Minority and Justice Commission is developing a press release regarding this data.

Dr. Veele stated that the courts have seen the data in the past and the information has been updated. The courts will see the updated data one month before anything goes out publicly.

Mr. Escamilla said that in Clark County they had training to make sure staff were using the correct race codes. The data from several years ago is not clean—it used to have 20% unknown for race.

Filing Fee Workgroup

Judge Brown reported that the BJA Filing Fee Workgroup met four times. They relied on the 2004 Court Funding Task Force recommendations and a Conference of State Court Administrators policy paper on court funding along with other information to assist them in their work.

As part of their charge the Workgroup was to develop a set of principles. The Workgroup recommends adopting the Filing Fee Principles developed by the Workgroup (on page 22 of the meeting materials).

The Workgroup also recommends supporting a two-year extension of the Judicial Stabilization Trust Account (JSTA) surcharge due to the reality of the budget situation. The consensus seemed to be that the options were limited on what the Workgroup could expect would get done by the legislature this session.

The Workgroup requests that the WSCCR be asked to study and report on the impact of filing fees on civil litigants. They are interested in potential fee impacts by the type of case. A lot of people have strong opinions on access to justice and it is good to take a look at the impacts of filing fees on access to justice.

It is recommended that the Workgroup reconvene in the fall of 2013 and that they look at local civil litigation fees.

During the November BJA meeting the BJA will consider approving the Filing Fee Principles, the two-year extension of the JSTA surcharge, and the request that the WSCCR study the impact of filing fees on access to justice.

Budget

Mr. Radwan gave a brief overview of the state of the state budget. He distributed a four-year outlook based on assumptions from the Economic Revenue Forecast Council. There is some flexibility in the expenditure items but without any additions for education funding, the state is facing an approximately \$1.5 billion deficit in 2017 if nothing is done differently with revenue and/or the budget.

It is anticipated that there will be a 7.2% increase in revenue between this biennium and next biennium and an 8% increase the following biennium. Mr. Radwan fears these figures are over-estimated.

When the basic education funding request from the Office of the Superintendent of Public Instruction is added into the budget outlook, during the 2013-2015 biennium the state could be facing a funding gap of approximately \$6 billion if nothing else changes. That is the extreme high watermark. The Office of Financial Management's estimate for education is less and would result in the state being \$2.7 billion in the hole during the same time frame.

This year, there is a range from about a billion dollar deficit to as high as \$6 billion. The judicial branch needs to think about this as the legislative session approaches. The poor funding outlook enhances the possibility that the JSTA surcharge will be extended. The total state amount raised by the surcharge is about \$12.5 million, and the legislature may extend the surcharge in order to help reduce the projected deficit. All the numbers will continue to change through the end of the session, and Mr. Radwan will keep the BJA updated on the changes.

BJA Legislative Agenda

Ms. McAleenan reported that about one-sixth of the legislators are not returning to the seats they currently hold. They are either retiring or running for a different position. The leadership in Washington State is up in the air now. For Governor, so far the polling is within the margin of error.

New Superior Court Judges: The Judicial Needs Assessment indicates a judge is needed in Benton/Franklin Counties Superior Court and Whatcom County Superior Court.

Judge Snyder reported that Whatcom County would like to see this position created but understands that it may not be practical due to the current budget deficit. They have the need and are ready to go whenever the approval comes through. If it is not this session, they will be ready in the future. They have support locally.

Judge Matheson stated that they made the request for a new judge in Benton/Franklin Counties last year. They are showing the need for more than one additional judge and are unsure whether they have the local support this year but will make sure they have the support in 2014. They need to start the process now because of their local budget cycle.

Judicial Stabilization Trust Account: The Filing Fee Workgroup recommends the BJA support an extension of the existing legislation for an additional two-year period.

Payment of Interpreter Expenses in Civil Hearings: Chief Justice Madsen stated that maybe the BJA could work toward the goal of state interpreter funding. Everyone recognizes that this is the right thing to do but there is a question regarding whether it is the right time due to budget constraints.

Discussion followed and some of the comments were:

- If the courts have a mandate to provide interpreters without any funds coming in, it is critical to have the counties and cities on board because it is not likely that the state will come up with funding.
- Linguistic barriers are real and the judicial system has an obligation to remove them. The BJA is strongly encouraged to move forward with a policy bill to take on the road to state funding.
- Federal funding for the state and local branches of government can be taken away if courts do not comply with the Department of Justice mandate to provide interpreters in all cases. Even if federal funding is not in use at the court, funding to the executive branch of local government can be removed.
- It is a separate issue on whether to pursue full interpreter funding without reimbursement in civil cases. The BJA should consider a policy bill that would talk about first restoring the interpreter funding that has been lost the last few years and second about providing interpreters for everyone except people who could reimburse the costs.

Action will be taken on the BJA legislative agenda during the November meeting.

Retreat Recap

Chief Justice Madsen said that there are some next steps that need to take place as a follow-up to the retreat.

The first step is to put together a concrete proposal for restructuring to bring back to the BJA sometime after the first of the year. A small workgroup has been identified to work on the structure of the BJA. The group is made up of current presidents and presidents-elect of the trial court associations, two Court of Appeals judges, Chief Justice Madsen and Judge Wickham. The first meeting is scheduled for October 29. The workgroup will begin crafting a restructuring proposal that will be presented to the constituent organizations before it comes back to the BJA so that everyone will be on the same page.

The second step is addressing an issue that was identified at the retreat—the duplication of efforts that are underway in committees, commissions, boards and task forces. Oftentimes multiple groups are duplicating what they are trying to accomplish. For example, each trial court

association has a committee on diversity. As the BJA tries to approach a new governance structure, the duplication of committees should be addressed. All BJA members who are not in the structure group are members of the committee group.

Progress reports for each of these workgroups will be provided at each BJA meeting.

It was suggested that there be more detailed direction for the committee workgroup. It was also suggested that the structure be determined prior to working on the committees. Chief Justice Madsen stated that a committee charge will be developed if the BJA decides to go forward with these next steps. In addition, she stated that both groups should work at the same time because they can both help guide the structure of the BJA.

It was moved by Judge Garrow and seconded by Judge Ringus to have the BJA move forward with a Structure Workgroup and a Committee Workgroup. The motion carried.

The charters for both workgroups will be brought to the BJA for review during the November meeting.

Strategic Planning Recap

Chief Justice Madsen stated that the Supreme Court is trying to decide how to engage in strategic planning. A National Center for State Courts (NCSC) grant was received and Ms. Laura Klaversma and Mr. Tom Clarke from the NCSC came and met with judicial stakeholders to discuss strategic planning. It was suggested that the Supreme Court use a campaign planning process in order to be successful in their planning efforts. Two to three campaigns would be worked on at one time.

Ms. Klaversma also observed the BJA retreat and suggested that governance be enhanced.

Salary Commission Materials

Salary Commission meetings begin in January, and the BJA provides the Salary Commission with a packet of information regarding judicial salaries. Local judges testify at the Salary Commission meetings and appear to be well-received by the Commission members.

In the past, the judges have not asked for an increase in salary but stated that the goal is to reach parity with the federal bench over time. The purpose of the materials provided to the Salary Commission is to educate the Commission members regarding the work of judges and what opportunities they give up in order to become a judge.

There was discussion regarding whether or not to ask for a specific increase in salaries.

It was moved and seconded to state that if there will be a cost-of-living increase for state employees, the judges would like one also and that the judges would like the Salary Commission to consider shrinking the gap between state and federal judicial salaries before the gap becomes too great to catch up. Historical judicial salary information should be included in the materials. The motion carried with Judge Korsmo and Judge Johanson opposed.

Recap of Motions from October 19, 2012 meeting

Motion Summary	Status
Approve the September 21, 2012 BJA meeting minutes.	Passed
Approve going forward with a BJA Structure Workgroup and a BJA Committee Workgroup as follow-up to the BJA Retreat.	Passed
For the Salary Commission state that if there will be a cost-of-living increase for state employees, the judges would also like one. In addition, ask that the Salary Commission consider shrinking the gap between federal and state judicial salaries before it becomes too great to catch up.	Passed with Judges Korsmo and Johanson opposed.

Action Items updated for October 19, 2012 meeting

Action Item	Status
<u>September 21 BJA Meeting Minutes</u> <ul style="list-style-type: none"> Post the minutes online Send minutes to Supreme Court for inclusion in the En Banc meeting materials 	Done Done
<u>Filing Fee Workgroup Recommendations</u> <ul style="list-style-type: none"> Add to the November BJA agenda: approving the Filing Fee Principles, the two-year extension of the JSTA surcharge, and the request that the WSCCR study the impact of filing fees on access to justice 	Done
<u>BJA Legislative Agenda</u> <ul style="list-style-type: none"> Add to November BJA meeting agenda 	Done
<u>Retreat Follow-up</u> <ul style="list-style-type: none"> Move forward with the BJA Structure Workgroup and BJA Committee Workgroup Bring the workgroup charters back to the November BJA meeting for approval (add to agenda) A request was made to remove the wording "stalling tactics" from the BJA Retreat Report 	Done Done
<u>Salary Commission Materials</u> <ul style="list-style-type: none"> Add 2008 information to National Salary Comparison section Add historical judicial salary information Add full year of information regarding judges leaving the bench 	Done Done Done