

# **BOARD FOR JUDICIAL ADMINISTRATION**



**WASHINGTON  
COURTS**

## **MEETING PACKET**

**FRIDAY, DECEMBER 14, 2012  
9:00 A.M.**

**AOC SEATAC OFFICE  
18000 INTERNATIONAL BOULEVARD, SUITE 1106  
SEATAC, WASHINGTON**

# Board for Judicial Administration Membership

## VOTING MEMBERS:

**Chief Justice Barbara Madsen**, Chair  
Supreme Court

**Judge Chris Wickham**, Member Chair  
Superior Court Judges' Association  
Thurston County Superior Court

**Judge Sara Derr**, President  
District and Municipal Court Judges'  
Association  
Spokane County District Court

**Judge Deborah Fleck**  
Superior Court Judges' Association  
King County Superior Court

**Judge Janet Garrow**  
District and Municipal Court Judges'  
Association  
King County District Court

**Judge Jill Johanson**  
Court of Appeals, Division II

**Judge Kevin Korsmo**  
Court of Appeals, Division III

**Judge Linda Krese**  
Superior Court Judges' Association  
Snohomish County Superior Court

**Judge Michael Lambo**  
District and Municipal Court Judges'  
Association  
Kirkland Municipal Court

**Judge Craig Matheson**, President  
Superior Court Judges' Association  
Benton and Franklin Superior Courts

**Judge Jack Nevin**  
District and Municipal Court Judges'  
Association  
Pierce County District Court

**Justice Susan Owens**  
Supreme Court

**Judge Kevin Ringus**  
District and Municipal Court Judges'  
Association  
Fife Municipal Court

**Judge Ann Schindler**  
Court of Appeals, Division I

**Judge Scott Sparks**  
Superior Court Judges' Association  
Kittitas County Superior Court

## NON-VOTING MEMBERS:

**Ms. Callie Dietz**  
State Court Administrator

**Ms. Paula Littlewood**, Executive Director  
Washington State Bar Association

**Mr. Patrick Palace**, President-Elect  
Washington State Bar Association

**Judge Christine Quinn-Brintnall**  
Presiding Chief Judge  
Court of Appeals, Division II

**Ms. Michele Radosevich**, President  
Washington State Bar Association

**Judge Charles Snyder**, President-Elect  
Superior Court Judges' Association  
Whatcom County Superior Court

**Judge David Svaren**, President-Elect  
District and Municipal Court Judges'  
Association  
Skagit County District Court



**Joint Board for Judicial Administration (BJA)  
and Court Management Council (CMC) Meeting**  
**Friday, December 14, 2012 (9:00 a.m. – 12:00 p.m.)**  
 AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

**AGENDA**

|  |                              |                                     |
|--|------------------------------|-------------------------------------|
| <b>1. Call to Order</b>  | Chief Justice Barbara Madsen | 9:00 a.m.                           |
| <b>2. Welcome and Introductions</b>  | Chief Justice Barbara Madsen | 9:00 a.m.                           |
| <b>Action Items</b>  |                              |                                     |
| <b>3. November 16, 2012 Meeting Minutes</b><br>Action: Motion to approve the minutes of the November 16, 2012 meeting  | Chief Justice Barbara Madsen | 9:05 a.m.<br><br>Tab 1<br>(Page 5)  |
| <b>4. Appointment to the BJA Trial Court Operations Funding Committee</b><br>Action: Motion to reappoint Mr. Michael Fenton and Judge Vickie Churchill to the BJA Trial Court Operations Funding Committee         | Ms. Mellani McAleenan        | 9:10 a.m.<br><br>Tab 2<br>(Page 13) |
| <b>5. Appointment to the BJA Public Trust and Confidence Committee</b><br>Action: Motion to appoint Judge Bill Bowman, Mr. Mike Killian and Ms. Shirley Zimmerman to the BJA Public Trust and Confidence Committee | Ms. Mellani McAleenan        | 9:15 a.m.<br><br>Tab 3<br>(Page 16) |
| <b>6. 2013 BJA Meeting Schedule</b><br>Action: Motion to approve the proposed 2013 BJA meeting schedule  | Ms. Mellani McAleenan        | 9:20 a.m.<br><br>Tab 4<br>(Page 20) |

| <b>Reports and Information</b>  |   |   |
|---|---|---|
| <b>7. Transcriptionist Rule and Statute Revisions</b>   | Mr. Dirk Marler   | 9:30 a.m.<br><br>Tab 5<br>(Page 22)                 |
| <b>8. Court Management Council Report</b>   | Mr. Jeff Amram<br>Ms. Callie Dietz                      | 9:40 a.m.   |
| <b>9. BJA Best Practices Committee Performance Measures</b>   | Judge Christine Quinn-Brintnall<br>Judge Jean Rietschel | 9:55 a.m.<br><br>Tab 6<br>(Page 25)                 |
| <b>BREAK</b>  |   | 10:25 a.m.  |
| <b>10. Court Security</b>   | Mr. Dirk Marler   | 10:40 a.m.<br><br>Tab 7<br>(Page 32)                |
| <b>11. BJA Legislative Agenda</b>   | Ms. Mellani McAleenan                                   | 11:10 a.m.<br><br>Tab 8 and<br>Handout<br>(Page 36) |
| <b>12. Other Business</b><br><br>Next meeting: <b><u>January 23</u></b><br><b><u>9 a.m. – 2 p.m.</u></b><br><b><u>Temple of Justice, Olympia</u></b>  | Chief Justice Barbara Madsen                            | 11:55 a.m.  |
| <b>13. Adjourn</b>  |   | 12:00 p.m.  |
| Persons with a disability, who require accommodation, should notify Beth Flynn at 360-357-2121 or <a href="mailto:beth.flynn@courts.wa.gov">beth.flynn@courts.wa.gov</a> to request or discuss accommodations. While notice five days prior to the event is preferred, every effort will be made to provide accommodations, when requested. |   |   |

# Tab 1



## **Board for Judicial Administration (BJA)**

**Friday, November 16, 2012 (9:00 a.m. – 12:00 p.m.)**

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

### **MEETING MINUTES**

#### **Members Present:**

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

#### **Guests Present:**

Mr. Jeff Amram (by phone)  
Mr. Jim Bamberger  
Ms. Ishbel Dickens (by phone)  
Ms. LaTricia Kinlow  
Ms. Sonya Kraski  
Ms. Joanne Moore

#### **Public Present:**

Mr. Tom Goldsmith  
Mr. Kevin Hupy  
Mr. Mark Mahnkey

#### **AOC Staff Present:**

Ms. Beth Flynn  
Mr. Steve Henley  
Mr. Dirk Marler  
Mr. Ramsey Radwan

#### October 19, 2012 BJA Meeting Minutes

Judge Fleck stated that the Governor's Juvenile Justice Advisory Committee in the second paragraph on page two should be changed to the Washington State Partnership Council on Juvenile Justice.

**It was moved by Judge Fleck and seconded by Judge Schindler to approve the October 19, 2012 BJA meeting minutes with the revision requested by Judge Fleck. The motion carried.**

#### Filing Fee Workgroup Recommendations

Mr. Marler stated that Judge Brown presented recommendations at the October BJA meeting regarding filing fees and they are on the agenda for action today. There are three recommendations to consider: 1) extend the JSTA surcharge in its current form for an additional two years; 2) adopt the filing fee principles listed on page 12 of the materials; 3) request that the Washington State Center for Court Research (WSCCR), through its advisory board, consider conducting a study that would look at potential effects on particular case types and increases in filing fees generally.

**It was moved by Judge Garrow and seconded by Judge Krese to approve the extension of the JSTA surcharge for two years. The motion carried.**

Judge Fleck moved to adopt the filing fee principals as written on page 12. There was no second.

**It was moved by Judge Ringus and seconded by Judge Garrow to adopt the Filing Fee Principles with Principle Four reworded as follows: "Filing fees should be periodically reviewed to determine if they should be adjusted consistent with these principles." The motion carried.**

**It was moved by Judge Derr and seconded by Judge Matheson that the Washington State Center for Court Research (WSCCR) should study the impact of raising filing fees depending upon the type of cases involved (e.g. family, landlord-tenant, tort, contract, etc.). The motion carried.**

The hope is to have the WSCCR study finished by the end of 2013.

#### Legislative Agenda

**New Judicial Position in Benton/Franklin Counties Superior Court:** Ms. Dietz reported that there is a request for a new superior court judge position in Benton and Franklin Counties Superior Court. There has been a need for an additional judge for quite some time. They are working with their county commissioners and are pushing the request out a year because the counties are having their own budget issues.

**It was moved by Judge Garrow and seconded by Judge Lambo to approve the Benton and Franklin Counties Superior Court judge request legislation. The motion carried.**

**New Judicial Position in Whatcom County Superior Court:** The Whatcom County Superior Court judge request has local support and they are working with their legislative delegation which is supportive of this request. The judicial needs data supports the request.

**It was moved by Judge Schindler and seconded by Judge Lambo to approve the Whatcom County Superior Court Judge Request Legislation. The motion carried.**

**Budget Outlook:** Mr. Radwan stated that the economic and revenue forecast came out two days ago and indicated that the State General Fund balance for the next several biennia will be negative due to relatively flat revenue and anticipated maintenance level expenditures. Last legislative session the legislature mandated that the revenue forecast be adjusted to reflect a 4.5% increase per year if the official forecast was lower. Additionally, the legislature mandated that a four-year revenue and expenditure outlook be periodically produced. A further change results from the amount of funding transferred to the budget stabilization account. The current projected combined deficit is approximately \$1.9 billion, about \$400 million less than previously forecast. These deficits do not include additional expenditures resulting from the McCleary case.

The good news is that revenue remained flat and did not decrease.

**Payment of Interpreter Expenses:** Ms. Dietz stated that another piece of potential legislation for the BJA's consideration is payment of interpreter services. There are three options:

- Require that interpreters be provided at no expense to all non-English speakers, regardless of indigency, in all cases. That option will have a \$2.5 million fiscal impact. Cities and counties would have to pick up a lot of the costs. It would be an unfunded mandate.
- Eliminate the option of the state paying up to 50% and just require 50% from the state. Looking at data provided by the courts, the option would cost \$2.8 million to \$3.3 million.
- Require some type of phase-in of state funding to reach 50%. This would cost \$3.3 million total but would only increase about 10% each year or about \$170,000 a year.

The Administrative Office of the Courts (AOC) surveyed the courts regarding the use of interpreters in court proceedings and did not ask about out-of-court interpreter use. They had responses from approximately 75% of the courts. There were responses from all superior courts, except one; all district courts, except four; and all municipal courts, except 33.

There are approximately 130 languages interpreted in the courts. Spanish, Russian, Vietnamese, sign language, and Korean are the top five languages. There are problems getting certified interpreters in Eastern Washington and more rural locations.

Approximately \$5.6 million was expended in 2011 on interpreter services by the responding courts. Courts do not seem to be tracking interpreter costs consistently but about \$4.9 million was spent in criminal cases and \$749,000 in civil cases. There is not a consistent practice in who pays for interpreters.

Chief Justice Madsen stated that the interpreter funding could not be included in the budget but it is okay to put this in legislation and see if the Legislature will fund it.

Discussion included:

- A concern about whether this should be asked for in this session because the consensus on the Legislative/Executive Committee conference call was that it should not be requested this year.
- Funding is needed if this becomes policy change.
- It is a political decision on whether this should be put forward or not. There may be other issues that are far more fundable that should be pursued instead.
- Municipal courts in King County have started coordinating calendars so they can get interpreters between courts easily. They also instituted a payment plan for the interpreters and are having great success with this pilot program.
- This session should be about educating the legislators about the issue and suggesting a phased-in approach to funding.
- The Department of Justice letter could be used as a declaration for an emergency.
- The BJA should ask for 50% funding for all the courts in the state. If they say no, they say no.



**Judge Fleck moved and Judge Matheson seconded to have the state fund 50% of court language interpreter services by July 1, 2017. The motion carried with Judge Schindler and Judge Lambo opposed and Judge Derr and Justice Owens abstaining.**

**Judge Fleck moved and Justice Owens seconded to have the Legislature restore, during this upcoming legislative session, the money that has been cut previously for interpreter funding. The Department of Justice letter could be used to indicate need. This funding would be part of the 50% funding requested earlier and would be pursued outside the budget process. Four BJA members voted in favor and the rest were opposed with Judge Johanson abstaining. The motion failed.**

**Judge Ringus moved and Judge Derr seconded to amend RCW 2.43.040(2), to state: "In all legal proceedings in which a non-English speaking person would be appointed an interpreter at no expense." The motion carried with Judge Johanson abstaining.**

**It was moved by Judge Derr and seconded by Judge Garrow to strike RCW 2.42.120(3) and renumber the remaining sections. The motion carried with Judge Johanson opposed and Judge Garrow abstaining.**

**Therapeutic Courts:** During the BJA Legislative/Executive Committee call they tried to figure out if there was some way to cover all types of problem-solving courts with a statute/legislation/local rules, etc. Ms. Dietz sent a question through the COSCA listserv to find out how other states approach this issue and received responses from 18 states. None of them have umbrella legislation but a number of them are using court rules.

**There was consensus that the BJA does not want to put this in legislation and will convene a group to propose a court rule.**

**District and Municipal Court Judges' Association (DMCJA) Legislative Agenda:** Judge Derr stated that the DMCJA has legislation that changes when a judge has to retire from the end of the year the judge turns 75 to the expiration of the term in which the judge turns 75. The DMCJA also has court security legislation that requests that cities and counties be obligated to supply some security for the courts. Another piece of legislation deals with the termination of municipal courts and what happens with their judges. The legislation would allow termination of the court only upon the conclusion of the judicial term. They are working on one other piece of legislation that has not been finalized yet. That legislation has to do with a \$25 administrative fee. They are also looking at a restriction stating cities cannot have DUI courts.

**Superior Court Judges' Association (SCJA) Legislative Agenda:** Judge Matheson stated that Judge Alan Hancock provided an analysis if the definition of intent was amended. The issue was referred to the SCJA Legislative Committee for consideration. Judge Kitty-Ann van Doorninck brought forth a proposal to modify the requirement to appoint an attorney to a youth turning 18 and eligible for extended foster care.

Appointment to the BJA Public Trust and Confidence Committee

**It was moved by Ringus and seconded by Judge Garrow to reappoint Judge Laurel Siddoway and Judge Elizabeth Stephenson and to appoint Judge James Docter to the BJA Public Trust and Confidence Committee. The motion carried.**

Appointment to the BJA Trial Court Operations Funding Committee

**It was moved by Judge Ringus and seconded by Judge Garrow to appoint Judge Richard Fitterer and reappoint Ms. Elsa Anderson to the BJA Trial Court Operations Funding Committee. The motion carried.**

BJA Retreat Workgroups

The BJA Structure Workgroup met for a full day last month and they have another meeting scheduled in a few weeks.

The BJA Committee Unification Workgroup has not met. It was noted that Judge Krese should be added to the membership list and that Judge Nevin should be deleted.

There was discussion about including outside groups in the Committee Unification Workgroup but Chief Justice Madsen stated once there is a product, the stakeholders will vet it at that time.

It was also noted that the timeline for the Committee Unification Workgroup seems to be unrealistic.

**It was moved by Judge Derr and seconded by Judge Schindler to approve the BJA Structure Workgroup Charter. The motion carried with Judge Korsmo abstaining.**

**It was moved by Judge Schindler and seconded by Judge Derr to approve the charge for the BJA Committee Unification Workgroup with the workgroup determining a realistic timeline for completion. The motion carried.**

2013 BJA Meeting Schedule

This item will be carried over to the next meeting.

Court Security

This item will be carried over to the next meeting.

There being no further business the meeting was adjourned.

**Recap of Motions from November 16, 2012 meeting**

| <b>Motion Summary</b>   | <b>Status</b>  |
|---|--|
| Approve the October 19, 2012 BJA meeting minutes with the revision requested by Judge Fleck.  | Passed   |
| Approve the extension of the JSTA surcharge for two years.  | Passed   |
| Adopt the Filing Fee Principles with Principle Four reworded as follows: "Filing fees should be periodically reviewed to determine if they should be adjusted consistent with these principles."  | Passed   |
| The Washington State Center for Court Research (WSCCR) should study the impact of raising filing fees depending upon the type of cases involved (e.g. family, landlord-tenant, tort, contract, etc.).   | Passed   |
| Approve the Benton/Franklin Superior Court Judge Request Legislation.   | Passed   |
| Approve the Whatcom County Superior Court Judge Request Legislation.  | Passed   |
| Have the state fund 50% of the language interpreter services by July 1, 2017.   | Passed with Judge Schindler and Judge Lambo opposed and Judge Derr and Justice Owens abstaining    |
| Have the Legislature restore, during this upcoming legislative session, the money that has been cut previously for interpreter funding. The Department of Justice letter could be used to indicate need. This funding would be part of the 50% funding requested earlier and would be pursued outside the budget process. | Failed - Four BJA members voted in favor and the rest were opposed with Judge Johanson abstaining. |
| Amend RCW 2.43.040(2), to state: "In all legal proceedings in which a non-English speaking person would be appointed an interpreter at no expense."   | Passed with Judge Johanson abstaining.   |
| Strike RCW 2.42.120(3) and renumber the remaining sections.   | Passed with Judge Johanson opposed and Judge Garrow abstaining.                                    |
| Reappoint Judge Laurel Siddoway and Judge Elizabeth Stephenson and to appoint Judge James Docter to the BJA Public Trust and Confidence Committee.  | Passed   |
| Appoint Judge Richard Fitterer and reappoint Ms. Elsa Anderson to the BJA Trial Court Operations Funding Committee.   | Passed   |
| Approve the BJA Structure Work Group Charter.   | Passed with Judge Korsmo abstaining  |
| Approve the charge for the Committee Unification Workgroup with the workgroup determining a realistic timeline for completion.  | Passed   |

**Action Items updated for November 16, 2012 meeting**

| <b>Action Item</b>  | <b>Status</b>        |
|---|----------------------|
| <p><u>October 19 BJA Meeting Minutes</u></p> <ul style="list-style-type: none"> <li>• Revise and post the minutes online.</li> <li>• Send revised minutes to Supreme Court for inclusion in the En Banc meeting materials.</li> </ul>   | <p>Done<br/>Done</p> |
| <p><u>Filing Fee Workgroup Recommendations</u></p> <ul style="list-style-type: none"> <li>• Get sponsors and drop bill regarding two-year extension of JSTA surcharge.</li> <li>• Submit request for WSCCR to study the impact of raising filing fees depending upon the type of cases involved (e.g. family, landlord-tenant, tort, contract, etc.). Submit request via letter to Judge Schindler w/cc to Ms. Dietz and Dr. Carl McCurley.</li> <li>• Send thank you letters to members thanking them for their service.</li> </ul>  |                      |
| <p><u>BJA Legislative Agenda</u></p> <ul style="list-style-type: none"> <li>• Change wording on Benton-Franklin draft bill to state Benton-Franklin, not Whatcom.</li> <li>• Get bill sponsors and drop new judge bills.</li> <li>• Draft, get sponsors and drop 50% language interpreter services funding bill and amend RCW 2.43.040(2), to state: "In all legal proceedings in which a non-English speaking person would be appointed an interpreter at no expense." Also, strike RCW 2.42.120(3) and renumber the remaining sections.</li> <li>• Convene a group to propose a court rule regarding therapeutic courts.</li> </ul> |                      |
| <p><u>BJA Public Trust and Confidence Committee Appointments</u></p> <ul style="list-style-type: none"> <li>• Send letters to reappoint Judge Laurel Siddoway and Judge Elizabeth Stephenson and to appoint Judge James Docter to the BJA Public Trust and Confidence Committee.</li> </ul>   |                      |
| <p><u>BJA Trial Court Operations Funding Committee Appointments</u></p> <ul style="list-style-type: none"> <li>• Send letters to appoint Judge Richard Fitterer and reappoint Ms. Elsa Anderson to the BJA Trial Court Operations Funding Committee.</li> </ul>   |                      |
| <p><u>BJA Committee Charters</u></p> <ul style="list-style-type: none"> <li>• Change the Committee Unification Workgroup charter to indicate that the workgroup will determine the timeline for completion.</li> </ul>  |                      |

# Tab 2



**Board for Judicial Administration  
Nomination Form for BJA Committee Appointment**

**BJA Committee:** Trial Court Operations Funding Committee  
(i.e. Best Practices, Court Security, Justice in Jeopardy, Long-Range Planning, and Public Trust and Confidence)

**Nominee Name:** Judge Vickie Churchill

**Nominated By:** SCJA  
(i.e. SCJA, DMCJA, BCE, etc.)

**Term Begin Date:** January 1, 2013

**Term End Date:** December 31, 2014

**Has the nominee served on this subcommittee in the past?**      Yes       No

**If yes, how many terms have been served and dates of terms:** \_\_\_\_\_

**Additional information you would like the BJA to be aware of regarding the nominee:**

Please send completed form to:

Beth Flynn  
Administrative Office of the Courts  
PO Box 41174  
Olympia, WA 98504-1174  
[beth.flynn@courts.wa.gov](mailto:beth.flynn@courts.wa.gov)

# Tab 3



**Board for Judicial Administration  
Nomination Form for BJA Committee Appointment**

**BJA Committee:** Public Trust and Confidence Committee  
(i.e. Best Practices, Court Security, Justice in Jeopardy, Long-Range Planning, and Public Trust and Confidence)

**Nominee Name:** Judge Bill Bowman

**Nominated By:** SCJA  
(i.e. SCJA, DMCJA, BCE, etc.)

**Term Begin Date:** January 1, 2013

**Term End Date:** December 31, 2014

**Has the nominee served on this subcommittee in the past?**      Yes       No

**If yes, how many terms have been served and dates of terms:** \_\_\_\_\_

**Additional information you would like the BJA to be aware of regarding the nominee:**

Please send completed form to:

Beth Flynn  
Administrative Office of the Courts  
PO Box 41174  
Olympia, WA 98504-1174  
[beth.flynn@courts.wa.gov](mailto:beth.flynn@courts.wa.gov)

**Board for Judicial Administration  
Nomination Form for BJA Committee Appointment**

**BJA Committee:** Public Trust and Confidence Committee  
(i.e. Best Practices, Court Security, Justice in Jeopardy, Long-Range Planning, and Public Trust and Confidence)

**Nominee Name:** Michael Killian

**Nominated By:** WSACC  
(i.e. SCJA, DMCJA, etc.)

**Term Begin Date:** Immediately

**Term End Date:** December 31, 2014

**Has the nominee served on this subcommittee in the past?**      Yes       No

**If yes, how many terms have been served and dates of terms:** \_\_\_\_\_

**Additional information you would like the BJA to be aware of regarding the nominee:**

Michael Killian has served as the Franklin County Clerk since 2000, and has been very active in the Clerk's Association. On a personal note ~ Mike serves in the U.S. Navy Reserve and just returned home from a one-year deployment to Kuwait.

Please send completed form to:

Beth Flynn  
Administrative Office of the Courts  
PO Box 41174  
Olympia, WA 98504-1174  
[beth.flynn@courts.wa.gov](mailto:beth.flynn@courts.wa.gov)

**Board for Judicial Administration  
Nomination Form for BJA Committee Appointment**

**BJA Committee:** Public Trust and Confidence  
(i.e. Best Practices, Court Security, Justice in Jeopardy, Long-Range Planning, and Public Trust and Confidence)

**Nominee Name:** Shirley Zimmerman

**Nominated By:** DMCMA  
(i.e. SCJA, DMCJA, etc.)

**Term Begin Date:** 1/1/2013

**Term End Date:** 12/31/2014

**Has the nominee served on this subcommittee in the past?**      Yes       No

**If yes, how many terms have been served and dates of terms:** \_\_\_\_\_

**Additional information you would like the BJA to be aware of regarding the nominee:**

I am submitting my recommendation for Shirley Zimmerman to serve as the DMCMA Representative to the BJA Public Trust and Confidence Committee. Ms. Zimmerman is the Court Services Manager for the Ferndale Municipal Court. We are confident that Shirley will be an asset to this committee. Thank you for allowing the DMCMA to participate.

Shirley Zimmerman  
Court Services Manager  
Ferndale Municipal Court  
PO Box 291  
Ferndale, WA 98248  
(Physical address for the court: 5694 Second Ave Ferndale, WA)  
360-384-2827  
shirleyzimmerman@ferndalecourts.org

Please send completed form to:

Beth Flynn  
Administrative Office of the Courts  
PO Box 41174  
Olympia, WA 98504-1174  
[beth.flynn@courts.wa.gov](mailto:beth.flynn@courts.wa.gov)

# Tab 4

**Board for Judicial Administration  
2013 Meeting Schedule**

| <b>Date</b>  | <b>Location</b>   |
|--------------|---|
| January 23   | Olympia (9:00 – 2:00 p.m.)  |
| February 15  | Olympia (9:00 a.m. – 12:00 p.m.)  |
| March 15     | Olympia (9:00 a.m. – 12:00 p.m.)  |
| April 19     | SeaTac (9:00 a.m. – 12:00 p.m.)   |
| May 17       | SeaTac (9:00 a.m. – 12:00 p.m.)   |
| June 21      | SeaTac (9:00 a.m. – 12:00 p.m.)   |
| July 19      | SeaTac (9:00 a.m. – 12:00 p.m.)   |
| August 16    | SeaTac (9:00 a.m. – 12:00 p.m.)   |
| September 20 | SeaTac (9:00 a.m. – 12:00 p.m.)   |
| October 18   | SeaTac (9:00 a.m. – 12:00 p.m.)   |
| November 15  | SeaTac (9:00 a.m. – 12:00 p.m.)   |
| December 13  | SeaTac (Joint meeting with Court Management Council) (9:00 a.m. – 12:00 p.m.) |

SeaTac Location: AOC SeaTac Facility  
SeaTac Office Center-South Tower  
18000 International Blvd., Suite 1106  
SeaTac WA 98188-4251

Olympia Location: Chief Justice's Reception Room  
Temple of Justice  
415 12<sup>th</sup> Avenue SW  
Olympia, WA 98501

# Tab 5

**Court Management Council  
Transcriptionist Subcommittee**  
December 2012

**Background:**

In response to concerns by appellate clerks about the timeliness and accuracy of verbatim reports of proceedings, the Court Management Council (CMC) formed a Subcommittee in 2009 to investigate current practices and develop standards. CMC was concerned about vagueness of existing rules and procedures, inconsistency, and sometimes substandard work product. In addition, CMC was aware of the trend toward electronic recording of court proceedings and hoped to better position Washington trial and appellate courts to respond.

Committee members are:

- Ms. Renee Townsley, Chair (Clerk/Administrator, Court of Appeals Division III)
- Mr. Dave Ponzoha (Clerk/Administrator, Court of Appeals Division II)
- Ms. Peggy Bednared (King County District Court)
- Ms. Nancy Scott (Skagit County Clerk)
- Ms. Delilah George (Administrator, Skagit County Superior Court)
- Mr. Bob Dowd (Information & Records Services Manager, King County)
- Ms. Kathei McCoy (King County Clerk's Office)

Ms. Townsley first reported to BJA on December 11, 2009. She advised BJA that the group had been formed, was reviewing processes in other states and planned to survey Washington court administrators and clerks about how transcriptionists are authorized and how consistency, accuracy, and timeliness are ensured.

On December 9, 2011, Ms. George reported to BJA that:

- Part of the subcommittee's charge is to develop methods that will help courts accommodate the declining numbers of court reporters;
- The Subcommittee was in the process of revising the Recommendations for Electronic Recording that were initially developed in 1984 and last updated in 2002;
- Recommendations would likely emphasize the roles of the judge and equipment operator to ensure an adequate record
- The subcommittee could recommend certification for court transcriptionists;
- Court rules and statutes need to be updated

Ms. George said the Subcommittee's final task was to go through all the statutes related to court reporting and transcriptionists and propose new rules or amendments. The CMC would first approve the subcommittee's report and then it would be submitted to the BJA for action.

**Status:**

CMC approved and released the updated Recommendations for Electronic Recording. After extensive review and comment by court managers and clerks at all levels, CMC approved the subcommittee's proposed amendments to statutes and court rules.

Ms. Townsley presented CMC's recommendations to BJA on September 21, 2012. CMC requested that BJA refer the recommendations to the court level judicial associations and for those groups to report back for further discussion and possible BJA action at a subsequent BJA meeting.

The review by judicial groups has added perspective and resulted in suggestions that CMC may wish to incorporate into revised recommendations. Therefore, CMC intends to request that each judicial group provide written comments that CMC will then review before returning to BJA for endorsement of proposed rules or legislation.



# Tab 6

# Presentation to BJA, December 14, 2012

## Background

1. The BJA Best Practices Committee's primary activity is concentrated on creating, testing, and evaluating performance audit measures.
2. The measures will ultimately be integrated into a comprehensive court performance audit plan which will be published for two years before courts can be audited based on the standards contained in those measures.
3. Each measure is designed to allow the auditor (AOC staff) to evaluate a court's activities related to the minimum standards defined for that measure. The standards must be reasonable for courts at all levels to achieve whether they are large, small, urban, or rural.
4. The BPC has created a uniform format for performance measures that defines the standards that the courts must meet and provides a methodology for the auditor. This includes audit guidelines with questions designed to determine whether the court meets each standard. The questions focus on documentation, procedures, and court processes which, together with any available JIS data, can be objectively verified by the auditor.
5. In addition, standard questionnaires are being created which allow the auditor to gather information during the audit that provides context for the audit report and documents circumstances that might prevent a court meeting the standards.
6. Each measure is tested in three courts and modified after each test as necessary. After the final test, the measure is evaluated by the BPC based on criteria defined by the BJA and based on the Generally Accepted Government Auditing Standards (GAGAS).
7. If the measure meets the criteria, it is approved by the BPC and recommended to the BJA for adoption.
8. The process defined by the BJA provides that audits will be initiated at the request of a court's presiding judge, or at the request of the BJA.

# Presentation to BJA, December 14, 2012

## Current Activity

1. Most recently, the BPC developed, tested, and approved a case management measure for superior courts.
2. The BPC is currently developing case management measures for the appellate courts which will include the development of case processing time standards.
3. Despite intensive data retrieval and analysis efforts, it was not possible to obtain appropriate data to be used to create a case management measure for courts of limited jurisdiction at this time.
4. The superior court case management measures, together with a previously completed jury management measure, are recommended to the BJA for adoption.
5. Work has begun on a Trial Date Certainty measure for Superior Courts for civil trials.
6. Measures already adopted by the BJA include:
  - Response to Financial Audits
  - Access for the Self-Represented and/or Financially Disadvantaged
  - Access for Court Users with Disabilities
  - Access for Court Users with Limited English Proficiency

**PROPOSED  
PERFORMANCE AUDIT BASE MEASURES**

| <b>Measure</b>              | <b>Title</b>  | <b>Status</b>                     |
|-----------------------------|---|-----------------------------------|
| <b>In Process</b>           |   |                                   |
| 2a, 2b,14                   | Caseflow Management Measures:   | On hold COA***.<br>On hold CLJ**. |
| 2a                          | Time to Disposition*  | Ditto                             |
| 2b                          | Age of Active Pending Caseload*   | Ditto                             |
| 14                          | Clearance Rates*  | Ditto                             |
| 3                           | Trial Date Certainty*   | In Process SC civil cases         |
| <b>Not Yet Begun</b>        |   |                                   |
| 5                           | Integrity of Trial Court Outcomes   |                                   |
| 6                           | Collection of Monetary Penalties*   |                                   |
| 7                           | Accuracy, Consistency, and Timeliness of Case File Information and Docket Entries |                                   |
| 9                           | Court and Public Access to Court Records  |                                   |
| 10                          | Structured Interviews of Presiding Judge and Court Administrator                  |                                   |
| 11                          | Compliance with Reporting and Distribution of No Contact Orders                   |                                   |
| 13                          | Perceptions of the Court's Independence and Comity                                |                                   |
| <b>Ready for BJA Review</b> |   |                                   |
| 4                           | Effective Use of Jurors   | Approved by BPC.                  |
| 2a, 2b, 14                  | Caseflow Management Measures  | Approved by BPC—superior court.   |
| <b>Complete</b>             |   |                                   |
| 8                           | Evaluation of the Court's Response to Financial Audits                            | Adopted by the BJA.               |
|                             | Access Measures (added to original list by BPC):                                  | Adopted by the BJA.               |
| 12                          | Access for the Self-Represented and/or Financially Disadvantaged                  | Adopted by the BJA.               |
| 15                          | Access for Court Users with Disabilities  | Adopted by the BJA.               |
| 16                          | Access for Court Users with Limited English Proficiency                           | Adopted by the BJA.               |
| <b>Rejected</b>             |   |                                   |
| 1                           | Attorney Survey   | Rejected by BPC after testing.    |

\*These measures are similar to the National Center for State Courts' established CourTools measures.

\*\*Data deficiencies need to be resolved before CLJ measure can proceed.

\*\*\* COA association unable to reach consensus on measures.

# Effective Use of Jurors

## Objectives, Scope and Methodology

Courts should make every effort to utilize jurors effectively in order to accommodate trial activity and minimize the costs of jury administration while maximizing their experience as jurors.

The measure may be implemented in superior, district, and municipal courts. Jury services are managed in a variety of different ways in Washington State. Jury services may be managed by superior court administration or by the county clerk's office. For example, all jury source list processing within a jurisdiction may be managed by the county clerk who can summon jurors, process excuses and postponements, and provide panels to superior, district, and/or municipal courts. District and municipal courts may be provided with the master jury source list by the county clerk, but perform all other jury management functions themselves. It is the court's responsibility to ensure that jury management practices comply with statute and court rule. Therefore, it should be noted that this measure is auditing the court, not the county clerk. However, when jury services are managed by the county clerk, it will be important to encourage the county clerk's participation and input.

An interview will most likely be conducted with the person most directly responsible for jury administration. This may be the County Clerk, the Court Administrator, or the Jury Administrator. Audit staff completes the measure's Jury Management Information Sheet and the Audit Guidelines. The Information Sheet questions are designed to provide background information which describe the court's jury management practices and provide context for the report. The Guidelines are made up of a series of questions designed to examine whether the court is meeting each of the measure's standards.

Finally, an interview will be conducted with at least the presiding judge and/or court administrator to review the results of the audit and to identify risk and protective factors associated with the court's ability to efficiently manage jurors and to comply with juror statutes and court rules. Detailed methodology is described in the Standard Procedure section of this chapter.

## *Measure at a Glance*

### Description

This measure examines the activities of trial courts to determine whether juror management practices comply with statute and court rule.

### Standards

- A. The length of the jury term and juror service must be within the limits established in statute.
- B. Potential jurors must be selected at random from the master jury source list.
- C. Excuses and deferrals should be effectively managed to promote broad citizen participation and to maximize juror yield.

### Areas Measured

Efficiency

### Measurement Type

Objective

### Audit Instruments

- *Audit Guidelines*
- *Jury Management Information Sheet*

# Clearance Rate and Time to Resolution

## Objectives, Scope and Methodology

Courts should make every effort to implement the fundamental elements of Caseflow management:

- Judicial commitment and leadership
- Court consultation with the Bar
- Court supervision of case processing
- Standards and goals
- A monitoring and information system
- Scheduling for credible trial dates
- Court control of continuations

To ensure equitable and timely access to justice, it is important that the court maintains high case clearance rates and that the majority of cases are resolved within the time standards recommended by the Board for Judicial Administration.

This measure may be implemented in superior courts.

Before the court visit, AOC staff will run SCOMIS Caseflow Summary Reports for the prior five years. Data from the reports will be entered into a spreadsheet to calculate the average clearance rate. Staff will also enter time standard data from the Caseloads of the Courts of Washington for the prior five years. Results showing the number of new case filings, clearance rates, and adherence to time standards for criminal, civil, and juvenile offender cases will be graphed and copied into the audit report as well as the ratio of active pending to resolved cases—an indicator of the court's case backlog.

An interview will be conducted with the Superior Court Administrator and/or the Presiding Judge. The County Clerk could also be included. With their input, AOC staff will complete the measure's Caseflow Management Information Sheet and the Audit Guidelines. The Information Sheet questions are designed to provide background information which describes the court's case management practices and to provide context for the report. The Guidelines are designed to examine whether the court is meeting each of the measure's standards. The resulting report will be sent to the Court Administrator and Presiding Judge for review.

## **Measure at a Glance**

### **Description**

Examination of the court's caseflow management practices.

### **Standards**

- A. Clearance Rate: The rate of outgoing cases to incoming cases should be at least ninety-nine percent.
- B. Time to Resolution: Ninety percent of cases should be resolved within the maximum time standards recommended by the Board for Judicial Administration.

### **Areas Measured**

Efficiency  
Accountability  
Access

### **Measurement Type**

Objective

### **Audit Instruments**

- Audit Guidelines
- Caseflow Management Information Sheet
- Instructions on how to run and print a SCOMIS Caseflow Summary Report
- Superior Court Time Standards Spreadsheet

# **Best Practices Committee**

## **Report to the Board for Judicial Administration December, 2012**

Joint Chairs: Judge Christine Quinn-Brintnall, Division II, COA  
Judge Jean Rietschel, King County Superior Court

### **Committee Focus**

The BJA Best Practices Committee's primary activity is concentrated on creating, testing, and evaluating performance audit measures. The BJA created a performance audit policy (GR 32), defined a process, and approved sixteen measures for the Best Practices Committee (BPC) to pursue. The measures will ultimately be integrated into a comprehensive court performance audit plan. Each measure is designed to allow the auditor (AOC staff) to evaluate a court's activities related to the standards defined for that measure. The standards must be reasonable for courts at all levels to achieve whether they are large, small, urban, or rural.

The BPC has created a uniform format for performance measures. Each measure begins with a brief description, defines the standards that the courts must meet, and provides a methodology for the auditor. This is followed by audit guidelines with questions designed to determine whether the court meets each standard. The questions focus on documentation, procedures, and court processes which, together with any available JIS data, can be objectively verified by the auditor. In addition, standard questionnaires are being created which allow the auditor to gather information during the audit that provides context for the report and documents circumstances that might prevent a court meeting the standards.

Each measure is tested in three courts and modified after each test as necessary. After the final test, staff prepares an assessment of the measure based on the evaluation criteria defined by the BJA and based on the Generally Accepted Government Auditing Standards (GAGAS). If the measure meets the criteria, it is approved by the BPC and recommended to the BJA for adoption. The adopted measures are being compiled into a Court Performance Audit Manual which will be published for two years before courts can be audited based on the standards contained in those measures.

### **Current Activities**

This year was marked by budget challenges and a change in BPC staff. Julia Appel retired this spring and David Elliott was hired in June. Two measures were finalized for BJA approval this fall and work started on a Trial Date Certainty measure. The case management measure currently being developed by the Court of Appeals is ongoing. Appropriate data are not currently available to develop a case management measure for courts of limited jurisdiction.

In 2011 the BPC developed and approved a case management measure recommended to the BJA for adoption. A previously completed and approved jury management measure is recommended to the BJA for adoption. The BJA previously approved the following measures:

- Response to Financial Audits
- Access for the Self-Represented and/or Financially Disadvantaged
- Access for Court Users with Disabilities
- Access for Court Users with Limited English Proficiency

# Tab 7



# MEMORANDUM



**To:** Board for Judicial Administration  
**From:** Dirk A. Marler, Director, Judicial Services Division  
**Date:** December 6, 2012  
**Re:** Court Security

## Issue:

In response to an episode at the Grays Harbor County Courthouse, the Board for Judicial Administration (BJA) adopted a resolution on courthouse security on March 16, 2012. Subsequent events involving a Thurston County judge at his home and a Spokane County judge in the workplace sparked a discussion at the September 2012 BJA meeting about reinvigorating statewide security efforts, including a suggestion to reconstitute the BJA Court Security Committee. The BJA intends further discussion on December 14, 2012.

## Background:

In 2005, the Board for Judicial Administration adopted a recommendation from an ad hoc security committee to create a standing Court Security Committee. The mission was to:

- Advise the BJA on the status of courthouse security efforts in Washington State.
- Review and recommend revisions to Washington's court security guidelines.
- Recommend minimum security standards that should be met by all courts.
- Create a model protocol for court safety planning.
- Investigate funding sources for improving court security.
- Regularly review security guidelines, local court security measures, and evaluate the evolving security risks.

The Committee updated guidelines that were originally created by the Washington Supreme Court's 1995 Courthouse Security Task Force, maintained a log of security incidents, and published a newsletter.

The AOC supported the Committee's work with a small budget for telephonic meetings and approximately .22 FTE.

Following a series of cuts to AOC's budget and staffing reductions, State Court Administrator Jeff Hall asked stakeholders to review and prioritize AOC services. The court community rated support for the Security Committee as a low priority for the AOC.

| Customer Group | Type of Service | Priority | Appropriate Role for AOC |
|----------------|-----------------|----------|--------------------------|
| SC             | --              | --       | No                       |
| SC-B           | --              | Low      | --                       |
| COA            | Eliminate       | Low      | Yes                      |
| SCJA           | Good Policy*    | Low      | --                       |
| DMCJA          | Good Policy     | --       | Yes                      |
| AWSCA          | Good Policy     | Low      | Yes                      |
| WAJCA          | Good Policy     | Low      | No                       |
| DMCMA          | Good Policy     | --       | Yes                      |
| Clerk          | --              | --       | --                       |

\*Good Policy – this is a service that should be provided from a policy perspective, but does not impact the day-to-day operations of courts.

**Comments:**

- SC: This should be done at the local level.
- COA: Consult with local law enforcement.
- SCJA: Tracking incident reports is not a priority.
- DMCJA: This is a BJA subcommittee and is mostly done. It might be something that we should do, but is not a priority and could be set aside until funding recovers.
- DMCMA: This is a BJA subcommittee and is mostly done. It might be something that we should do, but is not a priority and could be set aside until funding recovers.
- AWSCA: Refer to local jurisdiction.

Based on the low priority ranking from the court community, AOC recommended that the BJA sunset the Security Committee. On March 18, 2011, the BJA voted to suspend committee operations for three years.

**AOC staff recommendations:**

Ensuring a safe and secure environment for all who seek and administer justice should be a high priority for Washington courts. The question before the BJA is not whether security is a priority, but how best to address the issue of court security in a decentralized justice system with limited resources.

The resource constraints that led to the 2011 decision remain. Therefore, the BJA must carefully evaluate whether reallocating additional resources in order to staff the now dormant committee will materially improve safety.

Decisions about the level of security and the manner in which it is provided will be made jointly by judicial, executive, and legislative branch officials in cities and counties, not at the state level. Individual judicial officers and employees must be alert and informed. However, much can be accomplished through existing groups and activities and leveraging resources developed nationally by the National Center for State Courts and other groups.

AOC recommends the following:

1. The BJA should not reconstitute the Court Security Subcommittee at this time as there are no financial or staff resources to support it.
2. The BJA should request the trial court associations and the Board for Court Education (BCE) to incorporate personal and courthouse security issues into the curricula for BCE-sponsored education, including the Judicial College.
3. The BJA should request that the Annual Conference Planning Committee include one or more programs related to personal or courthouse security in the program for the 2013 Annual Judicial Conference, and that materials from that presentation be widely distributed on the AOC listservs.
4. The AOC should maintain the Court Security webpage, add materials from training programs as they become available, and include links to other resources at the National Center for State Courts and other organizations.
5. The AOC should send a message at least once per year through the listservs that reminds the court community of the available resources.
6. The AOC will include a feature on personal or court security at least once per year in the *Full Court Press*.

# Tab 8

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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-3110.2/12 2nd draft

ATTY/TYPIST: AI:crs

BRIEF DESCRIPTION: Modifying the mandatory retirement provision for district judges.

1 AN ACT Relating to modifying the mandatory retirement provision for  
2 district judges; and amending RCW 3.74.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 3.74.030 and 1984 c 258 s 56 are each amended to read  
5 as follows:

6 A district judge shall retire from judicial office at the (~~end of~~  
7 ~~the calendar year~~) expiration of the judge's term of office in which  
8 he or she has attained the age of seventy-five years. This provision  
9 shall not affect the term to which any such judge shall have been  
10 elected or appointed prior to August 11, 1969.

--- END ---

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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-

ATTY/TYPIST: AI:crs

BRIEF DESCRIPTION: Requiring cities and counties to provide security  
for their courts.

AN ACT Relating to court security; amending RCW 3.58.050, 3.50.080, and 35.20.120; adding a new section to chapter 3.58 RCW; adding a new section to chapter 3.50 RCW; and adding a new section to chapter 35.20 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** A new section is added to chapter 3.58 RCW to read as follows:

Counties shall provide security to district courts in order to:

(1) Promote the safety and security of all court facilities and proceedings;

(2) Ensure access to court proceedings as guaranteed by Article 1, section 10 of the Washington state Constitution; and

(3) Assist judges in carrying out their respective constitutional and statutory duties.

NEW SECTION. **Sec. 2.** A new section is added to chapter 3.50 RCW to read as follows:



Cities shall provide security to municipal courts in order to:

(1) Promote the safety and security of all court facilities and proceedings;

(2) Ensure access to court proceedings as guaranteed by Article 1, section 10 of the Washington state Constitution; and

(3) Assist judges in carrying out their respective constitutional and statutory duties.

NEW SECTION. **Sec. 3.** A new section is added to chapter 35.20 RCW to read as follows:

Cities shall provide security to municipal courts in order to:

(1) Promote the safety and security of all court facilities and proceedings;

(2) Ensure access to court proceedings as guaranteed by Article 1, section 10 of the Washington state Constitution; and

(3) Assist judicial officers in carrying out their respective constitutional and statutory duties.

**Sec. 4.** RCW 3.58.050 and 1984 c 258 s 38 are each amended to read as follows:

The county legislative authority shall furnish all necessary facilities for the district courts, including suitable secure courtrooms, furniture, books, stationery, postage, office equipment, heat, light and telephone and may lease or construct courtrooms and offices for such purpose. The county legislative authority shall not be required to furnish courtroom space in any place other than as provided in the districting plan.

**Sec. 5.** RCW 3.50.080 and 1984 c 258 s 111 are each amended to read as follows:

Salaries of municipal court judges shall be fixed by ordinance. All costs of operating the municipal court, including but not limited to salaries of judges and court employees, courthouse security, dockets, books of records, forms, furnishings, and supplies, shall be

paid wholly out of the funds of the city or town. The city shall provide a suitable place for holding court and pay all expenses of maintaining it.

All employees of the municipal court shall, for all purposes, be deemed employees of the city or town. They shall be appointed by and serve at the pleasure of the court.

**Sec. 6.** RCW 35.20.120 and 1987 c 202 s 196 are each amended to read as follows:

All blanks, books, papers, stationery and furniture necessary for the transaction of business and the keeping of records of the court, and courthouse security shall be furnished at the expense of the city, except those expenses incidental to the operation of the court in matters brought before the court because of concurrent jurisdiction with the district court, which expense shall be borne by the county and paid out of the county treasury. All other expenses on account of such court which may be authorized by the city council or the county commissioners and which are not specifically mentioned in this chapter, shall be paid respectively out of the city treasury and county treasury.

RCW 3.50.060

Termination of municipal court - Requirements - Establishment of court.

A city or town electing to establish a municipal court pursuant to this chapter may terminate such court by adoption of an appropriate ordinance. However no municipal court may be terminated unless the municipality has complied with RCW 3.50.805, 35.22.425, \*35.23.595, \*\*35.24.455, 35.27.515, 35.30.100, and 35A.11.200. **An existing municipal court may only be terminated or transferred to another jurisdiction upon the conclusion of the municipal court judicial term.**

A city or town newly establishing a municipal court pursuant to this chapter shall do so by adoption of an appropriate ordinance on or before December 1 of any year, to take effect January 1 of the following year.