



Board for Judicial Administration (BJA) Meeting
Friday, April 19, 2013 (9:00 a.m. – 12:15 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
Ms. Callie Dietz
Judge Stephen Dwyer
Judge Deborah Fleck
Judge Janet Garrow
Judge Jill Johanson
Judge Kevin Korsmo (by phone)
Judge Linda Krese
Judge Michael Lambo
Ms. Paula Littlewood
Judge Craig Matheson
Judge James Riehl
Judge Kevin Ringus
Judge Ann Schindler
Judge Charles Snyder
Judge Scott Sparks
Judge David Svaren

Guests Present:

Mr. Jeff Amram (by phone)
Mr. Jim Bamberger (by phone)
Judge Harold Clarke
Mr. Eric Johnson
Ms. LaTricia Kinlow
Ms. Sonya Kraski (by phone)
Ms. Sophia Byrd McSherry (by phone)
Commissioner Todd Mielke

Public Present:

Mr. Christopher Hupy
Mr. Mark Mahnkey
Mr. Tom Goldsmith

AOC Staff Present:

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

Judge Wickham called the meeting to order.

County Fiscal Sustainability

Chief Justice Madsen introduced Mr. Johnson, Executive Director of the Washington State Association of Counties (WSAC), and Commissioner Mielke, Spokane County Commissioner and President of the WSAC. This presentation is intended to give the BJA an opportunity to think about how the BJA and the WSAC can work together on criminal justice funding.

Mr. Johnson said he is hoping to find the crossroads where the courts can help the WSAC move forward with sustainable budgets. Generally, between 70-80% of a county budget goes to the criminal justice system. The WSAC has drafted a Fiscal Sustainability Initiative because they would like healthy budgets in each county. If counties do not have money for anything other than courts, and they do not have a robust mechanism to fund the entire system, they are failing. The Initiative gives a baseline education and reminds legislators about the lack of parity in funding sources, problems with inflation, and reflects on major cost drivers.

Commissioner Mielke stated that while there is separation of powers, there are resources that cross branches. The mission of counties is really an extension of the state's mission if the duties of the counties are examined. They are intrinsically linked and if other constitutional

requirements are considered, such as the assessor, treasurer, auditor, elections, and clerks, the costs for all of the constitutional requirements typically make up about 88% of the budget.

Counties have three revenue sources: property tax (capped at 1%), sales tax, and shared revenues. The counties' abilities to be innovative and think outside the box are hindered by limited resources and the resources the counties do have are not stable. Sales tax revenue decreases during a recession and last year the House budget included a \$100 million reduction to counties. In addition, there are increased costs for things such as utilities. Revenue and costs are largely out of the control of the county commissioners.

WSAC members are split on the issue of raising taxes. Some want local control and others do not. The WSAC would like the Legislature to help fund issues/items that are statewide, not just county issues. There should be equal access to basic services statewide. As counties have invested in mental health, the state has shrunk its investment. The WSAC is trying to fill the county commissioners' toolboxes with revenue tools. Counties can pick and choose what they want based on their community. They are also trying to maximize flexibility. They are continuing their dialogue with the Legislature to get more flexibility.

The WSAC is looking for alliances and a plan to move forward.

Chief Justice Madsen thanked Mr. Johnson and Commissioner Mielke for taking the time to meet with the BJA. The BJA will discuss ways to partner with them.

Budget Update

Mr. Radwan presented a comparison of the 2013-2015 biennial House and Senate budget proposals. He said that the House budget, in general, is much better than the Senate budget for the judicial branch. However, there are a few issues with the House budget such as a reduction of Becca funding and the elimination of the Office of Public Guardianship (OPG) in addition to some provisos on Judicial Information System funds. There were a few small fixes on the Senate floor with their budget.

The Senate and House will have to reach some sort of consensus. Mr. Radwan believes the Senate will have to impose taxes and give up some of their cuts. He also believes there will be cuts in the final budget. That would put the judicial branch into an almost no growth 2013-2015 budget scenario. Because revenue is flat, it will likely be a number of years before the state climbs out of this budget reduction mode. It is kind of the new normal.

The Legislature does understand the budget process the judicial branch goes through and the branch needs to be extremely strategic regarding what is submitted and pushed out on paper to them. Some letters regarding the judicial branch budget have been written along with op-eds. Mr. Radwan thinks the Legislature is hearing the message about the judicial branch budget but he is not sure what they are doing with the information.

Ms. McAleenan stated that the House and Senate have not started talking about the budget. The House is in the process of trying to pass revenue packages. There will be a special session and decisions will be made behind closed doors. The judicial branch has done as good a job as possible in getting the word out. Now, it is just a matter of waiting to see what happens.

GR 31.1

Mr. Radwan distributed a proposal to establish a GR 31.1 Implementation Work Group. The proposal included the work group composition, purpose, and charter. The work group is needed to educate courts and affected judicial branch agencies on the procedures, processes and other best practices for implementing and administering GR 31.1.

Chief Justice Madsen stated that the Supreme Court will consider passing the rule at their May En Banc conference. There has been a lot of work on the rule. The implementation date will allow the GR 31.1 Work Group to complete their work prior to implementation.

It is anticipated that the work of the group will be completed primarily through conference calls.

This will be an action item for the May BJA meeting.

Legislative Update

Ms. McAleenan reported that there are nine days left in the legislative session. Both of the bills authorizing additional judges were passed by the Legislature, but the interpreter bill died. The JSTA bill is not subject to cut-off dates because it is necessary to implement the budget. It passed the House earlier this week. Ms. McAleenan does not know in what form the JSTA bill, SHB 1961, will go back and forth between the houses because the final version will be determined by the budget negotiations.

The BJA did not take a position on the juvenile records bill, House Bill 1651. The bill as drafted would have required two years of computer programming at AOC to comply with the requirements in the bill. That bill did die as of cut-off. It is one that the advocates are continuing to work very hard on and trying to keep alive.

Senate Bill 5860 states the Attorney General's Office is not required to bring actions on behalf of judges over inadequate funding. House Bill 2024 states the Attorney General's Office does not have to bring actions on behalf of any state officer over claims of inadequate funding. This bill is specifically exempted from cut-off. It is currently on the House floor. If it passes, it will go to the Senate but may not survive because they are running out of time. However, it could be brought back in a special session.

The bills affecting judicial elections, such as HB 1474, which requires the top two candidates for nonpartisan offices in the primary move forward to the general election, are still alive.

Both the Superior Court Judges' Association and the District and Municipal Court Judges' Association have had some success with their legislative agendas.

March 15, 2013 BJA Meeting Minutes

Judge Svaren requested a change to Page 5 of the minutes: change "poser" to "power." Judge Fleck requested some revisions to Page 6 of the minutes (second to last paragraph): change "fractioning" to "fracturing" and add "to the trial courts" at the end of "Reducing the number of trial court representatives on the BJA will make the BJA less relevant." After "GR 31.1" add

“passed a resolution process, adopted a resolution, and worked on the budget process passed by the Supreme Court” and continue the sentence after the addition.

It was moved by Judge Johanson and seconded by Judge Sparks to approve the March 15 BJA meeting minutes. Judge Svaren and Judge Fleck asked for friendly amendments to include their revisions to the minutes. Judges Johanson and Sparks agreed with the amendments. The motion carried.

Appointment to the Office of Civil Legal Aid Oversight Committee

Judge Derr nominated Judge Gregory Tripp to the OCLA Oversight Committee. She thinks he is highly qualified and has a commitment to it.

It was moved by Judge Derr and seconded by Judge Lambo to appoint Judge Gregory Tripp to the OCLA Oversight Committee.

Trial Court Operations Funding Committee Recommendations

Judge Clarke stated that while the timing of this seems odd given the legislative activities that are going on regarding the budget, this is the timeline that was laid out for the Trial Court Operations Funding Committee (TCOFC) and he is hoping the BJA will take action on these funding requests today.

The seven funding requests fall into one of the following categories: access to justice, children and families, or support for local jurisdictions. Judge Clarke encouraged the BJA to consider the merits of the requests separately from the state budget situation.

There was a question about the requests meeting the definition of the purposes of a supplemental budget request. Mr. Radwan responded that supplemental budget requests are, in general, for non-discretionary increases in caseload and technical corrections in the budget.

Judge Fleck stated she would like the BJA to consider at least two of the requests: \$34,300 for centralized interpreter scheduling and \$752,771 for restoration of CASA funding. In the last year, the number of dependency cases has increased approximately 30% although the number of dependency cases in the future is unknown. Because of the increased caseload additional CASAs are needed. Court interpreters and dependency cases are requirements for courts and Judge Fleck suggests taking the next step on these two items.

It was moved by Judge Fleck and seconded by Judge Garrow to move forward with Centralized Interpreter Scheduling and Restoration of CASA Funding. The motion carried with eight voting for the motion and four opposed. Chief Justice Madsen abstained.

The Administrative Office of the Courts will prepare detailed decision packages on each of the proposals moving forward.

Restructure Workgroup

Judge Wickham updated the BJA on the proposed revisions to the BJA Restructure Workgroup's original proposal. The Workgroup is now proposing the following:

- That the entire BJA meeting be an open meeting. The morning would still be mostly presentations and public participation and the afternoons would be for member deliberations and action.
- The BJA would have a membership of 12 – 15 judges.
- Association presidents will be non-voting members of the BJA and other association officers will be eligible to be voting members of the BJA.
- The original proposal did not include an executive committee but with a larger board, the creation of an executive committee, possibly comprised of the co-chairs and standing committee chairs, might be justified.

The workgroup will meet after the BJA meeting and they are interested in any comments on their proposed revisions. They will draft a revised proposal for the BJA's approval. After BJA approval, it will be sent to associations for review and comment.

There will not be a vote on the proposal any sooner than the June BJA meeting.

Judge Fleck stated that seven of the 15 recommendations are already part of what the BJA currently does. She believes the proposed system of standing committees would be burdensome for individuals tasked with serving on the committees and quite insular. Meeting every other month would result in the BJA not being effective during the legislative session and it would take longer to get things accomplished.

Chief Justice Madsen explained that the people on the steering committees are the overseers and decision-makers. The proposal was never about all the work falling on a small group of people. Ideas would come from workgroups. The BJA Restructure Workgroup did not want members invested in the product so they would be neutral decision-makers. Meeting every other month is really so the AOC can have more time to carry out directives they are given during each meeting.

Mr. Marler commented that the Judicial Information System Committee (JISC) is the model for meeting every other month which enables staff to prepare materials, go out and meet with the JISC members between meetings and have a more open dialogue between meetings. That was part of the rationale for that recommendation.

Mr. Henley stated that with all day meetings, every other month, there will be more time to really discuss the issues and presentations with less travel.

There was concern regarding the association presidents not voting.

There being no further business, the meeting was adjourned at 12:15 p.m.

Recap of Motions from April 19, 2013 meeting

Motion Summary	Status
Approve the March 15, 2013 BJA meeting minutes with the revisions from Judge Svaren and Judge Fleck.	Passed
Appoint Judge Gregory Tripp to the OCLA Oversight Committee.	Passed
Move forward with the Centralized Interpreter Scheduling and Restoration of CASA Funding recommendations.	Passed

Action Items from the April 19, 2013 meeting

Action Item	Status
<u>March 15, 2013 BJA Meeting Minutes</u> <ul style="list-style-type: none"> • Post the minutes online. • Send revised minutes to the Supreme Court for inclusion in the En Banc meeting materials. 	 Done Done
<u>GR 31.1 Implementation Work Group</u> <ul style="list-style-type: none"> • Add as an action item to May BJA meeting agenda. 	Done
<u>Appointment to the OCLA Oversight Committee</u> <ul style="list-style-type: none"> • Send OCLA Oversight Committee appointment letter to Judge Gregory Tripp. 	Done
<u>Trial Court Operations Funding Committee Recommendations</u> <ul style="list-style-type: none"> • Notify Jennifer Creighton that the BJA requests that the Centralized Interpreter Scheduling and Restoration of CASA Funding recommendations move forward. 	Done
<u>BJA Structure Workgroup Proposal</u> <ul style="list-style-type: none"> • Add to April BJA meeting agenda for discussion. 	Done