

**BOARD FOR JUDICIAL
ADMINISTRATION
AND
COURT MANAGEMENT
COUNCIL**



WASHINGTON
COURTS

MEETING PACKET

**FRIDAY, DECEMBER 11, 2009
9:30 A.M.**

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

Board for Judicial Administration Membership

VOTING MEMBERS:

Chief Justice Gerry Alexander, Chair
Supreme Court

Judge Michael Lambo, Member Chair
District and Municipal Court Judges'
Association
Kirkland Municipal Court

Judge Marlin J. Appelwick
Court of Appeals, Division I

Judge Rebecca M. Baker
Superior Court Judges' Association
Ferry/Stevens/Pend Oreille Superior Courts

Judge Ronald Culpepper
Superior Court Judges' Association
Pierce County Superior Court

Judge Sara Derr
District and Municipal Court Judges'
Association
Spokane County District Court

Judge Susan Dubuisson
District and Municipal Court Judges'
Association
Thurston County District Court

Judge Tari Eitzen, President
Superior Court Judges' Association
Spokane County Superior Court

Judge Deborah Fleck
Superior Court Judges' Association
King County Superior Court

Justice Barbara Madsen
Supreme Court

Judge Jack Nevin
District and Municipal Court Judges'
Association
Pierce County District Court

Judge Glenn Phillips, President
District and Municipal Court Judges'
Association
Kent Municipal Court

Judge Christine J. Quinn-Brintnall
Court of Appeals, Division II

Judge John Schultheis
Court of Appeals, Division III

Judge Chris Wickham
Superior Court Judges' Association
Thurston County Superior Court

NON-VOTING MEMBERS:

Judge Stephen Brown, President-Elect
District and Municipal Court Judges'
Association
Grays Harbor County District Court

Mr. Jeff Hall
State Court Administrator

Ms. Paula Littlewood, Executive Director
Washington State Bar Association

Mr. Salvador Mungia, President
Washington State Bar Association

Mr. Steven G. Toole, President-Elect
Washington State Bar Association

Judge Stephen Warning, President-Elect
Superior Court Judges' Association
Cowlitz County Superior Court

Court Management Council Membership

Jeff Hall, State Court Administrator
Administrative Office of the Courts

Ronald R. Carpenter, Clerk
Supreme Court

Marti Maxwell, Administrator
Thurston County Superior Court

Delilah George, Administrator
Skagit County Superior Court

Paul Sherfey, Chief Administrative Officer
King County Superior Court

Jeri Cusimano, Administrator
Snohomish County Everett

Peggy Bednared
Director of Budget
King County Office of the Presiding Judge
King County District Court

Joseph McGuire, Administrator
Renton Municipal Court

Sharon Paradis, Administrator
Benton County Juvenile Court

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Pierce County Juvenile Court

Michael Merringer, Administrator
Island County Juvenile Court

Barbara Miner
Director and King County Superior
Court Clerk

Kathy A. Martin
Walla Walla County Clerk

Roni A. Booth
Cowlitz County Clerk

Richard D. Johnson, Administrator/Clerk
Court of Appeals, Division I

David Ponzoha, Clerk/Administrator
Court of Appeals Division II

Renee S. Townsley, Clerk/Administrator
Court of Appeals Division III

Board for Judicial Administration & Court Management Council

December 11, 2009
9:30 a.m.
AOC SeaTac Office
Suite 1106, SeaTac Office Center

Agenda

1. Call to Order	Chief Justice Gerry Alexander Judge Michael Lambo Mr. Jeff Hall Mr. Ronald Carpenter	
2. Self Introduction of Members	All	
3. Court Manager of the Year Award	Mr. Jeff Hall Mr. Ronald Carpenter	
Action Items		
4. November 20, 2009 Meeting Minutes Action: Motion to approve the minutes of the November 20 meeting	Chief Justice Gerry Alexander Judge Michael Lambo	Tab 1
Reports and Information		
5. Office of Public Guardianship Report	Ms. Shirley Bondon	Tab 2
6. BJA Long-range Planning Committee Summary and Current Status of Recommendations Report	Judge Michael Lambo	Tab 3
7. Court Management Council Court Transcriptionists Subcommittee	Ms. Renee Townsley	
8. Fiscal Note Process	Mr. Dirk Marler Ms. Julia Appel	Tab 4
9. Access to Justice Board	Mr. M. Wayne Blair	
10. Washington State Bar Association	Mr. Salvador Mungia Ms. Paula Littlewood	
11. Reports from the Courts Supreme Court Court of Appeals Superior Courts Courts of Limited Jurisdiction	Justice Barbara Madsen Judge Marlin Appelwick Judge Stephen Warning Judge Glenn Phillips	
12. Association Reports Appellate Clerks County Clerks Superior Court Administrators District and Municipal Court Administrators Juvenile Court Administrators	Mr. Ronald Carpenter Ms. Barb Miner Ms. Marti Maxwell Ms. Jeri Cusimano Mr. Michael Merringer	
13. Administrative Office of the Courts	Mr. Jeff Hall	
14. Other Business Next meeting: January 15 Beginning at 9:30 a.m. at the Temple of Justice, Olympia	Chief Justice Gerry Alexander Judge Michael Lambo Mr. Jeff Hall Mr. Ronald Carpenter	

**Board for Judicial Administration
Meeting Minutes**

**November 20, 2009
AOC SeaTac Office
SeaTac, Washington**

Members Present: Judge Michael Lambo, Member Chair; Judge Rebecca Baker; Judge Stephen Brown; Judge Ronald Culpepper; Judge Sara Derr; Judge Susan Dubuisson; Judge Tari Eitzen; Judge Deborah Fleck; Mr. Jeff Hall; Ms. Paula Littlewood; Justice Barbara Madsen; Mr. Sal Mungia; Judge Jack Nevin; Judge Glenn Phillips; Judge Christine Quinn-Brintnall; Judge Stephen Warning; and Judge Christopher Wickham

Guests Present: Mr. M. Wayne Blair, Ms. Jeri Cusimano, Judge David Larson, Ms. Marti Maxwell, Ms. Jean McElroy, Ms. Barb Miner, Ms. Catherine Moore, and Judge Ann Schindler

Staff Present: Ms. Ashley DeMoss, Ms. Beth Flynn, Mr. Dirk Marler, Ms. Mellani McAleenan, Dr. Carl McCurley, Mr. Rick Neidhardt, and Mr. Chris Ruhl

The meeting was called to order by Judge Lambo.

October 16, 2009 Meeting Minutes

It was moved by Judge Dubuisson and seconded by Judge Baker to approve the minutes of the October 16, 2009 meeting. The motion carried.

Proposed Revision to GR 29(f)(5)

Judge Larson, from Federal Way Municipal Court, reported that he was recently faced with the decision of how to respond to a workplace complaint regarding the presiding judge in his court. He had three choices as acting presiding judge in the presiding judge's absence: do nothing and potentially violate Canon 3(c)(1) and GR 29 requirements to properly manage the workplace, hire an outside investigator and subject the city to further litigation of the type already pending from a previous outside investigation of the same judge, or investigate the claim himself as acting presiding judge. He decided to investigate and write a detailed report. He believes that even though it was his best choice under the circumstances that it does create public confidence issues when one judge investigates allegations against another judge in the same court.

Judge Larson drafted a proposed revision to GR 29(f)(5) which he believes addresses the issues he encountered during the situation in Federal Way Municipal Court. His proposal is intended to provide guidance to all three branches of government on how to address workplace environment claims in courts and to keep such investigations within the judicial branch.

After discussion, it was decided that Judges Fleck, Derr and Larson will work with Mr. Hall and Ms. McAleenan to draft a charter which will be reviewed at a future meeting.

BJA Legislative Agenda

Interpreter Oath Legislation: Ms. McAleenan reported that the Code Reviser's version of the interpreter oath legislation was included in the meeting materials. The language incorporates the Oregon statute into the Washington legislation. She worked with Ms. Katrin Johnson, AOC staff to the Interpreter Commission, on the language, and Ms. Johnson vetted it through some attorneys who are members of the Interpreter Commission.

Judge Quinn-Brintnall explained the reasoning of the Court of Appeals in *State v. Flores*, and the need for the bill was discussed.

There was discussion about the interpreter identification badges and it was suggested that interpreters could go on record stating their certification number or something similar. It was suggested that this issue be held until the December meeting but Ms. McAleenan explained that she needed a decision from the BJA if they wanted to move forward so she could line up bill sponsors during the December Legislative Committee Days. If the bill is not filed at the beginning of the session, it will not get a hearing.

Judge Dubuisson moved and Judge Nevin seconded that the BJA approve the language in the Code Reviser's version of the bill in order to move forward and seek bill sponsors. The motion carried with Judges Quinn-Brintnall, Culpepper and Eitzen opposing.

Judicial Election Legislation: Ms. McAleenan reported that a copy of the 2006 legislation was included in the meeting materials. She stated that she is not getting much positive response on this from legislators. The 2006 version of the legislation may need revision or updating. Given the importance of the issue, it is important to discuss whether this issue should be raised if there is not much chance of it passing. Ms. McAleenan asked the BJA how she should proceed on this issue.

Judge Derr moved and Judge Nevin seconded that the BJA support this legislation. The motion carried.

2010 BJA Meeting Schedule

The proposed 2010 BJA meeting schedule was included in the meeting materials.

It was moved by Judge Phillips and seconded by Judge Dubuisson to approve the 2010 BJA meeting schedule. The motion carried.

Public Records Act

Mr. Hall stated that within about 48 hours of the Koenig ruling, he was contacted by Senator Adam Kline who had been contacted by Mr. Toby Nixon from the Washington Coalition for Open Government regarding legislation during the upcoming legislative session to address

the applicability of the Public Records Act (PRA) to the courts. This issue will require careful thought and consideration.

Mr. Neidhardt presented background information as to the current state of the law and the changes that would result if the judiciary were to be subject to the PRA. New PRA exemptions specific to judicial documents would need to be considered. The Administrative Office of the Courts (AOC) recommends at least three areas for exemptions: 1) case files (central to a court's role in deciding cases); 2) other documents related to judicial decision-making in cases such as decision-making notes and drafts; and 3) court rules. Further consideration is needed for these and other potential exemptions.

Mr. Hall commented that Chief Justice Gerry Alexander referred this issue to the Supreme Court Rules Committee and in subsequent discussions with Justice Charles Johnson, he decided to ask the BJA to consider this issue.

It was suggested that a BJA work group be established to look into this issue. The turnaround time is going to be very quick because the work group's findings will need to be presented at the January BJA meeting.

It was moved by Fleck and seconded by Judge Baker to establish a BJA Public Records Act Work Group. The motion carried.

Mr. Hall and Ms. McAleenan will talk with the associations to determine their representatives on the work group.

Washington State Center for Court Research Report

Dr. McCurley gave a brief overview of the history of the Washington State Center for Court Research (WSCCR). The WSCCR was established by Supreme Court order in 2004. The WSCCR's role is to improve understanding of the courts, help guide judicial policy, and improve the functioning of our judicial system. The WSCCR has a broad constituency and is accountable to everyone: the BJA, every court level, and court administrators. The WSCCR Advisory Board wants to get on the BJA's radar and let BJA members know they are available if needed.

The objective of the judicial needs estimation is to predict the number of judges needed for the expected volume and mix of cases for any court. The WSCCR uses a rational basis for making a prediction for how many judges will be needed for the caseload in a particular case. Washington State is the only state that employs the current objective caseload method. One advantage of this method is that the results can be refreshed each year using the latest data.

There were a number of questions regarding what data is tracked and how the data could be broken down. Dr. McCurley responded that they are limited by the data that is collected by the courts and if court associations would like to see a particular type of data for their court

levels or changes to the model, they should contact Dr. McCurley or their court association representative on the WSCCR Advisory Committee.

Suspension of Judge During Commission on Judicial Conduct Investigation

Judge Lambo stated that this agenda item relates to whether the BJA should look at if there is potential to give authority to suspend a judge during a complaint. Judge Lambo would like to table this until a later meeting.

WSBA Proposed Changes to Judicial Status

Mr. Mungia reported that the Washington State Bar Association (WSBA) Bylaws Review Committee is reviewing all of their bylaws. One of the revisions they are proposing is to the Membership section. They are considering changing the definition of "Judicial member" and whether Judicial members should be assessed license fees and/or assessments. They are also considering expanding the membership rights of Judicial members.

This proposed bylaws change was scheduled to be voted on at the December WSBA Board of Governors (BOG) meeting but now that they are receiving comments, the Board will likely vote on this matter at its January meeting.

Ms. McElroy added that under the proposal Judicial members would not be required to report continuing education with the WSBA (CLEs) and AOC (CJEs), the WSBA would accept a certification letter/list from the AOC stating the judge has met the CJE requirements.

The license fee would be established by the WSBA or the Supreme Court. The Supreme Court indicated to the WSBA that they may have a role in establishing the fee. Judge Brown thanked the WSBA for taking into consideration the concerns brought up by the District and Municipal Court Judges' Association (DMCJA). The proposed bylaws revisions are a great concern to their membership—especially to part-time judges.

Criminal Justice Summit

Mr. Hall has been attending Criminal Justice Summit meetings for the past year. The purpose of the Summit is to come up with solutions to the budget issues that the criminal justice system is facing. It is sort of like a think tank but with no real authority to move forward with ideas.

During the last meeting, Mr. Denis Tracy, Whitman County Prosecutor, took the DWLS 3 issue and put it into legislation. The Criminal Justice Summit body has no standing in the Legislature. Mr. Hall brought this to the BJA hoping that the trial court associations will take this back to their groups and start reviewing it. If all the bodies take a position of support on this bill during the session, it will most likely pass.

The bill removes license suspension as a coercive collections tool. It does not decriminalize it. It does keep in place the prohibition to renew a license if traffic infraction penalties are outstanding. It is good public policy and relates to the administration of justice.

The DMCJA is also proposing a rule on bail forfeitures which are primarily used as a disposition for DWLS 3. There is added incentive for this bill to pass if a rule change is approved because the rule will result in caseload increases in some courts but this bill will alleviate that.

Washington State Bar Association

Mr. Mungia reported that all stakeholders recently met regarding the WSBA legislative agenda.

Mr. Stan Bastian will chair the Task Force on Escalating Litigation Costs. The WSBA will also form a task force in the next few months to address electronic filings. They would like to see more uniformity across the state.

Ms. Littlewood stated the WSBA had a great BOG meeting in Pullman. Their next meeting will be held in Tacoma and they will discuss a Uniform Bar Exam proposal. All three law school deans will be in attendance for the discussion.

Reports from the Courts

Supreme Court: Justice Madsen reported that the Supreme Court recently held court at Peninsula College. They have been receiving feedback regarding how much people enjoyed watching the interaction between the court and college students on TVW. They also had a chance to meet with the Clallam County Bar while in Port Angeles and had dinner with the college board and some community leaders.

Mr. Hall and Mr. Ramsey Radwan met with the Supreme Court Budget Committee yesterday and they are looking at the possibility of budget reductions in the one to five percent range depending on what action the Legislature takes during the session.

The Supreme Court has been undertaking an effort to look at long-range planning and have met about four times so far.

Court of Appeals: Judge Schindler stated that the Court of Appeals continues to grapple with the consequences of the last budget reductions, which resulted in a number of layoffs and Division III requiring furloughs. The Courts of Appeals has significant concerns with the current budget deficit and how they can take further cuts.

Judge Susan Agid and Judge John Schultheis will retire in December. Division I has asked the Governor not to appoint a new judge until March and Division III is asking the Governor not to appoint until late spring in order to meet the current budget cuts.

Superior Courts: Judge Eitzen congratulated Justice Madsen on her election as Chief Justice. The Superior Court Judges' Association (SCJA) Legislative Committee is meeting in Seattle later today and will work with Secretary of Corrections Eldon Vail on DOSA bed usage, deportation, and the Evidence Based Community Custody Proposal. The SCJA Board meets tomorrow. The SCJA has been watching Pierce County closely and Judge Eitzen appreciates the collegiality in terms of how people are pulling together and watching this situation.

The November Bar News focused to Justice in Jeopardy. Judge Fleck thanked the WSBA, Ms. Littlewood and Mr. Mungia, and their wonderful editor for the great job.

Courts of Limited Jurisdiction: Judge Brown reported that during the last Board meeting, the DMCJA voted to continue its support for a proposal to have all judges elected. Mr. Don Horowitz gave a presentation regarding broadband technology (Washington State Justice Net) and the DMCJA voted to support that program. They also voted to approve the collection of data for therapeutic courts and approved a survey to limited jurisdiction courts regarding budget reductions.

Association Reports

County Clerks: Ms. Miner reported that the Clerks are creating their annual LFO report to the Legislature. They have had double-digit increases in the amount of money that is collected since taking over collections in 2003 but due to the economy, they do not expect that from here on out. The Clerks participated in the Board for Court Education (BCE) retreat.

Superior Court Administrators: Ms. Maxwell stated that the Superior Court Administrators also participated in the BCE retreat. They especially enjoyed seeing the new Adobe software. They are still waiting to hear back from all their courts on where they stand with budgets. Some courts that thought they were stable were hit.

Some of their emerging issues are:

- The Public Records Act. It is great to see there will be some activity around that.
- The Civil Rights Act Title 6 issues that are coming up in departments/agencies in the executive branch. They will explore that issue more to determine if it is an anomaly or a trend.
- They are holding two rounds of trainings starting next month and one issue will be reducing stress and another will focus on BOXI training.
- CMS concerns.
- Code of Conduct for judicial employees. The state does not have one and some jurisdictions adopt them locally. It would be helpful to have a uniform code of conduct.

District and Municipal Court Administrators: They reported at the last BJA meeting that they had to cancel their regional training because of low attendance. During their meeting

last week that was a big topic of discussion. They will survey their members about the cause and will try to address it. The Superior Court Administrators invited the District and Municipal Court Management Association (DMCMA) to their regional seminars.

Ms. Cusimano's court is a pilot site for the vehicle related violations data exchange. Earlier this week, they electronically transferred their parking data into the Judicial Information System (JIS) and it went well. Next on the horizon is communication to courts on what they need to do to get ready for the data exchange.

Administrative Office of the Courts

Mr. Hall reported that the AOC is gearing up for the legislative session and working on possible budget scenarios.

The Interpreter Program recently held oral exams and they will be able to certify a candidate in Vietnamese and two candidates in Russian.

Skagit County District Court will likely receive a qualified opinion on their audit related to the JIS accounting system and the AOC worked with the court and the auditor regarding the issue. Mr. Radwan will forward information regarding the issue to courts of limited jurisdiction for their information.

Alternatives to Guardianships

A Proposal for a Comprehensive Statutory Framework to Provide Decision-Making Assistance to Persons with Diminished Decision-Making Capability

Report to the Washington State Legislature

December 2009

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Overview of the Office of Public Guardianship (OPG)

The 2007 Legislature passed Senate Bill (SB) 5320 establishing the Office of Public Guardianship (OPG) within the Washington State Administrative Office of the Courts (AOC) to develop and administer a public guardianship program. The Governor signed the bill with a partial veto and it became effective on July 22, 2007. Laws of 2007, ch. 364, codified at Chapter 2.72 RCW.

The OPG contracts with public and private entities and/or individuals to provide public guardianship services to persons age eighteen or older whose income does not exceed 200 percent of the federal poverty level determined annually by the United States Department of Health and Human Services, or who are receiving long-term care services through the Washington State Department of Social and Health Services and there is no one else willing and able to serve.

Initial implementation of public guardianship services was required to occur on a pilot basis in a minimum of two geographical areas including one urban and one rural area. RCW 2.72.030(1)(d). The OPG selected Clallam, Grays Harbor, Okanogan, Pierce and Spokane Counties as sites to pilot public guardianship services. In response to documented significant need for public guardianship services, in January 2009 the OPG started a pilot program in King County.

Incapacitated individuals are served based on the following priorities:

- Indigent/Homeless.
- At significant risk of harm from abuse, exploitation, abandonment, neglect, or self-neglect.
- Imminent danger of loss or significant reduction in public services that are necessary to live successfully in the most integrated and least restrictive environment that is appropriate for a specific individual.

Anticipating significant budget cuts, in June 2009 the OPG placed a moratorium on accepting new cases pending a decision on the 2009-2011 budget. The moratorium will remain in effect until additional funding is obtained.

Purpose of the Report

The Legislature directed the OPG to “report to the legislature on how services other than guardianship services, and in particular services that might reduce the need for guardianship services, might be provided under contract with the office by December 1, 2009. The services to be considered should include, but not be limited to, services provided under powers of attorney given by the individuals in need of the services.” This report fulfills said directive.

“This report is prepared and authored by the OPG with input from the Ad hoc Advisory committee members, but does not represent a consensus of or endorsement by the committee members or their respective agencies or organizations”.

If you have any questions or concerns regarding this report, please contact:

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Ad hoc Advisory Committee

MEMBERS

REPRESENTING

Mr. David Armes	Department of Social and Health Services
Ms. Nancy Dapper	Certified Professional Guardian Board
Mr. Lonnie Davis	Impediments to Access Committee of the Access to Justice Board
Mr. Jerry Fireman	Washington State Association of Area Agency on Aging
Ms. Vicky Foster	Disability Rights Washington
Commissioner Steven Grovdahl	Guardianship and Probate Committee of the Superior Court Judges' Association (SCJA)
Ms. Margaret Kennedy	Office of the Attorney General
Mr. David Lord	Disability Rights Washington
Ms. Mary Jo Magruder	The Arc of King County
Mr. David Maltman	Developmental Disabilities Council
Ms. Sue McDonough	Department of Social and Health Services
Mr. Toby Olson	Governor's Committee on Disability Issues & Employment
Ms. Julie Peterson	Washington Association of Housing & Services for the Aging
Mr. Laird A. Pisto	Washington State Hospital Association
Ms. Louise Ryan	Long Term Care Ombudsman
Ms. Joy Ann von Wahlde	Northwest Justice Project
Mr. Dee Wilson	University of Washington School of Social Work

Executive Summary

Patsy*, a 63-year-old female, needs a medical procedure. Her attending physician, Dr. Bryant, has determined that Patsy lacks decisional capacity to give informed consent. Patsy has no family, has not executed an advance directive, and has no legally authorized surrogate. Who will consent to the medical procedure?

Marie*, a 58-year-old female, is concerned that she might die alone in a nursing home. She very much wants to live out her life in her home. Where can Marie obtain information, support and assistance on substitute decision-making that will allow her to plan for her future?

Jim*, a 45-year-old male with a developmental disability, recently lost his mother, his last relative and longtime financial manager. Although Jim lives alone, works and makes all his personal decisions, he never learned to manage money. Who will manage Jim's money now?

Answering these questions is the focus of the recommendations presented in this report. The recommendations included are based on the central premise that decisional capacity is not global. In the past, theories of competency and capacity were based on the principle of all or nothing. An individual was believed to either be competent or incompetent, to have capacity or to lack capacity. Thus the legal construct of guardianship was developed to accommodate this all or nothing theory. Advances in medicine, knowledge of brain function and functional ability has dispelled the all or nothing theory. Capacity is now believed to be specific to functional areas and not global. It is also believed to fluctuate, here today gone tomorrow; to be situational and contextual, occurring as a result of environmental influences or other triggering events, and can potentially be enhanced with education, training, rehabilitation, treatment (mental health and medical), therapy (occupational and physical), services (home and social), and assistive devices or accommodation. The change in capacity theory provides an opportunity to modify how guardianship and alternative programs and services are structured and delivered.

The recommendations focus on people and their needs, and emphasize that when possible any alternatives used should be reflective of the individual's personal communication mechanisms and assist them to outline their needs and wishes. This ultimately leads to greater inclusion as valued members of both community and society.

* Name has been changed for confidentiality

* Id.

* Id.

The report responds to the legislative directive to report to the Legislature on how services other than guardianship services and, in particular, services that might reduce the need for guardianship services, might be provided under contract with the Office of Public Guardianship (OPG).

Six recommendations are presented:

1) Expansion of State Aging and Disability Resource Centers.

Include the provision of information, support, counseling, assistance and education related to substitute decision-making to individuals, nominated guardians, court-appointed guardians (lay and professional), other substitute decision-makers (representative payees, agents under Powers of Attorney for Health Care and Powers of Attorney for Finances, family members) and professionals who work with these constituents in the expansion of State Aging and Disability Resource Centers (ADRC).

2) Provide protective payee/money management services to individuals who lack the ability to manage their finances.

Offer financial management assistance to socially challenged individuals, including individuals whose physical or mental illness restricts their ability to manage their own money, in an effort to reduce or eliminate financial exploitation or mismanagement of funds.

3) Endorse adoption of the Uniform Power of Attorney Act, subject to modifications developed after review by others with expertise and experience with the use and abuse of powers of attorney, including the Washington State Bar Association (WSBA) Probate and Trust committee, the WSBA Elder Law Section, the Attorney General, prosecuting attorneys, the Long-Term Care Ombudsman, the OPG, and disability and senior advocates.

The law should balance the protection of vulnerable individuals from exploitation and abuse by agents holding powers of attorney with the need to preserve the autonomy of those who create the directives.

4) Provide power of attorney services to individuals who lack the ability to manage their finances.

The usefulness of Powers of Attorney (POA) and Durable Powers of Attorney (DPOA) documents is dependent on the availability of trusted and reliable persons who agree to act for principals. Agents must be carefully selected and there should be reasonable oversight. When there are no trusted individuals, family, and friends willing and able to act for principals, reputable entities are needed to provide services.

- 5) **Create statutory surrogate decision-making committees, which empower committees of trained volunteers to evaluate the need for a surrogate decision-maker and when necessary consent to a course of treatment.**

Surrogate decision-making committees provide a quasi-judicial procedure to evaluate the provision of non-emergency major medical treatment on behalf of individuals who lack decision-making capacity, have no family or friends willing and able to assist, and have not documented preferences about medical care.

- 6) **Develop a statewide guardianship monitoring program that includes visits and field investigations, financial audits, and concise reports.**

Monitoring provides an ongoing opportunity to assess the circumstances and conditions of incapacitated persons that may change over time. It is used to provide assurance that a person is placed under guardianship only when necessary, and only to the extent required by his or her decisional incapacities.

Abbreviations

AAA	Area Agency on Aging
ADRC	Aging and Disability Resource Centers
AoA	Administration on Aging
AOC	Administrative Office of the Courts
CIDL	Center for Independent Living
CPG	Certified Professional Guardian
DD	Developmental Disability
DMM	Daily Money Management
DPOA	Durable Power of Attorney
OPG	Office of Public Guardianship
POA	Power of Attorney
SDMC	Surrogate Decision-Making Committee
SSI	Supplemental Security Income
TBI	Traumatic Brain Injury
VA	Veteran's Administration

Definitions

Activities of Daily Living	Things adults normally do in daily living including any daily activity performed for self-care (feeding, bathing, dressing and grooming), work, homemaking, and leisure.
Advance Health Care Directives	A health care advance directive combines the health care power of attorney and living will document into one document.
Agent	A person granted authority to act for a principal under a power of attorney, whether nominated an agent, attorney-in-fact, or otherwise. The term includes an original agent, co-agent, successor agent, and a person to which an agent's authority is delegated.
Best Interest	A decision-making standard where the surrogate makes a decision for a person with a mental incapacity based on an objective determination as what will provide the best benefit for the person and promote their welfare.
Capacity	An ability to comprehend both the nature and consequences of one's acts. An ability to adequately provide for nutrition, health, housing, physical safety, and manage property and financial affairs.
Daily Money Management (DMM)	Daily money management services help people with their financial affairs, including check depositing and writing, checkbook balancing, bill paying, insurance claim preparation, tax preparation and counseling, public benefit applications and counseling. DMM is voluntary. A person must be capable of asking for or accepting services.
Durable Power of Attorney (DPOA)	A power-of-attorney with a statement that the agent's authority will remain in effect even if the principal becomes mentally incapacitated. Without a durable provision, a power of attorney (POA) terminates when the principal becomes mentally incapacitated. POAs are often used to cover health care and end-of-life decisions. An agent's authority ends if the principal revokes the DPOA or dies.
Guardian	<p>A guardian is a person appointed by a court to manage the affairs of a person who is incapacitated.</p> <p>A guardian may be appointed to manage the financial affairs of a person at significant risk of harm because of a "demonstrated inability to adequately manage property or financial affairs." A guardian may be appointed to make health care and other non-financial decisions for a person at significant risk of harm because of a "demonstrated inability to adequately provide for nutrition, health, housing or physical safety." (The quoted language is from the Washington State law, Revised Code of Washington 11.88.010.)</p>

Health Care Power of Attorney	A health care power of attorney enables a person to name an agent or proxy to make health care decisions if he or she becomes unable to do so. It may address any type of health care decision, and may include guidance to the agent about the type and extent of health care desired.
Health Care Surrogate or Family Consent Laws	Health care surrogate or family consent laws provide legal authority for certain groups of persons (e.g., spouses, children, parents) to make health care decisions for an adult who cannot make or communicate such decisions due to disability, illness or injury, and who has not authorized someone else to do so.
Health Care	Any care, service, or procedure provided by a health care provider.
Health Care Facility	A hospital, clinic, nursing home, laboratory, office, or similar place where a health care provider provides health care to clients.
Health Care Provider	A person who is licensed, certified, registered or otherwise authorized by the law of Washington State to provide health care in the ordinary course of business or practice of a profession.
Power of Attorney	A writing where a mentally capable person, (the "principal") grants authority to another person (the "agent") to act in place of the principal. An agent's authority ends if the principal revokes that authority, becomes mentally incapacitated, or if the principal dies.
Principal	An individual who grants authority to an agent in a power of attorney.
Representative Payee	A representative payee is appointed by a government agency to receive, manage, and spend government benefits for a beneficiary. A beneficiary may request a representative payee, but usually the agency requires one when a beneficiary is incapable of managing benefits. The representative payee's authority is limited to the government funds for which he or she is the payee.

Substitute Judgment Standard	A decision-making standard where the surrogate decision-maker makes a decision for a person with a mental incapacity based on what the person would have wanted if the person were able to make the decision his or herself. The surrogate may consider information such as the person's past statements, beliefs, values, and prior life style.
Supplemental Security Income	Supplemental Security Income (SSI) is a federal income supplement program funded by general tax revenues (not Social Security taxes): <ul style="list-style-type: none"> • It is designed to help aged, blind, and disabled people who have little or no income; and • It provides cash to meet basic needs for food, clothing and shelter.
Surrogate	A person or entity that functions as a substitute for another.
Traumatic Brain Injury	Involves a blow or jolt to the head or a penetrating injury that disrupts brain function. Traumatic brain injury (TBI) may cause death and short- and long-term injuries. It affects thinking, language, learning, emotions, behavior, memory, and general independent body functions. ¹

¹ US Center for Disease Control and Prevention, Traumatic Brain Injury Prevention, <http://www.cdc.gov/ncipc/tbi/TBI.htm>

Introduction

According to the *New England Journal of Medicine*² there are four levels of capacity³: (1) the ability to communicate a choice; (2) the ability to understand information; (3) the ability to appreciate one's personal situation; and (4) the ability to weigh information in a rationally defensible way. If one were to ask oneself what should happen to me if I lost one of the above capacities, it is doubtful loss of autonomy and appointment of a guardian would be chosen. Unfortunately, under the current statutory framework, that may be the most probable result. This report recommends a comprehensive statutory framework emphasizing *assistance* in decision-making where appropriate, rather than assuming the need for substituted decision-making, thus preserving self-determination to the greatest extent possible.

Today in Washington State the number of persons with diminished capacity in one or more of the areas above is growing as illustrated by the following demographic trends:

- Washington's population will age rapidly over the next two decades. The state's elderly population, age 65 and older, is expected to grow from 662,000 (or 11.2 percent of the population) in 2000, to 1.66 million (or 19.7 percent of the population) by 2030.⁴ At the same time, forms of dementia are becoming more prevalent. Today, approximately 110,000 persons in Washington State have been diagnosed with Alzheimer's disease, the most common type of dementia.⁵ That number is estimated to increase to 130,000 by 2020 and 150,000 by 2025.⁶
- National estimates indicate that about 2 percent of the US population live with long-term or lifelong traumatic brain injury (TBI)-related disability and need help

² Applebaum, PS and Grisso, T., *Assessing Patients' Capacities to Consent to Treatment*, New England Journal of Medicine, Vol. 319:1635, Dec. 1988.

³ The capacity to consent to treatment and or to make a decision should not be confused with legal capacity determinations made in the guardianship context. While the capacity to consent and to make decisions should inform capacity determination in guardianship they are not equivalent. RCW 11.88.010 (1) (a) & (b) state "a person may be deemed incapacitated as to person when the superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety" and "a person may be deemed incapacitated as to the person's estate when the superior court determines the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs."

⁴ Office of Financial Management, *The 2009 Long-Term Economic and Labor Force Forecast for Washington*, June 2009, Ch. 2 Pg 14. <http://www.ofm.wa.gov/economy/longterm/2009/lt09ch2.pdf>

⁵ Alzheimer's Association, *2009 Alzheimer's Disease Fact and Figures*, pg 25, to be published in *Alzheimer's & Dementia*, Volume 5, Issue 3.

⁶ *Id.*

to perform activities of daily living.⁷ If these national estimates hold true in Washington State, there are a total of 123,750 residents living with TBI-related disabilities.⁸ Every year there are approximately 5,500 TBI hospitalizations. This translates to 280 more persons annually living with a lifelong TBI related disability.

- The Washington State Health Department reports that from 2003 to 2005, the prevalence of disabilities in Washington increased for those ages 16 and over.⁹ In 2005, there were 783,000 Washingtonians age 16 and over with a disability.¹⁰
- The Washington State Developmental Disabilities (DD) Council reports that there are 106,000 persons in Washington State with a developmental disability.¹¹ Similar to the general population, the DD population is living longer, experiencing a 247 percent increase in life expectancy from 19 years in the 1930s to 66 years in 1993.¹² The DD Council further reports that 67 percent of all individuals with developmental disabilities live with family, and in at least one-quarter of these households the primary caregiver is 60 years or older.¹³ Over the next twenty years, large numbers of primary caregivers will be unable to care for the family member who has a developmental disability.¹⁴
- The Joint Legislative Audit and Review Committee reported in its 2006 review of the need for a specialized regional jail facility that at least 16 percent of persons in jails are mentally ill.¹⁵ This population is believed to be at increased risk for suicide; present increased problems to custody staff; and are likely to reoffend.¹⁶

⁷ Thurman, D. J., Alverson, C. A., Dunn, K. A., Guerrero, J. & Sniezek, J. E. (1999). *Traumatic Brain Injury in the United States: a public health perspective*. Journal of Head Trauma Rehabilitation, 14(6), 602-615; U.S. Centers for Disease Control and Prevention. *Traumatic Brain Injury Prevention*. Retrieved January 20, 2009 from <http://www.cdc.gov/ncipc/tbi/Overview.htm>

⁸ Washington State Department of Health, *Traumatic Brain Injury: Prevalence, External Causes, and Associated Risk Factors*, February 2009 <http://www.doh.wa.gov/hsqa/ocrh/har/TBIfact.pdf>

⁹ Washington State Department of Health, 2007, *People with Disabilities*, The Health of Washington State, <http://www.doh.wa.gov/hws/doc/GHS/GHS-PWD2007.pdf>

¹⁰ Washington State Department of Health, May 2006, *Disability in Washington State* http://depts.washington.edu/cdpr/docs/Disability_Report.pdf

¹¹ Washington State Developmental Disabilities Council, *2008 Task Force Recommendations, Aging with Developmental Disabilities*, pg 3, http://www.ddc.wa.gov/Publications/090211_AgingTFReport.pdf

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ State of Washington Joint Legislative Audit and Review Committee (JLARC), *Analysis of Establishing a Regional Jail Facility for Offenders with Mental Health or Co-Occurring Mental and Chemical Dependency Disorders*, pg 1, February 2006, <http://www.leg.wa.gov/reports/06-2.pdf>

¹⁶ *Id.*

The rates at which these populations are increasing emphasize the importance of creating a comprehensive statutory framework that can provide the specific decision-making assistance needed while utilizing existing services and resources.

Current: Need for a Comprehensive Framework for Decision-Making Assistance

There is currently no comprehensive statutory framework for making decisions on personal welfare matters on behalf of people with diminished decision-making capabilities. These individuals may need assistance making decisions for a number of reasons, including: they were born with a learning disability, have a mental illness, developed dementia or a similar condition such as Alzheimer's, suffered a stroke or other trauma, or some other degenerative condition.

The lack of a statutory framework results in an "all or nothing" approach to decision-making assistance. Generally, individuals who have diminished decision-making abilities are deemed to lack the ability to make *any* decisions. The assistance most often available is appointment of a full guardian. Often full guardianship unnecessarily restricts and inhibits the autonomy and self-determination of individuals who need special assistance with specific issues.

The risks resulting from the absence of a comprehensive statutory framework are:

- a) Increasing caseloads within the jurisdiction of probate, civil and criminal courts, including disputes over eligibility for, and the scope of governmental services, mental health matters, abuse, and exploitation.
- b) Increasing numbers of vulnerable adults at risk for exploitation.
- c) Increasing financial and other abuse that is difficult to detect because there is no individual or institution willing and able to intercede, resulting in harm to human dignity.
- d) Incarceration becomes a replacement for treatment resulting from the inability of individuals to access needed services without the assistance of an appropriate surrogate.
- e) Inconsistent, and sometimes poor decision making by well-meaning, but unqualified surrogates.
- f) Subjecting individuals to over-treatment or under-treatment, or treatment that does not reflect their values, choices and preferences, or best address their well-being.

- g) Healthcare decisions may be drawn out as no one is willing to assume the risk associated with making a decision. There is anecdotal evidence that without client consent, facilities may be reluctant to request treatment, and clinicians may be reluctant to provide treatment until the need for treatment becomes an emergency.
- h) Placement in settings more restrictive than individual need demands.
- i) Repeated emergency hospitalizations resulting from the inability of individuals to obtain preventive healthcare without the assistance of an appropriate surrogate.

These risks have both a human and a financial cost that may be minimized, and in some cases eliminated, by adoption of the following proposed solutions.

Future: Reducing the Need for Guardianships

Addressing the need for decision-making assistance requires solutions that include an opportunity to plan for a time when capacity may diminish as well as solutions for individuals whose capacity has already diminished.

TASH, an international advocacy association of people with disabilities, families, and other advocates, urges developing alternatives to guardianship through “the development and promotion of the use of accommodations and supports individual’s need to make choices and decisions, to have their preferences honored and recognized, and to have their rights to self-determination protected.” The solutions provided herein seek to honor this principle.

RECOMMENDATION ONE: Expansion of State Aging and Disability Resource Centers.

Include the provision of information, support, counseling, assistance, and education related to substitute decision-making to individuals, nominated guardians, court-appointed guardians (lay and professional), other substitute decision-makers (representative payees, agents under Powers of Attorney for Health Care and Powers of Attorney for Finances, family members) and professionals who work with these constituents in the expansion of State Aging and Disability Resource Centers (ADRC).

Overview of Aging and Disability Resource Centers (ADRC) Expansion

The Aging and Disability Resource Center Program (ADRC) is a collaboration effort of the U.S. Administration on Aging (AoA) and the Centers for Medicare and Medicaid Services (CMS) to implement in all states Aging and Disability Resource Centers:

- (A) To serve as visible and trusted sources of information on the full range of long-term care options that are available in the community, including both institutional and home and community-based care;
- (B) To provide personalized and consumer-friendly assistance to empower people to make informed decisions about their care options;
- (C) To provide coordinated and streamlined access to all publicly supported long-term care options so that consumers can obtain the care they need through a single intake assessment and eligibility determination process;
- (D) To help people to plan ahead for their future long-term care needs; and

(E) To assist, in coordination with the State Health Insurance Assistance Program, Medicare beneficiaries in understanding and accessing the Prescription Drug Coverage and prevention health benefits available under the Medicare Modernization Act.

The U.S. Administration on Aging (AoA) has established the goal of using ADRCs to empower consumers to make informed decisions about their long-term service and support options. ADRCs are created to provide information and access “programs” or “systems” that involve networks of state and community organizations that work together in a coordinated manner to provide consumers with a single point of entry to all long-term services and supports. One model which AoA strongly endorses and supports is a “one stop shops” or “no wrong door” approach where ADRCs serve as single entry points to address many of the frustration consumers and their families experience when trying to find needed information, services, and supports. It is critical in creating an ADRC system that there be close partnering between Area Agency on Aging (AAA), Centers for Independent Living (CIL), Public Guardianship programs and other community organizations such as local chapters of the Arc of Washington, advocates for the rights of citizens with disabilities, supported living, and employment providers and self-advocacy organizations.

Need to Partner to Expand ADRCs

Understanding the options available to the elderly and persons with disabilities affords these individuals and their families the opportunity to make choices and decisions which honor and recognize their right of self-determination. Educating the elderly and people with disabilities, family, and service providers about the benefits, alternatives, supports and accommodations available allows them to continue living in the community and helps to mitigate the need for guardianship. Absent that knowledge, decisions may not occur in a timely fashion and may result in decision-making by persons unfamiliar with the preferences of the individual.

Due to the complicated nature of benefits, services and substitute decision-making, there is a unique need for communication at a level that is understandable to each consumer requesting information. Communication at this level is best performed by individuals with a significant level of subject matter expertise. Because no one entity or organization is thoroughly versed in all relevant topics, partnering is required to provide the best quality service.

Method

To assist ADRCs provide “one-stop shopping” sources of information, one-on-one counseling, and streamlined access to programs services and information, the Washington State Administrative Office of the Courts (AOC) and OPG would provide information, support, counseling, assistance, and education related to substitute decision-making to:

- Individuals;
- Nominated guardians;
- Court-appointed guardians (lay and professional);
- Other substitute decision-makers (representative payees, agents under powers of attorney for health care and finances, family members); and
- Professionals who work with these constituents.

Assistance would be provided via a service model that incorporates advanced care planning into regular family and community conversations. AOC/OPG would seamlessly integrate its core competencies, subject-matter expertise in substitute decision-making, into the services provided by an existing elder network, thirteen (13) Area Agencies on Aging (AAA) and a disability network (six (6) Centers for Independent Living [CIDL]). Integration will include leveraging the communication resources and tools (help lines, websites, listservs, newsletters and other publications, events, presentations and other face-to-face interaction) of the thirteen AAAs and six CIDLs to provide information, support, counseling, assistance, and education to target populations. The OPG will serve as a clearinghouse, a central agency for the collection, classification, and distribution of information on substitute decision-making. Information will be shared through help lines, Web sites, listservs, newsletters, trainings, and publications.

Advantages

The impact of the project will be multifaceted:

- (1) Appropriate advanced care planning will enable individuals to access the services and protections needed to effectively and efficiently continue living in their homes and communities even if their decision-making capacity diminishes;
- (2) The availability of a support service will improve the quality of decisions made by individuals with disabilities and the surrogates of persons with disabilities;
- (3) Will increase awareness and knowledge of substitute decision-making, including decision-making standards such as best interest and substituted judgment and the standards and procedures governing guardianship, representative payeeship, advance directives, family consent, and powers of attorney;
- (4) Will increase the number of individuals, families and professionals gaining knowledge about the effect and use of Powers of Attorney, and the requirements for executing valid documents; Court-appointed guardians and agents will learn more about their legal obligations and restrictions;
- (5) Will potentially reduce the need for court intervention on behalf of persons believed to have diminished capacity, including petitions for guardianship; and
- (6) Will potentially reduce exposure to abuse, neglect, and exploitation.

Disadvantage

ADRCs are new entities, largely unknown to the communities they are to serve. A great deal of community education is needed before ADRCs are considered effective sources of information.

RECOMMENDATION TWO: Provide protective payee/money management services to individuals who lack the ability to manage their finances.

Overview and Need

A representative payee (RP) or sometimes called *protective payee* is an individual or organization that receives Social Security and/or Supplemental Security Income (SSI) payments, veteran's, civil service, or Black Lung benefits for someone who cannot manage or direct the management of his or her finances in a manner that ensures that basic living needs are met.¹⁷ These agencies generally look for family or friends to serve in a protective payee capacity, but when friends and family are not able to serve as payee, qualified organizations are sought to be a protective payee.

Most protective payee organizations are paid by fees assessed to clients' benefits. Social Security has set payment on client benefits at no more than \$37 per client or, up to ten percent of clients' benefit under \$370. The Veteran's Administration (VA) has set at payment at a maximum of \$66 per client benefit.

Method

The public guardianship administrator (OPG) would be authorized to establish and administer a protective payee program as follows:

- The office shall contract with public or private entities or individuals to provide protective payee services to persons age eighteen or older.
- The office shall adopt eligibility criteria to enable it to serve individuals with the greatest need.
- The office shall adopt minimum standards of practice for entities providing protective payee services. An overarching standard will be respect for the client's autonomy. RPs will be expected to communicate with each client; to understand and respect his or her values, preferences and choices; and to explain all decisions made on the client's behalf.
- The office shall monitor and oversee the use of state funding.

¹⁷ Daniel Luchins, David Roberts & Patricia Hanrahan, *Provision of Protective Payee Status*, pg 2, Illinois Department of Human Services' Office of Alcoholism and Substance Abuse.

- The office shall collect uniform and consistent basic data elements regarding service delivery. This data shall be made available to the Legislature and Supreme Court in a format that is not identifiable by individual(s) to protect confidentiality.
- The office shall adopt a process for receipt and consideration of and response to complaints against the office and contracted providers of protective payee services. The process shall include investigation in cases in which investigation appears warranted in the judgment of the administrator.
- The office shall develop standardized forms and reporting instruments.
- The office shall identify training needs for protective payees it contracts with. The office may offer training to entities providing protective payee services.
- The office shall establish a system for monitoring the performance of protective payees it contracts with. The office may conduct further monitoring, including in-office visits as the administrator deems appropriate. For monitoring purposes, office staff shall have access to any information relating to a protective payee client that is available to the protective payee.

Advantages

A representative payee (RP) can be helpful for individuals who, because of disability, are unable to meet their basic living needs. In the case of mental illness, RP provision can improve community tenure by ensuring that rent is paid consistently and on time. It can also ensure that clients have enough money to provide food for themselves from one check to the next, and can help clients learn to budget their money so they can save for personal items and larger purchases. But representative payees—especially agency-based programs—are in a position to provide more for their clients than assistance in meeting basic living needs. Some effective programs bundle RP provision with other services, such as skills training in the areas of budgeting, bill paying, shopping, and working with banks. RP programs can also provide advocacy by assisting clients to secure entitlements and by helping to negotiate with debtors, landlords, and other financial institutions. The benefits of RP beyond meeting basic living needs may include:

- Reduced inpatient and emergency hospitalization.
- Increased treatment compliance.
- Improved quality of life.
- Reduced victimization related to money.
- Increased use of community services.

- Decreased substance abuse.
- Reduced physical health symptomatology.

The protective payee arrangement is simple, inexpensive, and a potential least restrictive alternative to guardianship for people with little income. Appointment is limited to the handling of specific government funds and does not affect other areas of decision-making. The RP process does not require a formal, judicial finding of incompetency/incapacity like a guardianship. The beneficiary may also request a change in payee. In addition, services provided under contract with OPG will adhere to established standards and OPG will provide oversight.

Disadvantages

- The protective payee still has great control over the beneficiary's affairs without being subject to judicial oversight. A payee also may be appointed against the beneficiary's will.
- Payment amounts set by government benefit providers may not represent sufficient compensation, thus additional funding may be needed. Potential funding sources are addressed on page 36.

Funding

SSA and VA need the help of qualified organizations to serve as representative payees and are continually recruiting social service agencies, institutions, and state or local government agencies to provide fee-for service representative payees.

RECOMMENDATION THREE: Endorse adoption of the Uniform Power of Attorney Act, subject to modifications developed after review by others with expertise and experience with the use and abuse of powers of attorney, including the Washington State Bar Association (WSBA) Probate and Trust committee, the WSBA Elder Law Section, the Attorney General, prosecuting attorneys, the Long-Term Care Ombudsman, the OPG, and disability and senior advocates.

Overview of the Uniform Power of Attorney Act (2006)

A study conducted by the Uniform Law Commission (ULC) (formerly the National Conference of Commissioners on Uniform State Laws [NCCUSL]) revealed differing approaches to powers of attorney provisions in state statutes.¹⁸ State provisions addressing multiple agents, the authority of later-appointed guardians, the impact of dissolutions or annulments of the principal's marriage to the agent, activation of

¹⁸ Unif. Power of Atty Act. Preface (2006) http://www.law.upenn.edu/bll/archives/ulc/dpoaa/2008_final.htm

contingent powers, the authority to make gifts, and standards for agent conduct and liability were increasingly non-uniform.

The Joint Editorial Board for the Uniform Trust and Estate Acts (JEB) conducted a national survey of probate and elder law sections of all state bar associations, the fellows of the American College of Trust and Estate Counsel, the leadership of the American Bar Association (ABA) Section of Real Property, Probate and Trust Law and the National Academy of Elder Law Attorneys and to special interest listservs of the ABA Commission on Law and Aging to determine the rules that should guide development of a uniform power of attorney statute.

Seventy percent of survey responders agreed that a power of attorney statute should:

- (1) Provide for confirmation that contingent powers are activated;
- (2) Revoke a spouse-agent's authority upon the dissolution or annulment of the marriage to the principal;
- (3) Include a portability provision;
- (4) Require gift making authority to be expressly stated in the grant of authority;
- (5) Provide a default standard for fiduciary duties;
- (6) Permit the principal to alter the default fiduciary standard;
- (7) Require notice by an agent when the agent is no longer willing or able to act;
- (8) Include safeguards against abuse by the agent;
- (9) Include remedies and sanctions for abuse by the agent;
- (10) Protect the reliance of other persons on a power of attorney; and
- (11) Include remedies and sanctions for refusal of other persons to honor a power of attorney.

The ULC drafted the Act, incorporating the knowledge gained from its study and survey.

Need

While the power of attorney (POA) can be a simple and effective means of handling surrogate decision-making, it is considered by many to be a "license to steal" because it provides an easy means to commit abuse. The 2008 AARP report, *Power of Attorney Abuse: What States Can Do About It*, lists the following characteristics of powers of attorney which make it easy for an agent to commit financial abuse:

- (1) "Broad decision-making authority." The agent must have broad decision-making authority for the POA to be an effective tool.
- (2) "Lack of monitoring." There is no third party monitoring, thus it is difficult to detect abuse of authority.
- (3) "Unclear standard for agent conduct." POA laws do not provide specific legal standards about the duty of the agent to the principal.

The AARP reports that evidence of POA abuse can be found in anecdotal reports from professionals, requests for help from victims of abuse, family members of victims, and media stories.¹⁹ The report concluded that POA abuse occurs everywhere: it may or may not be considered a crime and may be perpetrated by family and nonfamily members.²⁰ The report further states that due to the lack of national data collection on the incidence and prevalence of POA abuse, it is difficult to definitively pinpoint the extent of the problem.²¹ Adult Protective Services reports and surveys from lawyers and other professionals are used to gather information about the problem.²²

Analysis of 2003 APS data indicates that 20.8 percent of reports made to state APS agencies about persons age 60 and older concerns financial exploitation.²³ National surveys of lawyers and other professionals and anecdotal evidence provide more clarity about the extent of the problem.²⁴

Referencing an article by Linda S. Whitten, UPOAA reporter, the article lists the following three categories of abuse:

- (1) "Transactions exceeding the intended scope of the agent's authority," such as gift making without explicit authority;
- (2) "Transactions conducted for self-dealing purposes," for example when the agent purchases items for his or herself with the principal's resources;
- (3) "Transactions conducted in contravention of the principal's expectations," when the agent makes gifts that significantly diminish the principal's estate plan.

¹⁹ Lori Stiegel and Ellen VanCleave Klem. *Power of Attorney Abuse: What States Can Do About It*, 4 AARP (November 2008).

²⁰ *Id.* at 4.

²¹ *Id.* at 6.

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 7.

Provisions of the Uniform Power of Attorney Act (UPOAA) that Protect Against Abuse

According to the AARP's analysis, the UPOAA has 21 provisions that protect individuals and preserve autonomy. Several of these provisions have already been adopted in whole or in part in Washington State.

- Section 108, which defines the relationship between an agent and a fiduciary subsequently appointed by a court (such as a guardian of the estate). **RCW 11.94.010 (1) is substantially similar.**
- Section 109, which authorizes the springing POA and provides guidance on how to determine whether the future event or contingency specified in the POA has occurred.
- Section 111(a), which allows the appointment of co-agents and provides guidance on how and whether co-agents are to act jointly or independently.
- Section 111(b), which addresses the termination of a spouse-agent's authority if the marriage ends, recognizing that a spouse-agent may have conflicting interests in such circumstances.
- Section 111(d), which addresses the responsibility of co-agents or successor agents to protect the principal if another agent breaches or is about to breach his or her fiduciary duty.
- Section 113, which clarifies when an individual who has been named as an agent has accepted the responsibility of acting as agent.
- Sections 114 (a), (b), and (h), which clarify the mandatory and default duties of the agent and indicate under what circumstances an agent must disclose information about his or her actions to a third party (including courts, other fiduciaries, or APS or other protective agencies). **RCW 11.94.050 is substantially similar to Section 114 (h).**
- Section 115, which addresses the circumstances under which a principal's attempt to exonerate an agent from liability will not be binding.
- Sections 116 (a) and (b), which indicate who may petition a court to construe a POA or review an agent's conduct and restrict a court from dismissing such a petition at the principal's request if the principal lacks capacity to revoke the agent's authority or the POA. **RCW 11.94.090 and 100 are substantially similar to Section 116(a).**
- Section 117, which governs liability for agents who violate the POA law. RCW 11.94.120

- Section 118, which provides guidance to an agent who resigns his or her role to protect an incapacitated principal from being left without a decision maker.
- Section 119, which addresses third-party acceptance of and reliance upon a POA.
- Sections 120(b)/(c) and (c)/(d), which list circumstances under which a third party may legitimately refuse to accept a POA and provide sanctions for unlawful refusals. ***RCW 11.94.040 is substantially similar to Section 120 (b) and equivalent to Sections 120(c) and (d).***
- Section 123, which states that the remedies under the POA law are not exclusive and do not limit the rights or remedies provided under other state laws.
- Section 201 and 301, which set forth the powers that an agent cannot exercise unless the POA expressly authorizes the agent to do so because of the harm that can occur to the principal's property and estate plan if the powers are misused. ***RCW11.94.050 is substantially similar to Section 201(a).***

The UPOAA also includes a statutory form that spells out in plain language what the POA does, and a form listing the duties of the agent that can be signed by the agent to acknowledge his/her acceptance of responsibilities.

The UPOAA has many features that do not relate to protecting vulnerable adults or preserving their autonomy. Implementation of this alternative would therefore involve other stakeholders (e.g., real estate and elder law attorneys, banks, and other businesses).

Advantages

Reduces the risks associated with establishing a POA such as:

- The agent may not understand his/her duties.
- The agent may steal or self-deal.
- It may be difficult or impossible to hold the agent accountable.
- Banks and others may not honor valid exercise of POA authority.
- Banks and others may not respond effectively to financial exploitation.

Disadvantages

- Increases the complexity in developing a POA, which may reduce its availability to those without access to legal assistance.
- Does not address the authority to make health care decisions. In Washington, the Power of Attorney statute (RCW 11.94) covers both financial and health care issues.

RECOMMENDATION FOUR: Provide power of attorney services to individuals who lack the ability to manage their finances.

Overview and Need

Adoption of the Uniform Power of Attorney Act would institute tougher safeguards to protect individuals from power of attorney abuse and increase the usefulness of DPOAs. POAs and DPOAs only apply in situations where an individual (the “principal”) has the mental capacity to sign one and voluntarily chooses to do so. POAs and DPOAs allow the principal to appoint an agent to work at the pleasure and direction of the principal. If the principal's direction or wishes cannot be determined, the agent should act in accordance with the “best interests” of the principal. Because powers of attorney are voluntary, a principal who has the mental capacity to do so may revoke the power at will.

The usefulness of POAs and DPOAs is dependent on the availability of a trusted and reliable person who agrees to act for the principal. Principals must choose agents carefully and there should be reasonable oversight. In the absence of trusted individuals, family, and friends reputable entities are needed to provide services. The OPG could fulfill that role.

Method

The public guardianship administrator (OPG) would be authorized to establish and administer a power of attorney program as follows:

- The office shall contract with public or private entities or individuals to provide power of attorney services to persons age eighteen or older.
- The office shall adopt eligibility criteria to enable it to serve individuals with the greatest need.
- The office shall adopt minimum standards of practice for entities providing power of attorney services.
- The office shall monitor and oversee the use of state funding.

- The office shall collect uniform and consistent basic data elements regarding service delivery. This data shall be made available to the Legislature and Supreme Court in a format that is not identifiable by individual to protect confidentiality.
- The office shall adopt a process for receipt and consideration of and response to complaints against the office and contracted providers of power of attorney services. The process shall include investigation in cases in which investigation appears warranted in the judgment of the administrator.
- The office shall develop standardized forms and reporting instruments.
- The office shall identify training needs for agents it contracts with. The office may offer training to entities providing power of attorney services.
- The office shall establish a system for monitoring the performance of power of attorneys it contracts with. The office may conduct further monitoring, including in-office visits, as the administrator deems appropriate. For monitoring purposes, office staff shall have access to any information relating to a power of attorney client that is available to the agent.

Advantages

- Services are available to anyone who cannot identify a reliable, trustworthy person to appoint.
- Provides an opportunity for the individual to plan and select an agent based on his or her preferences.
- Entities acting as agent are monitored and regulated.
- Doesn't require court intervention.
- May reduce the need for guardianship.

Disadvantages

- The grantor must have capacity to establish a power of attorney.
- Funding will be needed. Potential funding sources are addressed on page 36.

RECOMMENDATION FIVE: Create statutory surrogate decision-making committees, which empower committees of trained volunteers to evaluate the need for a surrogate decision-maker, and when necessary consent to a course of treatment.

Overview of Surrogate Decision-Making Committees (SDMC)

A Surrogate Decision-Making Committee (SDMC) is comprised of regional panels of volunteers from the community who convene to review specific cases where the client is not able to consent to a routine medical procedure. The SDMC evaluates the need for a surrogate decision-maker and if so then evaluates and recommends a course of treatment for the client. Considering the order of priority of decision-makers defined by Washington State statute,²⁵ the SDMC would be last on the list, interceding only when no other legally authorized decision maker is available. Ideally the SDMC would help to avoid a medical emergency by managing health care decisions in a proactive manner.

Need for Surrogate Decision-Making Committees (SDMC)

SDMCs are needed to respond to a population that a 2002-2003 study by the American Bar Association Commission on Law and Aging²⁶ described as client individuals who:

- Lack decisional capacity to give informed consent to the recommended treatment;
- Have not executed an advance directive; and
- Have no legally authorized surrogate, and no family or friends willing and able to assist in the decision-making process.

Today, in the absence of an emergency, obtaining treatment for members of this population requires appointment of a guardian. Guardianship can be costly, time-consuming and procedurally difficult. With respect to low income individuals, public guardianship services are only available in six counties. Guardianship may also unnecessarily restrict the individual's ability to make decisions in other areas of his or her life, as guardianship appointments are usually plenary and wrongly assume that an inability to consent to a recommended treatment equates to an inability to make other decisions.

The size of the population described above in Washington State is not known, but experts estimate that 3-to-4 percent of the total nursing home populations are members of this group.²⁷ In 2008 the Office of Financial Management reports a nursing home population of 11,044 which translates to 332-to-441 persons in nursing homes who are

²⁵ RCW 7.70.065 Informed consent – Persons authorized to provide for patients who are not competent – Priority.

²⁶ Naomi Karp and Erica Wood, *Incapacitated and Alone*, July 2003

²⁷ *Id.*

members of the population described in the ABA study.²⁸ The Department of Housing reports that 2,729 of Washington State's 11,929 homeless populations are dealing with mental health issues.²⁹ These persons are also likely members of the population described above.

Washington State Developmental Disabilities Council reports that over the next twenty years approximately one-quarter or approximately 18,000 family members caring for persons with developmental disabilities will reach age 80 and be unable to appropriately care for the person with a developmental disability.³⁰ If appropriate decisions around surrogate decision-making have not been addressed, these individuals will become members of the population described in the ABA study.

Surrogate Decision-Making Committee (SDMC) Jurisdiction

SDMCs would have a narrow focus. Jurisdiction would include major medical, surgical, or diagnostic treatment where a general anesthetic is used, including necessary dental care or treatment which involves significant risk. Jurisdiction would exclude the administration of medications including antipsychotic medications, mental health and psychiatric treatment, electroconvulsive therapy, withdrawal of life sustaining treatment, sterilization, and termination of pregnancy.

Eligible Agency Participants

- Hospitals
- Psychiatric Centers
- Developmental Centers
- Long-term Care Facilities
- Home and Community Based Waiver Clients

Surrogate Decision-Making Committee (SDMC) Make Up

Each panel will be comprised of four disinterested third party volunteers. Panels will include one health care professional, one attorney admitted to practice law in Washington State, one lay person, and one advocate with a recognized expertise in the care and treatment of persons with disabilities. The advocate will assist the person believed to lack capacity to consent, to express his or her wishes, and improve their ability to understand the proposed treatment and make healthcare decisions. Professionals (health care, legal, and residential) involved with each case, and any individual with a conflict of interest will be excluded from panel participation.

²⁸ Washington State Office of Financial Management, *State-Supported Nursing Home Caseload*, <http://www.ofm.wa.gov/trends/tables/fig406.asp>

²⁹ www.commerce.wa.gov/DesktopModules/CTEDPublications/CTEDPublicationsView.aspx?tabID=0&

³⁰ http://www.ddc.wa.gov/Publications/090211_AgingTFRReport.pdf

Surrogate Decision-Making Committee (SDMC) Proceeding

An informal, user-friendly process requiring client attendance should be developed. The steps of a process currently used in New York are as follows:³¹

1. Declarant files declaration on behalf of a client believed to need major medical treatment and believed to lack capacity to consent to, or refuse treatment.
The declaration:
 - i. Shall be signed by the declarant.
 - ii. States the client does not have a parent, spouse, adult child, committee of the person, conservator or legal guardian, or if he or she does have one, that person is willing to allow the panel to step in as surrogates.
 - iii. State reasons showing lack of capacity including factual and professional bases.
 - iv. Provide a description of the major medical treatment proposed and the declarant's opinion as to the client's best interests.
2. When the committee receives the declaration, it will send a copy to any family members, and the chairperson of the committee will assign the declaration to a panel.
3. Prior to the panel hearing, panel members shall review the declaration and decide if they need additional information.
 - i. They may request information from a physician, health care facility or health care professional.
 - ii. They may request an independent assessment of the client.
 - iii. They may consult with other persons who might have further information about the client's values, preferences and choices.
4. When the hearing is conducted, the client is present, as well as any person the client requests to be present.
5. If practical, panel members interview and observe the client before making their decision.
6. The panel determines based on clear and convincing evidence if the client is in need of surrogate decision-making. Three of the four member panel must agree that the client needs surrogate decision-making; otherwise, the client will be found not to have this need.

³¹ Commission on Quality of Care and Advocacy for Persons with Disabilities
<http://www.cqc.state.ny.us/sdmcforms/sdmc.htm>

7. If the panel determines the client needs surrogate decision-making, if possible it must determine the values, preferences and choices of the individual and how those relate to the major medical treatment being considered. If the panel is unable to determine the values, preferences, and choices of the individual, it should determine what is in the best interest of the client based on a fair preponderance of the evidence.
8. If the panel decides to consent to the treatment, the consent is considered a legally valid consent as if the client, he or she, had capacity and consented.
9. At any time, a parent, child, spouse, committee of person, conservator, or legal guardian may object to the panel and proceedings will be ended.
10. A copy of the determination with a description of the right to appeal is given to the client.

The average time from SDMC's receipt of a case to a hearing and decision is fourteen (14) days, and expedited hearings are also available.

Advantages

- Allows for informal and thus more responsive decision-making for individuals who need some form of treatment.
- Provides a neutral party to review and make decisions. Can provide another layer to facilitate decision-making. Panel may want more information from experts or recommend "sub-process" such as guardian ad litem. Panels help guide everyone through the process in a more thoughtful and rational way.
- Cost effective when compared to guardianship proceedings.

Disadvantages

- Does not address the need for routine decision-making on behalf of persons with diminished capacity.
- Does not address the need for a thorough assessment to determine capacity, nor provide a referral procedure for consideration of guardianship.
- Recruitment and training of volunteers is essential. Potential funding resources are addressed on page 36.

RECOMMENDATION SIX: Develop a statewide guardianship monitoring program that includes visits/field investigations, financial audits and concise reports.

Overview of Guardianship Monitoring Programs

Guardianship monitoring has been included as a means to reduce the need for guardianship because an individual's circumstances and condition may change over time. Monitoring is a form of assessment, and assessment of the need for guardianship is an ongoing process meant to ensure that a person is placed under guardianship only when necessary, and only to the extent required by his or her decisional incapacities.

The purpose of a guardianship monitoring program is to collect and evaluate information about the well-being and property of persons who have been adjudicated incapacitated by the courts. The information collected is to be used to protect and preserve the interests of the incapacitated person. A guardianship monitoring program provides the opportunity to look beyond required paper reports to onsite visits.

Onsite visits afford an opportunity for impartial third parties to observe incapacitated persons in their homes and provide information that could answer the following questions:

- Are there signs of abuse or neglect?
- Is the incapacitated person receiving adequate food and shelter?
- Does the medical, psychiatric, and physical treatment received by the incapacitated person appear to be appropriate?
- Is the care being provided to the incapacitated person consistent with the plan?
- Is the incapacitated person receiving any rehabilitation services and/or therapies?
- Are the preferences of the incapacitated person being considered?
- Does the placement of the incapacitated person appear to be appropriate?

Need for Guardianship Monitoring

Guardianship matters, unlike other cases, may remain open for years or even decades, particularly in cases involving individuals with developmental disabilities or mental disorders. Once incapacity has been determined, there are usually no "adversaries" to alert the court to potential problems. The absence of adversaries encumbers the court to be proactive to discover and respond to disputes and issues. The need to be

proactive is even more important when the incapacitated person has no family or friends involved in his or her life.

The role of a guardian is highly complex, involving legal, medical, social, financial and psychological dimensions, while many guardians are lay persons, inexperienced with the guardian process and unfamiliar with professional ethics and standards. The eyes and ears of a guardianship monitor can assist the court in detecting and correcting minor issues before they become big problems. These minor corrections can help to preserve and protect the autonomy of incapacitated persons as well as conserve judicial resources.

Method

To efficiently and effectively report on the well-being of the incapacitated person and to protect his or her assets, the court should use court or volunteer investigators to monitor all cases or a random selection of cases, post-appointment, and develop a financial auditing program with various levels of review, depending on the needs and circumstances of the incapacitated person.

A good guardianship monitoring program requires cooperative effort between the County Clerk, court administration, and a dedicated monitoring team comprised of a minimum of four positions: program coordinator, records researcher, court visitor, and court auditor. The duties of each are briefly described below:

- The program coordinator is the designated manager. The coordinator recruits and selects qualified individuals for other positions, is responsible for training, scheduling, case tracking, and reporting.
- Records researchers review guardianship records and verify the information contained in the records. Verifying involves investigating via phone calls and written communication to obtain correct information -- last known address of incapacitated person, updated annual reports, etc.
- Court visitors visit guardians and incapacitated persons and report on the care of the incapacitated person.
- Court auditors review annual returns and related financial records, note problems and concerns, and follow-up as needed.

Advantages

- Aids in assuring proper care and protection for incapacitated adults.
- Acts as a deterrent to abuse, neglect, and exploitation.
- Improves the court's image and inspires public confidence.

- Provides a means to tracking guardianship and gauging the effect of court orders.
- Assists guardians in meeting their duties to incapacitated persons.
- Ensures the accuracy and completeness of guardianship reports.

Disadvantages

- Need for volunteers, training, and funding. Potential funding sources are addressed on page 36.
- Potential liability issues associated with volunteers.

Potential Sources of Funding

Due to the current economic crisis locally and nationally, securing funding during a time of severe budget cutting will be difficult. Thus, creative funding sources must be aggressively considered and pursued. Unfortunately, time constraints hindered a review of funding sources by OPG's ad hoc Advisory Committee. The following potential sources are presented by OPG as a basis for further discussion.

Harness Escheat Funds

Escheat is the reversion of property to the state when a person dies without a Will or any known heirs. Washington State Department of Revenue reports the collection of \$1,700,000 between 2004 and 2008 in escheat funds. The Department includes escheats collected when a decedent died without a Will and there were no known heirs or a decedent died listing specific heirs in their Will and those heirs were not located. Developing a plan to harness escheat funds should be explored.

Establish a Charitable Foundation and a Pooled Trust

A charitable foundation is a distinct legal body, authorized to collect funds from donors and other bodies, receive gifts, grants, and bequests of assets or property solely for the benefit of a trust. A charitable foundation could establish and manage a pooled trust with separate trust accounts established for the benefit of any individual who is disabled. Any funds that remain in a beneficiary's account at his or her death would be retained by the trust or used to reimburse the state. Establishing a pooled trust should be explored.

Secure Funding via the Older Americans Act

Congress passed the Older Americans Act (OAA) in 1965, in response to concern by policymakers about a lack of community social services for older persons. The legislation established authority for grants to states for community planning and social services, research and development projects, and personnel training in the field of aging. The law also established the Administration on Aging (AoA) to administer the newly created grant programs and to serve as the federal focal point on matters concerning older persons. The OAA authorizes a wide array of service programs through a national network of state agencies on aging, area agencies on aging, service providers, and Tribal organizations. The OAA also includes community service employment for low-income older Americans; training, research, and demonstration activities in the field of aging; and vulnerable elder rights protection activities. Guardianship services and alternatives represent relevant recipients for OAA funds and this funding source should be explored.

Conclusion

State law states:

“It is the intent of the legislature to protect the liberty and autonomy of all people of this state, and to enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of each person. The legislature recognizes that people with incapacities have unique abilities and needs, and that some people with incapacities cannot exercise their rights or provide for their basic needs without the help of a guardian. However, their liberty and autonomy should be restricted through the guardianship process only to the minimum extent necessary to adequately provide for their own health or safety, or to adequately manage their financial affairs”. (RCW 11.88.005)

Legislative intent recognizes that decisional capacity is not global and that decisions concerning the liberty and autonomy of individuals should be person-centered and individualized. Implementing the recommendations included, honors the intent of the Legislature.

BJA Long-Range Planning Committee Proposed Membership and Term Limits

The LRPC Chair shall be the Member Chair of the BJA and the membership shall consist of:

- 1 Supreme Court Justice to be appointed by the Chief Justice.
- 1 Court of Appeals Judge to be appointed by the Presiding Judge of the Court of Appeals.
- 2 Superior Court Judges, one to be appointed by the President of the Superior Court Judges Association, and one to be a BJA member.
- 2 Courts of Limited Jurisdiction Judges, one to be appointed by the President of the District and Municipal Court Judges Association, and one to be a BJA member.
- 1 member of the Board for Court Education (BCE) to be appointed by the BCE Chair.
- 1 member of the Judicial Information Systems Committee (JISC) to be appointed by the JISC Chair.
- The State Court Administrator.

BJA Members will be appointed by the BJA Chair and Member Chair.

The Member Chair for the Board is either a superior court judge or a court of limited jurisdiction judge and serves as the chair of the BJA Long-range Planning Committee; this person should continue serving on the committee (as Immediate Past-Chair) for an additional two years (representing either the SCJA or DMCJA) to help preserve the historical knowledge of the committee as it moves forward.

Position	Member	Term
Chair		
BJA Member Chair	Judge Lambo	2 yrs (7/2011)
Immediate Past-Chair		2 yrs
Supreme Court Justice	Justice Madsen	1 yr (7/2010)
Court of Appeals Judge	TBD	2 yrs (7/2011)
Superior Court Judges		
1 BJA member	Judge Fleck	1 yr (7/2010)
1 appointed by SCJA President	TBD	2 yrs (7/2011)
Courts of Limited Jurisdiction Judges		
1 BJA member	TBD	1 yr (7/2010)
1 appointed by DMCJA President	TBD	2 yrs (7/2011)
BCE member		
appointed by BCE chair	Judge Dubuisson	1 yr (7/2010)
JISC member		
appointed by JISC chair	Judge Wynne	2 yrs (7/2011)
State Court Administrator	Jeff Hall	N/A
Staff	Mellani McAleenan Colleen Clark	

Board for Judicial Administration
Long-Range Planning Committee

**Summary and Current Status
of Recommendations**

*Report to the
Board for Judicial Administration
December 11, 2009*

Long-Range Planning Committee

Judge Michael Lambo, Chair
Judge Vickie I. Churchill (past Chair)
Judge Leonard Costello (ret.)
Judge Susan Dubuisson
Judge Deborah Fleck
Mr. Jeff Hall
Justice Barbara A. Madsen
Judge Thomas Wynne

Staff

Ms. Julia Appel
Ms. Colleen Clark
Ms. Mellani McAleenan

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NOTE: For ease of discussion, this is an abridged version of the report. The full report, which contains the same information but is divided into additional categories, was emailed to the BJA Committee on December 8, 2009.

The Board for Judicial Administration (BJA) is charged by court rule, BJAR 4(a), with establishing a long-range plan for the judiciary. However, historically, strategic or long-range planning for the judiciary in Washington has been accomplished by convening commissions or task forces focused on improving one aspect or another of the judiciary, and a formal, strategic long-range plan for the judiciary as a whole has yet to be developed. Thus, the BJA's Long-range Planning Committee has undertaken to compile the recommendations from these task forces and commissions, dating back to 1985, in an effort to coordinate the recommendations into a single, cohesive inventory of objectives.

Over the past year, the BJA's Long-Range Planning Committee undertook a review of all the recommendations to determine (1) which recommendations have been completed, (2) which recommendations are no longer relevant, have been previously rejected or otherwise do not warrant further action or consideration, (3) which recommendations are considered a best practice, and (4) which recommendations still need to be addressed and by whom.

TASK FORCES AND COMMISSIONS

The task forces and commissions under review were:

- Judicial Administration Commission – 1985
- Judicial Council Task Force on Courts of Limited Jurisdiction – 1988
- Commission on Washington Trial Courts – 1990
- Washington Courts 2000 – 1992
- CLJ Assessment Survey Report (Wilson Report) – 1995-1997
- Walsh Commission – 1996
- Commission on Justice, Efficiency and Accountability – 1999
- Washington State Jury Commission – 2000
- Project 2001 – 2001
- BJA Long-Range Planning Committee – 2002
- Court Funding Task Force – 2004

For more information regarding the task forces and commissions under consideration, please refer to the Commission Charters section of this report.

COMMON THEMES

Upon review of the recommendations, a number of common themes emerged, and the recommendations can be grouped into the following categories, based on the Washington State Judicial Branch Principal Policy Objectives:

- **Fair and Impartial Administration of Justice in all Civil and Criminal Cases**
- **Accessibility**
- **Commitment to Best Administrative Practices and Public Access to Information**
- **Equal Access**
- **Appropriate Staffing and Support**
- **Effective Relations with the Executive and Legislative Branches**

The Washington State Judicial Branch Principal Policy Goals are included in their entirety later in this report.

STATUS OF RECOMMENDATIONS

To determine the status of those recommendations yet to be completed, the BJA Long-Range Planning Committee re-referred any incomplete recommendations, as appropriate, to the following commissions and associations:

- BJA Best Practices Committee
- Washington State Association of County Clerks
- Association for Washington Superior Court Administrators
- Court Interpreter Commission
- Superior Court Judges' Association
- District and Municipal Court Judges' Association
- District and Municipal Court Managers Association
- Board for Judicial Administration

Some of the responses the Committee received indicated that the recommendations were either complete or no longer applicable, and some indicated a need for further action either by the committee it was referred to or a different committee.

Of the 355 recommendations made by the 11 commissions and task forces since 1985, 111 have been completed, 114 are active or ongoing in some way, 62 are best practices or suggested best practices, and 80 were rejected or require no action. Note that the breakdown equals more than 355; this is because some recommendations were broken down into more than one area.

Examples of completed recommendations include:

- Court Funding Task Force recommendation to increase the civil jurisdiction amount in dispute that can be filed in district court to \$75,000.
- Judicial Administration Commission recommendation that the Administrative Office of the Courts should conduct a weighted caseload analysis similar to the superior courts for recommending district court judgeships.
- Commission on Washington's Trial Courts' recommendation to select jurors from a broader cross-section of the public by supplementing the list of potential jurors, based on voter registration, by adding the names of persons holding valid driver's licenses.
- The Commission on Justice, Efficiency and Accountability's recommendation that the Chief Justice of the Washington State Supreme Court chair the BJA and that the co-chair be elected from the membership.

Examples of active or ongoing recommendations include:

- The Commission on Justice, Efficiency and Accountability's recommendation that committees such as Civil Process, Domestic Relations, or Jury Improvement be convened on an "as needed" basis.
- The Commission on Justice, Efficiency and Accountability's recommendation that the Board for Judicial Administration evaluate the desirability of the state assuming greater responsibility for funding mandated judicial services.
- Project 2001's recommendation that the BJA Best Practices Committee act as a clearinghouse to promote best practices and innovative ideas among all trial courts.
- The Court Funding Task Force's recommendation to clarify the statutory court options and encourage regionalization of limited jurisdiction courts.

Examples of Best Practices or Suggested Best Practices include:

- The Wilson Report's recommendation that courts should formally meet on a regular basis with other governmental agencies to discuss issues of mutual concern other than through the budget process.
- The Jury Commission's recommendation that every opportunity should be taken to educate the public on the importance of jury service and to increase the diversity on juries by extensive outreach to targeted communities.
- The Jury Commission's recommendation that alternate jurors should be told that they are alternates at the beginning of the trial.
- The Wilson Report's recommendation that courts should establish minimum annual court staff training standards in emergency procedures.

Examples of recommendations that are no longer relevant, have previously been rejected or otherwise do not warrant further action or consideration include:

- The Wilson Report's recommendation that the Administrative Office of the Courts should circulate model personnel policies for consideration by the courts of limited jurisdiction.
- The Commission on Washington Trial Court's recommendation that the superior court arbitration system be expanded to include district courts, so that each county would continue to have only one arbitration system.
- The Judicial Administration Commission's recommendation that the legislature should authorize the use of lawyer pro tem judges in the court of appeals.
- The Walsh Commission's recommendation that volunteer citizen nominating commissions be created to review and compile a list of recommended candidates from which the appointing authority shall fill all judicial openings.

APPENDICES

The recommendations have been divided into four areas: Completed, Ongoing/Goal/Active-Pending/Best Practice, and Rejected and are attached.

PRINCIPAL POLICY OBJECTIVES OF THE WASHINGTON STATE JUDICIAL BRANCH

"The first duty of government is justice." — Alexander Hamilton

"Justice in all cases shall be administered openly, and without unnecessary delay."
Wash. Const. art. 1, sec. 10.

Washington State's judicial branch is a separate, independent and co-equal branch of government. It is the duty of the judicial branch to protect rights and liberties, uphold and interpret the law, and resolve disputes peacefully through the open and fair administration of criminal and civil justice in our state.

The judicial branch in Washington State is not structurally unified at the statewide level. Ours is a local/state partnership where local courts, court managers and court personnel work in concert with statewide courts, judicial branch agencies and support systems.

The following represent the principal policy objectives of the Washington State Judicial Branch:

1. **Fair and Impartial Administration of Justice in All Civil and Criminal Cases.** Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional and statutory mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.
2. **Accessibility.** Washington courts, court facilities and court systems will be open and accessible to all regardless of cultural, linguistic, ability-based or other barriers.
3. **Commitment to Best Administrative Practices and Public Access to Information.** Washington courts will employ/maintain uniform systems and practices that enhance court management and provide timely and appropriate access to public records/information/data.
4. **Equal Access.** Washington courts will provide meaningful access to all, ensuring that no litigant is denied justice due to the lack of counsel or the inability to understand legal proceedings.
5. **Appropriate Staffing and Support.** The courts will be appropriately staffed, and court personnel, court managers and court systems will be effectively supported.
6. **Effective Relations with the Executive and Legislative Branches.** The judicial branch will maintain effective relations with the executive and legislative branches of state government, grounded in mutual respect for the constitutional prerogatives of each branch and constitutional separation of powers considerations.

Commission Charters

Judicial Administration Commission (1985)

The Commission's purpose was to evaluate the existing structure of Washington's judicial system, the jurisdiction of each level of courts, and the existing means of administering and financing the state's courts and related court services, including probation, family court, court reporting and juvenile services. (This was at a time when Senator Talmadge was pursuing the unification of the courts.)

Judicial Council Task Force on Courts of Limited Jurisdiction (1988)

Four members of the Legislature (including Senator Talmadge) requested that the Judicial Council study the effects on the administration of justice of consolidating the district and municipal courts into a single level court of limited jurisdiction.

Commission on Washington Trial Courts (1990)

"The Gates Commission" undertook a comprehensive examination of trial court reform. The final report noted, "The hard truth is that the justice system, civil and criminal, cannot deliver the results citizens desire without adequate support and organization, neither of which presently exists. Moreover, the primary reason why they do not exist is that funding and other decisions are made without taking into account the interdependent nature of the parts of the judicial system." Much of the Commission's work was related to moving caseload from superior to district courts.

Washington Courts 2000 (1992)

"Gates II" was formed in response to the key recommendation from the Commission on Washington Trial Courts: "The Commission recommends that the BJA appoint a task force to evaluate models for enhancing the management of Washington's judicial system...". The Committee was charged with looking at "questions of court management in the State of Washington and to make further recommendations for an improved structure for long-term management." The committee defined its focus as "the management structure of the judicial system in the State of Washington" and did not seek to address or solve any specific administrative issues facing the courts in areas such as court technology, staffing, or funding.

Courts of Limited Jurisdiction Assessment Survey Report (1995-1997)

Chief Justice Durham commissioned a comprehensive survey of the policies, procedures, and facilities of Washington State's district and municipal courts. The purpose of this survey was to inventory the standards, practices, and procedures in place in the courts of limited jurisdiction. Many of the recommendations in this report are suggested best practices. This is referred to as the "Wilson Report."

Walsh Commission (1996)

The Commission's purpose was to make recommendations regarding judicial elections.

Commission on Justice, Efficiency and Accountability (1999)

This commission was an effort to equip judges with the tools to manage our courts.

Washington State Jury Commission (2000)

The BJA asked the Commission to "conduct a broad inquiry into the jury system and examine issues including...juror responsiveness, citizen satisfaction from jury service, adequacy of juror reimbursement, and improving juror participation in trials." This was based on Washington courts reporting that it had become more and more difficult to find prospective jurors. The Commission wanted to look for ways to encourage more participation from the citizenry.

Project 2001 (2001)

Under the auspices of the BJA, the Project 2001 Committee was asked to take some initiative for self-examination...to achieve efficiencies, availability of justice, cost-savings if possible, and to otherwise modernize the judiciary.

BJA Long-Range Planning Committee (2002)

The Committee's purpose was long-range planning for the judiciary. The Committee drew extensively from issues previously identified by the individual judicial associations, commissions and committees. The Committee identified four areas of concern to the judiciary:

- (1) Adequate Judicial Resources.
- (2) Independence of the Judiciary.
- (3) Improved Caseflow Management.
- (4) Adequate Access to Justice.

Court Funding Task Force (2004)

The Task Force's purpose was to develop and implement a plan to achieve adequate, stable and long-term funding of Washington's trial courts to provide equal justice throughout the state.

Key to acronyms used in the recommendation tables

ATJ	Equal, Open, and Timely Access to Justice
ADR	Alternate Dispute Resolution Methods/Enforcement of Court Orders
QS	Quality Service/Trial Court Operation Improvements
JI	Judicial Independence
EDT	Education, Training and Technology
CIP	Common Identity and Purpose of Judiciary
PTC	Public Trust and Confidence
ASF	Adequate, Stable and Long-term Funding
\$	Responsible Budgeting and Fiscal Management

Glossary of Status Terms

Action Item	
Active / Activity	
Best Practice (Suggested)	
Completed	This recommendation has previously been acted upon and is completed.
Decide	
Goal	
No Further Action/Consideration	This recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
Ongoing	
Pending	
Rejected	This recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.

Completed Recommendations

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
Judicial Administration Commission (1985)				
Purpose: To evaluate the existing structure of Washington's judicial system, the jurisdiction of each level of courts, and the existing means of administering and financing the state's courts and related court services, including probation, family court, court reporting and juvenile services. (This was at a time when then Senator Talmadge was pursuing the unification of the courts.)				
(2) ATJ, JI	JAC (1985)	The Office of the Administrator for the Courts should conduct a weighted caseload analysis similar to the superior courts for recommending district court judgeships.	COMPLETED	
(7) ATJ, QS, §	JAC (1985)	Reduce pro tem costs and improve calendar management by matching single-judge superior court jurisdictions with an adjacent jurisdiction.	COMPLETED	
(8) ATJ	JAC (1985)	A task force should be appointed to consider problems of civil court congestion and delay.	COMPLETED	
(9) JI	JAC (1985)	Guidelines should be adopted by judicial associations to define the responsibility of presiding judges including methods of selection and length of service.	COMPLETED	
(12) ADR	JAC (1985)	The legislature should enact legislation to clarify the linkage between implementation of mandatory civil arbitration and new superior court judgeships established under Senate Bill 3165 that passed the legislature in 1985.	COMPLETED	
(13) ASF	JAC (1985)	The legislature should increase the civil filing fees at all court levels.	COMPLETED	
Judicial Council Task Force on Courts of Limited Jurisdiction (1988)				
Four members of the Legislature (including Senator Talmadge) requested that the Judicial Council study the effects on the administration of justice of consolidating the district and municipal courts into a single level court of limited jurisdiction. The following issues were to be addressed: (1) The extent the duplication of CLJ services, such as jury management, probation, and case management services can be reduced or eliminated. (2) The level of consistency achievable through the application of uniform limited court rules and statutes. (3) Responsibility for court facilities and equipment. (4) District court locations and public accessibility to the courts. (5) A determination of the number of judges and support staff needed for consolidation. (6) An examination of the need for multi-county districts to achieve full-time courts. (7) The state assumption or partial assumption of district court judicial salaries and the financial impact of consolidation of the state, counties, and municipalities. (8) The authority for appointment of judges. (9) Distribution of revenue resulting from violations of ordinances. (10) The role of city traffic violation bureaus. (11) The impact on ancillary agencies such as law enforcement, prosecution and defense. (12) An examination of concurrent jurisdiction between district and superior courts.				
(18) ATJ, JI	CLJ TF (1988)	It is recommended that the weighted caseload methodology being conducted by the OAC be the official methodology for determining number of district court judicial positions.	COMPLETED	
(19) ATJ, PTC	CLJ TF (1988)	All statutory references to non-attorney judges should be repealed with a grandfather clause for all existing non-attorney judges running with the person and not the term of office.	COMPLETED	Laws of 2002, Chapter 136. RCW 3.34.060 and 3.50.040
(23) ASF	CLJ TF (1988)	The Public Safety and Education Assessment would be increased to one hundred percent.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
Commission on Washington Trial Courts (1990)				
Purpose: "The Gates Commission" undertook a comprehensive examination of trial court reform. The final report noted, "The hard truth is that the justice system, civil and criminal, cannot deliver the results citizens desire without adequate support and organization, neither of which presently exists. Moreover, the primary reason why they do not exist is that funding and other decisions are made without taking into account the interdependent nature of the parts of the judicial system."				
(26) JI	Comm. On Wa. Trial Courts (1990)	The Commission recommends that the state constitution be amended with respect to the selection and term of the Chief Justice of the Supreme Court.	COMPLETED	
(27) JI, CJP, QS	Comm. On Wa. Trial Courts (1990)	The Commission recommends that the Board for Judicial Administration (BJA) appoint a task force to evaluate models for enhancing the management of Washington's judicial system and to make appropriate recommendations to the Supreme Court and the legislature by December 31, 1991.	COMPLETED	
(30) JI, QS	Comm. On Wa. Trial Courts (1990)	The Commission recommends that the Supreme Court adopt a court rule, applicable to multi-judge counties, giving one judge administrative authority and general responsibility for the operation of the court within that county. That judge should be elected by his or her colleagues for a term of not less than two years, with re-election allowed.	COMPLETED	
(36) ATJ, PTC	Comm. On Wa. Trial Courts (1990)	The Commission recommends the enactment of a state law preempting penalties prescribed in local law, except as to offenses for which the legislature expressly allows penalties to be determined locally. The Commission also recommends a thorough study of offenses that could be decriminalized entirely.	COMPLETED	
(39) ATJ, PTC	Comm. On Wa. Trial Courts (1990)	The Commission encourages efforts to select jurors from a broader cross-section of the public. The Commission supports the recent proposal to supplement the current list of potential jurors, now based upon voter registration, by adding the names of persons holding valid driver's licenses.	COMPLETED	
(42) ATJ, \$	Comm. On Wa. Trial Courts (1990)	The Commission recommends that the state constitution be amended to expand the legislature's authority to define the respective jurisdictions of the superior and district courts. The constitutionally defined areas of superior court jurisdiction should be eliminated, so that some of the superior court's workload can be shifted to the district courts.	COMPLETED	
(43) ATJ, \$	Comm. On Wa. Trial Courts (1990)	The limit on civil jurisdiction in district court should be raised from \$10,000 to \$25,000.	COMPLETED	
(45) ATJ, \$	Comm. On Wa. Trial Courts (1990)	Selected kinds of cases should be transferred from superior court to district court such as civil anti-harassment actions, unlawful detainers, lien foreclosures, and name changes.	COMPLETED	
(46) ATJ, \$	Comm. On Wa. Trial Courts (1990)	The legislature should give the district courts the equitable powers necessary to fully dispose of cases allowed to be heard in the district court.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(49) ATJ, ADR, \$	Comm. On Wa. Trial Courts (1990)	In superior court, claims for \$45,000 or less should be sent to mandatory arbitration, up from the current limit of \$35,000.	COMPLETED	
(55) QS, ASF	Comm. On Wa. Trial Courts (1990)	The Commission recommends a study to determine whether the present structure of the superior court's support staff is compatible with, adequate for, the implementation of the Commission's recommendations.	COMPLETED	
(65) ASF	Comm. On Wa. Trial Courts (1990)	The Commission believes that filing fees and other fees charged by the clerks and the courts should be reviewed regularly. The review should be conducted by a committee or commission similar in function to the commission that reviews judicial salaries. Until a permanent method of review has been established, the Commission recommends a thorough study of the current filing fees to determine whether changes are indicated.	COMPLETED	
(66) ATJ, QS	Comm. On Wa. Trial Courts (1990)	The Commission acknowledges the right of parties to appear in court without an attorney (to appear pro se), but parties who do so often seek advice and assistance from support staff, court commissioners, and the judges themselves. Thus, parties who choose to appear pro se often require more court time and resources than parties appearing through counsel. The courts should experiment with innovative ways of offering additional assistance to pro se parties.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
Washington Courts 2000 (1992)				
Purpose: "Gates II" was formed in response to the key recommendation from the Commission on Washington Trial Courts: "The Commission recommends that the BJA appoint a task force to evaluate models for enhancing the management of Washington's judicial system...". The Committee was charged with looking at "questions of court management in the State of Washington and to make further recommendations for an improved structure for long-term management." The committee defined its focus as "the management structure of the judicial system in the State of Washington" and did not seek to address or solve any specific administrative issues facing the courts in areas such as court technology, staffing, or funding.				
(68) CIP	Wa. Courts 2000 (1992)	A statewide court management structure should be adopted which is specifically judicial, and specifically adapted to the evolutionary process of Washington state. It should leave intact the traditional and inherent prerogatives of the supreme court, both to provide supervisory oversight and to adopt rules for the administrative governance of all of the courts of this state.	COMPLETED	
(69) CIP	Wa. Courts 2000 (1992)	The court management structure should provide an orderly means for the judges of the court of appeals, the superior courts, and the district and municipal courts, to contribute their experience to the formulation of statewide administrative policies.	COMPLETED	
(70) CIP	Wa. Courts 2000 (1992)	The structure should provide the basis for the development of a judiciary which thinks not only in terms of the administrative governance of individual courts, but of the court system as a whole.	COMPLETED	
Walsh Commission (1996)				
Purpose: To make recommendations regarding judicial elections.				
(76) PTC	Walsh Comm. (1996)	A process for collecting and publishing information about candidates for judicial office shall be created under the authority of the Supreme Court.	COMPLETED	
(77) PTC	Walsh Comm. (1996)	The Supreme Court shall authorize the publication of a judicial voter pamphlet and encourage other methods for distributing judicial candidate information.	COMPLETED	
(78) PTC	Walsh Comm. (1996)	More information shall be made available to students, the public and news media about the nature of the judicial system and the character of the judicial office.	COMPLETED	
(79) PTC	Walsh Comm. (1996)	Canon 7 of the Code of Judicial Conduct shall be revised to impose limits on campaign contributions by persons or organizations and impose aggregate limits on expenditures by a judicial candidate's campaign committee.	COMPLETED	
Commission on Justice, Efficiency and Accountability (1999)				
Purpose: An effort to equip judges with the tools to manage our courts. "Judges should be the architects of a court system..."				
(80) CIP	JEA Comm. (1999)	The Mission of the Board for Judicial Administration should be revised to emphasize a governance versus "representative" purpose.	COMPLETED	
(81) CIP	JEA Comm. (1999)	The Chief Justice of the Washington State Supreme Court should chair the Board for Judicial Administration. The co-chair should be elected from the membership.	COMPLETED	
(82) CIP	JEA Comm. (1999)	The duties of the chair and co-chair should be clearly articulated in the bylaws, including the co-chair's role as chair of the long-range planning committee.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(83) CIP	JEA Comm. (1999)	The chair in consultation with the co-chair should establish the meeting agenda and meetings should be held bi-monthly. The chair and co-chair should each have independent authority to convene meetings of the BJA.	COMPLETED	
(84) CIP, QS	JEA Comm. (1999)	At least three standing committees should be created: Long-range Planning (including funding issues); Core Mission/Best Practices; and Legislative.	COMPLETED	
(87) CIP, \$	JEA Comm. (1999)	In order to encourage judges' participation on the Board for Judicial Administration and its committees, members should be granted equivalent pro tempore time. (Legislation to accomplish this was passed in the 2000 session.)	COMPLETED	
(88) CIP, \$	JEA Comm. (1999)	The Office of the Administrator for the Courts should continue to provide staff to the Board for Judicial Administration.	COMPLETED	
(89) CIP	JEA Comm. (1999)	In order to reinforce the governance versus representative role of the Board for Judicial Administration, the membership of the Board for Judicial Administration should be revised. Membership should include: - Supreme Court – 2 (one being the Chief Justice) - Court of Appeals – 3 - Superior Courts – 5 (one being the President) - District and Municipal Courts – 5 (one being the President) - Washington State Bar Association – 2 (non-voting) - State Court Administrator (non-voting)	COMPLETED	
(90) CIP	JEA Comm. (1999)	Members should serve four-year staggered terms based upon a selection process established by their respective associations. President judges should serve for their term of office.	COMPLETED	
(91) CIP	JEA Comm. (1999)	The Board for Judicial Administration members should be selected for their demonstrated interest in improving the courts and reflect ethnic and gender diversity as well as geographic and caseload differences.	COMPLETED	
(92) CIP	JEA Comm. (1999)	All Board for Judicial Administration decisions will be made, whenever possible, by consensus. Final decisions should be made on the basis of majority vote of those present and voting with the requirements that there be at least one affirmative vote from each level of court.	COMPLETED	
(93) CIP	JEA Comm. (1999)	Eight voting members will constitute a quorum, provided each court level is represented. Telephone or electronic attendance should be permitted but no proxy representation should be allowed.	COMPLETED	
(94) ATJ, QS	JEA Comm. (1999)	The Board for Judicial Administration should recognize the court performance standards and charge the Core Mission/Best Practices standing committee with the integration of these standards into daily court operations.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(96) QS, EDT	JEA Comm. (1999)	The Board for Judicial Administration should establish within the Core Mission/Best Practices standing committee a clearinghouse for sharing best practices ideas.	COMPLETED	
Project 2001 (2001)				
Purposes: Under the auspices of the BJA, the Project 2001 Committee was asked to take some initiative for self-examination...to achieve efficiencies, availability of justice, cost-savings if possible, and to otherwise modernize the judiciary.				
(105) QS, JI	Project 2001 (2001)	1.3 The Supreme Court should modify provisions of Superior Court Administrative Rule 4 and Administrative Rule for Courts of Limited Jurisdiction 5 to increase the authority of presiding judges.	COMPLETED	
(107) QS	Project 2001 (2001)	1.5 The "freeze-out" period for cities that elect to contract with a district court, which effectively requires a municipality to contract for a ten-year period, should be repealed.	COMPLETED	
(110) QS, \$	Project 2001 (2001)	2.1 Portability of Judges and Cases: Statutory and/or constitutional changes should be made to allow all elected judges or retired judges (defined in statute) to sit in superior court, district court or municipal court at the request of the presiding judge, without the consent of the parties. See draft of statutory and constitutional changes at Appendix I of report. The committee recommends by this proposal the movement of judges from one trial court to another rather than the movement of cases from one trial court to another.	COMPLETED	
(111) QS, ASF	Project 2001 (2001)	3.1 Court Improvement Fund: The BJA, working in collaboration with the other branches of state and local government, should seek funds from the Washington Legislature to be placed in an account administered by the Board for Judicial Administration and the Office of the Administrator for the Courts. The fund should be used to initiate innovative court programs. The funds appropriated should be sufficient to provide evaluation components and to study integration and institutionalization of valuable approaches and best practices developed in these projects into all the courts of the state.	COMPLETED	
(115) ATJ, QS, \$	Project 2001 (2001)	5.1 Criminal Law Improvements – Redefining Certain Felonies: The Board for Judicial Administration should study the monetary levels that define certain property offense felonies in order to redefine them as misdemeanors.	COMPLETED	Legislation supported, but not sponsored, by BJA was introduced but failed (3 years). See BJA LRP (200), <i>Completed 2009 Legislative session, SB 6167 (Concerning crimes against property).</i>
(117) PTC, \$	Project 2001 (2001)	6.2 The OAC should establish a statewide protocol for collection of delinquent court ordered financial obligations. A committee including court managers and judges should provide oversight.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(121) ATJ, QS	Project 2001 (2001)	7.2 The RALJ should be amended to allow a procedure that parallels a "motion on the merits" as is authorized in RAP 18.14.	COMPLETED	Impetus for (121-122): make procedures consistent in superior court for hearing appeals. See BJA LRP (197). An impediment to filing a civil case in district court is that judgment is subject to first round of appeals in superior court adding 6-12 months to process. Motion on Merits allows respondent to move for summary disposition of a case on appeal where issues are clear, thereby shortening process.
(122) ATJ, QS, §	Project 2001 (2001)	7.3 The RALJ should be amended to require all matters in courts of limited jurisdiction to be recorded and appealed under RALJ provisions.	COMPLETED	Aimed at eliminating de novo appeals process in superior court as well as providing a record for litigants in CLJ. See (246)
(125) ATJ	Project 2001 (2001)	8.3 The Washington State Supreme Court should adopt a court rule providing "unbundled legal services" as an approved, ethical means of delivering legal services in the State of Washington.	COMPLETED	
(131) ATJ, QS, PTC	Project 2001 (2001)	10.1 Mandatory continuing judicial education requirements for all judicial officers including part-time judicial officers should be established and tracked.	COMPLETED	
(133) QS	Project 2001 (2001)	11.2 The Pattern Forms Committee should work with the Domestic Relations Commission, the Superior Court Judges' Association and other interested groups to provide additional information and clarification on parenting plan forms.	COMPLETED	
(134) ATJ, PTC	Project 2001 (2001)	12.1 The Board for Judicial Administration, in conjunction with the Judicial Information System Committee, should work with interested groups to implement methods for protecting personal and confidential information contained in physical and electronic court records.	COMPLETED	
(137) QS	Project 2001 (2001)	13.3 To promote and enhance efficiency and accountability, the OAC should provide and publish reports by which judges measure their efficiency in management of cases across the entire spectrum of cases for which that court has responsibility.	COMPLETED Superior Courts	Impetus: Judges do not have published reports for all case types they hear. Therefore, the entire spectrum of their workload is not reflected. Core CMS? See (31), (58), (106), (110), (135-138), (180), (194), (196), (201-203).
Court Funding Task Force (2004)				
Purpose: Develop and implement a plan to achieve adequate, stable and long-term funding of Washington's trial courts to provide equal justice throughout the state.				
(151) ASF	CFTF (2004)	Seek legislation creating: - A fee for filing cross, counter and third party claims in Superior and District Courts (excluding unlawful detainer cases) equal to the original filing fee in civil actions. - A fee of \$55 to be assessed at the discretion of the trial judge, against defendants in courts of limited jurisdiction upon a plea of guilty or conviction for misdemeanors and gross misdemeanors.	COMPLETED	
(152) ASF	CFTF (2004)	Seek legislation: - Increasing the filing fee in superior court to \$200 and the district court filing fee to \$55. - Implementing the proposed increases to existing court fees as contained in Appendix I.	COMPLETED	
(155) PTC, ASF	CFTF (2004)	Re-establish the Public Education Work Group as a committee of the BJA with its current membership and its current charge.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(160) \$	CFTF (2004)	Make a formal request to the Local Government Financial Reporting System (LFGRS) Work Group, through the State Auditor, to require that expenditures for indigent defense services be reported as a separate functional group within LFGRS.	COMPLETED	
(179) ATJ, \$	CFTF (2004)	Recommend increasing the civil jurisdiction amount in dispute that can be filed in district court to \$75,000.	COMPLETED	
BJA Long-range Planning Committee (2002)				
Purpose: Long-range planning for the judiciary. The Committee has drawn extensively from issues previously identified by the individual judicial associations, commissions and committees. The Committee identified four areas of concern to the judiciary: (1) Adequate Judicial Resources. (2) Independence of the Judiciary. (3) Improved Caseflow Management. (4) Adequate Access to Justice.				
(184) ATJ, JI	BJA LRP (2002)	Develop a needs assessment for Judges and court staff - a modern method of measuring judicial and court staff needs should be developed. The new "production function model" has been approved by the Superior Court Judges' Association, on an interim basis, to estimate judicial needs in superior courts. The research unit will now focus on modifying the model for use in limited jurisdiction courts to replace the outdated weighted caseload approach. Also, the National Center for State Courts has proposed that Washington participate as a pilot state in a project to further improve upon the production function model approach.	COMPLETED	
(194) QS, EDT	BJA LRP (2002)	The BJA should send to BCE a request regarding case management education. Develop in-depth training, recognizing the distinction between small and large courts, on case management responsibilities and tools. Also included should be the use of discovery rules in the trial courts, with the goal of achieving effective and efficient case management.	COMPLETED	Although committee members agreed with most of the proposal, they also agreed that it is drafted too broadly. The general opinion was that a "sending" county should be responsible for costs when a case is transferred pursuant to RCW 4.12.030(2) or (4), but not when a case is transferred pursuant to RCW 4.12.030(1) or (3).
(197) ATJ, QS	BJA LRP (2002)	The BJA should send to SCJA. The RALJ should be amended to allow a procedure that parallels a "motion on the merits" as authorized in RAP 18.14 for appeals to the appellate courts.	COMPLETED	This has since been brought to the SCJA Board on a couple of occasions. They have declined to pursue the issue.
(198) QS	BJA LRP (2002)	The BJA should request that the Jury Implementation Committee to study, amend and possibly reintroduce legislation requiring jury service for the shortest period possible. Therefore, the statute should be amended to shorten the jury term to a maximum of two days or one trial.	COMPLETED	Impetus: Increase yield, representativeness. Jury Commission (see 319). Bill failed in 2001.
(199) QS, JI	BJA LRP (2002)	The Supreme Court should modify provisions of Superior Court Administrative Rule 4 and ArCLJ 5 to increase the authority of presiding judges.	COMPLETED	
(200) ATJ, QS, \$	BJA LRP (2002)	The BJA should study the monetary levels that define certain property offense felonies in order to redefine them as misdemeanors.	COMPLETED	Project 2001 rec 5.1. BJA supported, but did not sponsor, bill which failed (3 years). See (115). Completed 2009 Legislative session, SB 6167 (Concerning crimes against property).

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(203) QS	BJA LRP (2002)	To promote and enhance efficiency and accountability, the AOC should provide and publish reports by which judges measure their efficiency in management of cases across the entire spectrum of cases for which that court has responsibility.	COMPLETED Superior Courts	Impetus: Judges do not have published reports for all case types they hear. Therefore, the entire spectrum of their workload is not reflected. Core CMS? Project 2001 rec 13.3. See (31), (56-58), (106), (110), (135-138), (180), (194), (196), (201-202).
(207) ATJ	BJA LRP (2002)	The Supreme Court should adopt a rule that allows for the expansion of courthouse facilitator services throughout the state.	COMPLETED	
(208) ATJ	BJA LRP (2002)	The Washington State Supreme Court should adopt a court rule providing "unbundled legal services" as an approved, ethical means of delivering legal services in the State of Washington. (Pending the WSBA recommendation.)	COMPLETED	
CLJ Assessment Survey Report (Wilson Report) 1995 - 1997				
Purpose: Chief Justice Durham commissioned a comprehensive survey of the policies, procedures, and facilities of Washington State's district and municipal courts. The purpose of this survey was to inventory the standards, practices, and procedures in place in the courts of limited jurisdiction. Performed by the Wilsons. No Committee. Impetus: CLJ 1988 Study. Before improvements or changes can be undertaken, a baseline of current practices is needed.				
(221) EDT, PTC	Wilson Report (1997)	A-4 1. OAC, DMCJA, and DMCMA should continue to develop and offer training programs involving the release of public information.	COMPLETED	
(222) PTC	Wilson Report (1997)	A-4 2. The Supreme Court should establish a task force to draft a policy to clarify the release of physical court records.	COMPLETED	
(223) QS, EDT	Wilson Report (1997)	A-5 1. The DMCJA and DMCMA should include in their training curriculum, seminars on educating the public as to court processes and procedures, and should distribute program materials to all CLJ.	COMPLETED	
(224) EDT, PTC	Wilson Report (1997)	A-5 2. OAC, DMCJA, and DMCMA should develop a generic annual report template in pamphlet format, for use by court management to assist in providing information to the public as well as the funding agencies.	COMPLETED	
(227) EDT	Wilson Report (1997)	A-6 2. BCE should provide for the distribution of training materials utilized in educational seminars or programs to all court managers unable to attend.	COMPLETE	
(231) EDT, \$	Wilson Report (1997)	B-1 4. OAC should conduct training sessions with representatives of the State Auditor's Office and court managers for purposes of mutual education.	COMPLETED	
(235) EDT	Wilson Report (1997)	B-2 4. JIS should continue working on the collections project.	COMPLETED	
(237) \$	Wilson Report (1997)	B-2 6. DMCJA should propose legislation to clarify the distribution of revenue from interest.	COMPLETED	
(238) \$	Wilson Report (1997)	B-2 7. DMCJA should propose legislation to clarify jurisdiction to collect financial obligations in restitution, criminal, and infraction cases comparable to the existing statute for superior courts.	COMPLETED	
(239) ATJ, JI, PTC	Wilson Report (1997)	C-1 1. OAC, DMCJA, and DMCMA should continue efforts to define caseload and workload measures so that accurate data comparisons can be made.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(246) QS	Wilson Report (1997)	C-3 2. DMCJA should propose a Supreme Court Rule requiring that all court proceedings be audio recorded.	COMPLETED	
(247) QS	Wilson Report (1997)	C-3 3. DMCJA and DMCMA should propose a retention schedule for maintaining audio tapes of proceedings.	COMPLETED	
(258) ATJ, EDT	Wilson Report (1997)	D-4 3. DMCJA and DMCMA should include in their respective training curriculum plans, seminars to enable court personnel to identify and assist citizens who are unable to read.	COMPLETED	
(261) ATJ, PTC	Wilson Report (1997)	E-1 2. OAC, in conjunction with the SAO, should identify appropriate auditor exceptions involving the improper assessment of court costs.	COMPLETED	
(263) ATJ, PTC	Wilson Report (1997)	E-2 2. Courts should publish and post for public review, the amounts charged for all fees and costs.	COMPLETED	2008: County Clerks list fees.
(265) \$	Wilson Report (1997)	E-3 2. Courts should order the reimbursement of public defense costs where appropriate.	COMPLETED	
(268) QS	Wilson Report (1997)	F-1 3. OAC should develop a commercial grade juror orientation video for presentation by community television cable companies, as well as local court personnel.	COMPLETED	
(274) QS, \$	Wilson Report (1997)	F-3 1. DMCJA should propose legislation to modify RCW 10.05.060 to eliminate the requirement to physically segregate deferred prosecution case files from other active case files.	COMPLETED	5/99 The DMCJA will include this action as a legislative "housekeeping" fix. The statute no longer serves an identifiable purpose. 2006 The statute still exists. It is an outdated requirement. These files are not segregated on JIS. 2008: Per DMCMA: Refer this to DMCJA.
(276) QS	Wilson Report (1997)	F-3 3. OAC, in conjunction with the Records Management Advisory Committee, should develop comprehensive exhibit inventory and control procedures, including the handling, marking, storage, and release of exhibits. 2008: Per DMCMA: Both (276) and (277) will be included in the DMCMA education curriculum and will be consistent with the procedures established by the Records Management Advisory Committee.	COMPLETED	
(277) QS	Wilson Report (1997)	F-3 4. DMCJA and DMCMA should include in their training curriculum, sessions involving the handling, marking, storage, and release of exhibits, consistent with procedures established by the Records Management Advisory Committee and proposed GR 19.	COMPLETED	
(278) QS, ASF	Wilson Report (1997)	F-4 1. DMCJA should propose legislation that would require counties and cities to provide local courts with Supreme Court Rules, RCWs, and current copies of local ordinances.	COMPLETED	
(282) EDT	Wilson Report (1997)	F-4 5. The Supreme Court should adopt a rule requiring minimum continuing education requirements for judicial officers.	COMPLETED	
(283) EDT	Wilson Report (1997)	F-4 6. OAC, in conjunction with the Minority and Justice and Gender and Justice Commissions, should distribute a model cultural diversity policy for implementation by the CLJ.	COMPLETED	

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No.	Source	Recommendation	Status	Notes
(288) ATJ, EDT	Wilson Report (1997)	G-1 2. OAC should maintain a list of ADA standards and acceptable accommodations applicable to CLJ and create a resource information database of existing ADA accommodations.	COMPLETED	
(290) QS, \$	Wilson Report (1997)	H-1 1. OAC, DMCJA, DMCMA, and MCA, should define which probation type functions can be performed by court staff as opposed to professional probation department counselors.	COMPLETED	
(290)(a) QS, EDT	Wilson Report (1997)	H-1 2. DMCJA, DMCMA, and MCA should set minimum training and educational qualification requirements for professional probation counselors and establish appropriate job descriptions.	COMPLETED	
(291) ATJ, \$	Wilson Report (1997)	H-1 3. DMCJA, DMCMA, and MCA should draft legislation to establish maximum fees to be charged for each probation type function.	COMPLETED	
(292)(a) PTC	DMCJA proposed new probation issue (1999)	Should OAC propose legislation in reaction to recent Supreme Court cases that have extended civil liability to municipal and county probation officers for negligent supervision? The legislation would grant immunity or limited liability, i.e., only to cases of gross negligence.	COMPLETED	
(293) CIP	Wilson Report (1997)	I-1 1. DMCJA should draft legislation to amend RCW 2.04.110 to require that all judicial officers wear black robes.	COMPLETED	
(307) PTC, QS	Wilson Report (1997)	J-5 2. DMCJA and DMCMA should develop a model questionnaire for the use of judges and managers to obtain the opinions of other governmental agencies and individuals regarding local court operations.	COMPLETED	
Washington State Jury Commission (2000)				
The BJA asked the Commission to "conduct a broad inquiry into the jury system and examine issues including... juror responsiveness, citizen satisfaction from jury service, adequacy of juror reimbursement, and improving juror participation in trials." This was based on Washington courts reporting that it had become more and more difficult to find prospective jurors. The Commission wanted to look for ways to encourage more participation from the citizenry.				
(314). ATJ, \$	Jury Commission (2000)	3 The format of the addresses in the jury source list databases should be standardized before the databases are combined. The correct county code should be assigned to the licensing data.	COMPLETED	
(321) ATJ	Jury Commission (2000)	10 In order to promote broad citizen participation and to send a message that courts respect the time commitments of citizens, a state-wide policy should be established to enforce and strictly limit the granting of jury excuses while liberally granting requests for postponement.	COMPLETED	
(329) ATJ	Jury Commission (2000)	18 Judges should have discretion to balance a party's interest or right to know any particular information about a juror with the juror's privacy interest. Judges must exercise discretion to balance jurors' privacy interests with those of the general public.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(338) QS	Jury Commission (2000)	27 In both civil and criminal cases, after the jury is impaneled, the judge should instruct the jurors as to the basic elements of the claims, charges, and defenses. The judge must inform the jurors that the instructions are preliminary only and that their deliberations must be governed by the final instructions.	COMPLETED	
(340) QS	Jury Commission (2000)	29 Court rules should be amended to allow jurors to take notes in every case, regard-less of the length or complexity of the trial. Jurors should be permitted to review their own notes in the jury room during recesses.	COMPLETED	
(344) QS	Jury Commission (2000)	33 In every case, jurors should be permitted to submit written clarifying questions to witnesses, subject to careful judicial supervision. The decision of whether to permit a question rests with the judge, although counsel retain the right to object to the scope or content of any specific question. Jurors are not permitted to ask oral questions. The rules of civil procedure and criminal procedure should be amended accordingly.	COMPLETED (Partial Rejection)	
(348) QS	Jury Commission (2000)	37 Washington's Pattern Jury Instructions should provide jurors with suggested deliberation procedures. The suggested procedures should include selecting a presiding juror, organizing the discussion, encouraging full participation by all jurors, handling disagreements, and taking votes.	COMPLETED	
(349) QS	Jury Commission (2000)	38 Trial judges should make every effort to respond fully and fairly to questions from deliberating jurors. Judges should not merely refer them to the instructions without further comment or tell them to rely upon their memories of the evidence. In doing so, judges should be careful not to pressure the jury or state or imply any view of the case's merits.	COMPLETED	
(350) QS	Jury Commission (2000)	39 The final jury instructions should explain the procedures for requesting clarification of instructions. The judge should advise the jury to submit any questions about instructions in writing to the bailiff.	COMPLETED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(351) QS	Jury Commission (2000)	40 When a jury question arises during deliberations regarding the evidence, the judge should notify the parties or their counsel of the question. The judge should read the question and solicit comments regarding the appropriate response. The response and any objections to it should be made a part of the record. This process should be mandated by court rule. The judge should, after consulting with the parties or counsel, respond to all jury questions, even if the response is no more than a directive to rely upon their memories of the evidence. The court may allow the jury to review evidence (e.g., replaying audio or video tapes) if such review is not unfairly prejudicial to either party. The court may grant a jury's request to rehear or replay trial testimony, but should do so in a way that is least likely to constitute a comment on the evidence and that minimizes the possibility that jurors will give undue weight to the selected testimony.	COMPLETED	
(352) QS	Jury Commission (2000)	41 When deliberating jurors in a civil case report that they cannot reach a verdict, the judge should take additional steps after confirming that the jury is, in fact, deadlocked. The judge should invite the jury to state, in writing, the points of law or evidence upon which it cannot agree and desires help. The judge should discuss the jury's response with counsel before deciding how to proceed. The judge can provide additional instructions, permit additional closing arguments, reread or replay testimony, reopen the trial for more evidence, or allow a combination of these. In communicating with jurors, the judge must avoid any appearance of coercing a verdict.	COMPLETED	

Ongoing/Goal/Active-Pending
Recommendations

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
Judicial Administration Commission (1985)				
Purpose: To evaluate the existing structure of Washington's judicial system, the jurisdiction of each level of courts, and the existing means of administering and financing the state's courts and related court services, including probation, family court, court reporting and juvenile services. (This was at a time when then Senator Talmadge was pursuing the unification of the courts.)				
(4) ASF	JAC (1985)	The state should assume 100 percent of the salaries and benefits of all superior court commissioners and court administrators by the 1987-89 biennium.	GOAL	See (3), (25).
(6) ATJ, ASF	JAC (1985)	The state should support partial funding of the delivery of indigent criminal defense services, administered by a state public defender chosen by the supreme court. (Appellate and pilot project for dependencies)	ACTIVE PENDING	HB 1542 (2005 Session). \$3,000,000 funding.
(10) JI, ASF	JAC (1985)	3. The legislature should eliminate restrictions on the number of days a retired judge of a court of record may serve as a pro tem judge in the court of appeals.	GOAL	Court of Appeals does wish to pursue this.
Judicial Council Task Force on Courts of Limited Jurisdiction (1988)				
Four members of the Legislature (including Senator Talmadge) requested that the Judicial Council study the effects on the administration of justice of consolidating the district and municipal courts into a single level court of limited jurisdiction. The following issues were to be addressed: (1) The extent the duplication of CLJ services, such as jury management, probation, and case management services can be reduced or eliminated. (2) The level of consistency achievable through the application of uniform limited court rules and statutes. (3) Responsibility for court facilities and equipment. (4) District court locations and public accessibility to the courts. (5) A determination of the number of judges and support staff needed for consolidation. (6) An examination of the need for multi-county districts to achieve full-time courts. (7) The state assumption or partial assumption of district court judicial salaries and the financial impact of consolidation of the state, counties, and municipalities. (8) The authority for appointment of judges. (9) Distribution of revenue resulting from violations of ordinances. (10) The role of city traffic violation bureaus. (11) The impact on ancillary agencies such as law enforcement, prosecution and defense. (12) An examination of concurrent jurisdiction between district and superior courts.				
(21) JI, \$	CLJ TF (1988)	Part-time district court districts should be combined to create full-time judicial positions wherever possible.	GOAL	
(22) QS	CLJ TF (1988)	Court would be conducted in any contracting municipality, where a proper facility is provided.	ONGOING	
(25) JI, ASF	CLJ TF (1988)	The state would pay one-half of the salary and all of the benefits of district court judges from the general fund. If a municipality elected to retain an independent municipal court, the municipality would be responsible for paying the judge's salary and benefits.	GOAL	SB 5454 included partial funding. Municipalities can participate if judge is elected. See (3-4).
Commission on Washington Trial Courts (1990)				
Purpose: "The Gates Commission" undertook a comprehensive examination of trial court reform. The final report noted, "The hard truth is that the justice system, civil and criminal, cannot deliver the results citizens desire without adequate support and organization, neither of which presently exists. Moreover, the primary reason why they do not exist is that funding and other decisions are made without taking into account the interdependent nature of the parts of the judicial system."				
(28) PTC, ASF, QS	Comm. On Wa. Trial Courts (1990)	The superior courts should have adequate facilities for normal operations, and should have an adequate level of security within those facilities.	GOAL	See (33), (183), (294-297).

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(29) ATJ, ASF, QS	Comm. On Wa. Trial Courts (1990)	The superior courts should have adequate personnel, and should be able to offer an adequate level of services to the public, including pro se litigants.	GOAL	
(33) PTC, ASF	Comm. On Wa. Trial Courts (1990)	The Commission urges the legislature to appropriate funds in the upcoming biennial budget, as requested by the Supreme Court, for a thorough statewide evaluation by the OAC of all court facilities, emphasizing security needs, and development of an implementation plan for improving security in the court system.	ONGOING (and Best Practice)	See (28), (183), (294-297).
(35) ATJ, QS, PTC	Comm. On Wa. Trial Courts (1990)	The Commission recommends that the Supreme Court require, and state and local legislative bodies fund, community supervision and probation services in the courts of limited jurisdiction, so that such services will be available in all courts for all defendants who need them.	ONGOING	2008: Per BJA: BJA Long-range Planning Committee to continue to develop this recommendation and that it be broadened to include probation services for all courts.
(37) ATJ, PTC	Comm. On Wa. Trial Courts (1990)	The Commission supports the goals of the Gender and Justice Task Force and the Minority and Justice Task Force. The Commission believes that the courts should continue to work towards eliminating even the appearance of bias in the courts on the basis of gender or race.	GOAL	
(38) ATJ, PTC	Comm. On Wa. Trial Courts (1990)	The Supreme Court should publish local rules, either as a part of the official court rules, or in a companion volume. The Supreme Court should develop a set of model local rules designed to alleviate court congestion and delay, for adoption in whole or in part by counties that need them.	ONGOING (and Best Practice)	Local rules published by West. Should a model rule be pursued? WSBA had a task force in 2006?
(47) ATJ, QS	Comm. On Wa. Trial Courts (1990)	A central repository for judgments should be established, so that district court judgments would be indexed and available in the same location as superior court judgments.	GOAL	Will this be part of the new JIS?
(56) ATJ, QS, \$	Comm. On Wa. Trial Courts (1990)	The Commission recommends an evaluation of special trial departments as a means of alleviating court congestion and delay.	ONGOING ACTIVITY	Does this need a formal evaluation? See (31), (57-58), (106), (110), (135-138), (180), (194), (196), (201-203).
(57) ATJ, QS, \$	Comm. On Wa. Trial Courts (1990)	The Commission recommends an evaluation of individual calendars as a means of alleviating court congestion and delay.	ONGOING ACTIVITY	See (31), (56-58), (106), (110), (135-138), (180), (194), (196), (201-203).
(58) ATJ, QS, \$	Comm. On Wa. Trial Courts (1990)	The Commission recommends an evaluation of individual case schedules as a means of alleviating court congestion and delay.	ONGOING ACTIVITY	See (31), (56-57), (106), (110), (135-138), (180), (194), (196), (201-203).
(59) ATJ, ADR, \$	Comm. On Wa. Trial Courts (1990)	The Commission recommends and encourages mediation as a means of achieving more settlements in civil cases. The Commission does not recommend mandatory mediation for all cases, but it does recommend that counties be given authority to require mediation in any or all cases.	ONGOING ACTIVITY	Done by local rules? By case type?
(60) ATJ, ADR, \$	Comm. On Wa. Trial Courts (1990)	The Commission encourages the exploration of nontraditional procedures, such as mini-trials, as a means of alleviating court congestion and delay.	GOAL	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(62) ATJ	Comm. On Wa. Trial Courts (1990)	The Commission recommends a thorough review of the Sentencing Reform Act to determine whether the SRA has achieved its goal of equal treatment for all offenders, and to determine whether the SRA contributes to court congestion and delay. The review should be performed by a neutral organization; i.e., an organization independent of the Sentencing Guidelines Commission (SGC) and others having a direct interest in the administration of the SRA. (This is a project the SGC is currently undertaking.)	ONGOING ACTIVITY	
(64) ATJ	Comm. On Wa. Trial Courts (1990)	The Commission urges all organizations, including the legislature, to view the courts as just one part of a larger system of justice that also includes law enforcement, prosecutors, defense counsel, the jails, and related support services. Changes in one part of the system should not be made without first assessing the effects of those changes upon other parts of the system.	GOAL	
(67) QS, \$	Comm. On Wa. Trial Courts (1990)	The Commission encourages the exploration of nontraditional procedures for recording court proceedings, including the use of videotape and other electronic devices.	ONGOING	
Walsh Commission (1996)				
Purpose: To make recommendations regarding judicial elections.				
(73) PTC	Walsh Comm. (1996)	Judges shall be selected either by appointment from recommendations made by nominating commissions or by contested elections.	FIRST PART REJECTED. ONGOING	All judges should be elected. (See (9), (20), (168), (173-174), (186).
(75) PTC	Walsh Comm. (1996)	A process for collecting and publishing information about judicial performance shall be created under the authority of the Supreme Court.	ONGOING	The Commission, after reviewing work by previous committees and nationwide, recommended that a tool for evaluating candidates should be available for the electorate. Probably no formal vote, but this was not supported by the Associations. AJS (Washington Chapter) has current committee trying for make this happen. They have proposed a draft rule (GR 33, 7/24/2006) which they hope to present to the BJA after obtaining input from the SCJA and DMCJA. WA Supreme Court has told AJS that it would be an inappropriate role for the court to be the "owner" of an evaluation, and is not involved in the project.
Commission on Justice, Efficiency and Accountability (1999)				
Purpose: An effort to equip judges with the tools to manage our courts. "Judges should be the architects of a court system..."				
(85) CIP, QS	JEA Comm. (1999)	Other committees such as Civil Process, Domestic Relations or Jury Improvement should be convened on an "as needed" basis.	ONGOING	
(86) CIP	JEA Comm. (1999)	The chair, with the concurrence of the co-chair, shall nominate for the Board's approval the members and chairs of the various Board committees. Committee membership should be open to citizens and experts from the private sector.	ONGOING	
(95) ATJ, QS, EDT	JEA Comm. (1999)	The Board for Judicial Administration should develop an education program for judges and courts on the usage of court performance standards to improve court operations.	ONGOING	See (16-17), (34), (94), (109), (188), (289), (300).

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(97) ATJ, QS	JEA Comm. (1999)	The Board for Judicial Administration standing committee on Core Mission/Best Practices should conduct a more comprehensive study of the core and non-core functions of the courts.	ONGOING	Some of this was done by the CFTF Problem Definition Committee
(98) ATJ, QS	JEA Comm. (1999)	The standing committee shall conduct an evaluation of the core mission of courts on an annual basis and report its findings to the Board for Judicial Administration.	ONGOING	
(99) ASF	JEA Comm. (1999)	The Board for Judicial Administration shall assume the responsibility for assessing the adequacy of resources that are available to the Washington State Court system to fulfill its mission.	ONGOING	
(100) ATJ, QS, ASF	JEA Comm. (1999)	The assessment of resources required for the Washington State Court system must involve an ongoing assessment of the core mission and best practices used by courts.	ONGOING	
(101) ASF	JEA Comm. (1999)	The Board for Judicial Administration should develop an overall funding strategy for the judiciary, consistent with the long-range plan including consideration of Initiative 62.	ONGOING	
(102) ASF	JEA Comm. (1999)	The Board for Judicial Administration should evaluate the desirability of the state assuming greater responsibility for funding mandated judicial services.	ONGOING	
Project 2001 (2001)				
Purposes: Under the auspices of the BJA, the Project 2001 Committee was asked to take some initiative for self-examination...to achieve efficiencies, availability of justice, cost-savings if possible, and to otherwise modernize the judiciary".				
(103) QS, \$	Project 2001 (2001)	1.1 Cooperation, Coordination and Collaboration among the Trial Courts: All of the trial courts in each jurisdiction should develop a comprehensive system of cooperation, coordination and collaboration as recommended below. The BJA should, by resolution and other appropriate action, promote the establishment of a broadly based trial court coordination council in each jurisdiction, composed of trial court judges, clerks, court administrators, lawyers, citizens, and other local officials, to work toward maximum utilization of judicial and other court resources by first developing and then implementing a comprehensive trial court coordination plan. Presiding judge and court managers working with trial court coordinating councils and others should actively collaborate with court leaders and others in their jurisdiction to minimize duplication of services and maximize court resources -- both judicial and administrative. The BJA should establish criteria for the award of funding to trial court jurisdictions for developing and implementing a trial court coordination plan.	ONGOING	GR 29 adopted 2002. TCCC grants continue. See BJA LRP (185).

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(104) ASF	Project 2001 (2001)	1.2 BJA, working in collaboration with the other branches of government, both state and local, and with trial court judges, clerks, court administrators, lawyers, citizens, and other state and local officials, should initiate a request to the Legislature to establish a funding mechanism to support trial court coordination activities. Such mechanism should be in the form of a budget note (rather than legislation) to be administered by the Office of the Administrator for the Courts at the direction of the Board for Judicial Administration, to cover expenses associated with action by the trial courts in a jurisdiction to coordinate judicial and other court resources and services. The BJA should establish criteria for the award for funding to trial court jurisdictions for developing and implementing a trial court coordination plan.	ONGOING	Impetus: In response to Justice Talmadge's attempt to unify courts. This recommendation was an attempt to encourage trial courts and local justice partners to collaborate/cooperate. Pursue funding with legislature?
(106) ADR, QS	Project 2001 (2001)	1.4 Courts should coordinate, where possible, the scheduling and management of cases that need an integrated disposition, e.g. family/domestic, drug, mental health cases. The BJA should adopt the resolution from the Conference of Chief Justices and Conference of State Court Administrators in support of problem-solving courts.	ONGOING	Impetus: To encourage problem solving courts. See (31), (56-58), (110), (135-138), (180), (194), (196), (201-203).
(108) ATJ, QS	Project 2001 (2001)	1.6 The Board for Judicial Administration should study the current statutory provisions allowing multiple districts for district court within a single county. The study should determine for district courts which structure is more effective and efficient; multiple districts within a county or a single district.	ONGOING	Impetus: 14 counties have two or more district courts. This recommendation was aimed at discouraging that practice where part-time judges were used. Considered by CFTF CLJ Workgroup? See BJA LRP (190).
(112) QS, EDT	Project 2001 (2001)	3.2 The BJA's newly created Best Practices Committee should act as a clearinghouse to promote best practices and innovative ideas among all trial courts.	ONGOING	
(116) QS	Project 2001 (2001)	6.1 Enforcement and Payment of Judgments and Warrants: Electronic access for payment of court-ordered fines and penalties should be pursued as a priority of JIS. "One-stop shopping", or universal cashiering, as it is often called, should include the ability of a court to receipt a payment ordered by another court using the JIS.	ONGOING	Impetus: To allow payment of fines and penalties in any court. A statewide protocol would be necessary to determine what gets paid first (not necessarily local fines). New JIS functional requirement?
(118) ADR, QS	Project 2001 (2001)	6.3 Courts of limited jurisdiction are encouraged to establish community license reinstatement programs, with voluntary participation by individual jurisdictions. The Office of the Administrator for the Courts should serve as a repository for information, and provide guidance and assistance to jurisdictions in developing programs.	ONGOING	
(119) ATJ	Project 2001 (2001)	6.4 The Board for Judicial Administration should study whether all legal financial obligations (LFO) except restitution, fines and crime victim assessments should be decriminalized and all other LFOs should be treated as a civil judgment.	ONGOING	Impetus: An offender could go to jail on a probation violation if you had complied with all sentencing requirements except paying some costs. See BJA LRP (191).

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(123) QS, EDT	Project 2001 (2001)	8.1 The Board for Judicial Administration should recommend a plan for the development of training curricula and continuing education for all professionals who work with parents and children in dissolution, legal separation and parentage cases. These include, but are not limited to, judges, attorneys, courthouse facilitators, guardians ad litem, parenting evaluators, parenting class instructors, mediators, and arbitrators.	ONGOING	WSSC adopted GR 27, which established an oversight committee for courthouse facilitators. The committee has developed a comprehensive training curriculum for facilitators and sponsors two in-person trainings each year (one in conjunction with the Access to Justice Conference). Court Improvement Program (CIP) and SCJA/FJLC developed the "Juvenile Justice, Family Law and Judicial Leadership Curriculum," which can be offered in 1-5 day modules. A 4-day module was delivered at Semiahmoo spring 2003; with 1-day modules in 2004 & 2005. Participation has been underwhelming and use of the curriculum in the future is questionable. CIP and the Commission on Children in Foster Care are exploring development of a Judicial Academy with one or more of the law schools and schools of social work. Cross-training with judicial officers, social workers and attorneys would be offered, as well as training exclusively for judicial officers. Children's Justice Conference is providing a full legal track in 2007, in cooperation with the Commission on Judicial Conduct, CIP and Steve Hassett, AAG, offering judicial ethics, psychological evaluations practice and the new child neglect legislation. SCJA Spring Conference offers a session on foster children's education stability in 2005. Not aware of specific training for parenting evaluators and in fact they may not be widely used. (Janet S waiting for some clarification on that.) Title 26 GAL curriculum has just been updated; the new version will go into effect January 1, 2007. Dispute resolution centers across the state (community-based DRCs, not the high-priced JAMS-type) have extensive trainings for their prospective mediators. Although judicial officers or other court personnel may serve on the DRC boards, Janet S not aware of any court-sponsored training events that have targeted DRC's statewide. Ditto arbitrators. See (66), (129-130), (193), (207).
(124) QS, \$	Project 2001 (2001)	8.2 Emancipation of minor petitions should be filed and heard as juvenile court actions. RCW 13.64.040 should be amended to clarify that any judicial officer, including commissioners, may hear these matters. See draft of legislation at Appendix O of report.	ONGOING	Impetus: Juvenile court personnel are likely to be in the best position to evaluate the social circumstances of a juvenile wishing to become emancipated. Some jurisdictions hear these in juvenile court, but statute should clearly allow for practice. SB 5392 was passed (Ch. 161, L2001; RCW 13.64.040), providing that emancipation petitions are heard by a judicial officer, defined as (a) a judge; (b) a superior court commissioner of a unified family court if the county operates a unified family court; or (c) any superior court commissioner if the county does not operate a unified family court.
(127) ADR, QS	Project 2001 (2001)	8.5 The Domestic Relations Committee of the Board for Judicial Administration should monitor the King County Bar Association Early Mediation Pilot Project.	ONGOING	Goal of project is early intervention to capture agreement on temporary order issues when possible. The only part of the DRC (which was originally Justice Guy's Domestic Relations Commission) still active is the GR 27 Courthouse Facilitator Advisory Committee, staffed by Shirley Bondon. The UFC Workgroup is now under the Commission on Children in Foster Care. Emphasis on mediation is one of the five unified family court principles adopted as best practices by BJA March 18, 2005.

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(128) ATJ, ASF	Project 2001 (2001)	9.1 The Washington Legislature should amend RCW 2.56.030, which generally sets forth the powers and duties of the administrator for the courts, to add a new section that would generally provide that the Office of the Administrator for the Courts, in consultation with the Washington State Bar Association and the Access to Justice Board, shall periodically undertake an assessment of the unmet civil legal needs of low income people in the state, including the needs of persons who experience disparate access barriers to the courts, and develop a funding plan to meet the civil legal needs of such persons.	ONGOING	Bill failed in 2001. Supreme Court established Civil Legal Needs Task Force. Study Complete. OCLA funded. See BJA LRP (206).
(129) QS, PTC, EDT	Project 2001 (2001)	9.2 The Supreme Court should adopt a court rule that establishes qualification and training requirements for facilitators to be administered by the Office of the Administrator for the Courts, defines the basic services provided by family law courthouse facilitators, authorizes facilitators to provide those services, and provides that no attorney-client relationship is created between a facilitator and the user of the facilitator services.	ONGOING	WA Bar Practice of Law Board's legal technician rule has not yet been adopted. It is the rule that was contemplated in GR 24 (b)(2). GR 27 re facilitators was adopted September 1, 2002. It is the rule that was contemplated in GR 24 (b)(2). See (66), (123), (130), (193), (207).
(130) QS, EDT	Project 2001 (2001)	9.3 The BJA should study and determine if family law courthouse facilitator programs should be implemented in other areas of law that have a significant pro se presence, such as stepparent adoptions, landlord/tenant, and probate/guardianship.	ONGOING	See BJA LRP (193). Courthouse facilitator programs in family law could serve as a model for programs in other areas of the law. See (66), (123), (129), (193), (207).
(132) QS	Project 2001 (2001)	11.1 Pattern forms should be produced in plain English format. Forms should be available in the most common software programs, and should incorporate clear, user-friendly instructions.	ONGOING	See (133), (204-205), (214), (254), (257), (271).
(135) QS	Project 2001 (2001)	13.1 Reports similar to those available to the Superior Courts for Caseload Management should be made available to District Court and Municipal judges and administrators and Project 2001 should give its support to the Courts of Limited Jurisdiction Case Management project.	ONGOING	JIS CMS functional requirement? See (31), (58), (106), (110), (136-138), (180), (194), (196), (201-203).

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(136) QS, EDT	Project 2001 (2001)	13.2 The OAC should establish an ongoing committee to address improvement of Caseflow Management reports for the Superior Court, creation of an effective set of Caseflow Management reports for the District and Municipal Courts, and the development and dissemination of approaches to Individual Case Management including using existing SCOMIS (Superior Court Management Information System) data to create reports appropriate to effectively manage a judge's assigned caseload and individual cases themselves. That committee should also develop a training curriculum and work with the Superior Court Judges' Association and the District and Municipal Court Judges' Association to provide judicial education on the effective and efficient management of cases and caseloads.	ONGOING	Core CMS functional requirement? See (31), (58), (106), (110), (135-138), (180), (194), (196), (201-203).
(137) QS	Project 2001 (2001)	13.3 To promote and enhance efficiency and accountability, the OAC should provide and publish reports by which judges measure their efficiency in management of cases across the entire spectrum of cases for which that court has responsibility.	GOAL Courts	CLJ Impetus: Judges do not have published reports for all case types they hear. Therefore, the entire spectrum of their workload is not reflected. Core CMS? See (31), (58), (106), (110), (135-138), (180), (194), (196), (201-203).
(138) ATJ, QS	Project 2001 (2001)	13.4 BJA should establish a workgroup to study the discovery rules in the trial courts, with the goal of achieving effective and efficient case management.	ONGOING	Impetus: Move cases more quickly. See (31), (58), (106), (110), (135-137), (180), (194), (196), (201-203).
Court Funding Task Force (2004)				
Purpose: Develop and implement a plan to achieve adequate, stable and long-term funding of Washington's trial courts to provide equal justice throughout the state.				
(153) ASF	CFTF (2004)	AOC to report annually, in consultation with County Clerks and DMCMA, to the Supreme Court and Board for Judicial Administration recommending any adjustment to fees.	ONGOING	Rejected as to form, adopted in principle. AOC to complete. See (13-14), (65), (152), (159).
(156) ASF	CFTF (2004)	Establish a Trial Court Funding Implementation Committee consisting of the BJA executive committee and a select group of Court Funding Task Force (CFTF) members with authority to make decisions regarding proposed legislation resulting from the work of the Task Force.	COMPLETED/ ONGOING	
(157) ASF	CFTF (2004)	Seek legislative action to implement the recommendations of the CFTF report.	ONGOING	
(158) ATJ, ASF	CFTF (2004)	Seek legislative action to implement the recommendations in the report of the Supreme Court Task Force on Civil Equal Justice Funding.	ONGOING	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(159) ASF, \$	CFTF (2004)	<p>The following suggestions related to the Public Safety and Education Account (PSEA) should be further reviewed:</p> <p>(a) Repeal RCW 46.63.110(3) which prescribes that the Supreme Court establishes the traffic infraction penalty schedule and eliminate all legislative assessments on traffic penalties. (DMCJA looking at.)</p> <p>(b) Develop a penalty classification schedule similar to civil infractions under Title 7 RCW.</p> <p>(c) Adjust the state/local "PSEA division" on a "no-harm" basis to account for the elimination of the several legislative assessments and to establish a simple, single, uniform division of funds between state and local government.</p> <p>(d) Recreate the JIS account fee not as a portion of the traffic infraction penalty, but as a user fee on all court transactions—filing fees, traffic infractions, conviction of misdemeanor or felony. The fee would then fund both maintenance and new development and would remove JIS from the PSEA account entirely.</p>	ONGOING (and Rejected) Parts a, b and d.	<p>The PSEA Work Group, a sub-committee of the Court Funding Implementation Committee (CFIC) was charged with examining these issues. The committee conducted their review and reported to the BJA. This will be addressed again at a future date.</p> <p>(a) Supreme Court Sets Traffic Infraction Penalty Schedule: The work group recommends that RCW 46.63.110(3) should not be repealed and that the Supreme Court retain the right to set infraction penalties.</p> <p>(a) and (c) Legislative Assessments: Given the recent changes to PSEA as a result of the court funding bill, it was decided that the timing was not appropriate to suggest any further changes.</p> <p>(b) Traffic Infraction Penalty Classification: Current penalties were examined to determine how many classes might be required, and at what penalty level, in order to make this adjustment on a no-harm basis. Preliminary research and analysis suggested that traffic infraction penalties could be organized into between 12 and 15 different penalty classes (down from the current 31). The work group recommend to CFIC that a traffic infraction penalty classification schedule should not be undertaken at this time because of the project scope and size and implementation politics issues. Given the scope of current JIS projects, it would not be feasible to undertake another project of this complexity at this time.</p> <p>(d) Judicial Information Systems (JIS) User Fee: The political issues surrounding a change to the JIS fee are similar to those already discussed.</p> <p>The new JIS Roadmap will rely heavily on JIS funds, and any change to the JIS fee structure at this time could adversely dilute the focus on the Roadmap. The work group recommend that no changes be made to the JIS fee structure at this time.</p> <p>See CFTF (153). See (13-14), (65), (152-153).</p>
(161) \$	CFTF (2004)	<p>Convene a separate work group comprised of judges, court administrators, and local government finance officers to:</p> <ul style="list-style-type: none"> - Assess if and how all indigent defense services costs contained in court budgets can be removed from court budgets and established in a separate budget within the county or municipality. - Review other cost areas within court budgets to determine the desirability and feasibility of establishing a limited chart of accounts for recommended use by all trial courts for specific cost areas (e.g. language interpreters, guardians' ad litem, probation services). - Assess the desirability and feasibility of creating an annual fiscal reporting process and report on trial court funding in Washington State administered by AOC. 	ONGOING	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(168) ATJ, QS, JI, \$	CFTF (2004)	In the long-term, courts of limited jurisdiction (CLJ) should be reorganized into regional courts funded by the state. Regional courts would: - have jurisdiction over all applicable state laws, county and city ordinances, and causes of action as authorized by the legislature. - be in convenient locations. - operate full-time. - have elected judges. - offer predictable, recognized levels of service, including probation.	ONGOING	See (9), (20), (73), (173-174), (186).
(169) ATJ, QS, JI, \$	CFTF (2004)	Clarify the statutory court options and encourage regionalization of CLJ.	ONGOING	
(170) JI	CFTF (2004)	All statutory provisions relating to the structure, governance and operation of the courts of limited jurisdiction should be contained in Title 3.	ONGOING	
(171) ATJ, QS, JI, \$	CFTF (2004)	Update current provisions in Title 3 authorizing cities to contract with other cities to provide joint court services by interlocal agreement.	ONGOING	
(172) ATJ, QS, JI, \$	CFTF (2004)	Create a new section in Title 3 authorizing cities to contract with other cities to form regional municipal courts with elected judges.	ONGOING	
(173) JI	CFTF (2004)	Elect judges at all levels of court to promote accountability and the independence of the judiciary, including part-time judges.	ONGOING	See (9), (20), (73), (168), (174), (186).
(175) JI, CIP	CFTF (2004)	Amend Title 3 to emphasize a collaborative regional approach to the provision of court services by expanding the role and membership of the districting committee.	ONGOING	
(176) ATJ, QS	CFTF (2004)	Require each CLJ to provide court services to the public on a regularly scheduled basis at established hours posted with AOC.	ONGOING	See (211).
(177) ATJ, QS	CFTF (2004)	Authorize municipal courts to hear anti-harassment protection petitions.	ONGOING	
(178) ATJ, QS	CFTF (2004)	Require CLJ to timely hear domestic violence protection orders or have clear, concise procedures to refer victims to courts where the service is available.	ONGOING	
(181) PTC, ASF	CFTF (2004)	Engage in regular communication with the other branches of government, as well as with the bar, the business and civic communities, and the public concerning the administration of justice and its costs.	ONGOING	
(182) PTC, ASF	CFTF (2004)	Establish broad-based advisory bodies comprised of laypersons, lawyers and representatives of all branches of government to help courts secure the funding necessary for the delivery of judicial services.	ONGOING	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
BJA Long-range Planning Committee (2002)				
Purpose: Long-range planning for the judiciary. The Committee has drawn extensively from issues previously identified by the individual judicial associations, commissions and committees. The Committee identified four areas of concern to the judiciary: (1) Adequate Judicial Resources. (2) Independence of the Judiciary. (3) Improved Caseload Management. (4) Adequate Access to Justice.				
(183) PTC, ASF	BJA LRP (2002)	The BJA should recommend methods of providing courts adequate funding and resources to include staff and facilities that meet the ADA and security standards. Additionally, it should evaluate the trend towards fee justice.	ONGOING	CFTF facilities excluded. See (28), (33), (284-297).
(185) QS, \$	BJA LRP (2002)	All trial courts in each jurisdiction should develop a comprehensive system of cooperation, coordination and collaboration. BJA, working in collaboration with the other branches of government, should initiate a request to the legislature to establish a funding mechanism to support trial court coordination activities.	ONGOING (and Best Practice)	Project 2001 rec 1.1 and 1.2. GR 29 adopted. TCCC projects grants continue. See (103).
(186) JI	BJA LRP (2002)	Election of all Judges at every level of court.	ONGOING	CFTF CLJ Work Group. See (9), (20), (73), (168), (173-174).
(187) ATJ	BJA LRP (2002)	The BJA should study and make recommendations in order to establish uniform methods throughout all levels of trial courts for the appointment of court appointed counsel in criminal cases.	ONGOING	WSBA Panel on Indigent Defense
(188) ATJ, QS	BJA LRP (2002)	The BJA should develop minimum court standards for processes, judges, facilities and staffing. Based on these independent standards, AOC should conduct court performance audits. The use of these standards as minimum standards for court certification should be studied.	ONGOING	See (16-17), (34), (94-95), (109), (289), (300).
(190) ATJ, QS	BJA LRP (2002)	The AOC will present a study to the BJA for short-term action regarding the current statutory provisions allowing multiple districts for district court within a single county.	GOAL	Impetus: 14 counties have two or more district courts. This recommendation was aimed at discouraging that practice where part-time judges were used. Project 2001 rec 1.6. Considered by CFTF CLJ Workgroup? See (108).
(191) ATJ	BJA LRP (2002)	The BJA should ask the associations to determine if all LFOs in criminal cases, except those related to restitution, should be decriminalized.	ONGOING	Impetus: An offender could go to jail on a probation violation if you had complied with all sentencing requirements except paying some costs. Project 2001 rec 6.4. See (119).
(193) QS, EDT	BJA LRP (2002)	The BJA should request the ATJ and Practice of Law Boards to study and determine if courthouse facilitator programs should be implemented in other areas of law that have a significant pro se presence, such as step-parent adoptions, landlord/tenant and probate/guardianship.	ONGOING	
(201) QS	BJA LRP (2002)	Reports similar to those available to the superior courts for case flow management should be prepared and made available to CLJ judges and administrators. Project 2001 should give its support to the CLJ case management project.	ONGOING	Core CMS functional requirement. See (31), (56-58), (106), (110), (135-138), (180), (194), (196), (202-203).

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(202) QS, EDT	BJA LRP (2002)	The AOC should establish an ongoing committee to address improvement and creation of case flow management reports. That committee should also develop a training curriculum and work with SCJA and the DMCJA to provide judicial education on the effective and efficient management of cases across the entire spectrum of cases for which that court has responsibility.	ONGOING	Project 2001 rec 13.2. Core CMS. See (31), (56-58), (106), (110), (135-138), (180), (194), (196), (201-203).
(203) QS	BJA LRP (2002)	To promote and enhance efficiency and accountability, the AOC should provide and publish reports by which judges measure their efficiency in management of cases across the entire spectrum of cases for which that court has responsibility.	GOAL Courts	CLJ Impetus: Judges do not have published reports for all case types they hear. Therefore, the entire spectrum of their workload is not reflected. Core CMS? Project 2001 rec 13.3. See (31), (56-58), (106), (110), (135-138), (180), (194), (196), (201-202).
(204) ATJ, QS	BJA LRP (2002)	AOC will provide on the Internet website fill-and-print PDF versions of all (approximately 300) pattern forms. We will continue to maintain Word document versions of these forms. Fill-and-print forms are expected to be useful for both attorneys and pro se litigants. We will either purchase these PDF forms from a vendor or use PDF software to create them ourselves. To the extent that resources are available we will include edits in these forms. Also, to the extent practicable we will enable these forms for future electronic filing.	ONGOING	Impetus: Make forms more accessible via web, send electronically to courts. See (132-133), (204-205), (214), (254), (257), (271).
(205) ATJ, QS	BJA LRP (2002)	Question & Answer forms application, a.k.a. "Turbo-Tax." We will add applications to our Internet website that will allow pro se litigants to use a question and answer process to fill out and print at least 20 ready to file forms. These will include forms for domestic relations cases and possibly for non-parental custody and paternity cases. These applications will be similar to the existing domestic violence forms application. To the extent practicable we will enable these forms for future electronic filing.	ONGOING	
(206) ATJ, ASF	BJA LRP (2002)	Civil Legal Needs Task Force – The Washington State Legislature should amend RCW 2.56.030 to add a new section that would generally provide that the AOC, in consultation with the WSBA and the ATJ, shall periodically undertake an assessment of the unmet civil legal needs of low-income people in the state.	ONGOING	Project 2001 rec 9.1. Bill failed in 2001. Supreme Ct established Civil Legal Needs Task Force. Study complete. OCLA funded. See (128).
CLJ Assessment Survey Report (Wilson Report) 1995 - 1997				
Purpose: Chief Justice Durham commissioned a comprehensive survey of the policies, procedures, and facilities of Washington State's district and municipal courts. The purpose of this survey was to inventory the standards, practices, and procedures in place in the courts of limited jurisdiction. Performed by the Wilsons. No Committee. Impetus: CLJ-1988 Study. Before improvements or changes can be undertaken, a baseline of current practices is needed.				
(211) ATJ, QS	Wilson Report (1997)	A-1 1. The Supreme Court should adopt a rule setting minimum business hours for all CLJ such that the public has reasonable access to the court.	ONGOING	Related to minimum standards for courts of limited jurisdiction. See (176).
(219) ATJ, QS, PTC	Wilson Report (1997)	A-3 3. OAC should prepare a glossary or description of court procedures and citizen rights for translation into appropriate foreign languages.	ONGOING	Request 2007
(220) ATJ, QS, PTC	Wilson Report (1997)	A-3 4. Courts should post signs in the court facility in languages most commonly spoken in the local community.	ONGOING	Request 2007

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(226) QS	Wilson Report (1997)	A-6 1. OAC, DMCJA, and DMCMA, should continue to provide customer services training seminars, including sessions on dealing with difficult people and diversity education training.	ONGOING	Institute for New Court Employees 2000-2006; DMCMA Conference 2000. Diversity education ongoing: Ct Leadership Conf 2002-2003; Sup Ct Judges Conf 2002-2004; Annual Conf 2003, 2005; Judicial College 2002-2006. Cultural Competency session at Judicial College. Programs sponsored by Minority and Justice.
(240) QS, EDT,	Wilson Report (1997)	C-1 2. JIS, DMCJA, and DMCMA should continue efforts to develop the CAPS program that would enable judges and managers to collect, retrieve, and analyze local data to set calendars, predict funding needs, and to predict workload impacts.	ONGOING	
(255) ATJ, PTC	Wilson Report (1997)	D-3 3. DMCJA should propose legislation that would require public defense costs to be placed outside the budget of the courts.	ONGOING	2009: Per BJA: This issue continues to be a concern to the BJA and courts and should be kept in the long-range plan but it is not necessary to draft legislation to address this issue.
(259) ATJ	Wilson Report (1997)	D-4 4. DMCJA should examine the practice of requiring a statement of defendant on plea of guilty in cases that do not include a jail sentence.	ONGOING	Wilson Report: Only 67% of courts surveyed require form to be completed in every case when the def pleads guilty. Common statement was that the form was not required for minor offenses, license charges, or when there was no jail. The amount of time required to comply with the rule was cited in several comments.
(264) \$	Wilson Report (1997)	E-3 1. OPD should propose legislation to clarify the procedures and circumstances to permit the recovery of public defense costs. (See RCW 10.01.160, RCW 10.101.020, and <u>State v. Barklind</u> , 87 Wn.2d 814, 557 P.2d 314 (1976).)	ONGOING	OPD suggests that a pattern promissory note be adopted as a pattern form for cases in which the defendant is indigent but able to contribute under RCW 10.101.020(5). Given the existing authority and necessary discretion in procedures for recovering public defense costs, OPD does not believe new legislation is necessary. See July 2, 2009 letter from OPD for more information.
(272) ATJ, QS	Wilson Report (1997)	F-2 2. Courts should develop written policies and procedures to ensure that expired court orders, warrants, and commitment orders are properly recalled and returned when appropriate.	ONGOING (and Best Practice)	Wilson Report: Trial court operations are complicated and not many courts have written policies that address day-to-day operations. This was particularly a concern regarding lack of policies regarding the process of expired arrest warrants.
(273) EDT	Wilson Report (1997)	F-2 3. DMCMA should include in its curriculum plan, training sessions on techniques for writing policies and procedures.	ONGOING	
(281) EDT	Wilson Report (1997)	F-4 4. DMCJA and DMCMA should develop standards for continuing education for court personnel.	ONGOING	November 2008: DMCJA and DMCMA plan to pursue discussion of this topic with the BCE.
(284) JI, QS	Wilson Report (1997)	F-5 1. DMCJA should propose legislation incorporating appropriate provisions of RCW 35.20.105 and RCW 35.20.220, dealing with the duties and responsibilities of the court administrator or manager, into RCW Title 3.	ONGOING	11/1999 Referred to DMCJA Legislative Committee to draft legislation. There is a list of manager's responsibilities in 35.20.220 (only applies to Seattle Muni). Could be included in Title 3 re-write.
(285) EDT	Wilson Report (1997)	F-5 2. OAC, in conjunction with DMCJA and DMCMA, should establish an orientation training seminar requiring mandatory attendance of newly appointed court managers.	ONGOING	Orientation occurs at DMCMA Spring Conference. BCE continues to address.
(287) ATJ, EDT	Wilson Report (1997)	G-1 1. OAC in conjunction with DMCJA and DMCMA, should develop training seminars to inform court personnel of programs designed to accommodate persons with disabilities.	ONGOING	Annual Conference 2002; Court Leadership 2006; SCJA Conference 2006; DMCJA Conference 2006.
(292) ATJ, \$	Wilson Report (1997)	H-1 4. The courts, in conjunction with local funding authorities and law enforcement agencies, should examine the feasibility of establishing day detention centers as an alternative to jail.	ONGOING	Some courts doing day detention, some home monitoring.

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(294) PTC, ASF	Wilson Report (1997)	I-1 2. DMCJA should draft legislation providing for the implementation and funding of minimum safety and security standards, as established by OAC.	ONGOING	11/1999 No action. It was felt this is a cities and counties issue. See (28), (33), (183), (295-297).
(295) EDT, PTC	Wilson Report (1997)	I-1 3. DMCJA and DMCMA should include in their curriculum plans, training sessions on safety and security standards for court facilities.	ONGOING	Security program for Court Mgmt Leadership includes emergency preparedness. PJ Conference 2005; Court Leadership Conference 2006. See (28), (33), (183), (294), (296-297).
(296) EDT, PTC	Wilson Report (1997)	I-2 1. OAC, DMCJA, and DMCMA, should develop model fire, medical, and security plans for consideration and implementation by the CLJ.	ONGOING	Standard fire and medical plans would be very high level because of unique characteristics of each court. Repository for existing court plans that can be used as examples might be more helpful. See (28), (33), (183), (294-295), (297).
(300) ATJ, QS	Wilson Report (1997)	J-1 3. DMCJA, DMCMA, and OAC should develop performance standards for use by courts.	ONGOING	See (16-17), (34), (94-95), (109), (188), (289).
(302) EDT, \$	Wilson Report (1997)	J-2 1. DMCJA and DMCMA should include in their training curriculum plans, training on the techniques of budget preparation and cost and benefit analysis to assist in the process of preparing and presenting effective budget requests.	ONGOING	5/99 The DMCJA will ask its representatives to the Board for Court Education to incorporate such programs in its curriculum-planning document. DMCMA/DMCJA Joint Conf 2001; PJ Conf 2001; PJ Conf 2004.
(305) EDT	Wilson Report (1997)	J-4 1. DMCJA and DMCMA should include in their BCE curriculum training plan, training on ethics and professional conduct.	ONGOING	Ethics component in all programs for judicial officers during past 3 years due to GR 26. Ethics component in Inst for New Court Employees and for administrators. DMCMA Conf 2000 and 2001; Ct Leadership Conf 2005; SCJA and DMCJA Conf 2002-2006; Annual Conf 2002-2006; PJ Conf 2006; Judicial College 2000-2007.
(308) ATJ, QS	Wilson Report (1997)	K 1. The Supreme Court should establish a task force to recommend a uniform schedule of filing fees, evaluate the practice of recovery of filing fees, and create a model contract defining court services.	ONGOING	2008: Per BJA for (308) & (309): BJA Long-range Planning Committee to recommend establishment of a BJA subcommittee to create a checklist for use by courts and government agencies to use in drafting contracts related to court services; checklist should include with each item a brief narrative about the need for such topic, from the BJA perspective.
(309) ATJ, QS	Wilson Report (1997)	K 2. DMCJA should draft legislation requiring that all contracts or agreements for court services be reduced to writing and filed with OAC.	ONGOING	2008: Per BJA for (308) & (309): BJA Long-range Planning Committee to recommend establishment of a BJA subcommittee to create a checklist for use by courts and government agencies to use in drafting contracts related to court services; checklist should include with each item a brief narrative about the need for such topic, from the BJA perspective.
Washington State Jury Commission (2000)				
The BJA asked the Commission to "conduct a broad inquiry into the jury system and examine issues including... juror responsiveness, citizen satisfaction from jury service, adequacy of juror reimbursement, and improving juror participation in trials." This was based on Washington courts reporting that it had become more and more difficult to find prospective jurors. The Commission wanted to look for ways to encourage more participation from the citizenry.				
(313) ATJ, PTC	Jury Commission (2000)	2 Every opportunity should be taken to educate the public on the importance of jury service and to increase diversity on juries by extensive outreach to targeted communities. The implementation committee should coordinate efforts to accomplish this.	ONGOING (and Best Practice)	BJA Public Trust and Confidence Committee has made some efforts to provide information to the public, particularly during Juror Appreciation Week. There has been no outreach effort related to increasing diversity on juries.
(315) ATJ, \$	Jury Commission (2000)	4 The combined list should be processed through a National Change of Address program in order to obtain updated address information before mailing.	ONGOING (and Best Practice)	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(318) \$	Jury Commission (2000)	7 All undeliverable and changed address information gathered by the courts should be delivered to the Department of Licensing as well as to county election departments for processing. The Department of Licensing and county auditors should use this information for database corrections. County clerks should be encouraged to create suspense files for chronic non-deliverable addresses.	ONGOING	
(319) ATJ, QS	Jury Commission (2000)	8 Courts should require jury service for the shortest period possible. Therefore, the statute should be amended to shorten the jury term to a maximum of one week and jury service to a maximum of two days or one trial.	ONGOING	Legislation proposed and failed in 2001 (HB 1081/SB 5070). Model jury bill introduced in 2004 (not our bill) including fee increase, 1 day/1 trial etc. failed. Some jurisdictions have moved to shorter terms. The current statute encourages 1 day/1 trial. See (198).
(320) QS	Jury Commission (2000)	9 Jurors should be provided with full and complete information about jury service from the time they are summoned.	ONGOING	Best practice. A juror information web site was created and is maintained by AOC. Many courts have local juror web sites.
(323) ATJ, PTC	Jury Commission (2000)	12 The Commission views a fee increase as its highest priority. Citizens required to perform jury service should be compensated fairly and appropriately. Legislation should be drafted requiring that current fees be raised, with the increase funded by the state. Local jurisdictions are encouraged to provide or pay for transportation and parking. Jurors could donate their fees and expenses to a court jury improvement fund.	ONGOING	\$1.6 million appropriated in budget note (2000-2001) but ultimately was removed. Legislation proposed and failed in 2001 (HB 1141/SB 5072). Legislation proposed and failed in 2006 (SB 6887, not our bill) to increase superior court juror pay. In 2006 funds were allocated for a pilot in 3 jurisdictions to allow for a temporary pay increase to evaluate whether there is an effect on yield. Chief Justice Alexander is particularly interested in implementing a juror pay increase.
(330) QS	Jury Commission (2000)	19 The juror summons should provide useful information to the potential juror and require of the juror only that information mandated by statute. A standardized summons form should be created for use and modification by any jurisdiction.	ONGOING	Many of the larger courts use a similar summons form, but no statewide form has been created.
(347) QS	Jury Commission (2000)	36 Jury instructions should be readily comprehensible by jurors. They should be case specific and stated in plain language. The number and length of instructions should be reduced to a minimum.	ONGOING	

Best Practice
Recommendations

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
Commission on Washington Trial Courts (1990)				
Purpose: "The Gates Commission" undertook a comprehensive examination of trial court reform. The final report noted, "The hard truth is that the justice system, civil and criminal, cannot deliver the results citizens desire without adequate support and organization, neither of which presently exists. Moreover, the primary reason why they do not exist is that funding and other decisions are made without taking into account the interdependent nature of the parts of the judicial system."				
(33) PTC, ASF	Comm. On Wa. Trial Courts (1990)	The Commission urges the legislature to appropriate funds in the upcoming biennial budget, as requested by the Supreme Court, for a thorough statewide evaluation by the OAC of all court facilities, emphasizing security needs, and development of an implementation plan for improving security in the court system.	BEST PRACTICE (and Ongoing)	See (28), (183), (294-297).
(38) ATJ, PTC	Comm. On Wa. Trial Courts (1990)	The Supreme Court should publish local rules, either as a part of the official court rules, or in a companion volume. The Supreme Court should develop a set of model local rules designed to alleviate court congestion and delay, for adoption in whole or in part by counties that need them.	BEST PRACTICE (and Ongoing)	Local rules published by West. Should a model rule be pursued? WSBA had a task force in 2006?
Project 2001 (2001)				
Purposes: Under the auspices of the BJA, the Project 2001 Committee was asked to take some initiative for self-examination...to achieve efficiencies, availability of justice, cost-savings if possible, and to otherwise modernize the judiciary".				
(126) ADR, QS	Project 2001 (2001)	8.4 The Superior Court Judges' Association should encourage each county to provide parents with information about agencies and individuals who are available as supervisors of alternate residential time and of exchanges of the child(ren). The Association should also seek a county to pilot a program using masters or referees to work with parties seeking a dissolution to facilitate early verification of issues in dispute and early stipulations to matters not in dispute.	BEST PRACTICE	No action taken by SCJA. Judges and commissioners, as well as those on Sen. Hargrove's informal dissolution workgroup, report that lack of supervisors for exchanges and visits remains a problem.
Court Funding Task Force (2004)				
Purpose: Develop and implement a plan to achieve adequate, stable and long-term funding of Washington's trial courts to provide equal justice throughout the state.				
(139) JI, CIP	CFTF (2004)	The judicial branch must maintain its constitutional role as a separate, equal, and independent branch of government.	BEST PRACTICE	PRINCIPALS or completed by adoption by BJA?
(140) ATJ	CFTF (2004)	The primary mission of the trial courts is to fairly, expeditiously, and efficiently resolve cases and serve the community, not to generate revenue for local or state government. Trial courts should be structured and function in a way that best facilitates their primary mission.	BEST PRACTICE	"
(141) Jt	CFTF (2004)	To ensure the independence of the judiciary, all judges, including part-time judges, should be elected.	BEST PRACTICE	"
(142) PTC	CFTF (2004)	Trial courts must operate in compliance with court rules and statutes.	BEST PRACTICE	"
(143) ASF	CFTF (2004)	Trial Courts must have adequate, stable, and long-term funding to meet their legal obligations.	BEST PRACTICE	"
(144) ASF	CFTF (2004)	Legislative bodies, whether municipal, county, or state, have the responsibility to fund adequately the trial courts.	BEST PRACTICE	"

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(145) ATJ, ASF	CFTF (2004)	Trial courts are not self-funding. The imposition of fines, penalties, forfeitures and assessments by trial courts are for the purpose of punishment and deterrence, and must not be linked to the funding of trial courts.	BEST PRACTICE	"
(146) ATJ, ASF	CFTF (2004)	Trial court funding must be adequate to provide for the administration of justice equally across the state.	BEST PRACTICE	"
(147) ASF	CFTF (2004)	The State has an interest in the effective operation of trial courts and the adequacy of trial court funding, and should contribute equitably to achieve a better balance of funding between local and state government.	BEST PRACTICE	"
(148) ATJ, QS, PTC	CFTF (2004)	Courts will be accessible to the communities they serve and provide services that enable the public to navigate through the court process with a minimum of confusion.	BEST PRACTICE	"
(149) PTC, \$	CFTF (2004)	Trial courts are accountable and responsible for the funds appropriated for court operations.	BEST PRACTICE	"
(150) QS, PTC, \$	CFTF (2004)	Courts will be administered with sound management practices that foster fairness and the efficient use of public resources, and enhance the effective delivery of court services.	BEST PRACTICE	"
BJA Long-range Planning Committee (2002)				
Purpose: Long-range planning for the judiciary. The Committee has drawn extensively from issues previously identified by the individual judicial associations, commissions and committees. The Committee identified four areas of concern to the judiciary: (1) Adequate Judicial Resources. (2) Independence of the Judiciary. (3) Improved Caseload Management. (4) Adequate Access to Justice.				
(185) QS, \$	BJA LRP (2002)	All trial courts in each jurisdiction should develop a comprehensive system of cooperation, coordination and collaboration. BJA, working in collaboration with the other branches of government, should initiate a request to the legislature to establish a funding mechanism to support trial court coordination activities.	BEST PRACTICE (and Ongoing)	Project 2001 rec 1.1 and 1.2. GR 29 adopted. TCCC projects grants continue. See (103).
(196) ADR, QS	BJA LRP (2002)	The BJA should ask the Best Practices Committee to determine whether courts should coordinate, where possible, the scheduling and management of cases that need an integrated disposition.	BEST PRACTICE	Impetus: To encourage problem solving courts. See Comm on WA Trial Cts (31), Project 2001 (106), (137-138), CFTF (180), BJA LRP 2002 (194), (203).
CLJ Assessment Survey Report (Wilson Report) 1995 - 1997				
Purpose: Chief Justice Durham commissioned a comprehensive survey of the policies, procedures, and facilities of Washington State's district and municipal courts. The purpose of this survey was to inventory the standards, practices, and procedures in place in the courts of limited jurisdiction. Performed by the Wilsons. No Committee. Impetus: CLJ 1988 Study. Before Improvements or changes can be undertaken, a baseline of current practices is needed.				
(214) QS	Wilson Report (1997)	A-2 3. Courts should review official forms prior to reordering to ensure that the forms are easily understood; that laws, court rules, and policy changes are reflected in the form; and that gender specific references have been removed.	BEST PRACTICE	See (132-133), (204-205), (254), (257), (271).
(215) QS, PTC	Wilson Report (1997)	A-2 4. Courts should ensure that the correct court address and telephone number is listed in the local telephone directory.	BEST PRACTICE	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(216) QS, PTC	Wilson Report (1997)	A-2 5. Courts should contact local city or county officials to place directional signs to court facilities within the community.	BEST PRACTICE	See (220).
(225) ATJ, PTC	Wilson Report (1997)	A-5 3. Court should involve citizen input when establishing or revising court policies and procedures relating to public access issues.	BEST PRACTICE	Court by court basis.
(228) PTC, \$	Wilson Report (1997)	B-1 1. Courts should ensure that all court mail is opened only by court staff, and if possible, by two staff members.	BEST PRACTICE	
(230) PTC, \$	Wilson Report (1997)	B-1 3. Court managers should review and initial appropriate DISCIS reports weekly, e.g. non-cash adjustment reports.	BEST PRACTICE	
(233) \$	Wilson Report (1997)	B-2 2. Courts should use collection agencies to collect past due financial obligations.	BEST PRACTICE	
(234) QS, \$	Wilson Report (1997)	B-2 3. Courts should not issue warrants on cases sent to a collection agency.	BEST PRACTICE	Nothing has been automated in the Collections module to prevent the issuance of a warrant.
(236) \$	Wilson Report (1997)	B-2 5. Courts should review, and where appropriate, modify existing collection agency contracts to examine the collection practices, contract provisions, and the feasibility of obtaining interest on accounts referred for collection.	BEST PRACTICE	
(242) QS	Wilson Report (1997)	C-2 2. Courts should provide information notifying citizens as well as bail bond companies of subsequent court appearances required of the defendant.	BEST PRACTICE	
(244) QS	Wilson Report (1997)	C-2 4. Courts should make every effort to return bail or exonerate bonds within five working days.	BEST PRACTICE	
(252) ATF, QS	Wilson Report (1997)	D-2 4. Courts should use telephone interpreter services by certified interpreters to reduce costs.	BEST PRACTICE	
(253) ATJ, QS	Wilson Report (1997)	D-3 1. Courts should strive to provide public defender eligibility screening at the local court facility.	BEST PRACTICE	
(256) QS	Wilson Report (1997)	D-4 1. Courts should make necessary arrangements to hold next judicial day hearings as required by CrRLJ 3.2.1(d).	BEST PRACTICE	
(269) QS	Wilson Report (1997)	F-1 4. Courts should use juror exit questionnaires to measure juror opinions.	BEST PRACTICE	See (364).
(272) ATJ, QS	Wilson Report (1997)	F-2 2. Courts should develop written policies and procedures to ensure that expired court orders, warrants, and commitment orders are properly recalled and returned when appropriate.	BEST PRACTICE (and Ongoing)	Wilson Report: Trial court operations are complicated and not many courts have written policies that address day-to-day operations. This was particularly a concern regarding lack of policies regarding the process of expired arrest warrants.
(275) QS	Wilson Report (1997)	F-3 2. Courts should adhere to the records retention schedule as set by the Secretary of State.	BEST PRACTICE	Education conducted at DMCMA Conference 2000 re record retention.
(297) EDT, PTC	Wilson Report (1997)	I-2 2. Courts should establish minimal annual court staff training standards in emergency procedures.	BEST PRACTICE	See (28), (33), (183), (294-296).
(301) JI	Wilson Report (1997)	J-1 4. Courts should develop organizational charts indicating internal as well as external lines of authority consistent with the separation of powers doctrine.	BEST PRACTICE	
(304) \$	Wilson Report (1997)	J-3 1. OAC, DMCJA, DMCMA, and SAO should identify those budget line items that should not be included in CLJ annual budgets.	BEST PRACTICE	9.09 - per DMCJA, this is a best practice; the Board is interested in having this addressed.

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(306) PTC	Wilson Report (1997)	J-5 1. Courts should formally meet on a regular basis with other governmental agencies to discuss issues of mutual concern other than through the budget process.	BEST PRACTICE	
Washington State Jury Commission (2000)				
The BJA asked the Commission to "conduct a broad inquiry into the jury system and examine issues including... juror responsiveness, citizen satisfaction from jury service, adequacy of juror reimbursement, and improving juror participation in trials." This was based on Washington courts reporting that it had become more and more difficult to find prospective jurors. The Commission wanted to look for ways to encourage more participation from the citizenry.				
(312) ATJ, PTC	Jury Commission (2000)	1 A variety of approaches should be developed to address the concerns of those citizens unwilling to participate in jury service. Follow-up procedures should be developed that courts can use where there is no response to a jury summons.	SUGGESTED BEST PRACTICE	Practices vary court to court.
(313) ATJ, PTC	Jury Commission (2000)	2 Every opportunity should be taken to educate the public on the importance of jury service and to increase diversity on juries by extensive outreach to targeted communities. The implementation committee should coordinate efforts to accomplish this.	BEST PRACTICE (and Ongoing)	BJA Public Trust and Confidence Committee has made some efforts to provide information to the public, particularly during Juror Appreciation Week. There has been no outreach effort related to increasing diversity on juries.
(315) ATJ, \$	Jury Commission (2000)	4 The combined list should be processed through a National Change of Address program in order to obtain updated address information before mailing.	BEST PRACTICE (and Ongoing)	
(324) PTC, \$	Jury Commission (2000)	13 Courts should make every effort to utilize jurors efficiently. They should avoid calling more citizens to the court facility for jury service than needed.	SUGGESTED BEST PRACTICE	
(325) QS	Jury Commission (2000)	14 Each court should maintain adequate facilities for jurors with the appropriate seating, work space, rest rooms, light, and temperature control necessary to facilitate jury selection and deliberations. Special consideration should be given to jurors with disabilities or other special needs. Courts must make every effort to provide the appropriate facilities to accommodate these needs.	SUGGESTED BEST PRACTICE	
(326) QS	Jury Commission (2000)	15 Amenities to improve the experience of jury service should be provided wherever possible.	SUGGESTED BEST PRACTICE	
(327) QS	Jury Commission (2000)	16 At the start of a jury trial, the judge should inform the jurors of the court's normal working hours, as well as the working hours that could be expected during deliberations. The judge should determine whether the jurors have any special needs that justify setting different times.	SUGGESTED BEST PRACTICE	
(328) QS, PTC	Jury Commission (2000)	17 Judges and court personnel should assist jurors to handle the stress that may be caused by jury service.	SUGGESTED BEST PRACTICE	Best practice. King County has a program to provide counselors after high stress trials.

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(331) QS, PTC	Jury Commission (2000)	20 The court should try to protect jurors from unreasonable and unnecessary intrusions into their privacy during jury selection. In appropriate cases, the trial court should submit written questionnaires to potential jurors regarding information that they may be embarrassed to disclose before other jurors. Before dismissing jurors from service on a trial, the court should inform jurors of their rights to discuss or refrain from discussing the case.	PART COMPLETE/ BEST PRACTICE	Suggested best practice. A new pattern jury instruction was written to convey jurors' rights related to discussing a case (WPI 6.20; a similar instruction has now been drafted for criminal cases).
(332) QS, PTC	Jury Commission (2000)	21 Trial courts should make available to attorneys a written statement of the court's standard practices for jury selection. The court's standard practices should ensure that the parties have a full opportunity to select a fair jury while avoiding undue and unreasonable juror discomfort and embarrassment.	SUGGESTED BEST PRACTICE	
(333) QS	Jury Commission (2000)	22 The judge should give prospective jurors a brief and neutral description of the case after consulting with the parties and before jury selection. The description should be sufficiently detailed to assist jurors in answering questions during jury selection and while performing their duties. The judge should advise the jury that the description represents the contentions of the parties and does not imply the court's view on the merits of the case.	SUGGESTED BEST PRACTICE	
(334) ATJ	Jury Commission (2000)	23 A party should raise any Batson objections to the opposing party's peremptory challenges before the jury is impaneled. The court should exercise its discretionary power to raise Batson objections on its own motion. Batson challenges, and objections to these challenges, should be handled outside the jurors' presence.	SUGGESTED BEST PRACTICE	
(335) QS, PTC	Jury Commission (2000)	24 Alternate jurors should be told that they are alternates at the beginning of the trial.	SUGGESTED BEST PRACTICE	This recommendation probably does not have much support.
(336) QS	Jury Commission (2000)	25 Trial judges should set reasonable overall time limits for each party at trial. To set time limits, the court should consider among other factors: the number of witnesses; the number and complexity of issues; the respective evidentiary burdens of the parties; the nature of evidence to be presented; the feasibility of shortening trial by stipulations; and pre-admitting exhibits.	SUGGESTED BEST PRACTICE	
(337) QS, PTC	Jury Commission (2000)	26 Judges should encourage all trial participants to use plain language likely to be understood by the jury. Judges should also take steps to minimize juror confusion.	SUGGESTED BEST PRACTICE	
(339) QS	Jury Commission (2000)	28 When the procedure will assist jurors, the court should distribute place cards, name tags, or seating charts identifying parties, witnesses, counsel, and other pertinent individuals in the courtroom.	SUGGESTED BEST PRACTICE	Suggested best practice.

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(341) QS	Jury Commission (2000)	30 Juror notebooks should be provided in lengthy or complex cases and in other cases at the judge's discretion. The notebooks should contain information that will help jurors perform their duties, such as preliminary instructions, a summary of claims and defenses, and copies of key exhibits.	SUGGESTED BEST PRACTICE	
(342) QS	Jury Commission (2000)	31 Exhibits and depositions should be marked and admitted to the greatest extent feasible before potential jurors are conducted to the courtroom for jury selection.	SUGGESTED BEST PRACTICE	
(343) QS	Jury Commission (2000)	32 When a witness appears by written or videotaped deposition, the testimony proposed for admission should be identified and objections to admission resolved before potential jurors arrive at the courtroom. When deposition testimony is read to the jury, each juror should be provided, to the extent feasible, with a redacted transcript of the testimony for the juror's use during the reading. Redactions should not be apparent to the jury.	SUGGESTED BEST PRACTICE	Suggested best practice. Providing a redacted transcript of the testimony is controversial.
(345) QS	Jury Commission (2000)	34 In long trials, the court should consider allowing periodic mini-opening statements to improve juror understanding.	SUGGESTED BEST PRACTICE	
(346) QS	Jury Commission (2000)	35 To the greatest extent feasible, each juror should be given a copy of the jury instructions before oral instruction by the court.	SUGGESTED BEST PRACTICE	
(353) PTC	Jury Commission (2000)	42 The trial judge may specially schedule the time for the verdict announcement in cases in which the judge is concerned about security or widespread public reaction to the verdict.	SUGGESTED BEST PRACTICE	
(354) QS	Jury Commission (2000)	43 Courts should administer an anonymous questionnaire to a representative sample of people called for jury service to monitor juror reaction to jury service and to identify areas of juror dissatisfaction.	SUGGESTED BEST PRACTICE	See (269).
(355) QS, PTC	Jury Commission (2000)	44 A Declaration of Principles for Jury Service should be posted in each court facility as a reminder of the importance of the jury's role in the judicial system and to ensure that jurors are treated with respect.	SUGGESTED BEST PRACTICE	

Rejected Recommendations

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
Judicial Administration Commission (1985)				
Purpose: To evaluate the existing structure of Washington's judicial system, the jurisdiction of each level of courts, and the existing means of administering and financing the state's courts and related court services, including probation, family court, court reporting and juvenile services. (This was at a time when then Senator Talmadge was pursuing the unification of the courts.)				
(1) ATJ, \$	JAC (1985)	Concurrent civil jurisdiction between superior and district courts should be eliminated.	REJECTED	May 2008: SCJA & DMCJA state this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(3) ASF	JAC (1985)	The state should assume 100 percent of the salaries and benefits of all superior and district court judges by the 1987-89 biennium.	NO FURTHER CONSIDERATION	SB 5454 partial reimbursement. Not likely to pursue 100%. (Superior court judges concerned about 100% funding from state, easier to lobby local commissioners than state legislature.) See (4), (25).
(5) ASF	JAC (1985)	The state should assume 100 percent of the pro tem costs including those for mandatory arbitration by the 1987-89 biennium.	NO FURTHER CONSIDERATION	See (12), (48-53), (114).
(10) JI, ASF	JAC (1985)	1. The court of appeals should be allowed discretionary review authority over domestic relations appeals and appeals from judgments involving amounts of \$10,000 or less.	REJECTED	Court of Appeals does not want to pursue this. May 2008: SCJA states this recommendation is no longer relevant.
		2. In addition, the legislature should authorize the use of lawyer pro tem judges in the court of appeals.	REJECTED	Court of Appeals does not want to pursue this.
(11) ATJ, ADR, QS	JAC (1985)	The legislature should enact SSB 3252 or a similar piece of legislation, providing for mediation of disputes in family court.	REJECTED	
(14) ASF	JAC (1985)	The legislature should consider the appropriateness of assessing transactional costs in civil cases (e.g., motion fees, trust fees, support enforcement fees, jury demand fees, etc.)	REJECTED	CFTF recommendation. See (13), (65), (152-153), (159).
(15) ASF, \$	JAC (1985)	The legislature or supreme court should adopt a state process whereby administrative and court rule changes can be assessed as to their fiscal impact on local government.	REJECTED	Supreme Court would make request to AOC as necessary. Do not pursue.
Judicial Council Task Force on Courts of Limited Jurisdiction (1988)				
Four members of the Legislature (including Senator Talmadge) requested that the Judicial Council study the effects on the administration of justice of consolidating the district and municipal courts into a single level court of limited jurisdiction. The following issues were to be addressed:				
(1) The extent the duplication of CLJ services, such as jury management, probation, and case management services can be reduced or eliminated.				
(2) The level of consistency achievable through the application of uniform limited court rules and statutes.				
(3) Responsibility for court facilities and equipment.				
(4) District court locations and public accessibility to the courts.				
(5) A determination of the number of judges and support staff needed for consolidation.				
(6) An examination of the need for multi-county districts to achieve full-time courts.				
(7) The state assumption or partial assumption of district court judicial salaries and the financial impact of consolidation of the state, counties, and municipalities.				
(8) The authority for appointment of judges.				
(9) Distribution of revenue resulting from violations of ordinances.				
(10) The role of city traffic violation bureaus.				
(11) The impact on ancillary agencies such as law enforcement, prosecution and defense.				
(12) An examination of concurrent jurisdiction between district and superior courts.				

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(16) ATJ, QS	CLJ TF (1988)	Municipalities would have the option of contracting with the district court or maintaining their own independent municipal court or traffic violations bureau, provided that the standards for courts of limited jurisdiction established by the Washington State Supreme Court or its designee are met.	REJECTED	Impetus: Leg asked Judicial Council to look into the level of consistency achievable through the application of uniform limited court rules and statutes; and the role of city traffic violation bureaus. There was concern that municipal courts do not provide all the services they should. Minimum standards were looked into, but there was no enforcement authority. This led to performance audits. See (34), (94-95), (109), (188), (289), (300).
(17) ATJ, QS	CLJ TF (1988)	The Washington State Supreme Court or its designee would set minimum standards including but not limited to: staffing (judicial officers and staff), necessary support services, facilities and equipment, and other operational standards with which all courts of limited jurisdiction shall comply.	REJECTED	
(20) JI, PTC	CLJ TF (1988)	Whenever possible, the appointing authority for judicial positions should be the executive branch of government, whenever possible the funding authority should be separate from the appointing authority, and the legislature should develop objective standards for qualification and selection process.	REJECTED	The current goal is that all judges should be elected. See (9), (73), (168), (173-174), (186).
(24) ASF	CLJ TF (1988)	The revenue split for district courts should be 60 percent for the county and 40 percent for the state. The revenue split for contracting municipalities would be 60 percent for the city and 40 percent for the state. The revenue split for municipalities that maintain their own municipal courts and traffic violation bureaus the revenue split would be 52 percent for the city and 48 percent for the state.	REJECTED	
Commission on Washington Trial Courts (1990)				
Purpose: "The Gates Commission" undertook a comprehensive examination of trial court reform. The final report noted, "The hard truth is that the justice system, civil and criminal, cannot deliver the results citizens desire without adequate support and organization, neither of which presently exists. Moreover, the primary reason why they do not exist is that funding and other decisions are made without taking into account the interdependent nature of the parts of the judicial system."				
(31) ATJ	Comm. On Wa. Trial Courts (1990)	The courts should be allowed to make greater use of pro tem judges to increase their capacity for civil and domestic cases. The Commission recommended a possible model.	REJECTED	
(32) ATJ, JI	Comm. On Wa. Trial Courts (1990)	The constitutional limit on the number of court commissioners in each county should be eliminated.	REJECTED	
(34) ATJ, QS	Comm. On Wa. Trial Courts (1990)	The Commission recommends that the legislature establish minimum standards for courts of limited jurisdiction in the areas of (1) staffing, including both judges and support staff, (2) support services, including probation services, (3) computer support, (4) prosecution and public defense, (5) interpreters, and (6) facilities and equipment.	REJECTED	See (16-17), (94-95), (109), (188), (289), (300).
(40) ATJ, QS, §	Comm. On Wa. Trial Courts (1990)	The Commission recommends that no change be made in the size of the jury under Washington law.	NO ACTION	See BJA LRP 2002 (195).
(41) ATJ	Comm. On Wa. Trial Courts (1990)	The Commission recommends against further limits on voir dire.	NO ACTION	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(44) ATJ, \$	Comm. On Wa. Trial Courts (1990)	Civil jurisdiction in cases involving \$25,000 or less should be vested exclusively in the district courts.	REJECTED	May 2008: SCJA & DMCJA state this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(48) ATJ, ADR, \$	Comm. On Wa. Trial Courts (1990)	The district courts should have the authority to transfer cases to arbitration or alternative dispute resolution.	REJECTED	See (5), (12), (49-53), (114).
(50) ATJ, ADR, \$	Comm. On Wa. Trial Courts (1990)	The district court should have the authority to transfer cases to mandatory arbitration, except those filed in the small claims department.	REJECTED	SB 6156 died 2000. SB 5391 died 2001. Rejected by CFTF CLJ Workgroup (50) - (53). See (5), (12), (48-53), (114).
(51) ATJ, ADR, \$	Comm. On Wa. Trial Courts (1990)	In both courts [superior and district], lien foreclosure actions should be subject to mandatory arbitration.	REJECTED	Only changes to mandatory arbitration have been \$ amount in controversy and population thresholds (2005?). See (5), (12), (48-53), (114).
(52) ATJ, ADR, \$	Comm. On Wa. Trial Courts (1990)	In district courts, cases in which the amount in controversy ranges from \$10,000 to \$25,000 would be automatically sent to mandatory arbitration.	REJECTED	Ditto. See (5), (12), (48-53), (114).
(53) ATJ, ADR, \$	Comm. On Wa. Trial Courts (1990)	The superior court arbitration system should be expanded to include district courts, so that each county would continue to have only one arbitration system.	REJECTED	Ditto. See (5), (12), (48-52), (114).
(54) ATJ	Comm. On Wa. Trial Courts (1990)	The Commission recommends against any changes in the criminal jurisdiction of the district courts.	NO ACTION	
(61) ATJ, ADR	Comm. On Wa. Trial Courts (1990)	The Commission recommends and encourages settlement conferences, conducted by judges, as a means of achieving more settlements in civil cases. The Commission does not recommend mandatory conferences in all cases, but it does recommend a pilot study to evaluate their effectiveness.	REJECTED	
(63) ATJ, JI	Comm. On Wa. Trial Courts (1990)	The Commission recommends a thorough, statewide evaluation of present levels of staffing in courts of limited jurisdiction. The evaluation should be performed by means of a clerical weighted caseload study, similar to the existing district court weighted caseload study relating to the number of judges needed in each district.	REJECTED	Court Funding Task Force. See (2), (18), (184), (239).
Walsh Commission (1996)				
Purpose: To make recommendations regarding judicial elections.				
(71) ATJ, QS, PTC	Walsh Comm. (1996)	All candidates for judicial office shall have been active members of the state bar and/or shall have served as a judicial officer for at least the stated time periods: - Supreme Court and Court of Appeals - 10 years - Superior Court - 7 years - District Court - 5 years	REJECTED	May 2008: BJA states this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(72) PTC	Walsh Comm. (1996)	All candidates for judicial office shall have resided in the judicial district or county for the stated time periods immediately preceding candidacy: - Supreme Court – 7 years in state - Court of Appeals – 5 years in judicial district - Superior Court - 5 years in judicial district - District Court – 2 years in county	REJECTED	May 2008: BJA states this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration. See 136 WA 2nd 888, 1998 (no residency requirement for superior court judges).

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(74) PTC	Walsh Comm. (1996)	Volunteer citizen nominating commissions shall be created to review and compile a list of recommended candidates from which the appointing authority shall fill all judicial openings.	REJECTED	
Project 2001 (2001)				
Purpose: Under the auspices of the BJA, the Project 2001 Committee was asked to take some initiative for self-examination...to achieve efficiencies, availability, of justice, cost-savings if possible, and to otherwise modernize the judiciary".				
(109) ATJ, QS	Project 2001 (2001)	1.7 The Project 2001 committee supports the concept of minimum certification standards for courts of limited jurisdiction and recommends the Board for Judicial Administration continue to study the issue.	REJECTED	See (16-17), (34), (94-95), (188), (289), (300).
(113) PTC	Project 2001 (2001)	4.1 Holders of judgments from small claims court should be allowed to obtain discretionary collection fees including attorney fees of up to \$300.	REJECTED	
(114) ADR	Project 2001 (2001)	4.2 The BJA should draft legislation to allow mandatory arbitration under RCW Chapter 7.06 in the district courts.	REJECTED	Rejected. See (50).
(120) QS, \$	Project 2001 (2001)	7.1 Procedures for small claims appeals should be governed by the Rules on Appeal for Courts of Limited Jurisdiction (RALJ). They should not be heard de novo.	REJECTED	Impetus: Superior court judges want to listen to record to decide, but RCW 12.36.055 requires appeals to be heard de novo. Electronic transcript now available, see CRLJ 75 re small claims appeals: appellant shall file with clerk of superior court a verbatim electronic recording of the trial of the matter in district court.
Court Funding Task Force (2004)				
Purpose: Develop and implement a plan to achieve adequate, stable and long-term funding of Washington's trial courts to provide equal justice throughout the state.				
(154) ASF	CFTF (2004)	Accept the proposed tax "package" with the understanding that the package represents one of the possible options which the judiciary would support to provide funding for trial courts and functions essential to the operation of trial courts.	REJECTED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(159) ASF, \$	CFTF (2004)	The following suggestions related to the Public Safety and Education Account (PSEA) should be further reviewed: (a) Repeal RCW 46.63.110(3) which prescribes that the Supreme Court establishes the traffic infraction penalty schedule and eliminate all legislative assessments on traffic penalties. (DMCJA looking at.) (b) Develop a penalty classification schedule similar to civil infractions under Title 7 RCW. (c) Adjust the state/local "PSEA division" on a "no-harm" basis to account for the elimination of the several legislative assessments and to establish a simple, single, uniform division of funds between state and local government. (d) Recreate the JIS account fee not as a portion of the traffic infraction penalty, but as a user fee on all court transactions—filing fees, traffic infractions, conviction of misdemeanor or felony. The fee would then fund both maintenance and new development and would remove JIS from the PSEA account entirely.	REJECTED (and Ongoing) Part c. 2009 Session SB 6073 abolished the PSEA.	The PSEA Work Group, a sub-committee of the Court Funding Implementation Committee (CFIC) was charged with examining these issues. The committee conducted their review and reported to the BJA. This will be addressed again at a future date. (a) Supreme Court Sets Traffic Infraction Penalty Schedule: The work group recommends that RCW 46.63.110(3) should not be repealed and that the Supreme Court retain the right to set infraction penalties. (a) and (c) Legislative Assessments: Given the recent changes to PSEA as a result of the court funding bill, it was decided that the timing was not appropriate to suggest any further changes. (b) Traffic Infraction Penalty Classification: Current penalties were examined to determine how many classes might be required, and at what penalty level, in order to make this adjustment on a no-harm basis. Preliminary research and analysis suggested that traffic infraction penalties could be organized into between 12 and 15 different penalty classes (down from the current 31). The work group recommend to CFIC that a traffic infraction penalty classification schedule should not be undertaken at this time because of the project scope and size and implementation politics issues. Given the scope of current JIS projects, it would not be feasible to undertake another project of this complexity at this time. (d) Judicial Information Systems (JIS) User Fee: The political issues surrounding a change to the JIS fee are similar to those already discussed. The new JIS Roadmap will rely heavily on JIS funds, and any change to the JIS fee structure at this time could adversely dilute the focus on the Roadmap. The work group recommend that no changes be made to the JIS fee structure at this time. See CFTF (153). See (13-14), (65), (152-153).
(162)	CFTF (2004)	Courts will maintain their constitutional role as a separate, equal, and independent branch of government.		PRINCIPALS
(163)	CFTF (2004)	Courts will be structured and function in a way that best facilitates the expeditious, efficient, and fair resolution of cases.		"
(164)	CFTF (2004)	Courts will be accessible to the community they serve and provide services that enable the public to navigate through the court process with a minimum of confusion.		"
(165)	CFTF (2004)	The primary mission of the courts of limited jurisdiction is to expeditiously, efficiently, and fairly resolve cases and serve the residents of the community, not to generate revenue.		"
(166)	CFTF (2004)	Courts will operate in compliance with court rules and statutes.		"
(167)	CFTF (2004)	Courts will be administered with sound management practices which foster the efficient use of public resources and enhance the effective delivery of court services.		"
(174) JI	CFTF (2004)	Limit district and municipal court commissioner authority to differentiate their responsibilities from those of elected judges.	REJECTED	See (9), (20), (73), (168), (173), (186).
(180) ATJ, QS	CFTF (2004)	Recommend that district courts implement dedicated civil calendars and case scheduling.	REJECTED	May 2008: DMCJA states this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
BJA Long-range Planning Committee (2002)				

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
<p>Purpose: Long-range planning for the judiciary. The Committee has drawn extensively from issues previously identified by the individual judicial associations, commissions and committees. The Committee identified four areas of concern to the judiciary:</p> <p>(1) Adequate Judicial Resources. (2) Independence of the Judiciary. (3) Improved Caseflow Management. (4) Adequate Access to Justice.</p>				
(189) ATJ, \$	BJA LRP (2002)	Exclusive jurisdiction in district court for civil (non-equity) cases where the amount in controversy is below a figure set by statute.	NO LONGER RELEVANT	Impetus: Attempt to even out workload between superior and district courts. There was a time when King County District Court had 26 judges who were spending some time sitting in superior court after cities pulled out. This does not necessarily apply any more, and may never have applied in other counties. Considered by CFTF CLJ WG? See (1), (8), (42-46), (179).
(192) ATJ, \$	BJA LRP (2002)	The BJA is waiting for the SCJA rules committee recommendation regarding a civil change of venue study to determine funding and judicial impacts.	NO FURTHER CONSIDERATION	Impetus: Chelan sex case transferred to King County by Judge Donahue without consulting with King PJ. Statutory change was then proposed related to costs. The "sending" county would reimburse the "receiving" county when there was a change of venue. The SCJA Civil Committee reviewed the proposal on October 8, 2001, and recommended that it be drafted more narrowly: Although committee members agreed with most of the proposal, they also agreed that it is drafted too broadly. The general opinion was that a "sending" county should be responsible for costs when a case is transferred pursuant to RCW 4.12.030(2) or (4), but not when a case is transferred pursuant to RCW 4.12.030(1) or (3). The committee also discussed cases that are transferred pursuant to a separate statute in that chapter, RCW 4.12.080 (stipulation of the parties). Under this statute, when the parties stipulate to transfer the case, the judge "must" order the transfer. The committee discussed amending this statute so that a judge would have discretion whether to transfer the case. If RCW 4.12.080 remains as is, however, committee members were concerned whether the sending county should be required to pay costs when that county has no say in whether the transfer is made. This has since been brought to the SCJA Board on a couple of occasions. They have declined to pursue the issue.
(195) ATJ, QS, \$	BJA LRP (2002)	The BJA should create a joint BJA, Washington Defense Trial Lawyers, Washington State Trial Lawyers Association and Bar group to study the use of six-person civil juries. (LRPC).	NO FURTHER CONSIDERATION	No action recommended by Comm on WA Trial Cts re size of jury. See (40).
(209) QS	BJA LRP (2002)	The BJA should assist the Supreme Court in identifying defects and omissions in the law. Supreme Court RCW 2.04.230, COA RCW 2.06.110, Superior Court RCW 2.08.250. The BJA should recommend a subcommittee.	REJECTED	Chief Justice's responsibility.
(240)	BJA-LRP (2002)	Pattern forms should be produced in a user-friendly format. Forms should be available in the most common software programs and should incorporate clear, simple instructions.		
<p>CLJ Assessment Survey Report (Wilson Report) 1995 - 1997</p> <p>Purpose: Chief Justice Durham commissioned a comprehensive survey of the policies, procedures, and facilities of Washington State's district and municipal courts. The purpose of this survey was to inventory the standards, practices, and procedures in place in the courts of limited jurisdiction. Performed by the Wilsons. No Committee. Impetus: CLJ 1988 Study. Before improvements or changes can be undertaken, a baseline of current practices is needed.</p>				

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(212) PTC, JI	Wilson Report (1997)	A-2 1. OAC, DMCJA, and DMCMA should develop model public information brochures on court services and facilities for distribution to the district and municipal courts and inclusion on the Washington Court Home Page on the Internet.	REJECTED	Jan 2009: PTC referred to BPC; BPC said it's not appropriate for them as they are narrowly focused on the creation of performance audit measures. <u>WILL ADDRESS AT 8.15.09 & 7.15.09 MEETINGS RESPECTIVELY.</u> Rejected - enough information available.
(213) PTC	Wilson Report (1997)	A-2 2. OAC, DMCJA, and DMCMA should develop a court services information script to be available on a 1-800 number so that the public can obtain information on court services.	REJECTED	Formulated into broader recommendation that any information available in English should also be made available in commonly used languages on appropriate media.
(217) ATJ, QS, PTC	Wilson Report (1997)	A-3 1. OAC, DMCJA, and DMCMA should develop model public information brochures, in commonly used languages, on court services and facilities for distribution to the district and municipal courts and inclusion on the Washington Court Home Page on the Internet.	REJECTED	Formulated into broader recommendation that any information available in English should also be made available in commonly used languages on appropriate media.
(218) ATJ, QS, PTC	Wilson Report (1997)	A-3 2. OAC should prepare a telephone information script for the 1-800 telephone service to allow Spanish speaking litigants to obtain information concerning court procedures and citizen rights.	REJECTED	Formulated into broader recommendation that any information available in English should also be made available in commonly used languages on appropriate media.
(229) PTC, \$	Wilson Report (1997)	B-1 2. Legislation should be drafted by the DMCJA to give courts authority and control over court receipts and disbursements, i.e., exclusive control of the court trust account.	REJECTED	GR 29
(232) ATJ	Wilson Report (1997)	B-2 1. DMCJA should propose legislation to repeal RCW 3.02.045(2) or modify it to provide a uniform cost for court credit card banking services.	REJECTED	May 2008: AOC states this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(241) QS	Wilson Report (1997)	C-2 1. OAC, DMCJA, and DMCMA, and representatives of corrections agencies should develop an information sheet, in appropriate languages, specifying the risks to third parties of posting bail or collateral.	NO FURTHER CONSIDERATION	
(243) QS	Wilson Report (1997)	C-2 3. DMCJA should propose legislation to modify RCW 10.19.100, stay of execution on bail bonds, to include CLJ.	NO FURTHER CONSIDERATION	
(245) QS	Wilson Report (1997)	C-3 1. OAC, DMCJA, and DMCMA should establish specific procedures to standardize the most commonly used docket entries.	NO FURTHER CONSIDERATION	
(248) QS	Wilson Report (1997)	C-3 4. OAC should examine the feasibility of establishing a mechanism or computer link to DOH death certificate records to enable the courts to delete active cases filed on deceased persons.	REJECTED	
(249) ATJ	Wilson Report (1997)	D-2 1. OAC in conjunction with the Interpreter Advisory Committee, should examine the appropriateness of modifying FT 11.1(d) to permit family members or friends to interpret for the non-English speaking litigant in certain specified cases.	REJECTED	
(250) ATJ, ASF	Wilson Report (1997)	D-2 2. BJA should draft legislation modifying RCW 2.43.040(2) or propose a court rule to clarify the responsibility for the funding and recovery of the cost of providing interpreters in court proceedings.	REJECTED	Staff recommends this be rejected.
(251) ATJ, ASF	Wilson Report (1997)	D-2 3. DMCJA should draft legislation that would permit the recovery of actual costs when a non-English speaking litigant fails to appear at a court proceeding after having requested the services of an interpreter.	REJECTED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(254) QS	Wilson Report (1997)	D-3 2. OAC should redesign the eligibility screening form.	REJECTED	May 2008: AOC states this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(257) ATJ, QS	Wilson Report (1997)	D-4 2. OAC should develop a model advice of rights form, in appropriate languages, that requires the defendant to acknowledge receipt of a copy. JIS should examine the feasibility of producing the form on DISCIS.	REJECTED	May 2008: AOC states this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(260) ATJ, PTC	Wilson Report (1997)	E-1 1. Courts should not assess court costs in cases in which the defendant is not convicted or found not to have committed an infraction except as otherwise provided by statute.	REJECTED	
(262) ATJ, PTC	Wilson Report (1997)	E-2 1. DMCJA and DMCMA should draft legislation defining and itemizing all "court costs" permissible in the state of Washington for all CLJ. Fees and costs designed to recover actual expenditures should be clearly specified.	NO FURTHER CONSIDERATION	
(266) QS	Wilson Report (1997)	F-1 1. OAC, in conjunction with DMCJA and DMCMA, should devise guidelines or standards for excusing jurors.	NO FURTHER CONSIDERATION	See Jury Commission (321).
(267) QS	Wilson Report (1997)	F-1 2. DMCJA and DMCMA should include, in their curriculum plans, seminars designed to educate court staff and judges in juror orientation and jury management, including guidelines or standards for excusing jurors.	NO FURTHER CONSIDERATION	See Jury Commission (321) re standards for excusing jurors.
(270) EDT	Wilson Report (1997)	F-1 5. DMCJA and DMCMA should include, in their curriculum plans, seminars on jury management and the methodology required to effectively evaluate and compile juror exit questionnaires.	NO FURTHER CONSIDERATION	11/99 BJA has formed Jury Commission to look into jury issues. See (354).
(271) ATJ, QS	Wilson Report (1997)	F-2 1. OAC, DMCJA, and DMCMA should examine the feasibility of developing models for the most commonly used forms (Commitment Orders, Orders for Release, No Contact Orders, etc.) to be generated by DISCIS and included in a JIS forms blank.	REJECTED	May 2008: AOC states this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(279) EDT	Wilson Report (1997)	F-4 2. OAC should develop training and educational seminars designed to maximize court staff expertise in the use of personal computer applications.	REJECTED	
(280)	Wilson Report (1997)	F-4 3. OAC should examine the feasibility of providing temporary personnel to enable the one clerk/manager to attend regional and statewide training seminars.	REJECTED	
(286) EDT	Wilson Report (1997)	F-5 3. OAC should circulate model personnel policies for consideration by the courts of limited jurisdiction.	REJECTED	May 2008: AOC states this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(289) ATJ, QS	Wilson Report (1997)	G-2 1. OAC, in conjunction with DMCJA and DMCMA, should review existing facilities standards and develop minimum standards for facilities, staffing, and equipment covering all aspects of court operation.	NO FURTHER CONSIDERATION	11/99 Proposed ARLJ 7 addresses this issue. See (16-17), (34), (94-95), (109), (188), (300).
(298) JI	Wilson Report (1997)	J-1 1. OAC and DMCJA should draft a model judicial services contract for judges who are employed on a contractual basis, consistent with the provisions of RCW 3.50.080.	REJECTED	

Summary and Status of Commission Recommendations

No.	Source	Recommendation	Status	Notes
(299) JI	Wilson Report (1997)	J-1 2. DMCJA should draft legislation to make it unlawful for a political sub-division of the State to enact any ordinance, or execute any judicial services contract contrary to the provisions of RCW 3.50.080.	REJECTED	
(303) ATJ, ASF	Wilson Report (1997)	J-2 2. DMCJA should propose legislation to repeal RCW 10.05.130 in favor of adequate funding of alcohol treatment for indigent defendants.	REJECTED	May 2008: DMCJA states this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(310) ATJ, QS	Wilson Report (1997)	L 1. BJA should study the advisability of legislation or Supreme Court Rule to clarify jurisdiction between the superior courts and the courts of limited jurisdiction in domestic violence and anti-harassment matters.	REJECTED	May 2008: SCJA & DMCJA state this recommendation is no longer relevant, has been previously rejected or otherwise does not warrant further action or consideration.
(311) QS, EDT	Wilson Report (1997)	L 2. DMCJA and DMCMA, in conjunction with WSACC, should include in their BCE curriculum training plans, joint training seminars involving judges, managers, and county clerks in screening and processing domestic violence and anti-harassment matters.	NO FURTHER CONSIDERATION	
Washington State Jury Commission (2000)				
The BJA asked the Commission to "conduct a broad inquiry into the jury system and examine issues including... juror responsiveness, citizen satisfaction from jury service, adequacy of juror reimbursement, and improving juror participation in trials." This was based on Washington courts reporting that it had become more and more difficult to find prospective jurors. The Commission wanted to look for ways to encourage more participation from the citizenry.				
(316) §	Jury Commission (2000)	5 The rules of general application relating to jury source lists should be modified to eliminate license and identicaid holder records that have been expired for more than 90 days and to specify that only "active" registered voter records be considered for use in jury source lists.	REJECTED	
(317) ATJ, §	Jury Commission (2000)	6 The timing of the jury source list process should be re-examined to enable jurisdictions to perform their annual draw while the list data is still current.	REJECTED	Unable to make list available earlier. Times with other agencies and Feds.
(322) ATJ	Jury Commission (2000)	11 RCW 2.36.070 should be amended to include a pilot project allowing non-English-speaking citizens to serve on a jury with the aid of a certified interpreter.	REJECTED	This recommendation was not supported by the BJA.



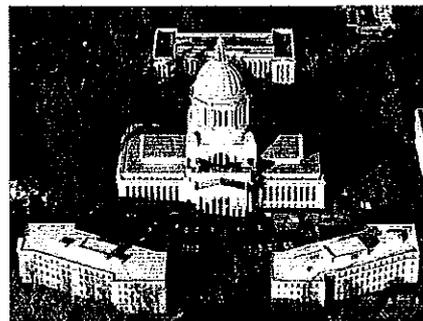
Judicial Impact Fiscal Notes

Dirk A. Marler,
Judicial Services Division Director

Julia Appel
Sr. Court Program Analyst

Introduction

- **Purpose:**
 - Overview of process
 - Understand what it is and is not
 - Key staff
 - Ask for your help



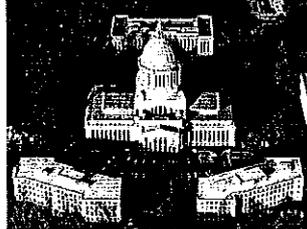
Key AOC Staff

- **Fiscal Note Team:**

- Julia Appel
- Gil Austin
- Brian Backus

- **Internal team includes:**

- Legal analysts
- Liaisons & committee support
(Regina, Ashley, Rick, Janet)
- JIS experts
- Financial analysts
- Information Services



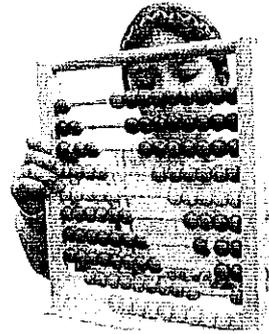
Getting Ready for the Session

- **Collect data to build assumptions**

- caseload reports
- staffing surveys
- weighted caseload studies
- SGC data
- State Auditor's Local Government Reporting System

The Data is Used to Calculate:

- Staffing assumptions.
- Staff and judicial salary assumptions.
- Court operational costs.
- Facility costs (capital expense).



The Leg Session Starts

- A request for a fiscal note comes to AOC via the web-based OFM fiscal note system.
- AOC has 72 hours to respond.
- The related bill is accessed, read, and summarized by one of the fiscal note analysts.

The Bill is Analyzed

- Is this a new bill or an amended version of an earlier bill?
- Is this a new law or does it change existing law?
- Does the bill make technical or substantive changes?
- What court levels would be affected?

Analysis

What is the effect on:

- trial procedures?
- court administration?
- court financing?
- caseload?
- expected revenue?
- expected expense?



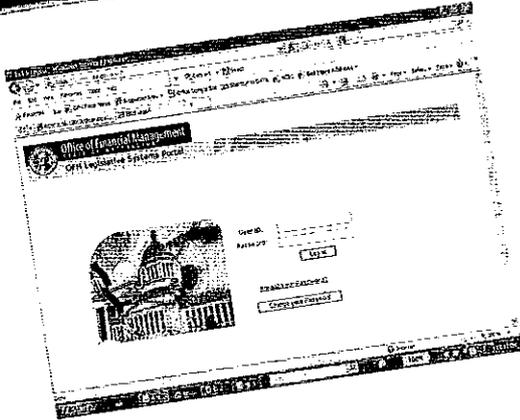
Estimating Impact

- AOC sends bill summary to Fiscal Note input committees
 - Specific questions to estimate impact
- JIS sizing requested if JIS impact
- Emails are sent to agencies such as SGC, DOL, DSHS, DOC, WSP, and the AGO asking for input.

Calculations

- Once the change in filings, hearings, or trial rate is determined, that information is plugged into spreadsheets that calculate judicial need, staffing, operational costs, and capital costs.
- Revenues and costs to the state, the counties, and the cities are projected.
- Finally, all the information is entered into the OFM fiscal note system.

Review



- The final note is reviewed by Dirk or Ramsey.
- Released to OFM
- OFM either returns the note for revision or approves the note.
- The note is not available on the OFM public Web site until it is "published".

Viewing the Fiscal Note

- **To view a fiscal note:**
 - From the Inside Courts Web page, select Judges' Resources, Legislative Information, Fiscal Notes.
 - This takes you to the OFM Web site where you can enter the bill number to view the published fiscal note in its entirety.

Extranet Home Page - Windows Internet Explorer

http://www.courts.wa.gov

File Edit View Favorites Tools Help

Home Logout Bookmark Service Center Advanced Search

WASHINGTON COURTS

Inside Washington Courts Announcements

Legal Resources

Legislative Information

AOC Events and Training

Events for December

December 2009							Event Date: 12-07-2009
Su	Mo	Tu	We	Th	Fr	Sa	Event: Board for Court Education Meeting
		1	2	3	4	5	Location: AOC Seatac Office, Seatac Office Center, 15000 International Blvd, Ste 1106, Seatac
6	7	8	9	10	11	12	Time: 1:00 P.M. - 3:00 P.M.
13	14	15	16	17	18	19	Staff: Judith Anderson

Judges Resources - legislativeinfo - Windows Internet Explorer

http://www.courts.wa.gov

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WASHINGTON COURTS

Legislative Information

Fiscal Notes

Legislative Summaries

OFM Fiscal Notes Home Page - Windows Internet Explorer

http://www.wa.gov/...

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OFM Fiscal Notes Home P... X EELS Logon

Office of Financial Management
State of Washington

Fiscal Notes

RCW 43.88A requires that the Office of Financial Management (OFM) coordinate the development of fiscal impact statements (fiscal notes) on legislative proposals. OFM must also approve fiscal notes for form, accuracy, and completeness. The purpose of this process is to provide to the Legislature the estimated cost of legislation that is going through the legislative process.

With the start of the 2001 Legislative Session, the Office of Financial Management implemented a new Internet Fiscal Note System for use by the Legislature, state agencies, and OFM budget analysts for requesting, developing, reviewing, and approving fiscal notes. The results of this process are the published fiscal notes that can be found on this web page.

To search the fiscal notes, fill in the session year and at least one other search criteria in the boxes below, and press "Search." Alternatively, if you want just the fiscal note for a particular bill, fill in both the session year and the bill number, and press Search.

To filter by publication date enter a valid date using a 4 digit year (i.e., 1/16/2002). Note that you can provide both "to" and "from" dates or just the "to" or just the "from" date.

This site is best viewed with Netscape 6.0 or Internet Explorer 5.5, or newer versions of these browsers. Netscape 6.x's File/Print menu method for printing an Adobe PDF is no longer functional. As a result, you can only print from within the Acrobat plug-in.

Session Year: Bill Number: Bill Title:

Publication Date: From To

Bill Tracker

- **To view bill positions and fiscal note information in Bill Tracker:**
 - From the Inside Courts Web page, select Judges' Resources, Legislative Information, Bill Tracker.
 - Click on the bill title, and click on the Fiscal Note line to see the impact.

judgesResources - legislativeInfo - Windows Internet Explorer

http://www.courts.wa.gov/legis/leginfo/leginfo.htm

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WASHINGTON COURTS

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Legislative Information

- AOC Bill Tracker
- Bill Information (Form)
- Fiscal Notes
- Washington State Bar Association (WSBA) Summary - Revised Final Report of the Ad Hoc Work Group on the Uniform Mediation Act - 10 January 2005
- Washington State Legislature
- SCJA Legislative Committee
- Court Tours for Legislators
- Legislative Advocacy Guide

Legislative Summaries

- Summary of Selected 2009 Legislation of Interest to the Courts - May 2009
- Summary of Selected 2008 Legislation of Interest to the Courts - May 2008
- Summary of Selected 2007 Legislation of Interest to the Courts - June 2007
- Summary of Selected 2006 Legislation of Interest to the Courts - May 2006
- Summary of Selected 2005 Legislation of Interest to the Courts - June 2005

Bill Tracker

Bill Tracking - Windows Internet Explorer

http://www.courts.wa.gov/legis/leginfo/leginfo.htm

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WASHINGTON COURTS

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By Bill: Go Dead Active Master Reports Select Assoc. Records to Display

Welcome to the Inside.Courts view of the AOC 2009-10 Bill Tracker
 Bill Tracker allows you to see the legislative positions taken by the BJA, SCJA, and DMCA on bills introduced this legislative session.
 From this page you may:

- See all the bills considered by one or more of the associations.
- See detailed position information on an individual bill by either:
 - clicking on the bill title
 - entering the bill number at the top of the screen in the "by bill" box and clicking "go."
- Change the view to view only those bills that have missed a legislative cut-off and are considered "dead."
- Change the view to view only those bills that have made a legislative cut-off and are considered "active."
- Change the view to view only those bills considered by the BJA, SCJA, or DMCA.

Note: only bills from the 2009-10 session are available in the system.
 * indicates Dead Bill

Bill	Bill Title	Leg Status Date	Leg Status
S 0130.1	Modifying the Judicial Conduct Commission		
S 0195.3	Regarding the adjudication of water rights		
S 0274.1	An act relating to the appointment of court commissioners to assist with criminal cases		
S 0437.1	Concerning persistent offenders		
S 0523.1	Creating the uniform electronic transactions act		
S 0756.1	Regulating exchange Facilitators		
H 9905.2	Addressing the recommendations of the joint legislative task force on the underground economy in the construction industry		
SB 1002	Certificate of discharge	02/09/2009	2nd Reading

Bill Tracking - Windows Internet Explorer

http://inside.courts.wa.gov/index.cfm?fa=CntlBillTracking.preview&bill_TrackingID

WASHINGTON COURTS

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Advanced Search

By Bill GO Dead Active Master Reports Select Assoc. GO

Session: 2009-10

Bill Number: SHB 1382
 Title: DNA identification system
 Sponsors: PSEP(Miloscia)
 Bill Summary: Expanding the DNA identification system.
 Co-Filed Bill

Fiscal Note: Fiscal Note entered on 02/02/09
 Fiscal Note entered on 02/20/09

Trackers:
 Ashley DeBloss
 Bill Cogswell
 Colleen Clark
 Janet Skreen
 Lynne Alfasso*
 Regina McDougall

Most recent Legislative Status = SHB

Associations: Hearings: Versions: Status History: Fiscal Note

Version	Bill Number	Sponsors	Summary	Originated Date
SHB	1382	PSEP(Miloscia)	Expanding the DNA identification system.	02/18/2009
HB	1382	(Miloscia)	Expanding the DNA identification system.	01/20/2009

Done Local Intranet 100%

Bill Tracking - Windows Internet Explorer

https://inside.courts.wa.gov/index.cfm?fa=CntlBillTracking.preview&Bill_Tracki

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Advanced Search

By Bill GO Dead Active Master Reports Select Assoc. GO

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 Colleen Clark
 Janet Skreen
 Lynne Alfasso*
 Regina McDougall

View Bill > Go to Legislative Bill

Most recent Legislative Status = SHB

Associations: Hearings: Versions: Status History: Fiscal Note

Bill Number	Date In	Bill Short Title	Local Exp Impact	State Exp Impact	Local Rev Impact	State Rev Impact	Author	To OFM
HB 1382	01/27/2009	DNA identification system	\$267,119.00	\$252,140.00	(\$360,000.00)	\$1,980,000.00	Julia Appal	02/02/2009

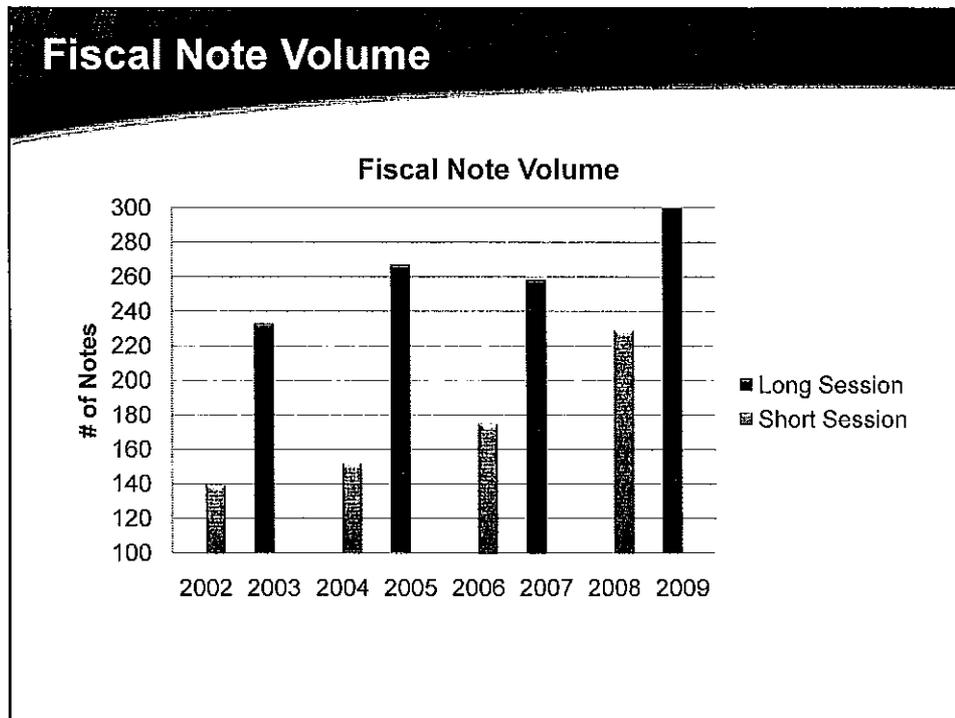
Done Local Intranet 100%

Amended Bill

- If an amendment to a bill is proposed, the cycle starts all over again.
- The bill is printed and compared to the original bill to see what changes have been made.
- Input is sought.
- Spreadsheets are recalculated, and a new fiscal note is created.

Volume

- AOC completed 330 fiscal notes during the 2009 long session and 229 during the 2008 short session
- Based on the increasing volume, AOC could receive as many as 300 requests in the short 2010 session. The majority of those are likely to come in the first month.



Fiscal Notes -- Conclusion

- We don't argue merits
- Equal opportunity offender
- Quick turnaround
- Diverse topics
- Dependent on:
 - Timeliness of your responses
 - Consistency of your answers



Fiscal Notes

Questions?