



**Board for Judicial Administration (BJA) Meeting**  
**Friday, May 19, 2023, 9:00 a.m. – 12:00 p.m.**  
Videoconference

**MEETING MINUTES**

**BJA Members Present:**

Chief Justice Steven  
González, Chair  
Judge Tam Bui, Member  
Chair  
Judge Alicia Burton  
Judge Sam Chung  
Judge Kristin Ferrera  
Judge Marilyn Haan  
Judge Dan Johnson  
Judge Rick Leo  
Judge Mary Logan  
Judge David Mann  
Justice Raquel Montoya  
Lewis  
Judge Rebecca Pennell  
Dawn Marie Rubio  
Judge Kevin Ringus  
Judge Rebecca  
Robertson  
Judge Jacqueline Shea-  
Brown

**Guests Present:**

Brett Ballew  
Jim Bamberger  
Victoria Blumhorst  
Esperanza Borboa  
Jason Bragg

Joe Brusic  
Sophia Byrd McSherry  
Ashley Callan  
RaShelle Davis  
Eric Eisinger  
Chad Enright  
Judge Jennifer Forbes  
Judge Angelle Gerl  
Nicole Gilson  
Justice Sheryl Gordon  
McCloud  
Judge Cecily Hazelrigg  
Christie Hedman  
Judge Drew Henke  
Ali Hohman  
Sarah Hudson  
Lindsey Hueer  
Katrin Johnson  
Paul Kelley  
Anita Khandelwal  
Latricia Kinlow  
Philippe Knab  
Rob Mead  
Arian Noma  
Patrick O'Connor  
Sheri Oertel  
Tammy Ownbey  
Tori Peterson  
Juliana Roe  
Jason Schwarz

Barbara Serrano  
Rep. Tarra Simmons  
Molly Sullivan  
Maia Vanyo  
Bailey Zydek

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

Crissy Anderson  
Judith Anderson  
Jeanne Englert  
Heidi Green  
Brittany Gregory  
Shannon Hinchcliffe  
Kyle Landry  
Penny Larsen  
Dirk Marler  
Haily Perkins  
Ashely Tam  
Caroline Tawes  
Lorrie Thompson

Call to Order

Judge Bui called the meeting to order at 9:04 a.m.

Panel Presentations: Starting conversations: attorney issues and challenges

The BJA would like to hear how the BJA and the courts can help with the attorney shortage issues.

Katrin Johnson with the Office of Public Defense (OPD) moderated a discussion panel of participants who can bring in background information and share ideas on moving forward.

Katrin Johnson shared newspaper articles from around the state on the attorney shortage, which the Washington State Bar Association (WSBA) is also working on. There are constitutional implications resulting from the shortage of public defenders.

There are problems with both recruitment and retention of attorneys. The OPD conducted a survey last month of public defenders who were currently in practice and those who had left that position. There were 500 responses.

Katrin Johnson shared an overview of the survey results.

- The top three reasons attorneys worked in public defense were: connecting with and helping clients, changing the system, and courtroom litigation.
- The top three reasons attorneys left public defense work were low pay, high caseloads, and difficult prosecutors.

Caseload has high impact on public defenders. The Supreme Court standards for indigent defense are out of step with the time required to effectively represent defendants.

What steps can judges take to help improve public defender job satisfaction? The survey found trends in responses:

1. Judges should be more neutral toward the public defender and the prosecution. Public defenders often don't feel that the judges listen to them.
2. Judges should be more respectful to public defenders and their clients. Judges may be perceived as lacking empathy.
3. Judges do not understand the work that a public defender does and their caseloads.

The Power point will be shared with participants.

Panelists included Paul Kelley, Yakima Public Defender Director; Patrick O'Connor, Thurston County Public Defenders' Office Director; Jim Bamberger, Director, Office of Civil Legal Aid (OCLA); Judge Jacqueline Shea-Brown, Benton County Superior Court; and Jason Schwarz, Snohomish County Public Defender Director, and Chair, WSBA Council of Public Defense.

**Paul Kelley** presented a background of Yakima County's experience with retention and recruitment. Yakima County has 20 in-house attorneys for centralized Yakima, and also contracts with outside individual attorneys to take on public defense cases. They also seek panel appointments for criminal defense attorneys who accept public defense cases as part of their practice. In the last five to six years, interest in job postings has been going down. The decrease in interest began before the pandemic. Hiring has not kept up with attrition. There is an aging workforce who are retiring or are close to retirement, and Yakima County can't fill the gap. There is also less interest from the outside bar to take on some of the public defense cases. Part of the problem is public defenders must be felony-qualified. Currently Yakima County has six budgeted, felony-qualified, full time attorney positions that are vacant. There are 75 low level felony cases that they can't handle. Yakima County budgets this program effectively, but the problem is trying to fill those positions. Because the workforce is aging and there is no interest in lateral hiring, Yakima County is focusing on entry level positions recruiting and training, and visiting law schools. There has been some impact from this. The office is in the position to train the next level of attorneys and hope they stay in the county. This is challenging to do, but Yakima County has reached out to law schools which has generated some interest. The office has hired two paid summer interns, who they hope will go back to law school and spread the word about their work. This is a long-term goal, and he hopes that other

offices around the state can do the same. This issue needs the support of everyone in the state or the current problems will continue. In Yakima County there are over 120 people in jail who will be without lawyers until the first week of June, waiting four to five weeks without counsel. Counties must start playing the long game or this problem will get worse.

**Patrick O'Connor:** Thurston County needs help retaining public defenders. There is a common goal to provide justice. There is a crisis in keeping public defenders and recruiting new public defenders. There has been a lot of attrition. Counties should focus on keeping public defenders in their community. From a public defender perspective, they may feel less valued and respected. We need a deeper understanding of how difficult the work is and should focus on working on things we can control to combat this. The OPD survey shows the amount of trauma and stress in these positions. Judges can include defenders in a trauma-informed approach. Public defenders are subject to a tremendous amount of stress. How do we retain people in this kind of work? Judges can adopt routines in court that can make a difference, such as developing a good working relationship with the attorneys, meeting regularly with public defenders, making improvements like giving them more time to work, inviting them to chambers to ask how they are doing and how the court can help, and by instituting increased efficiency. It makes a big difference to show the bench cares. Court procedures can also make a difference. Decisions can be made in consultation with the public defender as those decisions may make an impact on their life and time. Small changes in calendars can give them more time. Be mindful of non-case related work and account for that work. There can be adjustments to the caseload standards. The public defender work schedule is not sustainable. Judges can think about ways to work with public defenders; consider regular meetings and take their feedback. This will have an impact on retaining public defenders. Judges have exposure to community groups and can help with recruitment by encouraging attorneys or future attorneys to consider public defense.

**Jim Bamberger:** The shortage of public defenders is a threat to administering justice. There were two new civil defense programs in 2021, rights to appoint attorneys in civil unlawful detainer acts and children and youth representation in dependency and all termination cases. Children's representation will require 100 fulltime attorneys. Not having a public defender available will result in significant court disruption. We must find pipelines and financial and other incentives to attract attorneys. There could be programs created at the undergraduate level to move students to this career. We need to implement strategies to recruit and retain diverse attorneys. The BJA and court associations must be full partners in implementation strategies to address this crisis.

**Bailey Zydek:** There are challenges recruiting attorneys for the children's' program at OCLA. There is a need for a pipeline of attorneys. There is a certain level of competency needed for children's representation and standards published by Children in Foster Care Commission that are necessary before taking cases. It would be helpful to have an experienced pool of attorneys. The program is in eight small rural counties currently and those counties need to draw from larger counties to meet the attorney needs. When the larger counties come on line, there will be a need for more fulltime attorneys in those counties. In January 2025 Pierce County will be on line and will need 18 fulltime attorneys. We must be able to recruit attorneys to do this.

**Philippe Knab:** The court appoints attorneys for indigent tenants. There were 6,600 tenants represented in unlawful retainer proceedings in Washington in the program that completed in January 2022. They work with institutional providers like the Northwest Justice Project to use

contract attorneys, and are trying to figure out how to staff in difficult areas. They are grateful for the patience and cooperation of those courts in finding counsel. They often relied on remote appearance, which is an essential part of the ability to administer the program. They are working with courts and providers to find counsel in different regions. There are geographic disparities in staffing issues, especially in Spokane and areas in the eastern part of the state. The same reasons are part of this issue: trauma, lack of respect, etc.

**Judge Jacqueline Shea-Brown:** Judge Shea-Brown is grateful we are discussing this topic. A pilot project from the OPD in Benton-Franklin Superior Court resulted in more funds for the attorneys and investigative work. Innovative programs made a difference. Funding makes a difference. The time to do this is now. Judges have a limited role. Creativity will be required. There is a need for experienced paralegals and attorneys who are prepared with resources. There can be economies of scale throughout the state with unlawful detainer attorneys. County leadership has dedicated more funds to Benton-Franklin county. There has been some improvement, and the bench is working together to do their part.

**Jason Schwarz:** Jason Schwarz discussed potential solutions and summarized retention and recruitment strategies such as addressing pay, caseloads, resource parity, advancement, respect, criminal legal reform. There is no single state agency response, and for public defense, there is no central organization. We face these challenges together. Possible solutions include compensation; funding, including support; expert services; removing system delays that impact the ability to resolve cases (e.g., efficiencies, judges talking to public defenders, removing obstacles); caseloads and workloads; and a fully-supported public defense office (legal staff, investigator, supervisor); demand caseloads providing effective assistance (high workloads cause longer sentences). Encouraging retention will save money. We need local leaders to meet to discuss caseloads, calendars, efficiencies, etc. In court, judges should respect public defenders' requests for continuances, remote hearings, etc. Local public defender administration should encourage qualification advancement, and a public defender coordinator is needed to help solve problems. Public defender reform could involve state funding, alternative state defense system, regional defense systems, and caseloads reform to reflect modern workloads. Jason Schwarz discussed alternative programs in other states. Stakeholders need to get together and discuss this, and cities, counties, and the legislature need to discuss the topic. Stress impacts both public defenders and prosecutors. His power point will be shared after the meeting with participants.

**Joe Brusic,** Yakima County prosecutor, was invited to share similarities or differences between public defenders and prosecutors.

Joe Brusic discussed the issues from a prosecutor's point of view. Recruitment and retention are a global problem. His office wants to support public defenders and everything that has been said in this meeting today. A prosecutor's role is providing justice, but not at the cost of justice. Their role is as protective of rights as the public defender's, and he shares many concerns that have been stated. Prosecutors can't do their jobs without effective public defenders. There are far reaching problems that affect prosecutors as well. They aren't getting applications either and are seeking lateral hires. People don't want to go into public service, and the issue needs to be identified. Potential hires are being taught that public service is not worth it, and prosecutors are evil and are seen as bad by law schools. There needs to be a cultural shift. The prosecutor's role is important and part of the system to obtain justice. Prosecutors and public defenders are partnering within the system. There is a problem of money and benefits; law school costs over \$200,000. There needs to be a focus on a cultural shift in the work/life

balance. We have to allow more flexibility and pay more money to recruit. Retention of experienced individuals is difficult.

### **Group Discussion:**

- What is a short-term and long-term solution in your jurisdiction?

Focus on a long-term goal of new lawyers. Law schools are considering how to produce more lawyers such as hub law schools and non-traditional students. Lawyers within communities need to increase. Restrictions in APR 6 make it difficult to become lawyers; we need to develop APR 6 curriculum and include more tutors. Short-term issues include making Yakima an attractive place to be; meeting with prospects in regular events with new attorneys; develop a community; and the bench increasing its appreciation for public defenders. There are alternative funding ideas, housing issues.

County commissioners have concerns about recruiting and retention for prosecutors, public defenders, and correction officers. There is concern about the culture and the public service component; how do you get people in? Medical schools have incentives for new graduates to practice in small and rural communities, [Rural Programs | UW Medicine](#). There has been an increase in state costs for public defenders. There is a [link](#) that shows how much the state contributes to each county for trial court representation. There needs to be more funding. There are limits with county budgets and limits on taxes.

There needs to be support up front for attorneys practicing in parents and children representation. As families are fractured, there is a difference in outcome with a parent navigating the system with an OPD social worker helping them. There is a perspective that the bench is lenient toward the Attorney General's Office and Department of Children, Youth, and Families regarding delays and not having discovery ready. This creates a hardship on a family and a level of urgency. The front end of the system needs to be targeted. Eighty-four percent of the people in King County jail were involved in the dependency system. It is perpetuating a problem. Frontload funding for public defenders so they can help parents early.

There is an issue with the King County Prosecutors' Office as well. The attitude in law school is that the system is broken; we need to go to the law schools and talk about the system and how we are trying to fix it. We need to fix the attitude that there should be a toxic relationship between prosecutors and public defenders. Zoom court has benefits but also detriments; interpreters participating via Zoom double the length of the hearing and take time away from attorneys. There are many judges who do not have the experience to be on bench. We need to advocate for Courts helping Courts to assist in training judicial officers. This is a concern for the District and Municipal Court Judges' Association (DMCJA).

The issue of people not wanting to serve and the loss of experienced people is an issue that has come up repeatedly. It is important to talk about this. Negative press about the United State Supreme Court taints courts, as does bad conduct by prosecutors. The same is true where public defenders have fallen short. We need to own that and what each of our groups have done. There are groups and individuals who need to take some responsibility for lack of training and foresight, and the same for judges who fail to speak up. There needs to be cultural competency and diversity among recruits. The pipeline is not there to encourage new attorneys. We need to recruit and encourage local attorneys and make law school affordable. There are hard discussions we have to have such as who pays for this? Who is going to fund

these groups and societal needs at each level? The Washington State Supreme Court needs to help the system get better, and we all need to continue to work together.

There is a problem with lack of experience on the bench that is consistent throughout the state and that makes it difficult to retain committed court administrators. The District and Municipal Court Management Association (DMCMA) would like to partner with the BJA to improve the profession.

Some funding requests were added to the chat for BJA to consider supporting:

- Could there be a way to create some sort of student loan forgiveness program for going into public service...like the federal PSLF, but not as onerous?
- Also - if NEW attorney caseload standards are adopted, we must also think about how that will be funded. As was mentioned, it will certainly increase county costs. There will need to be a funding source.
- I've done some research and outreach on this issue and would be happy to share information. OPD would love to have partners in this effort.
- I received this loan assistance when I was a public defender:  
<https://bj.a.ojp.gov/program/john-r-justice/overview>
- There are other approaches that might work more effectively than or in conjunction with student loan repayment assistance. For example, the Public Health Service approach to buying down the cost of medical school through a forgivable loan in exchange for a year of service commitment.
- The Washington Student Achievement Council administers numerous state loan forgiveness programs.

There was not time to discuss the other questions, *What can courts do to address/support attorney recruitment and retention challenges?* and *What can the BJA do?* but participants were invited to use the chat function to ask other questions.

Jeanne Englert added her e-mail address to the chat and invited guests to send her their e-mail address if they would like a copy of the meeting notes and presentations.

#### BJA Task Forces and Work Groups Alternatives to Incarceration Task Force

This Task Force has been meeting for the last seven months. Some subcommittees are meeting and working on gathering information to help further define Task Force goals and activities. A written report was included in the meeting materials.

#### Court Security Task Force

The Task Force received \$2 million in matching funding for the next two years for small and rural court security. Judge Robertson thanked AOC staff Penny Larsen, Kyle Landry, Chris Stanley, and Jeanne Englert, and Chief Justice González for their work. The Task Force has ended, but has submitted a request to add a security standing committee to the BJA. There will be ongoing funding and procedural issues that the BJA should address. Judge Robertson will work to make the motion. A written report was included in the meeting materials.

#### Remote Proceedings Workgroup

The Workgroup is currently working on sustainable changes for the Supreme Court to review. They are working on drafts for the voluntary use of remote proceedings that will go to the

Supreme Court in June. They will be working on best practice standards this summer and exploring funding. Their survey had 123 responses and will be presented at a future meeting. A written report was included in the meeting materials.

#### Standing Committee Reports

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

Christopher Stanley forwarded a letter by Chief Justice González last week regarding the supplemental budget. The judicial branch budget is in good shape due to good work by the branch staff. The budget may not always be this good in future, so participants should be prepared. The schedule for the supplemental budget was provided. The supplemental budget is to fill gaps and smooth transitions in funding, not new programs.

##### Court Education Committee (CEC)

###### *Motion to approve revised CEC charter changes in consent agenda*

The CEC is in the final stages of strategic planning which will be finalized at a retreat in July. The education spring programs are going well, and participants are excited to be back together in person. Changes to the CEC charter are included in the consent agenda. A written report was included in the meeting materials.

##### Legislative Committee (LC)

###### *Brief Legislative Summary*

###### *Proposal to form BJA Work group*

Brittany Gregory thanked everyone for their partnership during a very successful legislative session. Four BJA request bills passed. AOC will provide a legislative summary on May 31. Legislative proposals for next year are being solicited. There will be smaller and more technical bills this year.

A request to form a BJA work group to address electronic service of pleadings was included in the meeting materials. There is a general consensus that electronic service of proceedings may be impactful, and is presented to the BJA due to the number of statutory changes needed.

**It was moved by Justice Montoya Lewis and seconded by Chief Justice González to form a BJA Workgroup to explore electronic service of proceedings. The motion carried unanimously.**

There was a discussion on what issue the group would focus on. It is anticipated that this workgroup would start in the Fall and run until 2025.

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

A written report was included in the meeting materials.

##### Trial Courts' Updates

The Superior Court Judges' Association (SCJA) worked hard on court rule changes, including comments to the Code of Judicial Conduct canons and some pending court rule proposals under consideration by the Supreme Court Rules Committee. The SCJA was active during the Legislative Session, including efforts with the Take Your Legislator to Work Day to encourage Superior Courts to bring legislators to courts to increase understanding between the branches. Judge Forbes thanked Brittany Gregory and BJA for support on SCJA legislation. There is a priority of increasing communication between entities that SCJA works with, including the commissions, the Supreme Court, and others. The SCJA worked to implement the Uniform

Guardianship Act (UGA), including UGA training for court visitors to be implemented from a King County program. A number of workgroups have been created. The SCJA is working with AOC and district courts on the *Blake* implementation. The Judicial College and the SCJA Spring program were in person, and it was great to be together. Judge Forbes thanked Chief Justice González for joining the SCJA conference.

Judge Chung became president of the SCJA three weeks ago and thanked Judge Forbes for her work as SCJA president. Among the goals for next year is a work/life balance committee, and there will be programs every other month to address burnout and stress. The SCJA conference was a huge success, and he thanked the AOC team who put it together.

A written report was included in the meeting materials.

District and Municipal Court Judges' Association: Two senior court program analysts have been hired for the DMCJA to work on *Blake* implementation and therapeutic courts. A member engagement survey for DMCJA had over a 33% response, and they will use the data to implement policies to best serve the association. In the future, the DMCJA hopes to establish a fellow judges workgroup to evaluate legal and policy questions and are currently amending bylaws to allow tribal and other judges to join. The DMCJA held a *You've Been Served* event. There was a successful pro tem training with over 200 attendees. At a Legislative Day in Olympia in January, judges met with 55 legislators to discuss DMCJA priorities. Therapeutic courts received \$20.6 million in funding, including \$2.2 million for an integration platform. SB 5347 was a success, and removed 5- and 10-year restrictions on driving abstracts. The Spring DMCJA conference is June 4–7 in Spokane. This is Judge Leo's last meeting as a BJA member, and he thanked everyone for their support.

Consent Agenda: (one motion to approve all of the below items)

**It was moved by Judge Haan and seconded by Judge Forbes to nominate Judge Burton as the BJA member co-chair and a consent motion to approve the March 19, 2023 minutes; the BJA meeting schedule for following year; the BJA SCJA Member Co-chair; and the CEC charter membership changes. The motion carried unanimously.**

Judge Burton thanked Judge Bui for her leadership.

Information Sharing

*Thank you to outgoing members  
DOJ Fees and Fines Letter*

Judge Bui thanked the outgoing members for their service.

Judge Mann thanked everyone for today's presentations and welcomed Judge Hazelrigg to the BJA.

Esperanza Borboa thanked everyone for a good presentation and invited everyone to the Access to Justice Conference at the Tacoma Convention Center September 28–30, [Access to Justice Conference \(wsba.org\)](https://www.wsba.org).



Judge Robertson said the last three years have been stressful for everyone and encouraged judges to reflect on that and use the Judicial Assistance Services Program and their colleagues for help.

Judge Johnson attended a National Center for State Courts two-day seminar last month on court appearance rates which was very informative and led him to implement changes in his court. This is Judge Johnson's last meeting. He has as enjoyed it and thanked everyone for their effort and time.

Judith Anderson announced that e-learnings will be launched in active shooter training and court security bomb threats. Information will be sent out. Training in sealing and redacting records and GR 34 will be launched in the next month. They are also working to post trainings on domestic violence. The first DMCMA Academy mandated by ARLJ 14 had 70 attendees and good reviews.

Judge Chung said, of the 200 judges at the SCJA conference, half had five plus years of experience and 20% had two plus years of experience. There is an issue of education and readiness. There has been some pushback to allow judges to use their lunch hour to regroup rather than complete education requirements, and be able to devote work time once a month to education. He hopes BJA can look at this issue in future.

Chief Justice González announced the Interbranch Advisory Committee (IAC) meeting on June 20. On the agenda is a review of the last legislative session, the role of the IAC in the future, the unauthorized practice of law, and unregulated internet providers. There are a number of judicial branch position openings including a Supreme Court administrator, Dirk Marler's Chief Legal Counsel position at AOC, a clerk in King County, and Jim Bamberger's position when he retires in 2024. Chief Justice González encouraged people to apply.

Judge Bui announced the Judicial Leadership Summit on June 16 and thanked Jeanne Englert for her work on the Summit. Jeanne Englert asked participants to register if they received an invitation, and to please fill out the registration survey even if you don't plan to attend. The survey information will be used for future BJA discussions.

Judge Bui pointed out the letter from the United States Department of Justice (DOJ) regarding fines and fees, found on page 35 of the meeting materials. Chief Justice González appreciates the DOJ's position and thanked Representative Simmons for progress on the legal financial obligations issue.

Adjourn

The meeting adjourned at 12:00 p.m.

**Recap of Motions from the May 19, 2023 Meeting**

Motion Summary	Status
Form a BJA Workgroup to explore electronic service of proceedings.	Passed

<b>Motion Summary</b>	<b>Status</b>
Nominate Judge Burton as the BJA member co-chair and approve the March 19, 2023 minutes; the BJA meeting schedule for following year; and the CEC charter membership changes.	Passed

**Action Items from the May 19, 2023 Meeting**

<b>Action Item</b>	<b>Status</b>
The District and Municipal Court Management Association (DMCMA) would like to partner with the BJA to improve the court administrator profession. It is difficult to retain committed court administrators.	
The Security Task Force has submitted a request to add a security standing committee to the BJA. There will be ongoing funding and procedural issues that the BJA should address. Judge Robertson will work to make the motion.	
AOC will provide a legislative summary on May 31.	
Judge Chung would like BJA to discuss allowing judges to use their lunch hour to regroup rather than complete education requirements, and be able to devote work time once a month to education.	
<p><u>March 19, 2023, BJA Meeting Minutes</u></p> <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>	<p>Done</p> <p>Done</p>