

BOARD FOR JUDICIAL ADMINISTRATION



**WASHINGTON
COURTS**

MEETING PACKET

**FRIDAY, JULY 15, 2011
9:30 A.M.**

**AOC SEATAC OFFICE
SEATAC, WASHINGTON**

Board for Judicial Administration Membership

VOTING MEMBERS:

Chief Justice Barbara Madsen, Chair
Supreme Court

Judge Chris Wickham, Member Chair
Superior Court Judges' Association
Thurston County Superior Court

Judge Marlin J. Appelwick
Court of Appeals, Division I

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

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

Judge Janet Garrow
District and Municipal Court Judges'
Association
King County District Court

Judge Laura Inveen, President
Superior Court Judges' Association
King County Superior Court

Judge Teresa Kulik
Court of Appeals, Division III

Judge Michael Lambo
District and Municipal Court Judges'
Association
Kirkland Municipal Court

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

Justice Susan Owens
Supreme Court

Judge Christine Quinn-Brintnall
Court of Appeals, Division II

Judge Kevin Ringus
District and Municipal Court Judges'
Association
Fife Municipal Court

Judge Scott Sparks
Superior Court Judges' Association
Kittitas County Superior Court

Judge Gregory Tripp, President
District and Municipal Court Judges'
Association
Spokane County District Court

NON-VOTING MEMBERS:

Mr. Steven Crossland, President-Elect
Washington State Bar Association

Judge Sara Derr, President-Elect
District and Municipal Court Judges'
Association
Spokane County District Court

Mr. Jeff Hall
State Court Administrator

Ms. Paula Littlewood, Executive Director
Washington State Bar Association

Judge Craig Matheson, President-Elect
Superior Court Judges' Association
Benton and Franklin Superior Courts

Judge Ann Schindler, Presiding Chief Judge
Court of Appeals, Division I

Mr. Steven Toole, President
Washington State Bar Association

Board for Judicial Administration

July 15, 2011
9:30 a.m. – Noon
AOC SeaTac Office
SeaTac, Washington

Agenda

1. Call to Order	Chief Justice Barbara Madsen Judge Chris Wickham	
2. Welcome and Introductions	Chief Justice Barbara Madsen Judge Chris Wickham	
Action Items		
3. June 17, 2011 Meeting Minutes Action: Motion to approve the minutes of the June 17 BJA meeting	Chief Justice Barbara Madsen Judge Chris Wickham	Tab 1
4. Resolution Regarding Racial and Ethnic Bias in the Justice System Action: Motion to approve the Resolution Regarding Racial and Ethnic Bias in the Justice System	Judge Deborah Fleck	Tab 2
5. BJA Best Practices Committee Appointment Action: Motion to appoint Judge Stephanie Arend to the BJA Best Practices Committee	Ms. Mellani McAleenan	Tab 3
6. Trial Court Operations Funding Committee Charter Action: Motion to approve the charter for the Trial Court Operations Funding Committee	Ms. Mellani McAleenan	Tab 4
7. Regional Courts of Limited Jurisdiction Project Charter Action: Motion to approve the charter for the Regional Courts of Limited Jurisdiction Project	Mr. Dirk Marler	Tab 5
Reports and Information		
8. Washington State Bar Association	Mr. Steven Toole Ms. Paula Littlewood	

<p>9. Reports from the Courts Supreme Court Court of Appeals Superior Courts Courts of Limited Jurisdiction</p>	<p>Chief Justice Barbara Madsen Judge Ann Schindler Judge Laura Inveen Judge Gregory Tripp</p>	
<p>10. Association Reports Superior Court Administrators Juvenile Court Administrators County Clerks District and Municipal Court Administrators</p>	<p>Ms. Marti Maxwell Ms. Shelly Maluo Ms. Betty Gould Ms. Lynne Jacobs</p>	
<p>11. Administrative Office of the Courts</p>	<p>Mr. Dirk Marler</p>	
<p>12. WSBA Council on Public Defense Recommendations</p>	<p>Mr. Marc Boman</p>	<p>Tab 6</p>
<p>13. Other Business Next meeting: August 19 Beginning at 9:30 a.m. at the AOC SeaTac Office, SeaTac</p>	<p>Chief Justice Barbara Madsen Judge Chris Wickham</p>	

**Board for Judicial Administration
Meeting Minutes**

**June 17, 2011
SeaTac, Washington**

Members Present: Chief Justice Barbara Madsen, Co-Chair; Judge Michael Lambo, Member Chair; Judge Marlin Appelwick; Judge Sara Derr; Judge Deborah Fleck; Judge Janet Garrow; Mr. Jeff Hall; Judge Laura Inveen; Judge Teresa Kulik (by phone); Justice Susan Owens; Judge Christine Quinn-Brintnall; Judge Kevin Ringus; Judge Ann Schindler; Judge Scott Sparks; Mr. Steven Toole; Judge Gregory Tripp; and Judge Chris Wickham

Guests Present: Ms. Lynne Jacobs and Ms. Shelly Maluo

Staff Present: Ms. Beth Flynn, Ms. Shannon Hinchcliffe (by phone), Mr. Dirk Marler, Ms. Mellani McAleenan, and Mr. Ramsey Radwan

Judge Lambo called the meeting to order.

May 20, 2011 Meeting Minutes

It was moved by Judge Garrow and seconded by Judge Wickham to approve the May 20, 2011 meeting minutes. The motion carried.

BJA Resolutions

Mr. Hall stated that a small committee of Judge Garrow, Judge Wickham, Mr. Hall and Ms. McAleenan revised the Board for Judicial Administration (BJA) Process and Guidelines for Resolution Requests. The main revisions were to state that resolutions do not stand alone as funding priorities or stand alone to seek funding and are not long-term policy statements. The format was changed to include bulleted points and the Principal Policy Objectives of the Washington Judicial Branch are referenced but removed from the actual guidelines.

There was some discussion on various revisions to the guidelines regarding outside groups and if a specific action item should be a requirement. There was also discussion about the definition of "Board member" and if that included non-voting members. It was determined that all BJA members (voting and non-voting) were considered "Board members."

It was moved by Judge Inveen and seconded by Judge Garrow to change the wording in the guidelines as follows:

On the first page, in the second to last bullet, the first sentence should be revised to: "Resolutions may be proposed by any Board member."

On the first page, in the last bullet, the last sentence should be revised to: "Resolutions must be short-term and stated in precise language."

The motion carried.

BJA Best Practices Committee

Mr. Marler stated that Judge Julie Spector, who chaired the Best Practices committee for several years, tendered her resignation. There is interest in the position from both Judge Quinn-Brintnall and Judge Jean Rietschel.

Judge Lambo moved and Chief Justice Madsen seconded to nominate Judge Jean Rietschel and Judge Quinn-Brintnall as co-chairs of the BJA Best Practices Committee. The motion carried.

Nevins Award Nomination

Chief Justice Madsen stated the first draft of the proposed language for the BJA's nomination of Justice Mary Fairhurst for the Nevins Award was included in the meeting materials. The 2011 form is not available at this time but the language needs to be ready to go when the form is distributed later this summer.

Judge Ringus moved and Judge Wickham seconded that the BJA nominate Justice Mary Fairhurst for the Nevins Award. The motion carried with Judge Fleck abstaining.

Judge Fleck suggested that the wording on the nomination form focus on projects Justice Fairhurst has worked on in terms of public understanding of the law and the role of the judiciary in American society. Ms. Flynn and Judge Ringus will work on enhanced language for the award.

Resolution Regarding Racial and Ethnic Bias in the Justice System

Judge Fleck reported that the work group met by phone to revise the resolution and also had input from Chief Justice Madsen. The resolution has now been approved by the Supreme Court, the SCJA Board, the Minority and Justice Commission and the Access to Justice (ATJ) Board. Judge Tripp stated that the District and Municipal Court Judges' Association (DMCJA) Board has not arrived at a decision yet because there is some confusion about the final language. They will not meet again until August but they could meet by conference call earlier. Judge Tripp would appreciate it if the resolution decision could be put over until the July or August BJA meetings.

Mr. Toole said the Washington State Bar Association (WSBA) Board of Governors (BOG) discussed the original resolution at their Board meeting this month. There was

some discussion about broadening the resolution to include bias based on sexual orientation. There is no need to change this resolution but the suggestion should be considered for future resolutions.

The resolution will be put on the July or August agendas depending on when the DMCJA makes a decision on the resolution.

BJA Long-Range Planning Committee

Ms. McAleenan stated that the BJA needs to appoint two BJA representatives to the BJA Long-Range Planning Committee to fill the expiring positions of Judge Jack Nevin and Judge Fleck.

Judge Ringus moved and Judge Garrow seconded to reappoint Judge Nevin to the BJA Long-Range Planning Committee. The motion carried.

Judge Fleck moved and Judge Wickham seconded to appoint Judge Sparks to the BJA Long-Range Planning Committee. The motion carried.

Ms. McAleenan said the BJA also needs to consider adding a "Past Chair" position to the BJA Long-Range Planning Committee with a two-year term. The BJA Member Chair is the Chair of the Long-Range Planning Committee and would step into the Past Chair position as soon as the Member Chair term is over.

It was moved by Judge Wickham and seconded by Judge Fleck to add a Past Chair position to the BJA Long-Range Planning Committee. The motion carried.

BJA Member Chair

Chief Justice Madsen stated that Judge Lambo's current position as Member Chair is coming to a close and the BJA needs to elect a new Member Chair.

It was moved by Judge Fleck and seconded by Judge Quinn-Brintnall to elect Judge Chris Wickham as the BJA Member Chair. The motion carried with Judge Wickham abstaining.

Judge Wickham stated he really wants this group to speak for all of the judiciary. It is a tough challenge to get everyone on the same page.

GR 31 and GR 31A Update

Chief Justice Madsen updated the BJA on the status of proposed General Rule 31A which was recently passed by the full Court for comments. She distributed a press release about proposed General Rule 31A regarding access to judicial branch

administrator records which is now open for public comment through November 30, 2011.

Proposed GR 12.4 regarding access to WSBA records has not yet been acted upon by the Supreme Court.

State Budget/Revenue Update

Chief Justice Madsen stated that the Supreme Court budget process was developed so all levels of the courts would be part of the process and have an opportunity to be heard. Once the decisions are made, the judiciary will all march together as one.

As tough as this past legislative session was, everyone worked hard and used resources well. The Law Library was saved with the help of the SCJA, WSBA, DMCJA, Supreme Court justices, etc. which shows that the power of speaking with one voice is effective.

Stakeholder groups all came together on the JSTA issue and decided that as painful as it could be to the judicial branch, a state/local split and a continuation of the filing fees would be requested. Even though it turned out differently than was requested, from beginning to end the stakeholders stuck together.

Chief Justice Madsen is going to hold a review meeting in late August or September to determine what went well and what did not go so well with the budget process this past legislative session. She would like to meet with the Office of Public Defense (OPD), the Office of Civil Legal Aid (OCLA), the BJA, SCJA, DMCJA, Washington Association of Juvenile Court Administrators (WAJCA), Court of Appeals and other stakeholders.

Mr. Radwan distributed a summary of the most recent revenue forecast. The amnesty program generated over \$184 million in May. It helped plug the hole for the current biennium but there is now concern about what that does for future tax revenue.

The state is still in the hole about \$40 million this biennium. The Office of Financial Management (OFM) sent an e-mail to state agencies asking them not to spend much money the last two weeks of the biennium. Part of the problem is that the supplemental budget did not pass until the end of May and they lost an opportunity to save money by not passing it earlier. It should have passed in March.

For the ensuing biennium, the revenue forecast keeps going down. Year over year, the revenue is growing but not at the rate that is forecast. Mr. Radwan thinks the Legislature will come back and cut funding for 2012.

Mr. Radwan included a summary of each judicial branch agency's 2011-2013 biennium budget in the meeting materials. Also included were copies of letters requesting that the Governor veto a portion of the state budget bill. One veto request was regarding

modification of the judgment and sentence form for juvenile and adult sentences. The other issue was in the Juvenile Rehabilitation Administration (JRA) section of the budget stating the JRA could have access to juvenile court records from the Administrative Office of the Courts (AOC). Neither section was vetoed. AOC staff will be meeting next week to decide what to do regarding the JRA language.

Mr. Hall provided a brief update on the budget reductions at AOC. The reductions proposed to the Supreme Court were the elimination of five positions, one of which has an incumbent; eliminate the jury source list pass-through funding; eliminate the Guardian ad Litem reimbursement funds; and decrease the pro tem reimbursement pass-through due to lack of use. AOC will also rely on less static funds such as vacancy rate savings. It is likely the Supreme Court will have a final decision on the proposed AOC reductions next week.

Legislative Update

Ms. McAleenan stated that most of the bills that passed during the regular session were discussed previously by the BJA.

The highlight from the special session is the Judicial Stabilization Trust Account (JSTA) bill. The House did not want to include a split and the Senate wanted a 50-50 split and they went behind closed doors and compromised on a 75-25 split. The fee was only extended for two years. The BJA will need to discuss the fee again prior to the expiration in 2013. King County notified the Governor that they want the split to be closer to 50-50 and that they want it permanent.

A 2011 legislative session report will be distributed in the next few weeks.

Washington State Bar Association

Mr. Toole reported that the Washington State Bar Association (WSBA) Board of Governors (BOG) met in Kennewick for their June meeting and they elected Ms. Michele Radosevich who will take over as WSBA President in 2012. She will be the fourth woman to serve as President.

During their Board meeting the Council on Public Defense (CPD) presented their proposals on caseloads and standards. The Board adopted all of their recommendation except the one area that had the most controversy which was the courts of limited jurisdiction caseload standards. They took that off the table and are working with the stakeholder groups and will bring it back to the BOG in the future.

The next Board meeting is in Ocean Shores on July 21 and 22.

Reports from the Courts

Supreme Court: Justice Owens reported that most of the justices attended the ATJ conference. They have one week left in their spring term and it has been a very difficult term.

Court of Appeals: Judge Schindler reported that since 2007 the Court of Appeals (COA) has taken \$4 million in cuts and now they are facing a \$1.2 million cut. They are currently working on a plan to incorporate the reduction into their budget. They have taken some cuts in FTEs and the remaining employees are doing more with less and they have not had any pay increases of any kind in four years and will now have a 3% pay cut.

Superior Courts: Judge Inveen stated that the Superior Court Judges' Association (SCJA) had a very successful conference at Suncadia. Many judges shared rooms and expenses because of budget reductions. She thanked everyone for their assistance with the education program.

Last weekend was their long-range planning meeting and SCJA Board meeting. They focused on a debriefing of the legislative session, budgeting, and a communication strategy within and outside of the judicial branch. They recognized they have to be deliberate about funding and realize there is contention and they had extraordinarily heated discussions on these issues. They want to ensure the risk assessment is implemented and will go through the JISC user group process. It is important that the Legislature sees that they do get a good product.

Courts of Limited Jurisdiction: Judge Tripp thanked Judge Lambo for serving as Member Chair of the BJA. He also thanked everyone for attending the District and Municipal Court Judges' Association (DMCJA) conference. Many from their association were at the spring conference and quite a few of the attendees were from part-time courts and the conference provided them an important opportunity to meet and talk to other judges. They had an excellent program by Judge Eileen Kato regarding aging and decision-making. They also elected new officers.

Mr. Hall and Judge Tripp will speak at an Association of Washington Cities (AWC) conference next week regarding working cooperatively with other branches of government.

Association Reports

Juvenile Court Administrators: Ms. Maluo reported that Becca funding was kept intact during the legislative session. The Legislature added proviso language regarding data sharing between the Juvenile Rehabilitation Administration (JRA) and AOC and the Juvenile Court Administrators met with the JRA yesterday to discuss the data sharing.

They had four representatives and one senator attend their spring conference. The legislators gave them feedback and tips regarding working projects through the Legislature. The tips validated some things they do and informed them of things they should not do.

District and Municipal Court Administrators: Ms. Jacobs reported that the District and Municipal Court Administrators held their spring conference at Suncadia which was well attended. They held their annual business meeting and elected new officers and are currently in the process of planning next event. Ms. Jacobs thanked the DMCJA for their educational funding assistance. Their priority is to educate court administrators and employees and they have talked about mandatory education for administrators. They met yesterday with AOC and representatives from the Institute for Court Management regarding training.

Administrative Office of the Courts

Mr. Hall stated that AOC staff just finished another spring educational season which is a very busy time for the education unit.

The Judicial Information System Committee (JISC) is meeting June 24 and they will receive the Feasibility Study on the Case Management System (CMS).

Spokane Municipal Court has asked the JISC to move to a private vendor for their computer system. The JISC needs to establish a policy on what they will look at for requests like this in the future. They will consider the request at their meeting next week.

The appellate court e-filing project is moving forward with a feasibility study.

Other Business

WSBA Judicial Membership Licensing Fee: Chief Justice Madsen stated the Supreme Court came up with language to implement the decision that was made to have a judicial membership licensing fee of \$50 and a copy of the order was provided in the meeting materials.

Office of Public Defense: Ms. Joanne Moore asked Chief Justice Madsen to communicate to the BJA that there was an article in the Spokesman-Review regarding the treatment of attorneys by the Office of Public Defense. Ms. Moore views this as an opportunity to revisit how compensation is made and sustainability of that type of work. She is starting a discussion with the attorneys statewide to see if they can come up with a more sustainable model.

Long-Range Planning: Long-Range Planning is getting underway for the judicial branch and also moving forward internally for the Supreme Court. Chief Justice

Madsen asked Judge Schindler to assist in that effort so they can have more of an appellate-wide plan.

BJA Member Chair: Chief Justice Madsen thanked Judge Lambo for his service as the BJA Member Chair the last two years. Judge Lambo stated that it was a pleasure working with Chief Justice Madsen and he enjoyed it immensely because they were always on the same page and worked very well together. Everybody on the BJA is dedicated to the bench and he enjoyed the atmosphere of the meetings.

Trial Court Operations Funding Committee (TCOFC): Judge Fleck stated that she wants to gently raise the issue of the TCOFC piece of the Justice in Jeopardy Implementation Committee (JIJIC) initiative. The TCOFC made a proposal meeting the deadline of the Supreme Court's budget timeline. The BJA did not approve the funding requests and ironically, the Senate passed their budget which was better than the House budget not long after the BJA denied the funding request. The SCJA Board voted to have the funding requests taken directly to the Supreme Court because they want the data refreshed regularly. Judge Fleck is raising the issue again to have this issue looked at during the upcoming budget process meeting.

The TCOFC is part of the BJA's funding arm. It seems appropriate that the BJA, at some point, consider the Court Operations piece. Refreshing the data would help when discussing the issues. The SCJA was notified by Mr. Hall that the TCOFC issues would not be moving forward through the Supreme Court. Judge Fleck just wants to have the conversation about the budgeting process.

Chief Justice Madsen reminded everyone that the BJA did reconstitute the TCOFC and part of the problem with the decision packages is if we know the funding requests are not a top priority and not going forward, it is not efficient to have staff take time to develop information. She wants the BJA to be very careful in spending energy on something that is not going forward and is hoping this will be part of the conversation during the upcoming meeting on the budget process.

RESOLUTION of the BOARD FOR JUDICIAL ADMINISTRATION
of the State of Washington

WHEREAS, equal justice is fundamental to the American system of government under law; and

WHEREAS, racial and ethnic bias have no place in the justice system; and

WHEREAS, facially neutral policies and practices that have a disparate impact on people of color contribute significantly to disproportionalities in the criminal and civil justice system, and

WHEREAS, racial and ethnic bias distort decision-making at various stages in the criminal and civil justice system, thus contributing to disproportionality and disparate treatment in the criminal and civil justice system, and

WHEREAS, racial and ethnic bias matter in ways that are not fair, that do not advance legitimate public safety objectives, that produce disproportionality, disparate treatment and disparate impact in the criminal and civil justice system, and that undermine public trust and confidence in our legal system; and

WHEREAS, the judiciary, consistent with its obligation to administer justice fairly, efficiently and effectively, has a vital role to play in ensuring that existing and proposed rules, policies and practices are fair and do not result in racial or ethnic disproportionality and disparate impact in the criminal and civil justice system; and

WHEREAS, the Board for Judicial Administration as the policy-making body of Washington's judicial branch of government plays a leadership role to ensure fairness in the justice system,

NOW THEREFORE, BE IT RESOLVED that the Board for Judicial Administration endorses and strongly advocates a well-coordinated effort by the judicial branch, the Washington State Bar Association, minority bar associations, law schools and interested stakeholders to accomplish the following:

- (1) Educate the public and those in the justice system on racial and ethnic disproportionality, disparate treatment and disparate impact occurring in the justice system;
- (2) Evaluate existing and proposed rules, policies and practices to determine whether they contribute to racial and ethnic disproportionality or disparate impact in the justice system, and if so, how such impacts can be avoided or corrected;
- (3) Identify corrective measures and pursue system-wide improvements in racial and ethnic fairness;
- (4) Measure and evaluate progress in addressing these issues that are critical to a fair and impartial system of justice in Washington; and
- (5) Develop and implement action plans to accomplish the objectives above to eliminate racial and ethnic disproportionality, disparate treatment and disparate impact in the justice system; and

BE IT FURTHER RESOLVED that the Board for Judicial Administration encourages the judicial branch, the Washington State Bar Association, minority bar associations, law schools and interested stakeholders to work with members of the executive and legislative branches, as appropriate, to promote the adoption of laws, policies and evidence-based practices shown to be effective in reducing racial and ethnic disproportionality and disparate impact in the criminal and civil justice system.

**Board for Judicial Administration
Nomination Form for BJA Committee Appointment**

BJA Committee: BJA Best Practices
(i.e. Best Practices, Court Security, Justice in Jeopardy, Long-Range Planning, and Public Trust and Confidence)

Nominee Name: Judge Stephanie Arend

Nominated By: SCJA
(i.e. SCJA, DMCJA, etc.)

Term Begin Date: _____

Term End Date: _____

Has the nominee served on this subcommittee in the past? Yes No

If yes, how many terms have been served and dates of terms: _____

Additional information you would like the BJA to be aware of regarding the nominee:

Appointed in 1999 to the Pierce County Superior Court bench.

Please send completed form to:

Beth Flynn
Administrative Office of the Courts
PO Box 41174
Olympia, WA 98504-1174
beth.flynn@courts.wa.gov



**Board for Judicial Administration
Trial Court Operations Funding Committee Charter**

Charge:

The Trial Court Operations Funding Committee (TCOFC) was reactivated as a standing committee under the auspices of the Board for Judicial Administration (BJA) in March 2011. Consistent with the role and responsibilities of the BJA under BJAR 4, the TCOFC is charged with developing specific funding proposals and implementation plans for court operations, in accordance with the Supreme Court's budget development process, for recommendation to the BJA. The TCOFC shall also assist the Administrative Office of the Courts (AOC) in identifying data to collect pursuant to RCW 2.56.030(6), which requires AOC to "collect statistical and other data and make reports relating to the expenditure of public moneys, state and local, for the maintenance and operation of the judicial system and the offices connected therewith."

Approach:

The TCOFC may recommend that the BJA request or endorse the inclusion of specific funding proposals in the budget submissions of the Supreme Court. In doing so, the TCOFC shall consider the practical and political realities of each proposal.

AOC staff shall work with the TCOFC chair to develop a meeting schedule that comports with the Supreme Court's budget development process. Budget proposals shall be submitted to the BJA no later than January to allow time for proper review and determination regarding whether such proposals will be submitted to the Supreme Court for consideration.

Meetings shall be scheduled in such a manner as to minimize travel and other meeting-related expenses while maintaining the integrity of the committee process.

Membership:

Membership shall consist of the following three-year terms:

- Three members from the Superior Court Judges' Association
- Three members from the District & Municipal Court Judges' Association
- One member from the Association for Washington Superior Court Administrators
- One member from the District & Municipal Court Management Association
- One member from the Washington State Association of County Clerks

July 11, 2001

The above associations shall nominate members for approval by the BJA. In nominating and approving members, consideration shall be given to maintaining geographic and court-size diversity of membership.

Current Membership:

(Approved by BJA, May 2011)

Name	Court	Representing	Term Expires
Judge Harold Clarke, Chair	Spokane County Superior Court	SCJA	May 2014
Judge Deborah Fleck	King County Superior Court	SCJA	May 2014
Judge Michael Trickey	King County Superior Court	SCJA	May 2014
Judge Frank La Salata	King County District Court – East Div.	DMCJA	May 2014
Judge Patrick Burns	Auburn Municipal Court	DMCJA	May 2014
Judge Alicia Nakata	Chelan County District Court	DMCJA	May 2014
Paul Sherfey	King County Superior Court	AWSCA	May 2014
Rafaela (Ela) Selga	Clark County District Court	DMCMA	May 2014
VACANT		WSACC	

AOC Staff:

Court Services Manager
 Administrative Assistant



WASHINGTON COURTS

Board for Judicial Administration Regional Courts of Limited Jurisdiction Project Charter

Project Title: Regional Courts Work Group

Project Start Date: July 15, 2011

Projected Finish Date: October 21, 2011

Project Sponsor: Board for Judicial Administration

Work Group Membership:

- 2 District and Municipal Court Judges' Association officers or board members, one of whom is a municipal court judge
- 1 Superior Court Judges' Association officer or board member
- 1 District and Municipal Court Management Association
- 1 Administrator for the Courts, or Designee
- 2 Association of Washington Cities
- 2 Washington State Association of Counties
- 4 Legislators (one from each caucus)
- 13 TOTAL

Primary AOC Staff: Regina McDougall
Steve Henley

Project Goal and Objectives:

Goal

- Assist BJA in crafting a legislative proposal to modernize Washington's courts of limited jurisdiction by regionalizing court services in a manner that promotes access to justice and administrative efficiency.

Objectives

1. Develop a common, high level baseline understanding among work group participants of the current structure, role, operation, and challenges for district and municipal courts
2. Identify common core principles for local court services

3. Identify key elements that must be addressed in a comprehensive plan for regionalizing limited jurisdiction court services
4. Identify areas of agreement among participating organizations about how to address those key elements

Project Benefits:

1. Promotes access to justice through consistent operating hours and services
2. Encourages coordination of administrative and ancillary services, enabling local government to benefit from economies of scale for personnel, purchasing services, facilities, and other business expenses
3. Provides a structure for delivering justice services based on local needs and population rather than artificial political boundaries
4. Creates efficiencies at the state and local levels for training and support
5. Facilitates greater focus on effective court management
6. Resolves the debate whether part-time judges should be elected

Approach:

The Workgroup is expected to meet in person four times. Subcommittees may be established meet as needed. AOC will support the Workgroup through research, drafting work products, and providing administrative support (meeting scheduling and other coordination).

Preliminary Schedule/Milestones/Deliverables:

Dates	Activities
July 2011	Preparation
August 2011	First meeting – Orientation & Identification of Core Principles
September 2011	Meetings 2 & 3: Key elements; areas of agreement
October 2011	Present Work Products to BJA
November 2011	Association Review
December 2011	BJA Action

Estimated Resource Requirements:

- Travel budget for four in-person meetings (est. \$1000 per meeting); all other meetings will be by telephone conference call/Adobe Connect
- AOC staff time: 200+ hours

GR 9 COVER SHEET

Suggested Standards Submitted to Court for Approval Pursuant to CrR 3.1, CrRLJ 3.1, and JuCR 9.2

A. Name of Proponents: Washington State Bar Association and Council on Public Defense.

B. Spokespersons:

Steven G. Toole, WSBA President, PO Box 50008, Bellevue, WA 98015 (telephone 425-455-1570)

Marc A. Boman, Chair, Council on Public Defense, 1201 – 3rd Avenue, Suite 4800, Seattle WA 98101-3099 (telephone 206-359-8000)

Elizabeth A. Turner, Assistant General Counsel, Washington State Bar Association, 1325 4th Ave., Ste. 600, Seattle, WA 98101-2539 (telephone 206-239-2109)

C. Purpose: On July 8, 2010, the Court adopted amendments to CrR 3.1, CrRLJ 3.1, and JuCR 9.2. The amendments require appointed counsel to certify compliance with Standards for Indigent Defense Services to be approved by the Supreme Court, and are to become effective September 1, 2011. The Council for Public Defense considered the views of numerous stakeholders and interested parties while developing Standards for certification regarding caseloads, administrative costs, investigators, limitations on private practice, and qualifications of attorneys, with a proposed effective date of September 1, 2011. Standards for caseload limits were also developed, with a proposed effective date of January 1, 2013. The Standards were thoroughly discussed at several meetings of the WSBA Board of Governors and were approved by Resolution at the Board of Governors' June 3, 2011 meeting. The relevant Standards are now submitted for publication and comment pursuant to that Resolution.

D. Hearing: A hearing is not requested.

E. Expedited Consideration: Some of the Standards are proposed to be effective September 1, 2011, the date the rule amendments become effective. On September 10, 2010, the Court issued Order No. 25700-A-964, which states in pertinent part that the Court "will reconsider the effective date for these rules" if Standards for Indigent Defense Services have not been adopted by September 1, 2011.

F. Supporting Material: Suggested Standards for Indigent Defense Services.

SUGGESTED STANDARDS FOR INDIGENT DEFENSE

The following Standards for Indigent Defense are adopted pursuant to CrR 3.1, CrRLJ 3.1, and JuCR 9.2 and shall have an effective date concurrent with the effectiveness of amendments to those rules approved by the Court July 8, 2010 (effective September 1, 2011):

Standard 3.2 – Caseload Limits and Types of Cases: The caseload of public defense attorneys shall allow each lawyer to give each client the time and effort necessary to ensure effective representation. Neither defender organizations, county offices, contract attorneys nor assigned counsel should accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation. As used in this Standard, “quality representation” is intended to describe the minimum level of attention, care, and skill that Washington citizens would expect of their state’s criminal justice system.

Standard 5.2 – Administrative Costs: Public defense attorneys shall have an office that accommodates confidential meetings with clients and receipt of mail, and adequate telephone services to ensure prompt response to client contact.

Standard 6.1 – Investigators: Public defense attorneys shall use investigation services as appropriate.

Standard 13 – Limitations on Private Practice: Private attorneys who provide public defense representation shall set limits on the amount of privately retained work which can be accepted. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent.

SUGGESTED STANDARDS FOR INDIGENT DEFENSE

Standard 14 – Qualifications of Attorneys:

Standard:

1. In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services shall meet the following minimum professional qualifications:

A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and

B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and

C. Be familiar with the Washington Rules of Professional Conduct; and

D. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association; and

E. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and

F. Be familiar with mental health issues and be able to identify the need to obtain expert services; and

G. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

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2. Trial attorneys' qualifications according to severity or type of case¹:

A. Death Penalty Representation. Each attorney acting as lead counsel in a death penalty case or an aggravated homicide case in which the decision to seek the death penalty has not yet been made shall meet the following requirements:

- i. The minimum requirements set forth in Section 1; and
- ii. At least five years criminal trial experience; and
- iii. Have prior experience as lead counsel in no fewer than nine jury trials of serious and complex cases which were tried to completion; and
- iv. Have served as lead or co-counsel in at least one jury trial in which the death penalty was sought; and
- v. Have experience in preparation of mitigation packages in aggravated homicide or persistent offender cases; and
- vi. Have completed at least one death penalty defense seminar within the previous two years; and
- vii. Meet the requirements of SPRC 2.²

¹ Attorneys working toward qualification for a particular category of cases under this standard may associate with lead counsel who is qualified under this standard for that category of cases.

²SPRC 2 APPOINTMENT OF COUNSEL

At least two lawyers shall be appointed for the trial and also for the direct appeal. The trial court shall retain responsibility for appointing counsel for trial. The Supreme Court shall appoint counsel for the direct appeal. Notwithstanding RAP 15.2(f) and (h), the Supreme Court will determine all motions to withdraw as counsel on appeal.

A list of attorneys who meet the requirements of proficiency and experience, and who have demonstrated that they are learned in the law of capital punishment by virtue of training or experience, and thus are qualified for appointment in death penalty trials and for

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The defense team in a death penalty case should include, at a minimum, the two attorneys appointed pursuant to SPRC 2, a mitigation specialist and an investigator. Psychiatrists, psychologists and other experts and support personnel should be added as needed.

B. Adult Felony Cases - Class A. Each attorney representing a defendant accused of a Class A felony as defined in RCW 9A.20.020 shall meet the following requirements:

- i. The minimum requirements set forth in Section 1; and
- ii. Either:
 - a. has served two years as a prosecutor; or
 - b. has served two years as a public defender; or two years in a private criminal practice, and
- iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases that have been submitted to a jury.

appeals will be recruited and maintained by a panel created by the Supreme Court. All counsel for trial and appeal must have demonstrated the proficiency and commitment to quality representation which is appropriate to a capital case. Both counsel at trial must have five years' experience in the practice of criminal law be familiar with and experienced in the utilization of expert witnesses and evidence, and not be presently serving as appointed counsel in another active trial level death penalty case. One counsel must be, and both may be, qualified for appointment in capital trials on the list, unless circumstances exist such that it is in the defendant's interest to appoint otherwise qualified counsel learned in the law of capital punishment by virtue of training or experience. The trial court shall make findings of fact if good cause is found for not appointing list counsel.

At least one counsel on appeal must have three years' experience in the field of criminal appellate law and be learned in the law of capital punishment by virtue of training or experience. In appointing counsel on appeal, the Supreme Court will consider the list, but will have the final discretion in the appointment of counsel. [\[Link\]](#)

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C. Adult Felony Cases - Class B Violent Offense. Each attorney representing a defendant accused of a Class B violent offense as defined in RCW 9A.20.020 shall meet the following requirements:

- i. The minimum requirements set forth in Section 1; and
- ii. Either:
 - a. has served one year as prosecutor; or
 - b. has served one year as public defender; or one year in a private criminal practice; and
- iii. Has been trial counsel alone or with other counsel and handled a significant portion of the trial in two Class C felony cases that have been submitted to a jury.

D. Adult Sex Offense Cases. Each attorney representing a client in an adult sex offense case shall meet the following requirements:

- i. The minimum requirements set forth in Section 1 and Section 2(C); and
- ii. Been counsel alone of record in an adult or juvenile sex offense case or shall be supervised by or consult with an attorney who has experience representing juveniles or adults in sex offense cases.

E. Adult Felony Cases - All other Class B Felonies, Class C Felonies, Probation or Parole Revocation. Each attorney representing a defendant accused of a Class B felony not defined in Section 2(C) or (D) above or a Class C felony, as defined in

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RCW 9A.20.020, or involved in a probation or parole revocation hearing shall meet the following requirements:

- i. The minimum requirements set forth in Section 1, and
- ii. Either:
 - a. has served one year as a prosecutor; or
 - b. has served one year as a public defender; or one year in a private criminal practice; and
- iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in two criminal cases that have been submitted to a jury; and
- iv. Each attorney shall be accompanied at his or her first felony trial by a supervisor if available.

F. *Persistent Offender (Life Without Possibility of Release) Representation.* Each attorney acting as lead counsel in a "two-strikes" or "three strikes" case in which a conviction will result in a mandatory sentence of life in prison without parole shall meet the following requirements:

- i. The minimum requirements set forth in Section 1;³ and

³ RCW 10.101.060 (1)(a)(iii) provides that counties receiving funding from the state Office of Public Defense under that statute must require "attorneys who handle the most serious cases to meet specified qualifications as set forth in the Washington state bar association endorsed standards for public defense services or participate in at least one case consultation per case with office of public defense resource attorneys who are so qualified. The most serious cases include all cases of murder in the first or second degree, persistent offender cases, and class A felonies."

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- ii. Have at least:
 - a. four years criminal trial experience; and
 - b. one year experience as a felony defense attorney; and
 - c. experience as lead counsel in at least one Class A felony trial; and
 - d. experience as counsel in cases involving each of the following:
 - 1. Mental health issues; and
 - 2. Sexual offenses, if the current offense or a prior conviction that is one of the predicate cases resulting in the possibility of life in prison without parole is a sex offense; and
 - 3. Expert witnesses; and
 - 4. One year of appellate experience or demonstrated legal writing ability.
- G. Juvenile Cases - Class A. Each attorney representing a juvenile accused of a Class A felony shall meet the following requirements:
 - i. The minimum requirements set forth in Section 1, and
 - ii. Either:
 - a. has served one year as a prosecutor; or

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b. has served one year as a public defender; one year in a private criminal practice; and

iii. Has been trial counsel alone of record in five Class B and C felony trials; and

iv. Each attorney shall be accompanied at his or her first juvenile trial by a supervisor, if available.

H. Juvenile Cases - Classes B and C. Each attorney representing a juvenile accused of a Class B or C felony shall meet the following requirements:

i. The minimum requirements set forth in Section 1; and

ii. Either:

a. has served one year as a prosecutor; or

b. has served one year as a public defender; or one year in a private criminal practice, and

iii. has been trial counsel alone in five misdemeanor cases brought to a final resolution; and

iv. Each attorney shall be accompanied at his or her first juvenile trial by a supervisor if available.

I. Juvenile Sex Offense Cases. Each attorney representing a client in a juvenile sex offense case shall meet the following requirements:

i. The minimum requirements set forth in Section 1 and Section 2(H); and

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ii. Been counsel alone of record in an adult or juvenile sex offense case or shall be supervised by or consult with an attorney who has experience representing juveniles or adults in sex offense cases.

J. *Juvenile Status Offenses Cases.* Each attorney representing a client in a “Becca” matter shall meet the following requirements:

i. The minimum requirements as outlined in Section 1; and

ii. Either:

a. have represented clients in at least two similar cases under the supervision of a more experienced attorney or completed at least three hours of CLE training specific to “status offense” cases; or

b. have participated in at least one consultation per case with a more experienced attorney who is qualified under this section.

K. *Misdemeanor Cases.* Each attorney representing a defendant involved in a matter concerning a simple misdemeanor or gross misdemeanor or condition of confinement, shall meet the requirements as outlined in Section 1.

L. *Dependency Cases.* Each attorney representing a client in a dependency matter shall meet the following requirements:

i. The minimum requirements as outlined in Section 1; and

ii. Attorneys handling termination hearings shall have six months dependency experience or have significant experience in handling complex litigation.

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iii. Attorneys in dependency matters should be familiar with expert services and treatment resources for substance abuse.

iv. Attorneys representing children in dependency matters should have knowledge, training, experience, and ability in communicating effectively with children, or have participated in at least one consultation per case either with a state Office of Public Defense resource attorney or other attorney qualified under this section.

M. Civil Commitment Cases. Each attorney representing a respondent shall meet the following requirements:

i. The minimum requirements set forth in Section 1; and

ii. Each staff attorney shall be accompanied at his or her first 90 or 180 day commitment hearing by a supervisor; and

iii. Shall not represent a respondent in a 90 or 180 day commitment hearing unless he or she has either:

a. served one year as a prosecutor, or

b. served one year as a public defender, or one year in a private civil commitment practice, and

c. been trial counsel in five civil commitment initial hearings; and

iv. Shall not represent a respondent in a jury trial unless he or she has conducted a felony jury trial as lead counsel; or been co-counsel with a more experienced attorney in a 90 or 180 day commitment hearing.

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N. Sex Offender "Predator" Commitment Cases. Generally, there should be two counsel on each sex offender commitment case. The lead counsel shall meet the following requirements:

- i. The minimum requirements set forth in Section 1; and
- ii. Have at least:
 - a. Three years criminal trial experience; and
 - b. One year experience as a felony defense attorney or one year experience as a criminal appeals attorney; and
 - c. Experience as lead counsel in at least one felony trial; and
 - d. Experience as counsel in cases involving each of the following:
 1. Mental health issues; and
 2. Sexual offenses; and
 3. Expert witnesses; and
 - e. Familiarity with the Civil Rules; and
 - f. One year of appellate experience or demonstrated legal writing ability.

Other counsel working on a sex offender commitment cases should meet the Minimum Requirements in Section 1 and have either one year experience as a public defender or significant experience in the preparation of criminal cases, including legal research and writing and training in trial advocacy.

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O. Contempt of Court Cases. Each attorney representing a respondent shall meet the following requirements:

- i. The minimum requirements set forth in Section 1; and
- ii. Each attorney shall be accompanied at his or her first three contempt of court hearings by a supervisor or more experienced attorney, or participate in at least one consultation per case with a state Office of Public Defense resource attorney or other attorney qualified in this area of practice.

P. Specialty Courts. Each attorney representing a client in a specialty court (e.g., mental health court, drug diversion court, homelessness court) shall meet the following requirements:

- i. The minimum requirements set forth in Section 1; and
- ii. The requirements set forth above for representation in the type of practice involved in the specialty court (e.g., felony, misdemeanor, juvenile); and
- iii. Be familiar with mental health and substance abuse issues and treatment alternatives.

3. Appellate Representation.

Each attorney who is counsel for a case on appeal to the Washington Supreme Court or to the Washington Court of Appeals shall meet the following requirements:

- A. The minimum requirements as outlined in Section 1; and
- B. Either:

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- i. has filed a brief with the Washington Supreme Court or any Washington Court of Appeals in at least one criminal case within the past two years; or
- ii. has equivalent appellate experience, including filing appellate briefs in other jurisdictions, at least one year as an appellate court or federal court clerk, extensive trial level briefing or other comparable work.

C. Attorneys with primary responsibility for handling a death penalty appeal shall have at least five years' criminal experience, preferably including at least one homicide trial and at least six appeals from felony convictions, and meet the requirements of SPRC 2.

RALJ Misdemeanor Appeals to Superior Court: Each attorney who is counsel alone for a case on appeal to the Superior Court from a Court of Limited Jurisdiction should meet the minimum requirements as outlined in Section 1, and have had significant training or experience in either criminal appeals, criminal motions practice, extensive trial level briefing, clerking for an appellate judge, or assisting a more experienced attorney in preparing and arguing an RALJ appeal.

4. Legal Interns.

- A. Legal interns must meet the requirements set out in APR 9.
- B. Legal interns shall receive training pursuant to APR 9 and in offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held.

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The following Standards for Indigent Defense are adopted pursuant to CrR 3.1, CrRLJ 3.1, and JuCR 9.2 and are effective January 1, 2013:

Standard 3.3 – Caseload Limits and Types of Cases: General Considerations:

Caseload limits reflect the maximum caseloads for fully supported full-time defense attorneys for cases of average complexity and effort in each case type specified. Caseload limits assume a reasonably even distribution of cases throughout the year.

The increased complexity of practice in many areas will require lower caseload ceilings. The maximum caseload limit should be adjusted downward when the mix of case assignments is weighted toward more serious offenses or case types that demand more investigation, legal research and writing, use of experts and/or social workers or other expenditure of time and resources. In particular, felony caseloads should be assessed by the workload required, and certain cases and types of cases should be weighted accordingly.

If a defender or assigned counsel is carrying a mixed caseload including cases from more than one category of cases, these standards should be applied proportionately to determine a full caseload. In jurisdictions where assigned counsel or contract attorneys also maintain private law practices, the caseload should be based on the percentage of time the lawyer devotes to public defense.

Definition of case: A case is defined as the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation.

Standard 3.4 – Caseload Limits and Types of Cases: Caseload Limits: The caseload of a full-time public defense attorney or assigned counsel shall not exceed the following:

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150 Felonies per attorney per year; or

[Misdemeanor cases – reserved]

250 Juvenile Offender cases per attorney per year; or

80 open Juvenile Dependency cases per attorney; or

250 Civil Commitment cases per attorney per year; or

1 Active Death Penalty trial court case at a time plus a limited number of non death penalty cases compatible with the time demand of the death penalty case and consistent with the professional requirements of Standard 3.2; or

36 Appeals to an appellate court hearing a case on the record and briefs per attorney per year. (The 36 standard assumes experienced appellate attorneys handling cases with transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the average transcript length is greater than 350 pages, the caseload should be accordingly reduced.)