

# **BOARD FOR JUDICIAL ADMINISTRATION**



**WASHINGTON  
COURTS**

## **MEETING PACKET**

**Board for Judicial Administration  
FRIDAY, March 17, 2023  
9:00 A.M.**

**VIDEOCONFERENCE**

# Board for Judicial Administration Membership

## ***VOTING MEMBERS:***

**Chief Justice Steven González**, Chair  
Washington State Supreme Court

**Judge Tam Bui**, Member Chair  
District and Municipal Court Judges' Association  
Snohomish County District Court

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**Judge Alicia Burton**  
Superior Court Judges' Association  
Pierce County Superior Court

**Judge Anne Cruser**  
Court of Appeals, Division II

**Judge Jennifer Forbes**, President  
Superior Court Judges' Association  
Kitsap County Superior Court

**Judge Marilyn Haan**  
Superior Court Judges' Association  
Cowlitz County Superior Court

**Judge Dan Johnson**  
District and Municipal Court Judges' Association  
Lincoln County District Court

**Judge Rick Leo**, President  
District and Municipal Court Judges' Association  
Snohomish County District Court

**Judge Mary Logan**  
District and Municipal Court Judges' Association  
Spokane Municipal Court

**Judge David Mann**  
Court of Appeals, Division I

**Justice Raquel Montoya-Lewis**  
Washington State Supreme Court

**Judge Rebecca Pennell**  
Court of Appeals, Division III

**Judge Rebecca Robertson**  
District and Municipal Court Judges' Association  
King County District Court

**Judge Michael Scott**  
Superior Court Judges' Association  
King County Superior Court

**Judge Jacqueline Shea-Brown**  
Superior Court Judges' Association  
Benton/Franklin Superior Court

## ***NON-VOTING MEMBERS:***

**Judge Sam Chung**, President-Elect  
Superior Court Judges' Association  
King County Superior Court

**Dan Clark**, President  
Washington State Bar Association

**Judge George Fearing**  
Presiding Chief Judge  
Court of Appeals, Division III

**Judge Jeffrey Smith**, President-Elect  
District and Municipal Court Judges' Association  
Spokane County District Court

**Terra Nevitt**, Interim Executive Director  
Washington State Bar Association

**Dawn Marie Rubio**  
State Court Administrator



**Board for Judicial Administration (BJA)**  
**March 17, 2023 (9:00 a.m. – 12:00 p.m.)**

Zoom Meeting

**AGENDA**

<p><b>1. Call to Order</b>  <b>Welcome and Introductions</b></p>	<p>Chief Justice Steven González          Judge Tam Bui</p>	<p>9:00 a.m.</p>
<p><b>2. Presentation: Disability Justice Task Force Steering Committee</b>          Information sharing</p>	<p>Judge David Whedbee          Robert Lichtenberg</p>	<p>9:05          Tab 1</p>
<p><b>3. Small Group Discussions</b>          Discuss the following questions and briefly report back to the larger Board. Please assign a notetaker and send notes to <a href="mailto:jeanne.englert@courts.wa.gov">jeanne.englert@courts.wa.gov</a></p> <p><b>Discussion Questions:</b></p> <p>1) What kinds of situations involving a person with a disability would you like more guidance on handling, given that accommodations need to be done on a case by case basis? Consider how guidance may differ for judicial officers, administrators, and clerks.</p> <p>2) Do court staff get the kind of information from the GR 33 request that helps them make the right decision for a party, victim, or witness seeking accommodations? Do court staff know what an interactive dialogue with a requestor looks like or how it should be done?</p>	<p>Chief Justice Steven González</p>	<p>9:30</p>
<p><b>4. BJA Task Forces</b></p> <p>Alternatives to Incarceration</p> <p>Court Security</p> <p>Remote Proceedings</p>	<p>Judge Mary Logan/Jeanne Englert</p> <p>Judge Rebecca Robertson/ Penny Larsen</p> <p>Penny Larsen</p>	<p>10:00          Tab 2</p>

<b>Break</b>		10:15
<b>5. Standing Committees</b>  Budget and Funding Committee  Court Education Committee  Legislative Committee  Policy and Planning Committee	Judge Mary Logan/ Chris Stanley  Judge Tam Bui/Judith Anderson  Judge Michael Scott/Brittany Gregory  Judge Rebecca Robertson/ Penny Larsen	10:25 Tab 3
<b>6. Interbranch Advisory Committee</b> Information sharing	Chief Justice Steven González Adrienne Stuart	10:50
<b>7. Appellate Courts' Updates</b> Information sharing  Supreme Court  Court of Appeals	Chief Justice Steven González  Judge George Fearing	11:00
<b>8. Feedback on future meeting topics</b>  Judicial Leadership Summit — June  Public defender challenges/pipeline — May	Chief Justice Steven González	11:20
<b>9. Minutes approval</b> Motion: Approve February 17, 2023 minutes	Chief Justice Steven González	11:40 Tab 4
<b>10. Information Sharing</b>	Chief Justice Steven González	11:45
<b>11. Adjourn</b>		12:00
Persons who require accommodations should notify Jeanne Englert at 360-705-5207 or <a href="mailto:jeanne.englert@courts.wa.gov">jeanne.englert@courts.wa.gov</a> 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.		

**Next meetings:**

**May 19, 2023 — 9:00 – 12:00 via Zoom**

**June 16, 2023 — 9:00 – 12:30 Judicial Leadership Summit, Location TBD**

# TAB 1

# Washington State Judicial Branch 2023-25 Biennial Budget Examine Disability Bias

**Agency:** Administrative Office of the Courts

**Decision Package Code/Title:** D4 – Examine Disability Bias

**Agency Recommendation Summary Text:**

The Administrative Office of the Courts, on behalf of the Disability Task Force, requests \$803,200 in one-time funding to conduct a two-year comprehensive needs-analysis to determine the nature and extent of the deficiencies in physical and programmatic access to state court services and programs, and to develop solutions to address disability discrimination. While the Task Force will provide subject matter expertise and support to state courts in addressing improvements to all policies, the ultimate aim of the needs analysis study is to support the establishment of a Disability and Justice Commission. The Commission will provide statewide guidance to the Supreme Court and other Washington courts so that people with disabilities have access to justice that not only meets legal compliance, but also ensures dignity, equity, and full participation in the legal system and the profession through the implementation of consistent best practices and other reforms. (General Fund-State)

**Fiscal Summary:**

	FY 2024	FY 2025	Biennial	FY 2026	FY 2027	Biennial
<b>Staffing</b>						
FTEs	1.00	1.00	1.00	0.00	0.00	0.00
<b>Operating Expenditures</b>						
Fund 001-1	\$294,000	\$509,200	\$803,200	\$0	\$0	\$0
<b>Total Expenditures</b>						
	\$294,000	\$509,200	\$803,200	\$0	\$0	\$0

**Package Description:**

Much of our legal system intrinsically involves Washingtonians with disabilities, albeit not necessarily with ADA protections in mind. The entire adult guardianship statutory structure and all legal proceedings associated with it involve disability. Every hearing about a criminal defendant’s capacity to aid in their own defense involves disability. Every application and appeal of disability-related employment or social security benefits involve disability. Every case enforcing the civil rights covered by the ADA (or Washington Law Against Discrimination) involves disability. All legal advice that lawyers provide around the creation of special needs trusts involves disability. Every fair hearing and case about special education rights involves disability. Every petition for involuntary civil commitment involves disability. Outside these areas inherently related to disability, there are also areas with a heavily disproportionate impact on people with disabilities, including those arising in the context of public benefits, criminal law, juvenile justice, and housing discrimination. In light of this pervasiveness, it quickly becomes apparent how important it is to fund research, a proposed needs-analysis with report and recommendations, and best practices, all with adequate staffing support, to ensure our courts are capable of meeting the access to justice needs of people with disabilities, including those with disabilities working in the legal profession.

A two-year comprehensive study of Washington courts will identify deficiencies in physical and programmatic access that persons with disabilities encounter, in addition to any cultural barriers experienced while engaging with services,

benefits, and professional opportunities within the court system. This study will result in a statewide needs-analysis, report, recommendations for best practices and the establishment of a Disability and Justice Commission. To this end, the Task Force will provide subject matter expertise and support to state courts in addressing improvements to all policies, based on and evidence-based analysis of our state's practices from the perspective of disability justice, utilizing an intersectional, anti-racist, and collective access framework created by Sins Invalid.<sup>1</sup>

Washingtonians with disabilities<sup>2</sup> represent 22 percent of our state's adult population and 21 percent of the state's Bar members.<sup>3</sup> In 2015, the Office of Civil Legal Aid's (OCLA) Civil Legal Needs Study found that courts and programs were not accessible, despite Title II of the ADA and GR 33 requirements.<sup>4</sup> Courts routinely receive requests for accommodations (*e.g.*, auxiliary aids/services, alternative formats, breaks, and communication support) and modifications of procedures and policies (*e.g.*, representation by counsel under GR 33(a)(1)(c), presence of personal care attendants, scheduling, and use of service animals). Yet Washington courts have not adopted a uniform set of best practices for collecting data and fielding GR 33 accommodation requests; creating strategic plans for disability access; achieving court website and record filing access for blind persons; ensuring persons with disabilities are not excluded from jury service; developing trauma-informed practices for identifying and communicating with parties and other court users who may have cognitive and/or developmental disabilities; ensuring that guardianship and other special proceedings are ADA compliant; or setting forth training models to remedy any of these deficiencies. These gaps, among others, resulted in Washington receiving 37.5 out of 100 points for its disability access from the National Center for Access to Justice (2020).<sup>5</sup>

The study and report with recommendations will result principally in a uniform set of best practices for assuring physical and programmatic access to state court services and programs for full ADA and GR 33 compliance, and for implementing solutions to address disability discrimination and marginalization in our justice system. In addition, modular training programs can be developed for use across all state courts. Such an evidence-based best practices approach will improve efficiency by replacing ad hoc and disparate approaches to GR 33 obligations that currently exist from court to court and reduce litigation and the diversion of resources. Finally, we plan to structure a Task Force that is representative of a full spectrum of disabilities and their respective stakeholder communities, and consists of Disability Rights Washington and groups with different legal/professional perspectives.

We propose that the 2-year comprehensive study, the report and recommendation be the foundation for a Disability and Justice Commission, comparable in mission and scope to the Minority and Justice Commission, Gender and Justice Commission, and Interpreter Commission.

<sup>1</sup> Sins Invalid. Ten Principles of Disability Justice: <https://www.sinsinvalid.org/blog/10-principles-of-disability-justice>. The Disability Index contains 29 benchmarks: <https://ncaj.org/state-rankings/2020/disability-access/about-justice-index>.

<sup>2</sup> The Task Force uses both person-first language ("people with disabilities") and identity-first language ("disabled people") to honor preferences: <https://educationonline.ku.edu/community/person-first-vs-identity-first-language>.

<sup>3</sup> CDC Disability Data (Adults 18+): <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/washington.html>; WSBA Study: <https://www.wsba.org/docs/default-source/about-wsba/diversity/factsheetfordiversity-disabilitiesimpairments.pdf?sfvrsn=b75638f10>; 2019 Washington Division of Vocational Rehabilitation Report: <https://www.dshs.wa.gov/sites/default/files/dvr/2019CSNAFinal.pdf>. See also Attachment A.

<sup>4</sup> Civil Legal Needs Study (2015): [https://ocla.wa.gov/wpcontent/uploads/2015/10/CivilLegalNeedsStudy\\_October2015\\_V21\\_Final10\\_14\\_15.pdf](https://ocla.wa.gov/wpcontent/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf).

<sup>5</sup> National Center for Access to Justice: Disability Access Index (2020): <https://ncaj.org/state-rankings/2020/disability-access/about-justice-index>.

**Fully describe and quantify expected impacts on state residents and specific populations served:**

Disability is the largest minority group in the nation,<sup>6</sup> and all Washingtonians with disabilities will benefit from this proposal, which aims at improving the legal system’s responsiveness to the needs of people with disabilities. Like other protected classes, how disabled people themselves identify and how others identify them vary. These differing perspectives on “disability” reflect a subjective construction that only approximates the objective reality people with disabilities experience. Due to the diversity of experiences described under the rubric of “disability”, it can be difficult to attribute clean numbers to exactly how many people will ultimately be impacted by improvements to our legal system. But if we look closely at individual aspects of the legal system, and the affected demographic, the scope of the potential impact is dramatic. The Center for Disease Control and Prevention documents that 22 percent of Washingtonians have a disability involving mobility, cognition, independent living, hearing, vision, and self-care.<sup>7</sup> These metrics do not include mental illness, which according to the National Institute of Mental Health, impacts 21 percent of adults in any given year, and notably affects 30.6 percent of young adults from 18-25 each year.<sup>8</sup> Thus legal system reforms that affect this population will have a distinct impact beyond those persons with physical- and sensory-defined disabilities.

**Explain what alternatives were explored by the agency and why they were rejected as solutions:**

There is no current program or service in place to provide such expansive guidance to all entities and individuals working in the justice system who are dealing with disability issues. The AOC has a program manager who is available on request to provide ADA guidance to individual courts, although it is not a primary duty of that position. There is no programmatic structure, knowledge base, or set of best practices to support and empower individual court jurisdictions to address the needs of their county and city residents who seek justice or are in the justice system as witnesses, defendants, and legal professionals.

**What are the consequences of not funding this request?**

Disability affects persons across all racial groups, gender identities, and sexual orientation. The Conference of Chief Justices predicts that state courts are likely to experience an increase in the number of adult court users with disabilities, and both the National Center for State Court’s Center for Elders and the Courts and the American Bar Association have recommended that courts plan for accommodations for aging court users living with disabilities. Problem identification, remedial resources preparation, service delivery best practices training, and removal of bias against persons with disabilities is needed to address the impact on our courts. Additionally, communities of color are at risk of a disproportionately severe adverse impact if the statewide court system remains inconsistently compliant with ADA requirements and wanting in the full physical and programmatic access the study would be designed to address. The ability of our courts and legal profession to be fully inclusive of a protected class of citizens continues to be at stake, and there are grave social consequences, fiscal and systemic, when disabled individuals continue to be marginalized by our courts and the justice system.

**Is this an expansion or alteration of a current program or service?**

It is not. As noted above, the type of comprehensive study we envision is unprecedented.

<sup>6</sup> <https://www.dol.gov/agencies/odep/publications/fact-sheets/diverse-perspectives-people-with-disabilities-fulfilling-your-business-goals>.

<sup>7</sup> CDC Disability Data (Adults 18+): <https://www.cdc.gov/ncbddd/disabilityandhealth/impacts/washington.html>; describing the prevalence of the following disabilities, “Mobility: Serious difficulty walking or climbing stairs; Cognition: Serious difficulty concentrating, remembering, or making decisions; Independent living: Serious difficulty doing errands alone, such as visiting a doctor’s office; Hearing: Deafness or serious difficulty hearing; Vision: Blind or serious difficulty seeing, even when wearing glasses; Self-care: Difficulty dressing or bathing.”

<sup>8</sup> [https://www.nimh.nih.gov/health/statistics/mental-illness#:~:text=Prevalence%20of%20Any%20Mental%20Illness%20\(AMI\),-Figure%201%20shows&text=In%202020%2C%20there%20were%20an,%25\)%20than%20males%20\(15.8%25\)](https://www.nimh.nih.gov/health/statistics/mental-illness#:~:text=Prevalence%20of%20Any%20Mental%20Illness%20(AMI),-Figure%201%20shows&text=In%202020%2C%20there%20were%20an,%25)%20than%20males%20(15.8%25)).



**Decision Package expenditure, FTE and revenue assumptions:**

The Task Force will be comprised of approximately 25 members, from various disability and legal perspectives. All members will serve as volunteers, but the Task Force requires staff assistance and consultant expertise to prioritize its work plan, conduct research, and develop a report and recommendations to advance disability justice in the courts.

**Staffing Assumptions**

Beginning July 1, 2023, AOC requires one-time salary, benefits, and associated standard costs for a Senior Court Program Analyst to provide meeting coordination, outreach, grant writing, implementation, and other tasks related to coordinating the Disability Justice Task Force’s study

**Other Non-Standard Costs**

**Contracts (Object C)**

*Research Report Consultants.* The Task Force requests funding for 2 years of staffing and consulting support to conduct a comprehensive study about disability access and bias within the courts. The consultants’ work will be guided by the benchmarks of the National Center for Access to Justice Study, qualitative research involving disabled litigants and lawyers, current equity and inclusion standards, and a review of other states’ improvements.

- *Research Support (1 Full-Time research coordinator, 2-3 Part-Time research assistants).* To coordinate research and assist with discrete aspects of the report (e.g., outside expert consultants, pilot projects and research development). \$300,000
- *Community Consultant Stipends & Accommodations.* Stipends and accommodations for impacted people contributing to the report (e.g., focus groups, ASL interpreting, interviews, and surveys). \$100,000

**Goods and Services (Object E)**

*Meeting Accommodations/Access.* The Task Force will meet remotely, but it will require funding for disability accommodations and language access (e.g., interpretation and translation). At present, we do not anticipate any travel or equipment budget. \$50,000

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
<b>Expenditures by Object</b>						
A Salaries and Wages	101,100	101,100				
B Employee Benefits	32,200	32,200				
C Personal Service Contract	100,000	300,000				
E Goods and Services	18,800	38,800				
G Travel	2,500	2,500				
J Capital Outlays	6,400	1,600				
T Intra-Agency Reimbursements	33,000	33,000				
<b>Total Objects</b>	<b>294,000</b>	<b>509,200</b>				

<b>Staffing Job Class</b>	<b>Salary</b>	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
SENIOR COURT PROGRAM ANALYST	101,100	1.00	1.00				
<b>Total FTEs</b>		<b>1.00</b>	<b>1.00</b>				

**Explanation of standard costs by object:**

Salary estimates are current biennium actual rates at Step L.

Benefits are the agency average of 31.89% of salaries.

Goods and Services are the agency average of \$3,800 per direct program FTE.

Travel is the agency average of \$2,500 per direct program FTE.

One-time IT Equipment is \$4,800 for the first fiscal year per direct program FTE. Ongoing Equipment is the agency average of \$1,600 per direct program FTE.

Agency Indirect is calculated at a rate of 24.73% of direct program salaries and benefits.

**How does the package relate to the Judicial Branch principal policy objectives?**

The Task Force, through the proposed comprehensive study and resultant recommendations for best practices, will work toward advancing core Judicial Branch policy objectives of fair and effective administration of justice, accessibility, and access to necessary representation. The information gained from this study and report to the Supreme Court is intended to redress deficiencies in access to justice programs and services operated by state government entities that are currently interacting with individuals with disabilities. Numerous state executive branch entities have administrative proceedings of a legal nature that are accessed by individuals with disabilities, and state courts must deal with guardianship issues where the participation of an individual with a disability is essential to the delivery of services that protect the most vulnerable in our population. We anticipate that the contemplated report and recommendations would have positive collateral impacts on these entities, too, because of the potential that best practices could be portable.

**Are there impacts to other governmental entities?**

The Task Force Steering Committee has consulted with the Office of Administrative Hearings (OAH) about the proposed comprehensive study and underlying funding request, and the agency generally supports this proposal. OAH recognizes the overlapping interests between OAH and the judiciary in enhancing court access and the potential for shared benefits from the comprehensive study and resulting report and recommendations.

**Stakeholder response:**

The Task Force Steering Committee has secured the support of the following non-government organizations for the proposed comprehensive study and related items under this request:

- Access to Justice Board
- Allies in Advocacy
- American Civil Liberties Union of Washington
- Autistic Self Advocacy Network
- Bazelon Center for Mental Health Law
- Carl Maxey Center
- Central Washington Disability Resources
- Chief Seattle Club
- Coelho Center for Disability Law, Policy, and Innovation at Loyola Law School in Los Angeles, California
- Columbia Legal Services
- Communities of Color Coalition
- Disability Action Center Northwest
- Disability Empowerment Center
- Disability Rights Colorado
- Disability Rights Washington
- Governor’s Committee on Disability Issues and Employment
- Greater Spokane Progress
- Health and Justice Recovery Alliance
- INDEx - Inland Northwest Disability Experience
- Justice in Aging
- Latina/o Bar Association of Washington
- Look2Justice
- National Alliance on Mental Illness – Seattle
- National Alliance on Mental Illness – Spokane
- National Alliance on Mental Illness - Thurston-Mason
- National Disability Rights Network
- Northwest Fair Housing Alliance

- Northwest Health Law Advocates
- Northwest Immigrant Rights Project
- Office of Developmental Disability Ombuds
- Spectrum Institute
- TeamChild
- The Arc of Washington
- University Center for Excellence in Developmental Disabilities
- Washington Attorneys with Disabilities Association
- Washington Civil and Disability Advocate
- Washington State Disability Inclusion Network
- Washington State Developmental Disability Council
- Washington State Independent Living Council

**Are there legal or administrative mandates that require this package to be funded?**

This proposal is essential to the creation of the Disability Justice Task Force by the Washington Supreme Court, for thoroughgoing and consistent ADA, WLAD, GR 33 compliance, and toward RCW 2.56.210's mandate to maintain a Reasonable Accommodations Program.

**Does current law need to be changed to successfully implement this package?**

No.

**Are there impacts to state facilities?**

No, but the contemplated study may identify impacts.

**Are there other supporting materials that strengthen the case for this request?**

See Attachment A.

**Are there information technology impacts?**

No.

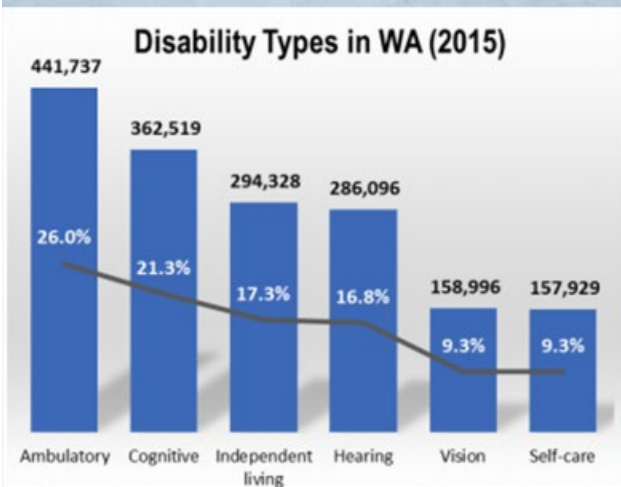
**Agency Contacts**

Christopher Stanley, 360-357-2406, [christopher.stanley@courts.wa.gov](mailto:christopher.stanley@courts.wa.gov)

Angie Wirkkala, 360-704-5528, [angie.wirkkala@courts.wa.gov](mailto:angie.wirkkala@courts.wa.gov)

## Appendix A

### Prevalence of Disability in WA

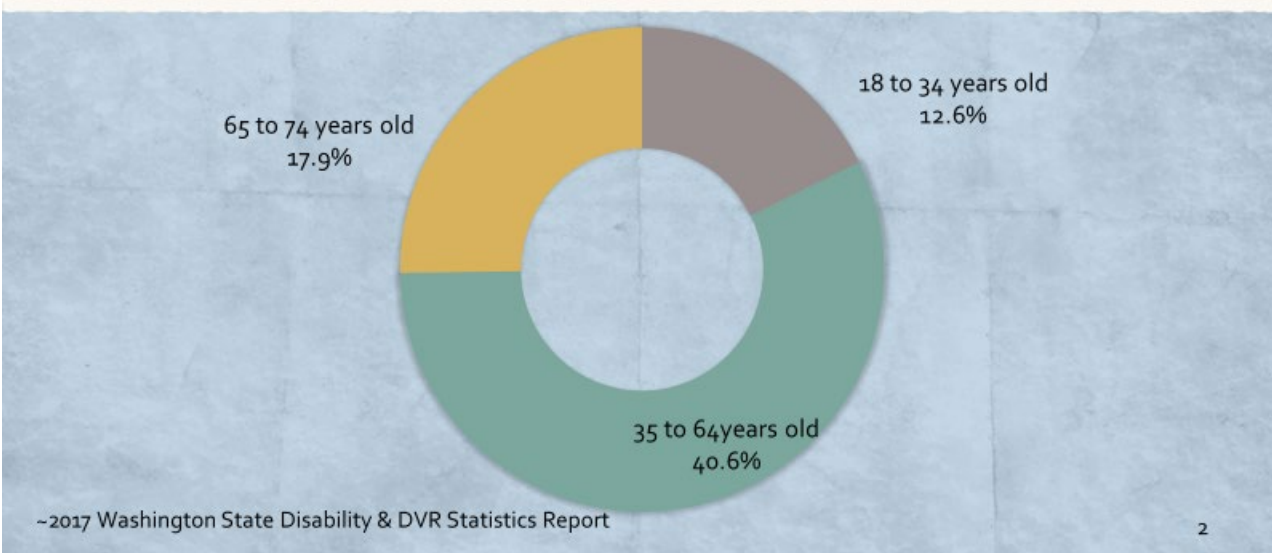


- American Community Survey (ACS) data for 2017 show that 942,318 individuals with disabilities reside in Washington State, a +40,000 increase over the 2015 numbers.
- The rate among disability types has remained unchanged since 2014.
- Adults with disabilities represent over 22% of the State's population.

~DVR 2019 Comprehensive Statewide Needs Assessment Report, [2019 Comprehensive Statewide Needs Assessment \(wa.gov\)](#)

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### Prevalence of Disability in WA



2



# WSBA Diversity

## Demographic Highlights for WSBA Members with Disabilities/Impairments

In 2012, the Washington State Bar Association conducted a statewide demographic survey of its membership. The goals of this effort were to understand the composition of those in the profession and examine career transitions. At the time of the study, WSBA membership totaled more than 35,000 attorneys. Data was collected and analyzed from active, inactive, and former members (those who ceased membership in the last five years). Seven diversity groups were identified and data was analyzed on group characteristics and job setting experiences. These groups included **persons with disabilities**, racial minorities, older members (40+), sexual minorities, women, primary parents and caregivers to older or disabled adults, and military personnel and veterans.

### Quick Facts

For members with disabilities/ impairments

- 15%** Report being a parent or caregiver
- 12%** Are women
- 11%** Report being in the military or a veteran
- 17%** Report being 40 years or older
- 8%** Report being a sexual minority

### Membership

Members with a disability/impairment represent **21%** of the Washington State Bar Association membership\*\*

Members with a disability/impairment report an average age of 53 years.

18% of all WSBA members practice outside of Washington. Of those, **15%** report having a disability/impairment.

### Practice

Average years licensed for members with a disability/impairment is **21** years.

### Employment Settings for Members with a Disability/Impairment

(includes active and inactive members)

Group Law Firm	27.5%
Solo Practice	24%
Govt., Fed./State/ Local/Tribal	18.1%
Retired	4.4%
Corporate	3.1%
Business, Outside Law	5%
Unemployed	3.1%
Public Interest/Other	
Nonprofit	3.1%
Education	1.9%
Public Interest, Legal	5.6%
Superior/District courts	1.9%
Mediation	*
Federal Court	*
Appellate Court	1.2%
Local/Municipal Court	*

\* less than 1%

\*\*The membership study used a broader definition than what is commonly utilized to collect Census data.

## Key Findings

- **21%** of WSBA members fall within a protected class because they have a disability/impairment.
- Members with a disability/impairment experienced **social barriers** at a rate higher than all other diversity groups.
- **47%** of active members who report a disability/impairment are solo practitioners.
- Congressional Districts 3 and 6 have the second highest percentage of members reporting a **disability/impairment**.

The profession is changing. The business interests of attorneys, employers, and clients call for more diverse legal representation across the state. WSBA is committed to supporting and advancing diversity and inclusion in the profession. In demonstration of its ongoing commitment, WSBA seeks to:

- Ensure a more diverse Continuing Legal Education faculty that better reflects its membership and the clients they serve.
- Educate members statewide to develop cultural competency skills critical to achieving inclusion for this population.

# TAB 2



March 17, 2023

**RE: Alternatives to Incarceration Task Force Report**

*The goal of this strategic initiative is for pre-trial and post-sentencing incarceration alternatives to be uniformly available to courts throughout the state regardless of the court's resources and the person's ability to pay.*

The Task Force's next meeting is March 29, 12:00 – 1:30. All meetings are TVW livestreamed.

**Assessment and Information Gathering Workgroup** opened their survey and sent it to court administrators across the state. The purpose of this survey is to: identify jurisdictions that have pretrial and post-conviction adult alternatives to incarceration; determine what services they provide and how they are funded; and to gain insight into what is working and what is needed.

March 17, 2023

**TO:** Board for Judicial Administration (BJA) Members

**FR:** Judge Sean O'Donnell and Judge Rebecca Robertson  
Co-Chairs, BJA Court Security Task Force

**RE:** REPORT OF THE COURT SECURITY TASK FORCE

The Task Force Co-Chairs met with 17 key legislators to support the Court Security Matching Grant Program funding request in mid-February and early March, 2023. The co-chairs explained the needs of small and rural courts and highlighted the shared cost model and Task Force's successful efforts to get support of local governments in small rural counties. The meetings on February 17 included Judge George Fearing, who spoke of the need for security in several courthouses in Eastern Washington that have little or no security measures.

Letters of support for the funding request were signed by seven Boards of County Commissioners in the rural counties that the Task Force and local judges met with in August 2022. These letters were delivered to the Chairs and Minority Ranking Members of the House and Senate Fiscal Committees in early March. The Washington Bar Association Board of Governors and the Washington Supreme Court Commission on Gender and Justice also presented letters to the legislature on behalf of the funding request.

The Task Force will meet again after session to prepare for the sunset of the Task Force. The agenda items will include a discussion on recommendations to the BJA for future activities and the final Task Force report.





March 17, 2023

**TO:** Board for Judicial Administration (BJA) Members

**FR:** Judge Angelle Gerl and Judge Jim Rogers  
Co-Chairs, BJA Remote Proceedings Work Group

**RE:** REPORT OF THE REMOTE PROCEEDINGS WORK GROUP

The Work Group met on February 9, 2023. Below is a status update on the projects now in progress.

#### Court Rules Project

Work Groups discussed the makeup of the subgroups and noted that CLJ rules and processes are very different from Superior Court. The decision was made to split the subgroups up by court level. Additional judges have joined the Work Group and more attorneys are being recruited for the CLJ level court rule subgroups. The Work Group now has the following six subgroups:

- Superior Court – Criminal
- Superior Court – Civil
- Superior Court – Family, Juvenile and Dependency
- CLJ – Criminal
- CLJ – Civil
- Best Practice Guidelines

Work Group members will be meeting several times between March and June to edit and finalize proposed rule changes which are being presented to them in draft form. The timeline of the presenting the slate of rule recommendations to the Washington Supreme Court Rules Committee has been updated to June 15, 2023.

#### Remote Proceedings Survey

The summary report and presentation materials will be available by the end of March. The report and data will be used by the Best Practices Guidelines Subgroup, which plans to start working in the late Spring after the Court Rules Project is winding down.

### Work Group Presentations and Updates

Work Group Co-Chair Judge Jim Rogers presented an update to the SCJA Board on March 4, 2023.

Judge Rogers is schedule to provide a brief project update at the Joint Business Meeting of the Appellate Spring Conference on March 27, 2023.

The Work Group plans to make a presentation to the BJA in May 2023 and to the Supreme Court at a date yet to be determined.

# TAB 3

March 9, 2023

**TO:** Board for Judicial Administration Members

**FROM:** Judge Tam T. Bui, BJA Court Education Committee Chair  
Judge Douglas J. Fair, BJA Court Education Committee Assistant-Chair

**RE:** Court Education Committee Report

The Court Education Committee (CEC) continues to award Institute for Court Management (ICM) scholarships to court personnel pursuing certification. ICM has two certification series. The first is the Certified Court Manager Certification (CCM) which consists of six courses, and the second is the Certified Court Executive Certification (CCE) which consists of six courses. The courses are available via live webinars or self-paced programming.

The CEC revised charter created an Executive Committee which has the authority to make decisions on behalf of the CEC if needed. The Chair and Assistant Chair of the CEC are two of the positions. The CEC approved Ms. Margaret Yetter, Kent Municipal Court, to the non-judicial position, and Ms. Dawn Marie Rubio appointed Mr. Dirk Marler to the AOC position.

The CEC is currently looking to fill the Law School Dean vacancy on the committee. Letters of introduction and invitation were sent out to all of the three law school deans.

The CEC Strategic Positioning Plan is in Phase III of development. The CEC reviewed all the information gathered and developed three goals they wish to pursue over the next five years. They are refining those goals and creating action plans over the next few months.

eLearning programs continue to be developed and are in various stages of review. *General Rule 34* is in the final review before placing it in the Learning Management System (LMS). *Anger to Authenticity: Keeping Order Within* (JASP), and *Court Security* storyboards have been reviewed and are now in production. There are two modules still in the production stage which are being developed as required by Chapter 7.105 RCW. *Procedural Justice* and *Coercive Control* are in various stages of development. Still in the preliminary stage of development: *Gender-Based Violence* and *Requirements for the Surrender of Weapons*.

The Appellate Spring Program and the County Clerks' Spring Program will be conducted in March. Registration information has been disseminated for the Superior Court Judges' and Superior Court Administrators' Spring Programs. Registration information has also been disseminated for the District and Municipal Court Managers' Spring program, which will focus on the Academy, and priority is being given to those who need to complete the Academy to be in compliance with ARLJ 14.

### **Work in Progress**

The Court Education Committee's Strategic Positioning Plan.



March 17, 2023

**TO:** Board for Judicial Administration (BJA) Members  
**FROM:** Judge Michael Scott, BJA Legislative Committee Chair  
Brittany Gregory, Associate Director, Judicial and Legislative Relations  
**RE:** BJA Legislative Committee Report and Legislative Session Update

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### 2023 Legislative Session

The legislature is scheduled to adjourn on April 23, 2023.

During the legislative session, the BJA Legislative Committee has convened weekly over Zoom to discuss pending legislation.

### BJA Request Legislation This Session

The BJA proposed four request bills this session, and all four bills made it passed chamber of origin cutoff.

- **HB 1023: Eliminating Wiretap Authorization Reporting Requirements**
  - Prime Sponsor: Representative Walen
  - 3/7- Passed out of House (90-5-3)
- **HB 1102: Addressing Superior Court Pro Tem Compensation**
  - Prime Sponsor: Representative Taylor
  - 3/9- Scheduled for an Executive Session in Senate Law & Justice
- **SB 5003: Adding an additional judge to the Snohomish County District Court**
  - Prime Sponsor: Senator Lovick
  - 3/10- Scheduled for an Executive Session in Senate Law & Justice
- **2SSB 5128/HB 1598: Concerning Jury Diversity**
  - Prime Sponsor: Senator Trudeau / Representative Hackney
  - (5128) 3/3- Passed out of Senate (40-9-0)
  - (1598) This bill did not make it out of its policy committee this session.

### Other Legislation of Interest This Session

This session the legislature focused on bills addressing housing, legal financial obligations, and the *Blake* decision.

There were several pieces of legislation the BJA Legislative Committee voted to support on behalf of the BJA:

- **[2SSB 5046](#): Concerning postconviction access to counsel**
  - Prime Sponsor: Senator Saldaña
  - 3/3- Passed out of Senate (30-19-0)
  - 3/6- Referred to House Civil Rights & Judiciary
- **[SB 5087](#): Defects and omissions**
  - Prime Sponsor: Senator Pedersen
  - 2/3- Referred to House Civil Rights & Judiciary
- **[SB 5155](#): Concerning the court of appeals**
  - Prime Sponsor: Senator Wagoner
  - 3/10- Scheduled for Executive Session in House Civil Rights & Judiciary
- **[SB 5347](#): Concerning access to abstract driving records**
  - Prime Sponsor: Senator Wagoner
  - 3/9- Scheduled for Public Hearing in House Transportation
- **[SB 5392](#): Concerning overpayments for certain matters**
  - Prime Sponsor: Senator Schoesler
  - 3/8- Scheduled for Public Hearing in House Civil Rights & Judiciary
  - 3/10- Scheduled for Executive Session in House Civil Rights & Judiciary

Other bills monitored by the BJA Legislative Committee for court impacts include:

- **[2SHB 1715](#): Enacting comprehensive protections for victims of domestic violence**
  - Prime Sponsor: Representative Davis
  - 3/7- Passed out of House (69-25-4)
- **[SB 5051](#): Concerning language understanding of documents used in dissolution proceedings**
  - Prime Sponsor: Senator Wellman
  - 2/21- Referred to Senate Rules
- **[ESSB 5231](#): Concerning the issuance of emergency domestic violence no contact orders**
  - Prime Sponsor: Senator Salomon
  - 2/17- Referred to House Civil Rights & Judiciary
- **[ESSB 5272](#): Safety Speed Cameras**
  - Prime Sponsor: Senator Liias
  - 2/24- Referred to House Transportation
- **[E2SSB 5536](#): Concerning controlled substances, counterfeit substances, and legend drug possession and treatment**
  - Prime Sponsor: Senator Robinson
  - 3/3- Passed out of Senate (28-21-0)
  - 3/7- Referred to House Civil Rights & Judiciary

Bills that the BJA Legislative Committee has tracked but that did not make it out of their respective Policy or Fiscal Committees this session:

- **[HB 1090](#): Defects and omissions**
  - Prime Sponsor: Representative Orwall
  - This bill did not make it out of its policy committee this session.
- **[HB 1415](#): Making the knowing possession of a controlled substance a gross misdemeanor**
  - Prime Sponsor: Representative Maycumber
  - This bill did not make it out of its policy committee this session.
- **[SB 5467](#): Encouraging treatment for possession of certain counterfeit drugs or controlled substances**
  - Prime Sponsor: Senator Salomon
  - This bill did not make it out of its policy committee this session.
- **[SB 5474](#)/[HB 1432](#): Concerning juvenile justice**
  - Prime Sponsor: Senator Frame / Representative Farivar
  - (5474) This bill did not make it out of its fiscal committee this session.
  - (1432) This bill did not make it out of its policy committee this session.

#### BJA Legislative Committee Next Activities

The BJA Legislative Committee will begin soliciting proposals for BJA request legislation for the 2024 legislative session in late April.



# TAB 4



**Board for Judicial Administration (BJA) Meeting**  
**Friday, February 17, 2023, 9:00 a.m. – 11:00 a.m.**  
Videoconference

**DRAFT MEETING MINUTES**

**BJA Members Present:**

Chief Justice Steven González, Chair  
Judge Tam Bui  
Judge Alicia Burton  
Judge Samuel Chung  
Judge George Fearing  
Judge Marilyn Haan  
Judge Dan Johnson  
Judge Mary Logan  
Judge David Mann  
Justice Raquel Montoya-Lewis  
Terra Nevitt  
Judge Rebecca Pennell  
Judge Jacqueline Shea-Brown  
Judge Rebecca Robertson  
Dawn Marie Rubio  
Judge Jeff Smith

**Administrative Office of the Courts  
(AOC) Staff Present:**

Nicole Ack  
Crissy Anderson  
Judith Anderson  
Cynthia Delostrinos  
Jeanne Englert  
Heidi Green  
Brittany Gregory  
Kyle Landry  
Penny Larsen  
Carl McCurley  
Dirk Marler  
Stephanie Oyler  
Christopher Stanley  
Caroline Tawes  
Frank Thomas

**Guests Present:**

Ellen Attebery  
Ashley Callan  
Robert Mead  
Tammie Ownbey  
Tori Peterson  
Judge Kevin Ringus  
Kris Thompson

Call to Order

Judge Bui called the meeting to order at 9:01 a.m.

Presentation: Washington State Racial Justice Consortium

Cynthia Delostrinos and Frank Thomas reviewed the creation and focus of the Racial Justice Consortium, and identified key areas where the Consortium can have impact and where action may be taken. The 2022 Action Plan was included in the meeting materials, as were key areas of work recommended to the BJA.

Small Group Discussions

Meeting participants broke into groups to discuss the following questions:

1. Of the recommendations, what two should the BJA prioritize to help move the branch forward and why?

While all the issues are important, the groups tended to prioritize alternatives to incarceration, data collection, and legal financial obligations (LFOs).

- Improved data collection:
    - Data collection is a huge issue that needs to be discussed; is BJA the right place to discuss this?
    - Discussed the prioritization of improved data collection, both internal and external, which affects all the other bullet points. Data collection could start with data collection of the makeup of the judicial branch and using consistent terminology.
  - Language access;
  - Keeping families together (culture change in child welfare);
  - Alternatives to Incarceration and community-based services:
    - Give Superior Courts the option to provide probation services;
    - Resources in DOC are limited and classes occur late in the sentence, lives are already disrupted.
  - Eliminate court fines and fees:
    - Efforts could focus on LFOs, court funding, and budget packages;
    - The issue with fines and fees elimination is that the state would have to take on the funding of courts. Haven't seen any movement from the state and it becomes a local vs. state funding issue. Also, it does not feel like blanket elimination is right because it's a viable means for accountability.
  - Greater transparency and examination of pretrial and sentencing:
    - One group discussed the Sentencing Reform Act and how constraining it can be. Courts often operate in a low information environment, and it may be difficult for a judge to know the defendant in front of her or him. Having funding for more judges and law clerks would be helpful.
  - More resources and access to reentry services:
    - Although the judicial branch does not have jurisdiction over reentry programs, we should be at the table for that discussion.
2. What are actionable steps the BJA could take to advance these priorities?
    - State funding to support state mandates (sentencing, fines and fees);
    - Advocate for the data for justice package.
  3. What challenges do you anticipate and what are strategies to overcome them?

Data Collection: Collecting data is the foundation for everything.

Challenges:

- Data identifies gaps; however, it needs to be collected accurately and consistently;
- We collect data, however there is so much to review and break down. How do we collect, manage, create meaningful data and utilize it?
- There is key data missing which we are unable to retrieve. Often the legislature is asking for data and are “shocked” when they find that we are not collecting it. We need to collect and share the information. For instance, Therapeutic Courts collect data but we have not taken a deep dive into it. The data collected needs to be consistent from every court and we need to determine if we are collecting the correct data beyond what the grant asks for;
- Other data that needs to be collected is information on judicial officers—race and gender—we do not have a good picture of our bench. The Minority and Justice Commission (MJC) developed a directory of judicial officers of color. It is the only data known at this time but we need to expand that information. For example, data is requested by the Salary Commission but we don’t have much to give them. Perhaps we can begin to ask those registering for our spring programs and/or Judicial College to fill out profiles. If the BJA and the court system is about diversity, equity and inclusion, this data is needed, we need to be transparent. Also suggested working with the various Associations.

Strategy: Training about the importance of correct and consistent data and more training on data collection in general.

Alternative to Incarceration: BJA has a Task Force focused on this issue.

Challenges:

- The biggest cost to these types of programs is running them. Who runs them, who monitors the individual, and who pays for it. At one court, the jail is understaffed so they cannot help with program so it doesn’t come out of the Executive budget, the courts are expected to find the funding. Can we get there, yes, but not without funding and a structure;
- The jail turnover on the East side of the state is high. One court would like to see litter crews back. They were terminated when COVID hit;
- Reentry resources. A lot of individuals come out of jail who don’t have access to resources. More access to parenting classes or drug treatment is key. These classes aren’t available until later in their sentence, so they aren’t fully internalized. Job resources could also help bolster the supports;
- We need to figure out what the court’s role is in working with/problem solving with the Department of Corrections (DOC);
- The community can be frustrated with the courts as well when someone is released or there are shifts in the way things are handled. Ideological differences mean education may not be the fix for community feedback.

Strategy: Perhaps this question can be presented and worked through via the Interbranch Advisory Committee (in conjunction with the Task Force).

Strategy: Would like to see counties pool/share their resources. For instance, Pierce County shares resources; the court level doesn't matter. We don't have to do this individually.

Strategy: BJA needs to be proactive in addressing and understanding limited DOC resources.

### Language Access

Challenges:

- A court struggled with getting a Spanish-speaking interpreter yesterday. In-person resources are an issue sometimes (unpredictable);
- Is there a statewide resource for translating court forms? Would be great to have consistency in translation of forms across the state.

Strategy: AOC could coordinate/lead the way with forms translation. Courts may be willing to pay for it, but consistency is important.

Other Challenges: Financial challenges with keeping families together and modification of LFOs.

Strategy: There may be projects for the Public Engagement and Education Committee, such as increasing transparency on processes.

Strategy: There needs to be continued funding from the Legislature. BJA could have conversations on data collection and funding.

Judge Bui thanked Cynthia Delostrinos and Frank Thomas for their presentation.

### BJA Task Forces

#### Alternatives to Incarceration Task Force

The Task Force will send a survey to court administrators in mid-March on what alternatives to incarceration are available and how those alternatives are funded.

#### Court Security Task Force

The Task Force is working on the Court Security budget request. Task Force members have been meeting with legislators and encouraged everyone to reach out to their legislators. The shared cost model has improved reception of the Court Security funding request.

### Remote Proceedings Workgroup

The workgroup report was included in the meeting materials.

#### Standing Committee Reports

##### Budget and Funding Committee (BFC)

BFC members are meeting with legislators.

##### Court Education Committee (CEC)

The CEC report was included in the meeting materials. Judge Bui thanked staff and faculty for a successful Judicial College.

##### Legislative Committee (LC)

BJA request legislation has all passed out of the policy committees. Bills about housing, LFOs, and *Blake* topics are getting a lot of attention. A complete LC report was included in the meeting materials.

##### Policy and Planning Committee (PPC)

The PPC had no report.

#### November 18, 2022 Minutes

**The November 18, 2022, meeting minutes were approved by consensus with no changes.**

#### Information Sharing

- Judge Haan expressed concern about an issue she sees regularly. Some elderly court customers have problems with remote proceedings because they don't know how to work computers or access Zoom. This creates a large population without access to justice if they can't come to court physically.
- Judge Robertson added there are court customers who don't have access to technology or the ability to charge their phone. Several courts have also had problems with Zoom bombing, and Judge Robertson suggested courts create a plan to deal with this. Brittany Gregory said the Legislature is interested in working with courts on remote proceedings, and Penny Larsen will bring this issue to the attention of the Remote Proceedings Workgroup. These issues will be addressed in the Remote Proceedings Workgroup survey, and will be part of their best practices report.
- Dawn Marie Rubio noted an issue raised by the Department of Emergency Management regarding video auditors or "First Amendment auditors." Members of the public video or audio record state agencies and courts with the goal of testing the auditors' constitutional rights and government transparency. They generally do not engage in illegal activities, but may try to enter non-public areas or photograph employee desks. BJA members were encouraged to speak with their associations and develop a plan to respond to this situation. AOC is exploring how to offer suggestions or develop an information sheet for the courts.

Participants were asked to send their notes from the small group discussions to Jeanne Englert.

Adjourn

The meeting adjourned at 10:45 a.m.

**Recap of Motions from the February 17, 2023 Meeting**

<b>Motion Summary</b>	<b>Status</b>
Approve the November 18, 2022, meeting minutes.	Done

**Action Items from the February 17, 2023 Meeting**

<b>Action Item</b>	<b>Status</b>
BJA members were encouraged to speak with their associations and develop a plan to respond to video auditors or First Amendment auditors.	
Participants were asked to send their notes from the small group discussions to Jeanne Englert.	
<u>November 18, 2022, 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