



Board for Judicial Administration (BJA)

Friday, April 20, 2012 (9:00 a.m. – 12:00 p.m.)

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

MEETING MINUTES

Members Present:

Chief Justice Barbara Madsen, Chair
Judge Marlin Appelwick
Mr. Stephen Crossland
Judge Ronald Culpepper
Judge Deborah Fleck
Judge Janet Garrow
Mr. Jeff Hall
Judge Laura Inveen
Judge Jill Johanson
Judge Kevin Korsmo (by phone)
Judge Craig Matheson (by phone)
Judge Jack Nevin
Judge Christine Quinn-Brintnall
Judge Kevin Ringus
Judge Scott Sparks
Judge Gregory Tripp

Guests Present:

Mr. Jim Bamberger
Mr. Pat Escamilla
Ms. Joanne Moore

Public Present:

Mr. Christopher Hupy
Mr. Mark Mahnkey
Mr. Rowland Thompson

AOC Staff Present:

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

Chief Justice Madsen called the meeting to order.

March 16, 2012 Meeting Minutes

It was moved by Judge Ringus and seconded by Judge Garrow to approve the March 16, 2012 meeting minutes. The motion carried.

Resolution in Support of the Guardian Accountability and Senior Protection Act

Ms. McAleenan stated that the resolution is basically the same as was presented last month with minor wording changes to make it relevant to the Board for Judicial Administration (BJA).

There was discussion about the timing of the decision on the resolution. Ms. McAleenan stated there was no hurry and a decision on the resolution could be delayed if needed.

It was decided to set this decision over to the next meeting so the judicial associations could have time to review it prior to making a decision.

Resolution Urging Congress to Respect the Separation of Powers and Principles of Federalism with Regard to Enacting Legislation to Address Child Custody

It was decided to set this decision over to the next meeting so the judicial associations could have time to review it prior to making a decision.

Filing Fee Workgroup Charter

Chief Justice Madsen stated it is time to review the fee structure for civil cases and determine if there is a need to change the filing fees or make a more substantive change to the fee structure.

Ms. McAleenan is working on filling in the workgroup members and the names of the members she has at this point in time are listed on the charter which is included in the meeting materials.

Judge Tripp stated that Judge Stephen Brown will be on the workgroup to represent the District and Municipal Court Judges' Association (DMCJA).

The first meeting will likely be scheduled in May.

Mr. Radwan noted that some legislators are very much interested in filing fees. Legislative staff know that the filing fees are scattered and may not be the best structure to have. In addition, the JSTA account will need to be backfilled. It is important to have legislative members involved so they can understand what is going on with filing fees.

It was moved by Judge Culpepper and seconded by Judge Garrow to approve the Filing Fee Workgroup charter. The motion carried.

Appointment to the Civil Legal Aid Oversight Committee

RCW 2.53.010(1)(e) gives the BJA the authority to appoint two members to the Civil Legal Aid Oversight Committee. Judge Lesley Allan's term expires on June 30, 2012 so the BJA needs to appoint a replacement. Ms. McAleenan e-mailed all judges soliciting volunteers to serve on the committee and Judge Michael Spearman submitted a letter of interest which is included in the BJA meeting materials.

Mr. Bamberger stated there has never been a member of the Court of Appeals to serve on the committee and he is very excited about Judge Spearman's willingness to serve on the committee.

It was moved by Judge Culpepper and seconded by Judge Tripp to appoint Judge Michael Spearman to the Civil Legal Aid Oversight Committee. The motion carried.

Washington State Medal of Valor Nomination

Chief Justice Madsen is on the Medal of Valor Nominating Committee and she would like to nominate Judge David Edwards for coming to the aid of staff in the courthouse during a recent court security incident. She would like the BJA to support the nomination.

Chief Justice Madsen learned that there was also a court clerk who intervened and played an important role in assisting during the incident and she is soliciting ideas regarding how best to honor the clerk. At the very least Chief Justice Madsen will write a letter to thank her.

There was some concern about the appearance of impartiality when the case is heard before a judge if the BJA supports the Medal of Valor nomination. Ms. McAleenan checked with Ms. Nan Sullins, of the Administrative Office of the Courts (AOC), regarding any ethical issues with the nomination. Ms. Sullins stated that if there is an appearance of fairness issue in the case the nomination will not exacerbate the issue.

The BJA decided to make a decision on this issue during the May meeting.

2012 Legislative Session Budget Report

Mr. Radwan stated that the teamwork the judicial branch displayed was a tremendous asset during the session. Some of the issues regarding fund switches were good in the short term but they will just push the problem out into the future and will need to be addressed next year. There will be some challenges with the way the budget was developed and approved—systemically at the state level and in the judicial branch.

The Becca reduction was agreed to by the Superior Court Judges' Association (SCJA) and the Washington Association of Juvenile Court Administrators (WAJCA) because the Legislature changed the statute stating students 17-years-old and older do not have to go through truancy. The AOC will work with the juvenile court administrators to track this.

The Supreme Court Law Library has been under scrutiny by the Senate. A study was proposed, and approved by Chief Justice Madsen, to determine the footprint and funding mechanism for the Law Library. A consultant has been hired for the study and a workgroup has been created which is comprised of members from the Supreme Court, Court of Appeals, the University of Washington Law library, legislators, and private law librarians. The workgroup will look at state law libraries nationally and take best practices and see how they could be implemented in the Washington State Law Library. The goal is to complete the analysis by October so the information can be presented to the Legislature prior to the 2013 legislative session.

WSBA Budget

Chief Justice Madsen gave Mr. Crossland some time to speak about the Washington State Bar Association (WSBA) budget in light of the recent passage of the member referendum lowering license fees. Mr. Crossland stated that the referendum passed with 52% of the votes. 43% of the members voted so 22% of the WSBA membership passed the resolution.

The WSBA spent the last week trying to assess what the vote really means, what message the membership sent to them, and how to deal with \$3.6 million in budget reductions. A Board of Governors (BOG) meeting is scheduled at the end of the month and an additional meeting was set to discuss the budget following the BOG meeting. It will be the first time the Board has met about the issue. In terms of philosophy, nothing is sacred and the BOG will need to look at everything. Also, they will need to look at the WSBA mission and strategic priorities to help with the decision-making.

Mr. Crossland received several hundred e-mails from members after the vote and many of them asked what they could do to right this. One question from an attorney asked if the WSBA could add a checkbox to the license fee form for attorneys to voluntarily pay additional funds to the WSBA. Some of the comments were also in the other camp and stated they hoped the WSBA got their message. Mr. Crossland will begin having regular chats with the WSBA members and the first one is scheduled for next week.

Problem-Solving Courts Authorizing Legislation Workgroup

Ms. McAleenan drafted a charter for the Problem-Solving Courts Authorizing Legislation Workgroup for the BJA's review. Bills have been put forth in the Legislature for various specialty courts and the BJA took a position not to support or oppose any of those bills but stated they would like to create an overarching statutory development framework.

Judge Harold Clarke shared the charter with the Washington State Association of Drug Court Professionals and they are focused on anything that will help them move forward. After reviewing the charter, the association members suggested that in lieu of, or in addition to, a court administrator as a member of the workgroup, a drug court coordinator should be included. Judge Ken Williams volunteered to serve on the workgroup and also suggested that his drug court coordinator be included.

Judge Inveen stated that the SCJA has a workgroup working on this issue and Mr. Dick Carlson is the AOC staff to the workgroup. The BJA workgroup needs to include members of the SCJA workgroup so they are not duplicating efforts.

The BJA decided that a member of an advocacy group should be included in the workgroup membership and Chief Justice Madsen asked that the BJA members send Ms. McAleenan suggestions of an advocacy group that should be represented.

The BJA discussed whether or not the workgroup charge should focus on legislation. It was decided that "Authorizing Legislation" would be removed from the workgroup title but the charge should reflect that the workgroup will determine if legislation is needed to implement the problem-solving courts framework.

Mr. Hall suggested that the charter include in the charge a statement regarding the problem that needs to be solved by the workgroup such as a decrease in the proliferation of legislation regarding problem-solving courts. The focus should be narrow so it does not expand beyond the reason for the idea in the first place.

The charter will be revised and brought back for the BJA's review during the May meeting.

OPD Update on Implementation of SSB 6493 – Indigent Defense for RCW 71.09 Civil Commitment

Ms. Moore stated that the Office of Public Defense (OPD) was given the responsibility (through SSB 6493) for indigent defense related to RCW 71.09 civil commitment cases.

This year there was a series in the Seattle Times that focused on defense costs in civil commitment cases. Last year the Legislature put a proviso in the budget to look at this issue.

The Legislature appropriated sufficient funds to OPD to provide quality representation and they were given the necessary funds for legal experts.

Judges have a new duty to notify OPD of the need for representation and this is an improvement to the system. The judge shall appoint OPD contracted counsel to represent the indigent person.

For calendared trials the statute authorizes OPD to enter into a contract with an existing attorney, even if that attorney is not an OPD-contracted attorney, to minimize disruption in the case and the attorney will be paid on a pro-rated basis. Ms. Moore said there are about 24 cases in the six months that OPD is authorized to contract with attorneys for existing cases.

The statute states expert evaluation shall be capped at \$10,000 but if the judge determines the expert should be paid more OPD will pay it.

Ms. Moore presented a timeline for implementation and everything should be up and running by July 1, 2012.

OPD is planning to have a conference call for judges probably in early to mid-May and they are ready to provide support to courts on a case-by-case basis.

2013-15 Budget Submissions

A list of preliminary 2013-2015 budget requests was included in the meeting materials.

The list contains two groups of budget requests. The first group contains items generated from AOC staff and the second group contains items from outside entities.

The first group of requests has been vetted by the AOC Leadership Team. These are all individually supportable and Mr. Hall wants to hear what the BJA thinks of them. After hearing comments from the BJA Mr. Hall might pull some back and not submit them to the Supreme Court. He does not have any expectation that any of the requests will move forward to the Legislature next year.

- The first two requests, "Risk Assessment and Law Table Support" and "Criminal Justice Research Associate," are related to the adult risk assessment. When AOC gets a technology request AOC staff have to support it once the technology is developed. The first piece is to support the risk assessment primarily as it relates to the state law table and the second portion is to ensure AOC has the tools to maintain it after the assessment is up and running.
- The "AOC Court Access Forms" request is what it would take to fully staff and run a forms program that would create and maintain forms that are easily understood. In addition, the program would translate forms into several languages.
- The "Therapeutic Court Coordinator" request is to staff an area AOC does not anticipate going away, especially given the current activity surrounding therapeutic courts.

- The “Guardianship Service Expansion” request will expand the guardianship program into additional counties.

The Trial Court Operations Funding Committee (TCOFC) will most likely bring the externally generated budget requests to the BJA.

- The first three requests restore Justice in Jeopardy Implementation Committee (JIJC) funding in the areas of interpreters, CASA, and the Family and Juvenile Court Improvement Program.
- The “Courts of Limited Jurisdiction (CLJ) Judges’ Salaries” request is the same as the one submitted several years ago.
- The “Interpreter Services” and “Expand Interpreter Program” requests are the same request on two different levels. The first request would provide interpreter services prior to and after being in the courtroom. The second request allows for more instances where the interpreters would be used pre and post courtroom appearance.
- The “Quality Assurance Transfer” would transfer quality assurance funding and staff from the Department of Social and Health Services to AOC.

A similar list will be provided during the May BJA meeting and the BJA will review the requests, provide comments, make recommendations and prioritize. The decision packages are very rough so if there are questions, please funnel them through Mr. Radwan and he will forward the question to the sponsor of the decision package for a response.

There are potential funding concerns for the 2013-2015 budget. There are issues with the JSTA fund and, depending on the health of the state budget, it is possible there will be more issues. Just for the state judicial branch there is a potential \$30 million issue. Even though the judicial branch came out of the supplemental budget okay, the Legislature kicked the can and this is the can.

Other Business

Chief Justice Madsen thanked Judge Inveen for her service on the BJA.

There being no further business, the meeting was adjourned.

Recap of Motions from April 20, 2012 meeting

Motion Summary	Status
March 16 BJA Meeting Minutes	Passed
Approve the Filing Fee Workgroup Charter	Passed
Appoint Judge Michael Spearman to the Civil Legal Aid Oversight Committee	Passed

Action Items updated for April 20, 2012 meeting

Action Item	Status
<u>March 16, 2012 Meeting Minutes</u> <ul style="list-style-type: none"> • Send the approved minutes to Camilla Faulk for the En Banc binders • Post the approved minutes online 	Done (sent as draft to meet binder deadline) Done
<u>Resolution in Support of the Guardian Accountability and Senior Protection Act</u> <ul style="list-style-type: none"> • Add to the May BJA agenda 	Done
<u>Resolution Urging Congress to Respect the Separation of Powers and Principles of Federalism with Regard to Enacting Legislation to Address Child Custody</u> <ul style="list-style-type: none"> • Add to the May BJA agenda 	Done
<u>Filing Fee Workgroup Charter</u> <ul style="list-style-type: none"> • Complete the selection of workgroup members • Schedule first meeting 	In Process In Process
<u>Appointment to the Civil Legal Aid Oversight Committee</u> <ul style="list-style-type: none"> • Send appointment letter to Judge Michael Spearman 	Done
<u>Washington State Medal of Valor Nomination</u> <ul style="list-style-type: none"> • Add to May BJA agenda 	Done
<u>Problem-Solving Courts Workgroup</u> <ul style="list-style-type: none"> • The BJA members will send suggestions to Ms. McAleenan regarding a potential workgroup member from an advocacy group • Change charter to remove "Authorizing Legislation" from the workgroup title and re-word the charge to reflect that the workgroup will determine if legislation is needed to implement the problem-solving courts framework • Add a statement to the charge regarding the problem that needs to be solved • Add to May BJA agenda 	Done