



Board for Judicial Administration (BJA)

Friday, March 17, 2017 (9 a.m. – 12 p.m.)

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

MEETING MINUTES

BJA Members Present:

Chief Justice Mary Fairhurst, Chair
Judge Scott Sparks, Member Chair
Judge Scott Collier
Judge George Fearing
Judge Janet Garrow
Ms. Robin Haynes (by phone)
Judge Judy Rae Jasprica
Ms. Paula Littlewood
Judge Mary Logan
Judge G. Scott Marinella (by phone)
Judge Bradley Maxa
Judge Sean O'Donnell
Judge Kevin Ringus
Judge James Rogers
Judge Ann Schindler
Justice Charles Wiggins
Judge Lisa Worswick

Guests Present:

Mr. Jeff Amram (by phone)
Ms. Kimberly Allen (by phone)
Mr. Jim Bamberger
Ms. Barbara Christensen
Ms. Ishbel Dickens (by phone)
Mr. Mike Merringer
Ms. Paulette Revoir
Judge Rebecca Robertson

AOC Staff Present:

Ms. Misty Butler
Ms. Beth Flynn
Mr. Steve Henley
Mr. Brady Horenstein
Mr. Dirk Marler
Ms. Intisar Surur

The meeting was called to order by Chief Justice Fairhurst.

February 17, 2017 Meeting Minutes

Chief Justice Fairhurst indicated that a correction needs to be made to “compiled” on the first line of Page 4. It should be “compile.”

It was moved by Judge Garrow and seconded by Judge Collier to approve the February 17, 2017 BJA meeting minutes with Chief Justice Fairhurst’s correction. The motion carried.

BJA Internal Brainstorming

Chief Justice Fairhurst stated that she and Judge Sparks wants to brainstorm with the BJA members to determine what information would be helpful to the BJA moving forward. She asked for suggestions as to what has worked in the past or ideas to try in the future. Below is a list of the ideas that were shared.

- Information sharing from judicial partners is back on the agenda which allows the BJA members to decide how to help the judicial partners.

- Budget Information. The budget process needs transparency. During the last budget process the BJA prioritized the proposals. The proposals were then presented to the Supreme Court. The BJA priorities were a factor in the decision of the Supreme Court. The Supreme Court does not have the full benefit of how the funding will impact the different court levels and the BJA does not have the benefit of hearing the discussion at the Supreme Court. There could be a joint meeting between the Supreme Court and BJA with all the presentations and then the BJA could prioritize and everyone would have the same budget information. The notion of the BJA having a more direct say or final vote in what is ultimately submitted to the Legislature is good because it provides relevance to the BJA. It would reflect the wishes of the different court levels and would make the budget move from the opaque to the transparent. The BJA should consider the AOC budget going to a zero based budget. It would instill confidence in the BJA.
- Information regarding different initiatives going on at local levels so the BJA members can be aware of things going on all over the state.
- A list of things going on around the country that are distributed to the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) so BJA members can be aware of them.
- Information about the Judicial Information System Committee (JISC).
- Trial court associations and the Trial Court Advocacy Board (TCAB) could include their most recent minutes at the end of BJA packets and the materials could be read or not. The BJA's goal is not to micromanage, it is to share information.
- Discuss the BJA's values. Are they reflected in how the members interact, come prepared, and engage in conversations in the room and not in the back rooms? Disagreeing is fine, it is how you listen to each other and hear each other. Everyone is spending valuable time to come together and the BJA meetings need to be worth it.
- Continue BJA standing committee reports. These generate discussions about issues that touch all of the committees, and maybe that is how the information sharing comes out—when the BJA members talk about a specific, targeted response.
- Court level reports along with reports from the Washington State Bar Association (WSBA). If court management associations would like to report, please notify Chief Justice Fairhurst or Ms. Butler.
- BJA committee discussions.
- The BJA speaking with one voice.

Chief Justice Fairhurst thanked everyone for engaging in this exercise so as the BJA moves forward, there is a shared view. These ideas will be incorporated into future agendas.

Selection of BJA Strategic Goals

This is a continuation of the discussion during the February BJA meeting. At that meeting, the BJA was presented with 22 proposals and the BJA voted on their top choices. The vote tally is on Page 10 of the meeting materials. The BJA Policy and Planning Committee (PPC) then met and discussed the chosen proposals.

The next steps are to select one or two proposals and the PPC will work with the proponents to create a charter to move forward.

Mr. Henley stated that there are other factors to consider when determining which proposals to move forward. Is there a critical mass that can help support the issue? Also, need to look at viability. Is the return on investment in the proposal worth it? In addition, the proposal should be something that can be accomplished in two years. The BJA needs to determine if that is a realistic goal.

Judge Jasprica spoke about the proposal for Adequate and Sustainable funding of Court Education. She stated that there is a crisis facing the judicial branch with the aging of judicial and court staff. Their replacements need to be trained. Judges usually come from a particular area of law and when they come to the bench they need a broad range of knowledge and need to be educated. Funding is also needed to send appellate judges to programs that will address their needs instead of the needs of trial courts.

Judge Marinella gave an overview of the Courthouse Security proposal. There is a court rule that is pending that will hopefully allow the adoption of minimum courthouse security measures. He questions the need for all of the stakeholders listed on Proposal B. With a lack of state funds, any courthouse security is going to be funded out of local dollars. The proposal is mostly for information gathering to document the need for courthouse security and present that information to the Legislature. The proposal would allow each court to go to their local funder and work the need for security funding into the court's budget at the local level. The Administrative Office of the Courts (AOC) will assist in the compilation of data and the Washington Association of Sheriffs and Police Chiefs (WASPC) will have to deal with security in trial courts. Right now that is currently in progress and courts just have to see what the data indicates.

Mr. Marler reported that there was a BJA Court Security Committee that was suspended several years ago because at that time the BJA decided it was not a high priority for the BJA. There are items, including National Center for State Courts (NCSC) resources, available on the Inside Courts Web site regarding court security:

<https://inside.courts.wa.gov/index.cfm?fa=controller.showPage&folder=courtResources&file=courtSecurity>

AOC staff automated an incident tracking process to input court security data online. That functionality exists. AOC does not have staff compiling the information but it is available online. If the BJA could come up with a strategy to get courts to use the online tracking tool, it would be a cost-effective way for risk managers to point out to funders why court security is important.

Judge Robertson is Chair of the committee that proposed the court security rule. The committee relied on and used the prior work of the BJA Court Security Committee. The point of the rule is to start small and encourage courts to do low-cost security planning so in the future when they need to make a funding request they have evidence as to why they need it. The rule encourages courts to create minimum court security plans. If a court cannot create a plan, the court just needs to state why. The reason will most likely will be because of funding issues.

Judge Schindler presented information about the Funding for Interpreter Services proposal. The goal is to do an analysis and determine what is currently taking place and identify what the need is beyond that in order to justify the interpreter budget request that the BJA has made

and will probably continue to make for interpreter services. Stakeholders have adopted a model access plan to identify minimum standards. This proposal is for the next biennium to make a more compelling presentation.

The Adequate Court Funding proposal does not include the items in the other three proposals at this point in time.

Judge Marinella spoke about the Adequate Court Funding proposal. TCAB is also working on court funding and their intent is to use Justice in Jeopardy as a baseline. They will work with the cities and counties and propose a layered legislation and indicate this is a starting place and adjust it from there. They want to get back to receiving funding for what was agreed upon in the past. That is TCAB's priority and they anticipate participating with the cities and counties. They are going to try to work that legislation and energize it. That will happen no matter what is chosen by the BJA.

The BJA needs to have coordination with TCAB so the two groups are not working at cross purposes. TCAB should be a stakeholder on the BJA issues.

Chief Justice Fairhurst stated that this is an action item for the BJA to select up to the two issues to work on.

The BJA members voted to work on proposal A (Adequate and Sustainable Funding of Court Education), their top choice; and C (Funding for Interpreter Services).

The Policy and Planning Committee will come back with more detailed information and charters during a future BJA meeting.

BJA Legislative Update

Judge Ringus was unable to attend the BJA Legislative Reception but he heard it was fabulous.

Mr. Horenstein distributed a summary of the status of bills of interest to the courts and he reviewed some of the bills.

- The interpreter oath bill is in Senate Rules and has already gone through the House.
- The Office of Public Guardianship bill is still alive.
- The civil cases interpreter bill passed by party-line vote out of the House but there is concern about cost and imposing that on the counties and it is expected to die in the Senate Law and Justice Committee.
- The tax court bill is back. Mr. Horenstein does not know how likely it is that it will progress all the way through the Legislature this year.
- The Legal Financial Obligation (LFO) bill passed in the House nearly unanimously. It usually is not as well supported in the Senate.

If you have questions about the status of a bill, call or e-mail Mr. Horenstein and he will be happy to get the information to you.

Judge Sam Cozza's last proposed bill is expected to pass soon and the Legislature will have a special recognition for Judge Cozza. Mr. Tom Parker is coordinating the event that will most likely be April 17 or 18. If you are interested in attending, please contact Mr. Parker or the Superior Court Judges' Association (SCJA) legislative representatives for details. Senator Mike Padden said it would be great to see members of the judiciary at the event.

Budget Update

Mr. Horenstein reported that the most recent revenue forecast information was sent via e-mail to the BJA listserv earlier in the week. He expects to see the Senate budget next Monday or Tuesday and the House budget a week later.

Judge Schindler stated that it is time to prepare the 2018 supplemental budget request. Mr. Ramsey Radwan is working on the instructions and will send them out after he discusses the process with Chief Justice Fairhurst. Perhaps this will be an opportunity to change the process. Mr. Radwan will report back after he has the meeting with Chief Justice Fairhurst.

Court Level Update – Appellate Courts

Chief Justice Fairhurst shared that there is a lot of work the justices do in the Supreme Court, as well as outside the court, and Chief Justice Fairhurst distributed a list of Supreme Court committees/work groups. She also distributed reports from the Supreme Court departments. BJA members can peruse them and see what is happening at the Supreme Court.

Justice Wiggins reported that the Supreme Court has worked on clearing the docket and processing cases more rapidly. The Court is reducing the time it takes to process a case. Chief Justice Fairhurst stated that they have three cases that are over 180 days from oral argument to out the door. Two of the three cases are death penalty cases. The rest are completed within six months. The Supreme Court does have fewer cases than in the past but they are happy to have time to be well prepared for each case and have discussions about them.

Judge Worswick wanted to give some perspective of what it is like to be a Court of Appeals (COA) judge. There are 22 COA judges in the three divisions. They are the court that everyone has a right to appeal to. The COA does not have much of a choice in what cases they take. Last year, many of the judges wrote over 70 opinions. There are multiple issues and they have to dive into each issue. They do have clerks but they are first year attorneys and the judges cannot completely rely on them. The judges sit in panels of three on about 210 cases a year and they are fully involved in all of those cases.

In addition, just about every motion is handled in a panel of three. The judges have to get together and resolve the issues if all three do not agree. The COA has electronic methods to coordinate movement through the court.

Like the Supreme Court justices, the COA judges serve on multiple committees. Many statewide committees have spots for all the court levels. There are 22 judges and many committees that have spots for COA judges.

The judges try to write clear opinions and it takes a lot of time and they are mentoring law clerks who are there for two years. The judges help the law clerks learn to write and be good lawyers in their practice. Many also devote time in the community, not just on judicial branch committees.

Their big project is the Appellate Court Electronic Content Management System (AC-ECMS) that will help get their information to them electronically and help them move documents electronically. The new system will roll out in the spring.

They are trying to focus on best practices to work and facilitate communications among the divisions.

Chief Justice Fairhurst asked if this update was beneficial and, if so, if BJA members want to hear from other court levels in the future. The consensus was to continue the court level updates.

Standing Committee Reports

Court Education Committee (CEC): Judge Jasprica had nothing to add to the information she shared earlier except to remind members of the March 24 retreat.

Policy and Planning Committee (PPC): Judge Garrow stated that the PPC is advertising for a public member of the PPC and the Committee is working on issues decided on today.

Budget and Funding Committee (BFC): Judge Schindler stated she had nothing to add to her earlier budget report.

Information Sharing

Ms. Butler reported that every two years the BJA elects a new Member Chair and it alternates between an SCJA and DMCJA member. In 2010, the BJA set new term lengths so there would be four court level members to choose from for the Member Chair, but that did not solve the problem.

She tried to figure out how to correct the problem and the only solution that seems to work is for the next DMCJA members to only serve two-year terms when they are appointed in July 2017. That would put the DMCJA back on track.

Judge Marinella stated if the DMCJA Bylaws need to be changed that needs to be done fairly quickly so the changes can be voted on at the DMCJA Spring Conference.

Ms. Butler noted that the Supreme Court Rules Committee would need to update the terms in the BJA Rule and that will take some time.

She would like input on whether to go forward with this. Judge Marinella can take the DMCJA Bylaws change to the DMCJA and it is on their April agenda for action. Ms. Butler can tee up the BJAR revision. By consensus, it was decided to move forward with the DMCJA Bylaws and BJAR revisions.

Ms. Littlewood reported that the Board of Governors (BOG) elections are happening and voting is open until April 3. Fifteen people are running in four districts. Former Judge Brian Tollefson is running in the Sixth District. The Limited License Legal Technician (LLLT) program is in the process of recommending a new practice grid to license in new areas (health and estate planning) and proposed enhancements to family law practice. The WSBA just launched a new series called Decoding the Law. The webcast is available here: <http://www.wsba.org/News-and-Events/Decoding-the-Law>.

Mr. Bamberger stated that the Trump administration proposed to eliminate the Legal Services Corporation. If that goes through there will be massive layoffs in the civil legal aid community. The Office of Civil Legal Aid (OCLA) is working with the Equal Justice Coalition on a very strong response.

Judge Schindler requested that the expiring Interpreter Resolution go through the resolution process. The Access to Justice (ATJ) conference is taking place in Yakima this year.

Judge Maxa shared that a Judges in the Classroom program e-mail will be sent to all judges soon.

Chief Justice Fairhurst reported that the Supreme Court justices just met with the WSBA BOG and a few days prior to that they met with the LLLT Board. They will be meeting next week with the Practice of Law Board.

Judge O'Donnell shared that the SCJA has been working on pretrial reform bail practices in Washington State. In Spokane and Yakima counties there are two programs going on. The SCJA and DMCJA formed a task force and they were just accepted in the 3DaysCount program which will kick off soon. It is a positive step for the trial courts to work on this issue. In addition, the SCJA is taking a look at the committees judges are working on to determine if all the committees are necessary. They are looking at how much time is being invested in the committees and the return on investment.

Mr. Henley thanked everyone for their engagement in the strategic goal identification process and also thanked those submitting ideas.

Chief Justice Fairhurst asked everyone to look at the letter she distributed from California regarding ICE and provide feedback regarding whether she should send something similar as Chief Justice and BJA Co-chair. It was stated that King County Superior Court has a policy on this which states that ICE agents cannot come into the courtroom. The court feels constrained on limiting their access outside the courtroom. King County District Court will be discussing the issue. Throughout the room, people reported incidents in Spokane, King County and Seattle Municipal Court. Chief Justice Fairhurst mentioned she may send information to presiding judges to determine what they can do inside/outside their own courtrooms/courthouses. Guidance would be helpful. She will check with the justices on Tuesday. There was a request to address all courtroom arrests, not just by ICE. Chief Justice Fairhurst suggested that perhaps the issue needs some discussion and practices and protocols could be developed. The issue will be brought back for further discussion. In the short term, Chief Justice Fairhurst will discuss the issue in the letter with the Supreme Court and possibly send the letter.

Meeting Review

The next meeting is May 19.

There being no further business, the meeting was adjourned.

Recap of Motions from the March 17, 2017 Meeting

Motion Summary	Status
Approve the February 17, 2017 BJA meeting minutes with Chief Justice Fairhurst's correction.	Passed

Action Items from the March 17, 2017 Meeting

Action Item	Status
<u>February 17, 2017 BJA Meeting Minutes</u> <ul style="list-style-type: none"> Revise the February 17, 2017 meeting minutes with Chief Justice Fairhurst's correction. Post the minutes online. Send minutes to the Supreme Court for inclusion in the En Banc meeting materials. 	Done Done Done
<u>BJA Internal Brainstorming</u> <ul style="list-style-type: none"> Incorporate the suggestions into future BJA meetings. 	
<u>Strategic Goal Setting</u> <ul style="list-style-type: none"> By consensus, the BJA decided to move forward with proposals A (Adequate and Sustainable Funding of Court Education), top choice; and C (Funding for Interpreter Services). Add Strategic Goal Setting to a future BJA agenda to review more detailed information regarding each proposal and the proposal charters. 	
<u>DMCJA Member Chair Candidates</u> <ul style="list-style-type: none"> By consensus, the BJA decided to move forward with the DMCJA bylaw and BJA rule changes. 	
<u>Miscellaneous</u> <ul style="list-style-type: none"> Continue the court level updates on future agendas. Discuss arrests in courtrooms during a future BJA meeting. 	