

BOARD FOR JUDICIAL ADMINISTRATION



**WASHINGTON
COURTS**

MEETING PACKET

**FRIDAY, MARCH 15, 2013
9:30 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

Justice Susan Owens
Supreme Court

Judge James Riehl
District and Municipal Court Judges'
Association
Kitsap County District 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



Board for Judicial Administration (BJA) Meeting
Friday, March 15, 2013 (9:00 a.m. – 12:00 p.m.)
 AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

AGENDA

1. Call to Order	Chief Justice Barbara Madsen Judge Chris Wickham	9:00 a.m.
2. Welcome and Introductions	Chief Justice Barbara Madsen Judge Chris Wickham	9:00 a.m.
Action Items		
3. January 23, 2013 Meeting Minutes Action: Motion to approve the minutes of the January 23, 2013 meeting	Chief Justice Barbara Madsen Judge Chris Wickham	9:05 a.m. Tab 1 (Page 5)
Reports and Information		
4. Trial Court Operations Funding Committee Recommendations	Mr. Paul Sherfey	9:10 a.m. Tab 2 (Page 11)
5. BJA Structure Workgroup Recommendations	Chief Justice Barbara Madsen Judge Chris Wickham	9:30 a.m. Tab 3 (Page 38)
6. Other Business Next meeting: April 19 AOC SeaTac Office, SeaTac	Chief Justice Barbara Madsen Judge Chris Wickham	
7. Adjourn		12:00 p.m.

Persons with a disability, who require accommodation, should notify Beth Flynn at 360-357-2121 or beth.flynn@courts.wa.gov 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) Meeting
Wednesday, January 23, 2013 (9:30 a.m. – 11:15 a.m.)
Chief Justice's Reception Room, Temple of Justice, Olympia

MEETING MINUTES

BJA 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 (by phone)
Judge Kevin Korsmo (by phone)
Judge Linda Krese
Judge Michael Lambo
Ms. Paula Littlewood
Judge Craig Matheson
Justice Susan Owens
Judge Christine Quinn-Brintnall
Ms. Michele Radosevich
Judge James Riehl
Judge Ann Schindler
Judge Charles Snyder
Judge Scott Sparks

Guests Present:

Mr. Jim Bamberger
Ms. Betty Gould
Ms. Joanne Moore
Mr. Paul Sherfey (by phone)

Public Present:

Ms. Milena Calderari-Waldron
Mr. Tom Goldsmith
Ms. Louise Morehead

AOC Staff Present:

Ms. Beth Flynn
Mr. Stephan Henley
Mr. Dirk Marler
Ms. Mellani McAleenan
Mr. Ramsey Radwan

Judge Wickham called the meeting to order.

December 14, 2012 Meeting Minutes

It was moved by Justice Owens and seconded by Judge Lambo to approve the December 14, 2012 BJA meeting minutes. The motion carried.

BJA Best Practices Committee Performance Measures

Judge Quinn-Brintnall stated that the BJA Best Practices Committee is seeking the BJA's approval of two performance measures: the 1) Effective Use of Jurors, and 2) Clearance Rate and Time to Resolution. In response to a question during the December BJA meeting, there are materials in the meeting packet showing how case clearance rates are calculated over a five-year period of time.

If approved, the BJA Best Practices Committee wants to move ahead and pilot the performance measures in a few pilot courts.

It was moved by Judge Garrow and seconded by Judge Matheson to adopt the BJA Best Practices Committee performance measures: Effective Use of Jurors and Clearance Rate and Time to Resolution. The motion carried.

If a court is interested in piloting these measures, contact Mr. David Elliott at the Administrative Office of the Courts. Judge Matheson and Judge Wickham said their courts might be interested.

Appointment to the BJA Trial Court Operations Funding Committee

It was moved by Judge Garrow and seconded by Judge Sparks to appoint Judge Mary Logan to the Trial Court Operations Funding Committee. The motion carried.

BJA Structure Work Group Update

Judge Wickham said that the BJA Structure Work Group is working on restructuring the BJA consistent with the principles that were discussed at the BJA retreat in the fall. The Work Group met October 29 and November 26 to work on this project. They currently have a draft recommendation, but the Work Group is going to review it after this BJA meeting so it will not be distributed until they have a chance to review it.

The trial court associations will take the recommendation to their associations during the month of February for review and comment, and Judge Wickham expects to have this as an action item in March.

It is recommended that the restructured BJA would be responsible for:

- Speaking for the judiciary in legislative relations.
- Adopting policies to support the effective operations of the courts.
- Providing leadership for long-range planning within the judicial branch.
- Providing oversight of the AOC budget and determining priorities.
- Providing general direction to the Administrative Office of the Courts (AOC).

The BJA, through one of its standing committees, would work with the AOC to develop the AOC's budget. Ultimately, the budget would have to go to the Supreme Court and Legislature, but, largely, the AOC budget would be determined by the BJA. At a time of limited resources, everyone is concerned with the decisions that are made regarding the AOC budget.

The BJA membership would consist of two Supreme Court justices, including the Chief Justice; two Court of Appeals judges, not of the same division; three Superior Court Judges' Association (SCJA) members, none of whom can be officers of the SCJA; and three District and Municipal Court Judges' Association (DMCJA) members, none of whom can be officers of the DMCJA. All of the members would be selected by their association in a process established by the association. Trial court associations would select the members but they would not have the responsibility to go back to their boards and seek a position from their associations on issues that come up at BJA meetings. Members would speak for the judiciary as a whole, not for their

association. Terms would be four years and members could only serve two consecutive terms. A member could serve again after an intervening for four years.

There would be three BJA standing committees: Budget Committee, Legislative Committee and Policy and Planning Committee. In order to make this work there needs to be a reduction in the committees everyone is currently serving on. The BJA would have the ability to create ad hoc standing committees for up to two years and they would be ended or extended at the end of the two-year period.

The institution of member chair would be continued. The Chief and the member chair would continue to chair the meetings.

A quorum would require the presence of seven members and would need to include a representative from each court level. Decisions will be by majority rule. Because decisions are to be made in the best interests of the judiciary as a whole, there would no longer be a "court level veto" by requiring an affirmative vote from each court level. The Chief Justice would only vote in the case of a tie.

The BJA would take responsibility for issues that cut across court levels and the association presidents would be able to place items on the BJA agendas. If there is an issue that is important to the trial court associations, it could be added to the agenda. Also, association leadership could still attend BJA meetings.

The meetings would be less frequent with an open session in the morning and a work session in the afternoon.

The recommendations would be implemented through BJA bylaw revisions and a revised set of BJA rules. If the BJA adopts the recommendations of the Work Group, the effective date would be July 1, 2013.

The plan is to have the trial court associations discuss this at their meetings in February. This will be a BJA action item in March.

Budget Update

Mr. Radwan reported that current state general fund collections from November and December were up about 3%. About half of that is due to one-time collections, so the actual increase in collections is closer to 1.5%.

The current forecast deficit is about one billion dollars and that has remained fairly stable over the last few months. The main issues with the budget are education funding and caseload increases. Within the deficit there are about \$500 million in fairly easy corrections that the Legislature can make to reduce the deficit if they choose to do so. The other half is primarily due to caseload and those are more difficult adjustments.

The judicial branch submitted a budget with a net increase of about 2%. Over half of that increase is due to maintenance level increases. Those budget requests are generally approved. The other half is for new programs. On the Judicial Information System side, there is

an \$18 million request, and that is a different process because it is a different funding source. However, some legislators are looking at that funding source as a way to shore up other programs.

There is a legislative staff briefing tomorrow and a budget work session on January 30. Mr. Radwan has not received any questions from legislative staff regarding how the judicial branch will handle reductions, but he will address those questions as they come through the system later in the legislative session.

BJA Legislative Update

Ms. McAleenan reported that both of the new judge bills will be heard this afternoon in the Senate Law and Justice Committee hearing. Judge Matheson and Judge Snyder are expected to testify at the hearing.

Ms. McAleenan was told to hold the JSTA extension bill until the Legislature begins thinking about the terms of the budget. The bill will probably be dropped in about a month when the budget discussions begin.

The interpreter bill requires interpreters in civil cases, requires data to be provided to the AOC, and requires the state to fully fund the 50% reimbursement they promised back in 2007. The courts spend over \$5 million on interpreter services, and the state only contributes about \$600,000. The cost of implementing the bill has made it more difficult to find sponsors. Ms. McAleenan hopes to get the bills dropped this week.

Court Security

Mr. Marler gave an update on the continuing court security conversation that began last fall. Mr. Marler found out that it is technically feasible and reasonable for the AOC to create an automated incident report. At this point, he is working with the District and Municipal Court Management Association in narrowing down which specific elements should be included in those reports. Once those are determined, the AOC should be able to implement an automated incident reporting system. The data could populate a simple spreadsheet that could be sorted by the user of the report. Mr. Marler will bring a mock-up of the report to a future BJA meeting.

There being no further business the meeting was adjourned.

Recap of Motions from January 23, 2013 meeting

Motion Summary	Status
Approve the December 14, 2012 BJA meeting minutes.	Passed
Adopt the BJA Best Practices Committee performance measures: Effective Use of Jurors and Clearance Rate and Time to Resolution.	Passed
Appoint Judge Mary Logan to the Trial Court Operations Funding Committee.	Passed

Action Items from the January 23, 2013 meeting

Action Item	Status
<u>December 14, 2012 BJA Meeting Minutes</u> <ul style="list-style-type: none"> • Revise and post the minutes online. • Send revised minutes to Supreme Court for inclusion in the En Banc meeting materials. 	Done Done
<u>BJA Best Practices Committee Performance Measures</u> <ul style="list-style-type: none"> • Notify David Elliott that the BJA approved the BJA Best Practices Committee performance measures: Effective Use of Jurors and Clearance Rate and Time to Resolution. 	Done
<u>Appointment to the BJA Trial Court Operations Funding Committee</u> <ul style="list-style-type: none"> • Send appointment letter to Judge Logan. 	Done
<u>BJA Structure Work Group Update</u> <ul style="list-style-type: none"> • Send final BJA structure proposal to BJA members and ask for input from judicial associations. • Put on March BJA agenda for action. 	Done Done (for discussion)
<u>Court Security</u> <ul style="list-style-type: none"> • Bring a mock-up of the automated court security incident reporting system to a future BJA meeting. 	Done

Tab 2

WASHINGTON STATE JUDICIAL BRANCH
2014 SUPPLEMENTAL BUDGET REQUEST

Proposed Decision Package

Agency: Administrative Office of the Courts

Decision Package Title: Restoration of CASA Funding

Budget Period: 2014 Supplemental Budget Request

Budget Level: Policy Level

Recommendation Summary Text

Court Appointed Special Advocate (CASA) volunteers are community volunteers who are appointed by judges to advocate in court for abused and/or neglected children. Currently, Washington Courts operate thirty-five CASA programs. Funding for CASA programs is typically a blend between state and local funding. For the state portion, funding is authorized by the Legislature and appropriated to the Administrative Office of the Courts. The funds are then passed through to support local court and tribal court CASA programs through contracts with superior court or tribal council.

AOC has an existing contract process in place with local CASA programs, via the superior court. Prior to 2009, the total amount distributed to support local CASA programs via the AOC was \$7,332,000 per biennium. This was distributed based on a funding formula based on average active dependency caseloads. Due to legislatively imposed budget reductions to AOC, CASA funding was reduced in the amount of \$1,505,542.

Fiscal Detail

Operating Expenditures		<u>FY 2015</u>		<u>Total</u>
Sum of All Costs		\$752,771		\$752,771
Staffing		<u>FY 2015</u>		<u>Total</u>
FTEs (number of staff requested)		0		0

Package Description:

Maintaining CASA funding to support local programs is jointly supported by the Superior Court Judges' Association, the Washington Association of Juvenile Court Administrators, the Legislature, and the State CASA Organization. RCW 13.34.100(1) requires superior courts to appoint a guardian ad litem to represent dependency children in state welfare cases, absent good cause finding the appointment unnecessary. CASA programs manage volunteer programs that recruit, educate, and support CASAs who are assigned as guardians ad litem to dependent children. CASA volunteers are appointed by judges to watch over and advocate for

abused and neglected children to fulfill all of the responsibilities of a paid guardian ad litem. Ideally, the CASA remains with each case until it is closed and the child is placed in a safe and permanent home.

AOC is the state's pass through agency for funds to superior court or tribal nations that support CASA programs. AOC requires semi-annual reports from CASA programs that record information on dependency filings, CASA appointments, paid GAL appointments, amount of state funding, amount of county funding, amount of other funding, staff FTE and total number of volunteers.

Without state funding appropriated by the Legislature to support CASA programs, their existence is doubtful. This is one area of local government that has been subsidized by the state for several years. The basic premise is that volunteer programs that have standards and support for CASA programs is more economic than hiring professional guardians ad litem without sacrificing the quality of representation. The volunteer CASA programs in our courts are highly professional, maintain integrity, and serve dependent youth effectively. Volunteer programs, while cost effective, require comprehensive oversight by court staff and/or program managers. Each and every funding reduction results in less support for volunteers. Without direct supervision of volunteers, fewer CASAs are recruited and approved, and resignation of current volunteers increases.

State funding pays for program infrastructure, particularly the cost of volunteer coordinators and managers.

Narrative Justification and Impact Statement:

Describe the way in which way this package contributes to the Judicial Branch Principle Policy Objectives noted below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

Dependent children have unique legal needs that must be met according to the statute. The court can appoint either a guardian ad litem or CASA to represent dependent children. The CASA programs offer a level of advocacy that is personal and attentive to children with unique personal and legal needs. Experience with the court is sometimes associated with threat and instability to a child, and the connection and trust of a CASA provides a uniquely valuable sense of security in the view of a dependent child. Absent secure funding to provide stability to the infrastructure of a CASA program, experienced and professional advocacy services are at risk of faltering.

Accessibility.

CASA volunteers receive training on legal and cultural issues before being assigned cases.

Access to Necessary Representation.

CASA programs meet a critical need in providing adequate levels of representation to dependent children in our legal system. Nobody disagrees that this is a particularly vulnerable population who deserve the best representation in our legal process that has various pressures to process cases. The state's investment in CASA is not simply because it offsets considerable resources by providing volunteer services at a cheaper rate, which it does, but also the quality of representation and attention to the personal level of advocacy that is needed by these children.

Commitment to Effective Court Management.

CASA programs allow courts to proceed without as many continuances, not only completing cases in a more timely manner, but saving the State money as well.

Appropriate Staffing and Support.

N/A

Measure detail**Impact on clients and services**

Dependent youth are the consumers of the services provided by CASAs. They need strong advocacy for their best interests in the context of court or basic case management services. Their CASA representative must be competent in legal, mental health, child development, and cultural issues.

Impact on other state programs

Effective advocacy for dependent children improves timeliness to permanence. CASA programs are able to provide quality case management to dependent youth which improves outcomes for children. If parties have adequate representation and advocacy, the more likely the case will be resolved quickly and disruption to the lives of the families is lessened. This has the possibility to significantly impact budgets related to foster care and services.

Relationship to Capital Budget

None

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

None

Alternatives explored

The alternative is to fund CASA at the current level, which over time weakens the infrastructure and limits the programs' ability to recruit, train, and retain a competent and qualified volunteer pool.

Distinction between one-time and ongoing costs and budget impacts in future biennia

Ongoing.

Effects of non-funding

If state CASA funding is lowered or continues at the current reduced level, the basic program elements are difficult to maintain. At the current budget level, CASA programs have been challenged to effectively recruit, train, and retain volunteers.

Expenditure calculations and assumptions and FTE assumptions

The joint request of the trial court associations, Superior Court Judges' Association and the Washington Association of Juvenile Court Administrators, is for the Supreme Court to restore CASA funding to be equivalent to the 2009 allocation.

There are approximately 14,000 dependent children in Washington State. If the reduction to the CASA budget was restored, approximately 1,500 additional dependent children could be

served. This assumption is based on the national standards of 1 coordinator can support 30 volunteers who can serve 45 youth.

<u>Object Detail</u>	<u>FY2015</u>	<u>Total</u>
Staff Costs	\$752,771	\$752,771
Non-Staff Costs	\$	\$
Total Objects	\$752,771	\$752,771

DRAFT

WASHINGTON STATE JUDICIAL BRANCH
2014 SUPPLEMENTAL BUDGET REQUEST

Proposed Decision Package

Agency: Administrative Office of the Courts

Decision Package Title: Increase the State’s Contribution to Salaries of Judges of Courts of Limited Jurisdiction

Budget Period: 2014 Supplemental Budget Request

Budget Level: Policy Level

Recommendation Summary Text

This proposal will increase the share of the State's contribution to the funding of district and qualifying municipal court judges' salaries. The Trial Court Funding Taskforce concluded, and the Board for Judicial Administration supports, a trial court funding partnership between local and state governments. The state currently contributes approximately 17% toward the cost of limited jurisdiction judicial salaries. For their superior court counterparts, the State contributes 50% of judicial officers' salaries, passed through to the counties by the Administrative Office of the Courts.

This proposal will fund the first year of a three-year to the State's share. It assumes a 50% contribution by FY2017.

Fiscal Detail

Operating Expenditures		<u>FY 2015</u>		<u>Total</u>
Sum of All Costs		\$2,089,500		\$2,089,500
<hr/>				
Staffing		<u>FY 2015</u>		<u>Total</u>
FTEs (number of staff requested)		0		0

Package Description:

In Chapter 457, Laws of 2005, the Legislature recognized that "trial courts are critical to maintaining the rule of law in a free society and that they are essential to the protection of the rights and enforcement of obligations for all" and began contributing toward the salaries of district and eligible elected municipal court judges as a step toward meeting a state commitment to improving trial courts in the state.

This proposal fulfills that commitment for the State to contribute equally to the salaries of district and elected municipal court judges. The proponents of this package present a balanced request considering the economic recession and slow recovery. While the Legislature explicitly recognizes the critical role of the trial courts, and has taken steps to fulfill the obligation to fund

in-part, they are also meeting extraordinary demands on the state budget. The decision package details a conservative approach to incrementally build the state budget to support the limited jurisdictions courts, which operate critical services for Washington citizens. This proposal provides an ideal opportunity for joint advocacy by the trial courts, Supreme Court, and Legislature to ensure sustainability and professional standards for all courts of limited jurisdiction.

District court judges are elected, but municipal judges may be either elected or appointed. The Court Funding Task Force "...also concluded that all judges in courts of limited jurisdiction should be elected to promote accountability and the independence of the judiciary." The Board for Judicial Administration has supported ways to incentivize cities to require election of judges and current statutory provisions exist as incentive for cities to elect their municipal court judges in return for the State salary contribution.

The State currently provides approximately 17% of the cost of the salaries of district and qualifying municipal court judges, with local government funds covering the remaining 83%. This request will increase the State's share of these salaries over a three year period to 50%. *The savings realized by the local jurisdictions are to accrue in a Trial Court Improvement Account (TCIA) to be used to improve local court processes.*

Narrative Justification and Impact Statement:

Describe the way in which way this package contributes to the Judicial Branch Principle Policy Objectives noted below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

Budget impacts have been most severe on court services that are not mandated by law, but which promote public trust and confidence, provide equity in the court system, keep communities safe, and reduce recidivism. Limited jurisdiction courts have extensive exposure to citizens in our state. This proposal will increase sustainability of long term funding for salaries therefore encouraging longer commitment of judicial officers in limited jurisdiction courts.

The increase in the State's contribution to judicial salaries will improve the courts ability to maintain those services which provide for a fair and equitable judicial system.

Accessibility

Equal access to the courts includes issues such as location, court hours of operation, language, disability, adequate staffing, and many others. By accruing savings in a TCIA, local jurisdictions will be able to remain open each day, provide sufficient staffing, and provide necessary accommodations to those with physical, language or other barriers.

Access to Necessary Representation

N/A

Commitment to Effective Court Management.

Courts throughout Washington have utilized judicial officers such as pro tem judges and court commissioners to handle increasing caseloads. Cuts to judicial officer positions have resulted in judges having less time to prepare while being responsible for increased caseloads. Additionally, cuts to staff have included investigators, Guardians ad Litem, and Court Appointed Special Advocates. All this leaves judges with less time and information to make decisions. Cuts to judicial positions can be eased or eliminated if the State increases their share of

salaries, with the accrued savings being used to reinstate ancillary services for the judicial officers.

Appropriate Staffing and Support

Delays and errors in the courts are serious issues with implications for public safety. Cuts to court staff have resulted in loss of personnel to process case filings and documents, loss of assistance to self-represented persons, and reduced staff to directly support judges.

Reductions in staff could be reversed from the savings accrued with additional State funding of qualifying judicial salaries.

Measure detail

Impact on clients and services

Impact on other state programs

None.

Relationship to Capital Budget

None.

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

None.

Alternatives explored

Distinction between one-time and ongoing costs and budget impacts in future biennia

These will be ongoing costs, increasing over three years until the State is paying 50% of qualifying judges' salaries.

Effects of non-funding

Courts will continue to struggle to maintain judicial staffing and efficiency at the local level.

Expenditure calculations and assumptions and FTE assumptions

<u>Object Detail</u>	<u>FY2015</u>	<u>Total</u>
Staff Costs	\$0	\$0
Non-Staff Cost	\$2,089,500	\$2,089,500
Total Objects	\$2,089,500	\$2,089,500

WASHINGTON STATE JUDICIAL BRANCH
2014 SUPPLEMENTAL BUDGET REQUEST

Proposed Decision Package

Agency: Administrative Office of the Courts
Decision Package Title: Centralized Interpreter Scheduling
Budget Period: 2014 Supplemental Budget Request
Budget Level: Policy Level

Recommendation Summary Text

State and federal laws require Washington courts to provide meaningful access to courts and court services for persons who are hearing impaired or have limited English proficiency (LEP). Failure to provide clear, concise interpretation for LEP individuals doing business at the court, but outside the courtroom, denies these individuals that opportunity, leading to mistrust, confusion, and administrative inefficiencies. The administration of justice requires clear communication in all phases of the case life cycle. Additionally, communications from the federal Department of Justice have indicated that interpretive services must be extended to all court house interactions, not just to proceeding within the courtroom.

Scheduling of interpreters for court hearings is currently a manual process in most courts. It is time consuming and often leads to inefficient scheduling as the staff doing the scheduling are not able to compare interpreter pay rates, driving distances, and other specifics which affect cost.

Use of a centralized, automated scheduling software will eliminate the manual process and allow schedulers to specify how much an interpreter will be paid and the distance the interpreter will need to travel for the hearing.

Fiscal Detail

Operating Expenditures		<u>FY 2015</u>		<u>Total</u>
Sum of All Costs		\$34,300		\$34,300
Staffing		<u>FY 2015</u>		<u>Total</u>
FTEs (number of staff requested)		0		0

Package Description:

Background

RCW Chapter 2.43 prescribes the requirements for providing court interpreter services in Washington courts. Additionally, the U.S. Department of Justice (DOJ) has taken the position that courts receiving federal funding are required to take reasonable steps to meet Title VI

requirements in ensuring language access, including providing and paying for interpreters in all cases. Failure to do so may result in the withdrawal of federal funds by the federal Department of Justice.

Current Situation

With the exception of three courts, courts schedule interpreters manually. When the need for an interpreter arises, a clerk looks at the list of qualified interpreters and begins calling or emailing them. Whichever interpreter is first contacted and available is usually the one that gets the job. Besides being highly inefficient, it also means that the least expensive and/or nearest interpreter is not always being scheduled, leading to higher interpreter costs.

Two district courts and one superior court have implemented an automated system which allows interpreters to view proceedings needing interpreters and then schedule themselves for the proceeding. The first interpreter to schedule gets the job, which eases the work of the court, but does not guarantee that the court is hiring the least expensive interpreter. It also negates opportunities to hire a single interpreter for multiple proceedings. This system has been "gamed" by computer savvy interpreters writing scripts to automatically schedule themselves into proceedings, thereby double booking themselves and cutting out potentially less expensive interpreters.

Proposed Solution

This request is to fund a statewide contract for automated interpreter scheduling. Using currently available software, the court will enter proceeding information (date, time, and venue), the language requirement, the rate the court is able to pay, and the distance within which costs can be paid as search criteria. The software then returns a list of interpreters who meet the criteria. The scheduler then chooses the interpreter from the list, the application sends an email to the interpreter asking for confirmation, and also sends reminder emails a set time before the proceeding is scheduled to occur.

This allows the scheduler to hire interpreters for multiple proceedings, avoids double booking, and gives control of costs to the court, rather than the interpreter. Additionally, the software can accommodate regional groupings of courts, allowing them to "share" interpreter time and cost. This regional approach has been used successfully by Snohomish County Superior and District Court, greatly reducing their interpreter expenses.

With almost 3000 proceedings per month requiring an interpreter, costs are estimated at \$34,300 to cover implementation and training expenses.

Washington courts must openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts. It is our obligation for the trial courts to provide a system that is open and accessible to all participants including those persons with limited English language proficiency, both inside the courtroom and for any court managed functions.

Narrative Justification and Impact Statement:

Describe the way in which way this package contributes to the Judicial Branch Principle Policy Objectives noted below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

By centralizing the scheduling of interpreters, their presence is guaranteed at proceedings at a reasonable cost, allowing for the fair and effective administration of justice to LEP litigants.

Accessibility

Providing equal access to the courts includes overcoming barriers to LEP litigants. The proposal decreases the cost of interpreters, allowing courts to meet this mandate in a more economical manner.

Access to Necessary Representation

Not all attorneys are bi-lingual nor is there a state licensed attorney in every language requiring representation in court. By providing certified interpreters, LEP litigants are guaranteed the same access to legal representation as English proficient litigants are.

Commitment to Effective Court Management.

Centralized interpreter scheduling will allow more effective management of cases by ensuring the presence of a certified interpreter at all required proceedings. This will promote effective court management by reducing the number of continued proceeding and assuring LEP litigants understand the outcomes of their cases resulting in fewer returns to court for additional litigation.

Appropriate Staffing and Support

Budget cuts in the judiciary have required the AOC to look for innovative ways to assist in meeting the staffing and support needs of the courts. Centralized interpreter scheduling will allow the correct bi-lingual resources to be available at the correct time at a reasonable cost.

Measure detail

Impact on clients and services

Funding of this proposal will allow proper scheduling of certified interpreters, positively impact the courtroom experience for LEP litigants, and streamline services for all participants in the legal process.

Impact on other state programs

None.

Relationship to Capital Budget

None.

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

None.

Alternatives explored

Attempts to use internal AOC resources to create the software are unrealistic at this time given the commitment of those resources to implementing a new case management system for the superior courts.

Distinction between one-time and ongoing costs and budget impacts in future biennia

Setup and training are a one-time cost. The annual fee for use of the software will be ongoing.

Effects of non-funding

Courts will continue to incur higher than necessary interpreter costs.

Expenditure calculations and assumptions and FTE assumptions

Using census data to estimate the LEP population of the State, the total number of interpreter events¹, and an average software fee schedule, the following costs were calculated:

Annual number of interpreter events statewide:	60,085
Less interpreter events in counties using an Existing scheduling method	(24,692)
Total interpreter events	35,393

Monthly interpreter events	35,393/12 = 2949
Monthly fee @ 2949 events/month	\$1,200
Annual fee @ \$1,200/month	\$14,400
Setup and training (one-time expense)	\$19,900
Total cost for FY2015	\$34,300

<u>Object Detail</u>	<u>FY2015</u>	<u>Total</u>
Staff Costs	\$0	\$0
Non-Staff Cost	\$34,300	\$34,300
Total Objects	\$34,300	\$34,300

¹ And interpreter events is defined as one interpreter and a continuous occurrence of one or more hours (e.g., a single trial would be one event, as would multiple hearings in multiple cases if all are scheduled consecutively).

WASHINGTON STATE JUDICIAL BRANCH
2014 SUPPLEMENTAL BUDGET REQUEST

Proposed Decision Package

Agency: Administrative Office of the Courts

Decision Package Title: Telephonic Interpreting for Language Access to Court Services

Budget Period: 2014 Supplemental Budget Request

Budget Level: Policy Level

Recommendation Summary Text

Access to full use of our courts requires clear lines of communication both inside and outside the courtroom. When persons with limited English proficiency are scheduled for proceedings, prearrangements are made for interpreting services. However, in-person interpreting is not typically available for the many instances when individuals call or visit the courts to file paperwork, pay fines, or request information. This proposal is to obtain state funding to offset 50% of the costs associated by on-demand telephonic interpretation to ensure that language is not a barrier from full participation in court services.

Fiscal Detail

Operating Expenditures		<u>FY 2015</u>		<u>Total</u>
Sum of All Costs		\$991,800		\$991,800
<hr/>				
Staffing		<u>FY 2015</u>		<u>Total</u>
FTEs (number of staff requested)		0		0

Package Description:

Introduction

State and federal laws require Washington courts to provide meaningful access to court proceedings and court services for persons who have limited English proficiency. Failure to provide clear, concise interpretation denies these individuals that opportunity, leading to mistrust, confusion, administrative inefficiencies and potentially incorrect judicial orders and verdicts.

According to the U.S. Census the number of foreign-born, limited English proficient (LEP) persons age 5 and older in Washington increased by 50.1% between 2000 and 2010 from 279,497 to 419,576. This shift in Washington's population has directly impacted local courts resources, and their ability to fund state and federal requirements to provide interpretation services.

Legal Obligations

RCW Chapter 2.43.10 identifies the legislative intent for ensuring language access:

“It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them.”

In 2007, the Legislature enacted specific standards instructing each trial court to develop language assistance plans which address the provision of language access both inside and outside of the courtroom. Such plans shall include “a process for providing timely communication with non-English speakers by all court employees who have regular contact with the public and meaningful access to court services, including access to services provided by the clerk’s office.” RCW 2.43.090 (1)(d).

Meaningful access to all court program and activities, both inside and outside the courtroom, is also required by the U.S. Department of Justice for indirect and direct recipients of federal funding. Non-compliance with federal standards may result in the withdrawal of federal funding. As stated by Thomas E. Perez, Assistant Attorney General, in an August 26, 2010 letter addressed to all chief justices and state court administrators,

“Some states provide language assistance only for courtroom proceedings, but the meaningful access requirement extends to court functions that are conducted outside the courtroom as well... Access to these points of public contact is essential to the fair administration of justice, especially for unrepresented LEP persons. DOJ expects courts to provide meaningful access for LEP persons to such court operated or managed points of public contact in the judicial process, whether the contact at issue occurs inside or outside the courtroom.”

Current Situation

Currently, courts regularly provide interpreting during legal proceedings, and in some instances the interpreters are available to interpret for litigants outside of the courtroom when interacting with staff. In rare situations, courts may have bilingual staff able to provide direct services in a language other than English. In most situations, however, customers call or come to court on an unscheduled basis, and the court has no advance warning when interpreting is needed for LEP persons. In these cases, courts frequently ask the LEP persons to return with friends or family members to act as interpreters. Since these family members are untrained and untested, it is questionable how accurately they understand and interpret the information, and whether their personal biases infuse the communication. Similarly, given the sensitive nature of why many people access the courts, persons (e.g. domestic violence victims) may face scrutiny or shame in asking acquaintances to serve as their interpreters.

Description of Program

This request is to obtain state funding to offset 50% of the local cost for contracted telephonic interpreting services for non-courtroom interactions. The State of Washington administers contracts with national telephonic interpreting companies, and all trial courts are eligible to obtain services at these rates. Participant courts will enter into contracts with the Administrative Office of the Courts for reimbursement of telephonic interpreting costs for court interactions outside of courtroom proceedings. Courts will submit appropriate invoices to the AOC Court Interpreter Program detailing their telephonic interpreting usage, and qualifying expenses will be

reimbursed at 50%. Data will be submitted electronically, so that the AOC can track statewide trends for telephonic interpreting based on court location and language.

Narrative Justification and Impact Statement:

Describe the way in which this package contributes to the Judicial Branch Principal Policy Objectives noted below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

Public trust and confidence in the courts begins, at a minimum, with the public being able to effectively access and participate in the judicial process. Such participation is not possible for LEP individuals without quality interpretation services. Full access to court services and effective management of court cases require communication between litigants and court staff outside of the courtroom.

Accessibility.

With the far majority of court staff, services, websites and documents being provided in English only, LEP individuals have limited opportunity to access court services. Further, LEP individuals who are required to bring their own family or friends to interpret risk preserving accuracy in communication, or may be hindered due to the sensitive nature of the matters leading them to court.

Access to Necessary Representation.

N/A

Commitment to Effective Court Management.

On-demand telephonic interpreting services will assist court staff in more effectively serving the LEP public, and processing their cases. Interpretation from objective language experts will avoid confusion or misunderstandings, and ensure that parties are informed of their rights and responsibilities.

Appropriate Staffing and Support.

N/A

Measure detail

Impact on clients and services.

Without the availability of State funding, many courts will continue to rely on LEP persons bringing their own family and friends to interpret.

Impact on other state programs.

None.

Relationship to Capital Budget.

None.

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan.

None.

Alternatives explored

With limited budgets, courts must currently prioritize the use of limited interpreting funds. Priorities lie with in-person courtroom interpretation.

Distinction between one-time and ongoing costs and budget impacts in future biennia

Telephonic interpreter funding will be an ongoing cost, fluctuating based on immigration trends in the Washington population.

Effects of non-funding.

Courts will continue to provide interpreting services when possible, but prioritization of resources will remain focused on courtroom proceedings. The absence of structure for ensuring interpretation in non-courtroom services will run afoul of both state and federal requirements.

Expenditure calculations and assumptions and FTE assumptions

The average per minute cost with these companies is \$1.45, and may vary based on the language. In the majority of requested languages, the companies will connect the requester with an interpreter upon demand.

Currently there are approximately 15,200 active cases in Washington courts which have an interpreter assigned to them. It is estimated that each litigant for each case will have an average of nine encounters at non-courtroom related operations, such as calling the court with questions, setting up payment plans, completing forms or other paperwork, meeting with facilitators, etc. These conversations typically last 5 minutes, but when are interpreted, take at least twice the amount of time. The anticipated full annual cost for telephonic interpreting is \$1,983,600:

$$15,200 \text{ cases} \times 9 \text{ encounters} \times 10 \text{ minutes} \times \$1.45/\text{minute} = \$1,983,600$$

With a 50% State reimbursement component, the amount for FY2015 is \$991,800.

<u>Object Detail</u>	<u>FY2015</u>	<u>Total</u>
Staff Costs	\$0	\$0
Non-Staff Costs	\$991,800	\$991,800
Total Objects	\$991,800	\$991,800

WASHINGTON STATE JUDICIAL BRANCH
2014 SUPPLEMENTAL BUDGET REQUEST

Proposed Decision Package

Agency: Administrative Office of the Courts

Decision Package Title: Washington State Family and Juvenile Court Improvement Plan - Restoration

Budget Period: 2014 Supplemental Budget Request

Budget Level: Policy Level

Recommendation Summary Text

The Family and Juvenile Court Improvement Plan, RCW 2.56.030, coordinates courts' efforts on Superior/Family and Juvenile cases, to strategically implement principles of Unified Family Court (UFC) which were adopted as best practices by the Board for Judicial Administration in 2005. FJCIP funding and framework for superior courts exist in thirteen counties to implement enhancements to their family and juvenile court operations that are consistent with UFC principles. The FJCIP allows flexible implementation centered on core elements including stable leadership, education, and case management support. The statewide plan promotes a system of local improvements.

Funding is requested to restore previous cuts to the base funding for FJCIP courts. Due to state agency budget reductions in 2009, the biennial FJCIP pass-through budget was reduced by \$309,000 or 19.3%. Because of this reduction, funding for training opportunities and court enhancement projects was eliminated. Maintaining case coordinator positions is the primary funding objective for the courts and AOC, but absent restoration of the base funding, the FJCIP courts fail to meet the objective clearly spelled out in statute.

The Legislature has reacted positively to FJCIP as an example of partnership and respect between the Legislative and Judicial branches of government. The FJCIP program invites accountability for program development and fiscal expenditures, especially through the system of reporting and communication created by the Washington State Center for Court Research.

Fiscal Detail

Operating Expenditures		<u>FY 2015</u>		<u>Total</u>
Sum of All Costs		\$154,500		\$154,500
Staffing		<u>FY 2015</u>		<u>Total</u>
FTEs (number of staff requested)		0		0

Package Description:

The FJCIP program represents a product of legislative and judicial branch cooperation, resulting from a workgroup which designed and implemented a plan to promote the UFC principles and best practices. Through a true partnership, the Board for Judicial Administration, the Superior Court Judges' Association, the Washington Association of Juvenile Court Administrators, the Supreme Court, and the Legislature together enacted and implemented FJCIP.

The FJCIP courts are obligated to comply with educational requirements, judicial leadership and case management. Without limited funding to support education and secure case coordinator positions, the programs are vulnerable and reform efforts undermined. Although FJCIP funding was reduced in 2009, thirteen of the initial sixteen sites continue their programs with reduced state funding. All of the sites maintain case coordinator services as their primary need but enhancement projects that required additional resources were delayed.

Narrative Justification and Impact Statement:

Describe the way in which way this package contributes to the Judicial Branch Principle Policy Objectives noted below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

Each superior court in Washington processes cases that fall under juvenile court (offender and civil) and domestic relations. The judiciary adopted standards for best practices in 2005 for managing these cases that improved the quality, efficiency, and consistency of outcomes for families. These enhancements are tangible ways for the superior courts to improve public trust and confidence in our courts that deal with sensitive case types.

FJCIP courts represent 65% of dependency case filings in Washington State. The FJCIP courts are measured in six timeliness objectives against non-FJCIP sites (and a seventh measure will be implemented in 2013). Those objectives reflect federal and state mandated time standards (see below). According to the attached tables, FJCIP courts show better compliance with the timeliness standards.

OBJECTIVE DESCRIPTION

#1	fact finding within 75 days
#2	review hearings every six months
#3	permanency planning hearing within 12 months
#4	permanency achieved before 15 months of out-of-home care
#5	termination of parental rights petition filed before 15 months of out-of-home care
#6	adoption completed within six months of termination order
#7	time from termination of parental rights petition filing to termination of parental rights (effective 2013)

Accessibility

All of the superior courts in our state process family and juvenile cases. The FJCIP courts were given the opportunity to effectively implement best practices as they relate to processing family and juvenile case types. While all courts process cases, FJCIP courts have targeted individual areas for improvement that are measured and provide better services to families involved in multiple court cases.

Access to Necessary Representation.

N/A

Commitment to Effective Court Management.

More timely resolution to cases in family and juvenile court is the mission of the FJCIP courts.

The FJCIP programs require local analysis and program development that is consistent with UFC principles. One of those underlying principles of UFC is case management or coordination of cases involving multiple family members. The FJCIP projects are monitored and held accountable for meeting the targets of UFC and dependency timeliness standards, accomplished through improved case management strategies (i.e. calendaring cases involving family members with one judicial team or calendaring dependency cases with a consistent “team” of providers (AG, parent attorney, social worker, GAL or CASA, Commissioner)).

Appropriate Staffing and Support

The amount requested in this funding package restores the initial level of funding to the existing FJCIP sites for thirteen programs.

For courts to manage their local reform efforts, they need court leadership and staff to provide analysis, program design, and implementation of the improvement practices. The request will provide adequate funding for staff to continue a full time effort on FJCIP projects.

Measure detail

Impact on clients and services

The FJCIP program requires local leadership to identify areas of enhancement in family and juvenile court operations. As a result of FJCIP, the courts are proactive in seeking projects to strengthen the coordination of cases between court level stakeholders (e.g., courthouse facilitator) and external stakeholders (e.g., Department of Social and Health Services). Effecting system-wide improvements shows direct benefits to families and the measured impact of the improvements is evident in the time standards report.

The recipients of the improved coordination of cases, service delivery, and education of court staff (including judicial officers) are the court community and the citizens served by them. Communities in thirteen counties are better served as a result of FJCIP.

Impact on other state programs

The FJCIP embodies a major reform effort in family and juvenile court operations. The FJCIP promotes innovative strategies that respond to local court needs. If the courts are more efficient as a result of targeted improvements, collateral state and county stakeholders also benefit from a streamlined and better informed court process.

Relationship to Capital Budget

None.

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

None

Alternatives explored

The alternatives to FJCIP courts already exist in the remaining superior courts that do not have the benefit of FJCIP funding and staffing to enact improvements to their system of processing family and juvenile cases. One of the appealing aspects of FJCIP is the court demographics

that are addressed by FJCIP. Take note that King is one FJCIP court and at the same time so is the Hells Canyon Circuit Court. Regardless of court size, structure, or number of judicial officers, FJCIP is applicable to all court sizes because it allows local enhancements. While based on uniform standards, the UFC principles, each site has the opportunity to invest in innovated improvements while other courts have not had the same advantage.

Distinction between one-time and ongoing costs and budget impacts in future biennia

Effects of non-funding

If this decision package is not funded, and assuming the program does not receive additional reductions, the thirteen FJCIP courts will continue to exist and impact their court processes in the capacity they do now. There are basic court management or coordination efforts that can impact the quality of case processing that are consistent with UFC principles. These modifications have happened to a large extent by using court leadership and innovation that does not require additional funding. These enhancements will be maintained at their current level.

A residual impact of uncertain funding, compounded by considerable budget strain both state and locally, is that FJCIP courts have treated the funding as “grants” and potentially unsustainable. This transitory feeling has resulted in higher than expected staff turnover and marginal court commitment. Both the chief judge and case coordinator must work effectively at instituting changes in their courts. To date, they courts have been sidetracked by the threat of potential funding reductions. The FJCIP program has operated for four years. While no program has a guarantee of continued state funding, restoration back to original funding levels provides courts assurance that the program has longevity enough to invest in the *future* development of FJCIP. Funding restoration will engender more satisfaction with and faith in the improvements accomplished in the past four years that currently feel temporary in some courts.

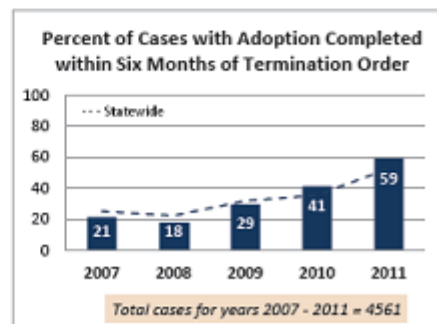
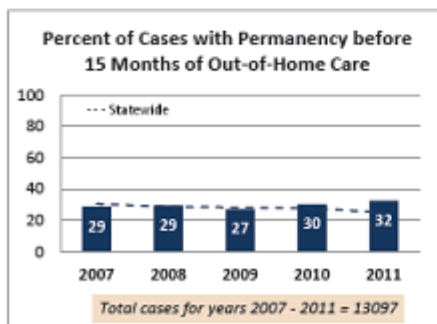
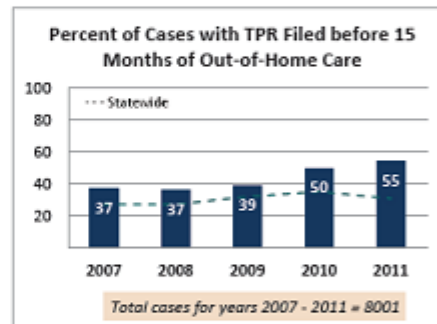
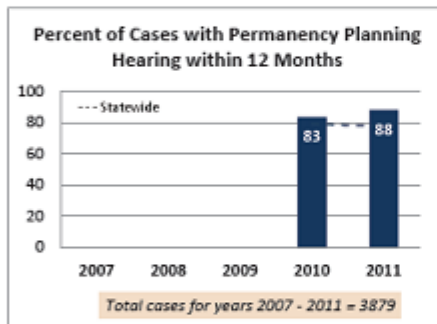
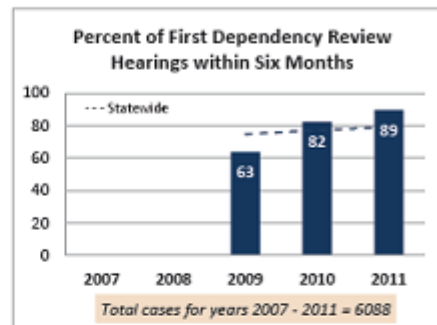
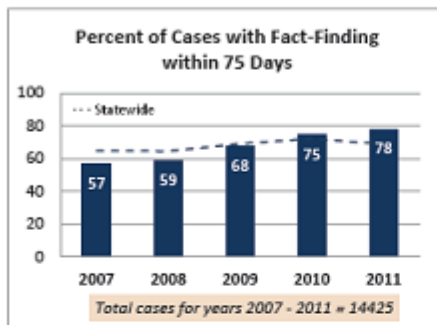
Expenditure calculations and assumptions and FTE assumptions

The amount requested would restore FJCIP to the original amount of the FJCIP program authorized by the Legislature in 2008. This amount allows funding for case coordinator staff, education, and limited project funding to implement enhancements.

Funding was initially divided and allocated based on applications from courts that included commitments to follow the requirements of the statute. FJCIP courts were invited to recruit case coordinator staff at the range that was consistent with the draft job description provided by the AOC. The FTE packages, including salary and benefits, vary depending on the court. Also, the AOC made a determination on what level of case coordinator FTE each court would be eligible for, either full or half time. This was based on case filings and number of judicial officers in each court.

<u>Object Detail</u>	<u>FY2015</u>	<u>Total</u>
Staff Costs	\$154,000	\$154,000
Non-Staff Costs	\$	\$
Total Objects	\$154,000	\$154,000

APPENDIX A: PERFORMANCE OF THE FJCIP COURTS ON DEPENDENCY TIMELINESS INDICATORS



WASHINGTON STATE JUDICIAL BRANCH
2014 SUPPLEMENTAL BUDGET REQUEST

Proposed Decision Package

Agency: Administrative Office of the Courts

Decision Package Title: Funding Guardians ad Litem for Indigent Litigants

Budget Period: 2014 Supplemental Budget Request

Budget Level: Policy Level

Recommendation Summary Text

Appointment of guardians ad litem (GAL) in family law cases is allowed under RCW 26.12.175. RCW 26.09.013 intends for state funding to be provided to counties to ‘...provide indigent parties with guardian ad litem services at a reduced or waived fee.’ GALs represent the best interests of children in family law matters, and are expected to participate in court hearings, review proposed orders of agreement, conduct investigations and may also be allowed to file documents and respond to discovery, introduce exhibits at trial, and subpoena witnesses. GALs provide an unbiased view as to what is best for children caught up in legal proceedings. They minimize returns to litigation by helping the court reach the best possible outcome for children.

This proposal would fund guardians ad litem for family law cases in which an order to proceed in forma pauperis has been filed.

Fiscal Detail

Operating Expenditures		<u>FY 2015</u>		<u>Total</u>
Sum of All Costs		\$360,000		\$360,000
<hr/>				
Staffing		<u>FY 2015</u>		<u>Total</u>
FTEs (number of staff requested)		0		0

Package Description:

This package will provide guardians ad litem in adoption, parentage, parenting plan modifications, nonparental custody, and dissolution cases where children are involved and the litigants have been determined to be indigent under RCW 10.101.020.

Narrative Justification and Impact Statement:

Describe the way in which way this package contributes to the Judicial Branch Principle Policy Objectives noted below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

GALs provide fair and effective justice for children by advocating their best interests to the court in contested domestic relations cases.

Accessibility

Equal access to justice includes barriers erected by the inability of a litigant to pay for a guardian ad litem. Providing GALs for indigent litigants allows them equal access to all aspects of justice.

Access to Necessary Representation

In order for a child to be heard effectively, they require an impartial advocate. GALs provide this advocacy, allowing children's best interests to be represented and conveyed to the court.

Commitment to Effective Court Management.

By providing a voice for children, guardians ad litem promote effective court management by reducing the number of continued proceedings, shortening the time to resolution, and assuring best possible outcomes in family law cases.

Appropriate Staffing and Support

Staff will need to create a funding formula for sharing of funds among the participating courts. Contracts with each court need to be established. As services are rendered, courts will submit invoices which will need to be checked for accuracy before sending to management for approval. Funding levels must be monitored for determination of possible revenue-sharing among the courts. It is anticipated that current staffing can fully accomplish these tasks.

Measure detail

Impact on clients and services

More appropriate representation of children's best interests involved in family law matters.

Impact on other state programs

None.

Relationship to Capital Budget

None.

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

None.

Alternatives explored

N/A

Distinction between one-time and ongoing costs and budget impacts in future biennia

Ongoing.

Effects of non-funding

Without proper funding and the appointment of GALs to indigent parties, children will not be advocated for and the poor outcomes will have lifelong effects. Providing for a competent and thorough investigation of parents' and the child's situation allows the court to make the best decision possible for the child and may result in decrease of future litigation to address issues that would not, absent the GAL, have been thoroughly adjudicated. Parents in heavily contested family law matters frequently do not put their children's interest first. Children will be

better served by courts that have full and relevant information necessary for appropriate decision-making.

Expenditure calculations and assumptions and FTE assumptions

Over the last four years, there has been an annual average of 240 family cases filed in which a guardian ad litem is assigned and an order to proceed in forma pauperis has been entered. Although there is wide variation in the cost per case, the minimum average required for a GAL in a family law case is \$1500 (20 hours @ \$75 / hour). Fully funded, 240 cases at \$1500 results in an annual request for \$360,000.

<u>Object Detail</u>	<u>FY2015</u>	<u>Total</u>
Staff Costs	\$0	\$0
Non-Staff Cost	\$360,000	\$360,000
Total Objects	\$360,000	\$360,000

DRAFT

WASHINGTON STATE JUDICIAL BRANCH
2014 SUPPLEMENTAL BUDGET REQUEST

Proposed Decision Package

Agency: Administrative Office of the Courts
Decision Package Title: Funding Courthouse Facilitator Training
Budget Period: 2014 Supplemental Budget Request
Budget Level: Policy Level

Recommendation Summary Text

Establishment of a courthouse facilitator program is allowed under RCW 26.12.240, and GR 27(b) calls on the AOC to, among other things, "...administer a curriculum of initial and ongoing training requirements for family law courthouse facilitators." GR 24 exempts courthouse facilitators from the unauthorized practice of law, provided that their services are rendered pursuant to GR 27. Adequate and regular training provides the quality assurance that is a crucial factor in exempting facilitators from the unauthorized practice of law. Additionally, the GR 27 Advisory Committee has set training requirements for courthouse facilitators. Training includes participation in two trainings per year, administered by AOC.

This proposal will fund semiannual trainings for all state courthouse facilitators.

Fiscal Detail

Operating Expenditures		<u>FY 2015</u>		<u>Total</u>
Sum of All Costs		\$25,000		\$25,000
Staffing		<u>FY 2015</u>		<u>Total</u>
FTEs (number of staff requested)		0		0

Package Description:

This package will provide adequate funding for the education requirements set forth in GR27. Trainings will be held twice a year with faculty drawn from AOC staff, judicial officers, court administrators, courthouse facilitators, and, as appropriate, representatives from other stakeholder groups such as prosecuting attorneys and the Division of Child Support. The trainings will be at the AOC's SeaTac office, eliminating the need to pay for space in a private venue.

Narrative Justification and Impact Statement:

Describe the way in which way this package contributes to the Judicial Branch Principle Policy Objectives noted below.

Fair and Effective Administration of Justice in All Civil and Criminal Cases.

By assisting self-represented civil family law litigants with court forms, procedures and processes, courthouse facilitators allow these individuals to avail themselves of the administration of justice which may otherwise be denied by their inability to retain private legal counsel.

Accessibility

Equal access to the courts includes barriers erected by the inability for a litigant to pay for an attorney. Courthouse facilitators remove this barrier.

Access to Necessary Representation

Although they are not attorneys and do not provide legal advice or representation, courthouse facilitators assist self-represented litigants in self-representation in a number of ways, including referral to legal and social service resources; assistance in selection, distribution, completion and review of forms; explanation of legal terms; information on court procedures; and assistance at self-represented hearings, all as prescribed in GR 27.

Commitment to Effective Court Management.

By assisting self-represented litigants in the navigation of the court system, courthouse facilitators promote effective court management by reducing the number of continued proceedings, shortening the time to resolution, relieving court clerks of the need to assist litigants (allowing them to continue the court's business uninterrupted), and assuring self-represented litigants understand the outcomes of their cases resulting in fewer returns to court for additional litigation.

Appropriate Staffing and Support

Budget cuts in the judiciary have resulted in loss of assistance to self-represented persons, while simultaneously, the downturn in the economy has left more people without the means to hire an attorney, increasing the need for courthouse facilitators. Appropriate training of facilitators is necessary to ensure they are up to date on new laws and court rules, forms and procedures, as well as the ethics of courthouse facilitation.

Measure detail**Impact on clients and services**

Funding of this proposal will allow facilitators to significantly and positively impact the courtroom experience for self-represented litigants and streamline procedures for all participants in the legal process.

Impact on other state programs

None.

Relationship to Capital Budget

None.

Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan

None.

Alternatives explored

Attempts to fund the training through grants or through the budget of the Board for Court Education have been unsuccessful.

Distinction between one-time and ongoing costs and budget impacts in future biennia
Until such time that the education can be funded internally by AOC, these will be ongoing costs.

Effects of non-funding

The effectiveness of courthouse facilitators will decline, impacting the ability of the courts to effectively manage caseflows.

Expenditure calculations and assumptions and FTE assumptions

<u>Object Detail</u>	<u>FY2015</u>	<u>Total</u>
Staff Costs	\$0	\$0
Non-Staff Cost	\$25,000	\$25,000
Total Objects	\$25,000	\$25,000

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Tab 3

Board for Judicial Administration

BJA Structure Workgroup

Report and Recommendations

March __, 2013

Report	Page 1
Appendix One, Proposed Rules	Page 7
Appendix Two, Proposed Bylaws	Page 12
Appendix Three, Comparison Tables	Page 20

I. Background

The Board for Judicial Administration (board or BJA) met for a two-day retreat on September 21-22, 2012, to discuss the role of the board within the judicial branch of Washington. The retreat was organized to address a general concern that the BJA was not fully accomplishing its purpose to provide effective leadership within the judicial branch, and a specific concern that the BJA, as currently constituted, was not organized or empowered to undertake branch-wide long range planning initiatives to improve the courts.

In advance of the retreat then-Interim State Court Administrator Callie Dietz had requested that the National Center for State Courts (NCSC) conduct an independent review of the planning and governance processes of the Washington state court system as well as the Administrative Office of the Courts (AOC). The NCSC consultants traveled to Washington, conducted a series of interviews with court leaders, and the lead consultant participated in the BJA retreat. The consultants subsequently reported their conclusion that, at present, “(t)here is no governance in place or accepted as governance to carry out planning and implementation” and recommended that “the BJA structure, roles and responsibilities need to be clearly defined and acknowledged if it is to be of any value in governing or developing long-range planning.”

The outcome of the retreat was a consensus by participants that the BJA should be retained as a leadership entity but reorganized and reconstituted so that it would be

more focused and effective. On November 16 the BJA approved a charter for the BJA Structure Workgroup, charging it to:

Determine what structural changes are necessary in order to enhance the role of the Board for Judicial Administration as determined at the September 21-22, 2012 BJA retreat and as outlined in the report on the retreat approved by the BJA on October 19, 2012. Draft amendments to the BJA rules and bylaws, and develop policies and procedures regarding the roles, responsibilities, and structure of the BJA, which will be presented to the voting members of the BJA for approval.

The following individuals served on the Structure Workgroup:

Chief Justice Barbara Madsen
Judge Christine Quinn-Brintnall
Judge Stephen Dwyer
Judge Craig Matheson
Judge Charles Snyder
Judge Chris Wickham
Judge Sara Derr
Judge David Svaren

The workgroup met in person on October 29 and November 26, 2012, and January 23, 2013. Draft language was circulated for comment in February and March, 2013. This final report and recommendations were approved by the workgroup on March __, 2013.

II. General Intent of Revisions to Rules and Bylaws

Consistent with the direction provided at the September retreat, the proposed revisions are intended to achieve the follow effects:

1. The board would be charged with primary responsibility for development of statewide policy to support the effective governance of Washington courts. Responsibility for direct control and governance of the courts is local responsibility.
2. The board would have oversight of the budget of the Administrative Office of the Courts (AOC), would review items affecting the AOC budget, and would make recommendations to the Supreme Court Budget Committee. This does not include review of the budget requests of the Supreme Court, the Court of Appeals, the State Law Library, the Office of Civil Legal Aid, and the Office of Public Defense.

3. The board would provide general direction to the Administrative Office of the Courts.
4. The board would provide leadership for long-range planning for the judicial branch. It is expected, consistent with the concept of campaign planning recommended by the NCSC consultants, that the policy and planning committee of the board would oversee a process to conduct outreach, identify major strategic issues and opportunities, and conceptualize and propose to the board strategic initiatives for the branch.
5. The board would to be the voice of the judiciary in legislative relations on matters affecting multiple levels of courts or the statewide administration of justice.
6. The Supreme Court would retain authority for rule-making.
7. The board would be smaller, comprised solely of judges. It is expected that the board would make use of a system of committees and task forces to engage individuals from relevant constituencies.
8. BJA bylaws and operating procedures would be organized to enhance the focus and effectiveness of the board.

III. Changes to Proposed Rules and Bylaws

1. The revised rules would charge the board with responsibility to:
 - a. speak for the judiciary in legislative relations;
 - b. adopt policies to support the effective operations of the courts;
 - c. provide leadership for long-range planning within the judicial branch;
 - d. provide oversight of the AOC budget and determine priorities; and,
 - e. provide general direction to the Administrative Office of the Courts.
2. The rules would identify the composition of the board as:
 - a. Two justices of the supreme court, including the chief justice, the justice being selected by process established by the supreme court;

- b. Two court of appeals judges, not from the same division, selected by a process established by the court of appeals;
- c. Three superior court judges, who may not be officers of the Superior Court Judges Association, selected by a process established by the association; and,
- d. Three district or municipal court judges, at least one of each, none of whom may be officers of the District and Municipal Court Judges Association, selected by a process established by the association.
- e. Terms of office will be for four years. Members may not serve more than two terms consecutively but may serve additional terms provided an interval of four years transpires between periods of service.

3. The revised bylaws would designate a clear committee structure and process including:

- a. Three standing committees corresponding with the principal functional responsibilities assigned to the board:

- Legislative Committee
- Budget Committee
- Policy and Planning Committee

- b. The board would have authority to create ad hoc committees, advisory committees, steering committees and task forces by the approval of a committee charter specifying the charge, membership and terms of the body being created. Ad hoc committees, like standing committees, are intended to act as subsets of the board while advisory committees, steering committees and task forces are intended to operate with a higher degree of independence and autonomy. An ad hoc committee must include a member of the board; a task force, steering committee or advisory committee need not include any members of the board.
- c. Other than the standing committees no committees and task forces can be authorized for more than two years, but may be reauthorized through approval of a new charter. The board chairs are authorized to extend the term of any subordinate entity for up to three months to complete its charge.

- d. All committees and task forces would have authority to create subordinate entities, including subcommittees, workgroups and study groups with approval of the board.
- e. All committees would be required to provide a report to the BJA no less than once per year unless otherwise instructed.
- f. There would be no executive committee.

4. The rules and bylaws would specify that:

- a. Members are charged with acting in the interests of the court system at large rather than their particular court, level of court, of local constituency.
- b. A quorum would require the presence of seven members provided each level of court must be represented.
- c. The chief justice will serve as a co-chair and a member will be selected by the members to serve as co-chair, alternating every two years between a superior court judge and a district or municipal court judge.
- d. The chief justice would vote only in the event of a tie.
- e. The agenda for meetings will be determined by the chairs. Any board member, the presiding chief judge of the Court of Appeals, or a president of a judicial association may request that an item be placed on the agenda and the item will be placed on the agenda of a subsequent meeting of the board.
- f. Meetings will be bifurcated, with informational presentations made in open meetings, and deliberations and voting conducted in meetings of members and staff.

IV. Role of Judicial Associations

The workgroup had extensive discussion of the role of the judicial associations regarding deliberations of the BJA, legislative relations, and budgeting. The workgroup considered the goal of a reorganized BJA to be a process that encourages the development of harmonious if not unified positions with respect to legislation and budget.

The revised bylaws would provide that the president of either judicial association, as well as the presiding judge of the Court of Appeals, may request that an item be placed on the agenda of the board, and that the item will be placed on the agenda of the next meeting.

Recognizing that at times positions on legislation and budget might diverge, the associations would continue to be able to present their own position to the legislature or to the Supreme Court Budget Committee when it differs from that of the board. The board should seek to ascertain the position of the association and attempt to reconcile the divergent positions. The board should request of the associations that in an instance that an association intends to present an alternative position to the Legislature the association should inform the board and afford it an opportunity to reconcile the positions.

V. Recommendations

Recommendation One. The board should recommend to the Supreme Court that the Board for Judicial Administration Rules be amended consistent with Appendix One.

Recommendation Two. Contingent on amendment of the Board for Judicial Administration Rules by the Supreme Court, the board should amend its bylaws consistent with Appendix Two.

APPENDIX ONE

Board for Judicial Administration Rules

DRAFT PROPOSED REVISIONS

Preamble

The power of the judiciary to govern itself is inherent to the status of the judicial branch as a constitutionally equal and independent branch of government. The Board for Judicial Administration is established to provide effective leadership to the state courts in providing for the administration of the justice in Washington State.

Rule 1. Board for Judicial Administration

The Board for Judicial Administration is created to enable the judiciary to speak with one voice, to adopt statewide policies to support the effective operations of the courts, to provide strategic leadership for the judicial branch, to determine state budgetary priorities for the courts, to provide overall direction to the Administrative Office of the Courts, and to communicate with other branches of government.

Rule 2. Duties

The Board for Judicial Administration shall develop policies to support the effective operation of Washington courts, shall provide general direction to the Administrative Office of the Courts, shall review items affecting the budget of the Administrative Office of the Courts and make recommendations to the Supreme Court Budget Committee, shall provide leadership for long-range planning and the development of strategic

initiatives for the judiciary, and shall develop and communicate the position of the Washington state judiciary on legislation affecting the administration of justice.

Rule 3. Composition

a. Membership.

The board shall consist of: two justices of the Supreme Court one of whom shall be the Chief Justice; two judges of the Court of Appeals who do not serve in the same division; three judges of superior courts, none of whom shall serve as an officer on the board of the Superior Court Judges' Association during tenure on the board; and three judges of courts of limited jurisdiction, at least one being a district court judge and one being a municipal court judge, none of whom shall serve as an officer on the board the District and Municipal Court Judges' Association during tenure on the board.

b. Selection.

(1) The Chief Justice shall serve during tenure in that office. The supreme court justice shall be selected by a process established by the Supreme Court. The court of appeals judges shall be selected by a process established by the Court of Appeals. The superior court judges shall be selected by a process established by the Superior Court Judges' Association. The district court and municipal court judges shall be selected by a process established by the District and Municipal Court Judges' Association.

(2) Criteria for selection shall include demonstrated interest in and commitment to judicial administration, demonstrated commitment to improving the courts, and diversity of representation with respect to race, gender, professional experience, and geographic representation.

c. Terms of Office.

- (1) The Chief Justice shall serve during tenure in that office.
- (2) Of the members first appointed, the justice of the Supreme Court shall be appointed for a term ending on June 30, 2016; one judge from the Court of Appeals shall be appointed to a term ending on June 30, 2015 and one judge from the Court of Appeals shall be appointed to a term ending on June 30, 2017; one judge from a superior court and one judge from a district or municipal court shall be appointed for a term ending on June 30, 2015; one judge from a superior court and one judge from a district or municipal court shall be appointed for a term ending on June 30, 2016; and one superior court judge and one judge from a district or municipal court shall be appointed for a term ending on June 30, 2017.
- (3) Thereafter, members shall be appointed to serve four-year terms commencing annually on July 1.
- (4) A person may serve two terms consecutively and may serve additional terms provided a period of four years transpires between periods of service.
- (5) A vacancy shall occur when a member is absent for three consecutive meetings or four meetings within twelve months. In the event of a vacancy the position shall be filled for the duration of the term by a process established by the relevant court or judicial association.

Rule 4. Operation

a. Leadership.

- (1) The board shall be chaired by the Chief Justice in conjunction with a Member Chair who shall be elected by the board. The duties of the Chief Justice Chair and the terms and duties of the Member Chair shall be specified in the by-laws.
- (2) The Member Chair position shall be filled in alternate terms by a superior court judge and a district or municipal court judge. The Member Chair shall be selected by the members for a two-year term commencing on July 1 of every odd-numbered year.

b. Meetings.

- (1) Meetings of the board shall be held at least every two months and shall be convened by either chair. Any board member, the presiding chief judge of the Court of Appeals, the president of the Superior Court Judges' Association, or the president of the District and Municipal Court Judges' Association may submit issues for the meeting agenda.
- (2) The board shall establish within its bylaws procedures governing the conduct of meetings.

c. Committees.

- (1) The board shall have the power to create standing committees and to create other subordinate entities through procedures set out within its bylaws.
- (2) The board shall not delegate its authority to an executive committee.
- (3) Any committee or other subordinate entity must be authorized by a majority approval of the board of a charter that specifies the body's charge, membership and term.
- (4) Committees other than standing committees may include members who are not members of the board. The board should engage participation of other judges, members of the legal community, subject matter experts, legislators, clerks of court, court administrators, and members of the public as needed.

d. Voting.

- (1) All decisions of the board shall be made by simple majority vote of those voting.
- (2) Seven members will constitute a quorum provided at least one judge from each level of court is present.

e. Compensation.

Members shall not receive compensation for service but shall be granted equivalent pro tempore time and shall be reimbursed for travel expenses.

Rule 5. Staff

Staff for the Board for Judicial Administration shall be provided by the Administrative Office of the Courts.

Rule 6. Effective Date

These rules shall be effective July 1, 2013.

Amended _____, _____.

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APPENDIX TWO

Board for Judicial Administration Bylaws

DRAFT PROPOSED REVISIONS

ARTICLE I

Purpose

The Board for Judicial Administration was created to enable the judiciary to speak with one voice, to adopt statewide policies to support the effective operations of the courts, to provide strategic leadership for the judicial branch, to determine state budgetary priorities for the courts, to provide oversight of the Administrative Office of the Courts, and to communicate with other branches of government regarding legislation.

ARTICLE II

Duties and Powers

The Board for Judicial Administration shall develop policies to enhance the administration of justice in Washington courts, shall provide general oversight of the Administrative Office of the Courts, shall review items that would affect the budget of the Administrative Office of the Courts and provide recommendations to the Supreme Court Budget Committee, shall provide leadership for long-range planning and the development of strategic initiatives for the judicial branch, and shall develop and communicate the position of the Washington state judiciary on legislation affecting the administration of justice.

The board: may develop internal policies and procedures for its own operations; may adopt resolutions regarding matters relevant to the administration of justice; may publish policies for the statewide operations of the courts of Washington, recognizing that the direct management of the courts is a local responsibility; may establish standing committees within its bylaws; and may create ad hoc committees, advisory committees, steering committees and task forces.

ARTICLE III

Membership

The membership of the board is established by Board for Judicial Administration Rule 3. Membership consists of the Chief Justice and one other justice of the Supreme Court, two judges of the Court of Appeals who do not serve on the same division, three superior court judges, none of whom shall serve on the board of the Superior Court Judges' Association during tenure on the board; and three district or municipal court judges none of whom shall serve on the board of the District and Municipal Court Judges' Association during tenure on the board. Board membership shall include at least one district court judge and one municipal court judge at all times.

Members shall be selected by the Supreme Court, the Court of Appeals, the Superior Court Judges' Association and the District and Municipal Court Judges' Association in accord with Board for Judicial Administration Rule 3 and processes established by those entities.

ARTICLE IV

Officers and Representatives

The Chief Justice shall serve as chair of the board in conjunction with a Member Chair. The Member Chair shall be elected by the board and shall serve a two year term

effective July 1 of every odd numbered year. The Member Chair position shall be filled alternately between a member who is a superior court judge and a member who is either a district or municipal court judge.

ARTICLE V

Duties of Officers

The Chief Justice Chair and the Member Chair shall jointly preside at all meetings of the board, performing the duties usually incident to such office, and shall be the official spokespersons for the board. The Chief Justice Chair and the Member Chair shall designate the chairs and membership of standing committees, and nominate for the board's approval the chairs and membership of all other committees.

ARTICLE VI

Vacancies

If a vacancy occurs in any position the chairs shall inform the relevant court or judicial association and request that a new member be selected to complete the term of the position left vacant in accordance with its established process.

ARTICLE VII

Committees and Other Entities

The board may create standing committees within these bylaws, and ad hoc committees, advisory committees, steering committees and task forces by the approval of a committee charter specifying the charge, membership and term of the body to be created. The board may approve the creation of subcommittees, workgroups and study groups at the request of a committee or task force and the approval of a charter specifying the charge, membership and term of the body to be created.

A standing committee is a committee charged with a major area of functional responsibility necessary to the exercise of duties assigned to the board. Standing

committees are comprised solely of members of the board. The Chief Justice Chair and the Member Chair shall designate the chairs and membership of standing committees for terms of two years and may assign members to fill vacancies. Standing committees are permanent. A standing committee may form subcommittees, workgroups and study groups with approval of the Board.

An *ad hoc committee* is a committee created by the board and charged with responsibilities related to issues within the purview of the board but not fully within the jurisdiction of any single standing committee. Ad hoc committees are appropriate for study of issues related to the organization and governance of the board as well as deliberation of substantive policy issues. An ad hoc committee may be authorized for a period of up to two years and may be reauthorized following review and approval of a revised charter. An ad hoc committee must include at least one member of the board and may include individuals who are not members of the board. An ad hoc committee may form subcommittees, workgroups and study groups with approval of the board.

An *advisory committee, steering committee or task force* is an entity created by the board and charged with responsibilities related to the jurisdiction of the board. An advisory committee, steering committee or task force is an appropriate vehicle for study of policy issues, efforts requiring broad outreach, or oversight of strategic initiatives. Advisory committees, steering committees, and task forces are intended to exercise a higher degree of independence from the board than standing and ad hoc committees. An advisory committee, steering committee or task force may be authorized for a period of up to two years and may be reauthorized through review and approval of a revised charter. An advisory committee or task force may, but need not, include any members of the board and may have a designated non-voting liaison member. An advisory committee, steering committee or task force may create subordinate entities with approval of the board.

Subcommittees, workgroups and study groups are subordinate entities created to facilitate the execution of responsibilities assigned to a committee or task force. The charge to a subcommittee, workgroup or study group should be relatively narrow and clearly defined in the charter creating it. A subcommittee, workgroup or study group may include members who are not on the superior body. In general a subcommittee, workgroup or study group should not be authorized for a period in excess of one year but may be authorized for up to two years.

The Chief Justice Chair and the Member Chair may authorize a continuance of the term of any subordinate entity for up to three months when necessary to complete its charge.

ARTICLE VIII

Standing Committees

The board shall have three standing committees: a Budget Committee, a Legislative Committee, and a Policy and Planning Committee.

The *Budget Committee* shall be responsible for conducting a review of budget requests impacting the budget of the Administrative Office of the Courts, excepting the budget requests of the Supreme Court, the Court of Appeal, the State Law Library, the Office of Civil Legal Aid, and the Office of Public Defense. The committee will conduct its review and develop recommendations in accord with a budget review process adopted by the Board. The committee may recommend changes to the budget review process.

The *Legislative Committee* shall be responsible for development and communication of the position of the Washington state judiciary on legislation affecting the administration of justice. The committee is responsible for coordinating with the judicial associations and the Court of Appeals regarding legislation and should attempt to ascertain the position of the associations and Court of Appeals on legislation. When the position of a

judicial association or the Court of Appeals and the position of the board diverge the committee should request that the association or Court of Appeals afford an opportunity to reconcile the divergent positions.

The *Policy and Planning Committee* shall be responsible for development of policies supporting effective governance of the courts of Washington and developing priorities of the Administrative Office of the Courts. The committee shall provide leadership for long-range planning and shall implement a process to regularly identify major issues facing the judicial system and propose strategic initiatives designed to address them.

ARTICLE IX

Meetings

There shall be regularly scheduled meetings of the board at least every other month. Reasonable notice of meetings shall be given each member.

Special meetings may be called by any member of the board. Reasonable notice of special meetings shall be given each member.

Any board member, the presiding chief judge of the Court of Appeals, the president of the Superior Court Judges' Association, or the president of the District and Municipal Court Judges' Association may submit issues for the meeting agenda.

Meetings shall be held in two sessions. The first session shall be open to invited guests and members of the public. Committee reports and presentations will occur in this session. The second session will include only members in attendance and staff. Deliberations and voting shall occur in the second session.

All committees and task forces created by the board shall report to the board annually unless otherwise directed.

The Administrative Office of the Courts, the Judicial Information System Committee, the Washington State Bar Association, the Gender and Justice Commission, the Minority and Justice Commission, the Access to Justice Board, the Civil Legal Aid Oversight Committee, and the Office of Public Defense Advisory Committee shall be asked annually to report on the work of the respective organization.

The President of the Superior Court Judges' Association, the President of the District and Municipal Court Judges' Association, and the Chair of the Judicial Information System Committee shall be invited to attend all meetings as liaisons from those organizations. Representatives from organizations such as the Washington State Bar Association, the Washington State Association of County Clerks, the Office of Public Defense, the Office of Civil Legal Aid, the Association of Washington Superior Court Managers, the District and Municipal Courts Managers Association, and the Washington Association of Juvenile Court Administrators be invited as guests when matters affecting such an organization are on the agenda.

ARTICLE X

Records

The board shall adopt a policy and procedure for electronic publication of its official records, including resolutions, policies, meeting agendas, minutes, outcome of votes, appointments, committee charters, reports, and other official records of the board.

ARTICLE XI

Quorum

Seven members of the board shall constitute a quorum provided at least one representative from each of the appellate, superior, and district or municipal levels of court are present.

ARTICLE XII

Voting

Each member shall have one vote. All decisions of the board shall be made by majority vote of those present. The Chief Justice Chair shall vote only in the event of a tie of the members voting. Members may participate by telephone or other form of remote participation but no member shall be allowed to cast a vote by proxy.

ARTICLE XII

Amendments and Repeal of Bylaws

These bylaws may be amended or modified at any regular or special meeting of the board, at which a quorum is present, by majority vote. No motion or resolution for amendment may be considered at the meeting in which they are proposed.

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APPENDIX THREE

Board for Judicial Administration Rules and Bylaws

COMPARISON OF CURRENT RULES AND BYLAWS WITH PROPOSED REVISIONS

Board of Judicial Administration Rules	
Current	Proposed
<p>Preamble</p> <p>The power of the judiciary to make administrative policy governing its operations is an essential element of its constitutional status as an equal branch of government. The Board for Judicial Administration is established to adopt policies and provide strategic leadership for the courts at large, enabling the judiciary to speak with one voice.</p>	<p>Preamble</p> <p>The power of the judiciary to govern itself is inherent to the status of the judicial branch as a constitutionally equal and independent branch of government. The Board for Judicial Administration is established to provide effective leadership to the state courts in providing for the administration of the justice in Washington State.</p>
<p>Rule 1. Board for Judicial Administration</p> <p>The Board for Judicial Administration is created to provide effective leadership to the state courts and to develop policy to enhance the administration of the court system in Washington State. Judges serving on the Board for Judicial Administration shall pursue the best interests of the judiciary at large.</p>	<p>Rule 1. Board for Judicial Administration</p> <p>The Board for Judicial Administration is created to enable the judiciary to speak with one voice, to adopt statewide policies to support the effective operations of the courts, to provide strategic leadership for the judicial branch, to determine state budgetary priorities for the courts, to provide overall direction to the Administrative Office of the Courts, and to communicate with other branches of government.</p>

<p style="text-align: center;">[See Rule 4 below.]</p>	<p>Rule 2. Duties</p> <p>The Board for Judicial Administration shall develop policies to support the effective operation of Washington courts, shall provide general direction to the Administrative Office of the Courts, shall review items affecting the budget of the Administrative Office of the Courts and make recommendations to the Supreme Court Budget Committee, shall provide leadership for long-range planning and the development of strategic initiatives for the judiciary, and shall develop and communicate the position of the Washington state judiciary on legislation affecting the administration of justice.</p>
<p>Rule 2. Composition</p> <p>a. Membership. The Board for Judicial Administration shall consist of judges from all levels of court selected for their demonstrated interest in and commitment to judicial administration and court improvement. The Board shall consist of five members from the appellate courts (two from the Supreme Court, one of whom shall be the Chief Justice, and one from each division of the Court of Appeals), five members from the superior courts, one of whom shall be the President of the Superior Court Judges' Association, five members of the courts of limited jurisdiction, one of whom shall be the President of the District and Municipal Court Judges' Association, two members of the Washington State Bar Association (non-voting) and the Administrator for the Courts (non-voting).</p> <p>b. Selection. Members shall be selected based upon a process established by their respective associations or court level which considers demonstrated commitment to improving the</p>	<p>Rule 3. Composition</p> <p>d. Membership. The board shall consist of: two justices of the Supreme Court one of whom shall be the Chief Justice; two judges of the Court of Appeals who do not serve in the same division; three judges of superior courts, none of whom shall serve as an officer on the board of the Superior Court Judges' Association during tenure on the board; and three judges of courts of limited jurisdiction, at least one being a district court judge and one being a municipal court judge, none of whom shall serve as an officer on the board the District and Municipal Court Judges' Association during tenure on the board.</p> <p>e. Selection.</p> <p>(1) The Chief Justice shall serve during tenure in that office. The supreme court justice shall be selected by a</p>

courts, racial and gender diversity as well as geographic and caseload differences.

c. Terms of Office.

1. Of the members first appointed, one justice of the Supreme Court shall be appointed for a two-year term; one judge from each of the other levels of court for a four-year term; one judge from each of the other levels of court and one Washington State Bar Association member for a three-year term; one judge from the other levels of court and one Washington State Bar Association member for a two-year term; and one judge from each level of trial court for a one-year term. Thereafter, voting members shall serve four-year terms and the Washington State Bar Association members for three year terms commencing annually on June 1. The Chief Justice, the President Judges

process established by the Supreme Court. The court of appeals judges shall be selected by a process established by the Court of Appeals. The superior court judges shall be selected by a process established by the Superior Court Judges' Association. The district court and municipal court judges shall be selected by a process established by the District and Municipal Court Judges' Association.

- (2) Criteria for selection shall include demonstrated interest in and commitment to judicial administration, demonstrated commitment to improving the courts, and diversity of representation with respect to race, gender, professional experience, and geographic representation.

f. Terms of Office.

- (1) The Chief Justice shall serve during tenure in that office.
- (2) Of the members first appointed, the justice of the Supreme Court shall be appointed for a term ending on June 30, 2016; one judge from the Court of Appeals shall be appointed to a term ending on June 30, 2015 and one judge from the Court of Appeals shall be appointed to a term ending on June 30, 2017; one judge from a superior court and one judge from a district or municipal court shall be appointed for a term ending on June 30, 2015; one judge from a superior court and one judge from a district or municipal court shall be appointed for a term ending on June 30, 2016; and one superior court judge and one judge from a district or municipal

and the Administrator for the Courts shall serve during tenure.

2. Members serving on the BJA shall be granted equivalent pro tempore time.

court shall be appointed for a term ending on June 30, 2017.

- (3) Thereafter, members shall be appointed to serve four-year terms commencing annually on July 1.
- (4) A person may serve two terms consecutively and may serve additional terms provided a period of four years transpires between periods of service.
- (5) A vacancy shall occur when a member is absent for three consecutive meetings or four meetings within twelve months. In the event of a vacancy the position shall be filled for the duration of the term by a process established by the relevant court or judicial association.

[See Rule 5(e) below.]

Rule 3. Operation

- a. **Leadership.** The Board for Judicial Administration shall be chaired by the Chief Justice of the Washington Supreme Court in conjunction with a Member Chair who shall be elected by the Board. The duties of the Chief Justice Chair and the Member Chair shall be clearly articulated in the by-laws. The Member Chair shall serve as chair of the Long-range Planning Committee. Meetings of the Board may be convened by either chair and held at least bimonthly. Any Board member may submit issues for the meeting agenda.

Rule 4. Operation

- f. **Leadership.**
 - (1) The board shall be chaired by the Chief Justice in conjunction with a Member Chair who shall be elected by the board. The duties of the Chief Justice Chair and the terms and duties of the Member Chair shall be specified in the by-laws.
 - (2) The Member Chair position shall be filled in alternate terms by a superior court judge and a district or municipal court judge. The Member Chair shall be selected by the members for a two-year term commencing on July 1

<p>b. Committees. Ad hoc and standing committees may be appointed for the purpose of facilitating the work of the Board. Non-judicial committee members shall participate in non-voting advisory capacity only.</p> <ol style="list-style-type: none"> 1. The Board shall appoint at least three standing committees: Long-range Planning, Core Missions/Best Practices and Legislative. Other committees may be convened as determined by the Board. 2. The Chief Justice and the Member Chair shall nominate for the Board's approval the chairs and members of the committees. Committee membership may include citizens, experts from the private sector, members of the legal community, legislators, clerks and court administrators. <p>c. Voting. All decisions of the Board shall be</p>	<p>of every odd-numbered year.</p> <p>g. Meetings.</p> <ol style="list-style-type: none"> (1) Meetings of the board shall be held at least every two months and shall be convened by either chair. Any board member, the presiding chief judge of the Court of Appeals, the president of the Superior Court Judges' Association, or the president of the District and Municipal Court Judges' Association may submit issues for the meeting agenda. (2) The board shall establish within its bylaws procedures governing the conduct of meetings. <p>h. Committees.</p> <ol style="list-style-type: none"> (1) The board shall have the power to create standing committees and to create other subordinate entities through procedures set out within its bylaws. (2) The board shall not delegate its authority to an executive committee. (3) Any committee or other subordinate entity must be authorized by a majority approval of the board of a charter that specifies the body's charge, membership and term. (4) Committees other than standing committees may include members who are not members of the board. The board should engage participation of other judges, members of the legal community, subject matter experts, legislators, clerks of court, court administrators, and members of the public as needed. <p>i. Voting.</p>
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<p>made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Eight voting members will constitute a quorum provided at least one judge from each level of court is present. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.</p>	<p>(1) All decisions of the board shall be made by simple majority vote of those voting.</p> <p>(2) Seven members will constitute a quorum provided at least one judge from each level of court is present.</p> <p>j. Compensation.</p> <p>Members shall not receive compensation for service but shall be granted equivalent pro tempore time and shall be reimbursed for travel expenses.</p>
<p>Rule 4. Duties</p> <p>a. The Board shall establish a long-range plan for the judiciary;</p> <p>b. The Board shall continually review the core missions and best practices of the courts;</p> <p>c. The Board shall develop a funding strategy for the judiciary consistent with the long-range plan and <u>RCW 43.135.060</u>;</p> <p>d. The Board shall assess the adequacy of resources necessary for the operation of an independent judiciary;</p> <p>e. The Board shall speak on behalf of the judicial branch of government and develop statewide policy to enhance the operation of the state court system;</p> <p>f. The Board shall have the authority to conduct research or create study groups for the purpose of improving the courts.</p>	<p>[See Rule 2 above.]</p>
<p>Rule 5. Staff</p> <p>Staff for the Board for Judicial Administration shall be provided by the Administrator for the Courts.</p>	<p>Rule 5. Staff</p> <p>Staff for the Board for Judicial Administration shall be provided by the Administrative Office of the Courts.</p>

<p>Amended January 6, 2000</p>	<p>Rule 6. Effective Date</p> <p>These rules shall be effective July 1, 2013.</p> <p>Amended ____ , ____.</p>
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BYLAWS

Current	Proposed
<p><u>ARTICLE I</u> Purpose</p> <p>The Board for Judicial Administration shall adopt policies and provide leadership for the administration of justice in Washington courts. Included in, but not limited to, that responsibility is: 1) establishing a judicial position on legislation; 2) providing direction to the Administrative Office of the Courts on legislative and other administrative matters affecting the administration of justice; 3) fostering the local administration of justice by improving communication within the judicial branch; and 4) providing leadership for the courts at large, enabling the judiciary to speak with one voice.</p>	<p><u>ARTICLE I</u> Purpose</p> <p>The Board for Judicial Administration was created to enable the judiciary to speak with one voice, to adopt statewide policies to support the effective operations of the courts, to provide strategic leadership for the judicial branch, to determine state budgetary priorities for the courts, to provide oversight of the Administrative Office of the Courts, and to communicate with other branches of government regarding legislation.</p>
	<p><u>ARTICLE II</u> Duties and Powers</p> <p>The Board for Judicial Administration shall develop policies to enhance the administration of justice in Washington courts, shall provide general oversight of the Administrative Office of the Courts, shall review items that would affect the budget of the Administrative Office of the Courts and provide recommendations to the Supreme Court Budget Committee, shall provide leadership for long-range planning and the development of strategic initiatives for the judicial branch, and shall develop and communicate the position of the Washington state judiciary on legislation affecting the administration of justice.</p> <p>The board: may develop internal policies and procedures for its own operations; may adopt</p>

	<p>resolutions regarding matters relevant to the administration of justice; may publish policies for the statewide operations of the courts of Washington, recognizing that the direct management of the courts is a local responsibility; may establish standing committees within its bylaws; and may create ad hoc committees, advisory committees, steering committees and task forces.</p>
<p><u>ARTICLE II</u></p> <p>Membership</p> <p>Membership in the Board for Judicial Administration shall consist of the Chief Justice and one other member of the Supreme Court, one member from each division of the Court of Appeals, five members from the Superior Court Judges' Association, one of whom shall be the President; five members from the District and Municipal Court Judges' Association, one of whom shall be the President. It shall also include as non-voting members two members of the Washington State Bar Association appointed by the Board of Governors; the Administrator for the Courts; and the Presiding Chief Judge of the Court of Appeals, the President-elect judge of the Superior Court Judges' Association and the President-elect judge of the District and Municipal Court Judges' Association.</p>	<p><u>ARTICLE III</u></p> <p>Membership</p> <p>The membership of the board is established by Board for Judicial Administration Rule 3. Membership consists of the Chief Justice and one other justice of the Supreme Court, two judges of the Court of Appeals who do not serve on the same division, three superior court judges, none of whom shall serve on the board of the Superior Court Judges' Association during tenure on the board; and three district or municipal court judges none of whom shall serve on the board of the District and Municipal Court Judges' Association during tenure on the board. Board membership shall include at least one district court judge and one municipal court judge at all times.</p> <p>Members shall be selected by the Supreme Court, the Court of Appeals, the Superior Court Judges' Association and the District and Municipal Court Judges' Association in accord with Board for Judicial Administration Rule 3 and processes established by those entities.</p>
<p><u>ARTICLE III</u></p> <p>Officers and Representatives</p> <p>The Chief Justice of the Supreme Court shall chair the Board for Judicial Administration in conjunction with a Member chair. The Member chair shall be elected by the Board and shall serve a two year term. The Member</p>	<p><u>ARTICLE IV</u></p> <p>Officers and Representatives</p> <p>The Chief Justice shall serve as chair of the board in conjunction with a Member Chair. The Member Chair shall be elected by the board and shall serve a two year term effective July 1 of every odd numbered year. The</p>

<p>chair position shall be filled alternately between a voting Board member who is a superior court judge and a voting Board member who is either a district or municipal court judge.</p>	<p>Member Chair position shall be filled alternately between a member who is a superior court judge and a member who is either a district or municipal court judge.</p>
<p><u>ARTICLE IV</u> Duties of Officers</p> <p>The Chief Justice Chair shall preside at all meetings of the Board, performing the duties usually incident to such office, and shall be the official spokesperson for the Board. The Chief Justice chair and the Member chair shall nominate for the Board’s approval the chairs of all committees. The Member chair shall perform the duties of the Chief Justice chair in the absence or incapacity of the Chief Justice chair.</p>	<p><u>ARTICLE V</u> Duties of Officers</p> <p>The Chief Justice Chair and the Member Chair shall jointly preside at all meetings of the board, performing the duties usually incident to such office, and shall be the official spokespersons for the board. The Chief Justice Chair and the Member Chair shall designate the chairs and membership of standing committees, and nominate for the board’s approval the chairs and membership of all other committees.</p>
<p><u>ARTICLE V</u> Vacancies</p> <p>If a vacancy occurs in any representative position, the bylaws of the governing groups shall determine how the vacancy will be filled.</p>	<p><u>ARTICLE VI</u> Vacancies</p> <p>If a vacancy occurs in any position the chairs shall inform the relevant court or judicial association and request that a new member be selected to complete the term of the position left vacant in accordance with its established process.</p>
<p><u>ARTICLE VI</u> Committees</p> <p>Standing committees as well as ad hoc committees and task forces of the Board for Judicial Administration shall be established by majority vote.</p> <p>Each committee shall have such authority as the Board deems appropriate.</p> <p>The Board for Judicial Administration will designate the chair of all standing, ad hoc, and task force committees created by the Board. Membership on all committees and task forces will reflect representation from all court</p>	<p><u>ARTICLE VII</u> Committees and Other Entities</p> <p>The board may create standing committees within these bylaws, and ad hoc committees, advisory committees, steering committees and task forces by the approval of a committee charter specifying the charge, membership and term of the body to be created. The board may approve the creation of subcommittees, workgroups and study groups at the request of a committee or task force and the approval of a charter specifying the charge, membership and term of the body to be created.</p>

levels. Committees shall report in writing to the Board for Judicial Administration as appropriate to their charge. The Chair of each standing committee shall be asked to attend one BJA meeting per year, at a minimum, to report on the committee's work. The terms of standing committee members shall not exceed two years. The Board for Judicial Administration may reappoint members of standing committees to one additional term. The terms of ad hoc and task force committee members will have terms as determined by their charge.

A *standing committee* is a committee charged with a major area of functional responsibility necessary to the exercise of duties assigned to the board. Standing committees are comprised solely of members of the board. The Chief Justice Chair and the Member Chair shall designate the chairs and membership of standing committees for terms of two years and may assign members to fill vacancies. Standing committees are permanent. A standing committee may form subcommittees, workgroups and study groups with approval of the Board.

An *ad hoc committee* is a committee created by the board and charged with responsibilities related to issues within the purview of the board but not fully within the jurisdiction of any single standing committee. Ad hoc committees are appropriate for study of issues related to the organization and governance of the board as well as deliberation of substantive policy issues. An ad hoc committee may be authorized for a period of up to two years and may be reauthorized following review and approval of a revised charter. An ad hoc committee must include at least one member of the board and may include individuals who are not members of the board. An ad hoc committee may form subcommittees, workgroups and study groups with approval of the board.

An *advisory committee, steering committee or task force* is an entity created by the board and charged with responsibilities related to the jurisdiction of the board. An advisory committee, steering committee or task force is an appropriate vehicle for study of policy issues, efforts requiring broad outreach, or oversight of strategic initiatives. Advisory committees, steering committees, and task forces are intended to exercise a higher degree of independence from the board than standing and ad hoc committees. An advisory committee, steering committee or task force may be authorized for a period of up to two years and may be reauthorized through review and approval of a revised charter. An advisory committee or task force may, but need not, include any members of the board and may have a designated non-voting liaison member. An advisory committee, steering committee or task force may create subordinate entities with approval of the

	<p>board.</p> <p><i>Subcommittees, workgroups and study groups</i> are subordinate entities created to facilitate the execution of responsibilities assigned to a committee or task force. The charge to a subcommittee, workgroup or study group should be relatively narrow and clearly defined in the charter creating it. A subcommittee, workgroup or study group may include members who are not on the superior body. In general a subcommittee, workgroup or study group should not be authorized for a period in excess of one year but may be authorized for up to two years.</p> <p>The Chief Justice Chair and the Member Chair may authorize a continuance of the term of any subordinate entity for up to three months when necessary to complete its charge.</p>
<p>ARTICLE VII Executive Committee</p> <p>There shall be an Executive Committee composed of Board for Judicial Administration members, and consisting of the co-chairs, a Judge from the Court of Appeals selected by and from the Court of Appeals members of the Board, the President Judge of the Superior Court Judges’ Association, the President Judge of the District Municipal Court Judges’ Association, and non-voting members to include one Washington State Bar Association representative selected by the Chief Justice, President-elect judge of the Superior Court Judges’ Association, President-elect judge of the District and Municipal Court Judges’ Association and the Administrator for the Courts.</p> <p>It is the purpose of this committee to consider and take action on emergency matters arising between Board meetings, subject to ratification of the Board.</p> <p>The Executive Committee shall serve as the Legislative Committee as established under BJAR 3(b)(1). During legislative sessions, the Executive Committee is authorized to conduct telephone conferences for the purpose of reviewing legislative positions.</p>	<p>[See Rule 4(c)(2) (“The board shall not delegate its authority to an executive committee”)]</p>

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ARTICLE VIII

Standing Committees

The board shall have three standing committees: a Budget Committee, a Legislative Committee, and a Policy and Planning Committee.

The *Budget Committee* shall be responsible for conducting a review of budget requests impacting the budget of the Administrative Office of the Courts, excepting the budget requests of the Supreme Court, the Court of Appeal, the State Law Library, the Office of Civil Legal Aid, and the Office of Public Defense. The committee will conduct its review and develop recommendations in accord with a budget review process adopted by the Board. The committee may recommend changes to the budget review process.

The *Legislative Committee* shall be responsible for development and communication of the position of the Washington state judiciary on legislation affecting the administration of justice. The committee is responsible for coordinating with the judicial associations and the Court of Appeals regarding legislation and should attempt to ascertain the position of the associations and Court of Appeals on legislation. When the position of a judicial association or the Court of Appeals and the position of the board diverge the committee should request that the association or Court of Appeals afford an opportunity to reconcile the divergent positions.

The *Policy and Planning Committee* shall be responsible for development of policies supporting effective governance of the courts of Washington and developing priorities of the Administrative Office of the Courts. The committee shall provide leadership for long-range planning and shall implement a process to regularly identify major issues facing the judicial system and propose strategic initiatives designed to address them.

ARTICLE VIII

Regular Meetings

There shall be regularly scheduled meetings of the Board for Judicial Administration at least bi-monthly. Reasonable notice of meetings shall be given each member.

ARTICLE IX

Special Meetings

Special meetings may be called by any member of the Board. Reasonable notice of special meetings shall be given each member.

ARTICLE IX

Meetings

There shall be regularly scheduled meetings of the board at least every other month. Reasonable notice of meetings shall be given each member.

Special meetings may be called by any member of the board. Reasonable notice of special meetings shall be given each member.

Any board member, the presiding chief judge of the Court of Appeals, the president of the Superior Court Judges' Association, or the president of the District and Municipal Court Judges' Association may submit issues for the meeting agenda.

Meetings shall be held in two sessions. The first session shall be open to invited guests and members of the public. Committee reports and presentations will occur in this session. The second session will include only members in attendance and staff. Deliberations and voting shall occur in the second session.

All committees and task forces created by the board shall report to the board annually unless otherwise directed.

The Administrative Office of the Courts, the Judicial Information System Committee, the Washington State Bar Association, the Gender and Justice Commission, the Minority and Justice Commission, the Access to Justice Board, the Civil Legal Aid Oversight Committee, and the Office of Public Defense Advisory Committee shall be asked annually to report on the work of the respective organization.

The President of the Superior Court Judges' Association, the President of the District and Municipal Court Judges' Association, and the Chair of the Judicial Information System Committee shall be invited to attend all meetings as liaisons from those organizations. Representatives from organizations such as the Washington State Bar Association, the Washington

	<p>State Association of County Clerks, the Office of Public Defense, the Office of Civil Legal Aid, the Association of Washington Superior Court Managers, the District and Municipal Courts Managers Association, and the Washington Association of Juvenile Court Administrators be invited as guests when matters affecting such an organization are on the agenda.</p>
<p style="text-align: center; font-size: 48px; opacity: 0.2; font-weight: normal;">DRAFT</p>	<p><u>ARTICLE X</u> Records</p> <p>The board shall adopt a policy and procedure for electronic publication of its official records, including resolutions, policies, meeting agendas, minutes, outcome of votes, appointments, committee charters, reports, and other official records of the board.</p>
<p><u>ARTICLE X</u> Quorum</p> <p>Eight voting members of the Board shall constitute a quorum provided each court level is represented.</p>	<p><u>ARTICLE XI</u> Quorum</p> <p>Seven members of the board shall constitute a quorum provided at least one representative from each of the appellate, superior, and district or municipal levels of court are present.</p>
<p><u>ARTICLE XI</u> Voting</p> <p>Each judicial member of the Board for Judicial Administration shall have one vote. All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.</p>	<p><u>ARTICLE XII</u> Voting</p> <p>Each member shall have one vote. All decisions of the board shall be made by majority vote of those present. The Chief Justice Chair shall vote only in the event of a tie of the members voting. Members may participate by telephone or other form of remote participation but no member shall be allowed to cast a vote by proxy.</p>

ARTICLE XII

Amendments and Repeal of Bylaws

These bylaws may be amended or modified at any regular or special meeting of the Board, at which a quorum is present, by majority vote. No motion or resolution for amendment may be considered at the meeting in which they are proposed.

ARTICLE XII

Amendments and Repeal of Bylaws

These bylaws may be amended or modified at any regular or special meeting of the board, at which a quorum is present, by majority vote. No motion or resolution for amendment may be considered at the meeting in which they are proposed.

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March 1, 2013

To: Board for Judicial Administration
Court of Appeals Executive Committee
Superior Court Judges' Association Board of Trustees
District and Municipal Court Judges' Association Board of Governors

Dear Colleagues:

We write jointly as members of the Structure Workgroup of the Board for Judicial Administration (BJA) to provide additional information regarding the potential reorganization of the BJA, and to assure you that we intend and look forward to a thorough discussion of the Workgroup's recommendations. Our goal is to increase the capacity for the judiciary to act collectively, and to that end, we hope the proposal we are circulating will engender a broad and constructive dialog about how we organize ourselves to lead the judiciary into the future.

As you know, the Structure Workgroup was created as a result of a retreat held last September to discuss the function and effectiveness of the BJA. Retreat participants included not only BJA members but broad representation across the branch. The consensus outcome was that while the BJA has served the courts well as a forum for building unity and consensus within the court levels, we have an opportunity to make adjustments that can help make us even more effective in converting that consensus into specific, effective and timely action. We took from the retreat a vision that the BJA should now build on its success and take on a greater role in guiding the judiciary of Washington, with a clearer charge, enhanced authority, and a leaner and more agile structure.

The BJA formed the Structure Workgroup and charged it to develop a proposal for consideration. The draft that was circulated in January is the product of the best efforts of that Workgroup. It is a starting point, and we think it would achieve the purpose, but we also understand that this version may not be the final product voted on by the BJA. It is our expectation that the report of the Structure Workgroup and the draft revisions to the BJA rule and bylaws will be presented to the full BJA at its March 15 meeting. The BJA will then determine its process for considering the proposal.

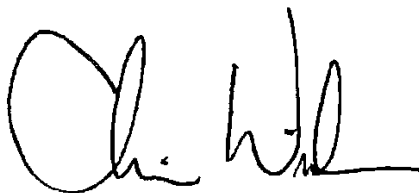
Several important issues have been raised regarding the Workgroup's proposal, and it is appropriate that the BJA have the opportunity to discuss these issues and deliberate on them in the context of the overall effort to strengthen judicial branch leadership. We encourage an open dialog among our colleagues and hope that any interested parties express their views to the BJA as a whole and to individual members.

Thank you for your consideration.

Sincerely,



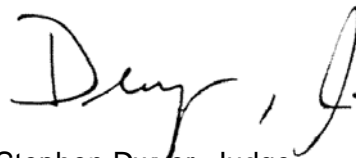
Barbara Madsen, Chair
Board for Judicial Administration



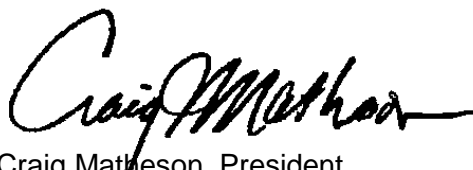
Chris Wickham, Member Chair
Board for Judicial Administration



Christine Quinn-Brintnall, Presiding Chief Judge
Court of Appeals



Stephen Dwyer, Judge
Court of Appeals



Craig Matheson, President
Superior Court Judges' Association



Charles Snyder, President-Elect
Superior Court Judges' Association



Sara Derr, President
District and Municipal Court Judges' Association



David Svaren, President-Elect
District and Municipal Court Judges' Association

cc: Ms. Anne Watson, AOC Staff to the Court of Appeals
Ms. Regina McDougall, AOC Staff to the Superior Court Judges' Association
Ms. Shannon Hinchcliffe, AOC Staff to the District and Municipal Court Judges' Association

Restructure Workgroup

Draft Proposal

Board for Judicial Administration

*March 15, 2013
SeaTac, Washington*

Background

Board Retreat September 2012

- Why?
 - Consensus that BJA has served the branch well but can be more effective.
 - “Judge Fleck moved and Garrow seconded to hold a BJA retreat to continue the role of the BJA discussion. Mr. Bamberger and Ms. Moore should be included along with a representative from the County Clerks.” Motion adopted February 17, 2012.

Background

Participants:

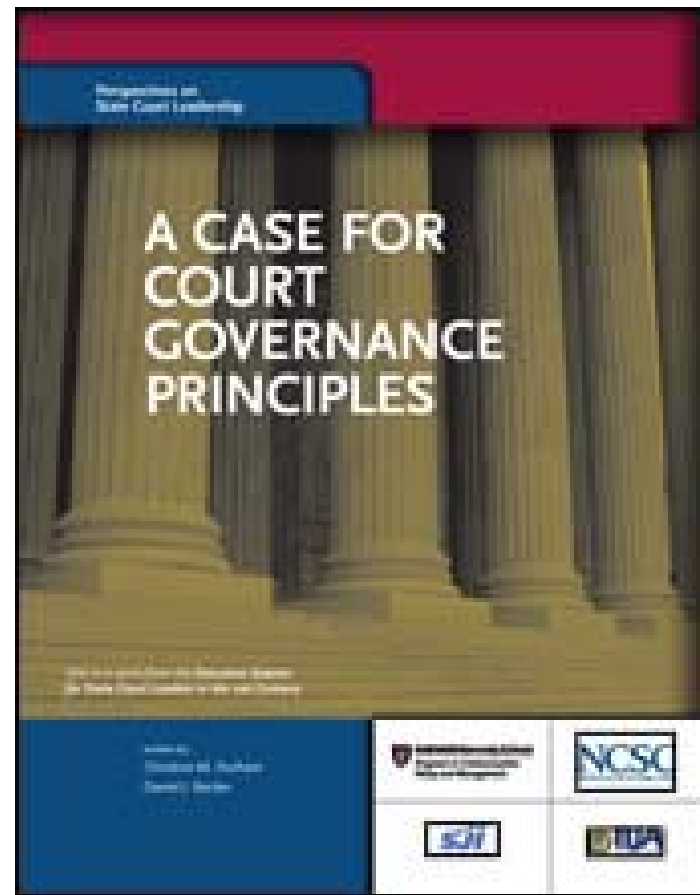
Chief Justice Barbara Madsen	Joanne Moore, OPD
Justice Susan Owens	Judge Jack Nevin
Jim Bamberger, OCLA	Judge Christine Quinn-Brintnall
Judge Sara Derr	Michele Radosevich, WSBA
Pat Escamilla, WAJCA	Judge Kevin Ringus
Judge Deborah Fleck	Judge Ann Schindler
Trish Kinlow, DMCMA	Paul Sherfey, AWSCA
Judge Linda Krese	Judge Scott Sparks
Judge Craig Matheson	Judge Chris Wickham

Facilitators

- Retreat Facilitator:
 - Callie Dietz
- Group facilitators:
 - Justice Christine Durham
 - Judge Stephen Dwyer
 - Judge Ellen Fair
 - Judge James Riehl

Format of Retreat

- Review Utah Judicial Council and positive results of governance principles
- Consideration of court governance principles
- Following discussion, an agreement on application to WA



Format of Retreat

In smaller groups, explore the following questions in light of relevant principles:

- Why do we need a Board for Judicial Administration? (principles 1,8,10)
- Who is the Board for Judicial Administration? (principles 5,7,9)
- How will the Board for Judicial Administration function? (principles 2,4,6)

Format of Retreat

- Three break-out groups
- Report back by the facilitators
- Group discussion but effort to define a majority or consensus position due to early end.

Format of Retreat

- Plan was to develop consensus:
 - Areas of agreement between small groups
 - Areas of disagreement for continued discussion
- However retreat was ended early due to memorial service for Judge LaSalata
- Last event was a report back of small groups and closing remarks by remaining participants

Summary

- No document adopted at retreat
- General appreciation for the discussion
- Expectation of more specific development to come
- Agreement that workgroups or committees would be developed to follow up on discussions occurring at the retreat

Summary

- Summary of retreat provided to Board October, 2012 meeting
- Areas of agreement:
 - Clear guidance to the Administrative Office of the Courts would be beneficial. There is a lack of understanding about the AOC's functions. AOC is pulled in many different directions, difficult to identify priorities.

Summary

- An evaluation process is important in setting policies and determining if they are carried out
- Membership on the BJA carries a significant time commitment. Incentives for membership should be considered
- The Utah model of advocacy from subgroups rather than Board members has merit

Summary

- Membership in the BJA should be limited to judges but the other judicial branch stakeholders play a valuable role in providing information
- Expanding membership beyond the judiciary would make the development of a unified message very difficult because each group has different priorities

Summary

- Not all groups are necessary participants at all times, but should be included when needed
- Larger group can become unwieldy
- Present terms and selection of chairs is appropriate

Development of Proposal

- Board endorsed formation of Structure Workgroup on October 19, 2012:
 - “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.”
- Formal charter approved on November 16:
 - “Determine what structural changes are necessary in order to enhance the role of the BJA as determined at the September 21-22 retreat and as outlined in the report on the retreat approved by the BJA on October 19, 2012. Draft amendments to the BJA rules and bylaws, and develop policies and procedures ... which will be presented to the voting members of the BJA for approval.”

Development of Proposal

Workgroup Members:

- Chief Justice Madsen
- Judge Sara Derr
- Judge Stephen Dwyer
- Judge Craig Matheson
- Judge Christine Quinn-Brintnall
- Judge Charles Snyder
- Judge David Svaren
- Judge Chris Wickham
- Callie Dietz

Development of Proposal

Meetings:

October 29, 2012

November 26, 2012

January 10, 2013

Development of Proposal

Work in Progress:

- Draft proposal completed January 10, now circulating for comment
- Workgroup seeks input, suggestions
- Need to fully vet to interested parties
- Search for broad support to support reforms

Draft Proposal

- A leaner BJA with members tasked with specific areas of responsibility, expected to devote considerable time and energy.
- Smaller body focuses responsibility and accountability among members
- Board oversees policy development, identifies issues, assigns committees, reviews results, adopts policies
- Policy development occurs through expanded committee system

Draft Proposal

- Board vested with primary responsibility for statewide policy
- Board would have oversight of AOC budget
- Board would provide general direction to AOC
- Board would provide leadership for long-range planning for the judicial branch
- Board would be the authoritative voice of the judiciary in legislative relations

Draft Proposal

- Supreme Court would retain responsibility for rule making
- Framework for ongoing consolidation and reorganization of committees pursuant to results of committee review process and direction of Supreme Court
- Smaller body co-locates responsibility and accountability among members

Composition

- Nine voting members plus Chief Justice
- Three voting Appellate Court members:
 - Chief Justice (votes only in the event of a tie)
 - One Justice selected by the Supreme Court
 - Two Court of Appeals judges selected by COA
- Three Superior Court Judges, not SCJA officers, selected by SCJA
- Three District or Municipal Court Judges, not DMCJA officers, selected by DMCJA

Terms and Meetings

- **Terms:**
 - Four year terms for members
 - No more than two consecutive terms
 - Additional terms with a four year break
- **Meetings:**
 - Contemplate six meetings per year, alternate months
 - Meeting time expanded to full day
 - Schedule of annual report presentations by committees, agencies, AOC, Bar, etc.
 - Committees would meet alternate months

Standing Committees

- Three standing committees to guide major functions of the Board:
 - Legislative
 - Budget
 - Policy and Planning
- Standing committees would create larger workgroups with non-members to increase participation, ensure diversity and input
- Board authorized to create additional standing committees in future

Committee System

- Expanded, structured system of committees would be primary vehicle for policy development
- Board authorized to create ad hoc, advisory and steering committees and task forces to undertake work on a specific projects
- Committees and task forces would increase expertise, diversity and representation in policy development process
- Committees and task forces can be authorized for two years and can be reauthorized

Relationship to Trial Court Associations

- Trial court associations would select 6 of 9 voting members.
- Presidents could place items on agenda, serve as liaisons
- Presidents would be free to fully advocate for the associations
- Associations continue to lead in subject matter areas pertinent to court level
- Associations continue to present independent position to the Legislature or to the Supreme Court Budget Committee

Foundation of Success

- Since last reconstituted in 2000 the BJA has been successful in creating a forum for building branch unity and consensus.
- BJA has accomplished a number of major projects and contributed to substantial improvements and enhancements in the funding and functioning of the courts.

Foundation of Success

- Challenges:
 - Existing Board stretched too thin with insufficient time to contemplate and develop policy – all trees, no forest
 - Meeting size and structure delays timely resolution of issues
 - Structure good as forum for discussion, less effective as mechanism for decisions and action

Foundation of Success

- Building on the Foundation:
 - Clarify and focus the mandate and duties of the Board
 - Allow members to focus on big picture, time to understand issues and contemplate decisions
 - Board role to identify issues, assign to competent committees, review and decide on resulting proposals
 - Expand participation, outreach, expertise, diversity in development of policy through committees
 - More structured, orderly process to identify, study and resolve issues

Thoughts?



WASHINGTON
COURTS

District and Municipal Court Judges' Association

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JUDGE REBECCA C. ROBERTSON
Federal Way Municipal Court
(253) 835-3000

COMMISSIONER PETE SMILEY
Bellingham Municipal Court
(360) 778-8150

February 20, 2013

Honorable Barbara A. Madsen
Board for Judicial Administration Co-Chair
Washington State Supreme Court
PO Box 40929
Olympia, WA 98504-0929

Honorable Christopher Wickham
Board for Judicial Administration Co-Chair
Thurston County Superior Court
2000 Lakeridge Dr SW, Building 2
Olympia, WA 98502

Dear Chief Justice Madsen and Judge Wickham:

As a result of the proposed restructure of the Board for Judicial Administration (BJA), the District and Municipal Court Judges' Association (DMCJA) Board, at its meeting on February 8, had a thorough and candid discussion relating to some of the proposed changes indicated in the draft documents. As President of the DMCJA, I was directed to share these concerns with you, and to see if there is any further discussion that may be had on the issues.

Please be aware that the issue of the proposed restructure was for discussion only at the February 8, meeting. No vote was taken at that time, and we are hopeful a response from the BJA Co-Chairs or Restructure Committee can be available to us prior to the March 8, meeting. At that meeting, the topic will be discussed again and it will be up for a vote.

Also, be aware that the positions set forth in this letter may not be the opinions or positions of each member of the DMCJA Board. This letter is a synopsis of the DMCJA Board's discussion and concerns, but does not reflect a consensus of the DMCJA Board through any kind of vote process.

At the outset, I would like to share with you the positive reactions to the idea of restructuring the BJA. Almost to a person, the Board acknowledged that the BJA, a very innovative idea in 2000 and with 12+ years of collaboration, needed invigorating. The DMCJA Board also appreciates the work BJA has done to improve the state judiciary and how the judiciary is perceived by the rest of the state's leadership. BJA has dealt with threats of legislative action such as Access to Court Records. It has also shown leadership through the

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Justice in Jeopardy initiative, the interpreter legislation, and other matters that have an essential "judicial branch" viewpoint, to list a few. However, realizing that no organization can remain static and still be effective in a changing political landscape, it is now time to revitalize and streamline the BJA.

Because of the good that BJA has done, it is especially important to proceed with caution as restructuring is under consideration. The DMCJA Board members have concerns regarding the proposed restructure that are both substantive and procedural.

1. Omission of the Association Presidents as voting members:

This concern was almost universally mentioned by the speakers at the DMCJA Board meeting. It was acknowledged that a small decision-making body is more effective at dealing with matters that come before it and that the way the BJA voting and non-voting membership is presently set up has become unwieldy. We know that the BJA was structured that way to be inclusive and to avoid the criticism of being an exclusive club that did not listen to its justice system partners. However, we are concerned that eliminating the voting rights of the association presidents is not the most effective way to improve the nimbleness of the BJA.

The DMCJA Board members are nearly unanimous in their belief that the association presidents must be voting members and have therefore suggested some alternatives for consideration. The number of court-level voting representatives could be increased to a minimum of four each which would include the presidents or remain at five (four each for SCJA and DMCJA; three for COA; one for the Supreme Court, and the Chief to break any tie votes). Another option would be to keep the number of BJA representatives to three, which would allow the association presidents, as liaisons, to step into the shoes of any absent elected representative and vote on the issues so that there would generally be three voting members from every level despite the absence of a representative. This second option was not widely discussed. Either way would keep the proportional representation the same as it is now – 2:3.

The DMCJA Board was very supportive of allowing the association presidents to put agenda items forward at a BJA meeting. In order to speak with one voice, it was stated that having the presidents at the meetings allows them to share association concerns and to request the BJA to send issues to the associations for review and for input, when appropriate. Having the presidents remain as BJA voting members maintains the balance of association interests and the over-arching needs of the state judiciary.

2. Concerns that the BJA restructure is being rushed without allowing for a deliberative review by the associations.

Even though the BJA representatives may have been slightly more aware of the restructure process, the judiciary as a whole has not had much time to digest the impact of the changes proposed in the restructure. In fact, the DMCJA Board members were a little surprised that the matter is set for a vote at the BJA in March. We do acknowledge that we have two DMCJA Board meetings between the release of the draft restructure and the next BJA meeting. Perhaps it will be sufficient time to consider the adjustments each association will have to make, but I am concerned it will not be.

One of the most pressing adjustments for the trial courts will be amending the association bylaws to change the number of representatives and how they would be chosen. It would have to accurately reflect the staggered terms, which ultimately would be every two years. In order to amend the bylaws, the vote has to be taken at the annual meetings at the Spring Conferences. For SCJA that is in April, and for DMCJA it is the first part of June. It may be possible, but the associations will be scrambling to accomplish these changes in a timely fashion. These votes go to the entire membership and, once again, that portion of the membership will not have had time to review the restructure until the Spring Conferences.

3. Committee restructure

The DMCJA Board generally agreed that the extant committees need to be reviewed and streamlined. This process may impact the associations and should be done carefully and with much deliberation and input from each association. Because there is no concrete proposal at this time, the DMCJA Board generally agreed that the committee cleanup needed to occur. DMCJA Board members also expressed that should there be a list of possible types of committees for future sub-committee work, that it be as limited as possible. The DMCJA Board seemed satisfied with the two-year limit for any committees other than the standing committees.

4. Implementation:

At present, we could not discern how, and under what authority, the BJA, will implement its directives. In a way, this comes back to the buy-in by the associations of BJA directives and direction. The Administrative Office of the Courts (AOC) certainly can be directed relative to some matters, but the associations are independent, statutorily-created entities that the BJA would be affecting with the implementation directives. It would help to perhaps clarify this matter and to acknowledge the need for the associations to feel comfortable with a restructured BJA by slowing down the process.

5. Veto power

There was discussion of the omission of the association level veto power specifically set out in the current bylaws. It was discussed that the history of full and open discussion of concerns that has grown over the years the BJA has been functioning may mitigate the need for a veto. It was also discussed that should an association level's concerns be ignored to the point of a need for a veto, it could certainly be accomplished under the proposed restructure framework, by "voting with our feet". It would be a last ditch effort and hopefully a calmer and more thoughtful approach would obviate the need to resort to such measures.

However, there is a strong opinion by some DMCJA Board members that the veto should remain a specific part of the BJA bylaws, to protect an association's ability to stop a process it sees as counter to that association's direction.

6. Staggering of Terms

Concerns were raised during the discussion that the terms of the BJA representatives needed to be staggered in two-year intervals. The existing BJA bylaws were recently adjusted to allow the

Honorable Barbara A. Madsen
Honorable Christopher Wickham
February 20, 2013
Page 4

two-year stagger. This assured that any representative would be qualified to serve as the BJA Co-Chair at some point during his/her term. It seems that since it was fixed before, it should be the norm for any restructured BJA bylaws.

1. Other

There was some discussion regarding the proposal to have open meetings for discussion and executive sessions for decision making. That area may need more clarity, as well as a discussion of how such a practice would be perceived by the public. It may not be the best method for the BJA to do business. Such lack of transparency to the public may do harm to the work the BJA is trying to do.

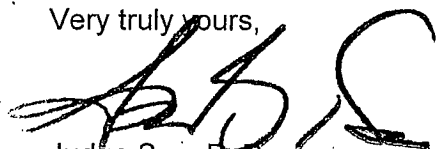
It was also noted that some sort of Rules of Order should be included in the bylaws, to assure that there is a recognized process in the event of a serious dispute or discussion among the BJA members, or to provide a framework for discussion for any other parties attending the meetings.

It is clear that the AOC budget would be a priority directive to the BJA, however the wording "the board would provide *general direction* to the AOC is not very clear and does not really define the parameters of that "general direction".

There are some specific word changes or suggestions that members of the DMCJA Board have suggested that can be discussed at a meeting on the restructure. The DMCJA Board is hoping that these concerns can be discussed with the BJA Restructure Committee and/or responded to by the BJA Co-Chairs before the next DMCJA Board meeting on March 8.

It must be noted that the above issues consumed most of the discussion and are, therefore, of paramount importance to our Association. We look forward to your responses.

Very truly yours,



Judge Sara B. Derr
DMCJA President

Judge Steve Dwyer, BJA Restructure Committee
Judge Janet Garrow, DMCJA BJA Representative
Judge Michael Lambo, DMCJA BJA Representative
Judge Craig Matheson, BJA Restructure Committee
Judge Christine Quinn-Brintnall, BJA Restructure Committee
Judge James Riehl, DMCJA BJA Representative
Judge Kevin Ringus, DMCJA BJA Representative
Judge Charles Snyder, BJA Restructure Committee
Ms. Callie Dietz, AOC
Mr. Steve Henley, AOC

From: [Board for Judicial Administration](#) on behalf of [Fleck, Deborah](#)
To: BJA@LISTSERV.COURTS.WA.GOV
Subject: [BJA] Proposal re: BJA Membership Restructuring
Date: Wednesday, February 20, 2013 4:34:41 PM
Attachments: [Jim Riehl's comments \(3\).docx](#)
[Deborah Fleck's comments.docx](#)
[BJA RETREAT-possible next steps 12-3-12.docx](#)

Dear Colleagues:

As the four past BJA co-chairs who remain on the bench, we are writing to respectfully express our strong opposition to the draft proposal to substantially restructure the membership of the BJA.

To set out our reasons, we have attached the historical perspective with concerns expressed in Judge Jim Riehl's comments as well as the additional concerns about the proposal, and a partial list of the BJA's major accomplishments, identified in Judge Deborah Fleck's comments.

The current structure implemented the recommendations of the Justice, Efficiency and Accountability Commission for BJA membership, governance and court funding in 2000. Page 5 of the report at this link summarizes those recommendations: <http://www.courts.wa.gov/committee/pdf/report.pdf>

We believe the current membership structure has served the judiciary and the judicial branch very well in the past dozen years, perhaps most importantly in the trust judges have in the BJA and in the increased recognition by legislators of the BJA as the voice of the judiciary. BJA, with the support of AOC staff, has a solid record of significant accomplishments since 2000.

We have also attached a two-page document with possible next steps prepared by Judge Fleck following the BJA Retreat last fall to carry forward Chief Justice Madsen's vision to increase the power and authority of the BJA, without a wholesale restructuring of the BJA which has met the goals set forth in the JEA report for years.

Respectfully submitted,

Jim Riehl

Judge, Kitsap County District Court
BJA member 1995-1996; 2000 - 2007; 2013
BJA Co-chair, 2001 -2003

Deborah Fleck

Judge, King County Superior Court
BJA member 2001 – 2013
BJA Co-chair, 2003 - 2005

Vickie Churchill

Judge, Island County Superior Court
BJA member 2001 – 2009
BJA Co-chair 2007 - 2009

Michael Lambo

Judge, Kirkland Municipal Court

BJA member 2008 – 2016

BJA Co-chair 2009 - 2011

Cc: DMCJA Board, c/o [Shannon Hinchcliffe](#)
SCJA Board, c/o [Regina McDougall](#)

This e-mail has been sent to everyone in the BJA@LISTSERV.COURTS.WA.GOV mailing list. To reply to the sender, click Reply. To reply to the sender and the mailing list, click Reply All.

You can remove yourself from this mailing list at any time by sending a "SIGNOFF BJA" command to LISTSERV@LISTSERV.COURTS.WA.GOV.

Jim Riehl's comments on BJA restructuring

I too have major concerns regarding the proposal to restructure the BJA. Without sounding too much like an old senior judicial officer who has sat on the bench for the last 30 years, I believe it is important to revisit the history of the BJA and explain why this proposed restructuring is a major step back for the entire judiciary.

I had the privilege of sitting on the original BJA in the mid 90's as the President of the DMCJA. The BJA at that time was merely an extension of the personality of the Chief Justice. We would meet when the Chief decided to meet. Other than the Presidents of each of the trial courts, as well as the Court of Appeals, there were no other representatives. The Chief was the chair, period. There were times we did not meet for months and other than the Chief, no one else was really encouraged to raise any issues. The perception of the trial courts was that BJA was totally irrelevant to their members and that became quite apparent to Chief Justice Richard Guy when he became Chief. In 1999-2000, he spearheaded a movement to reconstitute the BJA. He brought together past members of the BJA as well as Bar Leaders, including Wayne Blair, to begin a discussion of what needed to change. The input was widespread and inclusive of all levels. And he made it clear that he would take as much time as necessary to reach a consensus.

I recall the meetings quite well. Most were conducted at the AOC office in downtown Seattle. And the representatives from the trial courts, including myself, made it very clear that in order for the trial courts to "buy in" to the notion that the BJA spoke with one voice, a number of changes had to be made. We encouraged the change in the chair position to include a member co-chair from the trial court. In addition, we encouraged increasing the number of representatives for each trial court, 4 of which would be members who would speak for the entire judiciary and not representatives of their Association. We also recommended that the Associations would be given an opportunity for their Presidents to be members for the purpose of speaking specifically on behalf of their Associations. Otherwise, the perception would continue to persist that the BJA was really only an arm of the Supreme Court. Finally, we felt it extremely important that at least one member of each level of court would have to agree for the BJA to take a position on any issue.

I am of the opinion, as a past member of the BJA from 2000-2007 and past chair from 2001-2003, that this structure has served the judiciary of this State extremely well for the last 13 years. The BJA, I believe, has been the most significant accomplishment of our judiciary in the last 30 years. Although I am not opposed to examining and tinkering with certain aspects of the mission and goals of the BJA, I believe this proposal is a giant step back and a strong statement to the trial courts that their voice shall be lessened. I suspect the trial courts once again will feel disenfranchised just as they had prior to 2000.

I am at a loss as to the need to rush thru these proposals prior to the Associations' full review and input. Apparently the BJA meeting for February has been cancelled and the trial court's spring conferences aren't until April and June. The impression I received from the last BJA meeting was that the goal was to vote on the proposal at the March meeting. I would oppose such a timetable and propose continued discussion with adequate timing for the trial courts to address the issues.

Dear BJA Colleagues:

The following are my comments regarding the proposed BJA restructuring.

I have been a member of the BJA since 2001, first as the non-voting president-elect of the SCJA, then as a one-year voting member in my role as SCJA President, and after the spring of 2003, as an elected member of the BJA.

BJA Retreat: I understood the focus of the BJA Retreat on September 21-22, 2012 to be the potential restructuring of the BJA's power and authority. Since she became Chief, our Chief Justice, Barbara Madsen, has stated she wants to increase the power and authority of the BJA.

At the Retreat, former Utah Chief Justice Durham and the Utah Court Administrator made a presentation of their Judicial Council. That Council membership is very similar to the BJA – five members from the limited jurisdiction, superior and appellate courts for a total of 15, serving three year terms, compared to our four year terms. Utah has a unified court system, we do not. The Utah Judicial Council has budget as well as policy-making authority – all of the other judicial branch committees, commissions, etc. report to the Council as the decision-making body for the branch on policy and budget. Also, like Utah's Council, BJA members do not serve in a “representative” capacity of their court or court level, but rather make decisions that serve the entire branch.

It makes sense, then, that at the end of the Retreat (after several judges left to attend Judge LaSalata's funeral), we took several easy votes essentially confirmed by what we had heard about the effective Utah Judicial Council model. There was no reason presented to change the membership – ours paralleled theirs. We voted to keep the representation from each court level, to keep four year terms, to keep the co-chairs with the trial courts and the Chief, and left undecided only the issue of the requirement of at least one vote from each of the three court levels. We also voted to keep BJA with only judges as voting members. The executive directors of OPD and OCLA were present and affirmatively stated their agreement that they not be voting members. **This structure provides necessary checks and balances.**

Currently, BJA is the policy making body for the judiciary, and it is often said, of the judicial branch. Last year over many months, the BJA approved and the Supreme Court adopted a new, more transparent budget process that has better input from the trial court Associations relating both to our budget items and regarding the AOC budget, that retains the trial courts' independent ability to work with the legislature, but also that confirms our commitment as a branch of government to “speak with one voice.” It retained the Supreme Court's final decision-making on budgets however.

The concern raised at the conclusion of the Retreat regarding the potential for change was that to give the BJA more power, the Supreme Court and the trial court Associations would have to give up some power.

The Draft Proposal: It was my impression that the small group picked to address structure would focus on giving BJA more power and authority, similar to Utah's Judicial Council. After the Retreat, I sent the attached document to the SCJA executive committee reflecting my thoughts and suggestions on how to move forward in pursuing that goal and the Chief Justice's vision.

I am puzzled that after the votes taken at the Retreat regarding retaining the membership structure, this proposed draft is largely focused on changing the make-up of the membership. There does not appear to be any part of the proposal directed at giving BJA more power and authority for budget and policy, as in Utah, with all other judicial branch groups presenting proposals to the BJA for decision-making.

I don't believe the Supreme Court or the appellate courts give up authority under the proposed reorganization. **What this proposal does do, however, is significantly minimize the voice of the trial courts with fewer votes and no trial court Association Board officers allowed to serve. Under this proposal, the appellate courts have a greater presence on BJA compared to the trial courts: for 31 judges - 4 votes, for over 400 trial court judges - 6 votes, and no one in trial court Association officer level leadership will be eligible.**

I fear that there will be far less trust, by the trial courts at least, and a greater likelihood that as a judiciary, we will devolve into working separately rather than together.

One judge on the BJA at time of the 1999/2000 restructuring has said that Justice Guy was told very bluntly that the trial courts had no faith in BJA. We have also continued since 2009 to experience some communication difficulties between the BJA, the AOC and appellate courts on the one hand, and the superior courts on the other, which has also raised issues of trust.

By reducing the representation of the trial court judges, and eliminating the one year position for trial court Association presidents, many other problems are likely to emerge.

A much smaller BJA creates serious difficulties for the trial courts in terms of maintaining diversity, something we need and value considering our size of well over 400 trial court judges around our state in large and small courts, in urban and rural communities, to name just some of the diversity issues. A Board of 15 members is also a Board where a full range of ideas, points and counterpoints, are expressed, based on this diversity. It is not insular.

A 15 member Board is large enough so that we as lower court trial judges feel an ability to express a differing viewpoint from that of the state judiciary's Chief Justice and/or other judges at the appellate level. There is no question that this will be lost with a smaller board.

One reason expressed for the proposed elimination of the position of trial court Association presidents is that they are less likely to consider the good of the branch as a whole. Arguably, the same could be said about appellate judges with their increased presence, relatively speaking, not being familiar with the needs of the trial courts.

There is no evidence of Association Presidents acting in a parochial manner that I can recall over the past dozen years, nor has any example been given. The President judges who "have their finger on the pulse" of the trial court judges and their levels of court and who are charged to speak for the trial courts (just as the Chief Justice is charged to do for both the Supreme Court and the BJA), would no longer be members under this proposal. Yet the President Judges serve in their one year term as a very good "bridge" or "connection" between the trial courts themselves on the one hand and the BJA on the other hand. This proposed separation would further create distrust between the trial courts and their Associations and Boards with respect to the BJA and appellate courts.

Another reason expressed regarding the need for a change in the membership is that the BJA would be more effective and efficient, that it will make decisions more quickly.

The BJA is intended to be a deliberative, policy-making body. Contrary to the premise of this proposed reorganization that BJA is ineffective, we have, with support of AOC staff, accomplished a tremendous amount in the last 12 years.

1. The 1999/00 **JEA Report** has been brought up again in the last couple of years. It was the foundation for the restructuring in 2000 of the BJA, something that has made it a far more effective body with the legislature.

The superior court judges work with the legislature, "elected official" to "elected official." Many know the legislators personally and we are able to make contact on issues of importance to us through the use of our "Contact List." I believe the DMCJA judges have something similar. With fewer meetings and the Association officers uninvolved with the BJA, I believe the trial courts will feel the need to take action, given the fast pace of action in the legislature. This will reduce our ability to work together as a judiciary, one of the best results of the 1999/2000 BJA restructuring.

2. We devoted an intensive six months to **Project 2001** and accomplished its recommendations - a constitutional change (never an easy task) allowing portability of judges, the Trial Court Coordinating Councils and the stronger Presiding Judge rule. (Project 2001 was in response to a legislative proposal to create a unified trial court system in Washington.)
3. We constituted the **Time to Trial Task Force**, again with a lot of effort and broad input, and changed the speedy trial rule and all of the case law that went before. (This Task Force was in response to legislative efforts to change the law because of a case involving a felon who committed serious crimes upon release because of the speedy trial rule.)

3. We began "the most significant reform of the judicial branch since statehood" (Chief Justice Alexander's words) through the intensive two year **Trial Court Funding Task Force** leading to the **Justice in Jeopardy Initiative** and we achieved \$78 million/biennium in new funding for the trial courts until it stalled with the economic crisis in 2009, including substantial funding for indigent defense and parent dependency representation to say nothing of the creation of the Office of Civil Legal Aid. The Trial Court Funding Task Force was in response to the funding problem of the trial courts that had been identified by all the judicial Task Forces and Commissions for the previous 20 to 30 years, with each recommending an adequate, more stable funding structure for Washington's trial courts.

I fear the Justice in Jeopardy Initiative of the BJA will drift away when the economy improves if there is a reduced trial court representation on the BJA. The goal of the JiJ Initiative is to achieve roughly 50% funding by the state for the trial courts by funding those costs mandated by the constitution and state statute. Despite trial court acquiescence in making limited or no requests since the economic crisis beginning in 2008, it appears that the appellate courts are concerned that any requests for state funding from the trial courts to achieve this long-advocated goal will mean a reduction in appellate court funding. It would be understandable for a reconstituted BJA with reduced trial court membership to have minimal interest in this subject. **With the proposed minimized presence of the trial courts on BJA, it is more likely that the focus will be on Olympia, and what the appellate courts want and the agency wants.**¹

4. In the past year, starting with a facilitated meeting of a large ad hoc group, another meeting of that group, and additional discussion at BJA meetings, **we have also just revamped the budget process for the judicial branch with respect to requests to the legislature.**
5. We developed a proposed **court rule to address formally the issue of public access to court administrative records.** (This was in response to a clear concern that the legislature would bring the judicial branch under the PRA by statute.) The Work Group chaired by Judge Marlin Appelwick presented its proposal; a lot of effort went into that work product by the Work Group, as well as a lot of effort in the analysis and proposed changes to it by the members of BJA. We devoted portions of several board meetings to discussing and voting on the complex issues and policy involved in this proposed rule. This is such a complex and important issue that the Supreme Court has now revised it again, and sent it out for another comment period.
6. A BJA Work Group chaired by Judge Michael Trickey developed the Family and Juvenile Court Improvement Plan proposal, something that was included in the

¹Jeff Hall, our previous Administrator of the Courts, stated at the June 2010 BJA meeting that "[t]he AOC exists largely to support the trial courts." This is of course logical, considering the numbers of trial court judges and what is required to train and otherwise serve their needs.

Supreme Court's budget. (This was in response to the concerns of some legislators that the dependency system needed to change.)

7. In the past year, a BJA Work Group chaired by Judge Sara Derr took up the issue again of Regional Courts of Limited Jurisdiction, a recommendation of the Trial Court Funding Task Force's Courts of Limited Jurisdiction Work Group chaired by Judge Ann Schindler and Ron Ward. This new Work Group made proposals, starting with a small step that we are pursuing.
8. There are many other issues of major concern to judges at the various levels of court that have required us to work together for the benefit of all. One involved the Bar Association's effort to require judges to pay full Bar Association dues and be in some ways accountable to the Bar Association. With a lot of effort, we were able to reach a resolution of that issue.
9. Another effort involved judicial retirement. Although financed privately, we worked over three legislative sessions to successfully restore the judicial retirement benefits that serve to recruit and retain highly capable judges. It is difficult to describe the amount of effort by a small committee devoted to this effort for the benefit of judges at all levels of court that also furthers the quality of the Washington State judiciary.
10. In the past year or two, we developed and adopted a Resolution process for the BJA to speak, similar to the Resolution process of the national Conference of Chief Justices. We have adopted two significant Resolutions under the new process – one addressing Race and the Justice System, and the other addressing the due process requirement for Interpreters, a major issue for the trial courts with the increasing diversity in our state.

There are many other efforts and decisions of the BJA that could be mentioned.

When BJA was reconstituted, then-Chief Justice Guy courageously wanted to move from an organization under the control of the Supreme Court to one that is inclusive of the trial courts. That is why we have a BJA with five members from each trial court level (total of ten) and five members total from the appellate courts, a trial court judge co-chair and a requirement that at least one member of each court level must vote in favor of any proposals before the Board. This has helped us work together rather than separately as appellate courts and trial courts. It has also fostered the sense that a BJA decision does in fact serve the best interests of the judiciary and the branch as a whole. Several judges, some of whom were BJA members at that time recall the major restructuring of BJA in 1999/2000. These judges recall Justice Guy and Court Administrator Mary McQueen making the rounds to various benches to present the proposed changes focused on giving the trial courts a voice in order to achieve "buy in."

This proposal would be a big step backward. A fast track of this proposal, reducing the current membership by trial court judges and eliminating their

Board Presidents, is not in the judiciary's, the judicial branch's or the BJA's long term interest.

The other proposals in this draft do not seem to follow the Utah Judicial Council model but should be explored. **We could also explore increasing the power and authority of the BJA to make it similar to the Utah Council, which would have all judicial branch entities under the BJA – judicial education, policy, budget, etc. That was the main focus of the Retreat.**

As many trial court judges have said of this proposed change to the BJA membership, "If it isn't broken, don't "fix" it." The past BJA co-chairs who are still sitting judges, Judges Riehl, Lambo and Churchill, also join me in raising these concerns.

Sincerely,

Deborah D. Fleck

BJA RETREAT - SEPTEMBER 21 - 22, 2012

Chief Justice Madsen has initiated a review of the BJA and its role, in light of the multiple efforts by branch member organizations and stakeholders to improve the administration of justice in Washington state that sometimes overlap in this non-unified court structure.

Goal: Reorganize the Washington Judicial Branch to make it more efficient and effective by strengthening the BJA

Barriers: Potential opposition by the Supreme Court and the Trial Court Associations

Minimize barriers: By reducing the sheer number of changes that will need to be accepted, the opportunity for acceptance of significant proposed changes is maximized.

BJA structure: The BJA structure is currently quite similar to the Utah Judicial Council, a structure that works in that state, which has a unified judicial branch.

At the conclusion of the Retreat, those present voted to retain the current makeup of BJA, with five members from the DMCJA, five members from the SCJA, and five members from the appellate courts – with one member from each division of the Court of Appeals and two members from the Supreme Court. Each of the three levels retains its own method of selecting members. The members serve to pursue the interests of the judicial branch as a whole.

The votes also included retaining 1) the current four year terms and 2) the co-chair system, with one co-chair selected from the trial court members for a two year term, alternating between the DMCJA and the SCJA. The other co-chair is the Chief Justice. (Although Utah has three year terms, four year terms work well in Washington because it maximizes the opportunity for those serving on BJA to serve as co-chair, and is consistent with the original goal of having members who are highly knowledgeable and engaged.) The current structure of having the trial court associations' president-elects and the Chief of Chiefs of the appellate courts participate as non-voting members has worked well, preparing the presidents for their one year term.

Other judicial branch groups would continue to be invited as non-voting members or liaisons, such as the Court Administrator, the president and executive director of the Washington State Bar Association, the directors of OPD and OCLA, the president of the superior court's juvenile court administrators association, the president of the trial court managers' associations, and perhaps others.

The issue of whether we would retain the current requirement that there be at least one vote from each of the three court groups needed further discussion.

Background: BJA has been described as the policy-making body of the judicial branch. The BJA, staffed by AOC, has undertaken a number of large and complex issues in the last dozen or more years, including the Justice, Efficiency and Accountability Task Force in the late 1990's, Project 2001 conducted in 2000, the Time for Trial Task Force in the early 2000's, the Trial Court Funding Task Force from 2002 - 2004, the Justice in Jeopardy Initiative begun in

2005 and continuing until it stalled with the economic crisis in 2009, the reorganization of the budget process in 2011-12, among many smaller issues.

Proposals that may be part of an internal reorganization of the judicial branch:

- 1) **Retain the current structure of the BJA at least for now** (a smaller group is likely to be opposed because judges will not want major decisions handled by a small group, the current structure has tackled some very large, complex issues effectively over the past dozen years, and maintaining the current structure eliminates “trigger points” for disagreement.)
- 2) **Have the Court Administrator report to the BJA co-chairs – the Chief Justice and to the Member co-chair**
- 3) **Retain the historical role of BJA as the policy making body of the judicial branch**
- 4) **Retain the new budget process; see #6 below**
- 5) **Retain the current process of the Court of Appeals and the Supreme Court making their own budget proposals and cuts.**
- 6) **Consider making BJA the decision-making body for the AOC budget, and for any requests by the trial courts for additions to that budget presented to the Governor that “pass through” AOC, or in appropriate cases, for any requests to be made directly to the Legislature as well as for reductions in the AOC budget and the “pass-throughs.”** Like the Court of Appeals and the Supreme Court which know what their needs are and are responsible for proposing them, trial courts have the expertise regarding their needs.
- 7) **Reorganize the other judicial branch organizations such that they would make proposals to the BJA – essentially the Utah system:**
 - a. Organizations and committees research and present the proposals;
 - b. BJA members are neutral decision-makers; they do not advocate
 - c. Members are committed to monthly meetings of 4 to 8 hours with members not taking the position without a commitment to attend all or almost all of the meetings.
 - d. Certain groups would present thorny issues regarding how they would fit under this system, including JIS and the separate judicial branch office budgets (OPD and OCLA), due in part to them having members from other groups including clerks and legislators. Perhaps as a first step, these groups would continue as they are.

Perhaps AOC could prepare “briefing books” similar to those prepared by the state bar for its Board of Governors, for the BJA members to be reviewed thoroughly before monthly meetings. In addition, new BJA members should be given training about BJA and their role as members in advance of their terms.

***Superior Court of the State of Washington
for Snohomish County***

LINDA C. KRESE
JUDGE

SNOHOMISH COUNTY COURTHOUSE
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Everett, WA 98201-4060

(425) 388-3954

February 28, 2013

BJA Structure Workgroup Members
c/o Steve Henley
Judicial Planning Specialist
Administrative Office of the Courts

Re: Comments regarding proposed BJA restructuring

Dear BJA Structure Workgroup Members:

Having reviewed the Report and Recommendations of the BJA Structure Workgroup and the accompanying proposed revised court rules and by-laws to implement the recommendations, I have a number of concerns:

First, the proposed changes do little to alter the current functioning of the BJA or the governance of the judicial branch. While the recommended changes purport to give the BJA enhanced responsibilities by providing it oversight of the budget of the Administrative Office of the Courts (AOC) and the responsibility for providing general direction to the AOC, by excluding the Supreme Court, the Courts of Appeal, the State Law Library, the Office of Civil Legal Aid and the Office of Public Defense, the only thing this proposal seems to accomplish is to give BJA and AOC more authority over the trial courts while at the same time reducing the representation and power of the trial courts on BJA. The trial courts give up much under this proposal and the appellate courts and other parts of the judicial branch give up nothing.

Second, the proposal to reduce the size of the board is objectionable on several grounds:

1. As noted above, it reduces the authority of the trial courts by giving each level of trial court only three representatives while the appellate courts will have four. Currently, each level has five representatives.
2. It eliminates the requirement that there be at least one vote from each level of court to approve action by the BJA, thus further eroding the power of the trial courts.
3. It reduces representation and diversity on the BJA. Of particular concern, is that if one or two representatives of either the superior court or the courts of limited jurisdiction cannot

attend a meeting (and everyone has events, weddings, funerals, graduations, etc., that will sometimes interfere over the course of a four-year term), then that level of court will have only one or two representatives at a given BJA meeting.

4. It leaves too few members to do the work of the BJA under the proposed restructuring into three standing committee. Each committee will either have only three members (plus the chief?) or board members will be required to serve on multiple standing committees. The proposal is unclear in this regard. If there is only one representative from each level of court, if that representative cannot attend a meeting, that level of court will not be represented at all.
5. Prohibiting officers of the SCJA and the DMCJA from serving is offensive in the suggestion that these individuals, who have usually served the courts in many capacities and are very familiar with the issue facing the judicial branch, cannot take into consideration the welfare of the judiciary as a whole. Furthermore, it prohibits those persons who may have the broadest picture of how a proposal would impact their level of court from participating on the BJA. This type of input may be particularly important in determining the best interests of the entire judiciary.

Finally, in my opinion forcing this reorganization on the trial courts is likely to create resentment and impair the positive working relationship that has been established by the BJA during the last 10 years. If there is a need for a change in the way the BJA operates it should be a change that all levels of court buy into and support. The current proposal is not such a change and will not enhance cooperation among the different levels of court.

Thank you for the opportunity to comment on this proposal,

Very truly yours,

Linda C. Krese
BJA representative for Pierce and Snohomish Counties

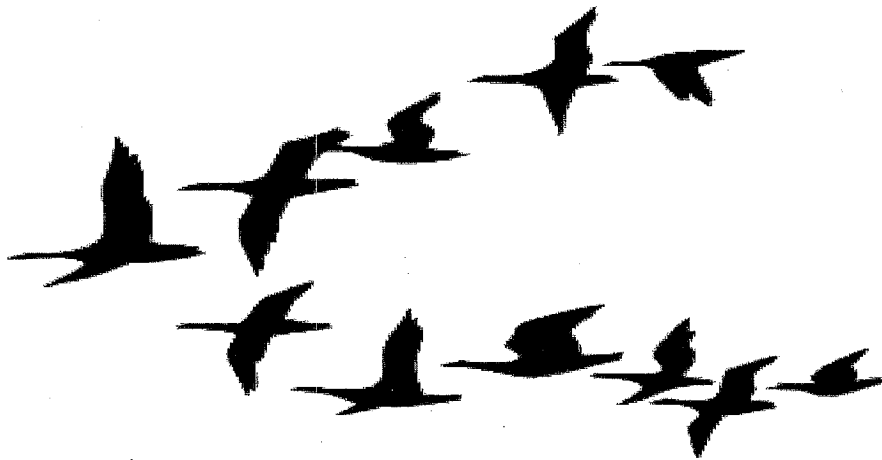
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Board for Judicial Administration

REPORT



Governance Retreat
September 21-22, 2012

BJA Governance Retreat Report

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Introduction

On September 21-22, 2012, thirty judges, administrators, judicial branch agency directors, and Administrative Office of the Courts staff came together to discuss the future of the Board for Judicial Administration.

We wish to express our sincere appreciation to these dedicated members of the judicial branch who volunteered their time to discuss ways of enhancing the system of governance in Washington State. Participants started this important work prior to the retreat by reviewing a variety of materials including documents that created the Board for Judicial Administration originally as well as the improvements that resulted from the Report of the Washington State Commission on Justice, Efficiency and Accountability in 1999. Additionally, participants were asked to familiarize themselves with governance principles that had been employed in Utah as a possible model for Washington to consider.

The retreat was the first step in a continuing dialog. It raised many questions that we are now attempting to answer. However, we were gratified to learn that on the very fundamental questions regarding whether there should be a governance body and a unified message, the answers were clearly in the affirmative.

To finalize the work begun at the retreat, two work groups consisting of current court association leadership will be created. One group will develop recommendations for BJA structure and the other group will make recommendations concerning committees and commission membership. These will be presented for formal approval by the full Board for Judicial Administration. It is anticipated that these recommendations will be ready for consideration in February 2013.

We look forward to continuing to build on these efforts.

Sincerely,

Chief Justice Barbara A. Madsen
Chair, Board for Judicial Administration

Judge Chris Wickham
Member-Chair, Board for Judicial
Administration

Participants

Members of the Judiciary

Honorable Barbara Madsen, Chief Justice, Washington Supreme Court (BJA Chair)
Honorable Chris Wickham, Thurston County Superior Court (BJA member-chair)
Honorable Susan Owens, Washington Supreme Court
Honorable Christine Quinn-Brintnall, Chief Presiding Judge, Court of Appeals, Division 2
Honorable Ann Schindler, Court of Appeals, Division 1
Honorable Craig Matheson, Benton/Franklin Superior Court (President, Superior Court Judges' Association)
Honorable Deborah Fleck, King County Superior Court
Honorable Linda Krese, Snohomish County Superior Court
Honorable Scott Sparks, Kittitas County Superior Court
Honorable Sara Derr, Spokane County District Court (President, District and Municipal Court Judges' Association)
Honorable Janet Garrow, King County District Court
Honorable Jack Nevin, Pierce County District Court
Honorable Kevin Ringus, Fife Municipal Court
Honorable Stephen Dwyer, Court of Appeals, Division 1 (Facilitator)
Honorable Ellen Fair, Snohomish County Superior Court (Facilitator)
Honorable James Riehl, Kitsap County District Court (Facilitator)

Special Guests

Honorable Chris Gregoire, Governor
Honorable Christine Durham, Utah Supreme Court (former Chief Justice)
Mr. Dan Becker, Utah State Court Administrator
Ms. Laura Klaversma, Court Services Director, National Center for State Courts

Judicial Branch Associations

Mr. Pat Escamilla, Administrator, Clark County Juvenile Court (President, Washington Association of Juvenile Court Administrators)
Ms. LaTricia Kinlow, Administrator, Tukwila Municipal Court (President, District and Municipal Court Management Association)
Ms. Michele Radosevich, President, Washington State Bar Association
Mr. Paul Sherfey, Chief Administrative Officer, King County Superior Court

Judicial Branch Agency Directors

Mr. Jim Bamberger, Director, Office of Civil Legal Aid
Ms. Joanne Moore, Director, Office of Public Defense

Administrative Office of the Courts

Ms. Callie Dietz, Interim State Court Administrator
Ms. Beth Flynn, Executive Assistant
Ms. Ileen Gerstenberger, Court Educator
Mr. Dirk Marler, Judicial Services Division Director
Ms. Mellani McAleenan, Associate Director, Board for Judicial Administration

Principles of Court Governance

As part of a series from the *Executive Session for State Court Leaders in the 21st Century*¹, Utah Supreme Court Justice Christine Durham and Utah State Court Administrator Daniel Becker authored "A Case for Court Governance Principles," which formed the basis for much of the Board for Judicial Administration (BJA) Governance Retreat discussions. The paper is reproduced in its entirety beginning on page 13 of this report.

In developing the agenda for this retreat, these principles were reviewed and nine were selected to be the basis for additional discussion:

- A well-defined governance structure for policy decision-making and administration for the entire court system.
- Meaningful input from all court levels into the decision-making process.
- Commitment to transparency and accountability.
- A focus on policy level issues; delegation with clarity to administrative staff; and a commitment to evaluation.
- Open communication on decisions and how they are reached.
- Clear, well-understood and well-respected roles and responsibilities among the governing entity, presiding judges, court administrator, boards of judges, and court committees.
- A system that speaks with a single voice.
- Authority to allocate resources and spend appropriated funds independent of the legislative and executive branches.
- Positive institutional relationships that foster trust among other branches and constituencies.

The principles were grouped into three categories of similar dimension, and retreat participants were asked to determine whether these principles should be applied in Washington and how. Along with these principles, participants were asked to discuss three general topics:

- Why do we need a Board for Judicial Administration?
- Who is the Board for Judicial Administration?
- How will the Board for Judicial Administration function?

¹ Learn more about the Executive Session for State Court Leaders in the 21st Century at the National Center for State Court's website at <http://ncsc.org> or Harvard's website at <http://www.hks.harvard.edu/programs/criminaljustice/research-publications/executive-sessions/esstatecourts>

Discussion

Retreat attendees were divided into three groups, each with a facilitator and a recorder, to discuss both the principles and the general topics as they related to three of the principles. Each group discussed the general question with regards to application of the three principles chosen for that topic. Reports to the full group were given by the facilitators after each “breakout” group discussion was completed. There was overlap in discussion topics between groups. Consensus issues are only listed in one group report to reduce redundancy.

In the first “breakout” discussion, participants were asked **“Why do we need a Board for Judicial Administration?”** and to discuss the following principles:

- A well-defined governance structure for policy decision-making and administration for the entire court system.
- A system that speaks with a single voice.
- Positive institutional relationships that foster trust among other branches and constituencies.

Issues presented included whether an entity such as the Board for Judicial Administration is necessary and, if so, why. Questions also included who the BJA should represent and what topics should be included within the BJA’s purview. Consensus was developed on the following conclusions:

- Speaking with a single message is necessary and appropriate as long as there is confidence that all positions are being considered in the development of that single message.
- Having a cacophony of voices working on the same problems can lead to differing conclusions and the inability to make good policy decisions. There is much duplication of effort in our current system.
- There needs to be a body that is future-thinking, and it is appropriate that the BJA is that body.
- There is a need for commonly accepted values, and the BJA’s work relates to that.
- The BJA struggles with the notion of independence of its members at the court level.
- There is no clear sense of who is in charge of what. There is a need to reopen the “jurisdictional” debate – what is the BJA in charge of and how much power does it need to have to make change?
- The BJA needs more power. In order for the BJA to have power, others have to relinquish some power to the BJA.
- Fostering relationships outside of the branch important, but fostering feelings of mutual trust and respect within the branch and court levels is equally, if not more, important.
- The BJA can and should do more with administrative rulemaking.

- To make the BJA more effective, there should be a better articulation of norms and expectations, which should be used as a recruitment and orientation tool. BJA members should do more consistent outreach and nurturing of judiciary leadership with a more intentional educational process about the benefits of a stronger BJA to the whole judiciary.
- A version of the Utah Judicial Council Norms should be adopted.²
- The BJA needs to be resourced appropriately in order to be successful.

In the second “break out” discussion, participants were asked “**Who is the Board for Judicial Administration?**” and to discuss the following principles:

- A focus on policy level issues; delegation with clarity to administrative staff; and a commitment to evaluation.
- Clear, well-understood and well-respected roles and responsibilities among the governing entity, presiding judges, court administrators, boards of judges, and court committees.
- Authority to allocate resources and spend appropriated funds independent of the legislative and executive branches.

Issues presented included the composition of the BJA membership, including whether the BJA should include non-judge members and how members should be selected.

Consensus was developed on the following conclusions:

- Clear guidance to the Administrative Office of the Courts (AOC) would be beneficial. There is a lack of understanding about the AOC’s functions. The AOC is pulled in many different directions, which makes it difficult to identify priorities.
- An evaluation process is important in setting policies and determining if they are carried out.
- Membership in the BJA carries a significant time commitment. Incentives for membership should be considered.
- The Utah model of advocacy from subgroups rather than members has merit.³
- Membership in the BJA should be limited to judges but the other judicial branch stakeholders play a valuable role in providing information.
- Expanding membership beyond the judiciary would make the development of a unified message very difficult because each group has different priorities. Coalitions are important and can be achieved without actual voting membership on the BJA.
- Not all groups are necessary participants at all times, but they should be included when necessary.
- Too large of a group can be unwieldy.
- Present terms and selection of chairs is appropriate.

² See Utah Judicial Council Norms at page 26

³ See Utah Judicial Council Norms at page 26

In the third “break out” discussion, participants were asked “**How will the Board for Judicial Administration function?**” and to discuss the following principles:

- Meaningful input from all court levels into the decision-making process.
- Commitment to transparency and accountability.
- Open communication on decisions and how they are reached.

Issues presented included whether BJA members should represent their individual constituencies or the judiciary as a whole and how decisions should be reached and subsequently communicated. Consensus was developed on the following conclusions:

- Some thought should be given to how the BJA communicates its decisions to others.
- Much progress has been made since the creation of the original BJA. The positive changes should not be forgotten.
- The addition of a co-chair was a positive change.
- Without the BJA, there is no other audience for a single court level to obtain “buy in” on issues that are specific to that association.
- BJA members currently appear to engage in caucus decision-making with each court level voting as a bloc, but the BJA members should be making decisions in the best interest of the judiciary as a whole.
- The president of each association should speak on behalf of that association but the other court level members should make decisions on behalf of the judiciary as a whole and not on behalf of their particular association or court level.
- Task forces and work groups can be an important part of the decision-making process but should not be used to delay making difficult decisions.

Next Steps

Many questions remain about the details regarding the structure of the Board for Judicial Administration, but the discussions at this retreat make it clear that the judiciary and judicial branch members who attended believe in the need for a BJA as the entity that develops policy for the Washington judicial branch and provides the means for the judiciary to speak with one voice. To address those remaining structural questions, two work groups consisting of current court association leadership will be created. One group will develop recommendations for BJA structure and the other group will make recommendations concerning committees and commission membership. This process is anticipated to take approximately ninety days, so approval by the full BJA should occur in early 2013.

A summary report from Laura Klaversma of the National Center for State Courts is included on page eight. Ms. Klaversma suggests specific next steps for defining the BJA's structure, roles, and responsibilities. After these questions are answered, the long-range planning process for the Washington judiciary can be fully implemented building on the work of previous planning committees, the work of the retreat, and interviews conducted by Ms. Klaversma and her colleague, Tom Clarke.

NCSC Summary Report



A nonprofit organization improving justice through leadership and service to courts

Mary Campbell McQueen
President

Daniel J. Hall
Vice President
Court Consulting Services
Denver Office

TO: Barbara A. Madsen, Chief Justice
Callie Dietz, Acting SCA
FROM: Laura Klaversma
Tom Clarke
DATE: September 25, 2012
RE: Washington Long-Range Planning
Site Visit Interviews 9/18-9/19
BJA Retreat 9/21-9/22

Issues and concerns that arose from those interviewed during the site visit:

- Who did the interviewees think is leading and in charge of the long-range planning effort?
Interviewees had a variety of answers; unclear as to who was leading and in charge. They mentioned the following:
Chief Justice?
Supreme Court?
BJA?
Steve Henley?
- What did the interviewees think is the long range planning strategy?
Interviewees were uncertain.
Some thought it was only an effort for the Administrative Office.
Some thought it was only an effort for the Supreme Court.
Quite a few did not know what the effort was trying to be.
Some said it was too broad.
Some said it was too top down.
Some said it did not affect them.
- What did those who have participated in the process think of the long range planning effort?
Too much "pie in the sky."
Too much time and no result.
No direction or plan.
Too many starts and stops.
Waste of time.

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Effort has a hidden agenda.

- What did those who have not participated in the process think of the long range planning effort?
 - Most do not know about it.
 - Others have no interest in it.
 - Some said it does not affect them.
 - Some said that decisions could not be enforced in a decentralized state.

Conclusion from Interviews:

The current long-range planning effort is ineffectual. This is due to at least two primary reasons.

- 1) There is no governance in place or accepted as governance to carry out the planning and implementation. The BJA, members and non-members, view the planning effort with distrust, disinterest or lack of understanding. The Washington Chief Justice and Supreme Courts of the past have been uninvolved and inactive in administering and leading any planning or governance effort. No precedence or cultural expectation that the Supreme Court or the Chief Justice would lead this.
- 2) The process, traditional strategic planning, is not a good fit for courts in general and particularly a heavily decentralized state such as Washington.

Conclusion from BJA Retreat:

During the BJA retreat it seemed that the members felt that there is a need for the BJA structure and culture to change in order to be effective. There was no indication that any of the members thought the BJA should cease to exist. The Board for Judicial Administration Rules (BJAR) state that one of its duties is to “establish a long-range plan for the judiciary.”

Recommendations:

- 1) The BJA structure, roles and responsibilities need to be clearly defined and acknowledged if it is to be of any value in governing or developing long-range planning.
- 2) The Commissions, Boards and Committees for the BJA and Associations needs to be reviewed and modified to give clarity and authority to those within the BJA. This can also help in lessening the time strain on the volunteer judges, court administrators and clerks as well as staff in the Administrative Office of the Court that support them.
- 3) Once the first two recommendations are completed, a Long-Range Planning Effort designed for loosely coupled organizations can be initiated.

Next Steps:

Review material and information from Long-Range Planning effort. Develop a document that presents the accepted mission, vision and values. To accomplish this quickly, we suggest first having AOC staff develop the materials from the information that has

already been developed. The NCSC can then review and suggest changes to the document, especially with the Principles based on work in other states.

The following plan should be presented to the BJA membership at the October meeting. If the document with the Mission, Vision and Values is ready, this can also be presented to the BJA membership to start the process.

Phase 1:

- 1) Define BJA Structure, Roles and Responsibilities
 - a. A select group of BJA members, to include the President and President-Elect of each court level as well as the Co-Chairs of BJA, will meet at a retreat (one-two days) to do the initial development. Through electronic means or shorter meetings, the document can be reviewed, finalized and approved.
 - b. The document, once reviewed and approved by the group, will be presented, discussed and approved by the BJA members. The goal for completion of this document will be the end of January with the approval by BJA members at the February meeting.
 - c. Once approved, the BJA members will present to their associations for approval.

Phase 2:

- 1) AOC staff will provide a list of BJA and Association Committees, Boards, Commissions, Task Forces to the BJA members. It is preferable that the BJA members receive this at least one week prior to the next BJA meeting in October.
- 2) BJA will have a working meeting to discuss redundancies and plan for ways to consolidate Committees, Boards, Commissions, and Task Forces. One of the goals will be to reduce time and efforts by judges, clerks, court administrators and AOC staff. Another goal would be to increase the opportunity for communication by increasing the cross pollination of committees and efforts. Another goal would be to focus efforts of the Judiciary as a whole and increase the opportunity for successful results in the areas that the committees, boards, commissions and task forces have common objectives.
- 3) BJA will make a plan of action to run concurrently during the 90 day effort for delivering a BJA structure, roles and responsibilities document. The final recommendations of Phase 2 should enhance the efforts of Phase 1.

Phase 3:

The Long-Range Planning Process should be initiated once the governance is in place, through the auspices of the BJA. This process should follow the Strategic Planning for loosely coupled organizations model.

- What does the planning process look like?
 - Short term time line for process with planning taking three-six months
 - Designed around campaigns, two-three areas of focus with distinct steps for implementation
 - Based on the premise that those implementing the campaigns do so voluntarily
- What are the steps for the planning process?

- 1) Organize:
 - a. Select members of the BJA
 - b. Establish a timeline
 - c. Plan steps to completion
- 2) Gather input on campaigns:
 - a. Surveys
 - b. Focus groups
- 3) Review information gathered through surveys and focus groups
 - a. Refine possibilities for campaigns using criteria
 - b. Further in-depth analysis on selected campaigns
- 4) Make recommendations to BJA for campaigns selected
- 5) Develop strategies and steps for each campaign


A Case for Court Governance Principles

Perspectives on
State Court Leadership

A CASE FOR COURT GOVERNANCE PRINCIPLES

*One in a series from the Executive Session
for State Court Leaders in the 21st Century*

written by
Christine M. Durham
Daniel J. Becker

 HARVARD Kennedy School
Program in Criminal Justice
Policy and Management

NCSC
National Center for State Courts


State Justice Institute

 **BIA**
Bureau of the
U.S. Department of Justice

Perspectives on State Court Leadership

This is one in a series of papers that will be published as a result of the Executive Session for State Court Leaders in the 21st Century.

The Executive Sessions at the Harvard Kennedy School bring together individuals of independent standing who take joint responsibility for rethinking and improving society's responses to an issue.

Members of the Executive Session for State Court Leaders in the 21st Century over the course of three years sought to clarify the distinctive role of state court leaders in our democratic system of government and to develop and answer questions that the state courts will face in the foreseeable future. Themes addressed include principles for effective court governance, the tension between problem solving and decision making, the implications of social media for court legitimacy, how courts defend themselves from political attack, and the notion of chief justices as civic leaders. Many themes were developed by Session members into papers published in a series by the National Center for State Courts.

Learn more about the Executive Session for State Court Leaders in the 21st Century at:

NCSC's Web site:
<http://ncsc.org/>

Harvard's Web site:
http://www.hks.harvard.edu/criminaljustice/executive_sessions/statecourts

BJA's Web site:
<http://www.ojp.gov/BJA/>

SJI's Web site:
<http://www.sji.gov/>

PAPER AUTHORS

Hon. Christine M. Durham



Justice Christine Durham has been on the Utah Supreme Court since 1982 and has served as Chief Justice since 2002. She served as President of the Conference of Chief Justices 2009-10. In 2007, she received the William H. Rehnquist Award for Judicial Excellence.

Daniel Becker



Utah State Court Administrator Becker took office on September 25, 1995. He previously served in court administration in the states of North Carolina and Georgia. He served as President of the Conference of State Court Administrators in 2004-05. In 2006, he received the Warren E. Burger Award for Excellence in Court Administration.

INTRODUCTION

Hard times can inspire new ways of thinking about old problems. State courts today have ample reasons for questioning the continued viability of traditional approaches to organizing their work and to providing leadership. This paper proposes a set of principles for governing state court systems that is intended to begin a dialogue about how court governance can best be enhanced to meet current and future challenges. Governance is defined as “the means by which an activity or ensemble of activities is controlled or directed, such that it delivers an acceptable range of outcomes according to some established social standard” (Hirst, 2000:24).

The principles outlined in this paper were developed by re-examining what courts, as institutions, need to do internally to meet their responsibilities. This is in contrast to much of the current writing about the future of court governance, which tends to focus on ways in which the state courts can improve their relationship with the other branches of government.

The section that follows sets the stage by describing the ways in which state court systems currently are structured. The manner in which state court systems are organized presents problems for effective court governance. The next section discusses the distinctive cultural problems associated with governing courts as opposed to other parts of state government. Existing discussions of court governance are insufficiently attentive to this cultural dimension. Eleven principles of court governance are then presented, with explanatory commentary, to respond to the challenges presented by both court structure and court culture.

The administrative rules for a state's courts, would be set not by the legislature, but by the governing authority of the judiciary, consistent with the principle of the judiciary as an independent branch of state government.

COURT ORGANIZATION: CONTEMPORARY MODELS

The state court systems of today emerged in the 1970s and 1980s as the long-standing vision of court reformers began to be realized at a rapid pace. Reformers had decried the degree to which trial courts were enmeshed in local politics, subject to overlapping jurisdiction, and governed by widely divergent court rules and administrative procedures within a state.

To varying degrees in recent decades, all states have changed the organization of their courts to address these concerns. Implementation of court unification was the main engine driving that change, which had four key components. First, the number of trial courts was to be reduced as the courts of each county were consolidated into one trial court or a simple two-level structure of a single general jurisdiction and a single limited jurisdiction court. A side benefit would be the gradual elimination of non-law trained judges.

Second, responsibility for trial court funding would be taken from county and city governments and placed instead in the state budget process. Judicial salaries would no longer be paid out of fees and fines. The court budget could be used to distribute resources across the state courts in an equitable and efficient manner, and budget priorities could be established for the entire state court system.

Third, court administration would be centralized in a state-level administrative office of the courts that prepared the state court budget. This would standardize court policies across the state and take local politics out of the hiring and supervision of court personnel. At the same time, centralization would promote professionalization of the state court workforce.

Finally, the administrative rules for a state's courts, would be set not by the legislature, but by the governing authority of the judiciary, consistent with the principle of the judiciary as an independent branch of state government.

A progress report in 2010 shows the court unification agenda was only partly realized. Today, 10 states have a single trial court and another seven have a

simplified two-level system. Thus, roughly one-third of the states completed the logic of consolidation. On the other hand, five states retain a significant number of non-law trained limited jurisdiction court judges.

State funding was more fully realized. Forty-two states now fund 100 percent of salaries for their general jurisdiction court judges. However, only 17 (out of 44) states with limited jurisdiction courts provide full funding for their judges. Even where judges' salaries are fully funded, however, responsibility for other court funding is still fragmented in some states.

Most states took important steps toward centralization. All states have an administrative office of the courts and in the majority of states the office has sole responsibility for budget preparation, human resources, judicial education, and serving as a legislative liaison.

Most state judicial branches have taken over rule making responsibilities. In 32 states, the court of last resort has exclusive rulemaking authority, and in 21, there is no legislative veto. Legislatures retain primary rulemaking responsibility in eight states. In others, the authority is shared or held by a judicial council.

The pace of changes to state court structures slowed considerably in the 1990s. While some states continued to consolidate trial courts and shift responsibilities to the state level, in most states the model for court organization seems fixed for at least the medium term.

One reason for the slower pace is that the fundamental logic of the unification model is being questioned. There is no longer a consensus that full unification is the desired end state for all court systems to reach. Even during the heyday of the unification movement, it was speculated that "it is the individual elements of court unification—and not the overall level of court unification—which affect court performance" (Tarr, 1981:365).

There are developments that, in time, will likely strengthen the hand of central court administration in all models of court organization. There has been a dramatic improvement in the quantity and quality of

the case level information that flows from trial courts to the state level. This provides the raw material for planning and policy development. At the same time, sophisticated performance measurement systems and workload assessment methodologies have been developed that can provide a standard of management information never before available to court managers at both the local and state levels.

The court unification agenda focused on structural aspects of how trial courts should be organized. The next section looks at another dimension of challenges to court governance, those associated with the very distinctive organizational culture that characterizes courts.

THE CULTURE OF COURT SYSTEMS

"In our country judicial independence means not just freedom from control by other branches, but freedom from control of other judges" (Provine, 1990:248).

In these few words, Doris Marie Provine captures the challenge facing any effort at court governance. Accepting the above as a truism, how are decisions to be made on behalf of independent actors who see themselves first, as autonomous adjudicators and, second, if at all, as part of a system? Stated another way, how do you balance self-interest with institutional interests, while attempting to respect both?

An Orientation of Autonomy and Self-Interest

It is critical to understand the cultural challenges to effective governance if improved governance models are to be advanced. The manner in which judges are selected by third parties (governors, legislators, or the electorate) rather than their future colleagues contributes to this sense of independence from the outset of a judicial career (Lefever, 2009). As a consequence, judges' "mandates" do not all derive from the judicial institution itself, resulting in a decreased sense of organizational identity for many new judges. This sense

of individual independence poses a significant obstacle to creating a system identity and, in turn, fidelity to the decisions of a governing authority.

At the trial court level, this manifests itself in judges resisting the notion that they should be concerned about anything other than handling “my cases.” Presiding judges will frequently be heard describing themselves as “firsts among equals,” who experience great difficulty in confronting the self-interested perspective that many judges bring to issues of court administration and operations. In an environment where the first instinct is to assess any proposal from the perspective of “how will it impact me,” it is difficult to initiate change, or even make decisions.

Appreciating this self-interest orientation and working to overcome it, as well as understanding and working with it, will be critical to any form of court governance. Soliciting input, providing an opportunity to be heard, providing a forum for debate, explaining why an issue is important and why a decision was made the way it was, and ensuring effective lines of communication are important in any organization. The culture of courts makes such activities imperative.

Organizational Implications

Any organization (including courts) operates the way it does because the people in that organization want it that way or are at least complicit in accepting the operational structure (Ostrom and Hanson, 2010). The people who create this organizational culture in courts are judges, who used to be attorneys. Attorneys

operate in a professional culture where goals tend to be abstract, authority diffuse, and there is low interdependence with others. It has been said that “the inherent conflict between managers and professionals results basically from a clash of cultures: the organizational culture, which captures the commitment of managers, and the professional culture, which socializes professionals” (Raclin, 1985:1). Professional court administration, whether in the form of court administrators, chief judges, or judicial councils, must operate in the world of concrete goals, more formal authority, and task interdependence if the needs of the organization are to be met.

As noted above, some judges are called upon to take on administrative roles. The culture of judges being equals and a presiding judge being only a first among equals, frequently results in a lack of appreciation for the qualities needed in a leader. This can result in the practice of choosing administrative leaders based on seniority rather than administrative competence, or of selecting judges who are least likely to challenge individual judicial autonomy. At the state level, the practice of rotating chief justices is a manifestation of this culture, and frequently results in tenures too short to permit effective engagement or accomplishment. The desire for a personal legacy can result in a personal agenda at the expense of system needs.

The culture of courts also directly affects non-judicial, professional administrators who are responsible for ensuring effective and efficient court operation, but who, in most instances, lack the authority of chief operating officer positions found in other governmental or business environments. Court executives and presiding judges, and state court administrators and chief justices, ideally function as a management team. The extent to which this ideal relationship actually exists can vary widely, again because of court culture. Something as simple as whether a court executive has a seat at the table during bench meetings, or whether they are relegated to the back row, speaks volumes about the role of the executive in the operation of the court and the existence of a true management team.

Additional cultural challenges result from the competing interests of different court levels and state versus local orientations. The culture of a supreme

The culture of judges being equals and a presiding judge being only a first among equals, frequently results in a lack of appreciation for the qualities needed in a leader.

court could not be more different from the culture of a trial court, yet in many jurisdictions it is the supreme court or the chief justice who sets policy for the entire system. It is not surprising that as state supreme courts have taken on more administrative oversight, budget, and policy setting, that trial courts have frequently resisted many forms of coordination and centralization. Trial courts often seek autonomy and flexibility, whereas state goals tend to be more in line with coherence and consistency.

The cultural dimension of courts raises difficult questions. In the policy-setting arena, how do the voices of trial judges get heard? Are there forums for expressing needs and concerns, and if so, are they viewed as effective and credible? Do judges have to speak collectively through “associations” to be heard and, if so, how will these various voices speak for the system? If multiple voices result in conflicted messages, are not other branches of government free to selectively hear, interpret, and ignore judges’ voices? Providing a meaningful way for judges to contribute to policy decisions, maintaining effective communications, and assuring that decisions are clear are all critical to bridging the various interests of court levels and facilitating effective system governance.

It has been suggested that striking the balance between self-interest and institutional interests, while binding separate units of an organization together, requires strategies that embrace three elements: a common vision of a preferred future, helpful and productive support services that advance the capabilities of the organization’s component parts, and a shared understanding of the threat and opportunities facing the system (Griller, 2010). The governance principles set out in the next section are intended to explore these elements.

Finally, while court culture must be understood and considered when addressing governance, it cannot be allowed to serve as an excuse for failing to provide a court system with an effective means of self-governance.

PRINCIPLES OF COURT GOVERNANCE

There are multiple structural models in place for governing and managing state and local courts and distinctive challenges associated with the culture of court organizations. Thus, it is likely that any prescriptive efforts aimed at re-alignment must be consistent with the history, culture, and goals of any individual court “system,” however defined. This paper, therefore, attempts to posit unifying principles that can serve as a starting point for critiquing existing models, while understanding that they must be adapted to a variety of political, legal, and constitutional settings. The first eight principles are primarily focused on the internal governance of the court system, while the remaining three are focused on the relationship of the court system to other branches of government.

This paper, therefore, attempts to posit unifying principles that can serve as a starting point for critiquing existing models.

We suggest the following unifying principles for consideration:

- 1. A well-defined governance structure for policy decision-making and administration for the entire court system.**

Ideally, in our view, this principle should apply to a state court system as a whole, but in many states this will have to be a long-term and perhaps incremental goal. The principle, applied at any level, however, suggests that structure should be explicit, and the authority for policy decision-making and implementation well defined. The absence of such clarity can significantly undermine the ability to make decisions.

2. Meaningful input from all court levels into the decision-making process.

This is a fairly obvious principle drawn from basic knowledge about system management. In the absence of any means of contributing to the process of making decisions, constituents who have to live with the decisions generally lack any sense of buy-in or ownership. This can result in, at best, indifference to the success of the enterprise or, at worst, resistance and sabotage. Perhaps more important, however, is the fact that the quality of the decision-making process is vitally enhanced by the knowledge and insights of all parts of the system.

3. Selection of judicial leadership based on competency, not seniority or rotation.

The complexity of modern court administration demands a set of skills not part of traditional judicial selection and training. Selection methods for judicial leadership should explicitly identify and acknowledge those skills, and judicial education should include their development. This is no easy task in the context of court cultures around the nation, but a more thoughtful conversation should begin and courts should seek ways to identify standards and practices that are better than many of those now in place.

4. Commitment to transparency and accountability.

The right to institutional independence and self-governance necessarily entails the obligation to be open and accountable for the use of public resources. This includes not just finances but also, and more importantly, the effectiveness with which resources are used. We in the courts should know exactly how productive we are, how well we are serving public need, and what parts of our systems and services need attention and improvement. This includes measuring the accessibility and fairness of justice provided by the courts as measured by litigants' perceptions and other performance indices. And we should make that knowledge a matter of public record.

No one wants to tell judges how to decide cases, although it is a reality that we may need to tell them how to manage case records, report court performance, move to electronic filings and discovery, and handle assignments and schedules.

5. A focus on policy level issues; delegation with clarity to administrative staff; and a commitment to evaluation.

Decisions about policy belong with the governing authority of a judicial system, but implementation and day-to-day operations belong to administrative staff. An avoidance of micro-management by the policy-maker and clear authority for implementation in the managers are both important for the credibility and effectiveness of court governance, and can minimize the opportunities for undermining policy at the operational level. Finally, without a commitment to evidence-based evaluation of policies, practices, and new initiatives, courts cannot claim to be well-managed institutions.

6. Open communication on decisions and how they are reached.

Judicial culture generally fosters a strong sense of autonomy and self-determination amongst judges—a necessary corollary of decisional independence. In the administrative context, that same culture can make system management tricky. No one wants to tell judges how to decide cases, although it is a reality that we may need to tell them how to manage case records, report court performance, move to electronic filings and discovery, and handle assignments and schedules. To the extent judges, and staff, feel that decisions emerge from a “black box,” without

their input and prior knowledge, the potential for discomfort and dissatisfaction, not to mention active defiance or other bad behavior is magnified. A good system of governance does everything it can to keep information flowing.

7. Clear, well-understood and well-respected roles and responsibilities among the governing entity, presiding judges, court administrators, boards of judges, and court committees.

Nothing undermines good governance faster than muddled understanding of who is responsible for what. Judges in general have a penchant for assuming that plenary jurisdiction and authority on the decisional side should translate into equally broad individual authority on the administrative front. Thus it is particularly important in court management for the assignments and authority of leaders and managers to be clear, explicit, and included in the general orientation of new judges and staff, as well as in the training of new and potential judicial leadership.

8. A system that speaks with a single voice.

A court system that cannot govern itself and cannot guarantee a unified position when dealing with legislative and executive branch entities is not, in fact, a co-equal branch of government. This does not imply only one voice; rather a unified message is necessary. Competing voices purporting to speak for the judiciary undermine the institutional independence of the courts and leave other parts of government (and the public) free to choose the messages they prefer in relation to court policy and administration. This is potentially very damaging both to the actual welfare of court systems and ultimately to the level of respect and attention afforded them.

9. Authority to allocate resources and spend appropriated funds independent of the legislative and executive branches.

If someone outside the judiciary has the power to direct the use of dollars, that entity has the power to direct policy and priorities for the third branch.

Obviously, there is always negotiation over funding priorities, but budget practices like line-item funding shift the policy-making from the judicial branch to the legislative, and have the effect of pitting different parts of a court system against each other. Courts with the authority to manage their own funds can ensure that priorities are dictated by agreed-upon policy and planning and not by the “project du jour.”

10. Positive institutional relationships that foster trust among other branches and constituencies.

Given the natural constitutional and political tensions that are inherent in our system of government generally, the judiciary must work constantly to explain itself to the other branches. Care and strategic attention must be afforded to building personal and professional relationships that will ensure an adequate level of credibility when the judiciary is in conversation with the other parts of state government. This is particularly essential on the budget and finance side; and on the question of openness and accountability. Legislative and gubernatorial staffers as well as their bosses need to know they can take information and numbers “to the bank” in terms of accuracy and transparency when they come from the courts. It also helps if courts are proactive in promoting quality in performance, demonstrating commitment to things like judicial education and performance evaluation for judges and courts.

11. The judicial branch should govern and administer operations that are core to the process of adjudication.

In some states and localities, the ownership and maintenance of the court record is the responsibility of an entity outside of the judicial branch. Key court staff may also be employees not of the courts but of an independently elected clerk of courts. Such an alignment is likely the vestiges of an earlier time when the administration of courts lacked structure and organization. Courts that follow this model should reexamine this structure.

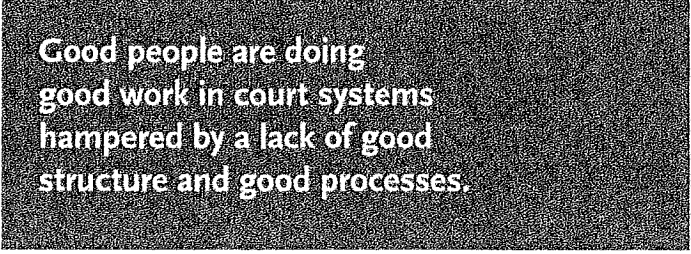
CONCLUSION

American courts are not alone in reexamining the governance of our systems. In Australia, the dependence of the courts on the Ministry of Justice for the administration of the courts has given rise to a call for self-governance. A recent report entitled *Governance of Australia's Courts: A Managerial Perspective* contained this observation:

“Even if the current arrangements seem to “work,” in the sense that they have not given rise to major catastrophes or dysfunctions, there is no reason why they could not be made to work even better. Good people can make bad structures work. But, good people can work even better within good structure” (Alford et al., 2004:94).

Many of us in the American state courts are in the same situation. Good people are doing good work in court systems hampered by a lack of good structure and good processes. We hope that this discussion will support a much broader consideration of what good court governance requires and how those principles might be brought to bear in the effort to do better work in better structures.

In conclusion, you may consider the following questions: if you assume for the moment that the principles set forth are viable and appropriate, would the state-level governance of your court system stand up to them? What about the governance within your individual judicial districts or courts? How would you know whose opinion would count, and how would you initiate meaningful improvements? If we ignore the question of how we can most effectively govern our courts, then are we not relegating the judiciary to something less than an equal branch of government and hindering our ability to provide the public with a fair and efficient forum for resolving disputes? Courts should carefully consider these questions along with the preceding unifying principles to maximize their own operability in favor of the most efficient, fair and highest standards of operation.



**Good people are doing
good work in court systems
hampered by a lack of good
structure and good processes.**

REFERENCES

Alford, John, Royston Gustavson, Philip Williams, *The Governance of Australia's Courts: A Managerial Perspective*, Australia Institute for Judicial Administration, 2004.

Griller, Gordon A. (2010) "Governing Loosely Coupled Courts in Times of Economic Stress," *Future Trends in State Courts: 2010*, National Center for State Courts.

Hirst, Paul, "Democracy and Governance" in Pierre, Jon (ed.), *Debating Governance: Authority, Steering, and Democracy*, Oxford University Press, 2000.

Lefever, R. Dale (2009) "The Integration of Judicial Independence and Judicial Administration: The Role of Collegiality in Court Governance," *Court Manager*, Volume 24, Page 6.

Ostrom, Brian J. and Roger A. Hanson (2010) "Understanding Court Culture is Key to Successful Court Reform," *Future Trends in State Courts: 2010*, National Center for State Courts.

Provine, Doris Marie (1990) "Governing the Ungovernable: The Theory and Practice of Governance in the Ninth Circuit," in Arthur D. Hellman, *Restructuring Justice*, Cornell University Press, page 247.

Realin, Joseph A. (1985) *The Clash of Cultures*, Harvard Business School Press.

Tarr, Alan, "Court unification and court performance: a preliminary assessment," *Judicature* 64 8, March 1981:365.

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Utah Judicial Council Norms

Utah Judicial Council Norms

1. **Administrative role and judicial role**
 - **Judicial Council business takes priority and court calendars and vacation time must be set accordingly**
2. **Members are charged with representing the interest of the system as a whole**
 - **Members are not permitted to advocate for their court or court level**
3. **Members are not permitted to make presentations**
 - **Program or project presentations are made by Council standing committees and/or staff**
4. **Suggestions and problems should be aired by the boards of judges and then brought to Judicial Council by the board**
5. **Members have no independent authority; the Council acts collectively**
6. **Members are not permitted to serve on Council standing committees**
7. **Judicial Council should work with appropriate board when establishing policy that affects that court level**
8. **Boards should be consulted before Council make standing committee appointments**
9. **Members are charged with the responsibility to report on Council meetings and decisions to boards, local bench meetings, and conferences**
10. **No item can be calendared for a Judicial Council meeting without approval of the Management Committee**
11. **Consent calendar items are deemed approved unless a member requests discussion**
12. **Presentations should be completed before questions are asked of presenter**
13. **Presenters must be excused from the table before a Council vote is taken**
14. **Substitutes may attend and participate in discussion, but cannot vote**

Tab 4

BOARD FOR JUDICIAL ADMINISTRATION

PROCESS AND GUIDELINES FOR RESOLUTION REQUESTS

The Board for Judicial Administration (Board) was established to adopt policies and provide strategic leadership for the courts at large, enabling the Washington State judiciary to speak with one voice. To fulfill these objectives, the BJA may consider adopting resolutions on substantive topics relating to the administration of justice.

Resolutions may be aspirational in nature, support a particular position, or serve as a call to action. Resolutions may support funding requests, but do not stand alone as a statement of funding priorities or indicate an intent by the Board to proactively seek funding. Resolutions are not long-term policy statements and their adoption does not establish the Board's work plan or priorities.

The absence of a Resolution on a particular subject does not indicate a lack of interest or concern by the Board in regard to a particular subject or issue.

In determining whether to adopt a proposed resolution, the Board shall give consideration to the following:

- Whether the Resolution advances the Principal Policy Objectives of the Judicial Branch.
- The relation of the Resolution to priorities delineated in existing strategic and long range plans.
- The availability of resources necessary to properly act upon the resolution.
- The need to ensure the importance of resolutions adopted by the Board is not diluted by the adoption of large numbers of resolutions.

In order to ensure timely and thorough consideration of proposed resolutions, the following guidelines regarding procedure, form and content are to be followed:

- Resolutions may be proposed by any Board member. The requestor shall submit the resolution, in writing, with a request form containing a brief statement of purpose and explanation, to the Associate Director of the Board for Judicial Administration.
- Resolutions should not be more than two pages in length. An appropriate balance must be struck between background information and a clear statement of action. Traditional resolution format should be followed. Resolutions should cover only a single subject unless there is a clear and specific reason to include more than one subject. Resolutions must be short-term and stated in precise language.

- Resolutions must include a specific expiration date or will automatically expire in five years. Resolutions will not be automatically reviewed upon expiration of their term, but may be reviewed upon request for reauthorization. Resolutions may be terminated prior to their expiration date as determined by the Board.
- The Associate Director shall refer properly submitted resolutions to appropriate staff, and/or to an appropriate standing committee (or committees) for review and recommendation, or directly to the Board's Executive Committee, as appropriate. Review by the Board's Executive Committee will precede review by the full Board membership. Such review may be done via e-mail communication rather than in-person discussion when practical. Resolutions may be reviewed for style and content. Suggestions and comments will be reported back to the initiating requestor as appropriate.
- The report and recommendation of the Executive Committee shall be presented to the BJA membership at the next reasonably available meeting, at which time the resolution may be considered. Action on the proposed resolution will be taken in accordance with the BJAR and bylaws. The Board may approve or reject proposed resolutions and may make substantive changes to the resolutions.
- Approved resolutions will be numbered, maintained on the Board for Judicial Administration section of the Washington Courts website, and disseminated as determined by the Board for Judicial Administration.

PRINCIPAL POLICY OBJECTIVES OF THE WASHINGTON STATE JUDICIAL BRANCH

1. **Fair and Effective Administration of Justice in All Civil and Criminal Cases.** Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.
2. **Accessibility.** Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.
3. **Access to Necessary Representation.** Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interest at stake in civil judicial proceedings should have meaningful access to counsel.
4. **Commitment to Effective Court Management.** Washington courts will employ and maintain systems and practices that enhance effective court management.
5. **Appropriate Staffing and Support.** Washington courts will be appropriately staffed and effectively managed, and court personnel, court managers and court systems will be effectively supported.

BOARD FOR JUDICIAL ADMINISTRATION RULES (BJAR)

TABLE OF RULES

Rule

Preamble

- 1 Board for Judicial Administration
- 2 Composition
- 3 Operation
- 4 Duties
- 5 Staff

BJAR
PREAMBLE

The power of the judiciary to make administrative policy governing its operations is an essential element of its constitutional status as an equal branch of government. The Board for Judicial Administration is established to adopt policies and provide strategic leadership for the courts at large, enabling the judiciary to speak with one voice.

[Adopted effective January 25, 2000.]

BJAR 1
BOARD FOR JUDICIAL ADMINISTRATION

The Board for Judicial Administration is created to provide effective leadership to the state courts and to develop policy to enhance the administration of the court system in Washington State. Judges serving on the Board for Judicial Administration shall pursue the best interests of the judiciary at large.

[Amended effective October 29, 1993; January 25, 2000.]

BJAR 2
COMPOSITION

- (a) Membership. The Board for Judicial Administration shall consist of judges from all levels of court selected for their demonstrated interest in and commitment to judicial administration and court improvement. The Board shall consist of five members from the appellate courts (two from the Supreme Court, one of whom shall be the Chief Justice, and one from each division of the Court of Appeals), five members from the superior courts, one of whom shall be the President of the Superior Court Judges' Association, five members of the courts of limited jurisdiction, one of whom shall be the President of the District and Municipal Court Judges' Association, two members of the Washington State Bar Association (non-voting) and the Administrator for the Courts (non-voting).
- (b) Selection. Members shall be selected based upon a process established by their respective associations or court level which considers demonstrated commitment to improving the courts, racial and gender diversity as well as geographic and caseload differences.
- (c) Terms of Office.

(1) Of the members first appointed, one justice of the Supreme Court shall be appointed for a two-year term; one judge from each of the other levels of court for a four-year term; one judge from each of the other levels of court and one Washington State Bar Association member for a three-year term; one judge from the other levels of court and one Washington State Bar Association member for a two-year term; and one judge from each level of trial court for a one-year term. Provided that the terms of the District and Municipal Court Judges' Association members whose terms begin on July 1, 2010 and July 1, 2011 shall be for two years and the terms of the Superior Court Judges' Association members whose terms begin on July 1, 2010 and July 1, 2013 shall be for two years each. Thereafter, voting members shall serve four-year terms and the Washington State Bar Association members for three-year terms commencing annually on June 1. The Chief Justice, the President Judges and the Administrator for the Courts shall serve during tenure.

(2) Members serving on the BJA shall be granted equivalent pro tempore time.

[Amended effective October 29, 1993; February 16, 1995; January 25, 2000; June 30, 2010.]

BJAR 3
OPERATION

(a) Leadership. The Board for Judicial Administration shall be chaired by the Chief Justice of the Washington Supreme Court in conjunction with a Member Chair who shall be elected by the Board. The duties of the Chief Justice Chair and the Member Chair shall be clearly articulated in the by-laws. The Member Chair shall serve as chair of the Long-range Planning Committee. Meetings of the Board may be convened by either chair and held at least bimonthly. Any Board member may submit issues for the meeting agenda.

(b) Committees. Ad hoc and standing committees may be appointed for the purpose of facilitating the work of the Board. Non-judicial committee members shall participate in non-voting advisory capacity only.

(1) The Board shall appoint at least three standing committees: Long-range Planning, Core Missions/Best Practices and Legislative. Other committees may be convened as determined by the Board.

(2) The Chief Justice and the Member Chair shall nominate for the Board's approval the chairs and members of the committees. Committee membership may include citizens, experts from the private sector, members of the legal community, legislators, clerks and court administrators.

(c) Voting. All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Eight voting members will constitute a quorum provided at least one judge from each level of court is present. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

[Adopted effective January 25, 2000.]

BJAR 4
DUTIES

(a) The Board shall establish a long-range plan for the judiciary;

(b) The Board shall continually review the core missions and best practices of the courts;

(c) The Board shall develop a funding strategy for the

judiciary consistent with the long-range plan and RCW 43.135.060;

(d) The Board shall assess the adequacy of resources necessary for the operation of an independent judiciary;

(e) The Board shall speak on behalf of the judicial branch of government and develop statewide policy to enhance the operation of the state court system; and

(f) The Board shall have the authority to conduct research or create study groups for the purpose of improving the courts.

[Adopted effective January 25, 2000.]

BJAR 5
STAFF

Staff for the Board for Judicial Administration shall be provided by the Administrator for the Courts.

[Adopted effective January 25, 2000.]

BOARD FOR JUDICIAL ADMINISTRATION

BYLAWS

ARTICLE I

Purpose

The Board for Judicial Administration shall adopt policies and provide leadership for the administration of justice in Washington courts. Included in, but not limited to, that responsibility is: 1) establishing a judicial position on legislation; 2) providing direction to the Administrative Office of the Courts on legislative and other administrative matters affecting the administration of justice; 3) fostering the local administration of justice by improving communication within the judicial branch; and 4) providing leadership for the courts at large, enabling the judiciary to speak with one voice.

ARTICLE II

Membership

Membership in the Board for Judicial Administration shall consist of the Chief Justice and one other member of the Supreme Court, one member from each division of the Court of Appeals, five members from the Superior Court Judges' Association, one of whom shall be the President; five members from the District and Municipal Court Judges' Association, one of whom shall be the President. It shall also include as non-voting members two members of the Washington State Bar Association appointed by the Board of Governors; the Administrator for the Courts; and the Presiding Chief Judge of the Court of Appeals, the President-elect judge of the Superior Court Judges' Association and the President-elect judge of the District and Municipal Court Judges' Association.

ARTICLE III

Officers and Representatives

The Chief Justice of the Supreme Court shall chair the Board for Judicial Administration in conjunction with a Member chair. The Member chair shall be elected by the Board and shall serve a two year term. The Member chair position shall be filled alternately between a voting Board member who is a superior court judge and a voting Board member who is either a district or municipal court judge.

ARTICLE IV

Duties of Officers

The Chief Justice Chair shall preside at all meetings of the Board, performing the duties usually incident to such office, and shall be the official spokesperson for the Board. The Chief Justice chair and the Member chair shall nominate for the Board's approval the chairs of all committees. The Member chair shall perform the duties of the Chief Justice chair in the absence or incapacity of the Chief Justice chair.

ARTICLE V

Vacancies

If a vacancy occurs in any representative position, the bylaws of the governing groups shall determine how the vacancy will be filled.

ARTICLE VI

Committees

Standing committees as well as ad hoc committees and task forces of the Board for Judicial Administration shall be established by majority vote.

Each committee shall have such authority as the Board deems appropriate.

The Board for Judicial Administration will designate the chair of all standing, ad hoc, and task force committees created by the Board. Membership on all committees and task forces will reflect representation from all court levels. Committees shall report in writing to the Board for Judicial Administration as appropriate to their charge. The Chair of each standing committee shall be asked to attend one BJA meeting per year, at a minimum, to report on the committee's work. The terms of standing committee members shall not exceed two years. The Board for Judicial Administration may reappoint members of standing committees to one additional term. The terms of ad hoc and task force committee members will have terms as determined by their charge.

ARTICLE VII

Executive Committee

There shall be an Executive Committee composed of Board for Judicial Administration members, and consisting of the co-chairs, a Judge from the Court of Appeals selected by and from the Court of Appeals members of the Board, the President Judge of the Superior Court Judges' Association, the President Judge of the District Municipal Court Judges' Association, and non-voting

members to include one Washington State Bar Association representative selected by the Chief Justice, President-elect judge of the Superior Court Judges' Association, President-elect judge of the District and Municipal Court Judges' Association and the Administrator for the Courts.

It is the purpose of this committee to consider and take action on emergency matters arising between Board meetings, subject to ratification of the Board.

The Executive Committee shall serve as the Legislative Committee as established under BJAR 3(b)(1). During legislative sessions, the Executive Committee is authorized to conduct telephone conferences for the purpose of reviewing legislative positions.

ARTICLE VIII

Regular Meetings

There shall be regularly scheduled meetings of the Board for Judicial Administration at least bi-monthly. Reasonable notice of meetings shall be given each member.

ARTICLE IX

Special Meetings

Special meetings may be called by any member of the Board. Reasonable notice of special meetings shall be given each member.

ARTICLE X

Quorum

Eight voting members of the Board shall constitute a quorum provided each court level is represented.

ARTICLE XI

Voting

Each judicial member of the Board for Judicial Administration shall have one vote. All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

ARTICLE XII

Amendments and Repeal of Bylaws

These bylaws may be amended or modified at any regular or special meeting of the Board, at which a quorum is present, by majority vote. No motion or resolution for amendment may be considered at the meeting in which they are proposed.

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