



Board for Judicial Administration (BJA) Meeting

Friday, February 16, 2018 (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 Judy Rae Jasprica, Member Chair
Judge Scott Ahlf (by phone)
Judge Bryan Chushcoff
Ms. Callie Dietz
Judge George Fearing
Judge Blaine Gibson
Judge Gregory Gonzales (by phone)
Judge Dan Johnson
Judge Mary Logan (by phone)
Judge Kevin Ringus
Judge Rebecca Robertson
Judge Ann Schindler
Judge Michael Spearman (by phone)
Justice Charles Wiggins

Guests Present:

Mr. Jeff Amram (by phone)
Justice Sheryl Gordon McCloud
Ms. Cynthia Marr
Mr. Bryan Russell

AOC Staff Present:

Ms. Lynne Alfasso (by phone)
Ms. Kelley Amburgey-Richardson
Ms. Misty Butler Robison
Ms. Jeanne Englert
Ms. Beth Flynn
Ms. Sharon Harvey
Mr. Brady Horenstein
Mr. Dirk Marler
Mr. Ramsey Radwan
Ms. Intisar Surur

Public Present:

Dr. Page Carter

Gender and Justice Commission

Justice Gordon McCloud provided information regarding the study on Gender and Justice in Washington State Courts. In 1989 the *Gender and Justice in the Courts, Washington State* was produced. The study focused on domestic violence, domestic assault, divorce, civil judgments, and in the professional setting. The study found there were gender differences in all of those matters in all areas of the justice system. The recommendations have not been examined in a long time. They are proposing a 30 year look back to see how the state has progressed on the recommendations. They want to incorporate race and poverty into every area they look into because they need to be aware of the non-majority to be inclusive.

The Gender and Justice Commission is working with the National Center for State Courts (NCSC) on obtaining a grant to fund the updated study. NCSC staff thought this project was path breaking and would be the first of its kind in the country and would be helpful for other states. The Commission is asking for the BJA's support by stating this will impact the courts in a productive way and preparing a declaration of support to offer to the State Justice Institute (SJI) when the grant is submitted. The deadline for the grant submission is May 1. It would also be nice if the Commission could receive some staffing support if the grant is received. The Commission is not sure what that looks like at this point in time.

It was decided that the Commission will draft a letter for the BJA's support, and include information about the mission of the BJA, and it will be brought to the March BJA meeting for approval.

Some of the other work of the Commission includes: 1) The Incarcerated Women and Girls Committee focused on incarcerated parents wanting access to courts on civil matters. The Department of Corrections (DOC) is at the table on that. 2) Providing judicial education. 3) Asking all levels of courts to provide copies of their existing harassment policies. The Commission will compare and contrast the policies and take a look at where to go from there.

It was suggested that the BJA consider adopting a model sexual harassment policy. It is critical there be a model policy and that the BJA adopt the policy and have mandatory sexual harassment training. There was a suggestion to check with the NCSC because they recently stated they are working on a model policy.

It was decided that the Commission will work on a model harassment policy and bring it back to the BJA for consideration and adoption.

Branch Principal Policy Goals, BJA Mission and BJA Vision

There were no questions or comments regarding the suggested revisions of the Principal Policy Goals, the BJA Mission and the BJA Vision.

It was moved by Judge Ringus and seconded by Chief Justice Fairhurst to approve the revised Principal Policy Goals, the Mission and the Vision of the BJA. The motion carried.

Education Resolution

Judge Jasprica stated that the BJA has identified court education as one of their strategic initiatives and it would be helpful if there is a resolution from the BJA regarding this issue.

It was moved by Judge Chushcoff and seconded by Judge Ringus to approve the Resolution in Support of Adequate and Sustainable Funding for Court Education. The motion carried.

BJA Administrative Manager Update

Ms. Butler Robison explained that the first item is regarding a request for analysis of BJA rules and bylaws. Over the years she has noticed some inconsistencies. Her recommendation is to use an ad hoc task force workgroup or the BJA Policy and Planning Committee (PPC) to review the rules and bylaws to make sure they match the current practices of the BJA. Chief Justice Fairhurst stated it makes sense to use the Policy and Planning Committee for the review.

It was moved by Judge Chushcoff and seconded by Judge Johnson to have the Policy and Planning Committee formally evaluate the BJA rules and bylaws and offer recommendations to the BJA for adoption. The motion carried.

The second item is regarding how the BJA receives information from the various justice partners. Currently reports are given during the meetings for 10-15 minutes. The BJA could spend that time having more in-depth policy discussions. Ms. Butler Robison listed some ideas that could work but would like the BJA's direction.

Some suggestions were to 1) continue with the presentations during the meetings because it is necessary due to the frequency of membership turnover and it will help keep people up to date on the history of things. 2) Divide the presentations up to provide information during key times such as during the budget process or during the legislative process which would be helpful if the BJA needs to make decisions regarding that entity's budget or legislative requests. 3) Groups represented at the BJA table could give information during the information sharing time of the meeting and commissions and other groups could come at other times during the year. 4) The BJA could choose to not have presentations during very busy times. 5) The BJA could hear from some entities every two years instead of yearly. 6) Presenters will provide annual reports or other written materials, when available.

Ms. Butler Robison stated she will move forward with the suggestions.

Biennial Budget Development Process

Judge Schindler stated the biennial budget development process proposal is on the agenda for action. The reason to embark on this change is to have the BJA Budget and Funding Committee (BFC) and the Court Funding Committee hear the same information provided to the Supreme Court before making recommendations regarding the budget priorities.

It was moved by Judge Schindler and seconded by Judge Jasprica to approve the proposed 2019-2021 Biennial Budget Development Process-Requests That Flow Through AOC. The motion carried.

Budget Update

Mr. Radwan reported that the state general fund revenue forecast for the 2017-19 budget cycle went up another \$647 million and for the 2019-21 budget cycle it went up \$671 million. Mr. Radwan anticipates that the House will drop their supplemental budget on Monday. He has not received any preliminary information about the judicial branch budget requests which were fairly small for supplemental requests. He will know more on Sunday or Monday with regard to the budget. Mr. Horenstein stated that Ways and Means will have hearings on Tuesday afternoon regarding the budget.

Branch Budget Overview

Mr. Radwan stated that in the meeting materials is additional information regarding the percentage of state funding for judicial branch budgets in other states which Ms. Butler Robison received from the NCSC. There was a question about the percentage listed on the NCSC document for Washington State. Mr. Radwan will verify the amount and share the information with the BJA.

Also included in the materials is the budget requests that flowed through the BJA in the past few years and how the proposals did throughout the budget process. The information shows that the judicial branch does scrub their budget before sending requests to the Legislature and Mr. Radwan is not sure what can be done differently. It also shows how the Legislature has viewed the judicial branch budget in the past. There will continue to be an uphill battle in regards to judicial branch funding requests as little requested has been approved.

The 2019-21 budget process will take place between now and October. Mr. Radwan is assuming it will be a large request and he does not want to submit information to the Legislature too late in the process.

Mr. Radwan will finalize and distribute the decision package information included in the meeting materials to judicial branch stakeholders soon.

Legislative Update

Judge Ringus stated that there are a 2018 Legislative Session Update and a BJA Bill Tracking Report included in the meeting materials behind Tab 7. Mr. Horenstein reported that it has been a busy short session. The final cut-off was Wednesday and all bills had to be out of their house of origin. The Administrative Office of the Courts (AOC) was tracking 700+ bills and it is now down to about 300 bills. The legal financial obligations (LFO) reform bill, E2SHB 1783, is very likely to pass this session. It passed the House and is out of the Senate Law and Justice Committee with minor changes. AOC will make it work with a workaround in the short-term until the new courts of limited jurisdiction case management system is implemented.

Also, the driving with license suspended bill is now on the necessary to implement the budget list. It is likely something will pass.

The abolishing the death penalty bill was one the BJA chose not to take a position on. There have been a lot of discussions on the bill.

BJA Strategic Initiatives

Ms. Englert stated that things are continuing to move forward with the two task forces. She thanked everyone for completing the surveys. Approximately 80% of the courts responded to the interpreter survey and there was a 38% response rate for the education survey, but with a very large potential for responses, this was a good rate.

Both task forces will meet in February and they will present their budget request recommendations to the BJA in March.

Standing Committee Reports

Budget and Funding Committee (BFC): Judge Schindler reported that the BFC is about ready to have all the meetings that were approved on the chart earlier in the meeting.

Court Education Committee (CEC): Judge Jasprica stated the CEC will meet on March 3 to begin strategic planning on how to move forward with all the information they have received from the Education Funding Task Force.

Policy and Planning Committee (PPC): Judge Robertson said the PPC will be meeting today and they gathered a lot of information about committees/commissions/boards/associations and how they were created and how they are governed. They will be discussing collaboration ideas with judicial associations. The PPC is working on adopting a new schedule for identifying and recommending strategic initiatives. Ms. Englert stated that the PPC determined that they need more time to develop the initiatives and are looking at initiative options other than funding.

Legislative Committee (LC): Judge Ringus reported that it is expected that the legislative session will wrap up on time. In the spring, associations will receive letters to gather thoughts on legislative proposals for the 2019 BJA Legislative Agenda.

Washington State Center for Court Research and the Center for Study and Advancement of Justice Efficiency

Dr. McCurley is ill so this report will be rescheduled.

Judicial Leadership Meeting

Chief Justice Fairhurst has proposed having all judicial groups meet including the Supreme Court justices; the Court of Appeals Presiding Chief Judge and chief judges; the Executive Committees of the Superior Court Judges' Association and the District and Municipal Court Judges' Association; the BJA co-chairs and committee chairs; and Ms. Dietz, Mr. Radwan, Mr. Marler, Mr. Horenstein and Ms. Vonnie Diseth from AOC.

The group would meet for a day and discuss what the court levels/boards/committees are working on in the morning and the afternoon would consist of figuring out where the group is right now and looking forward to what is coming. The group would also discuss where they see themselves as a branch in five to ten years. The information would drive what associations are doing and what the PPC is doing which should be visionary, goal setting, or big ideas. Having that conversation with the group annually or biannually would help everyone know each other.

Chief Justice Fairhurst is reviewing dates for this year but she did not want to go forward until she spoke to the BJA. There were no objections to this meeting and Chief Justice Fairhurst will go forward with setting the meeting date and the group can decide the timing of the meeting in future years. The meeting will most likely be held in May, June or July this year.

Death Penalty Resolution

Judge Fearing asked for this resolution to be placed on the agenda. The BJA is tasked with advancing justice in the state of Washington and abolishing the death penalty strikes at the heart of criminal justice in Washington State.

The Legislature is currently considering abolishing the death penalty and this proposed resolution supports that legislation. Waiting until the March meeting to consider the resolution will be too late because the Legislature adjourns on March 8.

Chief Justice Fairhurst suggested that the BJA begin with a discussion about the procedure of considering the resolution during this meeting and then whether the BJA is willing to take action during this meeting.

Justice Wiggins commented that there are death penalty cases appearing before the Supreme Court. Personally, he does not think he is willing to have his name on a resolution to the Legislature while they have cases pending. He feels he must abstain on the vote regarding the resolution.

Judge Fearing stated that the Court of Appeals does not handle death penalty cases. For that reason he feels he is at liberty to bring this matter to the Board. If he were Chief Justice Fairhurst or Justice Wiggins he would probably recuse himself from this discussion.

Chief Justice Fairhurst responded that not only is the Supreme Court affected by this, the superior courts are also. The Washington State Bar Association took a view on the death penalty a few years ago and they got quite a bit of consternation from the Supreme Court for taking a political position.

Judge Chushcoff said that the BJA provides facts and rarely takes a position on a policy issue because the courts have an obligation of executing the policy and need to appear unbiased. This is an issue best left to the Legislature. If the Supreme Court and superior courts are recused from this decision, how does it represent the BJA?

Mr. Russell, speaking on behalf of the Attorney General's Office, stated that the bill to abolish the death penalty passed the Senate and is on the way to the House. For this body to take action, it needs to be done today because the session ends on March 8. There are Principal Policy Goals for the judicial branch and this policy speaks to those.

Judge Ahlf stated it is the policy of the DMCJA Board to refrain from taking positions on these types of policy issues. For this issue to be considered by the BJA, it would leave it to DMCJA and COA to make the decision. The BJA has a process for resolutions and that process needs to be followed. It is, therefore, inappropriate to address this issue at this time.

Judge Fearing stated that he is unaware of any death penalty cases pending in the superior courts. Judge Chushcoff responded that there was recently a shooting of a Pierce County Sheriff and aggravated first degree murder charges have been filed so there could be a death penalty case in his court in the near future.

Chief Justice Fairhurst suggested that the COA could make their own resolution.

It was moved by Judge Chushcoff and seconded by Judge Jasprica that this request for a death penalty resolution is out of order. The motion carried with Judge Fearing voting no and Justice Wiggins and Chief Justice Fairhurst abstaining.

Public Trust and Confidence Committee

It was moved by Chief Justice Fairhurst and seconded by Judge Schindler to reappoint Ms. Mary Crawford to the Public Trust and Confidence Committee. The motion carried.

November 17, 2017 Meeting Minutes

It was moved by Judge Schindler and seconded by Judge Ringus to approve the November 17, 2017 BJA meeting minutes. The motion carried.

Recap of Motions from the February 16, 2018 Meeting

| Motion Summary | Status |
|--|---|
| Approve the revised Principal Policy Goals, the Mission and the Vision of the BJA. | Passed |
| Approve the Resolution in Support of Adequate and Sustainable Funding for Court Education. | Passed |
| Have the Policy and Planning Committee formally evaluate the BJA rules and bylaws and offer recommendations to the BJA for adoption. | Passed |
| Approve the proposed 2019-2021 Biennial Budget Development Process-Requests That Flow Through AOC. | Passed |
| The request for a death penalty resolution is out of order. | Passed with Judge Fearing voting no and Justice Wiggins and Chief Justice Fairhurst abstaining. |
| Reappoint Ms. Mary Crawford to the BJA Public Trust and Confidence Committee. | Passed |
| Approve the November 17, 2017 BJA meeting minutes. | Passed |

Action Items from the February 16, 2018 Meeting

| Action Item | Status |
|--|---------------|
| <u>Gender and Justice Commission</u> <ul style="list-style-type: none"> Commission will draft letter of BJA's support, with information about the BJA's mission included, for the BJA's consideration and approval. Add to March BJA agenda. The Commission will work on a model harassment policy and bring it back to the BJA for consideration and adoption. | Done |
| <u>Branch Principal Policy Goals, BJA Mission and BJA Vision</u> <ul style="list-style-type: none"> Post the updated Principal Policy Goals, Mission and Vision. | |
| <u>Education Resolution</u> <ul style="list-style-type: none"> Date and number resolution and post online. | |

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| Action Item | Status |
|---|---------------|
| <u>BJA Administrative Manager Update</u> <ul style="list-style-type: none"> • Have the PPC formally evaluate the BJA rules and bylaws and offer recommendations to the BJA for adoption. • Move forward with the suggestions regarding branch entity updates. | |
| <u>Branch Budget Overview</u> <ul style="list-style-type: none"> • There was a question about the percentage listed on the NCSC document for Washington State. Mr. Radwan will verify the amount and share the information with the BJA. • Mr. Radwan will distribute 2019-21 budget request process information to judicial branch stakeholders. | |
| <u>BJA Strategic Initiatives</u> <ul style="list-style-type: none"> • Add to March BJA meeting agenda. | Done |
| <u>Washington State Center for Court Research and the Center for Study and Advancement of Justice Efficiency</u> <ul style="list-style-type: none"> • Add to future BJA meeting agenda. | Done |
| <u>Judicial Leadership Meeting</u> <ul style="list-style-type: none"> • Chief Justice Fairhurst will schedule this meeting in May, June or July. | |
| <u>Committee Appointments</u> <ul style="list-style-type: none"> • Draft and mail Public Trust and Confidence Committee reappointment letter to Ms. Mary Crawford. | |
| <u>November 17, 2017 BJA Meeting Minutes</u> <ul style="list-style-type: none"> • Post the minutes online. • Send minutes to the Supreme Court for inclusion in the En Banc meeting materials. | Done Done |