



**Board for Judicial Administration (BJA) Meeting**  
**Friday, March 15, 2013 (9:00 a.m. – 12:30 p.m.)**  
AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

**MEETING MINUTES**

**BJA Members Present:**

Chief Justice Barbara Madsen, Chair  
Judge Chris Wickham, Member Chair  
Judge Sara Derr (by phone)  
Ms. Callie Dietz  
Judge Deborah Fleck  
Judge Janet Garrow  
Judge Jill Johanson  
Judge Kevin Korsmo  
Judge Linda Krese  
Judge Michael Lambo  
Judge Craig Matheson  
Justice Susan Owens  
Judge Christine Quinn-Brintnall  
Ms. Michele Radosevich  
Judge James Riehl  
Judge Kevin Ringus  
Judge Ann Schindler  
Judge Charles Snyder  
Judge Scott Sparks  
Judge David Svaren

**Guests Present:**

Mr. Jim Bamberger  
Ms. Ishbel Dickens  
Judge Stephen Dwyer  
Mr. Pat Escamilla  
Ms. LaTricia Kinlow  
Mr. Paul Sherfey

**Public Present:**

Ms. Milena Calderari-Waldron  
Mr. Tom Goldsmith

**AOC Staff Present:**

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

Judge Wickham called the meeting to order.

January 23, 2013 Meeting Minutes

**It was moved by Judge Sparks and seconded by Judge Ringus to approve the January 23, 2013 BJA meeting minutes. The motion carried.**

Trial Court Operations Funding Committee Recommendations

Mr. Sherfey reported that the Trial Court Operations Funding Committee (TCOFC) relied upon the previous work of the Justice in Jeopardy (JIJ) Committee and the Board for Judicial Administration (BJA) to determine which programs to recommend for funding. Ultimately, the Committee categorized the funding requests into three groups: Access to Justice, Children and Families, and Support for Local Jurisdictions.

### **Access to Justice:**

In the Access to Justice category, the following was requested:

- Centralized Interpreter Scheduling: \$34,300. If funded, this would allow local courts to use currently available software to enter criteria for interpreters and the system would provide information regarding available interpreters such as rate of pay and distance to the courthouse. The court staff then chooses an interpreter and the system notifies the interpreter and requests confirmation. The system also sends a reminder to the interpreter. Using the software allows the court staff to be more efficient in obtaining an interpreter and allows staff to see what the costs will be for each interpreter.
- Telephonic Interpreting for Language Access to Courts: \$991,800. This request allows for telephonic interpreting for people who come into the courthouse without notice and need an interpreter. The request is for 50% funding from the state.

### **Children and Families**

In the Children and Families category, the following was requested:

- Restoration of CASA Funding: \$752,771. This replaces funding that was lost due to budget reductions in 2009. The funding supports volunteer CASA programs by funding court staff and/or program managers to provide supervision of volunteers and fund recruiting efforts.
- Restore Family and Juvenile Court Improvement Plan (FJCIP) Funding: \$154,500. This replaces funding that was lost due to budget reductions in 2009. The amount requested in this funding package restores the initial level of funding to the existing FJCIP sites for thirteen programs. For courts to manage their local reform efforts, they need court leadership and staff to provide analysis, program design, and implementation of the improvement practices. The request will provide adequate funding for staff to continue a full time effort on FJCIP projects.
- Guardians ad Litem for Indigent Litigants: \$360,000. This would provide guardians ad litem in adoption, parentage, parenting plan modifications, nonparental custody, and dissolution cases where children are involved and the litigants have been determined to be indigent under RCW 10.101.020.

### **Support for Local Jurisdictions**

- Increase State's Contribution to CLJ Judge Salaries: \$2,089,500. This increment amount, if implemented over a period of three years, would get to the state funding 50% of district and qualifying municipal court judges' salaries.
- Courthouse Facilitator Training: \$25,000. This package will provide adequate funding for the education requirements set forth in GR 27. Trainings will be held twice a year with faculty drawn from AOC staff, judicial officers, court administrators, courthouse facilitators, and, as appropriate, representatives from other stakeholder groups such as prosecuting attorneys and the Division of Child Support. The trainings will be at the AOC's SeaTac office, eliminating the need to pay for space in a private venue.

There was a sense by the TCOFC that the Access to Justice needs were at the highest level but they also recognized that there might be interest by certain legislators in children and family issues. Support for local jurisdictions is also critical.

These funding proposals will be on the April BJA meeting agenda for action.

#### BJA Structure Workgroup

Judge Wickham explained that the BJA restructure process began in early 2012. At the February meeting, the BJA voted to hold a retreat to discuss possible restructuring of the BJA. After attempts to hold it in the spring failed, the retreat was ultimately held in September and three judges facilitated along with Ms. Dietz. Mr. Dan Becker and Justice Christine Durham attended and discussed the Utah Judicial Council and positive results of using governance principles. The retreat attendees voted to approve the Utah governance principles with minor changes and then broke up into small groups and looked at three questions: Why do we need a BJA? Who is the BJA? How will the BJA function? After each small group session there was a report back by each facilitator, followed by discussion. The retreat planners had expected to have a session on Saturday to adopt a consensus document but Judge LaSalata's memorial service was held that day and approximately half of the retreat attendees left early to attend the service. In the report-back discussions, it did appear that there was wide-spread agreement on many issues. There was no document adopted at the retreat but there is a report from the retreat which was created by Ms. McAleenan and presented to the BJA in October.

The retreat report contains many areas of agreement. At the BJA meeting in October, the BJA approved creation of a Workgroup to develop a proposal for restructuring the BJA starting with the areas of agreement from the retreat. The Workgroup met three times. There was no agenda and no chair. The group just started talking. Out of that conversation there was ultimately an agreement on all issues. A draft proposal was developed and all members agreed to it. The proposal was distributed to the BJA members and the associations to review and comment.

The proposal suggests having a smaller BJA: Nine members with three from appellate courts, plus the Chief Justice who would only vote in a tie; three from the SCJA; and three from the DMCJA. They would serve four-year terms and only be allowed to serve two consecutive terms. The thinking behind that is that the current BJA is not as effective as it could be. It would be better if the group were smaller and if the individuals were not spread so thin. The proposal suggested a smaller group with their primary focus being the BJA.

It is proposed that the BJA would be responsible for statewide policy development, oversight of the AOC budget, providing general direction to the AOC, providing leadership for long-range planning for the judicial branch and being the authoritative voice of the judiciary in legislative relations. The proposed BJA would work on issues that are related to all court levels and association presidents could request that items be placed on the agenda and serve as liaisons between the association and the BJA. The goal is to improve upon the structure going forward. The BJA would set policy to be as effective and as strong as possible for judges in the state.

The reconstituted BJA would not be responsible for rule-making.

There would be three standing committees: Legislative, Budget, and Policy and Planning. These committees would consist of BJA members only, but the standing committees could create workgroups to include non-BJA members. The BJA would be authorized to create additional committees in the future. The additional committees would have a life of only two years, unless renewed. The Committee Unification Workgroup being led by Judge Sparks will look at all the committees currently in place and identify opportunities to improve efficiency and effectiveness through merging or restructuring some groups.

Trial court associations could make their own requests to the Supreme Court regarding budget requests. They could also address the Legislature, but if they were addressing the Legislature on issues for which the BJA had taken a position, they would be expected to give the BJA advance notice of the Legislative contact.

Judge Derr stated that the Workgroup tried to come up with a process and a structure. The DMCJA has never had BJA representatives hold other offices because they recognize the work that needs to go into the BJA. She is very supportive of that piece of the recommendation. She knows the proposal is not perfect, but it is a good document.

Judge Dwyer is not on the BJA and does not have a vote on the proposal. The purpose of the Workgroup was to try to take the thoughts from the retreat and come up with a plan. There are a lot more name tents now at the BJA than there were when he left the BJA nine years ago. Through the years the BJA has become very successful as a means to share ideas but less successful to bring the ideas to fruition. If there is a desire for a more efficient means of decision-making, it makes sense to have a smaller group and it should consist only of judges. They would have to devote more time to make the decisions intelligently. They should not be on the BJA because they do something else but because they choose to be a member of the BJA, not something else.

Judge Matheson said that the Superior Court Judges' Association (SCJA) Board opposes the reduction of BJA members and opposes the fact that officers cannot serve. The SCJA also opposes any rules that prohibit talking directly with legislators, which he understood from Judge Wickham's presentation is not prohibited in the Workgroup's proposal. His responsibility as SCJA President is to point out the opposition although he personally does not agree with his Board, and told them that, but as President he needs to present the position of his association.

Chief Justice Madsen stated that there continues to be talk about the BJA being the policy-setting body for the courts but every day we see that the BJA is not. One example is the juvenile records bill which would require juvenile records not to be publicly available. The SCJA supports the bill, the Data Dissemination Committee opposes the bill, and the BJA is neutral. Is the BJA the policy-setting body? Another example is the Salary Commission. The BJA sets the policy for this issue but a judge will go to the Salary Commission meeting and present an entirely different view. The BJA should be the policy-setting group. The BJA is not doing that as effectively and robustly as it could be doing if it were restructured. Is this proposal the best way to do it? Maybe not, but that is why the BJA is discussing the proposal. This is the best first crack at this, assuming the BJA does not want to stand still. Today is a chance to do better. The BJA needs to govern itself and not be governed by outside sources like the Legislature.

Judge Quinn-Brintnall has been a member of various court improvement groups before becoming a judge and she has been a member of the BJA since 2004 in one way or another. Approximately 20% of the appellate judges of this state attend the monthly BJA meetings. In the last few years the BJA has been unproductive and accomplished bupkis. In recent years the BJA has been a body that has done very little that is particularly helpful 90% of the time. The BJA talks a lot about speaking with one voice to benefit the long-term but that does not happen. When the money dried up it got worse. If the BJA really wants to speak with one voice, it cannot be a representative body in the sense that its members vote in their own associations' interest. Members need to focus only on the overall statewide good. Some of the committees have outlived their usefulness and are trying to morph into something else to continue, this is wasteful. The BJA needs to consolidate committees and work on relevant issues affecting the entire judiciary and to as great an extent as possible the Supreme Court needs to get out of the budget business.

Judge Snyder is looking at this from the perspective of someone who will be stepping into this in the future and he is well aware of the strong feelings of his judicial association board members. The changes are not going to be acceptable and will not work if there is no buy-in. The restructure needs to be acceptable to everyone. His personal thinking about this whole process is that the smaller membership is not a problem. It is not going to result in a lack of diversity or disenfranchisement. If the associations are concerned about input, that will be done at the committee level. The BJA is a decision-making body not information-gathering. It is a different model. It requires thinking differently about how the model works. He would like to see more discussion about the AOC budget which he thinks needs to be more formally set forth and defined. It is easier to have focus and leadership with a small group.

Judge Svaren stated that the size of the BJA needs to be addressed. A large group is less effective. In a smaller group, a veto power disrupts the process and that is the reason the workgroup eliminated it. Similarly, having association presidents who are bound to vote the association's position is an ineffective practice in a small group. The proposal would keep the same ratio of members. Judge Svaren believes the most controversial part of the proposal was the plan to make decisions in an afternoon executive session following an open meeting in the morning.

Ms. Dietz agreed with everything the Workgroup members said. She stated that it all boils down to trust and communication. The communication and discussion process is easier with a smaller board that is very focused. The communication is in the standing committees. All of the BJA's decisions fit in one of those committees. The presidents have the greatest voice in being a liaison at the meetings and being able to set the agenda items. It is a better way to communicate what associations need. The goal is to have effective meetings, have everyone heard, and make decisions.

Judge Riehl said he is very supportive of much of what he sees in the proposal. His concern is on the membership and the structure of the membership. This is the third decade he has participated as a member of the BJA. When it was reconstituted with Justice Guy, he asked what to do to get buy-in from the trial court level. At the time the BJA was basically an arm of the Supreme Court and basically shaped by the Chief Justice. 1. It is necessary to have a co-chair from the trial court level. 2. The BJA needs individuals and members that speak on behalf of the entire judiciary. 3. The restructure is not going to sell unless there is a representative

body from the trial court associations on the BJA. It is offensive to hear that there is a perception that the association president is not on the BJA because he/she will not be able to vote for the good of the judiciary. It will be incredibly difficult for trial court membership to buy into that. 4. One level of court needs to be able to veto something. That was a very big point when it was added in the past. The BJA should recognize by way of their bylaws that at least one member of each level of court must concur with each of the other levels for an issue to go forward. The restructured BJA of 2000 would never have happened if the bylaws had not included that provision and Judge Riehl believes that issue is just as important to trial court members today as it was 13 years ago. Judge Riehl said he cannot recall ever having a veto vote but the BJA never had to get to that point because everyone came together in good faith. He wants to see this BJA succeed and have it streamlined and be a voice of the judiciary. He thinks that can be done and still recognize the different trial levels. He suggests that this is an important enough topic that the association needs to be able to provide input. This issue needs more time for discussion and there is a need for association membership to vote on this. If legislators do not believe the BJA is speaking with one voice, the BJA is not going anywhere.

Judge Schindler asked if the proposal meant that any association officer would not be allowed to serve on the BJA? Judge Wickham responded that the proposal restricts any association officer from serving. He stated that if the BJA is going to have people who are focused on this work, it is very challenging for people to go back and forth all the time. Can the BJA member really be making decisions for the entire judiciary while wearing this other hat?

Judge Fleck said the focus of the suggested changes do not flow from the retreat. She does not believe that the problem with the make-up of the BJA has been identified. There is some sort of implication that the members from each level of court will not be thinking about the greater judiciary when decisions are made. With the current number of BJA members, five from each court level, it allows greater diversity geographically. It is important to have four members elected and only one as the association president. It is distressing to her that people have put in so much effort and so many hours to essentially imply that the BJA has not been effective or efficient. There are large, complex issues that have been undertaken and the BJA has done them well. Over the past years, the BJA has moved to a much more collaborative effort. This proposal is creating mistrust and fracturing relationships that have been rebuilt. Reducing the number of trial court representatives on the BJA will make the BJA less relevant to the trial courts. Reducing the size does not flow from the retreat. In a smaller group trial court judges will feel even less able to speak up to the contrary viewpoint. Sometimes it is hard to say, "Chief I disagree" and a smaller group will make it even harder to speak up. The reference to not doing much in the last several years is not exactly true. The BJA drafted GR 31.1, passed a resolution process, adopted a resolution, and worked on the budget process passed by the Supreme Court but it is also reflective of the worldwide fiscal problem. The best that can be hoped for is continued comity and continued effort to speak with one voice. Judge Fleck is very concerned about the distrust this proposal has created and that the BJA will be viewed as less than relevant.

Judge Garrow thinks the key focus of the BJA is developing strategic initiatives for the judicial branch. Over the past several years the BJA has done that, e.g., the work on the proposed rule regarding Access to Court Records and interpreter funding items. BJA initiatives currently seem to be on a bit of a plateau and over the past several months interpreter funding discussions seem less strategic and somewhat ad hoc. The BJA needs to develop a work plan for future

years and determine how it will focus its time. It is clear the members of BJA are committed to making the BJA more effective. While some members express concern about the proposed BJA restructure, the primary concerns seem to be voting rights and the size of BJA. A larger BJA membership than what is proposed would help create greater diversity. The association presidents and presidents-elect have important information to provide the BJA and are the primary communication link to the associations. Their inclusion in the BJA is important. Whether the presidents should be voting members is an issue because some feel they are duty-bound to represent the position of their associations, positions which may not be in the broader interest of the judicial branch. If the issue came down to whether or not the presidents should be voting members, it would be better to allow them to vote rather than create divisiveness and lack of support for the BJA. Unfortunately, many judges do not think about the BJA or pay much attention to what it does. Therefore, it is important that members be careful with their statements about the proposed restructure so as to not to create fear and mistrust among the associations. Transparency for the BJA is critical and any proposal to have closed meetings is contrary to the work the BJA has done and sends the wrong message. If there were a need for an executive session while developing a proposal, that would still be an option.

Ms. Dickens said she is not sure if a nine member board will get the BJA where it wants to go. As the director of a national non-profit she is always looking for ways to expand the number of board members, given all that is asked of them. Having only three members on each committee (assuming a board of nine people) is asking a lot. As to the association presidents and others not being eligible to serve on the BJA, she does not understand how an individual not having ties to the association board would have a good big picture and could indeed be less accountable to the association. She thinks the BJA should adopt the committee structure and keep the board size at 15.

**It was moved by Judge Riehl and seconded by Judge Krese to postpone any vote on the restructuring of the BJA until after the judicial associations are able to present this information to their members at their spring conferences. The motion carried.**

Discussion on the motion included concerns about the speed in which the proposal was to be adopted. The Workgroup members explained that the initial expectations regarding ratification and implementation were no longer realistic and there was no date set for either at this time. Other BJA members expressed concern about the timing of presenting this to association membership during spring conferences. It would need to be added somewhere in the existing programming and the agendas have been set. Also, the associations should be looking at a proposal from the BJA after it is finalized, not the proposal from the BJA Restructure Workgroup. Everyone agreed the process would need to be slowed down.

The BJA Restructure Workgroup will consider all of the concerns and suggestions from today's BJA meeting during their meeting later this afternoon. This issue will be discussed again during the April BJA meeting.

#### Other Business

Chief Justice Madsen thanked Judge Quinn-Brintnall for her service on the BJA and for always being willing to share her views which are unique and helpful.

There being no further business, the meeting was adjourned.

**Recap of Motions from March 15, 2013 meeting**

<b>Motion Summary</b>	<b>Status</b>
Approve the January 23, 2013 BJA meeting minutes.	Passed
Postpone any vote on the restructuring of the BJA until after the judicial associations are able to present this information to their members at their spring conferences.	Passed

**Action Items from the March 15, 2013 meeting**

<b>Action Item</b>	<b>Status</b>
<u>January 23, 2013 BJA Meeting Minutes</u> <ul style="list-style-type: none"> <li>• Post the minutes online.</li> <li>• Send revised minutes to the Supreme Court for inclusion in the En Banc meeting materials.</li> </ul>	Done Done
<u>TCOFC Funding Requests</u> <ul style="list-style-type: none"> <li>• Add to April BJA meeting agenda.</li> </ul>	Done
<u>BJA Structure Workgroup Proposal</u> <ul style="list-style-type: none"> <li>• Add to April BJA meeting agenda for discussion and postpone vote on this until after the judicial association spring conferences.</li> </ul>	Done