



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

**Friday, May 20, 2016 (9 a.m. – 1 p.m.)**

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

### **MEETING MINUTES**

#### **BJA Members Present:**

Chief Justice Barbara Madsen, Chair  
Judge Scott Sparks, Member Chair  
Judge Bryan Chushcoff  
Judge Scott Collier (by phone)  
Ms. Callie Dietz  
Judge Michael Downes  
Judge George Fearing  
Judge Janet Garrow  
Mr. William Hyslop  
Judge Michael Lambo  
Judge G. Scott Marinella  
Judge Bradley Maxa  
Judge Sean Patrick O'Donnell  
Justice Susan Owens  
Judge Kevin Ringus  
Judge James Rogers  
Judge Ann Schindler  
Judge David Steiner  
Judge Lisa Worswick

#### **Guests Present:**

Ms. Sophia Byrd McSherry  
Judge Harold Clarke III  
Ms. Ruth Gordon  
Mr. Eric Johnson  
Mr. Dennis Rabidou  
Ms. Paulette Revoir  
Mr. Paul Sherfey (by phone)

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

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

Judge Sparks called the meeting to order. He noted that this would be the last meeting for Judge Steiner and Judge Lambo and thanked them for their service on the BJA.

#### March 18, 2016 BJA Meeting Minutes

**It was moved by Judge Chushcoff and seconded by Judge Lambo to approve the March 18, 2016 BJA meeting minutes. The motion carried.**

#### Administrative Manager's Report

Ms. Butler stated that the quarterly update for the BJA private account was included in the meeting materials. As of the end of the first quarter of 2016 the BJA account balance is \$12,578.49.

In response to a request by Judge Downes to review the compensation of the BJA bookkeeper, Ms. Butler included a memorandum regarding BJA bookkeeper compensation in the meeting materials. AOC's comptroller reviewed the amount of work required of the bookkeeper and determined that the rate of pay is about \$20 an hour which is more than the going rate for equivalent positions.

Also included in the meeting materials was a snapshot of the work of the BJA standing committees. This will be included in the meeting materials for every BJA meeting.

### Revenue Update

Mr. Radwan reported that the final supplemental budget was okay but not perfect. The budget details are included in the meeting materials. The budget reduction of \$811,000 for Thurston County impact fees was vetoed by the Governor.

Also included in the meeting materials was information regarding the most recent state revenue forecasts. This year's revenue forecasts remained fairly flat. The most recent Budget Outlook of May 18 includes the cost to comply with the *McCleary* decision. State Treasurer James McIntire stated that the revenue forecasts cannot ignore the *McCleary* decision completely and requested that the Economic Forecast Council include these costs in the May 18 Budget Outlook. Including the *McCleary* decision, and the budget adjustments due to the Governor's vetoes, results in a \$3.8 billion negative fund balance for the next biennium. There will most likely be cuts for state agencies for the 2017-19 biennial budget.

Overall, revenues compared to previous biennia are down a little bit but costs are increasing faster than revenues are increasing.

The Budget and Funding Committee (BFC) and the BJA approved budget reduction criteria and have a process to decide what should be cut if budget reductions are implemented. Mr. Radwan suggested that the BJA look at that information in the next few months to be prepared for the cuts if they occur.

### Budget and Funding Committee Requests and Recommendations

Judge Schindler stated that the BFC met several times with the goal of prioritizing the budget requests that were submitted. Using the criteria that the BJA approved, the following recommendations were made for prioritization. A list of the prioritizations was included in the meeting materials.

1. Trial Court Interpreter Services - In 2007 the Legislature appropriated \$1.9 million to reimburse 50% of the costs for court interpreters. In 2009 the funding was reduced due to severe AOC budget reductions. This request is not just for criminal cases, it also seeks funding for civil cases. Mr. Radwan clarified that the request would cover 50% of the interpreter costs during the first biennium and then increase during the 2019-21 biennium to cover 75% of the costs and would increase in the 2021-23 biennium to cover 100% of the interpreter costs.
2. (Tie) Pattern Forms and Court Personnel Education - The BJA will have to decide which is #2 and which is #3. Pattern Forms: Requests additional staff to help maintain the 700+ forms that AOC staff currently maintain. Court Personnel Education: the CEC requests funding to provide necessary education to court personnel. Funding will restore the presiding judges' conference and start the path back to providing a more robust education program than has been provided in the recent past. The CEC is looking, as a community, for the best way to deliver judicial education. They will be

doing that work this summer so the funding request timing does not align to the work being done to determine the best way to deliver judicial education.

3. (One of the requests above in #2 will be #3.)
4. Courthouse Facilitator Training - Requesting funding to train courthouse facilitators.
5. Web Services Support - Funding is requested for additional staff to maintain the Washington Courts Web site. There are about 180 web applications and some of the platforms are built in old software and AOC needs staff to upgrade those programs to current platforms. The three case management systems also have web implications. This funding is merely to get Web Services up to a normal staffing level.
6. Telephonic Interpreting Services - This request is for new services and new funding for courts to provide interpreting services outside the courtroom related to individuals who have questions/discussion with clerks and court staff. Mr. Radwan stated that there was a mathematical error in the initial funding request so the funding request will increase to approximately \$2 million a year.
7. Guardianship Monitoring - This request is for funding for nine FTEs to audit and monitor guardianships.
8. Therapeutic Courts Best Practices – This request is to fund a .5 FTE to have the Washington State Center for Court Research (WSCCR) evaluate best practices for therapeutic courts.
9. State CASA Program Expansion - The state CASA program currently receives \$3 million and this request triples it. The program would increase the number of CASA volunteers statewide. It would allow the state to meet national CASA representation standards.
10. WSCCR Capacity and Sustainability - This request was to increase WSCCR staff salaries to address a recruitment and retention problem. The BFC did not consider this request because it was withdrawn by Ms. Dietz and Mr. Radwan to include at a later time in an overall package for AOC staff identified in the salary survey.

Mr. Radwan outlined the Judicial Information System (JIS) requests which were included in the meeting materials. The JIS requests have not yet been vetted through the Judicial Information System Committee (JISC). The JISC will review them during their June meeting. The budget numbers could increase or decrease as the information in each request is finalized. Over the last few years the Legislature has swept \$27 million from the JIS account which is now not available for JIS projects. The JIS requests attempt to get some of that funding back.

During the June meeting BJA members will be given an opportunity to vote on budget priorities to recommend to the Supreme Court. All members were asked to think about the funding priorities offered and determine whether they agree with them as presented by the BFC.

#### Strategic Issue Management Initiative

Judge Garrow, Chair of the BJA Policy and Planning Committee, gave a brief overview of the Committee's planning work. She stated that for the last year the Committee has been engaged in a different approach to planning because the judicial system in Washington requires a strategic planning process designed for a decentralized system. Part of the planning approach is the Strategic Issue Management project. Judge Garrow asked Steve Henley, who has been staff for the project, to provide additional information.

Mr. Henley said that about a year ago the Committee convened a group of representatives of judicial system stakeholders to discuss issues facing their organizations and the judicial system,

which could be worked on over the next few years. Out of that effort stakeholders identified about 80 issues. This was followed by an online survey to prioritize the issues and identify those that stakeholders would like to engage in. The result was five workgroups for specific issues. The workgroups were asked to develop proposals to address the issues. Below is the list of workgroup proposals. Included in the meeting materials are the Committee's recommendations for each proposal.

- Quality Indigent Defense
- Court Technology End-User Forum
- Task Force on Local Justice System Mandates and Funding
- Eliminate or Reduce the Disproportionate Impact of Auto-decline/Transfer Laws on Youth of Color
- Statewide Cultural Relevancy Training Program for Justice Stakeholders Including Community-based Service Providers, NGOs, and Other CJS Partners

This will be on the June BJA meeting agenda to select the one issue that BJA members would like to address in a strategic campaign initiative for the next 12-24 months.

Judge Garrow also reported that the Committee membership will be expanding to create continuity on the Committee.

#### Washington State Association of Counties (WSAC)

Mr. Eric Johnson, representing the Washington State Association of Counties, was introduced. He stated that the biggest challenge for counties is fiscal sustainability. Counties spend most of their money on criminal justice. This past legislative session, the WSAC started their fiscal sustainability initiative which included several legislative proposals which were included in the meeting materials. Also in the meeting materials is a scorecard to measure how they did during the 2015-16 legislative session in meeting their fiscal sustainability goals. Of the seven tier one items they set forward for the two-year period, two items were accomplished: REET flexibility and allowing counties to join PEBB for medical coverage.

The WSAC sent out a request for information to collect ideas for future legislation. A list of their legislative ideas is included in the meeting materials. Last week the WSAC Legislative Steering Committee met to identify issues and ideas they want to include in a strategic, legislatively-focused agenda. One area of focus will be a new property tax cap. It is likely they will also make a major indigent defense request. At the very least the state should step up to 50% of the obligation/responsibility. Public records will be their major reform issue. They have a number of proposed public records reforms including dealing with harassing requests as well as looking at a new methodology to deal with penalties. They will also work on the growth management act and water issues. Those are the big five issues they are working on over the next two years.

Mr. Johnson stated that the WSAC wants to find resources to pay for statutory responsibilities counties have and they have to find a sustainable set of resources to do that. They also have to set themselves up for the potential to litigate because counties are failing their responsibilities due to a lack of resources.

Role of Associate Director – Office of Judicial and Legislative Relations

Chief Justice Madsen reported that the job announcement was posted for the Associate Director – Office of Judicial and Legislative Relations in the last few weeks. Judge O'Donnell sent a letter to Chief Justice Madsen and Judge Sparks asking that final hiring authority over the position be given to the BJA and that a resolution be placed on the May 20 BJA meeting agenda. The BJA Co-Chairs added the topic to this meeting's agenda for discussion but the Administrative Office of the Courts (AOC) cannot delegate its authority to the BJA to hire or fire anyone so the resolution contained in Judge O'Donnell's letter was not added to the agenda.

Judge Downes stated that a BJA voting member asked that the resolution be put on the agenda. He was more than a little bit surprised that it was not allowed. He went on to state that the BJA was told when issues come up within the branch the BJA decides what to do. The BJA needs to at least have the right to approve who the BJA's lobbyist will be. If the AOC makes the decision for who the BJA's lobbyist is going to be then it seems inherently logical that the BJA will have a say in who the lobbyist will be.

It was noted that there is a formal resolution process which is outlined at the end of the BJA meeting materials. The sponsor needs to submit it in writing and it needs to be vetted by a committee and then brought to the BJA for approval.

**It was moved by Judge Downes and seconded by Judge Rogers to add Judge O'Donnell's resolution (wording below) to the May 20 BJA meeting agenda.**

**RESOLUTION: It is the position of the Board for Judicial Administration that the Administrative Office of the Courts should delegate its authority for final hiring approval of the new lobbyist to the BJA.**

**The motion failed with six members for the motion, eight against and one abstention. There was also a district court level veto.**

**Judge Garrow moved to add to the May 20 BJA meeting agenda a discussion of what role the BJA has in the selection of the Associate Director – Office of Judicial and Legislative Relations. Since the topic is on the agenda, Judge Garrow withdrew her motion.**

Ms. Dietz stated that the AOC wants to fill the position as soon as possible this summer. The interview panels have not been put together yet but she hopes to interview in late June. AOC's Human Resources department is in charge of the recruitment. The first round of applicants will be reviewed on May 31. AOC usually has two interview panels resulting in first and second interviews.

**It was moved by Judge Rogers and seconded by Judge Schindler to include a representative from the BJA, who is a voting member, on both hiring panels for the Associate Director – Office of Judicial and Legislative Relations. The motion carried.**

**It was moved by Judge Fearing and seconded by Judge Garrow that the BJA representative on the hiring panels for the Associate Director – Office of Judicial**

**and Legislative Relations be designated by the BJA Co-Chairs. The motion carried.**

If BJA members have suggestions about specific questions that could be asked during the interviews, please send them to Ms. Dietz.

Other Business

**Proposed Court Management Council (CMC) Rule Changes:** Ms. Dietz stated that there are proposed CMC rule changes for the BJA's review included in the meeting materials. The Supreme Court Rules Committee will solicit comments. If you have any issues or concerns, please contact the CMC or Ms. Dietz.

There being no further business, the meeting was adjourned.

**Recap of Motions from the May 20, 2016 Meeting**

<b>Motion Summary</b>	<b>Status</b>
Approve the March 18, 2016 BJA meeting minutes.	Passed
Add Judge O'Donnell's resolution to the May 20 BJA meeting agenda.	Failed – six for, eight against, and one abstention. Also, district court level veto.
Add to the May 20 BJA meeting agenda a discussion of what role the BJA has in the selection of the Associate Director – Office of Judicial and Legislative Relations.	Withdrawn
Include a representative from the BJA, who is a voting member, on both hiring panels for the Associate Director – Office of Judicial and Legislative Relations.	Passed
The BJA representative on the hiring panels for the Associate Director – Office of Judicial and Legislative Relations will be designated by the BJA Co-Chairs.	Passed

**Action Items from the May 20, 2016 Meeting**

<b>Action Item</b>	<b>Status</b>
<u>March 18, 2016 BJA Meeting Minutes</u> <ul style="list-style-type: none"> <li>• Post the minutes online</li> <li>• Send minutes to the Supreme Court for inclusion in the En Banc meeting materials</li> </ul>	Done Done
<u>Revenue Update</u> <ul style="list-style-type: none"> <li>• Add the BJA budget reduction criteria to future BJA meeting agendas so the BJA can be prepared for possible budget reductions during the next legislative session</li> </ul>	
<u>Budget and Funding Committee Requests and Recommendations</u> <ul style="list-style-type: none"> <li>• Add to the June BJA meeting agenda</li> </ul>	Done
<u>Strategic Issue Management Initiative</u> <ul style="list-style-type: none"> <li>• Add to the June BJA meeting agenda</li> </ul>	Done

<b>Action Item</b>	<b>Status</b>
<p><u>Role of Associate Director – Office of Judicial and Legislative Relations</u></p> <ul style="list-style-type: none"><li>• Have a BJA representative sit on both interview panels during the hiring process for the Associate Director – Office of Judicial and Legislative Relations. The BJA Co-Chairs will determine the representative.</li></ul>	