

BOARD FOR JUDICIAL ADMINISTRATION



**WASHINGTON
COURTS**

MEETING PACKET

**BOARD FOR JUDICIAL ADMINISTRATION
FRIDAY, SEPTEMBER 15, 2023
9:00 A.M.**

**AOC SEATAC OFFICE
18000 INTERNATIONAL BOULEVARD, SUITE 1106
SEATAC, WASHINGTON
VIDEOCONFERENCE**

Board for Judicial Administration Membership

2023–2024



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Washington State Supreme Court

Judge Alicia Burton, Member Chair
Superior Court Judges' Association
Pierce County Superior Court

Judge Tam T. Bui
District and Municipal Court Judges' Association
Snohomish County District Court

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Court of Appeals, Division II

Judge Samuel Chung, President
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Whitman County District Court

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

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Justice Raquel Montoya-Lewis
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Judge Rebecca Pennell
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Chelan County Superior Court

Dan Clark, President
Washington State Bar Association

Judge Karl Williams, President-Elect
District and Municipal Court Judges' Association
Pierce County District Court

Terra Nevitt, Executive Director
Washington State Bar Association

Dawn Marie Rubio
State Court Administrator

The **Mission** of the Board for Judicial Administration is to provide leadership and develop policy to enhance the judiciary's ability to serve as an equal, independent, and responsible branch of government.

The **Vision** of the Board for Judicial Administration is to be the voice of the Washington State courts.



Board for Judicial Administration (BJA)

Friday, September 15, 2023 (9 a.m. – noon)

AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac
[Zoom Link](#)

AGENDA

<p>1. Call to Order</p> <p>Welcome</p>	<p>Chief Justice Steven González Judge Alicia Burton</p>	<p>9:00 a.m.</p>
<p>2. BJA Member Orientation</p> <p>BJA Member Overview Member Guide</p> <p>Judicial Leadership Summit/BJA Goals Summit Notes in Packet Motion: Approve BJA goals for 2023-2025</p>	<p>Chief Justice Steven González</p>	<p>9:05 Tab 1</p>
<p>3. Presentation: Water Rights Adjudication</p>	<p>Justice Debra Stephens Dirk Marler Shannon Hinchcliffe</p>	<p>9:30 Tab 2</p>
<p>4. BJA Task Forces and Work Groups</p> <p>Alternatives to Incarceration</p> <p>Remote Proceedings</p>	<p>Judge Mary Logan/Jeanne Englert</p> <p>Penny Larsen</p>	<p>10:05 Tab 3</p>
<p>5. Presentation: Office of Civil Legal Aid <i>Information sharing</i></p>	<p>Jim Bamberger</p>	<p>10:10 Tab 4</p>
<p>Break</p>		<p>10:25</p>
<p>6. Standing Committee Reports</p> <p>Budget and Funding Committee Motion: Approve budget requests</p> <p>Court Education Committee</p>	<p>Judge Mary Logan/ Chris Stanley</p> <p>Judge Rebecca Pennell/Dirk Marler</p>	<p>10:35-11:45 Tab 5</p>

Legislative Committee Motion: Approve legislative agenda	Judge Michael Scott/ Brittany Gregory	
Policy and Planning Committee Motion: Approve to create Court Security BJA standing Committee	Judge Rebecca Robertson/ Penny Larsen	
7. Interbranch Advisory Committee Information sharing June Meeting recording	Chief Justice Steven González	11:45
8. Motion: Approve May 19, 2023 Minutes	Chief Justice Steven González	11:50 Tab 6
9. Information Sharing	Chief Justice Steven González	11:50
10. Adjourn		12:00
<p>Persons who require accommodations should notify Jeanne Englert at 360-705-5207 or jeanne.englert@courts.wa.gov 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.</p>		
<p>Next meetings: <i>Location TBD if not listed</i></p> <p>October 20, 2023 – 9:00 – 12:00 - Zoom November 17, 2023 – 9:00 – 12:00 Joint BJA and CMC Meeting - Zoom February 16, 2024 – 9:00 – 12:00 - Zoom March 15, 2024 – 9:00 – 12:00 May 17, 2024 – 9:00 – 12:00 June 21, 2024 – 9:00 – 12:00</p>		

BJA Proposed Goals for 2023-2025



Courts of the future: BJA will identify and promote innovative court programs, practices, and best practices across the State.

- BJA will share information and activities from the Judicial Leadership Summit, Innovating Justice awards, and other judiciary and court programs/associations.
- BJA will identify, share, and/or develop best practices for judiciary and BJA priorities.



Court wellness: BJA will explore ways to support, partner, and coordinate opportunities to address court, judicial officers, and court personnel education and wellness needs.

- BJA will explore existing opportunities for supporting and training judicial officers in the first 5 years such as mentoring, coaching, and an advanced judicial training program.
- BJA will identify programs and tools to help address overall court and staff wellness and training needs as identified in the Judicial Leadership Summit and subsequent BJA discussions.



Collaboration: BJA will explore and develop ways to collaborate and build relationships with all our justice partners.

- BJA will identify and share critical and emerging issues that impact the judiciary and court operations.
- BJA will utilize task forces and work groups to increase collaborative opportunities.
- BJA will develop a plan to increase court user feedback and involve persons with lived experiences in BJA efforts.



BJA will continue addressing court funding needs, alternatives to incarceration, and remote proceedings.

Board for Judicial Administration

Judicial Leadership Summit 2023: Assess.Focus.Energize

June 16, 2023 Meeting Notes

Attendees are listed on page 14.

Welcome and Introductions - Chief Justice González

Welcomed leaders in the judiciary including court levels, BJA members, judicial, court, and clerk association leadership, commission representatives, partners (OPD and OCLA), and AOC leadership. The day was a time of sharing, generating ideas, and figuring out what priorities BJA can focus on in the next few years. Registration survey responses informed the agenda and discussions.

The **collective top priorities from the survey**, small group discussions over the past two years at BJA meetings, and recent conversations include:

- Staff Engagement and wellness.
- Funding.
- Communication and collaboration between system partners.
- Equity and racial justice: implement policies and procedures through a racial justice lens.
- Remote Proceedings – best practices, hybrid hearings, technology access.
- Attorney challenges follow up.
- Protection orders.

The day was broken up into three sections:

1. **Assess:** Where have we been, what did we do, and where do we want to go?
2. **Focus:** What do we need to do to get where we want to go?
3. **Energize:** How do we find the resources to move forward?

Assess: Where have we been, what did we do, and where do we want to go?

Court Recovery Task Force Chairs - Judge Judith Ramseyer and Judge Scott Ahlf

Shared Lessons Learned:

- The final report describes essential lessons that were learned through this process. Most notable is the lesson that for a branch of government steeped in history, tradition, and precedent, courts can adapt when it is a priority.
- Many of the adaptations were not only necessary to operate during a crisis, they also point the way to a court system that respects the needs of court users and strives to eliminate racist practices endemic to our society.
- Inclusive and diverse collaboration leads to improved communication and leadership. We involved people – and asked what was working, not working, ongoing challenges, and successes.
- Justice system partners used technology to dramatically re-design the courtroom experience.
- Embraced “Courts as a service not a location.”
- Use innovation to identify and address unmet needs.

The Court Recovery Task Force recommends that courts of the future will:

- Embrace positive change.
- Communicate and collaborate.
- Use technology to promote efficiency and access to justice.
- Gather feedback from court users, publish outcomes, and adapt.
- Implement practices and procedures through a racial justice lens.
- Prioritize the health, safety, and morale of its work force.
- Plan for emergencies.
- Actively work with local and state governments to guarantee stable funding.

AOC – Dawn Marie Rubio shared funding changes over the past few years and what that may mean moving forward. Her presentation included a handout on funding priorities, successes, and overall budget considerations. (Power Point Slides were distributed).

Focus: What do we need to do to get where we want to go?

Staff engagement and overall wellness - Table Discussions

Facilitators: Judge Mary Logan and Judge Kathryn Loring

Framing on the current environment: Increased expectations of courts (new drug law, mental health considerations, community courts, pretrial services focus, changing laws, etc.); and community dynamics (adversarial role of the courts, increased behavioral health issues, houselessness, struggles, asking to do more without more resources). Staff have experienced burnout and trauma resulting from the work, an increasing culture of disrespect, and increased demands but not always the resources to meet those demands.

Small groups discussions: each table received a scenario that addressed one of the following:

- Building a Culture of Respect: Courtroom/courthouse culture, within the bench, and system partners.
- Daily Trauma: Trauma at the front desk, courtroom, partners, and well-being.
- Prioritizing Demands: With and without resources.

Table Exercise: Building a Culture of Respect:

1. *Have you seen similar issues in your courts and community?*

- Participants shared that staff have a different perspective than lawyers/judges. It is important to address issues with staff privately and to better understand staff perspectives.
- Stress does affect people. There have been some instances of incivility that usually result in an apology.
- Remind judges and staff that they represent the court and what the public see first. Behaviors can result from unclear expectations, new staff, and transitions.

2. *What specifically can courts and the BJA do to improve judicial and court staff relationships?*

Courts/individual judges can:

- Ask staff questions.
- Appreciate expertise of staff and show humility.

- Invite feedback.
- Create clear expectations
- Promote transparency.
- Don't tolerate rudeness or incivility and call it out where it occurs.
- Create fun diversions where appropriate to reduce stress and hierarchy - trivia, competitions, food sharing or celebration for regular events.
- Create a team environment with regular check-ins or meetings, seek input from staff.
- Debrief after difficult or traumatic events or cases.
- Ask staff what additional support or training they need for development.
- Know what services are available to staff who experience a traumatic trial or event.
- Equip new judges and new commissioners –head off conflict or reacting in a high conflict moment.
 - Mentorship for judges in small counties/courts.
 - Casual observation in court and providing tips for improvement.
 - Someone who has some separation such as secret shoppers.
 - Train on nuances of case/workload management; make decisions/move on/pretrial conferences/regular conferences for complex cases; become comfortable making fast decisions when you can.
- Manage calendars with human nature in mind (when are people most tired/most hangry).
- Develop a Judicial graduate school and recognize the toll on judges as years go by. Have refreshers at five years.
- Better communication leads to better collaboration and relationships.
- Specific training for judges/staff in a marginalized groups may also be helpful. Need culturally informed environments for successful training.

BJA can:

- Create trainings on communication, emotional intelligence, etc.
- Create trainings on inter-generational communication/different styles.
- Facilitate personality tests for staff/judges.
- Create partnership training between judges and staff – like the PJ/Court Administrator training coming up, but more trainings.
- Include training on management/supervisor/communication at the Judicial College as well as some component at trainings beyond that.
- Judicial education—train for a high conflict moment.
 - Consider trainings outside of typical judicial education training such as conflict de-escalation. The National Judicial College has a training on how to deal with difficult people.
 - Educate judges to effectively manage and care for staff. Allow staff to leave for family emergencies, say yes when they need time off.
 - Recognize unique tensions in our jobs: authoritative/empathetic; knowledgeable/empathetic.
- Mentorship from experienced judges (capacity may be a challenge)
- Provide support to and promote the Judicial Assistance Services Program (JASP).

3. *How can courts and the judicial branch build camaraderie while working remotely or on flexible schedules when you are not all together?*

- Webinars on wellness that all can relate to.

- Fun diversions that can occur remotely.
- Set hours/expectations/boundaries so that staff don't feel that they need to respond or work all hours.
- Have regular/set check-ins with staff to maintain connection and continuity.

Table Exercise: Dealing with Daily Trauma

- 1) *What can we do to best support judges, staff, and court system partners, including attorneys, who are exposed to trauma daily? What steps can courts take to ensure court operations are trauma informed and responsive? What can system partners do?*
 - Improved communication among court staff and partners.
 - Clearer expectations.
 - Can we figure out ways to allow for flexibility? Ask questions instead of assuming intent of actions.
 - System is built to accommodate (in order): 1) judges, 2) prosecutors, 3) court staff, and 4) public defense. Public is the last.
 - From NACM - must treat everyone with dignity. Judges need more exposure to and understanding of what partners' work is like outside of the courtroom.
 - The intersectionality of different systems relies so much on collaboration. It is not the same as establishing culture/expectations within one agency.
 - Zoom: public is not engaging in traditional formality of courtroom decorum. Are we communicating expectations? What assumptions do people have (on all sides)?
 - Courts can do better job on educating public on what to expect in courtroom.
 - More courts could move in the direction of the therapeutic court model.
 - Decorum and civility increase with clear communication.
 - Judicial rotations, rules and personalities, change constantly. Inconsistencies erode public trust.
 - Courts have become very insular, the public doesn't understand, and even other government entities don't understand.
 - Retreats with system partners has been very helpful, especially to hear different perspectives and opinions. I now listen first and ask questions last.
 - Working remotely at times has helped ease some tension (removal from tense environment).
- 2) *What statewide programs and procedures can we implement to address these issues? Be specific as possible.*
 - Judicial Education: how to properly sanction for misconduct; strategies to control the docket and courtroom decorum; how to deal with trauma; the art of judging, more than just legal knowledge; and treating others with dignity and respect.
 - Is education enough? Mentorship and coaching could work (think training for doctors).
- 3) *If no additional resources are available, how can we address these issues?*
 - More conversations need to take place locally around the topics we discussed at the BJA Summit, so that local solutions can be developed.
 - Host a retreat between judges and court staff with time to relate to one another and see each other as human beings.

- Conversation with the local bar. Reset the expectation that they can get a hearing anytime they need. Courts have to be able to prioritize cases. This is not court on-demand.
- Change expectations with external customers about how certain cases will be handled.
- Experienced judges can teach/mentor newer judges; possibly a cohort model that pairs new judicial officers with more senior ones over the course of a year or two years after the judicial college.

4) *What can the BJA do?*

- Help with education and interaction with the general public. One bad experience can impact all.
- Have more deliberate and consistent approach to ensuring funding for 1) sufficient judges and sufficient court staff to meet needs AND 2) judicial education.
- Do aggressive outreach for full funding for sufficient judges and staffing.
 - Be able to articulate effect on justice.
 - Work on this problem year-round, not just during legislative session.
 - Ensure resources to implement significant new laws.
 - Without extra funding, judges develop implementation during volunteer hours, leading to burnout.

Table Exercise: Prioritizing demands

1) *What local demands and limitations do your court staff face?*

- We are understaffed and underfunded.
- We are constantly doing more with less, until you can't do anything well.
- Sometimes we have an assumption we cannot say no. While courts do have statutory obligations to deliver justice there are opportunities to say no and to do things differently.
- Staff have to prioritize; may have to scale back.
- Turnover is a challenge. It can be a challenge to navigate training in addition to court operations.
- Do courts have strategic/action plans? One larger court formed a committee and set goals. There are subcommittees that focus on activities that align with goals in the plan.
- How do you set yourself up to be ready for new funding opportunities?
 - Action plan and strategies.
 - Get in-house priorities/processes in order so that you can look to new opportunities that align with priorities.
- Know where things are, where to turn. It can be difficult for a one judge court.

2) *How to reduce demands of court to focus on priorities? We cannot keep asking people to do more with less.*

- Courts do not control what comes in but can control processes.
- Can invite others into conversations.
- Reach out to other courts in area or statewide. How to move paper, calendars, judicial assignments.
- Get staff input, surveys, work with administrators.

- Need to be open to trying new things. Celebrate accomplishments.
- Need to fill staff spots, get your house in order, need to talk regionally.
- Courts are often dealing with fires and can't get to goal setting.
- A focus on recruitment and retention.
- Assess operational flow and invite new ideas.

3) *Statewide effort that BJA or someone else could support?*

- Maybe a PJ/admin conference could be a place for strategic planning. Where do we want to be in 1, 5, 10 years? Set broad parameters, it doesn't need to be detailed.
- Associations are focused on work/life balance.
- Have regionalized training or planning sessions to share ideas and resources. It will not be as daunting and you can build on each other.
- DMCJA grant staff that can help courts.
- Create a toolbox of items such as strategic planning and budget templates.
- Advocacy for funding has to be combined with an education component on what the Judicial Branch does.

Priorities – Participants moved into small topic-focused groups.

Funding – Dawn Marie Rubio facilitated. Penny Larsen documented highlights.

Brief Framing

- There have been many efforts/committees looking at funding needs over the years. The most recent effort, the Adequate Funding Workgroup, came out of the 2019 Judicial Leadership Summit (COVID impacted their timeline).
- The Work Group found that adequate funding is different for every court; we had success when we focused on specific funding needs; and no one has answers on how to generate funding outside of fines and fees.

1) *What do local jurisdictions need to help advocate for local funding?*

- They don't understand our work. We have an open gate, we don't control our workload and must take the cases that come to us.
- We need to educate and create relationships.
- Do this by inviting to court sessions, having lunch, social functions etc.
- Form articulate message about how our work is about the people we all serve, make it clear it is not about us/the courts.
- Regionalize some rural courts to share resources and work together.
- Divorce notion that decentralized courts conflict with centralized funding. Courts administer justice in accordance with state laws.
- Establish more formal relationships with WSAC and AWC.
- Discuss programs that create money-saving efficiencies.

2) *Thinking about your relationship with your local authority, what are some successful strategies for local funding?*

- One court sets up tours with every new commissioner. They visit pretrial programs, drug courts and a variety of calendars. This court also has standing meetings with the Board of Commissioners, not just going to them at budget time or when funding is needed.
- Show them why programs are worth it and articulate how building programs benefit them too.
- Work with County/City associations to lift lid on property taxes.it. Penny shared that during meetings with local commissioners in rural districts, they noted that 1% of taxes rural areas would not be enough to fund anything.

3) *How can we get a comprehensive report of court budgets across the state?*

- Complex task to compare courts budget. Will require a standardized method and criteria to see similarities and differences. We can talk to WSAC about this. Some line items like personnel will give the big picture statewide.

4) *How can we help prepare the judiciary to debate the budget needs?*

- Relationship building, learn to tell your story.
- The job of judge has changed, we are taking on more. Need more bandwidth, it is systemic problem that is not sustainable.
- Retirements, burnout, edgy atmosphere.
- Don't wait until time of need or budget season.
- Make it more about the user.
- Show your court is a good financial steward.
- Look at methodology, weight cases versus input/output. The later was a change that worked well but now, not so much.
- Cases are more complex. Remote technology and increase in pro se litigants take more time for judges and staff.
- It is not volume, it is complexity and admin work.
- Need judicial assessment, which wasn't funded.
- Coordinate with all associations, stakeholders and communities.
- Education for legislation, what we do every day. Establish relationships for help in funding.

Communication and collaboration between system partners - Ashley Callan facilitated. Vonnie Diseth documented highlights.

Brief framing and survey comments:

- One of the biggest lessons learned from COVID and the Court Recovery Task Force is that we need to keep working together. The necessity to approach open discussions with all justice partners, and to see the work we do as a justice system that directly impacts one another, instead of only the courts, and to build confidence throughout any person's involvement in the judicial system.
- Increase community engagement and feedback, include people with lived experience.
- Need to talk to community about resources in that community.

1) *How can courts embrace new community partnerships and family engagement to eliminate racial disparities?*

- In Therapeutic Courts, people are allowed to appear via Zoom which allows judges to see more of the person's life and the people who are in it (i.e. who is in the background, children at home, etc.).
- Tribal Courts: When people come to tribal courts; it feels like they are staying in their own environments. When they go to state courts; they are in "another" environment; not their own. They need to feel more at home. Adding Native American art in the courtrooms; so that they can see they are represented in the state courts and are more belonging in that environment. Native Americans want to know that somebody "knows" them. If they see things that they are familiar with it helps that to occur.
- In Whitman County the judge makes a direct statement before the court proceedings that no matter who you are (unrepresented individuals or ones with defense attorneys) or where you come from; you will receive fair and unbiased treatment in the courtroom.
- Judges could attend community events more. It makes them visible to the public and begins to opens doors for communication. It shows that they are human beings.
- Therapeutic Courts are doing Peace Circles.
- Bring courts to the people in an environment they are comfortable and familiar with.
- Have judges go into the classrooms and give some talks about civics education and other court education. It can expand a judges' credibility and get into the community. Expand the "Street Law Program" that was started by Margaret Fisher.

2) *How can we find common ground for the well-being of those we are here to serve in spite of the adversarial nature of the court system?*

- We can reduce fines. We should actually talk with the person about what they can afford to pay so that the judge can adjust the fine if necessary. Judges should acknowledge them as a person.
- We have a great opportunity with the Blake Project refund process. There have been complaints that the courts are not helping people get the refunds that they are owed without jumping through so many hoops. The courts are not being helpful in providing them the information they need to have. Courts can maybe set up a special "day" that is focused on doing that service for the community "Blake Refund Assistance Day."
- There are a lot of good things going on but everyone doesn't know what is going on in their communities. The judges in Spokane served food together downtown for the homeless in the community. It also recharges the judges to do something like that. It was a rewarding experience for them.

3) *We often talk about the need for increased communication and resources to help collaborative efforts. If we don't have additional resources, what can we do to increase communication?*

- Not having money shouldn't be the issue. We should use existing resources. It doesn't always take money. There has to be the willingness to do it.
- Courts should reach out to the media with good stories. Courts can share the good work that is going on within the community.
- Judges need to be seen in a different context so that they can be seen as real people.
- We should use models that have been successful and already implemented by others.

- Judges can talk with the city councils and communities and present it as “it is their program” so they are more supportive and feel ownership in the programs.
- 4) *What can BJA do to support or facilitate statewide engagement/relationship-building?*
- Recognize and reshape the perception of courts. Break down barriers and get into communities.
 - Locate resources in the community and connect with those who need resources.

Equity and racial justice – Cynthia Delostrinos Johnson facilitated. Jeanne Englert documented highlights.

- 1) *What have courts done in the past 12 months to increase/promote equity and racial justice efforts?*
- The Supreme Court letter in 2020 “allowed” organizations and courts to focus on equity issues and follow suit with public commitments; understanding of racism in the system; and created culture of acceptance to talk about issues.
 - Courts have been responsive and have created cultural advisory committees or DEIA (diversity, equity, inclusion, access) focused efforts.
 - Cases and impacts cases have had around equity; legitimized that these issues are real.
 - Increased training/focus on belonging, developed toolkits and the equity index.
- 2) *What are the critical internal/external policies that can help increase equity and racial justice in the courts?*
- We need to increase trust and confidence in the courts.
 - Increased relationships with judges and court staff; we need increased attention on treatment of staff and justice partners and policies and training around communication, treatment.
 - We all have a bias, and we need to recognize it and walk the talk.
 - People react when you tell them there is system discrimination; policies and education need to focus on these points in the system.
 - We need policies around access to the system and increasing access.
 - We need diverse voices and individuals with lived experiences at the table.
 - There should be opportunities to examine biases and beliefs and externally evaluate the system for biases and beliefs that impact equity.
- 3) *What else can the BJA do to help advocate for equity and justice issues?*
- Include diverse voice in statewide efforts.
 - Develop training for judges and court staff.
 - Include justice partners in the conversation.

Protection Orders – Judge Jennifer Forbes facilitated. Brittany Gregory documented highlights.

Comments:

- It feels like calendars have exploded, there is a lot on the line and respondents have a lot at stake.

- We are supposed to have better forms, but they are harder for pro se litigants and attorneys. Judge spends too much time trying to figure out why a case is in front of them.
 - We had to hire additional staff to handle PO work.
 - It is very difficult for staff to have conversations with everyone who come into court; especially if they are confused about the process and forms.
 - Lawyers are adjusting slowly, but the self-represented litigants are struggling. New laws have complicated things for them.
 - BJA could support funding requests for additional attorneys to work a legal clinic on domestic violence issues.
- 1) *How are courts providing information to the public to increase access to protection orders and increased understanding about the process?*
- Dedicated staff to meet with individuals seeking PO in some offices (facilitators).
 - The problem is “increasing” access; things are more complicated.
 - Sometimes they have to travel to get POs because certain courts can’t issue them anymore. When that happens, the public loses access.
 - Courts are barely treading water; the law is so complex.
 - It would be nice to have one place to send victims to. The SCJA self-represented workgroup is discussing the option of an online portal.
 - The law gives the ability to appoint lawyers to help pro se litigants, but there is no funding. Self-help centers could provide widespread support.
- 2) *Beyond providing training, what is your court implementing to help protection order hearings be more trauma informed?*
- What training is out there? It is not clear.
 - What is meant by trauma informed? Security? Ability to empathize?
 - DV advocates want to separate victims from offenders.
 - Coming to court and sitting through hearings can be traumatizing for victims.
 - Victims can appear by Zoom, but this option can be hard if there is no staff.
 - We need courthouse daycares, lactation spaces and need to make courts a more welcoming environment.
 - Need to reach out to communities to get that information. Can survey community on certain issues such as having one docket for interpreter/DV cases?
 - Judges have proceeding meetings and invite advocates to voice concerns—beyond training we need to listen to advocates.
 - What about courts that do not have advocates? A lot of clerks don’t have help to have a 1:1 discussion. They hand people a packet and tell them to fill it out.
 - Courts have more leeway to help individuals navigate the system.
- 3) *What local and statewide steps outside of funding can courts take to address protection order challenges?*
- Support for self-represented litigants that creates a more effective judicial system as a whole. Develop self-help centers, portals.
 - Improve how different technology systems communicate with each other
 - Judges need to be able to see POs from other courts.
 - Unified court technology might be a solution—but not everyone is on board.
 - Make it easier for judges who travel to fill-in to access case information.

- Judges have tried to work with legislature on DV bills, but judges find that their comments sometimes go ignored. We need to collect data on unworkable parts of the law, and bring that back to the legislature to further conversations.
- 4) *How could funding help courts address these challenges? For example, If the funding request asked for more money to hire pro tem commissioners, how could this best be accomplished?*
- We don't have space for additional commissioners/staff even if hearings are on Zoom.
 - Zoom can be difficult, because information is not centralized, and people don't have resources to effectively participate.
 - Court buildings are antiqued and need improvements; courts can't hire new staff/additional help where there is no place to put them.
 - More funding for trauma informed training could be helpful. There needs to be specific training for these situations.
 - Funding self-help centers, portals, facilitators would also help.
 - Funding for dedicated lawyers for local legal clinics. It can be hard to find lawyers for respondents.
- 5) *How can courts better coordinate with system partners such as law enforcement, attorneys, and advocates?*
- Periodic meetings with advocates and prosecutors.
 - We had some issue with service of POs; discussions can help solve issues.
- 6) *What can BJA do to support these solutions?*
- Judicial education funding, need to explain and advocate for and get creative when requesting funding. Fund webinars and in-person training.
 - Proper judicial needs estimate process needed as well.
 - Coordinated decision packages for judicial education.

Attorney recruitment and retention challenges - Judge Tam Bui facilitated. Caroline Tawes documented highlights.

Challenges/Comments:

- The shortage of public defense attorneys, coupled with mounting caseloads, will soon result in indigent defendants/youth having no access to counsel. We must partner collaboratively to remedy the crisis before it becomes worse.
- Need attorney pipelines to ensure continuity of court operations.
- We need to figure out a statewide system to promote public defender retention.
- The WSBA has been predicting a lawyer shortage, we are late to see that trend. Growing at a slower rate (1-2%). Fewer attorneys are coming in, more are retiring, and there is a shortage of felony attorneys.
- Rural Practice Committee focuses on supporting recruitment efforts in rural areas.
- Expectations don't match current public defense practices. Many counties do not have attorney mentors to work with, and lack training, mentoring, and resources.
- There are discrepancies across the state. How do we build the pipeline but then put attorneys in a system that will support them? Jurisdictions with support are better off.

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

- The Bar has undertaken committees to work on different aspects.
- The Bar Association has guidelines on what governments should have in place but it is not mandatory.
- Jurisdictions would have to come from legislation but be carefully crafted recognizing structure and realities of city/county. Are there economies of scale?
- Seattle University law school program has a new opportunity for people who are not aware of law school options. Funding comes from LSAT. All three law schools are contributing and faculty are donating time. They had 30 fellows last year, all from rural areas. The goal is to create opportunities and support such as a mentor law school track.
- We need to address barriers to law school entry, including tuition barriers.

2) *What can courts do to address/support attorney recruitment and retention challenges?*

- There is a current and growing unavailability of quality counsel across civil, juvenile, and criminal cases. Courts have to be leaders on these efforts. Court appointed counsel has expanded in the last two years. If we are unable to address this problem, those cases can't move forward.
- We do not have a defense bar that looks like clients; efforts need to address equity.
- Rural areas are having trouble finding counsel.

3) *What can the BJA do?*

- BJA can convene and/or partner with other organizations to launch discussions.
- Develop budget asks, develop a task force.
- BJA can be a leader in advocacy and messaging; share what is happening in the court system and the risk to administration of justice if we do not have adequate attorney representation.
- Contact Senators Dhingra and Hansen and request an interim work session on civil rights and judiciary and senate. There are great ideas out there and from other states.
- Attorneys may not be the answer. There is opposition to using technology more efficiently. Who is monitoring these issues?

4) *What do we need to be successful?*

- We need consistent messages to the legislature about the problem.
- Consider alternative structural issues, for example, regionalize public defenders, especially in small and rural counties that cannot have a standalone department.
- Develop pipeline solutions.
- There is a statute that allows for regionalization that nobody uses, but it is not funded. How can we make it a jurisdiction responsibility?
- Determine a minimum caseload before setting up municipal courts. Who decides that?
- Public health model where government buys down the cost of tuition in exchange for public health service or program after graduation.

Energize: How do we find the resources to move forward?

Small Group Discussion: *What is one thing you have energy around to move forward? What are you most excited about?*

- Breaking the pattern of same things done same way.
- This is not court as usual, excited to embrace change.
- Be content to bring people together with different views.
- The recent trend of fully engaging with other branches.
- The importance of education sessions to train on administrative skills, intangible skills of judge and leadership, and a better understanding of court staff work.
- A whole new era, embraced technology, equity issues, and jury issues.
- We are excited about post-conviction pieces, resentencing, Blake, juvenile offenders, reentry support. How do we help people exit courts into world?
- Relationship building, making a difference, high school student conversations.
- Focusing on the power of service, judges going into and serving the community.
- Education and being involved.
- The Bar needs to talk about these issues to the legislature, even if it informational.
- We are arriving to a transformative moment. We can rebuild the system over time. How do we move from this system to a system that starts and ends with people who need justice?
- We are in a different environment; we are bolder about what to talk about (Supreme Court letter and Judge Fearing's decision in COA) that can lead to structural changes.
- The importance of the Supreme Court letter that has given other organizations permission/standing to also speak out and commit to addressing structural inequities and racial justice.
- Jury diversity project.
- Movement in local government regarding criminal cases, especially *Blake*.
- Training for administrators.
- Wellness topics at conferences and staff engagement.
- A focus on court staff and partnerships.
- Statewide and regional support (especially for smaller and rural courts that have less resources).
- Reframing access to justice that really address the barriers.
- Treatment courts.
- Funding.
- Reaching out to high schools, jobs, interpreter tours, public service. Re-energizes the team when have more public involvement.
- Possibilities to fill the gaps, upcoming trainings and support for courts.

Next Steps:

BJA will compile notes and share with participants. These ideas will be used to help shape BJA priorities and work for the next several years.

BJA Judicial Leadership Summit 2023: Assess.Focus.Energize Participant List

Representing	Name
Supreme Court	Chief Justice Steven González
Supreme Court	Justice Debra Stephens
Supreme Court	Justice Sheryl Gordon McCloud
Supreme Court	Justice Mary Yu
BJA	Judge John Hart
BJA	Judge Tam Bui
BJA	Judge Jennifer Forbes
BJA	Judge Mary Logan
BJA	Judge Michael Scott
BJA	Judge Sam Chung
BJA	Judge Jeffrey Smith
BJA	Terra Nevitt
BJA	Dawn Marie Rubio
BJA Alternatives chair/PEEC chair	Judge Katie Loring
SCJA Past CRTF Chair	Judge Judith Ramseyer
DMCJA Officer	Judge Karl Williams
DMCJA Officer	Judge Jeffery Goodwin
DMCJA Past CRTF Chair	Judge Scott Ahlf
COA	Judge Rebecca Glasgow
DMCMA (District)	Frankie Peters
DMCMA (Muni)	Trish Kinlow
AWSCA (East)	Ashley Callan
AWSCA (Central)	Jessica Humphreys
WAJCA	TJ Bohl
Clerks	Linda Enlow
COA Admin	Tristen Worthen
OPD	Katrin Johnson
OCLA	Jim Bamberger
ILAC	Judge Edirin Okoloko
GJC	Barbara Serrano
MJC	Judge Veronica Galvan
Tribal Consortium	Judge Cindy Smith
AOC Leadership	Dirk Marler
AOC Leadership	Vonnie Diseth
AOC Leadership	Brittany Gregory
AOC Leadership	Cynthia Delostrinos Johnson
AOC/BJA Team	Jeanne Englert
AOC/BJA Team	Penny Larsen
AOC/BJA Team	Caroline Tawes

TAB 2

**POLICY STATEMENT BY
THE BOARD FOR JUDICIAL ADMINISTRATION
ON
GENERAL WATER RIGHT ADJUDICATIONS**

At its meeting on July 16, 2004, the Board for Judicial Administration approved the following statement of judicial policy:

A. CRITERIA FOR EVALUATING PROPOSALS ON WATER COURTS AND ALTERNATIVE PROPOSALS:

1. **Increased capacity.** A proposal should increase the system's capacity to hear a greater number of general water right adjudications.
2. **Timely and fair decisions.** A proposal should result in timely decisions, while still maintaining fundamental fairness and due process.
3. **Adequate and stable funding.** A proposal should provide a solid mechanism for ensuring adequate and stable funding, both at the outset and in future years.
4. **Efficiency and cost-effectiveness.** A proposal should provide for efficient use of limited resources. For example, expertise and specialization developed by judicial officers and staff in one general adjudication should be used in other adjudications.
5. **Flexibility.** A proposal should provide sufficient flexibility to allow for the assignment of judges, staff, and resources to the areas with the greatest need. A proposal should be sufficiently flexible to allow for the adoption of specialized rules that could streamline the procedures for general adjudications.
6. **Comprehensive solution.** A proposal should provide a comprehensive solution to the need for change.
7. **Accountability.** A proposal should provide for accountability to the public. Any new judicial entities must be accountable to the Washington State Supreme Court.

B. WATER COURT IMPLEMENTATION

1. **Creating a Water Court.** If the State decides to increase the number of ongoing general adjudications, then a new, specialized water court should be created to hear the cases. The water court should be separate from the superior courts.
2. **Types of Cases to Be Heard.** The water court should hear not only the general adjudications, but also other related water resource cases, such as appeals from PCHB's water resource decisions and challenges to administrative rules on in-stream flows. The water court's jurisdiction over these cases should be exclusive.
3. **State Funding.** The water court must be funded by the State. The counties and superior courts lack the resources to handle general adjudications.
4. **Selecting Judges.** Water court judges should be selected by competitive elections, although each newly-created judge position and vacancies should initially be filled by gubernatorial appointment from a slate of nominees submitted by the Supreme Court.

5. **Terms of Judges.** Water court judges should serve at least six-year terms due to the length of time it takes for new judges to get up to speed on these cases. The terms should be initially staggered so that the judges are not all subject to election in the same year.
6. **Judicial Referees/ Commissioners.** The water court judges should be assisted by experienced judicial referees/commissioners, who would hold hearings and make initial decisions, subject to review by the judges. The judges would also decide the broader and more complicated issues.
7. **Staffing.** The water court should have its own, adequately funded clerk's office and administrative staff. Processing of general adjudications, and their large volume of paperwork, requires a coordinated and specialized use of technology, procedures, and staff resources.
8. **Organization of Court.** The court should have multiple divisions, to foster regional decision-making and accountability, although the court should have flexibility to shift workloads by assigning one division's case to a judge from another division.
9. **Regional Offices.** The water court should have offices in each division. Regional locations would allow judicial officers and staff to be in closer proximity to the litigants. Pleadings could be filed locally and hearings could be held locally.

C. PROCEDURAL ISSUES

1. **Affidavits of Prejudice.** Affidavits of prejudice should not be available in general adjudications. Parties in general adjudications would still have the right to seek a judge's recusal based on a showing of actual prejudice, bias, or conflict of interest.
2. **Other Procedural Changes.** Regardless of which judicial entity hears general adjudications, careful consideration should be given to streamlining the procedures for these cases, in order to provide for more timely decisions while still maintaining fundamental fairness and due process in all regards. Four such steps include:
 - a) Having the Department of Ecology complete a comprehensive background report at the outset of the general adjudication, promoting earlier resolution of claims;
 - b) Providing for limited special adjudications (although for cases involving federal/tribal water right claims, the adjudication would need to be sufficiently comprehensive to satisfy the McCarran Amendment);
 - c) Expanding the use of mediation; and
 - d) Authorizing the pre-filing of written testimony.



August 30, 2023

TO: Chief Justice Steven Gonzalez, Board for Judicial Administration (BJA) Chair,
Judge Alicia Burton, BJA Member Chair,
BJA Members
FROM: Shannon Hinchcliffe, AOC Sr. Legal Analyst
RE: RECENT HISTORY OF WASHINGTON WATER ADJUDICATION POLICY

A water right adjudication is the legal process to resolve conflict and competition on a water source. Chapter 90.03 RCW governs the process for a general water adjudication. To commence the adjudication, the Department of Ecology (Ecology) is required to petition the court with a statement of facts and a plan or map in the superior court where the water is situated, or if the water is in more than one county, the county which is determined most convenient to the invested parties after consultation with the courts.¹

General water adjudications are voluminous, complex, and can span decades. These unique civil cases can overwhelm a court and clerk's office with the sheer number of pleadings, hearings, and rulings. Adjudications also involve complicated issues of fact and law which require specialized knowledge about water law. The last adjudication completed in Washington spanned more than 40 years. At the time of the filing of the adjudication, the court was not able to strategically plan for such a massive case; they simply had to accommodate the filing and adjust as the case progressed. Towards the latter half of the case, the legislature and judiciary undertook efforts to examine issues of water adjudication. While some recommendations from various workgroups were incorporated into the water code, the local superior court is still responsible for the case. In preparation for the upcoming adjudications planned in the Nooksack Basin and Lake Roosevelt and middle tributaries, the judiciary has a unique opportunity to study history and plan accordingly.

I. *Acquavella*

In 1977, Ecology filed a petition for a water adjudication in Yakima Superior Court. The case spanned forty years and involved 40,000 parties, 18,000 pleadings, 4,000 water right claims, approximately 17 pre-trial orders, and hundreds of decisions. The Yakima Superior Court issued its final decree in the case on May 9, 2019. The final decree integrated all

¹ RCW 90.03.110.

Conditional Final Orders and defined the relative priorities of all surface water rights in the Yakima Basin under Washington's "first in time, first in right" water law doctrine. The final decree was appealed by many parties and the court issued an opinion on the consolidated appeals in *Ecology v. James J. Acquavella, et. al.*, 198 Wn.2d 687, 498 P.3d 911, (2021). This water adjudication became known simply as "*Acquavella*."

As *Acquavella* started to take shape in the mid-1980's, the court realized that it would need another judicial officer to address the voluminous and complex claims to water rights. In a fortunate turn of events, and with the passage of two statutes and one constitutional amendment, Yakima was able to retain a retired judge in 1986 who served as a judge pro tempore judge who did not require the consent of the parties to hear the case.

In addition to the judge pro tempore, the court employed a staff attorney who subsequently became a Yakima Court Commissioner dedicated to the adjudication. The adjudication also used subject matter experts from Ecology as referees to resolve issues of fact. The Ecology referees were challenged as unqualified pursuant to RCW 4.48.040. Ultimately, the court determined that the referees were not decisionmakers under RCW 90.03.160 but, after the decision was issued the court assumed all of the duties that had previously been assigned to the Ecology referees.² The clerk's office hired another clerk and dedicated space to handle the massive quantity of documents and exhibits.³ Because the *Acquavella* adjudication took so long, and Ecology signaled that they wanted to start to new adjudications, the legislature began efforts to review and change the water code to make adjudications more efficient.

II. Water Disputes Task Force

In 1988, legislation placed a one-year moratorium on issuing new surface water rights and created the Joint Select Committee on Water Resource Policy. In the 1990's, water rights issues became a topic of dedicated study in the legislature. Between 1989 and 1996, the legislature passed 44 bills related to water use, water systems, water projects and several related to adjudication and water rights claims. In 1996, the Oregon and Washington legislature hosted a meeting to discuss water resources and recent legislation in both states and subsequent to that, the Supreme Court created a Task Force on Water Policy.

In 2002, the Washington Legislature created a Water Disputes Task Force to study judicial and administrative alternatives for resolving water disputes with the outcome to be reported out no later than December 31, 2003. The task force members included legislative representatives, superior court and Court of Appeals' judges, the Environmental Hearings Office, Ecology, and Attorney General's Office.

Task Force members met over a period of sixteen months reviewing background information and research, and analyzing water dispute processes in Washington and other western states. The Task Force delivered its recommendations to the legislature in December 2003. Among the recommendations that covered several areas, the report contained the following regarding the superior court general adjudication process: 1) creation of a specialized

² Sidney P. Ottem, *The General Adjudication of the Yakima River: Tributaries for the Twenty-First Century and a Changing Climate*, 23 J. Envtl. L. Litig. 275 (2008).

³ *Id.* at 345.

water court; 2) development of comprehensive background information by Ecology; 3) authorization of limited special adjudications; 4) expansion of the use of mediation; and 5) authorization of pre-filed written testimony. In addition to the legislative report, the outcome of the work of the Water Disputes Task Force resulted in the creation of a Board of Judicial Administration (BJA) Water Court Work Group. While the legislature would try again in a future session, the concept of a stand-alone water court was never realized.

III. 2004 Failed Attempts at Water Court Legislation

On the heels of the Water Disputes Task Force report in 2003, the Governor's office drafted legislation to create a specialized water court with three divisions and dedicated judges and court administration in the 2004 legislative session.⁴ It was accompanied by a proposed constitutional amendment to authorize a water court.⁵ Unfortunately, none of the bills made it out of committee.

IV. BJA Water Court Work Group

In 2004, the BJA created the Water Court Work Group to review the proposed changes to general water adjudications and the recommendations from the legislative task force. Specifically, they examined the creation of a separate water court and other alternatives.

The work group recommended the creation of a specialized water court in order to attract and retain water law expertise and continuity. The proposed water court included judges that serve for 6 years, experienced judicial referees/commissioners, and would be funded in totality by the state. The specialized water court would hear all water resource cases in addition to general water adjudications. The work group recommended changes to the affidavit of prejudice for water adjudication judges, for Ecology to provide comprehensive background reports, and to have a separate clerk's office and administrative staff. Finally, the BJA passed a policy statement incorporating these recommendations on July 16, 2004.⁶ The BJA gave a briefing on the recommendations and policy statement to the Joint Agriculture & Natural Resources and Judiciary Committees meeting on September 21, 2004 and to the Senate Natural Resources, Energy, & Water Committee on December 2, 2004.

The BJA Water Court Work Group continued to discuss practical applications of the recommendations and give feedback on proposed legislation. A re-drafted water courts bill⁷ was introduced during the 2005 legislative session but by the end of January it had made no progress and was essentially dead for the session. In June 2005, the Work Group reported to the BJA that they had refined their recommendations for water court judicial elections and terms and worked on addressing the problem of affidavits of prejudice and the BJA revised its policy statement on water courts.

In January 2008, the Work Group gave a status report to the BJA and commented that the push for water courts was waning. Eventually, the BJA Water Court Work Group was

⁴ SB 6674 and HB 3140 (2004).

⁵ SJR 8225, Sub SJM 8552, and HJR 4219 (2004).

⁶ Policy Statement by the Board for Judicial Administration on General Water Right Adjudications, adopted July 16, 2004; amended September 18, 2005

⁷ SB 5338 and SJR 8205 (2005).

transitioned to a SCJA working committee to continue to work with stakeholders on issues related to water adjudication.

V. 2009 Legislative Changes

Although the efforts to enact a stand-alone water court were unsuccessful, many changes were made to the water adjudication process in 2009 to make them more efficient. The BJA Water Court Work Group was able to consult on and comment on language related to the 2009 changes.

Among many changes to the water code, Ecology was given several responsibilities such as conferring with AOC⁸ before filing a petition to ensure resources for the courts, the creation of the claimant form and provide support to fill out the form,⁹ and they must provide preliminary investigations upon the receipt of a claim and the claimants' evidence.¹⁰ Additionally, the legislature created new disqualification criteria for adjudication judges¹¹ in order to ensure continuity and the court is encouraged to use innovative practices and technologies including eFiling.¹²

These changes, among others, reflected the recommendations of Ecology, the legislative task force, and the BJA Water Work Group. After these changes were implemented Ecology began to evaluate several watersheds to determine where to file the next petition for adjudication. In 2010, Ecology began to develop necessary budget and infrastructure to support a filing for a Spokane River adjudication.¹³

Ecology held a series of meetings with AOC and Spokane County Superior Court staff to determine the viability of filing. Although Spokane Superior Court prepared a budget decision package for the 2011-2013 biennium in anticipation of the filing of a petition, it was not submitted as Ecology signaled they were not ready to file. Ecology did not move forward with a decision package or filing immediately after the 2009 legislative changes, instead they chose to continue to assess watersheds for the viability of a widespread adjudication. In 2019, the legislature directed Ecology to provide an in-depth report in 2020 of recommendations for future adjudications.

VI. Ecology's 2020 Adjudication Assessment

In 2020, Ecology presented a water resources adjudication assessment to the legislature in response to the legislature's 2019 direction to assess and explore opportunities for the next water adjudications.¹⁴ In the presentation, Ecology recommended the adjudication of the

⁸ RCW 90.03.110(2)(a).

⁹ RCW 90.03.140.

¹⁰ RCW 90.03.640.

¹¹ RCW 90.03.620.

¹² RCW 90.03.120.

¹³ 2010 Report to the Legislature and the Governor: Water Resources Program Function and Funding Structure, Department of Ecology, Sept. 2010, Pub. No. 10-11-022.

¹⁴ Water Resources Adjudication Assessment Legislative Report, Department of Ecology, Sept. 2020, Pub. No. 20-11-084.

Nooksack Watershed (Water Resources Inventory Area [WRIA] 1), Lake Roosevelt and Middle Tributaries (WRIA 58), and the Walla Walla watershed (WRIA 32).

Ecology chose Nooksack for adjudication in part because the Nooksack River system faces growing pressure from water users. The watershed is a critical habitat for threatened and endangered fisheries populations. Several groups that have Nooksack-area interests including Tribes, agricultural interests, and local governments have met for many years to try to solve problems. Many of those that are interested have been in support of an Ecology-led adjudication. Others, such as the Whatcom Public Utility District ask for continued support of collaborative efforts instead of a water adjudication. Both the Lummi Nation and the Nooksack Indian Tribe have petitioned Ecology for an adjudication.¹⁵

Ecology also recommended adjudication of Lake Roosevelt and the Middle Tributaries which is located between Kettle Falls and the Spokane River at Fort Spokane. Lake Roosevelt divides WRIA 58, the western half is within Ferry County and the eastern half is within Stevens County. The recommended adjudication area includes a rural, largely forested area with relatively local demand for water aside from Lake Roosevelt itself which provides irrigation water throughout eastern Washington and the federal Columbia River Basin Project. This land includes the Colville Reservation, Spokane Tribes, the Colville National Forest, the state's Sherman Creek State Wildlife Recreation Area, and other wilderness and recreation areas. This area is also facing water allocation challenges as groundwater and surface water are least available when water demands are the highest. The Colville Confederated Tribes petitioned Ecology in 2019 for an adjudication and after consulting with the Spokane tribe, they also indicated support for an adjudication.¹⁶

The last recommended adjudication area was the Walla Walla watershed (WRIA 32). This watershed spans Walla Walla and Columbia counties and water from the Walla Walla river and its tributaries flow across the southern Oregon border. Although the water in this area had been overly appropriated, and at certain times of year the Walla Walla basin is over-allocated, Ecology admitted that because of the inter-state geography settling water rights would be a serious challenge.

After Ecology consulted with the courts and discussed the feasibility with local, state, and federal governments and other stakeholders, they declared that the next water rights adjudication would be in the Nooksack Basin.

VII. Proposed Water Commissioner Language, Exceptions to Consent of Parties to Have a Trial by Referee, and Additional Whatcom County Superior Judge

Ecology has considered filing a water adjudication petition since the 2009 legislative changes. Finally, during the 2021-2023 biennium, the legislature provided \$1 million dollars to Ecology for pre-adjudication work. This work included mapping, identifying water users, outreach, developing data systems, and working with the Attorney General's office and the courts. The legislature specified that the Nooksack adjudication could not be filed prior to June

¹⁵ *Id.*

¹⁶ *Id.*

1, 2023 and Ecology signaled to the court that that date would also be the target date to file their petition in Whatcom County Superior Court.

Without an independent water court infrastructure, the superior court worked with AOC to determine necessary staffing for the 2023-2025 biennium and beyond despite little control over the timing of the adjudication filing. During the 2023-2025 biennium budget planning process, both Ecology and AOC submitted budget requests. The legislature funded Ecology to file both the Nooksack adjudication in 2023 and Lake Roosevelt and its' immediate tributaries in 2024.¹⁷ AOC submitted a budget request on behalf of Whatcom County Superior Court in order to prepare for the filing of the Nooksack petition on June 1, 2023. The 2023-2025 biennium decision package was intended to be the first of ongoing requests in a long-term strategy to provide for adequate court and clerk support while being mindful of the accelerated need as the case progresses. When estimating costs and staffing for the 2023-2025 biennium decision package, several factors were considered such as the timing of filing, the court's current ability to absorb a large, complex case, the court's technology needs in order to work the case efficiently, and prioritization of budget requests as the case and conditions progressed.

At the time of the biennium budget package, and after consultation with the *Acquavella* court commissioner, the package was focused on hiring a court commissioner and clerk support so Whatcom could process the initial stages of the case without contributing further to the court's backlog. The 2023-2025 biennium water adjudication decision package was funded; however, circumstances around the filing date and the court staffing model have changed within the last year. Ecology advised that they would be delaying filing the petition until Fall 2023. This was in part due to the need of Ecology to hire and train staff after the new fiscal year and in part because of the passage of HB 1792 which gave the agency additional responsibilities and moved procedural timelines. Ecology's announcement of delay was welcome news for both AOC and the Whatcom superior court so they too could hire after the funding allocation and have more time to prepare for eFiling of the adjudication case.

As the court prepared to hire a court commissioner from the biennium funding, they analyzed the usage of their current commissioners and the constitutional limitation on appointing court commissioners with broad authority. Whatcom Superior Court already uses three general court commissioners which maxes out their allotment pursuant to Wa. Const. Art. IV., sec. 23. While *Ordell v. Gaddis*, 99 Wash.2d 409, (1983) found that the appointment of a commissioner with more expressly limited duties and narrow and specific powers is not subject to the constitutional limitation of three commissioners, no such statute exists for water law specific commissioners. Based on Whatcom's continuing backlog from the pandemic, the court would lose productivity if they re-allocated a general commissioner to water adjudication without a statute that authorizes a limited scope. Therefore, in order to prepare for the adjudication with current funding, the court is opting to hire a court referee as authorized in RCW 90.03.160 until a statute authorizing a water commissioner can be adopted.

Although the appointment of a referee will be helpful in a water adjudication, they have more limited authority than a commissioner has.¹⁸ Depending on the court's assignment of duties to the referee, they will likely be able to help with simplified procedures of small uses of

¹⁷ Laws of 2023, ch. 302, §9 & 10.

¹⁸ RCW Chapter 2.24 and 4.48.

water, and hearing issues where there are factual and legal disagreements subject to revision by the court. However, the court will likely want to use them as broadly as possible¹⁹ which may raise the issue of whether consent of the parties is necessary.²⁰ In order to eliminate any doubt of the referee's authority in a water adjudication despite consent or application of the parties, language to exempt a court-appointed water referee from consent by parties is proposed.

In addition to Ecology's decision to move their filing date and the court's review of the commissioners' authority, HB 1792, passed in the 2023 legislative session, modified timelines for the Nooksack adjudication. It increased the time claimants have to file a claim in response to a summons and time to submit evidence supporting their adjudication claim. While the modified timelines may seem to indicate that the court can postpone staffing, that would be a mistake.

Whatcom county has temporarily assigned the duties of preparing for the water adjudication case to a sitting judge and court commissioner, they have participated in specialized water law education, drafted local court rules, conferred with AOC and the court administrator, and assessed necessary changes to the court and court personnel. The preparation for this case has taken these judicial officers away from their regular caseloads or, at the least, have added to their workload even though the adjudication petition has not yet been filed. Additionally, once the petition is filed, a judge will have to issue the summons, pre-trial orders, hear any significant legal issues, and manage the case in spite of the delayed timeline.

VIII. Conclusion

The legislative and judicial branch have studied water adjudications and made recommendations to retain expertise and gain efficiency over many years. While an independent water court has not yet been realized, the judiciary has the opportunity to support a superior court to be fully operational and efficient in processing the first adjudication to be filed in over 40 years. Endorsement of a fifth Whatcom County Superior Court judge, statutory language establishing a Water Commissioner and the exception of water referees from party consent is critical to the court's success.

¹⁹ RCW 4.48.060.

²⁰ RCW 4.48.010 and .020.

TAB 3



September 15, 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 September 28, 12:00 – 1:30. All meetings are TVW livestreamed.

Assessment and Information Gathering Workgroup met to finalize their survey reports. Surveys were sent to courts to assess alternatives used and to attorneys to share general assessment of alternatives used in their jurisdictions. The work group is identifying any additional data needs to help inform goals of the Task Force.

The Task Force started two additional workgroups. These workgroups have begun meeting to identify goals and activities to help overarching work group goal.

- 1) **Legal Authority** – will analyze/address legal/judicial authority for alternative options. The work group has met several times and is collecting questions on comments that courts and justice partners may have about the use of alternatives.
- 2) **Community Mapping** - this is a new work group that will explore community-based tools/mapping to better help local jurisdictions/communities identify points of entry into the system, barriers and opportunities to alternatives, and community-based resources (traditional or non- traditional) that can prevent entering the system and/or incarceration. This group has met several items and is working on its scope and activities.



September 15, 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

Court Rules Project

In June, five subgroups of judicial officers, spokespersons for attorney associations and court administrators across the state completed their work on the slate of court rule recommendations that are needed in order to allow for remote proceedings after the Emergency Orders are lifted. See attached memorandum to the Washington Supreme Court Rules Committee (Rules Committee) that accompanied the slate of rules.

Work Group Co-Chairs met with members of the Rules Committee in August. The Justices posed questions about some of the suggested court rule proposals and asked the co-chairs to get more Work Group member feedback on the two general rule proposals, GR 41, a new suggested court rule for Remote Jury Selection and a suggested amendment of GR 11.3, Remote Interpretation. The GR 11.3 suggested amendment is being reviewed by the Interpreter and Language Access Committee. The GR 41 suggested new rule was approved by all five subgroups, nearly unanimously.

The slate of rules is in on the agendas of forthcoming Rule Committee meetings this Fall.

Remote Proceedings Best Practices Guidelines Project will begin Fall 2023

This project will evaluate the best practices identified from other state courts and use information from the Court Rules Project and the Survey of Remote Practices in Washington Courts conducted in January 2023. The Work Group will draft voluntary guidelines that will include tips and recommended practices for courts and practitioners. The Work Group is planning to present the finding of the survey and the draft guidelines to the BJA in October 2023.



June 26, 2023

To: Chief Justice Steven Gonzales, Justice Mary Yu, Justice Charles Johnson
and all Members of the Supreme Court

From: Judge Angelle Gerl and Judge Jim Rogers, Work Group Co-Chairs

Subject: Proposed Rules, Board of Judicial Administration’s Task Force on Remote Proceedings

This memorandum covers our approach, our membership, our process, and other matters. The GR 9 cover sheets discuss the specific rules proposed as required by your process.

Our Charge

Create work practice groups that reflect different views and draft a slate of rule changes to allow the use of remote technology for your consideration.

Courts of Limited Jurisdiction

Limited jurisdiction courts differ from superior courts in their funding, access to technology, and operating procedures. Some limited jurisdiction courts operate only a few days a month with limited funding and technology while other courts move well over 100,000 cases per year.

Our goal in revising the limited jurisdiction rules was to remove any barriers to remote proceedings. As funding and technology improve, courts can continue to expand the scope of remote hearings. Due to varying availability of resources, we are not in a position to mandate which hearings must be remote. The best practices that we will be developing will encourage consistency.

We have developed a slate of twenty-four (24) rules that respects the need for a physical appearance and provides the opportunity for remote appearances as well. We have built upon the foundation of CrRLJ 3.4 and the concept that appearances may be physical, remote, or through counsel. Not every type of appearance will work

in every situation. The rules for limited jurisdiction are designed to work for all lower courts across the State of Washington.

Limited Jurisdiction Process

An initial draft of the proposed Civil and Criminal rules was shared with the DMCJA Rules Committee and to the limited jurisdiction subgroup members. For limited jurisdiction rules there were two subgroups: Criminal and Civil.

The groups met regularly to review all proposed amendments, and draft/edit changes together over Zoom. Members were invited to suggest additional amendments. Rules were modified during the meetings as the discussions evolved. Members were asked to speak with their respective organizations to share drafts of the rules, discuss proposed changes, and any objections from their respective organizations. The two subgroups voted on each rule. The majority of rule changes were unanimously agreed upon, or nearly unanimous. Where there remained strong disagreement, members were invited to submit a statement in support or opposition of the final draft. Information regarding these issues were briefly summarized in the GR 9 coversheets.

Brief Summary of Limited Jurisdiction Groups Propose

The limited jurisdiction groups are proposing a twenty-three (23) rules to amend with the majority of the amendments being technical changes. The groups are also proposing one (1) new rule: ARLJ 15. There have also been definitions added to ARLJ 3. We encourage the Supreme Court adopt these proposed rules changes as a whole. The rules are designed to work in conjunction, and some rule changes require adoption of others in order to work smoothly.

Superior Courts

Our approach:

1. We are only addressing remote technology and no other issues.
2. These proposed rules reflect and allow post-pandemic practices that have emerged in many courts, from King to Colville and Walla Walla, from Island to Pierce.
3. The proposed use of remote technology for Superior Court is largely voluntary, but for some rules, a court must address certain disputes (witnesses, depositions).

4. Our terminology is “remote technology” and not “video conferencing” or “telephonic.” Technology evolves and there should not be the need to amend the rules each time there is a new term.

The Superior Court Workgroup formed three separate workgroups: Criminal, Civil and Family Law/Dependency/Juvenile. Note that in trial practice, most practitioners in all areas look to the civil rules for certain matters, for example, subpoenas, depositions, and the witness rule (CR 43). Family law practitioners look almost entirely to the civil rules for trial procedure. All practice groups discussed this fact.

Most of the proposals you will review were either unanimous or nearly unanimous with a specific dispute (CR 1 and CR 30).

Brief Summary of What is Proposed by Superior Court Groups

The Criminal Practice Group proposes no new rules and unanimously proposes one amended rule as to form only (removes “video conference” replaces with “remote means” or “remote technology”)

The Family Law/Dependency Practice Group unanimously proposes one new rule to allow participants to appear remotely, even if some decide to come in person. This has become a common practice.

The Civil Practice Group proposes nine amendments to CRs. There was unanimity for most changes, but there are two alternative proposals you will need to decide. The parties’ positions are presented. The Civil Practice group also unanimously proposes a new GR41 on jury selection.

All of the Groups discussed the need for remote interpretation, proposed amended GR 11.3. There was unanimous support for a change to support remote interpretation.

Rosters for All Court Groups are attached as an appendix.



Judge Angelle Gerl
Work Group Co-Chair
Airway Heights Municipal Court

Judge Jim Rogers
Work Group Co-Chair
King County Superior Court

OFFICE OF CIVIL LEGAL AID

FY 2024 UPDATE

Presented To

BOARD FOR JUDICIAL ADMINISTRATION



OCLA HISTORY

- Established as single purpose independent judicial branch agency in 2005 to fund the basic state-funded civil legal aid system
- Statutory Authority – [RCW 2.53.010 et seq.](#)
- Director appointed by Supreme Court (Jim Bamberger 2005-2024)
- 2014 – present, scope of responsibilities expand to 13 specific civil legal aid programs
- FY 2005-07 biennial budget: \$12M (direct state appropriation)
- FY 2023-25 biennial budget (all sources incl. IAAs) \$140M
- Staffing: 2005-2015 (1); 2015-2020 (4); 12/31/23 (17)



OCLA-FUNDED CIVIL LEGAL AID PROGRAMS FY 23-25

- Basic Civil Legal Aid: \$59M
 - Statewide – Principally funded through Northwest Justice Project which also helps fund 16 volunteer attorney programs and 4 providers of specialized legal assistance
- Civil Legal Aid to Crime Victims: FY 24 -- \$5M (FY 25 not established)
 - Statewide – funded through IAA with Commerce Office of Crime Victims Advocacy
- Children’s Legal Representation: \$12M
 - 2 Programs (Legally Free – Statewide; HB 1219 5-yr. implementation commenced 2022)
- Eviction Defense – Appointed Counsel for Tenants: \$29.5M
- Eviction Defense – Pre-RTC: \$4.8M



OCLA PROGRAMS FY 23-25 CONT.

- *State v. Blake* Civil Consequences: FY 24 -- \$2.5M (FY 25 not established)
- Reentry Legal Assistance Program (R-LAP): \$3.0M
- Community Reinvestment Program: \$8M (FY 24-25 only; not continuing)
 - 2 Programs funded through IAA with Department of Commerce Office of Firearms Safety
- Domestic Violence Civil Legal Aid: \$4M
 - 7 Providers (incl. 2 tribal) determined through competitive process
- Kinship Caregiver Support: \$2M
 - 2 Programs – Kinship Caregiver Support Coordinator; Kinship Legal Aid Hotline



OCLA DIRECTOR SEARCH

- December 16, 2022: [Memo from Jim Bamberger to CJ González](#) advising of intent to pass the trust to a successor in early 2024
- January 19, 2023: Supreme Court request to ATJ Board to establish search committee and commence inclusive search process
- Search and appointment process governed by RCW 2.53.020(2)
- After competitive RFP, CLEAR-Consulting.Biz selected to conduct the search process
- Invitation to Apply issued: 9-1?-23
- Submission of three finalists to Supreme Court 11/17/23



QUESTIONS/COMMENTS

Contact:

Jim Bamberger, Director

Washington State Office of Civil Legal Aid

jim.Bamberger@ocla.wa.gov

360-485-1530



Board for Judicial Administration Meeting

September 15, 2023

DECISION POINT – 2024 Supplemental Budget Decision Packages

MOTION:

I move that the BJA approve the 2024 supplemental budget request as presented, with the understanding that the dollar amounts and narrative may change slightly as the final submission is finalized later in September.

I. DISCUSSION

The proposed 2024 supplemental budget summary identifies those items, activities, or projects that will most likely need supplemental funding in the next fiscal year.

II. PROPOSAL

AOC recommends that the BJA approve the 2024 supplemental budget request items as submitted with the understanding that the amounts per request may change slightly.

III. OUTCOME IF NOT PASSED

If not passed, the budget submittal could be delayed, reducing the time available to propose the requests to the legislature. Delay could jeopardize the availability of funding.

2024 Supplemental Budget Briefing

Christopher Stanley, CGFM – Chief Financial and Management Officer, AOC
September 15, 2023

Budget Outlook & Forecast



	<i>In billions</i>
Projected Ending Balance, June 30, 2025:	\$1.984
Add Rescue Plan Account:	\$0.798
Add Rainy Day Fund:	\$1.342
Official Resources Available Total:	\$4.124

Where does it go?

- \$3.0B is already booked in the 2025-27 biennium
- Caseload Changes and Maintenance Level Increases

On the four-year outlook, only about \$500M is available.

Updated Revenue Forecast Coming September 26

Administrative Office of the Courts 2024 Supplemental Budget Requested Total: \$7.5 million



Support Trial Courts

1. Fund Water Rights Adjudication
2. Fund 12th Clark County Superior Court Judge
3. Fund 6th Cowlitz County Superior Court Judge
4. Implement Protection Training for Judicial Officers Courts

\$2.4 million

Improve Access to Justice

1. Continue Funding Blake Implementation
2. Align Juror Pay Pilot Funding with Implementation
3. Expand Self-Help Center Pilot
4. Increase Minority & Justice Commission Staffing

\$3.3 million

Maintain Critical IT Infrastructure

1. Implement Small IT Projects
 - a) Cyber Security
 - b) Person Management
 - c) Appellate Case Management
 - d) Appellate Document Management

\$1.8 million

Questions?

Christopher.Stanley@courts.wa.gov
360-357-2406

Blue Sheet: Administrative Office of the Courts (AOC)

Last Edited: August 18, 2023

Non-Information Technology-related Decision Packages

			TOTAL REQUEST:	15.5	5,656,600
Agency	Level	Title	Summary	FY 2025 FTE	Amt Requested
AOC	PL	Fund Water Rights Adjudication	The Administrative Office of the Courts requests \$1.5 million ongoing to support Whatcom County Superior Court activities related to adjudications filed by the Department of Ecology to resolve water rights in the Nooksack Basin Water Resource Inventory Area (WRIA) I.	0.5	1,479,000
AOC	PL	Continue Blake Implementation	<p>The Administrative Office of the Courts requests 10.0 FTEs and \$1.7 million ongoing to continue the implementation efforts surrounding the State v. Blake Supreme Court decision of February 2021.</p> <p>The enacted 2023-25 Biennial Budget provided funding for FY 2024 to continue work on two major tasks: 1) In collaboration with local court staff, prepare comprehensive lists of all cases impacted by the State v. Blake decision going back to 1971; and 2) Establish a centralized process for refunding legal financial obligations. Unfortunately, this funding has only been appropriated yearly while the work required is a multi-year project. AOC is requesting ongoing funding to complete the work.</p>	10.0	1,728,800
AOC	PL	Expand Self-Help Center Pilot	Washington has a significant and growing number of unrepresented litigants attempting to use the trial courts. These litigants often encounter challenges in using a court system that was designed for professional attorneys to navigate. Self-help centers are a common service offered by many other states to assist unrepresented litigants with legal information in civil matters. In Fiscal Year 2023, the Legislature first appropriated \$520,000 to launch two self-help center pilot programs in Washington state. In the 2023-25 biennial budget, the Legislature funded a total of \$520,000 to extend the programs. This funding request would extend the pilot programs with an additional year to increase the pilots to full funding and provide them with evaluation and performance management support.	1.0	1,248,700
AOC	PL	Align Juror Pay Pilot Funding with Implementation	A pilot project to increase juror pay was funded by the Legislature in the 2023-25 biennial budget. The overall goal of the pilot is to remove the pay barrier and increase diversity in juries across Washington allowing for greater access to justice for those on trial. However, the budget proviso limits juror pay to \$50 per day per juror. This limitation will not incentivize participation so the data will be insufficient for demonstrating whether an increase to juror pay could lead to increased jury diversity. This request would fund staffing for two years, propose new proviso language raising juror pay to \$100 per day per juror, and make a technical correction shifting the pilot project funding for increased juror pay into FY 2025.	1.0	168,600
AOC	PL	Fund 12th Clark County Superior Court Judge	The Administrative Office of the Courts (AOC) requests \$218,300 ongoing to fund a 12th Superior Court Judge in Clark County, effective July 1, 2024. This judicial officer is needed to address growing population and timely processing of all case types. The need for judicial officers is determined through a methodology developed by the AOC.	0.5	218,300

Blue Sheet: Administrative Office of the Courts (AOC)

Last Edited: August 18, 2023

Non-Information Technology-related Decision Packages

Agency	Level	Title	Summary	FY 2025 FTE	Amt Requested
AOC	PL	Fund 6th Cowlitz County Superior Court Judge	The Administrative Office of the Courts (AOC) requests \$218,300 ongoing to fund a 12th Superior Court Judge in Clark County, effective July 1, 2024. This judicial officer is needed to address growing population and timely processing of all case types. The need for judicial officers is determined through a methodology developed by the AOC.	0.5	218,300
AOC	PL	Implement Protection Order Training for Judicial Officers	The Administrative Office of the Courts requests 1.0 FTE and \$440,200 ongoing to provide trainings for pro tem judicial officers (pro tems) and reimbursements to district and superior courts that utilize pro tems for civil protection order dockets. Specifically, the additional staff would oversee pro tem reimbursements and provide outreach and technical assistance to courts to ensure that pro tems receive the training, practical tools, and resources required to preside over these civil protection order proceedings. The courts would also be reimbursed for judicial time spent to train the pro tems. Overall, this proposal would support courts in their implementation of more accessible, trauma-informed protection order processes.	1.0	440,200
AOC	PL	Increase Minority & Justice Commission Staffing	The Administrative Office of the Courts requests 1.0 FTE and \$154,700 in ongoing funding to fully staff the Minority and Justice Commission's (MJC) existing work. This proposal will allow the MJC to be responsive to duties assigned during recent legislative sessions and meet existing programmatic needs.	1.0	154,700
TOTAL				15.5	\$5,656,600



September 15, 2023

TO: Board for Judicial Administration (BJA) Members
FROM: Judge Michael Scott, BJA Legislative Committee Chair
Brittany Gregory, AOC Associate Director, Judicial and Legislative Relations
RE: BJA Legislative Committee Report and Action Items for the Board

The 2024 legislative session will be a short session, lasting 60-days. The session is scheduled to begin on January 8, 2024 and estimated to end on March 8, 2024. Similar to last session, the legislature will be allowing a hybrid model for committee hearings and testimony, so people will be able to appear in-person and remotely.

During the regular legislative session and any special session, the BJA Legislative Committee (Committee) convenes weekly calls to discuss pending legislation. During the legislative interim, the Legislative Committee convenes as necessary to review and prepare legislative proposals and develop strategies for any upcoming legislative sessions.

On April 27, 2023, the Committee solicited legislative proposals for the 2024 legislative session from court levels and entities. The solicitation included information about the process and forms to submit a proposal, and asked for proposals and supporting documentation to be submitted by June 15, 2023. The Committee received many proposals from judicial stakeholders and legislators. After discussing the proposals with the court-level representatives on the Committee, and soliciting feedback from judicial stakeholders, the Committee has decided to offer the proposals summarized below for consideration by the Board.

Proposal #1: Water Rights Adjudication Judicial Position

Requests an additional superior court judge for Whatcom County to work on the water rights adjudication filed by the Department of Ecology.

Proposal #2: Water Rights Adjudication Commissioner Position

Creates a superior court commissioner position in Whatcom County. This position was already funded in the 2023-2025 biennium budget and the commissioner will work on the water rights adjudication proceedings filed by the Department of Ecology. It would also authorize the court's use of a referee in a water adjudication without party consent or application.

Proposal #3: Notice of Court Reorganization

Requires counties and cities to provide one-year written notice to the Administrative Office of the Courts (AOC) with changes to court services, court technology services, and/or court vendors. This notification is in addition to the notice that they provide to the party with which they are terminating service.

Proposal #4: Court Interpreter Statutory Revisions (RCW 2.43)

Changes Washington statute to be compliant with the Department of Justice (DOJ) policy interpretations of Title VI; updates statutory language to align with operations conducted by AOCs Court Interpreter Credentialing program; and confers on the Interpreter and Language Access Commission (ILAC) and AOC Court Interpreter Program responsibility of credentialing sign language interpreters working in legal settings and the responsibility for disciplining interpreters who violate General Rule (GR) 11.2.

Proposal #5: Superior Court Judicial Positions – Clark County & Cowlitz County

Requests an additional superior court judicial position in Clark County and Cowlitz County superior courts, respectively. In Clark County superior court this will increase the current eleven judges to twelve. In Cowlitz County superior court this will increase the current five judges to six. Both are dependent on funding from the respective County Commissions, who will meet and decide in late fall 2023.

Proposal #6: Supreme Court Bailiff Information Sharing and Limited Investigative Authority

Creates limited investigative authority for the Supreme Court bailiffs, so that they can access criminal history and nonconviction data to properly assess security threats and communicate with law enforcement.

Based on all of the information reviewed, the Legislative Committee recommends the Board vote as follows:

ACTION ITEM #1: Adopt the following position regarding the proposal for a water rights adjudication judicial position:

- 1) BJA supports the need for an additional judicial position to support the water rights adjudication in Whatcom County superior court funded by the state legislature;
- 2) BJA will seek legislative sponsorship of the additional judicial position as “*BJA-request legislation*”;
- 3) BJA will testify in support of the need for an additional judicial position in Whatcom County superior court during the 2024 legislative session.

ACTION ITEM #2: Adopt the following position regarding the proposal for a water rights adjudication commissioner position:

- 1) BJA supports the need for a water rights adjudication commissioner position in Whatcom County superior court;
- 2) BJA will seek legislative sponsorship of the water rights adjudication commissioner position as "*BJA-request legislation*";
- 3) BJA will testify in support of the need for a water rights adjudication commissioner position in Whatcom County superior court during the 2024 legislative session.

ACTION ITEM #3: Adopt the following position regarding the proposal for the notice of court reorganization to AOC:

- 1) BJA supports the need for notice of court reorganization to AOC;
- 2) BJA will seek legislative sponsorship of the notice for court reorganization to AOC as "*BJA-request legislation*";
- 3) BJA will testify in support of the notice of court reorganization to AOC during the 2024 legislative session.

ACTION ITEM #4: Adopt the following position regarding the proposal for court interpreter statutory revisions (RCW 2.43):

- 1) BJA supports the need for court interpreter statutory revisions to RCW 2.43;
- 2) BJA will seek legislative sponsorship of the court interpreter statutory revisions to RCW 2.43 as "*BJA-request legislation*" and provide support to the Interpreter and Language Access Commission in their lobbying efforts;
- 3) BJA will testify in support of the court interpreter statutory revisions to RCW 2.43 during the 2024 legislative session.

ACTION ITEM #5: Adopt the following position regarding the proposal for additional superior court judicial positions for Clark County and Cowlitz County:

- 1) BJA supports the need for an additional superior court judicial position in Clark County and Cowlitz County;
- 2) BJA will seek legislative sponsorship of the additional superior court judicial positions in Clark County and Cowlitz County as "*BJA-request legislation*" after AOC receives documentation of the approved local budget with funding for the respective county's portion of the additional judicial position salaries;
- 3) BJA will testify in support of the request for additional superior court judicial positions in Clark County and Cowlitz County during the 2024 legislative session.
- 1) BJA will testify in support of CFC amendments for reporting during the 2024 legislative session.

ACTION ITEM #6: Adopt the following position regarding the proposal for Supreme Court bailiff information sharing and limited investigative authority:

- 1) BJA supports the proposal for Supreme Court bailiff information sharing and establishing limited investigative authority;

- 2) BJA will seek legislative sponsorship of the Supreme Court bailiff information sharing and limited investigative authority as "*BJA-request legislation*";
- 3) BJA will testify in support of the need for information sharing and the establishment of limited investigative authority with and for the Supreme Court bailiffs during the 2024 legislative session.

Legislative Committee Next Activities

Brittany will continue appropriate legislative and stakeholder engagement based on the Board's vote on the foregoing action items.



Board for Judicial Administration Legislative Committee *Legislation Request Form*

Please submit completed forms and supporting documentation/drafts to Haily.Perkins@courts.wa.gov.

Proposals should be submitted by June 15.

WHEN TO USE THIS FORM

This form is **only** used when: 1) a proposal requires statutory amendment (i.e., changes to language in the Revised Code of Washington (RCW)); **and** 2) the judicial branch proponent of the proposal wishes to request support and action for it from the Board for Judicial Administration (BJA).

Please consider these questions to guide you to the correct process.¹ If you need assistance with the form or have questions, contact Haily.Perkins@courts.wa.gov.

Question 1: Is your proposal *exclusively* a fiscal request (i.e., a request for state funding for the judiciary or a new or expanded judicial program, where no legislation other than a state budgetary appropriation is required)?

- *If no, please proceed to Question 2.*
- *If yes, STOP. You DO NOT need to complete this form.*

Please visit https://www.courts.wa.gov/appellate_trial_courts/aocwho/?fa=atc_aocwho.display&fileID=msd/budgetDevelopment for information about the Washington Courts budget submittal process. The budget submittal process is administered by Mr. Ramsey Radwan and involves review of proposals and documentation by the BJA and the Supreme Court.

Question 2: Does your proposal require new or amended statutory language (i.e., changes to the RCW)?

- *If no, STOP. You DO NOT need to complete this form.*

You may wish to pursue the proposal in discussion with judicial branch committees, associations, commissions, and/or directly with stakeholders and legislators. For example, convening a task force or work group, including invitations for legislators to participate, does not require legislation.

- *If yes, please proceed to Question 3.*

¹ The state legislature establishes and amends the state's budgets and statutes. Various court associations, jurisdictions, and entities participate independently in Washington's legislative processes. Sometimes, a court entity would like the support of the BJA for a particular proposal. The BJA has two separate processes for developing and reviewing proposals and submitting them to the legislature: one for budget proposals (i.e., "decision packages") and one for bill drafts (i.e., changes to the Revised Code of Washington).

Question 3: Is your local court, association, or judicial entity asking the BJA to support your proposal by working with legislator(s) to sponsor it as BJA's request?

- *If no, STOP. You DO NOT need to complete this form.*

You may wish to pursue the proposal in discussion with judicial branch committees, associations, commissions, and/or directly with stakeholders and legislators. For example, if a particular court level association wishes to pursue legislation at its own request, then sharing information about it with the BJA Legislative Committee is appreciated, but obtaining BJA support using this form is not necessary.

- *If yes, please proceed to Question 4.*

Question 4: Is the proposal to request an additional judge position within a specific judicial district in chapter 2.08 or 3.34 RCW?

- *If yes, please complete PART I only of this form, and submit the completed form and the required supporting documentation to Haily.Perkins@courts.wa.gov by June 15. You may skip PART II of this form.*
- *If no, please complete PART II only of this form, and submit the completed form and the required supporting documentation to Haily.Perkins@courts.wa.gov by June 15. You may skip PART I of this form.*

PART I -- Used to request additional judge positions in chapter 2.08 or 3.34 RCW

Judicial District

Whatcom County Superior Court

Contact Person

Shannon Hinchcliffe, Shannon.Hinchcliffe@courts.wa.gov, Dirk Marler, Dirk.Marler@courts.wa.gov, and Dave Reynolds, DReynold@co.whatcom.wa.us.

Request Background—What precipitated the request?

This request is being made now as the DOE signaled its intent to file a petition for a water adjudication in Whatcom County Superior Court as early as October 2023. A 2023-2025 biennium decision package was funded to prepare for the filing of the petition, an additional judge is necessary at the beginning of the case to ensure the efficiency and continuity that the legislature encouraged pursuant to RCW 90.03.120, 160, and .645. In 2004, BJA Adopted a Policy Statement on General Water Right Adjudications, this proposal is consistent with that statement. State funding, adequate judicial and support staffing, and increasing the system's capacity to hear the adjudication were included in the policy statement.

Judicial Needs Estimate (JNE) Support

Whatcom County Superior Court currently employs 4 judges and 3 commissioners. The Judicial Needs Estimate (JNE) of 2020 projected an estimated need of 8.46 judges. The Department of Ecology (DOE) anticipates filing a water adjudication petition in Whatcom County Superior Court as early as October 2023 (chapter 90.03 RCW). DOE will serve notice by certified mail and legal publication on approximately 30,000 claimants. DOE expects that will result in anywhere between 5,000 and 25,000 defendant claim filings. To illustrate the magnitude of impact, a total of 6,168 cases in total were filed in Whatcom County Superior Court in 2022.

Local Funding and Supporting Documentation

This request is unique in that the accompanying decision package requests full reimbursement to the County for the position pursuant to RCW 90.03.243.

Stakeholder Support or Opposition

Last year, HB 1792 was run to extend timelines of water adjudication. During those hearings Senators Kevin Van De Wege and Judy Warnick expressed concerns about making sure courts are fully funded to conduct the water adjudication. Both the Nooksack Tribe and Lummi Nation have petitioned DOE to initiate the water adjudication although several water rights holders have opposed the water adjudication. Despite the controversy about the filing of the petition for water adjudication there has been no opposition to ensuring the court has adequate resources to process the complex litigation.

PART II -- Used for all bill draft proposals *other than* additional judge positions

Request Title

Provide a brief title for the proposal.

Requesting Entity (Organization & Contact Person)

Provide organization name, contact person, telephone, and email.

Request Background—What precipitated the request?

Provide a paragraph explaining how and why the proposal was developed. Is the proposal a product or result of a work group, task force, study, ruling, etc.?

Summary/Request Justification

Summarize the request and the need for it.

RCW(s) Impacted (please provide potential bill draft language: underlined additions to RCW, ~~strikeouts for deletions~~, and identify new sections)

Provide RCWs and the requested changes to existing statutes. If requesting a new statute, identify RCW chapter(s) where it should be added. Please provide the contact information for the author(s) of the draft.

Court Level Impact

Summarize the court level impact and identify specific court levels (i.e., CLJ, Superior Court, Court of Appeals, Supreme Court).

Fiscal Impact

If enacted, will there be costs to implement this proposal? Will AOC, courts, local government(s), or other agencies have any fiscal impact as a result? If there is a fiscal impact, is it likely to be one-time or on-going?

Funding Available/Secured

If there is a fiscal impact, please document funding already secured or available to fund the proposal (i.e., grants, local appropriation, etc.). If state funding may be needed, please identify additional revenue that the legislature could generate to apply to the expenditure and include needed adjustments in the bill draft submitted.



Board for Judicial Administration Legislative Committee *Legislation Request Form*

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Proposals should be submitted by June 15.

WHEN TO USE THIS FORM

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Please consider these questions to guide you to the correct process.¹ If you need assistance with the form or have questions, contact Haily.Perkins@courts.wa.gov.

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- *If no, please proceed to Question 2.*
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Question 2: Does your proposal require new or amended statutory language (i.e., changes to the RCW)?

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- *If yes, please proceed to Question 3.*

¹ The state legislature establishes and amends the state's budgets and statutes. Various court associations, jurisdictions, and entities participate independently in Washington's legislative processes. Sometimes, a court entity would like the support of the BJA for a particular proposal. The BJA has two separate processes for developing and reviewing proposals and submitting them to the legislature: one for budget proposals (i.e., "decision packages") and one for bill drafts (i.e., changes to the Revised Code of Washington).

Question 3: Is your local court, association, or judicial entity asking the BJA to support your proposal by working with legislator(s) to sponsor it as BJA's request?

- *If no, STOP. You DO NOT need to complete this form.*

You may wish to pursue the proposal in discussion with judicial branch committees, associations, commissions, and/or directly with stakeholders and legislators. For example, if a particular court level association wishes to pursue legislation at its own request, then sharing information about it with the BJA Legislative Committee is appreciated, but obtaining BJA support using this form is not necessary.

- *If yes, please proceed to Question 4.*

Question 4: Is the proposal to request an additional judge position within a specific judicial district in chapter 2.08 or 3.34 RCW?

- *If yes, please complete PART I only of this form, and submit the completed form and the required supporting documentation to Haily.Perkins@courts.wa.gov by June 15. You may skip PART II of this form.*
- *If no, please complete PART II only of this form, and submit the completed form and the required supporting documentation to Haily.Perkins@courts.wa.gov by June 15. You may skip PART I of this form.*

PART I -- Used to request additional judge positions in chapter 2.08 or 3.34 RCW

Judicial District

Provide judicial district name/count(ies) impacted by request.

Contact Person

Provide requestor contact name, telephone, and email address.

Request Background—What precipitated the request?

Explain what prompted the request for an additional judge(s).

Judicial Needs Estimate (JNE) Support

How does the JNE support the request? For example, the court currently has 5 judges and 1 commissioner, and the JNE states a workload appropriate for 8 judicial officers.

Local Funding and Supporting Documentation

Detail support for the proposal secured so far. Attach documentation of *approved* local/county budget(s) that include funding for the count(ies)' portion(s) of the judicial salary.

Stakeholder Support or Opposition

Have legislators or their staff participated in any discussions about the proposal? If known, identify specific legislators that could be champions or allies as well as a list of entities that may oppose adding a judicial position(s) with a brief explanation of why, if known.

PART II -- Used for all bill draft proposals *other than* additional judge positions

Request Title

Authorizing the court's appointment of water rights commissioners and referees in a water adjudication.

Requesting Entity (Organization & Contact Person)

AOC. Shannon Hinchcliffe or Dirk Marler (after September 30, Scott Ahlf)

Request Background—What precipitated the request?

Department of Ecology intends to file a significant water rights adjudication in Whatcom County Superior Court. Similar actions are likely to be filed in other jurisdictions in the future. Efficient adjudication of major water rights cases under RCW 90.03 may require the appointment of court commissioners to assist the superior court judges and the ability of the court to appoint a referee without the party's consent or motion.

Summary/Request Justification

This legislation would authorize the appointment of court commissioners to assist with water rights adjudications. Article IV, Sec. 23 of the Constitution limits the number of "constitutional commissioners" to no more than three per county. Whatcom and many other counties have already filled their three positions to handle their heavy caseloads. Other commissioner positions with specific and narrow powers may be designated by statute and do not count against the constitutional limit. *Ordell v. Gaddis*, 99 Wn.2d 409 (1983). It would also the authorize the court's use of a referee in a water adjudication without party consent or application.

RCW(s) Impacted (please provide potential bill draft language: underlined additions to RCW, strikeouts for deletions, and identify new sections)

[NEW] RCW 90.03.115

Water commissioners--Appointment

In each county, the superior court may appoint the following persons to assist the superior court in disposing of its business:

- (1) One or more attorneys may be appointed to act as water commissioners.
- (2) The appointments provided for in this section shall be made by a majority vote of the judges of the superior court of the county and may be in addition to all other appointments of commissioners and other judicial attaches otherwise authorized by law. Water commissioners shall serve at the pleasure of the judges appointing them.

- (3) In appointing a water commissioner, the court shall consider a potential commissioner's experience with water law and water use.
- (4) The appointments may be full or part-time positions. A person appointed as a water commissioner may also be appointed to any other commissioner position authorized by law.

[NEW] RCW 90.03.117

Water commissioners – Authority

The judges of superior court of the county by majority vote may authorize water commissioners, appointed pursuant to RCW 90.03.115 to perform any and all of the following in a water rights adjudication:

- (1) Appoint Guardians ad litem for claimants under RCW 90.03.150 as necessary; and
- (2) Hold evidentiary hearings to determine the facts underlying individual and multiple water right claims; and
- (3) Hold hearings on all contested claims, objections, and stipulated agreements; and
- (4) Issue decisions on factual and legal issues; and
- (5) Enter default judgements, settlement agreements, and conditional final orders; and
- (6) Cause the orders and findings of the adjudication to be entered in the same manner as orders and findings are entered in cases in the superior court; and
- (7) Provide such supervision of the water rights adjudication in connection with the exercise of its jurisdiction as may be ordered by the presiding judge and assigned judge water adjudication judge.

RCW 4.48.020

Reference without consent

Where the parties do not consent, the court may upon the application of either party, except for the appointment of a water rights adjudication referee under RCW 90.03.160, direct a reference in all cases formerly cognizable in chancery in which the reference might be made:

- (1) When the trial of an issue of fact shall require the examination of a long account on either side, in which the case the referees may be directed to hear and decide the whole issue, or to report upon any specific question of fact involved therein; or,
- (2) When the taking of an account shall be necessary for the information of the court, before judgment upon an issue of law, or for carrying a judgment or order into effect; or,
- (3) When a question of fact other than upon the pleadings shall arise, upon motion or otherwise, in any stage of the action; or,
- (4) When it is necessary for the information of the court in a special proceeding.

RCW 90.03.160

Determination of water rights—Response to motions under RCW 90.03.640(3)—Notice of intent to cross-examine—Appointment of referee—Special rules.

- (1) Upon filing of the department's motion or motions under RCW 90.03.640(3), any party with a claim filed under RCW 90.03.140 for the appropriation of water or waters of the subject adjudication may file and serve a response to the department's motion or motions within the time set by the court for such a response. Objections must include specific information in regard to the particular disposition against which the objection is being made. Objections must also state the underlying basis of the objection being made, including general information about the forms of evidence that support the objection. Any party may file testimony with the court and serve it on other parties. If a party intends to cross-examine a claimant or witness based on another party's pre-filed testimony, the party intending to cross-examine shall file a notice of intent to cross-examine no later than fifteen days in advance of the hearing. If no notice of intent to cross-examine based on the pre-filed testimony is given, then the claimant or witness is not required to appear at the hearing. Any party may present evidence in support of or in response to an objection.
- (2) The superior court may appoint a referee or other judicial officer to assist the court. Consent of parties is not required for a court-appointed referee to hear water rights adjudication matters.
- (3) The superior court may adopt special rules of procedure for an adjudication of water rights under this chapter, including simplified procedures for claimants of small uses of water. The rules of procedure for a superior court apply to an adjudication of water rights under this chapter unless superseded by special rules of court under this subsection. The superior court is encouraged to consider entering, after notice and hearing, and as the court determines appropriate, pretrial orders from an adjudication commenced October 12, 1977.

Court Level Impact

Superior

Fiscal Impact

None.

Funding Available/Secured

Funding for a commissioner in Whatcom County to assist with the adjudication was provided by the 2023 legislature.

Legislative Strategy Recommendations

Last year, HB 1792 was run to extend timelines of water adjudication. During those hearings Senators Kevin Van De Wege and Judy Warnick expressed concerns about making sure courts are fully funded to conduct the water adjudication. Both the Nooksack Tribe and Lummi Nation have petitioned DOE to initiate the water adjudication although several water rights holders have opposed the water adjudication. Despite the controversy about the filing of the petition for water adjudication there has been no opposition to ensuring the court has adequate resources to process the complex litigation.

Stakeholder Impact

Whatcom County Superior Court; SCJA; Whatcom County

Potential Opposition

None known

**BJA Legislative Committee
Legislation Request
Page 7**

Revised April 2023
N:\Legislative Relations\BJA Legislative\2024\Legislative Proposal Forms\REQUEST FORM for BJA Legislation.docx



Board for Judicial Administration Legislative Committee *Legislation Request Form*

Please submit completed forms and supporting documentation/drafts to Haily.Perkins@courts.wa.gov.

Proposals should be submitted by June 15.

WHEN TO USE THIS FORM

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Please consider these questions to guide you to the correct process.¹ If you need assistance with the form or have questions, contact Haily.Perkins@courts.wa.gov.

Question 1: Is your proposal *exclusively* a fiscal request (i.e., a request for state funding for the judiciary or a new or expanded judicial program, where no legislation other than a state budgetary appropriation is required)?

- *If no, please proceed to Question 2.*
- *If yes, STOP. You DO NOT need to complete this form.*

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Question 2: Does your proposal require new or amended statutory language (i.e., changes to the RCW)?

- *If no, STOP. You DO NOT need to complete this form.*

You may wish to pursue the proposal in discussion with judicial branch committees, associations, commissions, and/or directly with stakeholders and legislators. For example, convening a task force or work group, including invitations for legislators to participate, does not require legislation.

- *If yes, please proceed to Question 3.*

¹ The state legislature establishes and amends the state's budgets and statutes. Various court associations, jurisdictions, and entities participate independently in Washington's legislative processes. Sometimes, a court entity would like the support of the BJA for a particular proposal. The BJA has two separate processes for developing and reviewing proposals and submitting them to the legislature: one for budget proposals (i.e., "decision packages") and one for bill drafts (i.e., changes to the Revised Code of Washington).

Question 3: Is your local court, association, or judicial entity asking the BJA to support your proposal by working with legislator(s) to sponsor it as BJA's request?

- *If no, STOP. You DO NOT need to complete this form.*

You may wish to pursue the proposal in discussion with judicial branch committees, associations, commissions, and/or directly with stakeholders and legislators. For example, if a particular court level association wishes to pursue legislation at its own request, then sharing information about it with the BJA Legislative Committee is appreciated, but obtaining BJA support using this form is not necessary.

- *If yes, please proceed to Question 4.*

Question 4: Is the proposal to request an additional judge position within a specific judicial district in chapter 2.08 or 3.34 RCW?

- *If yes, please complete PART I only of this form, and submit the completed form and the required supporting documentation to Haily.Perkins@courts.wa.gov by June 15. You may skip PART II of this form.*
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PART I -- Used to request additional judge positions in chapter 2.08 or 3.34 RCW

Judicial District

Provide judicial district name/count(ies) impacted by request.

Contact Person

Provide requestor contact name, telephone, and email address.

Request Background—What precipitated the request?

Explain what prompted the request for an additional judge(s).

Judicial Needs Estimate (JNE) Support

How does the JNE support the request? For example, the court currently has 5 judges and 1 commissioner, and the JNE states a workload appropriate for 8 judicial officers.

Local Funding and Supporting Documentation

Detail support for the proposal secured so far. Attach documentation of *approved* local/county budget(s) that include funding for the count(ies)' portion(s) of the judicial salary.

Stakeholder Support or Opposition

Have legislators or their staff participated in any discussions about the proposal? If known, identify specific legislators that could be champions or allies as well as a list of entities that may oppose adding a judicial position(s) with a brief explanation of why, if known.

PART II -- Used for all bill draft proposals *other than* additional judge positions

Request Title

Notice of court reorganization

Requesting Entity (Organization & Contact Person)

Dirk Marler or Michelle Pardee

Request Background—What precipitated the request?

AOC needs time to prepare and implement Judicial Information System and business process changes when counties and cities change their court services agreements. Counties and cities are often unaware of that fact and enter into agreements that do not provide adequate time for the transition.

Summary/Request Justification

Counties and cities are required to provide one-year written notice to the other party when terminating an agreement for court services. This legislation requires that similar notice be provided to AOC. This will help ensure that counties and cities are aware of the need to involve AOC in the transition and provide time for AOC to assist with an orderly transition. This becomes even more crucial as the state begins to implement new case management systems for courts and probation departments.

RCW(s) Impacted (please provide potential bill draft language: underlined additions to RCW, ~~strikeouts for deletions~~, and identify new sections)

See attached.

Court Level Impact

CLJ

Fiscal Impact

None.

Funding Available/Secured

If there is a fiscal impact, please document funding already secured or available to fund the proposal (i.e., grants, local appropriation, etc.). If state funding may be needed, please identify additional revenue that the legislature could generate to apply to the expenditure and include needed adjustments in the bill draft submitted.

Legislative Strategy Recommendations

Outreach to cities and counties

Stakeholder Impact

DMCJA likely to support. Counties and cities are affected.

Potential Opposition

Potential concerns from counties and cities that may perceive this as a roadblock because they sometimes choose not to follow the existing notice requirements.

COURT REORGANIZATION REQUEST LEGISLATION 2023 09 01

RCW 3.50.060 Termination of municipal court—Requirements— Establishment of court.

A city or town electing to establish a municipal court pursuant to this chapter may terminate such court by adoption of an appropriate ordinance. However no municipal court may be terminated unless the municipality has complied with RCW 3.50.805, 35.22.425, *35.23.595, **35.24.455, 35.27.515, 35.30.100, and 35A.11.200. A city or town newly establishing a municipal court pursuant to this chapter shall do so by adoption of an appropriate ordinance on or before December 1 of any year, to take effect no sooner than January 1 of the following year, provided that no municipal court established under this section shall have jurisdiction of any matter until at least one year after the city or town provides a copy of the adopted ordinance to the Administrative Office of the Courts -

RCW 3.50.810

Termination of municipal court—Notice.

(1) Any city having entered into an agreement for court services with the county must provide written notice of the intent to terminate the agreement to the county legislative authority and to the Administrative Office of the Courts not less than one year prior to February 1st of the year in which all district court judges are subject to election.

(2) Any city that terminates an agreement for court services to be provided by a district court may terminate the agreement only at the end of a four-year district court judicial term.

(3) A county that wishes to terminate an agreement with a city for the provision of court services must provide written notice of the intent to terminate the agreement to the city legislative authority and to the Administrative Office of the Courts not less than one year prior to the expiration of the agreement.

RCW 35.20.010 Municipal court established—Termination of court—Agreement covering costs of handling resulting criminal cases—Arbitration—Notice.

(1) There is hereby created and established in each incorporated city of this state having a population of more than four hundred thousand inhabitants, as shown by the federal or state census, whichever is the later, a municipal court, which shall be styled "The Municipal Court of (name of city)," hereinafter designated and referred to as the municipal court, which court shall have jurisdiction and shall exercise all the powers by this chapter declared to be vested in such municipal court, together with such powers and jurisdiction as is generally conferred in this state either by common law or statute.

(2) A municipality operating a municipal court under this section may terminate that court if the municipality has reached an agreement with the county under chapter [39.34](#) RCW under which the county is to be paid a reasonable amount for costs associated with prosecution, adjudication, and sentencing in criminal cases filed in district court as a result of the termination. The municipality shall provide a copy of the agreement to the Administrative Office of the Courts not less than one year prior to date cases will be filed, adjudicated or sentenced in the district court. The agreement shall provide for periodic review and renewal of the terms of the agreement. If the municipality and the county are unable to agree on the terms for renewal of the agreement, they shall be deemed to have entered into an agreement to submit the issue to arbitration under chapter [7.04A](#) RCW. Pending conclusion of the arbitration proceeding, the terms of the agreement shall remain in effect. The municipality and the county have the same rights and are subject to the same duties as other parties who have agreed to submit to arbitration under chapter [7.04A](#) RCW.

(3) A city that has entered into an agreement for court services with the county must provide written notice of the intent to terminate the agreement to the county legislative authority and to the Administrative Office of the Courts not less than one year prior to February 1st of the year in which all district court judges are subject to election. A city that terminates an agreement for court services to be provided by a district court may terminate the agreement only at the end of a four-year district court judicial term.

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RCW 39.34.180 Criminal justice responsibilities—Interlocal agreements—Termination.

(4) A city or county that wishes to terminate an agreement for the provision of court services must provide written notice of the intent to terminate the agreement in accordance with RCW 3.50.810 and 35.20.010. The city or county shall provide a copy of the written notice to terminate an agreement for the provision of court services to the Administrative Office of the Courts not less than one year prior to the expiration of the agreement. This subsection does not apply to the extent that the interlocal agreement is for probation supervision services.



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Request Background—What precipitated the request?

Explain what prompted the request for an additional judge(s).

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Detail support for the proposal secured so far. Attach documentation of *approved* local/county budget(s) that include funding for the count(ies)' portion(s) of the judicial salary.

Stakeholder Support or Opposition

Have legislators or their staff participated in any discussions about the proposal? If known, identify specific legislators that could be champions or allies as well as a list of entities that may oppose adding a judicial position(s) with a brief explanation of why, if known.

PART II -- Used for all bill draft proposals *other than* additional judge positions

Request Title

Court Interpreter Statutory Revisions for RCW 2.43

Requesting Entity (Organization & Contact Person)

Supreme Court Interpreter and Language Access Commission (ILAC); Kelley.Amburgey-Richardson and James Wells, AOC

Request Background—What precipitated the request?

ILAC created a workgroup to update the statute related to the use of spoken language interpreters due to changes in interpreter industry practices, changes in court operations, and in the AOC’s Court Interpreter Program as well as comport with Washington case law holdings and federal policies that have made specific language in the current statutory sections under revision obsolete or inapplicable to our courts. Many state courts have also requested changes to the policy Language Access and Interpreter Reimbursement Program (LAIRP), some of which are not possible based on language in the statute.

Summary/Request Justification

The primary request justification is that the statute needs to be updated as several provisions are no longer in effect or applicable to the courts. ILAC requests that the statute be updated for the following reasons:

1. To comply with Federal Department of Justice policy interpretation of Title VI prohibiting a court from imposing interpreter costs on parties in all court proceedings and court-managed programs;
2. Update statutory verbiage in order to align with the operations conducted by the AOC’s Court Interpreter Program
3. Update the policy regarding the Language Access and Interpreter Reimbursement Program (LAIRP) to allow more robust funding to courts resulting from the increased resources made available after the success of the BJA’s Interpreter Services Funding Taskforce.

In 2012, the BJA passed a resolution to the effect that court-appointed interpreters are be provided at no cost to LEP persons in all cases, criminal and civil.

RCW(s) Impacted (please provide potential bill draft language: underlined additions to RCW, ~~strikeouts~~ for deletions, and identify new sections)

Current	New proposed and corrected language
---------	-------------------------------------

Chapter 2.43 RCW INTERPRETERS FOR NON-ENGLISH-SPEAKING PERSONS	Chapter 2.43 RCW SPOKEN LANGUAGE INTERPRETERS
Sections	Sections
2.43.010 Legislative intent.	2.43.010 Legislative intent.
2.43.020 Definitions.	2.43.020 Definitions.
2.43.030 Appointment of interpreter.	2.43.030 Appointment of interpreter.
2.43.040 Fees and expenses—Cost of providing interpreter— Reimbursement.	2.43.040 Oath.
2.43.050 Oath.	2.43.050 Waiver of Right to Interpreter
2.43.060 Waiver of right to interpreter.	RCW 2.43.060 Code of Conduct for Judiciary Interpreters
2.43.070 Testing, certification of interpreters.	RCW 2.43.070 Team interpreting
2.43.080 Code of ethics.	RCW 2.43.080 Testing and Credentialing of Interpreters
2.43.090 Language assistance plan— Required for each trial court— Submission of plan to interpreter commission—Report.	RCW 2.43.090 Privileged communication
	RCW 2.43.100 Cost of Providing Interpreter — Reimbursement
	RCW 2.43.110 Language Access Plan

New items highlighted in yellow.
 Removed or relocated items in red font.

Please see attached document. Underlined additions and strikeouts will be provided later.

Contact person for language changes: James Wells@courts.wa.gov

Court Level Impact

This affects all legal proceedings and court programs available to the public, at all levels of court.

Fiscal Impact

The removal of RCW 2.43.040(3) that requires non-indigent parties to pay for interpreting costs in civil proceedings will create a cost on the courts, which has already been absorbed by the courts as

nearly all courts (both in WA and nationally) do not charge parties for interpreting services for court hearings. From a fiscal impact standpoint, Washington courts already have absorbed that cost and the Legislature has allowed courts to be reimbursed by the AOC for costs incurred in civil proceedings for non-indigent persons. What is “notably new” is the focus on ensuring that LEP persons who are court-ordered to participate in court-managed programs, such as drug treatment, mental health therapy, parenting classes, etc., have access to language services in order to effectively participate in the court-ordered program/service.

Funding Available/Secured

The Language Access Interpreter Reimbursement Program (LAIRP) has secured annual funding to reimburse the courts for costs of interpreters in civil cases. LAIRP courts have received additional funding to enable them to supplement local funding as a result of the LAIRP formula that looks at actual costs a court incurred in the previous year for interpreter expenses. This prior cost is factored into the reimbursement grant to the court for the ensuing contract year.

Legislative Strategy Recommendations

This is essentially a clean-up and modernization of the language of the existing statutes, none of which breaks new ground in the re-drafting. It also aligns the state more closely with federal Department of Justice policy interpretations of Title VI rights for parties subject to the legal authority of the judicial branch.

Stakeholder Impact

Stakeholders Impacted:

1. County Budget Officials/Court Administrators:
A). Impact is fiscal and operational; while courts are already paying for civil case interpretation costs and telephonic interpreting at court service counters, the new language clearly requiring the courts to pay for interpreters for court-ordered programs, such as an in-patient program for substance abuse or anger management treatment, will create opposition because this cost is a new one and the cost is not yet estimated. However, current federal law under Title VI may apply directly to any sub-recipient of federal funding, which would mean that such programs would have a clear obligation to provide language access services and seek reimbursement from the court if this is authorized.
2. Judges and the Public: Both would benefit from language authorizing the appointment and payment of interpreters for several court-related events: civil cases, public front-counter services, and court-ordered participation in treatment or community service programs for which the court retains jurisdiction over the LEP person. All parties' communications will be effective and enable LEP persons to comply with court orders and reduce continued court oversight of those persons who in the past have not been able to comply with court-ordered program attendance due to lack of funding or any requirement to provide language access services to them.
3. LEP Parties/families: This would remove the chilling effect of the current language of 2.43.040(3) on LEP persons who have legal matters of a civil nature.

Support:

Northwest Justice Project
All Litigants/Parties
Interpreter and Language Access Commission

Opposition:

County fiscal operations officers.

Potential Opposition

The Washington Association of Cities opposed a change re: civil case costs back in 2012, but that has now been rendered moot by the LAIRP funding.

RCW 2.432.43 Spoken Language Interpreters for Non-English-Speaking Persons with Limited English Proficiency

For "Sign Language Interpreters" refer to RCW 2.42.

RCW 2.43.010 Legislative Intent

It is hereby declared to be the policy of this state to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless ~~qualified~~ interpreters are available to assist them.

It is the intent of the legislature in the passage of this chapter to provide for the use and procedure for the appointment of such interpreters. ~~Nothing in chapter 358, Laws of 1989 abridges the parties' rights or obligations under other statutes or court rules or other law.~~

RCW 2.43.020 Definitions

As used in this chapter:

(1) "~~Appointing authority~~Judicial officer" means the presiding officer or similar official of any court, department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof.

(~~32~~) "Legal proceeding" means a proceeding in any court and in any type of hearing in this state, grand jury hearing, or hearing before any judicial officer an inquiry judge, or before an administrative board, commission, agency, or licensing body of the state or any political subdivision ~~thereof~~.

(~~43~~) "Person with limited English proficiency" "~~Non-English-speaking person~~" means any person involved in a legal proceeding who cannot readily speak or understand the English language, but does not include Deaf, DeafBlind and Hard of Hearing individuals hearing-impaired persons who are covered under chapter 2.42 RCW.

(4) "Court credentialed interpreter" means an interpreter who is credentialed by the Washington State Administrative Office of the Courts in a spoken language as a Certified interpreter or Registered interpreter.

~~(52) "Certified interpreter" means an interpreter who holds the certified court interpreter credential recognized -is certified- by the Washington State Administrative Office of the Courts in a spoken language the administrative office of the courts.~~

~~(6) "Registered interpreter" means an interpreter who holds the is registered court interpreter credential recognized -by the Washington State Administrative Office of the Courts in a spoken language.~~

~~(57) "Qualified interpreter" means a spoken language interpreter not credentialed by the Washington State Administrative Office of the Courts and that has been qualified on the record for that specific interpreting event. person who is able readily to interpret or translate spoken and written English for non-English-speaking persons and to interpret or translate oral or written statements of non-English-speaking persons into spoken English.~~

~~(8) "Sign Language Interpreters" refer to RCW 2.42.~~

~~(9) "Team interpreting" means the use of two or more interpreters as required by Supreme Court rule.~~

~~(10) "Language Access Plan" means a plan that is publicly available which contains the elements laid out in RCW 2.43.110.~~

RCW 2.43.030

Appointment of interpreter - Source of interpreter- Interpreter Qualifications.

~~(1) Credentialed interpreters shall be appointed in legal proceedings involving participation of persons with limited English proficiency, unless good cause is found on the record.~~

~~For purposes of this chapter "good cause" includes but is not limited to a determination that: Whenever an interpreter is appointed to assist a non-English-speaking person in a legal proceeding, the appointing authority shall, in the absence of a written waiver by the person, appoint a certified or a qualified interpreter to assist the person throughout the proceedings.~~

~~(a) Except as otherwise provided for in (b) of this subsection, the interpreter appointed shall be a qualified interpreter.~~

~~(b) Beginning on July 1, 1990, when a non-English-speaking person is a party to a legal proceeding, or is subpoenaed or summoned by an appointing authority or is~~

~~otherwise compelled by an appointing authority to appear at a legal proceeding, the appointing authority shall use the services of only those language interpreters who have been certified by the administrative office of the courts, unless good cause is found and noted on the record by the appointing authority. For purposes of chapter 358, Laws of 1989, "good cause" includes but is not limited to a determination that:~~

(i) Given the totality of the circumstances, including the nature of the proceeding and the potential penalty or consequences involved, the services of a credentialed interpreter are not reasonably available; or a certified interpreter are not reasonably available to the appointing authority; or

(ii) The current list of ~~certified~~ interpreters maintained by the Washington State Administrative Office of the Courts ~~administrative office of the courts~~ does not include an interpreter ~~certified~~ credentialed in the language spoken by the person with limited English proficiency ~~non-English-speaking person~~.

~~(c) Except as otherwise provided in this section, when a non-English-speaking person is involved in a legal proceeding, the appointing authority shall appoint a qualified interpreter.~~

(2) If good cause is found for using an interpreter who is not ~~certified~~ or if a qualified interpreter is appointed credentialed, the judicial or presiding officer ~~the appointing authority~~ shall make a preliminary determination that, the proposed interpreter is able to interpret accurately all communications to and from the person with limited English proficiency in that particular proceeding. The determination shall be made on the basis of testimony or stated needs of the person with limited English proficiency. ~~on the basis of testimony or stated needs of the non-English-speaking person, that the proposed interpreter is able to interpret accurately all communications to and from such person in that particular proceeding. The appointing authority shall satisfy itself on the record that the proposed interpreter:~~

(3) The judicial or presiding officer shall satisfy itself and state on the record that:

(i) The proposed interpreter is capable of communicating effectively in English and in the non-English language; ~~(a) Is capable of communicating effectively with the court or agency and the person for whom the interpreter would interpret; and~~

(ii) The proposed interpreter has read, understands, and will abide by the Code of Professional Responsibility for Judiciary Interpreters established by court rules. If the interpreter does not meet this requirement, they may be given time to review the Code of Professional Responsibility for Judiciary Interpreters; ~~(b) Has read, understands, and will abide by the code of ethics for language interpreters established by court rules.; and~~

(iii) The person with limited English proficiency can understand the interpreter.

(4) The court shall inquire whether the interpreter can accurately interpret in either or both consecutive or simultaneous mode.

(5) If the proposed interpreter does not meet the criteria in (3) above, another interpreter must be used.

[The original 2.43.040 language moved to the new 2.43.100]

RCW 2.43.0540 Oath

(1) Upon obtaining the interpreter credential with the Washington State Administrative Office of the Court~~certification or registration with the administrative office of the courts, certified or registered credentialed~~ interpreters shall take a permanent oath, affirming that the interpreter will make a true interpretation ~~to the person being examined~~ of all the proceedings ~~in a language which the person understands~~, and that the interpreter will repeat the statements of the person with limited English proficiency being examined to the court or agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

The Washington State ~~a~~Administrative Office of the Courts shall maintain the list of credentialed interpreters and a record of the oath in the same manner. ~~that the list of certified and registered interpreters is maintained.~~

(2) Before any person serving as an interpreter for the court or agency begins to interpret, the judicial or presiding officer appointing authority shall require the interpreter to state the interpreter's name on the record and whether the interpreter is a ~~certified or registered credentialed~~ interpreter. If the interpreter is not a ~~certified or registered credentialed~~ interpreter, the interpreter must be qualified submit the interpreter's qualifications on the record.

(3) Before beginning to interpret, every interpreter appointed under this chapter shall take an oath unless the interpreter is a ~~certified or registered credentialed~~ interpreter who has taken the oath as required in subsection (1) of this section. The oath must affirm that the interpreter will make a true interpretation to the person being examined of all the proceedings in a language which the person understands, and that the interpreter will repeat the statements of the person being examined to the court or agency conducting the proceedings, in the English language, to the best of the interpreter's skill and judgment.

RCW 2.43.0560 Waiver of right to interpreter

- (1) The right to an ~~qualified~~ interpreter may not be waived except when:
- (a) ~~a person with limited English proficiency~~ A non-English-speaking person requests a waiver on the record; and
 - (b) the judicial or presiding officer ~~The appointing authority~~ determines on the record that the waiver has been made knowingly, voluntarily, and intelligently.
- (2) ~~The w~~Waiver for an interpreter of a qualified interpreter may be set aside and an interpreter appointed, ~~at~~ in the discretion of the judicial or presiding officer ~~appointing authority~~, at any time during the proceedings.
- (3) The waiver for an interpreter shall not preclude a person with limited English proficiency from exercising their right to an Interpreter at a later time.

[Code of Conduct language moved from later in the statute]

RCW 2.43.~~080-060~~ Code of Conduct for Judiciary Interpreters ethics.

All language interpreters serving in a legal proceeding, whether or not ~~certified or qualified~~ credentialed, shall abide by a Code of Conduct for Judiciary Interpreters code of ethics established by ~~S~~supreme ~~C~~court rule.

RCW 2.43.070 Team Interpreting

The court shall appoint a team of interpreters as required by Supreme Court rule.

RCW 2.43.~~0870~~ Testing, and Credentialing certification of interpreters

(1) Subject to the availability of funds, the Washington State Aadministrative Office of the ~~C~~courts shall establish and maintain a credentialing program for spoken language interpreters and administer ~~a comprehensive testing and certification program for language interpreters.~~

(2) The Washington State Aadministrative Office of the ~~C~~courts shall work cooperatively with ~~community colleges and other public or private~~ or public educational institutions, and with other public or private organizations to establish a certification preparation curriculum and suitable training programs and engage in recruitment efforts to ensure the availability of ~~certified-credentialed~~ interpreters. Training programs shall be made readily available in both eastern and western Washington locations.

(3) The Washington State Administrative Office of the Courts shall establish and adopt standards of proficiency, written and oral, in English and the language to be interpreted.

(4) The Washington State Administrative Office of the Courts shall conduct periodic examinations to ensure the availability of certified-credentialed interpreters. Periodic examinations shall be made readily available in both eastern and western Washington locations.

(5) The Washington State Administrative Office of the Courts shall compile, maintain, and disseminate a current list of interpreters credentialed certified by the Washington State Administrative Office of the Courtsoffice.

(6) The Washington State Administrative Office of the Courts may charge reasonable fees for testing, training, and certificationcredentialed.

(7) The Washington State Administrative Office of the Courts may create different credentials and provide guidance for the selection and use of credentialed and non-credentialed interpreters in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings.

RCW 2.43.090 Privileged communication

An interpreter shall not be examined as a witness in regard to any interpreted privileged communication or otherwise obtained in their professional capacity following the Code of Professional Responsibility for Judiciary Interpreters as required by Supreme Court rule.

[Section below moved from earlier in the statute]

RCW 2.43.040100 Fees and expenses—Cost of Pproviding linterpreter — Reimbursement

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings and court mandated classes in which ~~the non-English-speaking~~ the person with limited English proficiency is a party, ~~or is subpoenaed or summoned, by the appointing authority or,~~ or are parents, guardians, or custodians of a juvenile, or is otherwise compelled by the appointing authority to appear, ~~including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental~~

~~body initiating the legal proceedings, the person with limited English proficiency shall not bear responsibility for the cost of the interpreter.~~

~~(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.~~

~~(4) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.~~

~~(35) Subject to the availability of funds specifically appropriated therefor for this purpose, the Washington State Administrative Office of the Courts shall reimburse the participating state court for language access services costs in accordance with terms of agreement established by the Washington State Administrative Office of the Courts and agreed to by the participating state court, the appointing authority for up to one-half of the payment to the interpreter where an interpreter is appointed by a judicial officer in a proceeding before a court at public expense and:~~

~~(a) The interpreter appointed is an interpreter certified by the administrative office of the courts or is a qualified interpreter registered by the administrative office of the courts in a noncertified language, or where the necessary language is not certified or registered, the interpreter has been qualified by the judicial officer pursuant to this chapter;~~

~~(b) The court conducting the legal proceeding has an approved language assistance plan that complies with RCW 2.43.090; and~~

~~(c) The fee paid to the interpreter for services is in accordance with standards established by the administrative office of the courts.~~

RCW 2.43.090110

Language assistance Access Pplan—Required for each trial court—Submission of plan to interpreter commission—Report.

(1) ~~Each T~~trial courts organized under this title and Titles 3 and 35 RCW must develop and maintain a written language assistance-access plan to provide a framework for the provision of interpreter-language access services for persons with limited English proficiency non-English-speaking persons accessing the court system and its programs in both civil and criminal legal matters. Courts may use a template developed by the AOC in developing their language access plan.

(2) The language assistance-access plan must at a minimum include , at a minimum, provisions designed to provide procedures for court staff and/or the public, as may be necessary, that shall addressing the following:

- (a) Procedures to identify and ~~assess~~ provide the language needs of individuals with limited English proficiency ~~non-English-speaking persons~~ using the court system;
- (b) Procedures for requesting and ~~the appointing~~ ment of interpreters as required under RCW 2.43.030. ~~Such procedures shall not require the non-English-speaking person to make the arrangements for the interpreter to appear in court;~~
- (c) Procedures for notifying court users of the right to an interpreter and the availability of interpreter services. Such information shall be prominently displayed in the courthouse in the five or more foreign ~~languages~~ other than English that ~~census~~ meaningful data indicates are predominate in the jurisdiction;
- (d) A process for providing timely communication between ~~with~~ individuals with limited English proficiency ~~non-English speakers~~ by and all court employees who have regular contact with the public and effective ~~the public and meaningful~~ access to court ~~court services, including access to~~ services provided by the clerk's office and other court managed programs. ;
- (e) Procedures for evaluating the need for translation of written materials, and prioritizing and providing those translated on materials, needs, and translating the highest priority materials. ~~These procedures~~ Courts should take into account the frequency of use of forms by the language group, and the cost of ~~orally interpreting~~ providing the forms by other means;
- (f) A process for ~~requiring and providing~~ training ~~to~~ judges, court clerks, and ~~other~~ court staff on the requirements best practices in serving individuals with limited English proficiency in legal proceedings ~~of the language assistance plan~~ and how to effectively assign ~~access~~ and work with interpreters and provide interpretations; and
- (g) A process for an ongoing evaluation of the language assistance ~~access~~ plan and a process for monitoring ~~of~~ the implementation of the language assistance ~~access~~ plan.

(23) Each court, when developing its language assistance ~~access~~ plan, must consult with judges, court administrators court staff, ~~and court clerks~~, interpreters, and members of the community, such as domestic violence organizations, pro bono programs, courthouse facilitators, legal services programs, and/or other community groups whose members speak a language other than English.

(43) Beginning January 1, 2025, and on a biennial basis thereafter, all courts must submit their most recent language access plan to the AOC. Each court must provide a copy of its language assistance plan to the interpreter commission established by supreme court rule for approval prior to receiving state reimbursement for interpreter costs under this chapter.

(5) The AOC shall provide technical assistance to the trial courts in developing their Language Access Plan.

(6) Each court must provide a copy of its Language Access Plan to the Washington State Administrative Office of the Courts in accordance with criteria for approval recommended by the Interpreter and Language Access Commission for approval prior to receiving state reimbursement for interpreter costs under this chapter.

(7) The court shall make available on its website translated information that informs the public of procedures necessary to access a court's language access services program(s). The information shall be provided in five or more languages other than English that meaningful data indicates the predominant languages in the jurisdiction.

~~(4) Each court receiving reimbursement for interpreter costs under RCW 2.42.120 or 2.43.040 must provide to the administrative office of the courts by November 15, 2009, a report detailing an assessment of the need for interpreter services for non-English speakers in court-mandated classes or programs, the extent to which interpreter services are currently available for court-mandated classes or programs, and the resources that would be required to ensure that interpreters are provided to non-English speakers in court-mandated classes or programs. The report shall also include the amounts spent annually on interpreter services for fiscal years 2005, 2006, 2007, 2008, and 2009. The administrative office of the courts shall compile these reports and provide them along with the specific reimbursements provided, by court and fiscal year, to the appropriate committees of the legislature by December 15, 2009.~~



Board for Judicial Administration Legislative Committee *Legislation Request Form*

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Proposals should be submitted by June 15.

WHEN TO USE THIS FORM

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Please consider these questions to guide you to the correct process.¹ If you need assistance with the form or have questions, contact Haily.Perkins@courts.wa.gov.

Question 1: Is your proposal *exclusively* a fiscal request (i.e., a request for state funding for the judiciary or a new or expanded judicial program, where no legislation other than a state budgetary appropriation is required)?

- *If no, please proceed to Question 2.*
- *If yes, STOP. You DO NOT need to complete this form.*

Please visit https://www.courts.wa.gov/appellate_trial_courts/aocwho/?fa=atc_aocwho.display&fileID=msd/budgetDevelopment for information about the Washington Courts budget submittal process. The budget submittal process is administered by Mr. Ramsey Radwan and involves review of proposals and documentation by the BJA and the Supreme Court.

Question 2: Does your proposal require new or amended statutory language (i.e., changes to the RCW)?

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You may wish to pursue the proposal in discussion with judicial branch committees, associations, commissions, and/or directly with stakeholders and legislators. For example, convening a task force or work group, including invitations for legislators to participate, does not require legislation.

- *If yes, please proceed to Question 3.*

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Question 3: Is your local court, association, or judicial entity asking the BJA to support your proposal by working with legislator(s) to sponsor it as BJA's request?

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- *If yes, please proceed to Question 4.*

Question 4: Is the proposal to request an additional judge position within a specific judicial district in chapter 2.08 or 3.34 RCW?

- *If yes, please complete PART I only of this form, and submit the completed form and the required supporting documentation to Haily.Perkins@courts.wa.gov by June 15. You may skip PART II of this form.*
- *If no, please complete PART II only of this form, and submit the completed form and the required supporting documentation to Haily.Perkins@courts.wa.gov by June 15. You may skip PART I of this form.*

PART I -- Used to request additional judge positions in chapter 2.08 or 3.34 RCW

Judicial District

Superior Court for Clark County

Contact Person

Hon. Derek Vanderwood, Presiding Judge or Cheryl Stone, Court Administrator

Request Background—What precipitated the request?

As represented in the AOC analysis, population growth and performance measures, Superior Court needs additional judicial resources. The lack of judicial resources is impacting our community members through long dockets and delays in resolution of cases.

Judicial Needs Estimate (JNE) Support

The 2020 Judicial Needs Estimate shows Superior Court needs a total of 15.82 judicial officers. Superior Court currently has 11 judges and 3.4 commissioner, for a total of 14.4 judicial officers. This position will move us closer to the 2020 assessed need.

Local Funding and Supporting Documentation

Budget packages for Clark County were submitted on Monday 8/14. The 12th judge is included in those requests. Councilors are aware of the request, however, we are early in the process to

determine the financial commitment. We anticipate having a better sense of this by the end of October. As part of our budget package we have asked for a support letter from County Council.

Stakeholder Support or Opposition

We are not aware of any opposition.

PART II -- Used for all bill draft proposals *other than* additional judge positions

Request Title

Provide a brief title for the proposal.

Requesting Entity (Organization & Contact Person)

Provide organization name, contact person, telephone, and email.

Request Background—What precipitated the request?

Provide a paragraph explaining how and why the proposal was developed. Is the proposal a product or result of a work group, task force, study, ruling, etc.?

Summary/Request Justification

Summarize the request and the need for it.

RCW(s) Impacted (please provide potential bill draft language: underlined additions to RCW, strikeouts for deletions, and identify new sections)

Provide RCWs and the requested changes to existing statutes. If requesting a new statute, identify RCW chapter(s) where it should be added. Please provide the contact information for the author(s) of the draft.

Court Level Impact

Summarize the court level impact and identify specific court levels (i.e., CLJ, Superior Court, Court of Appeals, Supreme Court).

Fiscal Impact

If enacted, will there be costs to implement this proposal? Will AOC, courts, local government(s), or other agencies have any fiscal impact as a result? If there is a fiscal impact, is it likely to be one-time or on-going?

Funding Available/Secured

If there is a fiscal impact, please document funding already secured or available to fund the proposal (i.e., grants, local appropriation, etc.). If state funding may be needed, please identify additional revenue that the legislature could generate to apply to the expenditure and include needed adjustments in the bill draft submitted.

Legislative Strategy Recommendations

Identify potential messages/talking points to legislators and advocates from within and outside the judicial branch. Have legislators or staff participated in any discussions about the proposal? If known, identify specific legislators that could be champions or allies.

Stakeholder Impact

Provide a list of all stakeholders and whether they are likely to support or oppose the proposal. Identify contact information for constituencies outside of the judicial branch who will be positively impacted by the proposal and would be willing to advocate for it.

Potential Opposition

Provide a list of organizations or entities that may oppose the legislation and a brief explanation of why, if known.



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Question 2: Does your proposal require new or amended statutory language (i.e., changes to the RCW)?

- *If no, STOP. You DO NOT need to complete this form.*

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- *If yes, please proceed to Question 3.*

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PART I -- Used to request additional judge positions in chapter 2.08 or 3.34 RCW

Judicial District

Cowlitz County Superior Court

Contact Person

Judge Gary Bashor, Presiding Judge; bashorg@cowlitzwa.gov; 360-577-3155

Request Background—What precipitated the request?

We currently have 5.79 judicial officers. Each judge and part-time court commissioner is carrying a heavy caseload. We need an additional judge to allow us to carry out our positions in a productive, fair and judicial manner.

Judicial Needs Estimate (JNE) Support

We currently have 5.79 judicial officers. A current WSCCR JNE, pursuant to the most recent data of 2020, has our need at 6.9 judicial officers. A previous JNE from 2019 had an estimated judge need of 7.16. See attachments.

Local Funding and Supporting Documentation

This information will be provided by the end of November 2023.

Stakeholder Support or Opposition

This information will be provided by the end of November 2023.

PART II -- Used for all bill draft proposals *other than* additional judge positions

Request Title

Provide a brief title for the proposal.

Requesting Entity (Organization & Contact Person)

Provide organization name, contact person, telephone, and email.

Request Background—What precipitated the request?

Provide a paragraph explaining how and why the proposal was developed. Is the proposal a product or result of a work group, task force, study, ruling, etc.?

Summary/Request Justification

Summarize the request and the need for it.

RCW(s) Impacted (please provide potential bill draft language: underlined additions to RCW, strikeouts for deletions, and identify new sections)

Provide RCWs and the requested changes to existing statutes. If requesting a new statute, identify RCW chapter(s) where it should be added. Please provide the contact information for the author(s) of the draft.

Court Level Impact

Summarize the court level impact and identify specific court levels (i.e., CLJ, Superior Court, Court of Appeals, Supreme Court).

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Funding Available/Secured

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Legislative Strategy Recommendations

Identify potential messages/talking points to legislators and advocates from within and outside the judicial branch. Have legislators or staff participated in any discussions about the proposal? If known, identify specific legislators that could be champions or allies.

Stakeholder Impact

Provide a list of all stakeholders and whether they are likely to support or oppose the proposal. Identify contact information for constituencies outside of the judicial branch who will be positively impacted by the proposal and would be willing to advocate for it.

Potential Opposition

Provide a list of organizations or entities that may oppose the legislation and a brief explanation of why, if known.

WSCCR JNE

YEAR	NAME	Adjusted total filings	ACTUAL JUDICIAL OFFICERS	ESTIMATED JNE
2008	Cowlitz	5502	4.61	5.7
2012	Cowlitz	5011	4.9	5.6
2016	Cowlitz	5113	4.9	6.0
2020	Cowlitz	4838	5.79	6.9
2008	Lewis	3328	4	3.7
2012	Lewis	3317	4	4.1
2016	Lewis	3163	4	4.0
2020	Lewis	4087	4.28	6.2
2008	Whatcom	6517	6.8	6.6
2012	Whatcom	6290	6.8	7.0
2016	Whatcom	5656	6.8	6.9
2020	Whatcom	5751	7.8	8.5

NOTES:

Lewis and Whatcom Superior Courts were chosen as the nearest neighbors (Lewis below and Whatcom above)

Lewis is an exception among Superior Courts in that the number of filings increased between 2016 and 2020

Filings exclude "non-charge matters" AND exclude "other matters filed with the clerk"--as a result, filing totals are

Column D shows the sum of the number of judges and the number of commissioners

Column E shows the Judicial Needs Estimate for that year

Column F contains the adjusted total filings from column C divided by the ACTUAL JUDICIAL OFFICERS for that year

Column G contains the result of dividing the filings from column C by the JNE estimate from column E

Filings per ACTUAL JUDICIAL OFFICERS	Filings per ESTIMATED JNE
1193	965
1023	895
1043	852
836	700
832	899
829	809
791	791
955	659
958	987
925	899
832	820
737	677

in terms of number of filings

are, for all courts, always lower than what appears in the published caseload reports.

ear

2019 JNE

Superior Courts	Superior Courts - Judicial Needs Estimate by Full-Time Equivalents, 2019 Projected Filings ¹				
	Judges	Authorized but Unfilled Judge Positions ²	Full-Time Commissioners	Part-Time Commissioners (Equivalent FTE)	Total Estimated Judge Need ³
Adams	1.00				0.92
Asotin, Garfield and Columbia	1.00			*As needed (3)	2.00
Benton & Franklin	7.00		3.00		11.43
Chelan	3.00	1.00	1.00	0.03	4.45
Clallam	3.00		1.00		4.30
Clark	10.00		3.00	0.40	15.15
Cowlitz ‡	4.00	1.00		0.90	7.16
Douglas	1.00			*As needed (3)	1.59
Ferry/Stevens /Pend Oreille (Ferry)	2.00	1.00		0.80	3.73
Grant	3.00			0.70	4.70
Grays Harbor	3.00				4.49
Island	2.00			0.30	2.81
Jefferson	1.00			1.50	1.66
King ⁴	53.00	4.00	9.00		74.19
Kitsap	8.00		1.00		10.25
Kittitas	2.00				2.18
Klickitat/Skamania	1.00			0.16	1.69
Lewis	3.00		1.00	2.00	5.68
Lincoln ⁵	1.00				1.13
Mason	3.00			0.80	3.44
Okanogan ‡	2.00			0.90	2.45
Pacific/Wahkiakum ⁶	1.00				1.60
Pend Oreille (See Ferry)					
Pierce	22.00	2.00	9.00		31.22
San Juan ‡	1.00				0.80
Skagit	4.00		1.00	0.35	7.12
Skamania (See Klickitat)					
Snohomish	15.00		5.00		21.39
Spokane	12.00	1.00	8.00		22.47
Stevens (See Ferry)					
Thurston	8.00		3.00	0.25	13.89
Wahkiakum (See Pacific)					
Walla Walla	2.00			0.38	2.87
Whatcom ‡	4.00		3.00	0.80	8.24
Whitman	1.00				1.58
Yakima	8.00		2.00	0.50	11.70
Statewide Total	192.00	10.00	50.00	10.77	288.28

‡ Prior Year's Count Use

Staffing levels measured are those in effect on 12/31/2018.

¹ Year 2019 projected filings are based on the previous five-year filing trends of the various case types in a given court. Needs estimates are based on the previous five years of data for the number of total judicial officers and case resolutions.

² Superior court judge positions authorized by state statute yet unfunded at the county level.

³ This column represents the estimated number of judge positions needed, as required by RCW 2.56.030(11). Individual counties or judicial districts may choose to establish and fund court commissioner positions instead of superior court judge positions. Identical indicators are used to measure the workload of both judges and commissioners.

⁴ King County Superior transitioned to a locally implemented and maintained case management system in 2018, resulting in caseload reports that are temporarily incomplete for 2018. Therefore 2017 King County Superior Court case activity was used for preparing the 2019 judicial needs estimate.

⁵ The estimation process eliminates Lincoln County due to caseload anomalies which strongly influence the overall results. In order to obtain a true statewide total, the estimated judge need for Lincoln County is imputed to be identical to the current judicial officer FTE count in that county.

⁶ Wahkiakum County Superior Court is processing uncontested dissolution case filings, similar to Lincoln County Superior Court. Starting JNE 2018, for Wahkiakum County, filings for dissolution w/ and w/o children were excluded.



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You may wish to pursue the proposal in discussion with judicial branch committees, associations, commissions, and/or directly with stakeholders and legislators. For example, convening a task force or work group, including invitations for legislators to participate, does not require legislation.

- *If yes, please proceed to Question 3.*

¹ The state legislature establishes and amends the state's budgets and statutes. Various court associations, jurisdictions, and entities participate independently in Washington's legislative processes. Sometimes, a court entity would like the support of the BJA for a particular proposal. The BJA has two separate processes for developing and reviewing proposals and submitting them to the legislature: one for budget proposals (i.e., "decision packages") and one for bill drafts (i.e., changes to the Revised Code of Washington).

Question 3: Is your local court, association, or judicial entity asking the BJA to support your proposal by working with legislator(s) to sponsor it as BJA's request?

- *If no, STOP. You DO NOT need to complete this form.*

You may wish to pursue the proposal in discussion with judicial branch committees, associations, commissions, and/or directly with stakeholders and legislators. For example, if a particular court level association wishes to pursue legislation at its own request, then sharing information about it with the BJA Legislative Committee is appreciated, but obtaining BJA support using this form is not necessary.

- *If yes, please proceed to Question 4.*

Question 4: Is the proposal to request an additional judge position within a specific judicial district in chapter 2.08 or 3.34 RCW?

- *If yes, please complete PART I only of this form, and submit the completed form and the required supporting documentation to Haily.Perkins@courts.wa.gov by June 15. You may skip PART II of this form.*
- *If no, please complete PART II only of this form, and submit the completed form and the required supporting documentation to Haily.Perkins@courts.wa.gov by June 15. You may skip PART I of this form.*

PART I -- Used to request additional judge positions in chapter 2.08 or 3.34 RCW

Judicial District

Provide judicial district name/count(ies) impacted by request.

Contact Person

Provide requestor contact name, telephone, and email address.

Request Background—What precipitated the request?

Explain what prompted the request for an additional judge(s).

Judicial Needs Estimate (JNE) Support

How does the JNE support the request? For example, the court currently has 5 judges and 1 commissioner, and the JNE states a workload appropriate for 8 judicial officers.

Local Funding and Supporting Documentation

Detail support for the proposal secured so far. Attach documentation of *approved* local/county budget(s) that include funding for the count(ies)' portion(s) of the judicial salary.

Stakeholder Support or Opposition

Have legislators or their staff participated in any discussions about the proposal? If known, identify specific legislators that could be champions or allies as well as a list of entities that may oppose adding a judicial position(s) with a brief explanation of why, if known.

PART II -- Used for all bill draft proposals *other than* additional judge positions

Request Title

Establishing Limited Investigative Authority for Supreme Court Bailiffs

Requesting Entity (Organization & Contact Person)

Washington Supreme Court & Brittany Gregory

Request Background—What precipitated the request?

Threats against judicial officers has increased since the beginning of the pandemic, the Washington Supreme Court does not commissioned security officers to provide security since they are a state-funded court, and not a local court. The Supreme Court Bailiffs are tasked with providing security for the Justices and court staff, but are prevented from communicating with the WSP and local law enforcement about active security threats since they are not commissioned security officers. This leaves the Supreme Court Bailiffs unable to fully protect the Court.

Summary/Request Justification

This proposal would create limited investigative authority for the Supreme Court Bailiffs, so that they can access criminal history data to properly assess security threats and communicate with law enforcement.

RCW(s) Impacted (please provide potential bill draft language: underlined additions to RCW, ~~strikeouts for deletions~~, and identify new sections)

NEW RCW 2.04.251 – Supreme Court Bailiff Investigatory Authority:

- (1) The Supreme Court Bailiffs are granted limited investigative authority for the purpose of investigation of threats made against a Supreme Court Justice. The Supreme Court Bailiffs shall have access to similar investigative training and experience as required by other law enforcement agencies.
- (2) The Supreme Court Bailiffs are authorized to receive criminal history record information that includes nonconviction data for any purpose associated with the investigation of any person making a threat against a Supreme Court Justice. Dissemination or use of criminal history records or nonconviction data for the purposes other than that authorized in this section is prohibited.
- (3) Founded threats investigated under this chapter must be referred to local law enforcement for further action.
 - a. After determining the validity of the threat, local law enforcement shall report the outcome and any anticipated action to the Supreme Court Bailiffs within a reasonable time frame.

Court Level Impact Supreme Court
Fiscal Impact Fiscal impact will be minimal.
Funding Available/Secured N/A

Legislative Strategy Recommendations We have met with the WSP and DOC, and they are receptive to the proposal, as long as it doesn't conflict with federal restrictions on what criminal history information can be shared.
Stakeholder Impact This proposal would impact the Supreme Court, WSP, local law enforcement, and DOC.
Potential Opposition WASPC could oppose the proposal if they feel it would create too much additional work for local law enforcement.



September 15, 2023

TO: Board for Judicial Administration (BJA) Members
FR: Judge Rebecca Robertson, Chair, Policy and Planning Committee (PPC)
RE: REPORT OF POLICY AND PLANNING COMMITTEE

The Policy and Planning Committee is having their first meeting of the 2023-2024 year later in September.

Members will discuss next steps for ongoing work projects. Members of the Adequate Funding Work Group attended the July roundtable meeting of the Association of Washington Superior Court Administrators to gather information on funding priorities. A meeting with the District and Municipal Court Managers Association is being scheduled and the notes from both meetings will be shared with PPC and Work Group.

A survey of court administrators developed by the PPC for the Workplace Harassment Survey Recommendation project is in progress. The survey collects information on policies that courts have in place and the number of workplace harassment investigations conducting in the last three years. The staff for the PPC and Gender and Justice Committee will meet after the survey closes to determine next steps.

New items for the PPC work plan include developing projects from the recent Judicial Leadership Summit and revising the committee charter to reflect the changing direction of the committee since its inception during the reorganization of the BJA in 2016.



WASHINGTON COURTS

ADMINISTRATIVE OFFICE OF THE COURTS

BOARD FOR JUDICIAL ADMINISTRATION

BJA Court Security Task Force

Final Report

September 2023

Task Force Report prepared by:

Penny Larsen, MA
Senior Court Program Analyst, Board for Judicial Administration
Washington State Administrative Office of the Courts

Introduction

Providing safe and secure access to justice is an ongoing and important issue for all courts. In 2015, the Trial Court Advisory Board (TCAB) drafted General Rule 36 (GR 36), Trial Court Security, to address the enduring gaps in court security throughout the state. This rule outlines the components of best practices for court security. The Supreme Court adopted GR 36 on September 1, 2017.

In order to support courts' efforts to comply with GR 36, the Board for Judicial Administration (BJA) selected court security as a strategic initiative in November 2018 and authorized the creation of the Court Security Task Force (Task Force) and approved the charter described in the next section of this report. Task Force co-chairs and staff began recruiting members of judicial and justice-partner associations, two members of the state legislature, a statewide risk management association and two local government representatives from county and city associations (see full membership list on page 7).

In April 2019, the Task Force convened to develop a plan to assist courts in their efforts to meet the minimum standards of GR 36 by 2025. It was widely known that many small and rural courts struggled, usually unsuccessfully, to obtain adequate and stable local funding for court security. From the onset, the Task Force's primary goal was the attainment of state funding to assist courts that had little or no security measures in their courthouses as a primary goal. The state Legislature historically has viewed the security of courthouses as a facility management issue for which local governments were responsible for funding. The Task Force set forth a series of strategies and activities to raise awareness of the importance of court security and advocate the need for funding for this critical and unmet need in many smaller courts throughout the state.

The following sections of this report highlight the journey of the Task Force.

- I. Assessing and documenting the unmet security needs
- II. Developing funding strategies and legislative advocacy campaigns: 2020–2023
- III. Lessons learned, recommendations, and accomplishments

The appendix contains the membership roster, the charter and a link to the archived Task Force webpage that includes reports and all of the advocacy materials in the legislative toolkit.

I. Assessing and documenting the needs of courts

The Task Force plan for a successful legislative funding request required putting forth a decision package that contained good reasonably accurate estimates of the amount of funding necessary for courts to have the security equipment and staffing needed to meet the minimum requirements of GR 36.

Providing the legislature with clear and convincing estimates of the need was essential to show that the Task Force had done their due diligence as good stewards of public funds. In order to complete this detailed work, the Task Force formed an Assessment and Evaluation Work Group.

Task Force members with security expertise worked with staff to develop the GR 36 Court Security Needs Assessment for courts that did not meet one or more of the GR 36 minimum standards. After the assessment data was collected from 111 courts, the work group developed cost estimates for security equipment and staffing required to meet those needs.

In addition to the GR 36 Court Security Needs Assessment, the Task Force conducted a Victim Advocate Survey in 2020 and documented the experiences, observations, and concerns of 117 advocates regarding courthouse security. The Task Force also used data from Courthouse Security Surveys conducted by the judicial associations in 2017.

The data collected by the Task Force was cited in the court security decision packages and in the legislative talking points.

II. Developing funding strategies and advocacy campaigns: 2020–2023

Once the Task Force had the needs assessment data and the cost estimates in late 2019, the next step was to decide how to structure the funding request in a palatable way for the Legislature to act upon. In early 2020, the Task Force decided to break up the funding request into two biennium budget cycles. The needs were estimated at over \$5 million, including the much-needed entry screening and security officers. This was too much to ask for in one request, given the reluctance of the state to fund security in the past.

The Task Force categorized the needs assessment responses from courts into two groups: a) “Shared Sites” which contained two court levels with no/low level of entry screening that resided in the same courthouse and b) “Single sites” which consisted of a single court with no/low level of entry screening that did not reside in a courthouse with another court level.

Shared site courts were prioritized for the 2021–23 funding request to maximize funding resources. For example, shared site courts could share entry screening at the building entrance, security camera coverage in main areas, security audits, and could create joint security committees and security plans.

When the Covid19 shutdown occurred in March 2020, the economic forecast was dire; the task force was advised to recalculate the funding request at a much lower level. The Task Force developed an advocacy plan for 2021, although the pandemic shutdown minimized the efforts somewhat as members dealt with emerging issues. However, with the help of the judicial associations, \$750,000 was appropriated in the capital budget with minimal advocacy efforts.

During the 2022 supplemental budget season, the economic forecast had improved considerably and substantial pandemic relief funds were available from the Federal government. The Task Force put forth a dynamic advocacy campaign; however, legislators were reluctant to fund the request during a supplemental budget year and wanted to local governments to share some of the cost and note their support for the request. Despite testimony from judges and victim advocates during the budget hearings and meetings with many legislators, the final budget did not include court security funding.

In 2023, the Task Force focused their energy on following the advice of the state legislators and developed a decision package with a shared cost formula. Members determined the census and economic criteria for the shared cost model so that the poorest jurisdictions would contribute slightly to the cost. The Task Force also met remotely with several boards of commissioners in small rural counties to garner their support for state funding for the court security improvements that they were unable to afford in their local budgets.

The table below summarizes the funding requests and shows the legislator meetings with the Task Force Co-Chairs. Many Task Force members, including Chief Justice González and other members of the judiciary and court community met separately with lawmakers.

Court Security Task Force Funding 2020–2023			
Budget Year	Funds Requested	Funds Appropriated	Number of Task Force Co-Chair Meetings with Legislators
2021–2023 biennium Equipment and administrative support in Capital Budget	\$767,000	\$750,000 <ul style="list-style-type: none"> 18 shared-site courthouses were awarded \$493,000 for security equipment. 	5 (approximate number of remote meetings during pandemic shutdown)
2022 (supplemental)	\$2 million	\$0	25
2023–2025 biennium Equipment and services with local government cost-sharing	\$5 million	\$2 million <ul style="list-style-type: none"> 21 courts have been allocated \$1 million in FY2024. \$1 million will be allocated in FY2025 	18

The legislative advocacy efforts for court security funding went well beyond the members of the Task Force, all of whom took the advocacy materials developed to the associations they represented. Judicial associations presidents and judges in courts without security testified at the 2022 budget hearings.

Here are some examples of stakeholder support:

- In 2022, the King County Sexual Assault Center mobilized members of the victim advocate community to volunteer to testify at the budget hearing. Two advocates waited for hours online to tell legislators about their experiences and those of their colleagues regarding inadequate court security.
- In 2023, the following justice partners and stakeholders submitted a letter of support to the legislature:
 - Washington Supreme Court Gender and Justice Commission;
 - Washington Bar Association Board of Governors;
 - Okanogan County Board of Commissioners;
 - Ferry County Board of Commissioners;

- Pend Oreille County Board of Commissioners;
- Stevens County Board of Commissioners;
- Columbia County Board of Commissioners;
- Asotin County Board of Commissioners;
- Garfield County Board of Commissioners.

III. Lessons Learned, Recommended Action and Accomplishments

The Task Force had a tall order: get state funding for a critical need for the courts that legislators were at least reluctant, if not outright, resistant to funding. Here are few lessons learned for future “tall order” funding requests.

- Take the time to develop solid estimates of the funding needed. The Task Force presented data from the assessment in the decision package and the advocacy talking points used in meetings with legislators. Having reasonable estimates also prevented the Task Force from requesting more funding than courts could spend and losing credibility with legislators and their budget staff.
- Have a diverse membership that includes subject matter experts, end users, influence makers, and, if possible, members of the legislature and local governments. The Task Force used the expertise of members and strived to make members feel part of the whole process, even when their primary work occurred at the end with advocacy materials.
- Create a wide network of advocate partners. Legislators remarked that they heard from many stakeholders in the court community regarding the court security funding request. It was not possible to learn the magnitude of support of the external parties. This is an area that needs further refinement if the goal is to measure the effects of their advocacy on funding outcomes.

The Task force met for the last time in May 2023 to discuss recommendations and accomplishments. There was a consensus that court security is an enduring and important issue that needs ongoing attention.

The recommendation put forth by the Task Force is for the BJA to reconvene the Standing Committee on Court Security to address on-going and emerging court security issues. The Task Force Co-Chairs agreed to present a motion with this recommendation at the September 2023 BJA meeting.

Below is a list of each of the Task Force charter deliverables and the related activities that addressed each deliverable. The checklist of accomplishments demonstrates the work and commitment of Task Force members towards the goal of safe and secure courthouses.

Charter Deliverables: Task Force activities and accomplishments

a. Review and analyze all statewide court security surveys, research, and past court security initiatives and activities.

- ✓ In late 2018–2019, the Assessment and Evaluation Work Group of the Task Force did extensive historical research on local efforts of the BJA Court Security Committee and Trial Court Advisory Board (TCAB). The Task Force also used materials from the National Center for State Courts and their associations and partners for a broad framework of current best practices.
- ✓ In 2020, surveyed Court Security Officers regarding pandemic-related duties and Victim Advocates regarding courthouse security.

b. Assess court security needs and identify tools to address court security needs.


- ✓ Conducted a comprehensive survey assessment of over 111 courts on their equipment and staffing needs and challenges with implementing adequate security practices.



c. Identify court efforts to meet GR 36 Minimum Security Standards.

- ✓ Created a dashboard of security information from courts that displays compliance with all of the GR 36 standards for surveyed courts.

d. Develop best practices including a model protocol for court security and distribute to the courts.

- ✓ Located on Inside Courts “Security” Tab and updated in 2021.



Safety Audits
[Audit Form](#) 
1.1.2 Standards and Guides
[Washington State Courthouse Public Safety Standards](#) 
[NCSC Best practices for Court building security](#) 
[Entry screening guide](#) 
[NCSC Guide to Courthouse Security](#) 
[Court Security: Frequently Asked Questions](#) 
[Standardized Color Coding for Emergency Broadcast System](#) 
1.1.3 Incident Policy
1.1.4 [Sample Incident Guide Seattle Municipal](#) 
[Sample Incident Guide Spokane County](#) 

- ✓ Communicated with Presiding Judges and Administrators to convey messages about participating in the court security assessment, the need for reporting security incidents, and asking for advocacy to support funding requests.

e. In order to maximize resources, explore mentoring, partnering, and/or educational opportunities for courts needing increased security.

- ✓ Coordinated the BJA sponsored training *Surviving the Active Lethal Threat with Crisis Reality Training* in the summer of 2022.
- ✓ Administrates Courthouse Security Communications Listserv – 2020
- ✓ Conducted presentations at judicial association conferences/business meetings

f. Assess funding needs and explore funding options. Explore granting opportunities to assist in securing equipment and funds for capital improvements that will be needed for security improvement.

- ✓ Created multiple funding strategies to help the Task Force decide on the two-phased, prioritized grant model in which shared-site courts with no security received highest priority.

g. Develop and implement funding strategies as identified in the funding assessment.

- ✓ Drafted three budget decision packages, two of which were successful in appropriations of \$750,000 in 2020–2023 and \$2 million in 2023–2025.

h. Provide a report to the BJA on Task Force efforts and identify future Task Force or ongoing committee work.

- ✓ Final report delivered to BJA in September 2023.
- ✓ Reconvene the BJA Court Security Committee.

1. [Court Security Task Force Charter](#) (link to full document)
2. [Court Security Task Force Members 2020–2023](#)

Co-Chairs

Judge Sean P. O’Donnell, Co-Chair, King County Superior Court

Judge Rebecca Robertson, Co-Chair, King County District Court

Members

Megan Allen, Legal Advocacy Manager, King County Sexual Assault Resource Center

Adam Ballout, Defense Attorney, Washington Defender Association

Ashley Callan, Court Administrator, Spokane County Superior Court

Jerome Delvin, County Commissioner, Benton County

Suzanne Elsner, Work Group Chair, Court Manager, Marysville Municipal Court

Timothy Fitzgerald, County Clerk, Spokane County Superior Court

Rod Fleck, City Attorney/Planner, City of Forks

Steven González, Chief Justice, Washington State Supreme Court

Honorable Roger Goodman, Representative, Washington State Legislature

Norrie Gregoire, Juvenile Justice Director, Walla Walla County

Brittany Gregory, Associate Director, Legislative Relations, AOC

Honorable Jeff Holy, Senator, Washington State Legislature

Judge Brian Huber, Douglas County Superior Court

Dan Johnson, Judge, Lincoln County District Court

Ken Kollman, Washington Counties Risk Pool

Christopher Stanley, Director of Management Services, AOC

Greg Zempel, Prosecutor, Kittitas County

AOC Staff

Penny Larsen, Senior Court Program Analyst

3. Minimum Court Security Standards of GR 36

The minimum security standards were derived from consultations with courthouse security experts from the U.S. Marshalls Office, the National Center for State Courts, and local security providers. These minimum standards are widely viewed by security professionals as the foundation of adequate courthouse security. Much of the work of the Task Force focuses on how to help courts meet these standards.

Minimum Security Standards established in General Rule 36:

- (1) *Policy and Procedure Guide for all Court and Clerk Personnel.*
- (2) *Weapons Screening by Uniformed Security Personnel at all Public Entrances.*
- (3) *Security Audits Every Three Years.*
- (4) *Security Cameras Recording with Loops of at Least Seven Days with Signage*
- (5) *Duress Alarms at Multiple Strategic Locations*
- (6) *Emergency Notification Broadcast System*
- (7) *Active Shooter/Comprehensive Security Training*

Click link to see the full text of [General Rule 36](#)

4. [Reports, Presentations, and Materials on Court Security Task Force webpage](#)

- Interim data report of the statewide court security survey and GR 36
- Funding strategies presentation for the 2021 Fall Judicial Conference
- Legislative communication toolkit that contains the full set of advocacy materials used in the 2023 legislative session.



September 15, 2023

TO: Board for Judicial Administration (BJA) Members
FR: Judge Rebecca Robertson, Co-Chair, Court Security Task Force
RE: MOTION TO RECONVENE THE BJA COURT SECURITY COMMITTEE

Motion Request: Reconvene the Court Security Committee as a standing BJA Committee, in accordance with BJA Bylaws, Article VII 1 and BJAR 3(b). Adopt the attached preliminary Court Security Committee Charter

The BJA Court Security Task Force ended in June 2023. At the final meeting in May 2023, Task Force members noted that court security is an ongoing high priority issue. Two options were presented as recommendations to put forth to the BJA for consideration.

1. Form a BJA Implementation Work Group as an interim step to transition from the Task Force to a permanent committee or other governance structure. This group would work with MSD and court/judicial associations to consider funding disbursement options, plan coordination for ongoing statewide court security activities and address future issues.
2. Reconvene the BJA Court Security Committee that was suspended in 2011, due to state budget reductions and resource constraints.

Court Security Task Force members favored option 2, reconvening the BJA standing committee.



Board for Judicial Administration

COURT SECURITY STANDING COMMITTEE CHARTER PRELIMINARY – SEPTEMBER 2023

I. Title:

Court Security Committee

II. Authority:

Board for Judicial Administrative Rules (BJAR 3)

III. Purpose:

The Court Security Committee shall serve as a statewide forum for enhancing the security of the courts. Responsibilities shall include: reviewing and recommending revisions to Washington’s court security guidelines and General Rule 36; creating a model protocol for court safety planning; investigating funding sources for improving court security; and regularly reviewing the security guidelines, local court security measures and evaluating the evolving security risks.

IV. Charge and Deliverables:

The BJA Court Security Committee shall:

- a. Review and analyze all statewide court security surveys, research, and past court security initiatives and activities.
- b. Assess court security needs and identify tools to address court security needs.
- c. Identify court efforts to meet GR 36 Minimum Security Standards.
- d. Assist courts to implement best practices for court security.

- e. Coordinate the provision of mentoring, partnering, and/or educational opportunities for courts needing increased security in order to maximize resources.
- f. Assess funding needs and explore funding options. Explore granting opportunities to assist in securing equipment and funds for capital improvements that will be needed for security improvement.
- g. Provide analyses and recommendations to the BJA on any matters referred to the standing committee pursuant to the bylaws of the Board.

V. Membership:

The BJA Chairs shall nominate for the Board's approval the chair and members of the committee. The chair will serve a two-year term and rotate between the SCJA and the DMCJA. Committee members will be represented from the following and selected based on a process established by their respective associations or court level which considers demonstrated commitment to improving the courts, racial and gender diversity as well as geographic and caseload differences. The Board for Judicial Administration, by majority vote of the representative members may appoint the following members:

Membership:

- One representative from Superior Court Judges Association
- Two representatives from the District and Municipal Court Judges' Association (one Municipal court judge and one District court judge)
- One Appellate Court representative
- One representative from the Association of Washington Superior Court Administrators
- One representative from District and Municipal Court Management Association
- One representative from the Washington Association of Juvenile Court Administrators
- One representative from the Washington State Association of County Clerks
- One at large member from Washington Association of Sheriffs & Police Chiefs
- One representative Court Security Officer
- One representative from Supreme Court

VI. Term Limits

The term of standing committee members shall be two years. Each committee member may be reappointed by the BJA to additional two-year term(s). Term should be consistent with a member's term on BJA or commensurate with the term in the office that compels participation on the Court Security Committee.

VII. Entities to Consult or Coordinate with:

- Superior Court Judges' Association
- District and Municipal Court Judges' Association
- Administrative Office of the Courts
- Washington State Center for Court Research
- Washington State Association of Counties
- Association of Washington Cities
- Victim Advocacy Organizations
- Washington Association Prosecuting Attorneys
- Office of Public Defense
- Washington Bar Association
- BJA Legislative Committee
- BJA Policy and Planning Committee

VIII. Support:

AOC Court Security Consultant shall provide the project management and administrative support. The BJA shall provide funding support, in an amount to be determined.

IX. Reporting Requirements:

The Court Security Committee will report at each regularly scheduled BJA meeting.

X. Recommended Review Date

Upon reconvention and every two years thereafter

Adopted:



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

DRAFT 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 Brusica
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

Motion Summary	Status
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

Action Item	Status
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"> • Post the minutes online • Send minutes to the Supreme Court for inclusion in the En Banc meeting materials. 	<p>Done</p> <p>Done</p>