



## **Board for Judicial Administration (BJA)**

**Friday, October 21, 2011 (9:30 a.m. – 12:00 p.m.)**

AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

### **MEETING MINUTES**

#### **Members Present:**

Chief Justice Barbara Madsen, Co-Chair  
Judge Christopher Wickham, Member Chair  
Judge Marlin Appelwick  
Judge Ronald Culpepper  
Judge Sara Derr  
Judge Deborah Fleck  
Judge Janet Garrow  
Mr. Jeff Hall  
Judge Laura Inveen  
Judge Jill Johanson  
Judge Teresa Kulik (by phone)  
Judge Michael Lambo  
Judge Craig Matheson  
Judge Jack Nevin  
Justice Susan Owens  
Judge Kevin Ringus  
Judge Ann Schindler  
Judge Gregory Tripp

#### **Guests Present:**

Mr. Jim Bamberger  
Mr. M. Wayne Blair  
Ms. Bonnie Bush  
Mr. Pat Escamilla  
Mr. Frank Maiocco  
Judge Samuel Meyer (by phone)  
Ms. Sophia Byrd McSherry  
Dr. Arun Raha  
Mr. Stephen Toole

#### **AOC Staff Present:**

Ms. Beth Flynn  
Mr. Dirk Marler  
Ms. Mellani McAleenan  
Mr. Ramsey Radwan

Judge Wickham called the meeting to order.

#### September 16, 2011 Meeting Minutes

**It was moved by Judge Inveen and seconded by Judge Lambo to approve the September 16, 2011 BJA meeting minutes. The motion carried.**

#### Trial Court Operations Funding Committee Charter

An updated Trial Court Operations Funding Committee (TCOFC) Charter was distributed in the meeting materials. Ms. McAleenan stated that a few months ago the BJA reviewed a similar document but decided to hold off until after the September budget meeting to make a decision.

Ms. McAleenan stated there are few changes between the last version and the current one and one difference is that it was decided that the member terms should be staggered and have equal representation between judges and administrators.

Judge Fleck asked if there is any urgency to approving the charter today or if it can wait until the next meeting so the SCJA can review it. Chief Justice Madsen responded that her concern is the timing. If the committee members do not start working on the budget requests soon, they might find themselves frozen out of the Supreme Court budget process. The Supreme Court

has to abide by the budget deadlines set by the legislature and they are locked into some of the deadlines. Mr. Radwan responded that time is running out and the BJA needs to take a position on this today.

Judge Fleck stated that because of the economy there will not be any items coming forward from the TCOFC.

Judge Appelwick asked about the interaction between the TCOFC and the Justice in Jeopardy Implementation Committee (JIJIC). Chief Justice Madsen responded that the JIJIC is made up of all the branch entities and the TCOFC was originally created to work on budget requests for the courts. In the past, the BJA would instruct the TCOFC to spring into action by assigning some issues to the TCOFC to determine if a funding request was in order. With the current charter, the TCOFC will take a more forward thinking role than it has in the past. It will determine what issues to look at and it will report to the BJA and no longer report to the JIJIC.

A decision on the charter will be postponed until the next meeting.

#### BJA Public Trust and Confidence Membership

Justice Mary Fairhurst, Chair of the BJA Public Trust and Confidence (PT&C) Committee, sent a memorandum to the BJA Executive Committee requesting that a Washington State Bar Association (WSBA) representative be added to the membership of the PT&C Committee in place of the current WSBA ex officio member.

**It was moved by Judge Ringus and seconded by Judge Culpepper to approve a membership slot on the BJA PT&C Committee for a member of the WSBA. The motion carried.**

#### Regional Courts Work Group

Judge Derr provided an update on the progress of the Regional Courts Work Group. The work group proposes to systematically evaluate existing contracting jurisdictions to measure efficiency, accessibility, and management of regional limited jurisdiction pilot courts. The proposal includes a description of key elements of a regional court, including the three mandatory elements that a regional court must include, and additional variations of court operations and services that are optional. Most of the contracting jurisdiction scenarios are currently in use in courts (such as cities contracting with district courts or with other cities for court services). The work group proposes to gather information from the current models to determine the most efficient model of delivering limited jurisdiction court operations and services.

The work group proposal includes a defined governance role for a "Regional Court Districting Committee" to negotiate between contracting jurisdictions and determine a hub court. Some regions will need satellite courts. The work group proposed several options to evaluate as a regional court model because one size will not fit all.

The work group envisions a hub court housing the presiding judge who has all the authorities and duties defined in GR 29. A required element of the proposal is that court administration and court staff be full-time. Staff will be based at the hub court and then directed to staff the satellite

courts. Each regional court would also use whatever state information system is available instead of using their own software, resulting in increased consistency. While not a mandatory element of the regional court model, the work group recommends that contracting jurisdictions use the same prosecutor's office. This variable will be evaluated as part of the pilot court study.

The regional courts pilot evaluation proposal utilizes courts already using a regional courts model. The evaluation will gather data on the models for two to four years.

Before they go forward, they would like the BJA to determine if the work group should continue this approach. There were no objections to the work group moving forward with their approach to this issue.

### AOC Budget Priorities

Mr. Hall reported that Chief Justice Madsen convened a group to review the budget process and they met on September 29. In preparation for the October 24 follow-up meeting, Mr. Hall surveyed the BJA members regarding the priorities of the AOC budget. The survey was distributed to all 21 voting and non-voting BJA members and 16 responses were received.

The responses were sorted in priority order and were compared to the responses received last year from the AOC stakeholders (all levels of judges and court administrators). While the AOC program areas listed remained the same in both surveys, the BJA members were asked to give each program area a high, medium or low priority and last year each organization was asked to list their 10 highest and lowest priorities.

Two of the items on last year's survey, the ADA program and the jury pass-through funds, were removed from this year's survey because they were both cut due to the last round of budget reductions. Court security was mistakenly left on the BJA survey—that has also been cut and should have been removed from the survey.

Chief Justice Madsen commented that the survey results are very rough and the survey is just a way to get the group thinking about what the AOC does. It is a way to start the conversation.

Mr. Hall stated that the results were not unexpected and there is a fair degree of congruence between the two surveys.

It was pointed out that it was difficult to complete the survey when the services that have to be provided because of legislative mandates or institutional support were not segregated from the items that can be reduced if necessary. Mr. Hall responded that part of the reason for including all the areas on the survey was so that everyone would realize that AOC performs all those tasks. If an area is rated low but it cannot be cut, that indicates some education needs to take place. Almost everything AOC does is required or allowed by statute. If change is necessary, there needs to be some statutory cleanup. AOC leadership has had conversations about legislation to repeal some things that have been cut during prior budget reductions.

Mr. Hall stated that of the cuts AOC has taken so far, 70% have been in the agency and 30% were to the pass-throughs. He knows that for upcoming budget reductions every cut that will be made will be to a direct service. If the AOC ends up with a budget reduction over \$500,000 it will be especially important to understand what the agency priorities are.

### State Revenue Report

Dr. Raha, Washington State Chief Economist, reported on Washington's economic outlook. In the month since the September forecast the state expected to collect a billion dollars and they came in \$10 million higher which indicates they are coming in on forecast.

Instead of the U shaped recovery Dr. Raha had been predicting, in September he revised his forecast to an L shape recovery. The reasons for that are slow growth (less than 3%), high unemployment, weak consumer confidence, and low levels of spending.

Dr. Raha does not expect the economy to begin recovering until at least the end of the biennium.

### BJA Legislative Agenda

Ms. McAleenan stated that most of the proposed 2012 Legislative Agenda was discussed by the BJA Legislative/Executive Committee and is coming to the full BJA without recommendations from the BJA Legislative/Executive Committee.

#### **Pending Ideas for BJA Request Legislation:**

Whatcom County Superior Court and Benton and Franklin Counties Superior Court are in the process of deciding if they want to request new judges. The courts understand that with the current economic climate their requests might not make it through the legislature this session.

#### **Previously Approved BJA Request Legislation:**

Ms. McAleenan stated that the municipal court judges bill was previously approved by the BJA but the BJA needs to decide if it wants to go forward with it this year or if the BJA should wait until later, after the special session, to determine how to proceed with this.

#### **Outstanding Requests for BJA Request Legislation:**

The District and Municipal Court Judges' Association (DMCJA) requested that the BJA consider retirement legislation that would allow a judge to finish out his/her term if the judge turns 75 during the term. The district court mandatory retirement age is set by statute and the superior court and Supreme Court mandatory retirement ages are constitutional.

**It was moved by Judge Schindler and seconded by Judge Lambo that the BJA not move forward with a constitutional amendment bill regarding judicial retirement age. The motion carried.**

The Interpreter Commission requested that the BJA consider legislation to require that interpreters be provided at no expense to non-English speaking persons regardless of indigency in all cases. State funding is not requested; the county will pick up the costs. The Interpreter Commission distributed a survey to determine how the courts were currently paying for interpreters and responses were received from each court level. The courts are currently picking up the costs one way or another.

Justice Owens stated that the courts that do not provide interpreter services for all limited English proficiency (LEP) individuals are out of compliance with the Department of Justice requirements and their federal funding may be in jeopardy.

There was discussion about not proposing anything that would require new funding at the state and local levels. In addition, there was discussion about the best way to approach this—through a resolution or best practices.

**It was moved by Judge Schindler and seconded by Judge Lambo to send the Interpreter issue to the BJA Best Practices Committee to come up with best practices regarding the use and payment of interpreters. The motion carried.**

Other Business

The next BJA meeting will be held November 18 and Judge Lambo will chair the meeting.

There being no further business, the meeting was adjourned.

**Recap of Motions from October 21, 2011 meeting**

<b>Motion Summary</b>	<b>Status</b>
Approve the September 16 Meeting Minutes	Passed
Approve the PT&C request to add a WSBA member to their committee	Passed
Send the issue regarding payment of interpreter expenses to the BJA Best Practices Committee to create best practices	Passed
The BJA will not pursue a constitutional amendment regarding the judicial retirement age	Passed

**Action Items updated for October 21, 2011 meeting**

<b>Action Item</b>	<b>Status</b>
<u>September 16, 2011 Meeting Minutes</u>	
• Send the approved minutes to Camilla Faulk for the En Banc binders	Done
• Post the approved minutes online	Done
<u>Trial Court Operations Funding Committee Charter</u>	
• Add to November BJA agenda for action	Done
<u>BJA Public Trust and Confidence Committee Membership</u>	
• Notify Margaret Fisher that the BJA approved the PT&C request for a WSBA member	Done
<u>Payment of Interpreter Expenses in Civil Hearings</u>	
• Send the issue to the BJA Best Practices Committee	
<u>November BJA Meeting</u>	
• The November BJA meeting will be held on November 18 and Judge Lambo will chair the meeting	E-mail sent to members