



Board for Judicial Administration (BJA) Meeting

Friday, May 18, 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
Judge Bryan Chushcoff
Ms. Callie Dietz
Judge George Fearing
Judge Blaine Gibson
Judge Dan Johnson
Judge Mary Logan
Judge Kevin Ringus
Judge Rebecca Robertson
Judge Ann Schindler
Judge Scott Sparks (by phone)
Judge Michael Spearman (by phone)
Justice Charles Wiggins

Public Present:

Dr. Page Carter

Guests Present:

Mr. Jeff Amram (by phone)
Mr. Jim Bamberger
Mr. Darryl Banks (by phone)
Ms. Barbara Christensen (by phone)
Ms. Jill Malat
Ms. Cynthia Marr
Ms. Sophia Byrd McSherry
Judge Kitty-Ann van Doorninck
Justice Mary Yu
Commissioner Rebekah Zinn

AOC Staff Present:

Ms. Lynne Alfasso (by phone)
Ms. Crissy Anderson
Ms. Carolyn Cole
Ms. Jeanne Englert
Ms. Beth Flynn
Ms. Merrie Gough
Ms. Sharon Harvey
Mr. Brady Horenstein
Mr. Dirk Marler
Mr. Ramsey Radwan
Ms. Intisar Surur

Minority and Justice Commission

Justice Yu thanked everyone for their support of the Minority and Justice Commission over the last year. The Commission could not have had successful projects without everyone's support. There are three issues the Commission is working on that the BJA can help support.

- Legal Financial Obligations (LFO): The Commission had a successful year with their LFO legislation and had success with education regarding LFO issues.
- Jury Diversity: The Commission has a statewide task force that is working on what steps to take to increase diversity in the jury pool.
- Pretrial Detention Reform Workgroup. The Workgroup is trying to identify ways to make release decisions that will treat people fairly, protect the public, and ensure court appearances.

The BJA could consider helping the Commission by: 1) Finding ways to improve data collection. Data informs decision-making and the Commission is having a hard time collecting

data. They are trying to figure out how to capture data better. 2) The Commission is hoping the Administrative Office of the Courts (AOC) can adopt the Commission's new LFO calculator which will be rolled out on June 6. This tool was developed by Judge Linda Coburn and Microsoft. Court staff can input an individual's financial data and it calculates the person's financial obligation and ability to pay. The real problem they are facing is what happens to this tool after its initial development. Judges have asked to integrate it into case management systems. It is state of the art now but will need to be updated regularly. The BJA could give some direction in how to integrate it effectively. 3) The Commission is providing judicial education in the areas of poverty, racial diversity and bias. Justice Yu asked the BJA to help keep those education programs alive.

Ms. Cole stated that a lack of criminal justice data is a national problem and there is an issue with data collection. She provided an article regarding the severity of the issue to the BJA attendees (<https://www.nytimes.com/2018/03/21/opinion/missing-criminal-justice-data.html>). Washington would be joining a national conversation if they want to pursue better data collection. Another handout is about Florida, where they mandated data collection and reporting (https://www.flsenate.gov/PublishedContent/Session/2018/BillSummary/Criminal_CJ1392cj_1392.pdf). Data is needed to make better reforms. Yakima implemented a lot of reforms and they have the data to show how well their reforms work. The Jury Diversity Task Force is considering submitting legislation regarding data collection for the 2019 session.

The *2018 Supreme Court Symposium – Legal Financial Obligations: Beyond Defining the problem; Advancing Solutions* will be held on June 6 from 9 a.m. – noon. There will be an ability to watch it live on TVW and it will also be recorded. It is over capacity even with an overflow room. The Commission will link to the recording on their Web site here: <http://www.courts.wa.gov/?fa=home.sub&org=mjc&page=symposium&layout=2>.

The Pretrial Reform Task Force is presenting *Bail, Pretrial Release, and Supervision: Are We Standing at the Threshold of Change?* at the District and Municipal Court Judges' Association Spring Conference in June. Justice Yu stated that the State Auditor's Office is going to help the Task Force collect data on who is incarcerated and why. People should not be afraid when the auditor comes calling. It is a collaborative project and they are our friends in this.

Pattern Forms Committee

Commissioner Zinn reported that the Pattern Forms Committee is a Supreme Court committee created by Supreme Court order 40 years ago. The Supreme Court appoints the members. The Committee creates and maintains court forms that are used primarily in superior courts and courts of limited jurisdiction. The court forms are heavily used by judicial officers, lawyers and self-represented litigants. The courts are very high volume courts and creating accurate, efficient forms allows the court users to efficiently access the courts. They have 92 volunteers who sit on their various committees and subcommittees. They currently maintain 829 forms. Day-to-day work is primarily based on legislative changes and legislative mandates. They have legislative watches to check on every bill and make sure the forms stay accurate. Sometimes case law changes what the forms need to look like. The Committee also works on improving the existing forms. The law is changing, how people read is changing, and they are striving to make the forms more user friendly. The Committee has one and a half Senior Legal Analysts who do all the work. The Committee is trying to shift some of the workload to some of the committee members.

The Committee's current initiatives are:

- Commissioner Zinn often hears there is a problem with a form or a suggestion for improvement to a form. She loves to hear the suggestions and wants everyone to know they are the stakeholders. The Committee implemented a comment tool on the Forms webpage which sends the comment to staff as a way for everyone to participate. The Committee wants to make those types of improvements and now there is a very easy way to get those comments to the right person.
- The Committee wants to dialog with all of their stakeholders. They are reassessing all committees and subcommittees to make sure the right stakeholders are represented. They are trying to make the groups geographically and urban/rural diverse and be financially stable.
- They are developing workload standards, policies, and style sheets so staff and committee members are not duplicating work and decisions previously made.
- They are working to increase access. Technology assistive forms are being created by working with the Office of Civil Legal Aid (OCLA). They want to make forms useable in a very easy way (similar to TurboTax). They are also looking at other technological options that increase the ability of people to use the forms in a user friendly way. They are hoping to revamp the Web site and create packets of forms for particular issues. For example, if needing a dissolution, all the forms needed for that particular action would be included in a packet that is available online.

The BJA can support the Committee's work by:

- The BJA members can encourage people to give feedback on forms and bigger picture items. The Committee members are listening and will continue to improve.
- The Committee has had trouble filling subcommittee chair positions. The work is very impactful and affects people in very effective ways. The Committee reviews all the forms but they are generated through subcommittees on particular subject matters. Page 5 of the meeting materials includes a list of their subcommittees. All the chair positions are currently filled but the BJA can encourage judicial officers and court staff to participate in the subcommittees when openings occur.
- The Committee could use more staffing. Commissioner Zinn knows they are not alone in their need for additional staff. The staff positions they have are being maximized and the support is still not nearly enough. They have members from all over the state and that is how it should be but it increases travel costs. It is very difficult to meet and do this work over web conferences so they need to meet in person. The BJA can support future requests for funding.

Commissioner Zinn thanked Ms. Gough for the work that she does. She is a gem and her level of service to this committee is outstanding. Chief Justice Fairhurst thanked Commissioner Zinn and Ms. Gough for their work on forms. The work really makes a difference to everyone who uses the forms.

There were questions regarding translating forms into different languages. As stated previously, the Committee has limited funds but they do translate forms when required to translate per statute. Mr. Radwan and Mr. Horenstein both stated this is an area to think about regarding a funding request. Mr. Marler said there was a decision package last year but it was not

successful so the Administrative Office of the Courts (AOC) made some internal adjustments and added a half-time staff to work on the forms. AOC needs a sustainable plan for forms translations. Right now it is just ad hoc and using funding left at the end of the biennium to scramble and get some forms translated.

Policy and Planning Committee Items

Judge Robertson reported that the meeting materials contain a proposal for amendment of the Policy and Planning Standing Committee Charter. The charter revisions will make the membership more stable.

It was moved by Judge Ringus and seconded by Judge Chushcoff to approve the amended Policy and Planning Standing Committee Charter. The motion carried.

The Policy and Planning Committee (PPC) also provided revisions to the Principal Policy Goals for the BJA's approval. The previous revisions were sent from the BJA to the Supreme Court, and as these are branch goals, to OCLA, Office of Public Defense (OPD) and the Commission on Judicial Conduct (CJC) for input. There were some suggested revisions from OCLA which were included in the meeting materials.

It was moved by Judge Logan and seconded by Judge Ahlf to adopt the revised Principal Policy Goals. The motion carried.

Branch Communication

Judge Robertson shared a memorandum from the PPC regarding Washington State judicial branch communication which was distributed in the meeting materials. It outlines several ideas about communicating between groups. The PPC reviewed the suggestions which were provided by Ms. Misty Butler and Ms. Englert.

Ms. Englert would like input from the BJA on the suggestions and then they will go back to the PPC for development into an implementation plan. Judge Robertson stated that the PPC is still working with their justice partners to get input from them.

It was noted that the suggestions are not for the entire judicial branch and Judge Robertson responded that the PPC wanted to start in a smaller way. There was a suggestion to possibly title the document the BJA Communication Plan.

There were suggestions to have a standing slot to talk about the work of the BJA at conferences and also to be sensitive to the time that groups report to the BJA. They could report during a critical time when they need something from the BJA (e.g. backing for a budget request). It was also suggested that there might be another avenue for subcommittees to report to the BJA not via an update during the meetings.

Any other suggestions can be sent to Judge Robertson.

It was moved by Judge Ringus and seconded by Judge Logan that the Policy and Planning Committee should continue working on the BJA communication plan. The motion carried.

Expired Resolution Protocol

Chief Justice Fairhurst stated that resolutions of the BJA expire after five years unless there is a request to renew them. She suggested that the expiring resolution come to the BJA to revisit and determine if the resolution should continue. The PPC could develop a process to address resolutions that have been adopted and are coming up to their five year expiration date and determine if something should be done with the resolution.

The following ideas regarding resolutions were suggested:

- The BJA resolutions should be reviewed annually.
- During the annual review, there should be an assessment of the purpose of the resolution and if it has accomplished anything.
- Just the resolutions expiring in the next year should be reviewed.
- During orientation all resolutions should be provided and there should be a discussion regarding if anything is missing or if there is something that should be worked on.

Ms. Dietz provided an overview of the Conference of Chief Judges (CCJ) and the Conference of State Court Administrators (COSCA) resolution process. The CCJ and COSCA look at issues and determine how important they are. If there is an issue they are interested in, they refer it to the appropriate committee(s). Each committee will look at the policy issue, develop the resolution, adopt the resolution and if adopted by CCJ or COSCA it moves to the other conference. Ms. Dietz cannot over stress the importance of the conferences looking at the really important issues and determining if an issue is something they need to look at. Most of the conference members then bring the resolution back to the states to possibly be adopted there.

It was the consensus of the BJA that the Policy and Planning Committee will take the BJA's ideas and suggestions and look at how expiring resolutions will be reviewed and how new resolutions will be developed.

Racial and Ethnic Bias Resolution

The Racial and Ethnic Bias resolution expired. The resolution is aspirational in nature and serves as a call to action so when it came to Ms. Dietz's attention that it expired, she wanted to bring it back up and renew it. Every part of the work the BJA does, whether it is people who are trying to resolve their disputes, or who are working in the court system, deserve equal justice.

Judge Chushcoff suggested that the resolution be made broader (not just racial and ethnic) and at the third whereas clause where it suggests that what is important is not the elimination of bias but the achievement of equal outcomes regardless of the merits, the resolution needs to focus on bias based practices that cause issues, not the outcomes.

Mr. Bamberger would like to participate in the revision of the resolution and he would like the folks leading the race, justice and equity initiative to also participate.

It was moved by Judge Ringus and seconded to refer the Racial and Ethnic Bias resolution to the Policy and Planning Committee to review and update if needed. The motion carried.

Standing Committee Reports

Budget and Funding Committee (BFC): Judge Schindler stated that the BFC met and carefully reviewed the 11 proposed funding requests. The requests will be reviewed later in the meeting. The next step is the June 8 meeting of the Court Funding Committee (CFC) which includes the Supreme Court Budget Committee, the BFC and Judicial Information System Committee (JISC) representatives. The BFC will then meet to prioritize the requests and will bring the list to the BJA to prioritize at the June BJA meeting. The BJA's recommendation will go to the CFC and the Supreme Court.

Court Education Committee (CEC): Judge Jasprica said that the written report in the meeting materials states they were going to meet on May 10 but, unfortunately, they realized they were not going to have a quorum so they canceled the meeting and will reschedule. The CEC had some discussions with the Court System Education Funding Task Force regarding funding.

Policy and Planning Committee (PPC): Judge Robertson reported that the PPC is discussing the strategic planning initiative process and will be working on the resolution that was just given to them earlier in the meeting.

Legislative Committee (LC): Judge Ringus stated that there is a written report on Page 18 of the meeting materials. Mr. Horenstein reported that legislative proposals are due to him by August 15. He included the 2018 Legislative Session Summary Report in the meeting materials and wants to recognize all the AOC staff who are implementing the bills that passed during the session. It is estimated that 1000 staff hours will be needed for full implementation. Mr. Horenstein will work on more regional outreach opportunities for judges with legislators and possibly have a legislative day.

Chief Justice Fairhurst added that once the Principal Policy Goals are finalized, they need to be what everyone is looking at for legislative proposals. Also, Judge Ringus' term as Chair of the LC is about to expire and for continuity's sake he should continue to Chair the Committee.

It was moved by Judge Fearing and seconded by Judge Chushcoff that Judge Ringus will remain Chair of the Legislative Committee. The motion carried.

Task Force Updates

Ms. Englert stated that the task forces continue to move forward and are very active in their work. Both task forces are developing communication campaigns and meet in June to review messaging strategies.

Training on Workplace Harassment in the Judicial Branch

Judge Schindler said that the resolution contained in the meeting materials is a policy position related to sexual harassment training. Based on the BJA's previous discussion, the resolution should go to the PPC but if the BJA agrees that the BJA should work on this, Ms. Englert, Judge Schindler and Justice Sheryl Gordon McCloud will work on it and then send it to the PPC for their review. This resolution is also consistent with the work of the Gender and Justice Commission.

It was moved by Judge Schindler and seconded by Judge Chushcoff that Ms. Englert, Judge Schindler, and Justice Gordon McCloud will work together to revise the Conference of Chief Justices Resolution 2 in Support of Commitment to Awareness and Training on Workplace Harassment in the Judicial Branch and then send it to the Policy and Planning Committee for their approval. The motion carried.

2019-2021 Budget Request Snapshot

Judge Schindler noted that the Proposed 2019 – 2021 Biennial Budget Request document is located behind Tab 8, on Page 50 – 55 of the meeting materials. Non-IT requests are followed by the IT requests.

Mr. Radwan reviewed some of the requests and reminded everyone that there will be presentations about the requests during the June 8 budget meeting. All the packages are draft at this point in time because the focus is on the issue itself, the dollar amount, and the priority between now and July. As the decision packages move forward, they will be cleaned up. The overall dollar amount of the request is not the largest request but it is about average for this point in the budget process. The total request from AOC is about \$50 million.

Mr. Radwan stated that a few of the IT requests will be for general funds and it will be discussed how those requests will fall in the overall general fund requests.

There was a comment regarding the fact that courts are seeing declines in revenue and there needs to be a fundamental shift in the idea of what the state contributes to the counties to keep the judicial system going.

Office of Civil Legal Aid Overview and Update

Mr. Bamberger provided an overview of the work of OCLA. In 1992 the state first began funding civil legal aid services on a small scale. In 2001 the Washington State Supreme Court established the Task Force on Civil Equal Justice Funding. One of the recommendations of the Task Force was creating OCLA which was created in 2005. The legislation proposed to create OCLA was modeled after the legislation to create OPD. Under the statute, OCLA is authorized

to support legal aid activities in specific subject matter areas. There were 11 initially. This was changed in the most recent session with the passage of SHB 2308. The expanded areas reflect the areas of highest need as reported in the 2015 Civil Legal Needs Study.

When it established OCLA, the Legislature also created the bipartisan Civil Legal Aid Oversight Committee. The goal was to try to remove partisanship from it and to ensure that scarce state legal aid funding was focused on day-to-day need.

OCLA contracts with Northwest Justice Project (NJP) which maintains 17 legal aid offices across the state, operates the statewide legal aid call center (CLEAR) and hosts the statewide self-help resources center – www.washingtonlawhelp.org. NJP subcontracts a portion of the funding to support 17 local stand-alone volunteer (pro bono) legal aid programs and four specialized providers of legal assistance.

OCLA has four staff members. In 2014 the Legislature charged OCLA with standing up a new program to provide civil representation for children who remain legally free and in the foster care system six months after the termination of their parents' legal rights. OCLA contracts with local attorneys to provide that representation. In 2016, OCLA established the Legal Aid to Crime Victims Program. This is funded with federal Victims of Crime Act (VOCA) funding.

Mr. Bamberger distributed information packets about OCLA programs: 1) the Children's Representation Program, and 2) the Civil Legal Aid to Crime Victims Program.

Judge Spearman reported that the Civil Legal Aid Oversight Committee is made up of 11 members and two are appointed by the BJA, three are appointed by the Supreme Court and there are four legislative members. The Committee oversees the activities of OCLA and reviews the director's performance.

OCLA made a commitment to ensure that policy and budget decisions about civil legal aid are considered within the context of justice system, and not as poverty or social services issues. This past session, the Legislature agreed to fund an automated document assembly system for the new plain language family law forms. This will work much like TurboTax® does, with a sequential series of questions that result in automatic populating of information in the required forms. OCLA is working with a broad community of stakeholders, including representatives from AOC, SCJA, the Washington State Association of County Clerks and the family law bar to stand up an online system where anyone, anywhere, using any device, can enter information into the system, produce fully completed forms and, when e-filing becomes available, push the data into superior court case management systems.

March 16, 2018 Meeting Minutes

It was moved by Judge Ringus and seconded to approve the March 16, 2018 BJA meeting minutes. The motion carried.

BJA Business Account Holders

With the departure of Ms. Butler, it is necessary to update the signatories on the BJA private account.

It was moved by Judge Ringus and seconded by Justice Wiggins to remove Ms. Misty Butler as an account holder and signatory on the account, to add Ms. Jeanne Englert, and to keep Mr. Brady Horenstein, Ms. Jan Nutting, and Mr. Dirk Marler. The motion carried.

Information Sharing

Chief Justice Fairhurst thanked Judge Ahlf for serving on the BJA. She will miss having his participation at the meetings. Judge Ahlf said the BJA has made some strides. The task forces are great projects to be proud of. He wants to make sure that the BJA continues to be the voice of the judiciary and is still heard.

She also thanked Ms. Marr for attending the BJA meetings and serving as the President of the District and Municipal Court Management Association (DMCMA) and coordinating great leadership training for the DMCMA. Ms. Marr stated that Margaret Yetter will be the next President of the DMCMA and will attend future BJA meetings.

The Salary Commission submission will be on the June BJA meeting agenda. Early next week Mr. Horenstein will send a draft report to judicial association leadership for input.

Recap of Motions from the May 18, 2018 Meeting

Motion Summary	Status
Approve the amended Policy and Planning Standing Committee Charter.	Passed
Adopt the revised Principal Policy Goals.	Passed
The Policy and Planning Committee should continue working on the BJA communication plan.	Passed
The Policy and Planning Committee will take the BJA's ideas and suggestions and look at how expiring resolutions will be reviewed and how new resolutions will be developed.	Agreed on by consensus
Refer the Racial and Ethnic Bias Resolution to the Policy and Planning Committee to review and update if needed.	Passed
Judge Ringus will remain Chair of the Legislative Committee.	Passed
Ms. Englert, Judge Schindler, and Justice Gordon-McCloud will work together to revise the Conference of Chief Justices Resolution 2 in Support of Commitment to Awareness and Training on Workplace Harassment in the Judicial Branch and then send it to the Policy and Planning Committee for their approval.	Passed
Approve the March 16, 2018 BJA meeting minutes.	Passed
Remove Ms. Misty Butler as an account holder and signatory on the account, add Ms. Jeanne Englert, and keep Mr. Brady Horenstein, Ms. Jan Nutting, and Mr. Dirk Marler on the BJA private account.	Passed

Action Items from the May 18, 2018 Meeting

Action Item	Status
<p><u>Principal Policy Goals</u></p> <ul style="list-style-type: none"> • Finalize and post online. • Send to OPD, OCLA, CJC and Supreme Court. • Update in Resolution section online. • Update in last tab of the BJA packet. • Update in BJA Member Guide. • Update in Budget process. • Update in Legislative process. 	<p>Done Done Done Done Done Done</p>
<p><u>BJA Communication Plan</u></p> <ul style="list-style-type: none"> • PPC will continue working on this and it will be retitled to not indicate it is for the judicial branch. 	
<p><u>Expired Resolution Protocol</u></p> <ul style="list-style-type: none"> • PPC will take the BJA's ideas and suggestions and look at how expiring resolutions will be reviewed and how new resolutions will be developed. • Update the resolution information under the last tab of the meeting materials. 	<p>Done</p>
<p><u>Racial and Ethnic Bias Resolution</u></p> <ul style="list-style-type: none"> • PPC will review and update if needed. • Judge Chushcoff suggested that the resolution be made broader (not just racial and ethnic) and at the third whereas clause where it suggests that what is important is not the elimination of bias but the achievement of equal outcomes regardless of the merits, the resolution needs to focus on bias based practices that cause issues, not the outcomes. • Mr. Bamberger would like to participate in the revision of the resolution and he would like the folks leading the race, justice and equity initiative to also participate. 	
<p><u>Training on Workplace Harassment in the Judicial Branch</u></p> <ul style="list-style-type: none"> • Ms. Englert, Judge Schindler, and Justice Gordon-McCloud will work together to revise the Conference of Chief Justices Resolution 2 in Support of Commitment to Awareness and Training on Workplace Harassment in the Judicial Branch and then send it to the Policy and Planning Committee for their approval. 	
<p><u>March 16, 2018 BJA Meeting Minutes</u></p> <ul style="list-style-type: none"> • Post the minutes online. • Send minutes to the Supreme Court for inclusion in the En Banc meeting materials. 	<p>Done Done</p>
<p><u>BJA Business Account Holders</u></p> <ul style="list-style-type: none"> • After minutes are approved in June, take approved minutes to credit union and update BJA private account signatory information. 	