

BOARD FOR JUDICIAL ADMINISTRATION



**WASHINGTON
COURTS**

MEETING PACKET

**FRIDAY, JANUARY 16, 2015
9:00 A.M.**

**AOC SEATAC OFFICE
18000 INTERNATIONAL BOULEVARD, SUITE 1106
SEATAC, WASHINGTON**

Board for Judicial Administration Membership

VOTING MEMBERS:

Chief Justice Barbara Madsen, Chair
Supreme Court

Judge Kevin Ringus, Member Chair
District and Municipal Court Judges' Association
Fife Municipal Court

Judge Veronica Alicea-Galvan, President
District and Municipal Court Judges' Association
Skagit County District Court

Judge Thomas Bjorgen
Court of Appeals, Division II

Judge Bryan Chushcoff
Superior Court Judges' Association
Pierce County Superior Court

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

Judge Judy Rae Jasprica
District and Municipal Court Judges' Association
Pierce County District Court

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

Judge John Meyer
Superior Court Judges' Association
Skagit County Superior Court

Judge Sean Patrick O'Donnell
Superior Court Judges' Association
King County Superior Court

Justice Susan Owens
Supreme Court

Judge Jeffrey Ramsdell, President
Superior Court Judges' Association
King County Superior Court

Judge Ann Schindler
Court of Appeals, Division I

Judge Laurel Siddoway
Court of Appeals, Division III

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

NON-VOTING MEMBERS:

Judge David Steiner, President-Elect
District and Municipal Court Judges' Association
King County District Court East Division - Bellevue

Judge Harold Clarke III, President-Elect
Superior Court Judges' Association
Spokane County Superior Court

Ms. Callie Dietz
State Court Administrator

Mr. Anthony Gipe, President
Washington State Bar Association

Mr. William Hyslop, President-Elect
Washington State Bar Association

Judge Kevin Korsmo
Presiding Chief Judge
Court of Appeals, Division III

Ms. Paula Littlewood, Executive Director
Washington State Bar Association



Board for Judicial Administration (BJA) Meeting
Friday, January 16, 2015 (9:00 a.m. – Noon)
 AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

AGENDA

1. Call to Order	Chief Justice Barbara Madsen Judge Kevin Ringus	9:00 a.m.
2. Welcome and Introductions	Chief Justice Barbara Madsen Judge Kevin Ringus	9:00 a.m.
Action Items		
3. December 12, 2014 Meeting Minutes Action: Motion to approve the minutes of the December 12, 2014 meeting	Chief Justice Barbara Madsen Judge Kevin Ringus	9:05 a.m. Tab 1
4. GR 31.1 Forms Action: Motion to approve the GR 31.1 forms	Mr. John Bell	9:10 a.m. Tab 2
5. Public Trust and Confidence Committee Appointment Action: Motion to appoint Commissioner Paul Wohl to the BJA Public Trust and Confidence Committee	Chief Justice Barbara Madsen Judge Kevin Ringus	9:15 a.m. Tab 3
Reports and Information		
6. 2015 Judicial Information System Committee and IT Governance Update	Justice Mary Fairhurst Ms. Vonnie Diseth	9:20 a.m. Tab 4
7. Supreme Court Budget Report	Chief Justice Barbara Madsen Mr. Ramsey Radwan	10:15 a.m. Tab 5
Break		10:30 a.m.
8. Justice Reinvestment Initiative	Mr. Marshall Clement	10:45 a.m. Tab 6
9. Legislative Report	Ms. Mellani McAleenan	11:20 a.m. Tab 7
10. Standing Committee Reports Budget and Funding Committee Court Education Committee Legislative Committee Policy and Planning Committee	Judge Ann Schindler Judge John Meyer Judge Sean O'Donnell Judge Janet Garrow	11:30 a.m. Tab 8

Reports and Information (Continued)		
11. Suggested Rule GR 35 Judicial Performance Evaluations – <i>follow-up</i>	Judge Kevin Ringus	11:45 am. Tab 9
12. Other Business Next meeting: February 20 AOC, Olympia	Chief Justice Barbara Madsen Judge Kevin Ringus	11:55 a.m.
13. Adjourn		Noon
Persons with a disability, who require accommodation, should notify Beth Flynn at 360-357-2121 or beth.flynn@courts.wa.gov to request or discuss accommodations. While notice five days prior to the event is preferred, every effort will be made to provide accommodations, when requested.		

Tab 1



Board for Judicial Administration (BJA) and Court Management Council (CMC) Meeting

Friday, December 12, 2014 (9 a.m. – Noon)

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

MEETING MINUTES

BJA Members Present:

Judge Kevin Ringus, Member Chair
Judge Veronica Alicea-Galvan
Judge Thomas Bjorgen
Judge Bryan Chushcoff
Judge Harold Clarke III
Ms. Callie Dietz
Judge Janet Garrow
Mr. Anthony Gipe
Judge Kevin Korsmo (by phone)
Judge John Meyer
Judge Sean O'Donnell
Justice Susan Owens
Judge Jeffrey Ramsdell
Judge Ann Schindler
Judge Laurel Siddoway (by phone)
Judge David Steiner

CMC Members Present:

Mr. Jeff Amram (by phone)
Ms. Linda Baker
Ms. Ruth Gordon
Ms. Suzanne Elsner
Ms. Sonya Kraski (by phone)
Mr. Frank Maiocco
Mr. Pete Peterson
Ms. Renee Townsley (by phone)

Guests Present:

Judge Sharon Armstrong (ret.)
Ms. Ishbel Dickens
Judge James Lawler
Judge Terry Lukens (ret.)
Mr. Robert Mitchell
Ms. Susie Parker
Judge John Ruhl
Judge Michael Trickey
Justice Charles Wiggins

AOC Staff Present:

Ms. Beth Flynn
Mr. Steve Henley
Ms. Shannon Hinchcliffe
Mr. Dirk Marler
Ms. Mellani McAleenan
Mr. Monto Morton

Judge Ringus called the meeting to order.

Court Manager of the Year Award

Ms. Dietz and Ms. Kraski co-chair the Court Management Council (CMC). The CMC was established in 1987 as a statewide forum for enhancing the administration of the courts. Three of the CMC's responsibilities are: 1) taking positions on legislation affecting the overall administration of the courts, 2) providing direction to the Administrative Office of the Courts on matters affecting the administration of the courts, and 3) fostering communication among the various entities providing court administration.

The purpose of the Court Manager of the Year Award is to honor an outstanding court manager who exemplifies the leadership and ideals of their chosen profession.

The CMC had outstanding nominees this year and it was very difficult to choose between them. The Top vote getters were separated by one vote. The recipient's name will be added to a perpetual plaque and they also receive a gift.

The nominees were:

- Gayle Engkraf, Court Administrator, Cowlitz County Superior Court
- LaTricia Kinlow, Court Administrator, Tukwila Municipal Court
- Ron Miles, Court Administrator, Spokane County Superior Court
- Susie Parker, Court Administrator, Lewis County Superior Court
- Bob Terwilliger, Court Administrator, Snohomish County Superior Court
- Yolande Williams, Court Administrator, Seattle Municipal Court

The 2014 Court Manager of the Year is Ms. Parker who was nominated by Pamela Hartman Beyer, Court Administrator, Grays Harbor County Superior Court. In her nomination Ms. Hartman stated that Ms. Parker is a mentor and great resource. She also stated that Ms. Parker has made significant contributions in the Superior Court Case Management System (SC-CMS) project. As the Court Administrator for Lewis County, her county was selected as a pilot site for the SC-CMS project. She has been able to unify her court in making major decisions regarding the document management system (DMS) that are leading the way for other counties to have the same discussions. Ms. Parker is always accessible and willing to answer and assist others in learning about the system and is dedicated to seeing the SC-CMS Project through to completion by spending numerous hours at trainings, CUWG meetings, etc. As a smaller court the time and energy Ms. Parker has spent on this project has been significant but she never complains. She continues to go above and beyond for her court and to help all courts in the state of Washington.

Judge Lawler's letter of support indicated that Ms. Parker has a wealth of knowledge and experience that makes her highly effective in the performance of her job as Superior Court Administrator. She knows and has a good relationship with the decision makers in most of the county departments. During budget time, she is well informed and knowledgeable about the process which generally makes their negotiations with the County Commission go smoothly. In addition to her normal job duties as Court Administrator, she has taken an active role in dealing with the provision of mental health services to their regular court users. She has been instrumental in working with their local mental health authority to connect people with needed services. Several clients even contact her directly to report both their successes and failures. Finally, Susie has been highly involved with the implementation of the new Odyssey Case Management System. As the lone pilot court in the state for this project, her common sense approach to problem-solving together with her technical computer skills have been invaluable in overcoming roadblocks along the way.

Ms. Gordon stated that all of the Washington superior courts are in Ms. Parker's debt because she is on the ground implementing SC-CMS which will be used by many courts.

Mr. Maiocco added that the SC-CMS Project is a huge undertaking and Washington courts truly are indebted for Lewis County Superior Court being a pilot court.

Ms. Parker appreciates the award and is honored. The team she works with is amazing. There have been some issues along the way with the SC-CMS Project but the Administrative Office of the Courts (AOC) and Tyler Technologies have come together and addressed every issue.

Supreme Court Budget Report

This agenda item will be set over to the next BJA meeting.

GR 31.1 Forms

Mr. Bell presented three new GR 31.1 forms for the BJA's approval. The first form is a memorandum of understanding addressing possible separation of powers issues between the executive and judicial branches regarding court records. The next form provides guidance on chambers records which addresses how judicial branch employees should handle chambers records. The last form is how to deal with records that are exempted or prohibited from disclosure. These forms will be on the next BJA meeting agenda for action. Feel free to call or e-mail Mr. Bell if there are questions about any of the forms or the rule.

The GR 31.1 Core Work Group's work is now complete and the next step will be training.

Suggested Rule GR 35 Judicial Performance Evaluations

Judge Trickey stated that GR 35 originated with the American Judicature Society (AJS) which is now dissolved. AJS's goal was to improve the administration of justice and increase the public's understanding of the justice system. Washington's chapter was created in 1989 and worked on judicial retention issues. The Washington AJS has done a lot of good work.

Judge Ruhl explained that in October 2014 the Supreme Court Rules Committee referred GR 35 to the BJA for input. Proposed GR 35 is included in the meeting materials. A list of states that have a judicial evaluation system was distributed during the meeting. Proposed GR 35 is well-thought-out and something that is used in King County. King County uses the same evaluation company that the state of Alaska uses. It works well where implemented.

Judge Ruhl said that GR 35 is an extraordinary opportunity for the courts to take the lead and implement a tool to improve the judiciary. It will improve judicial independence, provide information for voters to use in elections, and improve public trust in the judiciary.

Judge Lukens and Mr. Mitchell reviewed the eight sections in the proposed rule. The proposed rule begins with the scope and purpose. Both are fairly straightforward and state that the rule will establish a procedure to evaluate judicial officers and candidates as well as provide reliable information to assist Washington voters. The second section establishes a Judicial Performance Committee which is non-partisan, diverse, and not dominated by lawyers—the majority are non-attorneys. The third section contains criteria for evaluation. The fourth section addresses sources of information. All of the people evaluating the judges and candidates are asked if they have personal, direct information regarding the judge. The fifth section contains the evaluation procedure. The sixth provides information regarding the self-improvement process which includes collaborating with spring conferences to present anonymous results. The seventh section covers the evaluation of non-judge candidates for judicial office which will solve the problem of having non-judge candidates not evaluated and judges being evaluated. The eighth section covers confidentiality.

Judge Armstrong served on the King County Superior Court bench for 27 years. Every judge really strives for excellence but to do that they need honest feedback. It will be anonymous so they will get honest feedback. In King County judges are subject to a bar poll. She thought the information was critically important to become the judge she wanted to be. This rule will allow only those people who have appeared before a judge to evaluate them. Judicial candidates will be evaluated the same way judges are evaluated. This will allow the judges to become what they strive for and what the public wants.

Justice Wiggins stated there is a tidal wave of money washing over judicial elections. Washington has not had that happen since 2006 but this is an ever-increasing problem. Television advertisements in judicial elections hit an all-time high in the 2011-12 cycle which was 50% over the previous record. 2013-14 also had an increase in television advertisements and independent spending. There is an increased involvement in judicial elections by national groups. The important aspect is that the judicial performance evaluation program is worth doing.

BJA members had the following questions regarding the proposed rule:

- Q. Do you have a methodology for insuring there is no bias in the evaluations?
 - A. If the respondents are biased, they are not supposed to respond to the evaluation. It is set up to have a sufficient number of evaluators so no one person overwhelms the evaluation.

- Q. Do you anticipate that the Judicial Performance Committees will be in each county or statewide?
 - A. It is a statewide Judicial Performance Committee.

- Q. Who is going to pay for this and how much is it going to cost?
 - A. King County's experience is in the low five figures. They need to canvass other states to find out how other states are paying for the evaluations and how much it costs.

- Q. How about the district and municipal court judges?
 - A. The rule has a phase-in over a number of years. All judges will be evaluated.

- Q. How does the proposed rule align with GR 31.1?
 - A. It is possible GR 31.1 will need to be amended to address the confidentiality of the evaluations and surveys.

- Q. How are judicial candidates rated?
 - A. There are a broad number of measures without weighting. Their evaluations deal with more of the temperament of the candidate.

- Q. Does this apply to the gubernatorial appointments?
 - A. It would not apply to the appointment but would apply when the judge runs for election.

Standing Committee Reports

Budget and Funding Committee: Judge Schindler reported that the Budget and Funding Committee is planning to meet and will continue to work on budget criteria. It is going to be a long process.

Court Education Committee: Judge Meyer submitted a written report which is behind Tab 4 in the meeting materials. He will endeavor to provide a one-page report for each BJA meeting. At this point in time, the Court Education Committee is paddling upstream to get their arms around the work of the Board for Court Education (BCE) by June when the BCE sunsets and the Court Education Committee takes over. In the past six to seven years funding for judicial education in Washington has dropped significantly. Everybody has funding issues but if Washington wants to continue to maintain its reputation of being one of the finer judicial education groups in the country, funding needs to be increased or money saving alternatives need to be developed such as not providing housing during conferences.

Legislative Committee: Judge O'Donnell stated that there is a disparity from county to county in our state for legal financial obligations (LFOs). The average LFO is \$600 statewide. Contrast that with Whitman County where the average is \$7,000. Different results are found based on which county the case is in. It might be useful to have an educational component for Legislative Committee information. He would like to request that the Court Education Committee offer an instructional/informational piece for new judges at Judicial College to illustrate how LFOs impact people of limited means. Representative Roger Goodman will likely have a bill that addresses the 12% interest on LFO fees and fines.

Judge O'Donnell would like to get the BJA's approval for funding for the SC-CMS and CLJ-CMS projects.

Judge Alicea-Galvan moved to support issue to an action item. The motion was not seconded.

Ms. Hinchcliffe requested that this decision be delayed until more information can be provided to the BJA so they understand what they are approving.

Judge Alicea-Galvan moved and Justice Owens seconded to support maintaining the JIS account and continued funding for the SC-CMS and CLJ-CMS projects and all costs that are involved in those systems. There was a friendly amendment to include funding for data exchanges but Judge Alicea-Galvan did not accept the amendment. The motion carried with Judge Chushcoff and Judge Ramsdell opposed.

Representative Richard DeBolt has a bill to make judicial elections partisan. Ms. Wendy Ferrell has prepared a written statement for the media. Chief Justice Barbara Madsen asked that the BJA support a statement regarding the bill and Ms. McAleenan read it to the BJA. By consensus the BJA said they support the statement.

Policy and Planning Committee: Judge Garrow reported that the Policy and Planning Committee held their first meeting last month. They reviewed background information for the

committee members. They will meet by phone next week about possible ideas for campaign-type projects for the next year or so.

Salary Commission Report and Meeting Schedule

Ms. McAleenan stated that every two years the Washington State Salary Commission convenes. They begin their work with an instructional meeting in November and they have a meeting in January in Olympia. They then make a decision on whether they will recommend salary increases and will have public meetings for comments on their recommendation. Those meetings are held through May around the state.

For the January meeting, Chief Justice Madsen, Judge Korsmo, Judge Ramsdell and Judge Alicea-Galvan will speak to the Commission members regarding what it is like to be a judge.

The BJA's past salary strategy has worked well. Judges were one of the few groups to receive a salary increase during the last cycle.

The following suggestions were made regarding the materials that are sent to the Salary Commission. Ms. McAleenan asked that judges talk about the issues at the Salary Commission meetings rather than send revised information to the Salary Commission.

- The materials (on page 62) indicate there is a decrease in the number of superior court cases. While the case filings might have decreased that may be misleading because the cases are more complicated. It was requested that this be addressed by submitting an update to the superior court information.
- It was also suggested that numbers be attached to some of the information in the report. For the security information, for example, judges in King County now have to pay for secure parking and for home security which is about \$400 each month.
- There are more complexities with DUIs and marijuana trials are now longer. When the Legislature changes laws they do impact courts directly and how they are dealt with. With some of the policies being implemented, some of the district and municipal courts are having to deal with new issues.
- There are also issues with the number of officers on the streets. When open police department positions are filled, it will make a difference in the number of case filings.
- There is a huge increase in pro se litigation which creates more work for those cases.
- Judges are also receiving a lot more warrant calls in the middle of the night.
- Clerks are recording on the docket the number of hours judges are in trial. That information could be pulled and the BJA could provide concrete numbers for the narrative in the report.
- It was requested that this report be reviewed by the entire BJA prior to sending it to the Salary Commission in the future. Ms. Hinchcliffe explained that there is a time crunch of constructing the data and the deadline for submitting it. If this is scheduled for the August or September BJA meeting, that should provide sufficient time to discuss the narrative. This should be put on the September agenda and the BJA members will need to recognize that they will have to make decisions at that time.

Ms. McAleenan stated that the BJA's talking points will be that the BJA agrees with the 5% salary differential between court levels and with the Salary Commission's recommendation to

use federal salaries as the benchmark. It will also be stated that the BJA understands that a huge increase is not going to happen but well-paced incremental increases will help Washington judges keep pace with federal judicial salaries.

Administrative Manager's Report

Ms. Dietz reported that Ms. Nan Sullins, the manager of the AOC Office of Legal Services and Appellate Court Support, is retiring at the end of December and leaving a large vacancy. The wonderful news is that Ms. Hinchcliffe will take Ms. Sullins' place. She has all the skills to do an excellent job. The BJA is losing a wonderful BJA administrative manager. In the interim while looking for a replacement, Mr. David Elliott will step in and take on the work of the BJA in addition to his other duties.

Ms. Hinchcliffe is torn about leaving the BJA and she will miss everyone. She will try to leave quite a bit of transition detail for her successor.

The Committee Unification Report has been published online.

Ms. Hinchcliffe included a GR 35 timeline outline in the meeting materials and suggests that the BJA continue the GR 35 discussion to the January meeting. Next steps are on pages 100-101 of the meeting materials and the BJA has a few months to come out with a product—whether it is a redline rule or letter. The BJA needs to decide how to solicit input to GR 35. Should the BJA do it all or have the BJA doing some pieces? The BJA would then come back in May with that information to give to the Supreme Court before October.

November 21, 2014 Meeting Minutes

It was moved by Justice Owens and seconded by Judge Ramsdell to approve the November 21, 2014 BJA meeting minutes. The motion carried.

BJA Committee Recommendations

Judge Schindler stated that there is a joint recommendation from Judge Ramsdell, on behalf of the Trial Court Advocacy Board, and Judge Schindler, on behalf of the BJA Budget and Funding Committee, to eliminate the Trial Court Operations Funding Committee (TCOFC).

It was moved by Judge O'Donnell and seconded by Judge Meyer to eliminate the Trial Court Operations Funding Committee. The motion carried.

Recap of Motions from the December 12, 2014 meeting

Motion Summary	Status
Allow action on supporting funding of the SC-CMS and CLJ-CMS projects	No second
Support maintaining the JIS account and continued funding for the SC-CMS and CLJ-CMS projects and all costs that are involved in those systems	Passed with Judge Chushcoff and Judge Ramsdell opposed
Approve the November 21, 2014 BJA meeting minutes	Passed
Eliminate the Trial Court Operations Funding Committee	Passed

Action Items from the December 12, 2014 meeting

Action Item	Status
<u>November 21, 2014 BJA Meeting Minutes</u> <ul style="list-style-type: none"> • Post the minutes online • Send minutes to the Supreme Court for inclusion in the En Banc meeting materials 	Done Done
<u>Supreme Court Budget Report</u> <ul style="list-style-type: none"> • Add to January BJA meeting agenda 	Done
<u>GR 31.1 Forms</u> <ul style="list-style-type: none"> • Add as action item to January BJA meeting agenda 	Done
<u>GR 35</u> <ul style="list-style-type: none"> • Figure out the fiscal impact • Review GR 31.1 for conflicts with GR 35 • Decide how to solicit input for GR 35 during the February BJA meeting—should the BJA do it all or just some pieces of it? • Add to May agenda so the BJA can give input to the Supreme Court before October 	
<u>BJA 2015 Legislative Agenda</u> <ul style="list-style-type: none"> • Notify the JISC that the BJA supports the funding of the CMS projects • Add JISC presentation to January BJA meeting agenda so the BJA will have the information they need to vote on backing funding for CMS data exchanges if they choose to vote on that 	Done

Tab 2

December 5, 2014

TO: Board of Judicial Administration
FROM: John Bell
RE: GR 31.1 Forms and Policies

Accompanying this memo are three documents that have been developed by the GR 31.1 Core Work Group and subsequently reviewed by the Executive Oversight Committee and the BJA Implementation Oversight Committee. The three documents are:

1. Memorandum of Understanding – This Memorandum of Understanding (MOU) was developed by the GR 31.1 Core Work Group Committee (CWC). This MOU addresses possible separation of powers issues between the executive and judicial branch regarding records that belong to the judicial branch. The CWC used King County's MOU to assist them in drafting this document. As with all forms and policies, this MOU is not intended to be the final word, but only to assist each court and judicial agency in drafting a MOU that meets their needs.
2. Guidance on Chamber Records – This will assist judicial branch employees with regard to requests for chambers records.
3. Exemptions – Provides guidance to judicial branch regarding the types of administrative records that are exempt from disclosure under GR 31.1 and the PRA.

MEMORANDUM OF UNDERSTANDING BETWEEN [COURT or JUDICIAL BRANCH AGENCY] AND THE [EXECUTIVE OFFICE/DEPARTMENT OR STATE AGENCY]

The purpose of this Memorandum of Understanding (MOU) is to set forth the intent of the parties when the Executive Branch of [City, County or State] government (Executive) receives a public records request related to the [Court or Judicial Branch Agency] or its employees.

This MOU recognizes that the [Court or Judicial Branch Agency] falls within the judicial branch, an independent branch of government, and is not included within the definition of an "agency" under the Public Records Act, chapter 42.56 RCW (PRA).

The Executive is an "agency" under the PRA and must respond to requests for public records. "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. RCW 42.17.020(42).

Some of the [Court's/Judicial Branch Agency's] records are maintained exclusively by the [Court/Judicial Branch Agency].

Other [Court/Judicial Branch Agency] records reside on Executive IT servers. The Executive is an incidental custodian of these records and does not use them for any executive branch purpose.

There are other instances where the Executive performs administrative functions, such as processing of payroll and benefits or facilitating telecommunications, using or producing records related to the [Court/Judicial Branch Agency] or its employees.

When the Executive receives a public records request related to the [Court/Judicial Branch Agency] or its employees, the parties agree to employ the following process:

1. For requests for [Court/Judicial Branch Agency] records that are maintained exclusively by the [Court/Judicial Branch Agency] that happen to reside on executive branch IT servers, including telephone records, the Executive will forward the request to the [Court/Judicial Branch Agency] and inform the requester that a response to the request will come directly from the [Court/Judicial Branch Agency]. The request will be provided to the Public Records Officer of the [Court/Judicial Branch Agency] who will respond to the request in accordance with Court General Rule 31.1 (GR 31.1).
2. In response to requests for records relating to the [Court/Judicial Branch Agency] or its employees which are used by the Executive to perform administrative functions, including payroll and benefits administration, the [Executive Branch Agency/Department] will promptly notify and provide a copy of the request to the

Public Records Officers of both the Executive and Judicial Branch entities. The Executive will respond to the requestor, after conferring with the [Court/Judicial Branch Agency].

By _____

Name
Court or Judicial Branch Agency
Title:

Date

By _____

Name:
Executive Branch Agency
Title:

Date

GUIDANCE ON CHAMBERS RECORDS

What is a chambers record?

A “chambers record” is defined as any writing that is created by or maintained by any judicial officer or chambers staff, and is maintained under chambers control, whether directly related to an official judicial proceeding, the management of the court, or other chambers activities.

“Chambers records” are not administrative records and therefore are not subject to GR 31.1. A chambers record is not an “exemption” under GR 31.1; rather, it is an exception to GR 31.1.

Who are chambers staff?

“Chambers staff” means a judicial officer’s bailiff, law clerk(s), judicial interns and any other staff when providing support directly to the judicial officer at chambers. A member of the “chambers staff” does not mean the person’s workstation is located within the judge’s chambers, rather the test is whether the person is providing direct support to the judicial officer. Also, see *Practice Tip* below for those employees who serve multiple roles.

Practice Tip: The public records officer should maintain a list of those court personnel designated as judicial officers or chambers staff. Because in some courts an employee may serve dual roles, the court should define for the public records officer what aspects of that employee’s position are excluded from GR 31.1. See *Comment to GR 31.1(m)(1)*.

What does “maintained under chambers control” mean?

A record is maintained under chambers control if (1) the record is created and maintained by the judicial officer or the judicial officer’s staff and is in the physical custody of a judicial officer or chambers staff, (2) the record is under the controlling authority of a judicial officer or chambers staff, or (3) use of the record is limited to a judicial officer or chambers staff. Examples are (1) paper files stored in offices, desks, and filing cabinets controlled by a judicial officer or chambers staff; (2) electronic documents, files or folders used by a judicial officer or chambers staff to create or maintain electronic records; and (3) electronic mailboxes of a judicial officer or chambers staff.

Practice Tips: An electronic record should be considered “under chambers control,” if one of the three tests is met, even if it could be centrally searched through electronic means by court administrative or information technology staff. Also, records may remain under chambers control even though they are stored elsewhere. For example, records relating to chambers activities that are stored on personally owned or workplace-assigned computer, laptop computer, cell phone, and similar electronic devices in the possession of a judicial officer or a chambers staff person would still be chambers records. See *Comment to GR 31.1(m)(1)*.

Why are chambers records not included in GR 31.1?

The exception for chambers records recognizes the reality that many of the records held in chambers are subject to confidentiality or privilege. Requiring judicial officers and chambers staff to search, review, and redact their records would be extremely burdensome and would seriously interfere with their primary responsibility of hearing and deciding cases. Imposing this burden, with its negative impact on the judicial function, would not measurably add to the public's knowledge of the judicial process, especially in light of the fact that the public already has access to judicial proceedings in open court and to the public court file. See *Comment to GR 31.1(m)*.

Should chambers records be searched before responding to a records request?

No. Judicial officers or chambers staff should never be asked to search for records in order to respond to an administrative records request. In addition, chambers records should not be searched by other court personnel in order to respond to an administrative records request. Chambers records are not subject to GR 31.1 and therefore are not subject to public disclosure.

Practice Tip: Administrative records subject to GR 31.1 should never be placed under chambers control for the purpose of avoiding public disclosure. See *Comment to GR 31.1(m)(1)*.

How should a court respond to a request for chambers records?

If a request for records is made to a judicial officer or chambers staff or if a request to the court's public records officer asks for chambers records, expressly or by description, the request may be denied as not a proper request under GR 31.1. The denial letter should explain that chambers records are not administrative records and are not subject to GR 31.1.

If other personnel are in possession of a "chambers record", what happens?

A "chambers record" is not a "chambers record" if it is in the possession of court personnel, other than a judicial officer or chambers staff. While judicial officers and chambers staff are not required to respond to an administrative records request, other court personnel must respond to a request and provide to the court's public records officer any responsive record, including any record received from a judicial officer or chambers staff. The public records officer will determine if GR 31.1 or other law provides an exemption from producing the record to the requester or requires the record to be redacted before being produced.

For example, if a judge sends a draft of a budget request to his or her judicial assistant who works in the judge's chambers to review, the budget request is a chambers record and not subject to GR 31.1. However, if the judge or judicial assistant sends the budget request to another court employee outside of chambers, the copy of the budget request in the possession of the court employee is no longer a chambers record and the employee

who received it must provide it to the public records officer in response to a records request.

Practice Tip: Judicial officers and chambers staff participate in administrative activities and on administrative court committees. It is encouraged to have another court employee maintain an official central file for this work that can be easily identified and provided to the public records officer in response to a request. This will make responding to the request more efficient and instill confidence in the public of the court's commitment to disclose administrative records.

DRAFT

RECORDS EXEMPTED OR PROHIBITED FROM DISCLOSURE

ADMINISTRATIVE RECORDS SPECIFICALLY EXEMPTED UNDER GR 31.1

Administrative Records—General Right of Access. Court and judicial agency administrative records are accessible to the public unless access is exempted or prohibited under GR 31.1, other court rules, federal statutes, state statutes, court orders, or case law.

In addition, the following **EXEMPTIONS** are specifically set forth under GR 31.1:

- A request for a judicial ethics opinion.
- Minutes of meetings held exclusively among judges, along with any staff.
Caveat: Exemption merely means that a document is not required to be disclosed. Disclosure would be appropriate if the document does not contain information of a confidential, sensitive, or protected nature. Courts and judicial agencies are encouraged to carefully consider whether some, or all, of their meeting minutes should be open to public access.
- Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended.
 - A specific record is not exempt if it is publicly cited by a court or agency in connection with any court or agency action.
 - This exemption applies to a record only while a final decision is pending on the issue that is being addressed in that record; once the final decision has been made, the record is no longer exempt.
 - When considering records related to budget negotiations with a budgetary authority, the “final decision” is the decision by the budgetary authority to adopt the budget for that year or biennium.
- Evaluations and recommendations concerning candidates seeking appointment or employment within a court or judicial agency.
This includes documents such as those of the Supreme Court’s Capital Counsel Committee, which evaluates attorneys for potential inclusion on a list of attorneys who are specially qualified to represent clients in capital cases.
- Personal identifying information, including individuals’ home contact information, Social Security numbers, driver’s license numbers, and identification/security photographs.

- Records related to an attorney's request for a trial or appellate court defense expert, investigator, or other services, any report or findings submitted to the attorney or court or judicial agency by the expert, investigator, or other service provider, and the invoicing of the expert, investigator or other service provider during the pendency of the case in any court.

Payment records are not exempt, but cannot include medical records, attorney work product, information protected by attorney-client privilege, information sealed by a court, or any other exempt information.

- Any records, including the complaint and the identity of the complainant, associated with a court or judicial branch agency's internal investigation of a complaint against the court or judicial branch agency or its contractors during the course of the investigation. The outcome of the court or judicial agency's investigation is not exempt.
- Family court mediation files.
- Juvenile court probation social files.
- Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans, the disclosure of which would have a substantial likelihood of threatening the security of a judicial facility or any individual's safety.
- To prevent a significant risk to individual privacy or safety interests, identifying details should be redacted.

CHAMBERS RECORDS ARE NOT SUBJECT TO DISCLOSURE

GR 31.1 states that "chambers records" are not administrative records and are not subject to disclosure. GR 31.1(m)

- "Chambers record" means any writing that is created by or maintained by any judicial officer or chambers staff, and is maintained under chambers control, whether directly related to an official judicial proceeding, the management of the court, or other chambers activities.

"Chambers staff" means a judicial officer's law clerk, bailiff, intern(s), and any other staff who may provide support directly to the judicial officer.

- Court records and administrative records do not become chambers records merely because they are in the possession or custody of a judicial officer or chambers staff. GR 31.1(m)(2)

PUBLIC RECORDS ACT EXEMPTIONS

Under GR 31.1 (j), "Court and judicial agency administrative records are open to public access unless access is exempted or prohibited under this rule, other court rules,

federal statutes, state statutes, court orders, or case law. To the extent that records access would be exempt or prohibited if the Public Records Act applied to the judiciary's administrative records, access is also exempt or prohibited under this rule. The following are examples of some PRA exemptions regularly encountered by a Public Records Officer. The list is not meant to be all-inclusive.

EXAMPLES OF PUBLIC RECORDS ACT EXEMPTIONS

- Providing any list of individuals requested for commercial purposes is prohibited unless authorized by law. [RCW 42.56.070\(9\)](#)

A court or judicial branch agency may condition access to an administrative record containing a list of individuals on the requester's promise that the record will not be used for a commercial purpose. This condition can be standard language that is included on the administrative records request form.

- Name of a complainant or witness when the person is a victim or a witness to a crime, has made a complaint to law enforcement, or disclosure would endanger any person's life, physical safety, or property. [RCW 42.56.240\(2\), \(5\), \(8\)](#)
- The name and identifying information of a public agency employee who sought advice through an informal process to determine the employee's rights under RCW 49.60 (the Washington Law Against Discrimination) and the employee requests identifying information not be disclosed. [RCW 42.56.250\(4\)](#)
- Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy. [RCW 42.56.230\(3\)](#). However, personnel records are not categorically exempt. To be exempt the disclosure must relate to personal information within the personnel records that would invade an individual's right to privacy as defined in [RCW 42.56.050](#). The following employee information is generally **EXEMPT**:
 - The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency
 - Number of exemptions (dependents)
 - Driver's licenses
 - Withholding status

- Employee's bank name
- Shared leave given by a donor (charitable contribution)
- Information under employee deductions: i.e. – name of health/dental plans, garnishment/child support, deferred compensation, retirement plan, etc.
- Union dues
- Charitable contributions
- Disabilities
- Medical records, including medical reasons for sick leave, shared leave received, FMLA, RA, etc.
- Sensitive records relating to health, marital and family information necessary for calculating health plans, job benefits and taxes
- Performance evaluations of court staff or judicial branch employees unless related to specific misconduct
- Unsubstantiated allegations of governmental misconduct made against an identified employee if release of the information would be highly offensive to a reasonable person (e.g. sexual misconduct). This is to be determined on a case-by-case basis.

The employee information listed above is generally exempt because disclosure would violate the employee's right to privacy, i.e. – it would be highly offensive to a reasonable person and not be of legitimate public concern.

The employee information listed below is generally **NOT EXEMPT**:

- Salary, including increases
- Employee personnel/identification number
- Hours worked, including overtime
- Types of leave taken: vacation/annual, comp time, LWOP, TSR, PLD, personal holiday, sick (though probably not the illness)
- Fringe benefits
- Outside employment
- Training records
- Letters of commendation
- Job description
- Classification questionnaire
- PDFs (position description forms)
- Letters of appointment
- Separation or other changes in the status of an employee
- Performance awards
- Anniversary date, including PID
- Shared leave received
- FMLA leave taken

These types of employee information are not exempt because the release of this information would generally NOT violate the right to privacy, i.e. – it would not be highly offensive to a reasonable person and is of legitimate public concern.

OTHER COMMON EXEMPTIONS UNDER THE PRA

- Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers. [RCW 42.56.230\(6\)](#)
- Any record used to prove identity, age, residential address, social security number, or other personal information required to apply for a driver's license or identocard. [RCW 42.56.230\(7\) \(a\)](#)
- Information related to individual claims resolution structured settlement agreements submitted to the board of industrial insurance appeals other than final orders from the board of industrial insurance appeals. [RCW 42.56.230\(8\)](#)

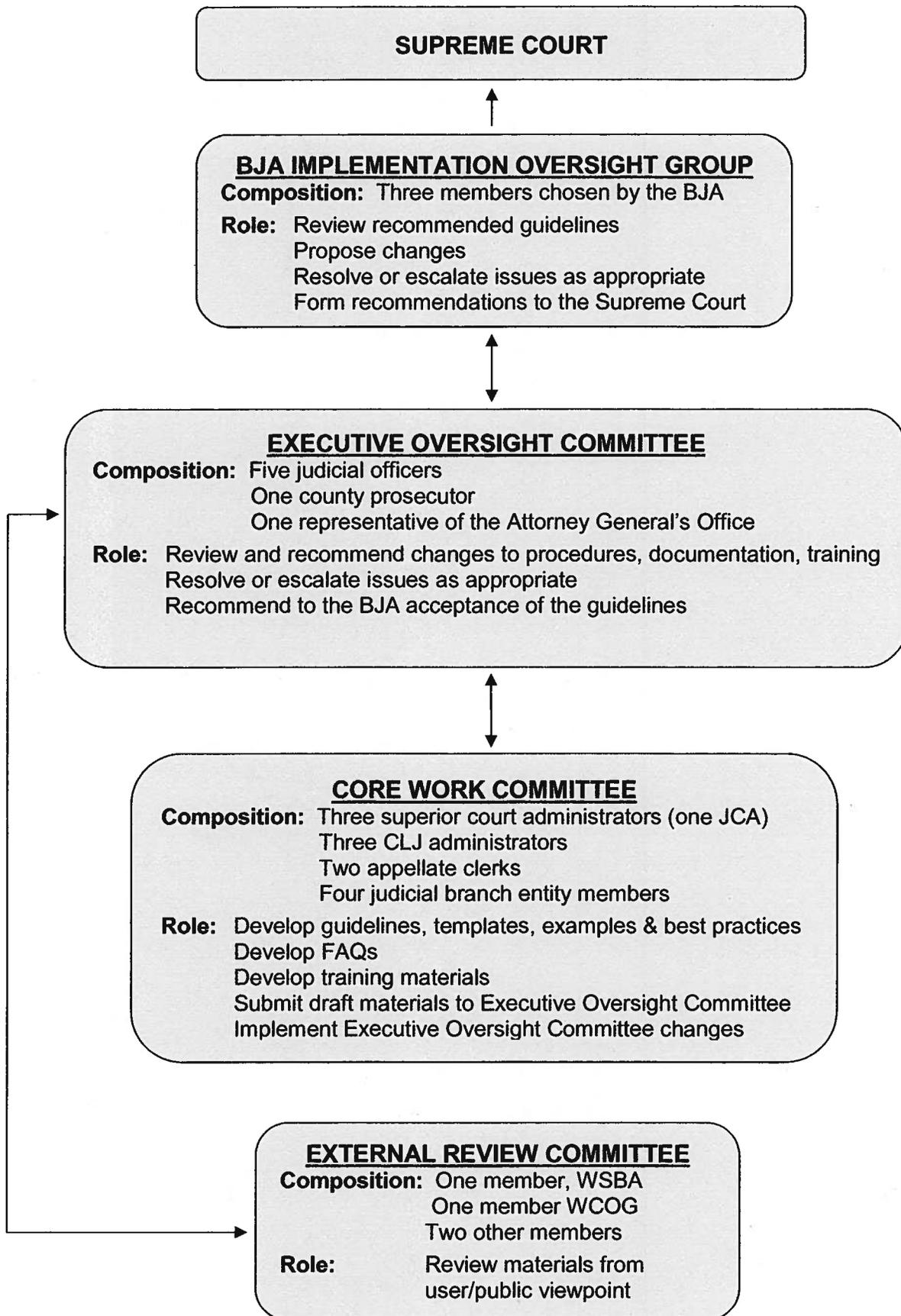
EXEMPTIONS THAT APPLY TO THE CERTIFIED PROFESSIONAL GUARDIAN BOARD

- The following records of the Certified Professional Guardian Board are exempt per GR 31.1(l)(12):
 - (i) Investigative records compiled by the Board as a result of an investigation conducted by the Board as part of the application process, while a disciplinary investigation is in process under the Board's rules and regulations, or as a result of any other investigation conducted by the Board while an investigation is in process. Investigative records related to a grievance become open to public inspection once the investigation is completed.
 - (ii) Deliberative records compiled by the Board or a panel or committee of the Board as part of a disciplinary process.
 - (iii) Investigation into a grievance.

Once the grievance has been completed or once a decision has been made that no investigation will be conducted, the grievance shall be open to public access, along with any response to the grievance submitted by the professional guardian or agency. The name of the professional guardian or agency shall not be redacted from the grievance.

GR31.1 IMPLEMENTATION WORK GROUP STRUCTURE

Working Document



BOARD FOR JUDICIAL ADMINISTRATION GR31.1 IMPLEMENTATION WORK GROUP

Date of last update: 9-3-2014

Name / Title	Court / Judicial Entity & Address	Telephone/E-Mail
BJA Implementation Oversight Group		
Judge Janet Garrow 07-19-2013	KCDC – Redmond Courthouse 8601 -160th Ave NE Redmond, WA 98052	206-477-2103 janet.garrow@kingcounty.gov
Judge Ann Schindler 07-19-2013	Court of Appeals Division I 600 University St One Union Square Seattle, WA 98101-1176	206-464-7659 Ann.Schindler@courts.wa.gov
Judge Sean O'Donnell May 2014	King County Superior Court 516 3rd Ave, Room C-203 Seattle, WA 98104 Mailstop: KCC-SC-0203	206-477-1501 Sean.ODonnell@kingcounty.gov
Executive Oversight Committee		
Judge Michael Evans	Cowlitz County Superior Court 312 SW 1st Ave, Floor 2 Kelso, WA 98626-1739	360-577-3085 evansm@co.cowlitz.wa.us
Judge Beth Andrus	King County Superior Court 516 3rd Ave, Rm C-203 Seattle, WA 98104-2361	206-447-1537 beth.andrus@kingcounty.gov
Judge Bradley Maxa	Court of Appeals Division II 950 Broadway Suite 300, MS TB-06 Tacoma, WA 98402-4454	253-593-2975 j_b.maxa@courts.wa.gov
Judge Scott Ahlf, Chair	Olympia Municipal Court PO Box 1967 Olympia, WA 98507-1967	360-753-8312 sahlf@ci.olympia.wa.us
Judge Glenn Phillips	Kent Municipal Court 1220 Central Ave S Kent, WA 98032-7426	253-856-5730 gphillips@kentwa.gov
Prosecutor Jon Tunheim Washington Association of Prosecuting Attorneys	Thurston County Prosecutor's Office 2000 Lakeridge Dr S.W. Building 2 Olympia, WA 98502	360-786-5540 tunheij@co.thurston.wa.us
Ms. Christina Beusch Deputy Attorney General	Office of the Attorney General 1125 Washington Street SE PO Box 40100 Olympia, WA 98504-0100	360-664-3801 ChristinaB@atg.wa.gov
Core Work Committee		
Mr. Jim Bamberger Director, OCLA	Office of Civil Legal Aid P.O. Box 41170 Olympia, WA 98504-1170	360-704-4135 Jim.Bamberger@ocla.wa.gov
Mr. John Bell Contracts Manager AOC	Administrative Office of the Courts P.O. Box 41170 Olympia, WA 98504-1170	360-704-4029 John.bell@courts.wa.gov

Mr. Ron Carpenter Clerk, Supreme Court	Supreme Court Clerk's Office P.O. Box 40929 Olympia, WA 98504-0929	360-357-2077 Ron.Carpenter@courts.wa.gov
Ms. Suzanne Elsner Court Administrator President Elect, DMCMA	Marysville Municipal Court 1015 State Ave. Marysville, WA 98270-4240	360-363-8054 selsner@marysvillewa.gov
Ms. Theresa Ewing Court Administrator	Thurston County District Court 2000 Lakeridge Dr. SW, Bldg. 3 Olympia, WA 98502-6001	360-786-5450 ewingt@co.thurston.wa.us
Mr. James Madsen Juvenile Court Administrator	Mason County Juvenile Court Location: 615 W Alder St Shelton, WA 98584-0368	360-427-9670 ext. 332 jamesma@co.mason.wa.us
Ms. Sophia Byrd McSherry Deputy Director	WA State Office of Public Defense P.O. Box 40957 Olympia, WA 98504-0957	360-586-3164 x 107 Sophia.ByrdMcSherry@opd.wa.gov
Ms. Kay Newman State Law Librarian	Supreme Court State Law Library P.O. Box 40751 Olympia, WA 98501-2314	360-357-2156 kay.newman@courts.wa.gov
Ms. Paulette Revoir Co-Chair Court Administrator	Lynnwood Municipal Court 19321 44 th Ave W Lynnwood, WA 98036	425-670-5100 prevoir@ci.lynnwood.wa.us
Ms. Linda Ridge Deputy Chief Administrative Officer	King County Superior Court 516 3rd Ave, Rm C-203 Seattle, WA 98104-2361	206-477-1365 linda.ridge@kingcounty.gov
Ms. Renee Townsley Clerk/Administrator	Court of Appeals, Div. III 500 N. Cedar St. Spokane, WA 99201-1905	509-456-3082 Renee.Townsley@courts.wa.gov
Mr. Bob Terwilliger Co-Chair Court Administrator	Snohomish County Superior Court 3000 Rockefeller Ave, MS 502 Everett, WA 98201-4046	425-388-3421 Bob.Terwilliger@snoco.org
External Review Committee		
Ms. Shirley Bondon Manager, Court Access Programs, AOC	Administrative Office of the Courts P.O. Box 41170 Olympia, WA 98504-1170	360-705-5302 Shirley.Bondon@courts.wa.gov
Ms. Michele Earl-Hubbard Board Member, WCOG	Allied Law Group P.O. Box 33744 Seattle, WA 98133	206-801-7510 michele@alliedlawgroup.com
Ms. Jean McElroy General Counsel, WSBA	Washington State Bar Association 1325 4 th Avenue, Suite 600 Seattle, WA 98101-2539	206-727-8277 jeanm@wsba.org
Mr. Rowland Thompson Executive Director, ADNW	Allied Daily Newspapers of Washington P.O. Box 29 Olympia, WA 98507	360-943-9960 360-951-3838 (cell) anewspaper@aol.com
Staff		
Mr. John Bell Contracts Manager AOC	Administrative Office of the Courts P.O. Box 41170 Olympia, WA 98504-1170	360-704-4029 John.bell@courts.wa.gov
Ms. Jan Nutting AOC	Administrative Office of the Courts P.O. Box 41170 Olympia, WA 98504-1170	360-704-4020 Jan.Nutting@courts.wa.gov

GR31.1 Implementation Timeline

August 2013

Core Work Committee

- Convene Work Committee; elect co-chairs
- Refine work plan
- Refine timeline
- Review previously developed materials
- Proposed rule reviewed and areas highlighted for further discussion
- Establish distribution of work

September 2013

BJA Implementation Oversight Group (Group)

- Convene Group
- Develop Group time line
- Review materials provided to date

Executive Oversight Committee (EOC)

- Convene Committee, elect committee chair
- Develop EOC work plan and timeline
- Review timeline, work plan and work of the Core Committee

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed

External Review Committee (Committee)

- Convene Committee
- Review Committee role
- Define method for communicating suggestions

October 2013

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed

November 2013

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Brief BJA Implementation Oversight Group and Executive Oversight Committee

December 2013

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Brief External Review Committee
- Provide update to BJA and Supreme Court

January 2014

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Brief BJA Implementation Oversight Group and Executive Oversight Committee
- Convene BJA Implementation Oversight Group and Executive Oversight Committee as needed

February 2014

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Brief External Review Committee

March 2014

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Brief BJA Implementation Oversight Group and Executive Oversight Committee
- Convene BJA Implementation Oversight Group and Executive Oversight Committee as needed
- Provide update to BJA and Supreme Court

April 2014

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Brief External Review Committee (convene if necessary)

May 2014

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Brief BJA Implementation Oversight Group and Executive Oversight Committee
- Convene BJA Implementation Oversight Group and Executive Oversight Committee as needed

June 2014

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Convene External Review Committee
- Convene BJA Implementation Oversight Group and Executive Oversight Committee as needed
- Provide update to BJA and Supreme Court

July 2014

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Briefing provided for BJA Implementation Oversight Group and Executive Oversight Committee
- Convene BJA Implementation Oversight Group and Executive Oversight Committee as needed
- Convene External Review Committee

August 2014

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Convene External Review Committee

Final review and ratification by the BJA

September 2014

Final review and approval of “best practices” (all materials and processes) by the Supreme Court

Core Work Committee

- Monthly meeting of full committee; subcommittees meet as needed
- Convene BJA Implementation Oversight Group and Executive Oversight Committee as needed

October, November, and December 2014

Court and state judicial branch agency implementation, following distribution of final/approved materials

Core Work Committee available to assist, continues to meet as needed

- Brief External Review Committee
- Brief BJA Implementation Oversight Group and Executive Oversight Committee

January 2015

GR 31.1 becomes effective

Update – July 2014

Although significant progress has been made, the the Core Work Committee has revised the estimated time for completion of the documents, forms, policies, and training plans.

At present, the goal of the Implementation Work Group is to have all materials completed in the spring of 2015.

Tab 3

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

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

Nominee Name: Paul Wohl

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

Term Begin Date: January 1, 2015

Term End Date: December 31, 2016

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:**

Please send completed form to:

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

Tab 4

 ADMINISTRATIVE OFFICE OF THE COURTS
Information Services Division

JIS Governance

Board for Judicial Administration

January 16, 2015

Justice Mary Fairhurst, JISC Chair
Vonnie Diseth, CIO/Director, Information Services Division

 ADMINISTRATIVE OFFICE OF THE COURTS
Information Services Division

Agenda

- Governance Body - Judicial Information System Committee (JISC)
- Current IT Governance Priorities.
- JIS Funding.
- Open Questions.

WASHINGTON COURTS ADMINISTRATIVE OFFICE OF THE COURTS Information Services Division

Governance Body

- The Supreme Court delegates governance of the JIS to the Judicial Information System Committee (JISC).
- JISC was established in 1976.
- The JISC operates under RCW 2.68.010 and JISC Rules.
- The JISC sets policy for the JIS and approves projects and priorities.

WASHINGTON COURTS ADMINISTRATIVE OFFICE OF THE COURTS Information Services Division

Who is the JISC?

- 17 members representing 10 different entities:

Appellate Courts	District and Municipal Court Management Association
Superior Court Judges' Association	Washington Association of Juvenile Court Administrators
District and Municipal Court Judges' Association	Misdemeanant Corrections Association
Washington State Association of County Clerks	Washington State Bar Association
Association of Washington Superior Court Administrators	Washington Association of Prosecuting Attorneys

 ADMINISTRATIVE OFFICE OF THE COURTS Information Services Division						Current IT Governance Priorities for the Courts and Trial Courts					
IT Governance Priorities											
Appellate CLUG Priorities											
Priority	ITG #	Request Name	Status	Approving Authority	CLUG Importance						
1	045	Appellate Courts ECMS	In Progress	JISC	High						
Superior CLUG Priorities											
Priority	ITG #	Request Name	Status	Approving Authority	CLUG Importance						
1	107	PACT Domain 1 Integration	Authorized	Administrator	High						
2	007	SGOMIS Field for CBG Number	Authorized	JISC	High						
3	158	Implementation of MAYSII-2	Authorized	CIO	High						
Non-Prioritized Requests											
N/A	002	Superior Court Case Management System	In Progress	JISC	High						

Current as of December 31, 2014

 ADMINISTRATIVE OFFICE OF THE COURTS Information Services Division						Current IT Governance Priorities for the Courts and Trial Courts					
IT Governance Priorities											
Courts of Limited Jurisdiction CLUG Priorities											
Priority	ITG #	Request Name	Status	Approving Authority	CLUG Importance						
1	102	New Case Management System to Replace JIS	In Progress	JISC	High						
2	174	CLJ Probation Case Management System	Awaiting Auth	CIO	High						
3	027	Expanded Seattle Muni Case Data Transfer	Authorized	JISC	High						
4	041	CLJ Revised Computer Records Retention and Destruction Process	In Progress	JISC	High						
5	106	Allow Criminal Hearing Notices to Print on Plain Paper and Allow Entries	Awaiting Authorization	Administrator	Medium						
6	032	Batch Enter Attorneys to Multiple Cases	Authorized	CIO	Medium						
7	068	Full Print on Docket Public View	Authorized	Administrator	Medium						
8	046	OPAR Screen in JIS	Authorized	CIO	Medium						
9	031	Combine True Name & Aliases for Time Ray	Authorized	JISC	Medium						
10	026	Prioritize Restitution Recipients	Authorized	JISC	Medium						

Current as of December 31, 2014

 ADMINISTRATIVE OFFICE OF THE COURTS Information Services Division					
Governance Priorities For the Court by JUDGE GROUP					
IT Governance Priorities					
Multi Court Level CLUG Priorities					
Priority	ITG #	Request Name	Status	Approving Authority	CLUG Importance
1	152	DCH and Sealed Juvenile Cases	Authorized	CIO	High
2	178	Race & Ethnicity Data Fields	Authorized	Administrator	Medium
3	116	Display of Charge Title Without Modifier of Attempt	Authorized	Administrator	Medium
4	062	Automate Courts DCXT Table Entries	Authorized	JISC	Medium
5	141	Add Bond Transferred Disposition Code	Authorized	CIO	Medium
Non-Prioritized Requests					
N/A	003	Imaging and Viewing of Court Documents	Authorized	Administrator	Not Specified

Current as of December 31, 2014

 ADMINISTRATIVE OFFICE OF THE COURTS Information Services Division	
<h1>Where to Find Information</h1>	
	
Home Logout Bookmark Service Center Advanced Search	
<ul style="list-style-type: none"> <input type="checkbox"/> AOC Resources <input type="checkbox"/> Court Resources <input type="checkbox"/> Court News <input type="checkbox"/> Directories & Contacts <input type="checkbox"/> Education <input type="checkbox"/> Governance <ul style="list-style-type: none"> <input checked="" type="checkbox"/> IT Governance <input type="checkbox"/> JIS Governance <input type="checkbox"/> Judicial Info System (JIS) <input type="checkbox"/> Judges' Resources <input type="checkbox"/> Legal Resources <input type="checkbox"/> Organizations <input type="checkbox"/> Help <input type="checkbox"/> Maintenance Utilities 	<h2>Inside Washington Courts</h2> <h3>Announcements</h3> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Court Closures Click above for a list of courts with upcoming closures... <input checked="" type="checkbox"/> Data Warehouse - BOXI - 2/17/2011 The data warehouse load for Wednesday, February 16, 2011 has completed successfully. Read more... <input checked="" type="checkbox"/> STOP Grant For Court-Related Projects The Gender and Justice Commission is requesting proposals for programs/projects that courts can implement to improve our courts' response to adult and/or teen victims of sexual assault, domestic violence, dating violence, and stalking in 2010-2011. <input checked="" type="checkbox"/> Washington Supreme Court Chief Justice Barbara Madsen appears on TVW's "Inside Olympia" In a one-hour interview on TVW, Washington Supreme Court Chief Justice Barbara Madsen details the state of Washington's judiciary, the funding crisis facing Washington's trial courts, diversity in the

 ADMINISTRATIVE OFFICE OF THE COURTS
Information Services Division

Questions?

 ADMINISTRATIVE OFFICE OF THE COURTS
Information Services Division

Contact Information

- **Justice Mary Fairhurst**
Chair, Judicial Information System Committee (JISC)
mary.fairhurst@courts.wa.gov
360.357.2053
- **Veronica Diseth**
CIO/Director, Information Services Division
vonniediseth@courts.wa.gov
360.705.5236



Flynn, Beth

From: Judicial Information System Committee <JISC@LISTSERV.COURTS.WA.GOV> on behalf of Fairhurst, Justice Mary
Sent: Tuesday, November 25, 2014 4:55 PM
To: JISC@LISTSERV.COURTS.WA.GOV
Subject: [JISC] PLEASE READ -- Message from JISC Chair Justice Mary Fairhurst on JISC Governance



As Chair of the Judicial Information System Committee (JIS Committee), I would like to take this opportunity to share information directly with you about the projects and processes we are using to modernize information technology for our courts and clerks, and invite you to contact me if you have any questions or concerns.

As you may know, the JIS Committee was established by the state Supreme Court in 1976 to direct the development and maintenance of a statewide judicial information system (JIS). The JIS Committee is comprised of representatives of the following entities:

- Appellate Courts,
- Superior Court Judges' Association,
- District and Municipal Court Judges' Association,
- Washington State Association of County Clerks,
- Association of Washington Superior Court Administrators,
- District and Municipal Court Management Association,
- Washington Association of Juvenile Court Administrators,
- Misdemeanant Corrections Association,
- Washington State Bar Association, and
- Washington Association of Prosecuting Attorneys.

With the involvement of all of these voices, the JIS Committee is empowered by court rules (JISC rules) and statute (RCW 2.68.010) to determine all matters pertaining to the applications that make up the JIS. The JIS Committee makes decisions after thoughtful consideration and thorough discussion. We welcome input from members and non-members alike, and you are always welcome to attend our meetings, a listing of which can be found [here](#).

For those who have followed the work of the JIS Committee in the past, you know that prior to 2010, there was no clearly defined process for prioritizing information technology (IT) projects. When I became Chair, one of my first priorities was to improve this process, and in 2010, the JIS Committee, with input and involvement from the court community, developed the current five-step IT Governance process to ensure that AOC's limited IT resources are focused on the priorities identified by the court community. The projects and priorities are now

established in an open and inclusive process, through 11 Association Endorsing Groups, four Court Level User Groups, and association representatives on the JIS Committee.

Following this IT Governance process, the JIS Committee prioritized three very large projects: the Superior Court Case Management System (SC-CMS) project (which will replace SCOMIS), the Appellate Court Enterprise Content Management System (AC-ECMS) project (which will replace ACORDS), and the Courts of Limited Jurisdiction Case Management System (CLJ-CMS) project (which will replace DISCIS).

By prioritizing these projects, the JIS Committee is focusing a substantial amount of our limited state resources on replacing aging, technologically complex, build-design statewide court level systems with modern technologically simpler, off-the-shelf solutions to meet the needs of today's courts.

In an effort to ensure that you are informed on the progress of projects authorized and prioritized by the JIS Committee to improve technology for our courts and to correct any misunderstandings, I will write to you regularly over the next few weeks with further information on recent JIS Committee actions and on specific projects, SC-CMS, CLJ-CMS, AC-ECMS, and the information networking hub. Subsequently, I will write on a periodic basis.

Together, with your representatives on the JIS Committee, we can work hand-in-hand to help guarantee the success of these critical projects, which I know is a priority for us all. Thank you for all the work you do each day to serve the public, and please feel free to call me at 360.357.2053 or e-mail me at Mary.Fairhurst@courts.wa.gov if you have comments or questions.

Sincerely,

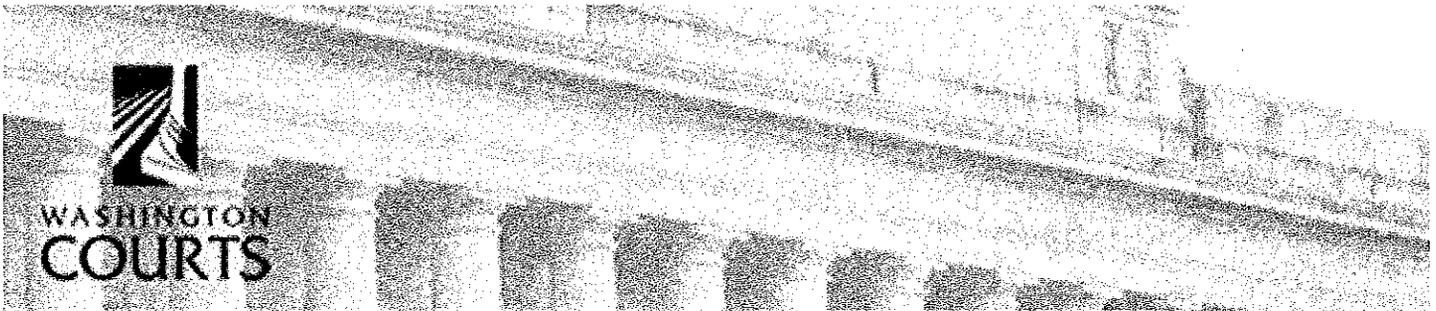
Mary E. Fairhurst

This e-mail has been sent to everyone in the JISC@LISTSERV.COURTS.WA.GOV mailing list. To reply to the sender, click Reply. To reply to the sender and the mailing list, click Reply All.

You can remove yourself from this mailing list at any time by sending a "SIGNOFF JISC" command to LISTSERV@LISTSERV.COURTS.WA.GOV.

Flynn, Beth

From: Judicial Information System Committee <JISC@LISTSERV.COURTS.WA.GOV> on behalf of Fairhurst, Justice Mary
Sent: Thursday, December 11, 2014 9:43 AM
To: JISC@LISTSERV.COURTS.WA.GOV
Subject: [JISC] PLEASE READ -- Message from JIS Committee Chair Justice Mary Fairhurst on SC-CMS



In this week's message to you as Chair of the Judicial Information System Committee (JIS Committee), I want to tell you about the Superior Court Case Management System Project (SC-CMS). This project is a partnership between the Administrative Office of the Courts (AOC) and the Superior Court and County Clerk communities.

The new SC-CMS is expected to enhance the ability of Superior Courts and County Clerks to efficiently direct and monitor court case progress, schedule case events, enforce court business rules, and view and communicate case schedules and orders. The system will replace the Superior Court Management Information System (SCOMIS), built in 1977.

All three phases of the project (feasibility study, request for proposal (RFP) development, and implementation) have been guided by steering committees with representatives of the Superior Court Judges' Association (SCJA), Washington State Association of County Clerks (WSACC), Association of Washington Superior Court Administrators (AWSCA), and AOC.

A feasibility study for the new system was conducted in 2011. After thoroughly reviewing the feasibility study, the JIS Committee approved the development of an RFP for a commercial-off-the-shelf case management system that would meet the business requirements of all 39 Washington counties.

Vendor proposals were evaluated, and in 2013 the JIS Committee approved the Project Steering Committee's recommendation to move to contract negotiations with Tyler Technologies for their case management system, Odyssey. The JIS Committee also approved the steering committee's recommendation to include document management, financials, judge edition, and electronic filing in the contract, which were originally out of scope for the project. The contract with Tyler Technologies was signed in July 2013.

For document management, the JIS Committee agreed to offer counties two options: use Odyssey's integrated document management system or use third-party document management systems that will connect to Odyssey through data exchanges. To date, 12 counties have chosen Odyssey's integrated document management system, 12 counties have chosen third-party document management systems, 5 counties are undecided, 4 lack agreement, and 4 have not responded.

Lewis County, the pilot site, is scheduled to begin using Odyssey case management system in June 2015. As what we term "early adopters," Franklin, Thurston, and Yakima Counties are scheduled to begin using Odyssey in November 2015, followed in 2016 by Snohomish and Spokane Counties, and then rollout of the new system statewide.

Full statewide implementation is expected to be complete by 2018 and we look forward to working hand-in-hand with you and your representatives on the JIS Committee to help guarantee the success of this critical project.

Again, please feel free to call me at 360-357-2053 or e-mail me at Mary.Fairhurst@courts.wa.gov if you have comments or questions.

Sincerely,

Mary E. Fairhurst
Chair, JIS Committee
Washington Supreme Court Justice
360-357-2053
J.M.Fairhurst@courts.wa.gov

JUDICIAL INFORMATION SYSTEM COMMITTEE

Name	Phone/Fax	Title	Representing	Address
Barker, Larry larryb@klikitatcounty.org August 1, 2013 – July 31, 2016	(509) 773-3776	Chief Probation Officer	Misdemeanant Corrections Assoc.	Klickitat County Adult Probation Services 205 S. Columbus MS-CH-10 Goldendale, WA 98620
Berg, Robert rberg@cityofcentralia.com August 1, 2012 – July 31, 2015	(360) 330-7680	Chief of Police	WA Assn. of Sheriffs and Police Chiefs	Centralia Police Department 316 N Pearl St PO Box 609 Centralia, WA 98531
Dalton, Jeanette jdalton@co.kitsap.wa.us August 01, 2014 – July 31, 2017	(360) 337-7140	Superior Court Judge	Superior Court	Kitsap County Superior Court 614 Division St, MS 24 Port Orchard, WA 98366-4683
Dietz, Callie Beth Flynn (360) 357-2121 callie.dietz@courts.wa.gov August 1, 2013 – July 31, 2016	(360) 357-2120	Administrator for the Courts	Supreme Court	1206 Quince St SE PO Box 41170 Olympia WA 98504-1170
Diseth, Vonnie Pam Payne (360) 705-5277 vonniediseth@courts.wa.gov No term	(360) 705-5236	CIO/Director, ISD	Non-JISC member AOC Staff	1206 Quince St SE PO Box 41170 Olympia, WA 98504-1170
Fairhurst, Mary E. Cindy Phillips (360) 357-2054 mary.fairhurst@courts.wa.gov Chair – Open	(360) 357-2053	Chair Supreme Court Justice	Supreme Court	Temple of Justice 415 12 th Ave SW PO Box 40929 Olympia, WA 98504-0929
George, Delilah delilahg@co.skagit.wa.us November 25, 2013 – July 31, 2016	(360) 336-9325	Superior Court Administrator	Superior Court	Skagit County Superior Court 205 W Kincaid St, Rm 202 Mount Vernon, WA 98273-4225
Heller, James Audrey Kimball (253) 798-7407 jheller@co.pierce.wa.us August 1, 2012 – July 31, 2015	(253) 798-7485	District Court Judge	Courts of Limited Jurisdiction	Pierce County District Court 930 Tacoma Ave S, Rm 601 Tacoma, WA 98402-2115
Johnson, Richard D richard.johnson@courts.wa.gov August 1, 2013 – July 31, 2016	(206) 464-5871	Court Administrator/ Clerk	Court of Appeals, Div I	Court of Appeals Div I One Union Square 600 University St Seattle, WA 98101-1176

Name	Phone/Fax	Title	Representing	Address
Leach, J. Robert j.leach@courts.wa.gov August 1, 2013 – July 31, 2016	(206) 464-7750	Appellate Court Judge	Court of Appeals	Court of Appeals, Division 1 600 University Street One Union Square Seattle WA 98101-1176
Marin, Vicky M. JISC Policy & Planning Liaison vicky.marin@courts.wa.gov No term	(360) 704-4068	(360) 956-5700 - Fax www.courts.wa.gov	Non-JISC member AOC Staff	1206 Quince St SE PO Box 41170 Olympia WA 98504-1170
Miner, Barb Linda Nguyen (206) 477-0780 barbara.miner@kingcounty.gov August 1, 2014 – July 31, 2017	(206) 477-0800	King County Clerk	Superior Court	King County Clerk 516 3 rd Ave. Rm E609 Seattle, WA 98104-2363
Powell, Brooke brookep@co.island.wa.us August 1, 2014 – July 31, 2017	(360) 240-5595	Juvenile Court Administrator	Superior Court	Island County Juvenile Court PO Box 5000 Coupeville, WA 98239-5000
Rosen, Steven steve.rosen@seattle.gov August 1, 2012 – July 31, 2015	(206) 684-8712	Municiple Court Judge (206) 615-0766 - Fax www.seattle.gov/courts	Courts of Limited Jurisdiction	Seattle Justice Center 600 5th Ave Seattle, WA 98104-1900
Taylor, Robert Attorney at Law roberttaylor11@comcast.net October 6, 2014 – July 31, 2015	(206) 660-0065	Washington State Bar Association	Washington State Bar Association	6520 47 th Avenue NE Seattle WA 98115
Tunheim, Jon Susan Strong (360) 754-4110 tunhej@co.thurston.wa.us August 1, 2014 – July 31, 2017	(360) 754-4110	Thurston County Prosecuting Attorney www.co.thurston.wa.us/pao/finde.htm	Washington Association of Prosecuting Attorneys	Thurston County Prosecuting Attorney's Office 2000 Lakertidge Drive SW, Bldg 2 Olympia, WA 98502
Vance, Aimee avance@kirklandwa.gov August 1, 2013 – July 31, 2016	(425) 587-3163	Kirkland Municipal Court Administrator	Courts of Limited Jurisdiction	Kirkland Municipal Court PO Box 678 Kirkland, WA 98083-0678
Williams, Yolande yolande.williams@seattle.gov August 1, 2012 – July 31, 2015	(206) 684-5614	Court Administrator	Courts of Limited Jurisdiction	Seattle Municipal Court 600 5th Ave, PO Box 34987 Seattle, WA 98124-4987
Wynne, Thomas J. thomas.wynne@co.snohomish.wa.us August 1, 2014 – July 31, 2017	(425) 388-3418	Superior Court Judge	Superior Court	Snohomish Co. Superior Court 3000 Rockefeller Ave, MS 502 Everett, WA 98201-4046

Judicial Information System Committee Rule 2. Composition

Four Members from the appellate court level (Supreme Court and Court of Appeals)	Five Members from the superior court level	Five Members from the courts of limited jurisdiction – includ'g 1 MCA	Three Members from outside the judiciary*
Justice Mary Fairhurst Supreme Court (Chair - Open)	Judge Jeanette Dalton Kitsap Superior Court (8/01/14 – 7/31/17)	Larry Barker Misdemeanor Corrections (8/01/13 – 7/31/16)	Chief Robert Berg (WASPC) (8/01/12 – 7/31/15)
Callie Dietz Supreme Court (8/1/13 – 7/31/16)	Brooke Powell Juvenile Court Administrator (8/01/14 – 7/31/17)	Judge James Heller District Court Judge (8/01/12 - 7/31/15)	Robert Taylor (WSBA) (10/06/14 - 7/31/15)
Richard Johnson Court of Appeals, Div. I (8/01/13 - 7/31/16)	Dellah George Administrator (11/25/13 - 7/31/16)	Judge Steven Rosen Municipal Court Judge (8/01/12 – 7/31/15)	Jon Tunheim (WAPA) (08/01/14 - 7/31/17)
Judge J. Robert Leach Court of Appeals (8/1/13 – 7/31/16)	Barb Miner King County Clerk (8/01/14 - 7/31/17)	Aimee Vance Administrator Municipal Court (8/01/13 - 7/31/16)	
	Judge Thomas J. Wynne Superior Court Judge (8/01/14 - 7/31/17)	Yolande Williams Administrator (8/01/12 – 7/31/15)	

*consisting of:

- a member of the Washington State Association of Prosecuting Attorneys (WAPA)
- a member of the Washington State Bar Association
- a member of the Washington Association of Sheriffs and Police Chiefs (WASPC)

Tab 5

**2015-2017 Budget Request as Submitted
December 2014**

Administrative Office of the Courts - Policy Requests State General Fund			
BJA Priority	Title	FTE	Amount Recommended
1/3	Trial Court Funding for Language Access	FTE 1.0	\$5,070,000
Funding for interpreting services for civil and criminal proceedings in the courts and to offset 50% of the costs for telephonic interpretation for interactions outside courtroom proceedings.			
2	Employee Salary Adjustment	FTE 0.0	\$To be determined
Funding is requested to bring selected salaries to an appropriate level as determined by a salary survey.			
5	FJCIP Expansion	FTE 0.0	\$428,000
Funding for expansion of the Family and Juvenile Court Improvement Program.			
6	Juvenile Court and JDAI Staff	FTE 2.0	\$302,000
Funding to provide coordination and quality assurance for probation and detention programs.			
Total AOC Policy Request - State General Fund		FTE 3.0	\$5,800,000

**2015-2017 Budget Request as Submitted
December 2014**

Administrative Office of the Courts - Maintenance Requests State General Fund		
Title	FTE	Amount Recommended
Mason County Superior Court Judge	FTE 1.0	\$216,000
Funding is requested to meet the AOC obligation for the newest judge to be approved by the Legislature.		
Technology Savings	FTE 0.0	\$278,000
Funding is requested to replace the technology savings reduction in the 2014 Supplemental Budget.		
Total AOC Maintenance Level Request-State General Fund	FTE 1.0	\$494,000
Total AOC Request-State General Fund	FTE 4.0	\$6,294,000

**2015-2017 Budget Request as Submitted
December 2014**

Administrative Office of the Courts-JIS Requests		
Title	FTE	Amount Recommended
JIS Software and Hardware Maintenance	FTE 0.0	\$1,159,000
Funding is requested for maintenance of software used to support the Judicial Information System.		
JIS BOXI Upgrade	FTE 0.0	\$773,000
Funding is requested for support of Business Objects, a business intelligence tool used by all courts and by numerous AOC staff.		
JIS SC-CMS	FTE 24.5	\$12,598,000
Funding is requested to continue with implementation of the new Case Management System for the superior courts.		
JIS CLJ-CMS	FTE 11.0	\$4,429,000
Funding is requested for the beginning phases of a new case management system for courts of limited jurisdiction.		
JIS CLJ COTS Prep	FTE 0.0	\$1,297,000
Funding is requested to prepare systems for the launch of the case management system for courts of limited jurisdiction.		
JIS INH for Courts of Limited Jurisdiction	FTE 0.0	\$1,440,000
Funding for the development and implementation of the information networking hub for data-sharing needs of the courts of limited jurisdiction.		
JIS External Equipment Replacement	FTE 0.0	\$1,849,000
Funding is requested for the replacement of aged computer equipment of the courts.		
JIS Internal Equipment Replacement	FTE 0.0	\$516,000
Funding is requested to replace end-of-life equipment.		
Total AOC Request - JIS	FTE 35.5	\$ 24,061,000
Total AOC Request-All Sources	FTE 39.5	\$30,355,000

**2015-2017 Budget Request as Submitted
December 2014**

Budget Requests not Being Submitted

Administrative Office of the Courts			
BJA Priority	Title	FTE	Amount Requested
NA	Becca Programs	FTE 0.0	\$5,090,000
Funding to provide Becca Program services for youth found in violation of court-ordered conditions. Funding will be used to fund evidenced based programs and services beyond case processing such as coordination of services for low risk youth, functional family therapy and aggression replacement training.			
NA	Guardian Monitoring Program	FTE 4.0	\$956,000
Funding for a regional approach to oversight of guardians serving vulnerable adults. Funds would be used to create a model volunteer guardianship monitoring program, modeled after an AARP program, that is being successfully used by Spokane Superior Court continues to successfully use this model to monitor guardianship under its jurisdiction.			
NA	Therapeutic Court Coordinator	FTE 1.0	\$191,000
Funding for resources to support, enhance, and evaluate therapeutic courts.			
4	CASA Restoration & State CASA Funding	FTE 0.0	\$1,392,000
Funding to increase the number of CASA volunteers and provide additional support to Washington State CASA, a nonprofit organization.			
7	Misdemeanant Corrections	FTE 0.0	\$1,100,000
Funding for a system of assessment and case management for offenders supervised under orders of courts of limited jurisdiction.			
Total Requests Not Being Submitted- State General Fund		FTE 5.0	\$ 8,729,000

**2015-2017 Budget Request as Submitted
December 2014**

Supreme Court		
Title	FTE	Amount Requested
Reinstatement of Merit Increments	FTE 0.0	\$128,000
Funding is requested to reinstate salary step increases for eligible employees.		
Step Increase as Authorized by the Legislature	FTE 0.0	\$72,000
Funding is requested to implement the additional step increase approved by the legislature.		
Supreme Court Operations	FTE 0.0	\$100,000
Funding is requested to partially restore support for constitutionally mandated operations of the Supreme Court.		
Employee Salary Adjustment	FTE 0.0	\$ To be determined
Funding is requested to bring selected salaries to an appropriate level as determined by a salary survey.		
Security for the Supreme Court	FTE 0.0	\$ To be determined
Funding is requested to provide a security detail for the Temple of Justice.		
Total Supreme Court Request – State General Fund	FTE 0.0	\$300,000

**2015-2017 Budget Request as Submitted
December 2014**

State Law Library		
Title	FTE	Amount Recommended
Step Increase as Authorized by the Legislature	FTE 0.0	\$13,000
Funding is requested to implement the additional step increase approved by the legislature.		
Migration to Innovative Interfaces	FTE 0.0	\$48,000
Funding is requested to upgrade the Innovative Interfaces Inc. (III) automated electronic library system.		
Electronic Legal Services	FTE 0.0	\$10,000
Funding is requested to upgrade the electronic legal databases.		
Employee Salary Adjustment	FTE 0.0	\$ To be determined
Funding is requested to bring selected salaries to an appropriate level as determined by a salary survey.		
Total Law Library Request – State General Fund	FTE 0.0	\$71,000

**2015-2017 Budget Request as Submitted
December 2014**

Court of Appeals		
Title	FTE	Amount Recommended
Reinstatement of Merit Increments	FTE 0.0	\$620,000
Funding is requested to reinstate salary step increases for eligible employees.		
Step Increase as Authorized by the Legislature	FTE 0.0	\$2,000
Funding is requested to implement the additional step increase approved by the legislature.		
Division II Lease Increase	FTE 0.0	\$211,000
Funding is requested for an increase in annual lease costs.		
Division I Lease Increase	FTE 0.0	\$114,000
Funding is requested for an increase in annual lease costs.		
Workers' Compensation Adjustment	FTE 0.0	\$14,000
Funding is requested for the difference between funding and actual costs.		
Employee Salary Adjustment	FTE 0.0	\$ To be determined
Funding is requested to bring selected salaries to an appropriate level as determined by a salary survey.		
Total Court of Appeals Request – State General Fund	FTE 0.0	\$961,000

**2015-2017 Budget Request as Submitted
December 2014**

Office of Public Defense		
Title	FTE	Amount Requested
Technical Adjustment	FTE 0.0	\$400,000
Funding is requested to correct a carry forward level computational error.		
Contract Attorney Retention – Appellate, Parents Representation and Social Workers	FTE 0.0	\$5,465,000
Funding for compensation increase to retain qualified contract appellate and parent’s representation attorneys and social workers.		
Parents Representation Program Caseload Increase	FTE 0.0	\$1,529,000
Funding is requested to accommodate the projected increased caseloads and maintain the program.		
Parents Representation Permanency Initiative	FTE 0.0	\$1,474,000
Funding is requested for increased filing of termination of parental rights cases resulting from the Attorney General’s Office initiative.		
Parents Representation Program statewide expansion	FTE 1.0	\$4,980,000
Funding is requested to expand the Parents Representation Program statewide.		
Total Office of Public Defense Request – State General Fund	FTE 1.0	\$13,848,000

**2015-2017 Budget Request as Submitted
December 2014**

Office of Civil Legal Aid		
Title	FTE	Amount Requested
Maintain Existing Client Service Capacity	FTE 0.0	\$718,000
Funding is requested to mitigate against legally obligated increases in personnel expenses experienced by its client service provider.		
Children's Legal Representation	FTE 0.5	\$1,228,000
Funding is requested to continue implementation of 2ESSB 6126 (ch. 108, Laws of 2014).		
Civil Legal Aid Delivery Capacity Enhancement	FTE 0.5	\$2,958,000
Funding is requested to upgrade client service capacity at statewide Northwest Justice		
Expenditure Authority for Private/Local Grants	FTE 0.0	\$300,000
Request Expenditure Authority for Private/Local Grants.		
Total Office of Civil Legal Aid Request – State General Fund	FTE 1.0	\$5,204,000

Total Request State Judicial Branch 2015-2017 Biennial Budget Request		
Title	FTE	Amount Requested
Total Request - General Fund	FTE 6.0	\$26,678,000
Total Request - JIS	FTE 35.5	\$24,061,000
Total Request - All Sources	FTE 41.5	\$50,739,000

Tab 6

Tab 7

Board for Judicial Administration

2015 Legislative Session POSITIONS for 01/12/2015

Bill	Description	Date	Position	Hearings / Comments
HB 1028	Court security Requiring cities and counties to provide security for their courts. H Judiciary - Leg Link	01/12/2015	Under Review	Bill is the same as that proposed by DMCJA previously but is not a DMCJA request bill this year. Mellani will research why superior are not included and whether there are similar provisions. BJA Leg Com will review on 1/20.
HB 1061	District judges, Skagit Cnty Increasing the number of district court judges in Skagit county. H Judiciary - Leg Link	01/12/2015	Request	H- Judiciary 01/13/2015 at 10:00 Judge Svaren will testify at hearing.
HB 1105	Operating sup budget 2015 Making 2015 supplemental operating appropriations. H Approps - Leg Link	01/12/2015	Support	H- Appropriations 01/12/2015 at 15:30 Mellani will sign in pro at hearing, being as specific to the BJA requests as possible. Likewise, 1106 and capital budget.
HB 1106	Operating budget 2015-2017 Making 2015-2017 operating appropriations. H Approps - Leg Link	01/12/2015	Support	H- Appropriations 01/12/2015 at 15:30 Mellani will sign in pro at hearing, being as specific to the BJA requests as possible. Likewise, 1105 and capital budget.
HB 1111	Court transcripts Concerning court transcripts. H Judiciary - Leg Link	01/12/2015	Request	H- Judiciary 01/15/2015 at 13:30 Mellani will testify if someone from the Court Management Council cannot.
S-0105.2	Therapeutic courts	01/12/2015	Support	S- Law & Justice 01/15/2015 at 8:00 Mellani will sign in pro so long as the tax section is not an issue. Mellani reviewed the proposed legislation and it is substantially similar to 2556 as amended. Some change in section 4. Scheduled for hearing on 1/15.

Tab 8



January 5, 2015

TO: Board for Judicial Administration Members
FROM: Judge John M. Meyer, BJA Court Education Committee Chair
RE: Court Education Committee Report for January 16, 2015

I. Work in Progress

Met with Judge Siddoway, Dirk Marler, Judith Anderson, Shannon Hinchcliffe and Judge Doug Fair, to discuss short term and long term strategies for the new CEC. Would like to modify the current committee structure to add a Law School Dean. We feel continuing to develop a relationship with the three law schools will help establish possible educational opportunities for the judicial branch in the future.

On December 30, 2014 the yearly continuing judicial education credit transcripts were disseminated via e-mail to each and every judicial officer under General Rule 26. Group A's three-year reporting period came to an end December 30, 2014. Members in Group A needed to have at least 45 credits (of which 6 are ethics credits) in order to be in compliance with GR26.

First CEC meeting will occur January 27, 2015 at the Sea-Tac office from 9:00 a.m. – 12:00 noon. AOC providing historical information on the BCE, such as the bylaws, policies and guidelines, information on each of their advisory committees, minutes and a history of their budgets.

The CEC members will be invited to attend the next in-person BCE meeting on March 2, 2014 at Sea-Tac.

II. Short-term goals

The CEC will review current policies, procedures and guidelines developed by the BCE and adopted by the CEC.

Review each advisory and special committee currently active under the BCE and determine if they need to remain active, sunsetted, or formatted in a different manner under the CEC.

Memorandum to Board for Judicial Administration Members

January 5, 2015

Page 2 of 2

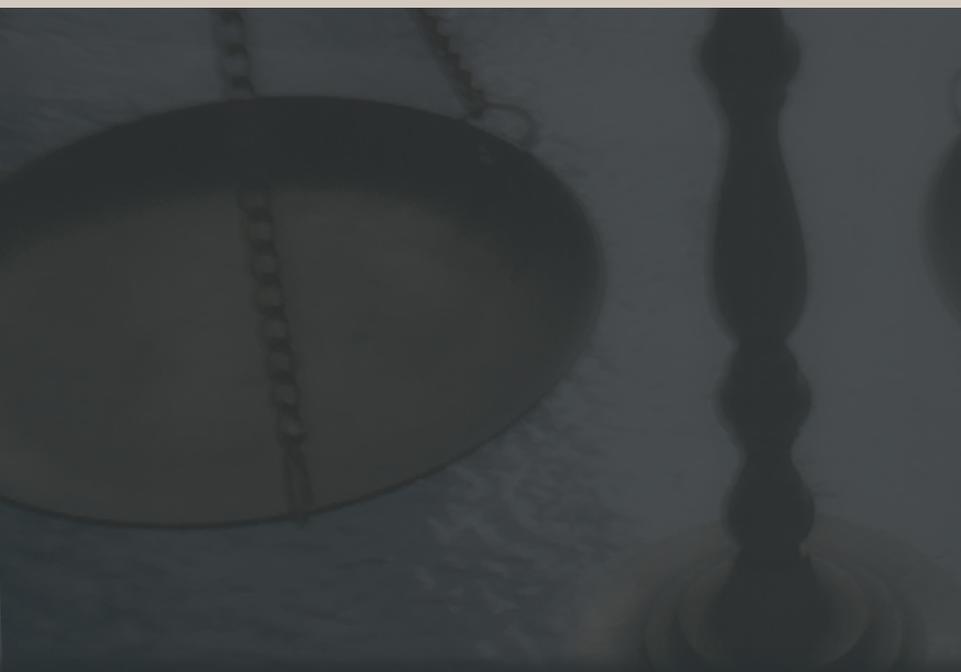
Analyze the current funding model, what is paid for and why, how funds have been allocated, and for what purpose. Need to understand how the biennial request for funding currently works and when requests for additional funding can be made.

Review current configuration of the CEC and the terms of all the members.

Tab 9

NATIONAL CONFERENCE ON EVALUATING APPELLATE JUDGES: *Preserving Integrity, Maintaining Accountability*

POST-CONFERENCE REPORT





Evaluating Appellate Judges: Preserving Integrity, Maintaining Accountability Post-Conference Report

I. Overview

The Institute for the Advancement of the American Legal System (IAALS) at the University of Denver has worked in the area of judicial performance evaluation (JPE) from IAALS' inception in January 2006. In August 2008, IAALS convened its first conference on JPE—*Judicial Performance Evaluation: Strategies for Success*—which focused on the development, structure, and improvement of JPE programs across the nation. On August 11 and 12, 2011, IAALS convened its second national conference, this time focusing on appellate JPE, in response to the heightened profile of appellate judicial retention elections and the need for more tailored means of evaluating appellate judges and justices.

Over 70 state court judges, practitioners, academics, state JPE program coordinators from across the nation, and other leaders in the field attended the conference. The two-day discussion engaged panelists and participants on the roles and responsibilities of an appellate judge, appropriate measures and methods for evaluation, challenges and obstacles encountered in establishing and implementing JPE programs, strategies for improving existing performance evaluation programs, and the role of JPE in the growing contentiousness and politicization of appellate judicial retention elections. Conference participants engaged in an open and honest dialogue that was focused on the overarching importance of appellate JPE and the identification of concrete and meaningful improvements that can be made to the evaluation process.

In advance of the conference, IAALS administered a survey of appellate judges and justices in eight of the eleven states that have official appellate JPE processes.¹ The results of this survey helped to both shape the agenda for the conference and shed light on potential areas for improvement in the process. Drawing from these survey results, conference materials, and participant dialogue, this post-conference report discusses the various approaches currently in place for evaluating appellate judges and justices, and identifies themes, recommendations, and areas for future work in appellate JPE.

II. Judicial Performance Evaluation for Appellate Judges

Judicial performance evaluation (JPE) for appellate judges and justices appears in a variety of contexts. In states where appellate judges are retained by voters (e.g., Alaska, Arizona, and Colorado) or reappointed by decision makers (e.g., Hawaii and Vermont), JPE programs provide relevant information to those making retention or reappointment decisions. JPE is also used for purposes other than retention or reappointment. In New Hampshire and Massachusetts, where state court

¹ The survey is appended to the Post-Conference Report. Sixty-four appellate judges responded to the survey, from the following states: Alaska (6), Arizona (10), Colorado (10), Massachusetts (3), Missouri (10), New Mexico (6), Tennessee (4), and Utah (6), along with 9 judges who did not identify their state.

judges have life tenure (until age 70), JPE is used for the purposes of enhancing public confidence in the courts and self-improvement, respectively.

Bar associations in a number of states—for example, Florida, Iowa, and Wyoming— have established unofficial JPE programs in which judges are rated by attorneys and results are made public. In some states, independent organizations undertake evaluations that rate or evaluate judges in accordance with the organization’s mission—be it political, religious, or some other perspective. These independent evaluation efforts can co-exist with official programs. For example, the Massachusetts Judicial Branch undertakes performance evaluations of judges while the Massachusetts Bar Association conducts an independent evaluation. In Iowa, the Iowa State Bar Association conducts a statewide judicial plebiscite prior to retention elections and makes results public, while an independent organization known as Iowa Judicial Watch issues evaluations in which “ideology makes up a substantial portion of the grade.”² Similar organizations are active in Colorado and Florida. Clear the Bench Colorado identifies justices who “demonstrate a consistent pattern of deciding cases in contravention of the Colorado Constitution, established statutory law, legal precedent, & ‘rule of law’ principles,” while Florida Judicial Review “provides common sense, citizen analysis of judges [sic] decisions and promotes an independent, originalist judiciary.”³

There are also national websites that invite attorneys and other court users to rate both federal and state appellate judges.⁴ RatetheCourts.com invites site visitors to anonymously evaluate any state or federal judge, according to survey criteria recommended in the American Bar Association’s Guidelines for the Evaluation of Judicial Performance and used by the Colorado Commission on Judicial Performance.⁵ Its sister site, CourthouseForum.com, encourages the public “to freely and candidly post and discuss information and opinions about the nation’s courts, judiciary and cases.”⁶ RobeProbe.com allows both lawyers and litigants to rate the performance of judges and bankruptcy trustees and identifies the “best” and “worst” judges based on those ratings.⁷

These examples illustrate that a variety of approaches are taken to evaluating appellate judicial performance. However, certain characteristics are common to many programs, particularly those that are state-sponsored. Surveys are usually distributed to attorneys who have appeared before the judge, as well as to court staff, clerks, and/or other judges, both at the trial or appellate level. Judges may fill out self-evaluation questionnaires and/or be interviewed by the evaluating body. In some states, a predetermined number of appellate opinions authored by the judge are reviewed, and evaluators may take into account reversals on appeal and caseload statistics.

Official JPE programs employ similar criteria in the evaluation as well. Although survey questions and evaluation guidelines differ by state, the following criteria are commonly used: legal ability, integrity and impartiality, communication skills, temperament and demeanor, and administrative performance and skills.

² IOWA JUDICIAL WATCH, <http://www.iowajudicialwatch.org> (last visited Nov. 7, 2011).

³ CLEAR THE BENCH COLO., <http://www.clearthebenchcolorado.org> (last visited Nov. 7, 2011); FLA. JUDICIAL REVIEW, <http://www.floridajudicialreview.com> (last visited Nov. 7, 2011).

⁴ One national site, The Robing Room, is limited to attorney evaluations of federal district court judges and magistrate judges. THE ROBING ROOM, <http://www.therobingroom.com> (last visited Nov. 7, 2011).

⁵ RATE THE COURTS, <http://www.ratethecourts.com> (last visited Nov. 7, 2011).

⁶ COURTHOUSE FORUM, <http://www.courthouseforum.com> (last visited Nov. 7, 2011).

⁷ ROBEPROBE.COM, <http://www.robeprobe.com> (last visited Nov. 7, 2011).

The extent to which evaluation results are distributed and with what level of detail depends largely on the purpose and goals of the program. In states where JPE programs are designed to provide information to voters or other decision makers, the evaluation results are generally made available in substantial detail, although they may be initially presented in summary form with full survey results and additional information available for those interested. In New Hampshire, only summary JPE results for the evaluated court are provided to the public, and in Massachusetts, where JPE is solely for self-improvement purposes, evaluation results are provided only to the evaluated judge.

III. Broad Conference Themes

A. Importance of Judicial Performance Evaluation

Conference panelists and participants affirmed the importance of JPE. As a vital component for ensuring public trust and confidence in the judiciary, JPE programs demonstrate a willingness on behalf of individual judicial officers and the judiciary as a whole to be accountable for their performance. The value of the JPE process, according to John Broderick, Jr., Dean of the University of New Hampshire School of Law, “is to make sure that the public [that judges] serve ... has confidence in the service they are giving.” Clear the Bench Colorado Director Matt Arnold echoed this sentiment: “Providing substantive information is not only important for the judges...It is absolutely critical to cementing respect for the process and respect for the rule of law.”

JPE may have an additional role in states interested in moving from contested elections to a commission-based appointment and retention election system. Sarah Walker, President of the Minnesota Coalition for Impartial Justice, described public performance evaluation as the “most critical tool in passing a comprehensive reform package.” Without this component, according to Walker, the progress made to date by the Coalition—which is working toward performance evaluation with merit selection and retention elections for all Minnesota judges—would not have been possible.

Well-designed and well-implemented evaluation programs bring transparency to the judiciary by measuring those aspects of the appellate process that are observable. After all, public trust and confidence should ultimately turn on the appearance of *how* the result was achieved, not *what* particular result was achieved. At the conference, Professor Jordan Singer of New England Law|Boston presented his research on the mind of the judicial voter, which suggests that voters are motivated primarily by procedural fairness considerations, rather than by policy preferences or case outcomes. Kansas Court of Appeals Judge Steve Leben echoed Professor Singer’s comments, telling conference participants that procedural fairness drives both litigants and citizens generally in how they think about their court system. Conference participants also agreed that performance evaluation does not pose a threat to judges’ decisional independence simply because it holds judges accountable for their work. According to the IAALS pre-conference survey, appellate judges agree, with 73 percent of respondents indicating that the evaluation process has no impact on their independence as a judge/justice. In fact, 16 percent reported that the process “enhances independence.”

Judicial performance evaluation also serves a critical educational component, by providing voters and decision makers with an essential tool for assessing judges. Of the appellate judges surveyed by IAALS, 71 percent viewed evaluation results (and recommendations, if made) as having “some influence” on voters’ decisions in retention elections and 17 percent describing them as having “a lot of influence.” Conference panelists agreed that in states where judges stand for

retention, it is vital that voters receive objective information about a judge's performance. Just as the judiciary has an obligation to the public to strive for the highest levels of quality, the public—when given the opportunity through retention elections—in turn has an obligation to promote quality by casting an educated vote. Judicial performance evaluation, according to Colorado Court of Appeals Judge Russell Carparelli, raises for the public the “expectation that they are part of the process and that they should be informed and they should seek to be informed.”

But JPE accomplishes more than simply educating voters, other decision makers, and/or the general public on the performance of individual judges and justices. It can also provide broader education on the proper role of judges and the role of the courts. This component is of growing importance, as appellate judges and justices are increasingly coming under fire for decisions in particular cases. In this respect, JPE can focus the public on the right indices of quality judicial performance, as opposed to inappropriate or non-objective standards—i.e., individual case outcomes or political ideology. According to Rebecca Love Kourlis, IAALS Executive Director, JPE “suggests to voters that they should be making decisions about judges on the basis of how well they do their job, not on the basis of one hot-button opinion.”⁸

Furthermore, these programs benefit the judges and justices subject to evaluation by identifying areas in which their performance is deficient. Because of ethical and professional rules that limit communication and other interaction with individuals who appear in their courtrooms, judges are often unable to get candid feedback on their performance. At the conference, Judge Leben highlighted a disconnect between how judges view their performance and how the public views judges' performance:⁹ “We are out of touch with how we are doing in anybody else's eyes and ... the longer we are on the bench, the more we tend to grow out of touch with what regular people are thinking.” When asked about the extent to which the evaluation process had been beneficial or detrimental to their professional development, 53 percent of appellate judge respondents to the IAALS survey believed it was “somewhat beneficial” and 10 percent found JPE “significantly beneficial,” while only three percent described the evaluation process as “somewhat detrimental.” Although one out of three respondents felt that it had no effect on their professional development, JPE programs have the potential to promote subconscious improvement in judges' performance, based on the simple awareness that they are being evaluated. An analysis of the IAALS survey comments shows that the primary benefit respondents see in JPE is self-improvement, provided that the evaluations give constructive feedback on potential areas of improvement. The comments also suggest that more frequent evaluations—i.e., not just during election years—would be especially helpful for self-improvement purposes.

B. Need to Tailor Performance Evaluations for Appellate Judges/Courts

Conference participants recognized that the role and responsibilities of trial and appellate judges differ in marked ways and that such differences have important implications for JPE processes.

⁸ *How Should Appellate Court Judges Be Evaluated?*, KUVU THE TAKE AWAY (Aug. 10, 2011), <http://soundcloud.com/nheffel/kuvos-nathan-heffel-and>.

⁹ Citing a 2001 Justice at Stake survey of state court judges nationwide and a national population sample which found that 40 percent of the general public described courts in their state as “poor” or “fair” while none of the judges surveyed described courts as “poor” and only four percent described them as “fair.”

The essential function of both trial and appellate court judges, said Judge Russell Carparelli, is to ensure fair and impartial application of the rule of law. Where the public misperception begins, however, is with the distinction between the trial court's role of fact finding and the appellate court's function of reviewing the trial court findings and application of law to those facts. The difference in purpose and manner in which trial and appellate court judges carry out these roles also creates difficulties in the evaluation process, as judges encounter different responsibilities and expectations. For instance, the trial judge initially knows very little about a case when it comes before her, as opposed to the appellate judge who has access to the full trial record and appellate briefs. There is, therefore, a different expectation of how prepared a trial judge can and must be, as opposed to the preparation expected of an appellate judge. There is also a significant difference in a trial judge's versus an appellate judge's exposure to the parties and counsel. Over the course of the pretrial and trial process, the trial judge may have substantial interactions with parties and counsel. At the appellate level, this interaction is generally confined to an oral argument that is strictly limited in length and in which only counsel participate. This difference in exposure potentially handicaps those responsible for evaluating the demeanor and preparation of appellate judges.

Fundamentally, the work product of the trial judge and the appellate judge is different. The trial judge oversees trial proceedings, including ruling on motions, conducting hearings, settling evidentiary issues, and in the case of a bench trial, rendering a judgment. The trial judge may also have conducted case conferences, issued pretrial orders, and resolved interparty disputes, depending on the point at which the judge became involved with the case. These pretrial and trial activities comprise the trial judge's work product. The appellate judge, on the other hand, reviews the trial record and party briefs, might participate in an oral argument, and then produces a written opinion—which may or may not be published. The primary work product generated by an appellate judge or justice, therefore, is the written opinion. Although a few programs review opinions as part of a broader evaluation process, there is no general agreement as to how this review should be conducted, as will be covered in detail below. As the principle work product of appellate judges, and the primary—if not only—way in which appellate judges communicate the legitimacy of their decisions, conference participants were unanimous in expressing a need for some sort of opinion review, based upon appropriate criteria, as part of the JPE process.

There is another important institutional difference between trial and appellate judges that further complicates any review of appellate opinions. Unlike trial court judges who operate individually, appellate judges work in panels. While the written opinion issued by the court may list a primary author, the opinion itself is often a collective effort. Whereas the trial court judge acts unilaterally, thus making it appropriate to evaluate his individual performance, the line becomes more blurred with respect to the appellate judge, whose performance has both a collaborative and individual component. In this interactive working environment, court culture can play an important role in an appellate judge's performance, and understanding that culture can be a factor in the evaluation. To wit, one respondent to the IAALS survey of appellate judges commented that the evaluating body should solicit more “input from the judges as to how their opinions are formulated and the environment they are in.”

IV. Recommendations for Improving Appellate Performance Evaluation

In the IAALS survey of appellate judges and justices, a total of 62 percent of respondents described themselves as “very satisfied” (29 percent) or “somewhat satisfied” (33 percent) with the process for evaluating their performance. However, 24 percent said that they were neither satisfied nor dissatisfied, and a total of 14 percent reported being “somewhat” or “very” dissatisfied—thus

indicating that there is room for improvement in appellate judicial performance evaluation programs. With regard to specific aspects of the performance evaluation process that could be improved upon, the second most frequently given answer (by 44 percent of respondents) was “additional bases for evaluation—for example, opinion review, workload statistics, self-evaluation, etc.” IAALS drilled down on this topic both in the survey and in conference panel discussions.

A. Additional Bases for Evaluation

Courtroom Observation

More than three-fourths (76 percent) of respondents to the IAALS survey agreed that courtroom observation should be part of the evaluation process for appellate judges. As one respondent noted, “[i]t is not only that litigants are entitled to a fair and impartial hearing, they are also entitled to the appearance of a fair and impartial hearing. The demeanor and conduct of the judges during oral arguments is the most direct evidence of the latter.” Another respondent replied that “[b]eing part of a multi-judge appellate bench is so much different than sitting on the bench as a solo trial judge, and I think we are much less sensitive to how we are being perceived and experienced individually when part of an appellate bench.” In this sense, ongoing observation from someone without a stake in the outcome of the case could provide valuable feedback to appellate judges. On the other hand, survey respondents expressed concern that courtroom observers would mistake a lack of questions from a justice or judge during oral arguments as a lack of preparation, which has the potential to lead judges to ask questions purely for the sake of showcasing their knowledge of the case.

During the conference, Utah Judicial Performance Evaluation Commission member and retired district court judge Anthony Schofield discussed Utah’s developing program for courtroom observation. Although Utah has not yet addressed appellate courtroom observation, Judge Schofield told conference participants that it was clear to him that citizens want procedural fairness, and a courtroom observation program is well suited to spotting, understanding, evaluating, and reporting on this issue.

Appellate Opinion Review

As previously mentioned, conference participants agreed that review of written opinions is an essential component of the evaluation process. Similarly, nearly nine out of ten respondents (89 percent) to the IAALS survey believed that opinion review should be part of the evaluation process. As one respondent explained, “Written opinions provide the explanation for a particular outcome and the rationale for that outcome. If a judge cannot explain the reasons for the decision, public support for the judiciary and for its impartiality tends to erode.” This point, which resonated throughout the conference, has become even more relevant in light of the rising number of self-represented parties.¹⁰ Dean Broderick told conference participants, “[i]f there was ever a need to be more explanatory, more transparent—it’s now.” Judge Leben agreed that appellate opinions have to be understandable by lay readers, noting that the judiciary is a branch of government and citizens should be able to know what the courts are doing and to evaluate whether they are fair.

¹⁰ For a discussion of the substantial increase in self-represented litigants in appellate courts, see Thomas H. Boyd, *Minnesota’s Pro Bono Appellate Program: A Simple Approach That Achieves Important Objectives*, 6 J. APP. PRAC. & PROCESS 295 (2004).

The precise metrics for evaluating opinions and the process through which such an evaluation should occur was the topic of much debate during the course of the conference. Conference participants generally agreed upon certain criteria—e.g., whether an opinion uses simple and declarative language, is easily understood, and sets forth the reasoning and rationale for the particular outcome. Some participants proposed additional criteria, such as the approach offered by Professor Muti Gulati of Duke University School of Law. Professor Gulati and the co-authors of his article, *“Not that Smart”: Sonia Sotomayor and the Construction of Merit*,¹¹ use citation rates to appellate opinions by other courts and in law journals (along with other measures, such as authorship and publication rates) as a measure of relative performance. A possible downside to this measure, particularly among state court judges, is the fact that it depends to some extent on whether the case is on the cutting edge of the law, or simply requires the application of existing principles—which would make it less likely to achieve prominence.

Another point of discussion related to who is best suited to review opinions—e.g., non-attorneys, attorneys, law professors, and/or other judges. Considering each in turn, many participants favored review by non-attorneys, as these individuals—having no legal background or familiarity with legal terms—could provide an honest analysis of the clarity of the opinion. However, a number of the comments in the IAALS survey of appellate judges expressed concern that non-attorney evaluators would lack the requisite legal knowledge and skills to review an opinion. Attorney reviewers are better suited to assess the adequacy of the reasoning given in the opinion for the outcome; however, conference participants and judges surveyed by IAALS expressed concern with having their opinions reviewed by individuals who may have a stake in the outcome (attorneys and non-attorneys alike). One respondent to the IAALS survey suggested that it would be more helpful to have a broad-based group of attorneys review opinions, rather than only those who have appeared before the court. Conference participants agreed that law professors would be able to assess the sufficiency of the analysis and clarity, even if they were not familiar with the substantive area of law addressed in the opinion. In fact, unfamiliarity with the area of law might be preferable in order to lessen the danger that a law professor would review an opinion based on its substantive outcome. Identifying and defining the line between reviewing an opinion for clarity, structure, and adequate explanation versus reviewing an opinion on the merits—the latter of which is solely the province of a higher court—was a shared concern, regardless of who the reviewers were.

The IAALS survey of appellate judges and justices suggested another category of individuals who might be well-suited to reviewing appellate opinions—other judges, both peer and trial court judges. One IAALS survey respondent suggested that “the work of the intermediate appellate judges should be reviewed by the state supreme court, which of necessity reads all opinions and deals with the quality of the court’s analysis when considering petitions for review.” Rafael Gomez, counsel for RobeProbe.com, suggested using retired judges. Some states already tap other judges for evaluation of their peers.

No clear direction emerged from the conference as to the approaches that should be taken in evaluating appellate opinions. Accordingly, IAALS established a task force to study this issue in detail and formulate recommendations for states interested in changing an existing, or incorporating a new, system for appellate opinion review as part of the judicial performance evaluation process.

¹¹ Available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1907724.

Appropriate Judicial Role

Villanova University School of Law Professor Penelope Pether spoke to conference participants about areas in which appellate judges and justices are not held appropriately accountable, and should be.¹² For example, inadequate screening in some courts—particularly intermediate appellate courts that grant appeal as a matter of right—may result in a certain subset of cases (e.g., cases in which the government is a defendant) being decided by court staff with little or no judicial supervision. A related practice that, in Professor Pether’s view, should be examined in evaluating appellate courts and judges is whether judges sign opinions without being familiar with the record. Pether also expressed concern about the failure of some appellate courts to adhere to jurisdictional rules for non-publication of opinions and non-precedential status. She suggested that these are largely structural issues and that courts can, and should, take on their own auditing and evaluation processes for ensuring accountability and greater transparency in these areas.

NCSC Appellate CourTools

Dan Hall, Vice President of Court Consulting Services at the National Center for State Courts (NCSC), spoke to conference participants about court performance, which is one component of accountability that is particularly applicable to the appellate court context where it is more difficult to assign individual responsibility for caseload outcomes. The NCSC *Appellate CourTools* are performance indicators for measuring how appellate courts handle cases, treat those that come before them, and interact with court employees.¹³ Hall suggested that these indicators could be applied to measure performance for individual appellate judges and justices: 1) time from case filing to disposition, 2) clearance rates of cases, 3) age of active pending caseload, 4) employee satisfaction, 5) constituent satisfaction, and 6) reliability and integrity of case files. Although surveys of ‘constituents’ and employees are already undertaken in most official JPE programs, fewer programs consider clearance rates or age of pending caseload.

B. Evaluation Surveys

Survey Respondents

Forty-one percent of respondents to the IAALS survey of appellate judges indicated that survey respondent groups were an aspect of the performance evaluation process that could be improved upon and should be revisited. The issue of surveying attorneys who appear before appellate judges—the most commonly surveyed respondent group in the appellate evaluation process—came up in several contexts during the conference. Participants questioned whether this respondent group was in a position to evaluate the performance of a judge objectively, given their stake in the outcome. One survey respondent noted that “[r]espondents, by definition, are usually those with strong feelings either for or against.” Echoing this concern, another IAALS survey respondent opined that “because survey respondents self-select, the data collected ... is often skewed in favor of the disgruntled people who are more likely to respond than others.” This observation may be as applicable to JPE for trial court judges as it is to appellate JPE.

¹² For an example of Professor Pether’s scholarship on this topic, see *Sorcerers, Not Apprentices: How Judicial Clerks and Staff Attorneys Impoverish U.S. Law*, 39 ARIZONA STATE LAW JOURNAL 1 (2007).

¹³ Available at http://www.ncsconline.org/D_Research/CourTools/index.html#.

Conference participants expressed conflicting opinions about whether attorneys appearing before appellate judges on a regular basis are a positive or negative component of performance evaluation. On the one hand, repeat players have increased exposure to appellate judges, which provides more opportunity to observe levels of preparation and demeanor. On the other hand, this increased exposure has the potential to strengthen any existing biases for or against a particular appellate judge. According to one IAALS survey respondent:

Many attorneys surveyed have appeared multiple times before a judge who is being evaluated. Their comments (either in favor of retention or against it) tend to skew the responses. Perhaps ensuring that only one response from each attorney is taken into account would help this concern.

Another IAALS survey respondent suggested that the attorney respondent pool be expanded to include all attorneys who rely on appellate opinions, rather than only those who appear before the judge.

The surveying of other judges on appellate judge performance was also raised by IAALS survey respondents. A number of respondents indicated that this group might be able to provide a valuable perspective, particularly with respect to appellate opinions. As noted, this theme arose in other parts of the conference discussion as well.

Survey Response Rates

The statistical validity of evaluation surveys was a significant concern shared by evaluated judges and JPE program coordinators alike. Just over half (52 percent) of IAALS survey respondents indicated that survey response rates were an aspect of the process that could be improved upon. Appellate judges are concerned with both low response rates to evaluation surveys and self-selection of respondents, as both issues may skew the results. Several IAALS survey respondents suggested providing evaluation survey respondents with some type of an incentive to fill out the survey, to increase the sample size and reduce the effect of potential respondent bias.

In response to this concern, Nancy Norelli, Vice President of the North Carolina Bar Association Judicial Performance Evaluation Committee, explained to conference participants that her program sought to maximize response rates by mobilizing the bar to spread the word about forthcoming JPE surveys. State Bar Counselors serving as “JPE ambassadors” emailed colleagues and local bar associations, describing the program and urging all attorneys to complete the surveys. Specialty and local bars also urged their members to complete surveys by making announcements at bar and section meetings. According to Norelli, it was critical that local attorneys, rather than JPE Committee members, conveyed this message. (It is important to note that all members of the bar are surveyed in North Carolina, whereas JPE programs in other states identify a pool of potential survey respondents based on recent interaction with the evaluated judge. IAALS is examining this issue and potential modifications.)

C. Dissemination of Evaluation Results

Almost one-third (32 percent) of IAALS survey respondents felt there was room for improvement with respect to the dissemination of evaluation information to the public. Two themes emerged from the IAALS survey on this point—one relating to the format and content of the

narratives prepared by the evaluating body, and the other relating to the manner and extent to which these narratives are disseminated to the public. Some of the criticisms—sometimes conflicting—offered by survey respondents on these issues included the following:

- [T]he narrative reports seem to be somewhat formulaic (short bio, say something good, say something bad), and reading the reports in the blue book only emphasizes how formulaic they are. I think this tends to undermine their credibility.
- The narrative is so general that it fails to provide the voter with anything meaningful.
- As to report format, while the evaluation panel was plainly concerned to be even-handed in providing evaluations, the danger is that their reports became too similar across judges, and therefore appeared “boilerplate,” unpersuasive, and superficial.
- All [the narrative report] does basically is parrot the unreliable data returned by the attorneys, and throw in some subjective comments on quality of opinions which may or may not be accurate.
- [T]he narrative report places too much emphasis on raw data and scores or grades, and these ... are continually misused.

These issues were discussed in some detail during the conference. The importance of evaluation results (and recommendations, where made) is not lost on appellate judges. Over two-thirds (71 percent) of those surveyed by IAALS prior to the conference described the evaluation results as having “some influence” on voters’ decisions in retention elections while 17 percent believed they have “a lot of influence.” Based on his analysis of social science data, Professor Singer argued that what citizens (voters) want when they go to the polls is simple, straightforward information about judges, much like the information provided in JPE narratives in many states. This suggests that too much detail in these narratives might put off voters. On the other hand, it is clear that short, formulaic narratives are also not particularly useful.

With respect to disseminating JPE results widely, Jane Howell, Executive Director of the Colorado Office of Judicial Performance Evaluation, shared Colorado’s “Know Your Judge” website with conference participants. The site was designed in 2010 as an easy-to-use online tool through which voters could quickly locate the judges on their ballot and the JPE results for those judges. A public service announcement (PSA) accompanied the website and, according to Howell, “gave voters, for the first time—who might not read their Bluebook but watch TV or listen to the radio—information about judges and where to go.” Between August and October of 2010, the PSA ran 14,000 times on 35 television stations and 270 radio stations.

Availability of objective and informative judicial performance evaluation results is becoming more and more important, as retention battles are heating up around the country and tending to focus on one or a few opinions that address hot-button issues. The 2010 election cycle in both Iowa and Alaska, among other states, saw organized opposition campaigns against the retention of one or more supreme court justices based on the outcome of particular cases. Chief Justice Mark Cady, three of whose colleagues on the Iowa Supreme Court were voted out in 2010 based on a single, unanimous decision, delivered the keynote address at the conference, in which he warned that “no state should think they are immune to what occurred in Iowa.” Alaska Supreme Court Justice Dana

Fabe, who was successful in countering a retention challenge during the 2010 election cycle, told conference participants that she relied on her JPE results in defending her performance on the bench, leaving the opposition campaign to contend with the pro-retention recommendation issued by the Alaska Judicial Council. Thus, it is clear that accurate, thoughtful performance evaluation of appellate judges can, in fact, be a buffer against ideological attacks.

V. Conclusion

Evaluating Appellate Judges: Preserving Integrity, Maintaining Accountability was a unique gathering of individuals dedicated to improving processes for evaluating the performance of appellate courts and judges. There were two clear areas of consensus, which guide IAALS in its future work. First, conference participants (and IAALS survey respondents) firmly believe that performance evaluation of appellate judges can be a key component in achieving appropriate accountability while protecting impartiality. Second, the evaluation process for appellate judges needs improvement, particularly with respect to opinion review.

Thanks to the unique perspectives of judges, academics, interested citizens, and JPE program coordinators, IAALS has identified areas of opportunity in the appellate JPE process and is working toward concrete recommendations for improving the processes used by states across the nation. Two projects stemming from the August 2011 conference are underway:

1) Recommendations for Appellate Opinion Review

In the wake of the conference, IAALS formed a task force to consider recommended practices for evaluating appellate opinions. The task force consists of two appellate judges, two representatives from state JPE commissions, and a law professor. The principal charge to the task force is to develop a model for opinion evaluation, in terms of how the evaluated opinions should be selected, who should evaluate the opinions, and what the evaluation criteria should be. The task force will also address ways in which opinion quality should be factored into other aspects of the evaluation process, including survey items, survey respondents, and the self-evaluation. Finally, the task force will consider how institutional differences between courts of last resort and intermediate appellate courts should be taken into account in evaluating the work of appellate judges.

2) Pilot Appellate JPE Projects

IAALS is working with two other national organizations to introduce pilot appellate JPE programs in a few states. Our intention is to work with bar associations and/or court administrative offices, and with the support of appellate court judges, in these states to implement our recommended practices for evaluating appellate judicial performance and providing information to retention election voters.

IAALS hopes to build on the relationships formed and the collaborations initiated at the conference in carrying out this work.



APPENDIX

Survey of Appellate Judges on Judicial Performance Evaluation

1. **Overall, how satisfied are you with the process for evaluating your performance?**
 - Very satisfied
 - Somewhat satisfied
 - Neither satisfied or dissatisfied
 - Somewhat dissatisfied
 - Very dissatisfied

2. **In your opinion, which of the following aspects of the performance evaluation process could be improved upon? (will be asked to explain)**
 - Evaluation criteria (e.g., legal knowledge, integrity, communication skills, etc.)
 - Survey respondent groups
 - Survey response rates
 - Survey instruments/questionnaires
 - Additional bases for evaluation (e.g., opinion review, workload statistics, self-evaluation, etc.)
 - Format of narrative report
 - Dissemination of evaluation information to the public

3. **Is courtroom observation part of the evaluation process for appellate judges in your state?**
 - Yes
 - No

4. **In your view, should courtroom observation be part of the evaluation process for appellate judges?**
 - Yes
 - No (will be asked to explain)

5. **Is opinion review part of the evaluation process for appellate judges in your state?**
 - Yes
 - No

6. **In your view, should opinion review be part of the evaluation process for appellate judges?**
 - Yes
 - No (will be asked to explain)

7. To what extent has the evaluation process been beneficial or detrimental to your professional development?

- Significantly beneficial (will be asked to explain)
- Somewhat beneficial (will be asked to explain)
- No effect
- Somewhat detrimental (will be asked to explain)
- Significantly detrimental (will be asked to explain)

8. What impact, if any, does the evaluation process have on your independence as a judge/justice?

- Enhances my independence as a judge/justice
- Has no impact on my independence as a judge/justice
- Undermines my independence as a judge/justice

9. Are appellate judges in your state subject to retention elections?

- Yes
- No

If yes, survey continues. If no, survey ends here.

Retention election states only:

10. How much impact do you believe the evaluation results (and recommendations, if made) have on voters' decisions in retention elections?

- A lot of influence
- Some influence
- No influence

11. Does the evaluation report provide information that has enabled you, or would enable you if necessary, to defend yourself against attacks by special interests?

- Yes
- No (will be asked to explain)

12. Could the evaluation report be modified to better enable you to defend yourself, if necessary, against attacks by special interests?

- Yes (will be asked to explain)
- No

13. May we share your responses with your state JPE commission?

- Yes (*will be asked what state*)
- No

Table 10. Judicial Performance Evaluation

Legend: ~ = Not applicable; N/S = Not stated

Note: Only those States with official judicial performance evaluations are included in this table.

	Evaluating body/authorization	Evaluation committee	Evaluation procedures
Alaska	Alaska Judicial Council/ Statutes: §22.05.100 §22.07.060 §22.10.150 §22.15.155	7 members: 3 state bar appointed attorneys, 3 non- attorneys, and the Chief Justice of the Supreme Court.	Judges are evaluated prior to retention elections. Evaluations are based on forms completed by court participants. Evaluation results are included in election pamphlets that are mailed to all registered Alaskan voters.
Arizona	Arizona Constitution Article 6, Section 42	30 members: includes the public, lawyers, and judges.	Evaluations based on public comment, hearings, and anonymous survey forms distributed to court participants. Court participant surveys seek evaluation of a judge's abilities and skills, including narrative comments. A factual report is issued in the judge's election year.
Colorado	State Commission on Judicial Performance/§13-5.5-101	10 members each: 4 attorneys, 6 non- attorneys. 4-year terms.	State Commission (for appellate judges) or District Commission (for trial judges) prepares evaluation profile on each judge standing for re-election and provides this to the public.
Connecticut	Judicial Performance Evaluation Program/Established by directive of the Chief Justice	The Advisory Panel consists of judges, attorneys, a law professor, and a state legislator.	Attorney and juror questionnaires are used to solicit information on the judges' courtroom performance in the areas of demeanor, legal ability, and judicial management skills. Evaluation reports are generated from the input received. The Chief Court Administrator, or designee, conducts individual interviews to aid judges in interpreting the data. Judges are also provided with self-assessment forms to assist them in assessing their own courtroom performance and placing the attorney and juror responses in perspective.
District of Columbia	D.C. Commission on Judicial Disabilities and Tenure/Title 11 Appx. IV433	7 members: 1 appointed by the President of the U.S., 2 (1 must be an attorney) appointed by the Mayor, 1 appointed by the City Council of D.C., 1 appointed by the Chief Judge of the U.S. District Court for D.C. All must be residents of D.C. All serve six-year terms except for the President's appointee, who serves a five-year term.	Written evaluation upon an active associate judge's request for reappointment to another fifteen-year term. Committee must determine if the judge is well qualified (automatic reappointment), qualified (subject to nomination and approval), or unqualified.
Florida	Joint project of the state judiciary and the Florida Bar, authorized by the Supreme Court	~	A confidential means by which attorneys can communicate perceived strengths and weaknesses of judicial performance, thereby assisting judges in eliminating weaknesses and enhancing strengths. Evaluation forms go directly to judges; no committee reviews the evaluations. Evaluations are confidential under Florida Rule of Judicial Administration 2.05(c)(4). Participation is voluntary.
Hawaii	Judicial Performance Committee/Supreme Court Rule 19	Supreme Court special committee on judicial performance; 13 members: 3 non-lawyers, 6 lawyers, the Administrative Director of the Courts, and 3 judges.	Attorneys complete confidential questionnaires.
Idaho	Magistrates Commission	Magistrates commission consists of judges, attorneys, and elected officials.	Questionnaires distributed to practicing attorneys regarding performance of magistrate judges.
Illinois	Planning and Oversight Committee for a Judicial Performance Evaluation Program/SCR58	Actual evaluation is contracted out (currently to Bronner Group, L.L.C., Chicago, Illinois).	Details of confidential evaluation procedure determined by contractor.
Maryland	Judicial Administration Section Council/State Bar Association	18 State Bar Association members.	Exit polling of attorneys.

Table 10. Judicial Performance Evaluation

Legend: ~=Not applicable; N/S=Not stated

Note: Only those States with official judicial performance evaluations are included in this table.

	Evaluating body/authorization	Evaluation committee	Evaluation procedures
Massachusetts	Supreme Judicial Court/211§26-26b	Supreme Judicial Court and Chief Justice for Administration and Management.	Judges with four years' experience are evaluated once every 12-18 months; judges with at least four years experience are evaluated once every 18-36 months. Anonymous questionnaires are given to court participants in a representative sample of cases. Completed evaluations are made available to and discussed with judges.
Michigan	Supreme Court/§600.238	~	Provides for use of national trial court performance standards by trial judges.
Minnesota	Joint Supreme Court, Conference of Chief Judges, and Minnesota District Judges Association Committee	Trial and appellate court judges.	Joint committee offers technical assistance to judges and districts. Each judicial district has developed its own evaluation process and procedures. All evaluation processes are voluntary.
New Hampshire	Trial Court Administrative Judge	Administrative Judge.	Anonymous questionnaires are distributed to court staff and constituents; these are supplemented with self-assessment questionnaires. Administrative Judge reviews results with the judge under evaluation.
New Jersey	Judicial Performance Committee/RGA 1:35A-1	At least 6 judges, 3 attorneys, and 2 members of the public. Additional members fixed by Supreme Court. 3-year terms.	During a judge's review period of approximately nine months, anonymous surveys are sent to all attorneys who appeared before the judge and to appellate judges who have heard cases from the judge under review.
New Mexico	Judicial Performance Evaluation Commission/ NM Supreme Court	15 members: 8 lay persons and 7 lawyers. The Supreme Court appoints members from nominations submitted by representatives of the executive, legislative, and judicial branches.	Confidential written surveys.
Puerto Rico	Judicial Evaluation Commission	9 members, including a Supreme Court judge, 1 member experienced in administrative/ managerial matters, and at least 1 non-attorney. 3-year terms.	Judges are evaluated every three years based on self-evaluations and surveys of attorneys, peers, jurors, and presiding judge. Reports are discussed with judges.
Rhode Island	Judicial Performance Evaluation Committee	6 judges, 3 state bar members, 2 members of the public familiar with the judicial system. 2-year terms.	All judges are evaluated biannually on the basis of "acceptable, professionally recognized methods of data collection."
Tennessee	Judicial Evaluation Commission (expires 6/30/2007)/§17-4-201, §4-29-223	12 members: 4 state court judges, 2 non-lawyers appointed by Judicial Council, 3 lawyers appointed by Speaker of the Senate, 3 members appointed from designated organizations by Speaker of the House of Representatives.	All appellate judges are evaluated based on personal interviews, evaluation surveys, self-reported personal information, and other comments and information. A final report of less than 600 words per judge is published not less than 180 days before the qualifying deadline in a general circulation daily newspaper in specified parts of the state.
Utah	Utah Judicial Council with Standing Committee on Judicial Performance Evaluation/CJA R3-11, 2-10 6 §78-3-21	14 members: Chief Justice of Supreme Court, 12 members to be elected by judges of various courts, 1 member of the Board of Commissioners. 3-year terms. ¹	N/S
Vermont	Judicial Performance Evaluation Committee/Supreme Court charge and designation	Under development ²	Under development ^{2,3}

Table 10. Judicial Performance Evaluation

Legend: --=Not applicable; N/S=Not stated

Note: Only those States with official judicial performance evaluations are included in this table.

	Evaluating body/authorization	Evaluation committee	Evaluation procedures
Virginia	Judicial Performance Evaluation Commission/Rule of Court	8 members appointed by the Chief Justice	Confidential surveys are sent to attorneys and jurors to solicit information on judges' courtroom demeanor, perceived fairness, knowledge of the law, and clarity of decisions, as well as other areas of judicial behavior. Survey results are provided to the evaluated judge and a mentor or "facilitator" judge, and to the General Assembly at time of re-election.

Note: The following States report judicial performance evaluation programs operated independently by their state bar association: Maine, Missouri, Nebraska, Pennsylvania, South Carolina, Texas, Washington, West Virginia, and Wyoming.

FOOTNOTES:**Utah:**

¹The evaluation of judges and court commissioners is conducted by the Utah Judicial Council. The Standing Committee on Judicial Performance Evaluation (SCJPE) administers the program and recommends policies and procedures. The membership of the SCJPE consists of two lawyers, one of whom serves as chair; three members of the public; one court commissioner; and one judge from each of the five levels of court.

Vermont:

²A pilot program was implemented. The Judicial Performance Evaluation Committee is currently reviewing the results of the pilot program.

³The pilot program used attorney questionnaires, litigant exit surveys, self-assessments and caseload management reports.

Summary of Alaska's Judicial Evaluation Process

The state of Alaska began using retention evaluations in the late 1970's. District, Superior, Appellate, and Supreme Court jurists are subject to evaluation coordinated by the Alaska Judicial Council. The Alaska Judicial Council is a seven member non-partisan independent citizens' commission created by the Alaska Constitution. The governor subject to confirmation by the legislature appoints three non-attorney members. Three members are attorneys appointed by the Alaska Bar Association. These appointments are for staggered six-year terms, must be spread over different areas of the state, and must be made without regard to political affiliation. The chief justice of the Supreme Court serves as chairperson. The chief justice only votes when his or her vote can make a difference.

The Judicial Council screens applicants for judicial vacancies and nominates the most qualified applicants for appointment by the governor, evaluates the performance of judges and recommends whether voters should retain judges for another term. It also conducts research to improve the administration of justice in Alaska.

The process:

The Judicial Council thoroughly reviews a judge's performance before each retention election. The Council surveys thousands of Alaskans including police, peace and probation officers, court employees, attorneys, jurors, social workers and those who serve as guardians ad litem for children, asking them about their experience with the judges on the ballot. Those who appear frequently before the judges rate them on a number of criteria, including their legal ability, diligence, temperament, and fairness and may submit narrative comments about the judge's performance. The Council also solicits specific feedback from attorneys who appeared before the judge in recent cases and considers the ratings and observations of the Alaska Judicial Observers, an independent, community-based group of volunteers who attend courtroom proceedings and rate a judge's performance.

Among other materials, the Council also reviews how often the judge was disqualified from presiding over a case, how often a trial judge was affirmed or reversed on appeal, whether the judge has been involved in any disciplinary proceedings, and whether the judge's pay was withheld for an untimely decision. The Council may perform detailed follow-up investigations of any potential problem areas, and may conduct personal interviews with presiding judges, attorneys, court staff, and others about the judge's performance. The Council also holds a statewide public hearing to obtain comments about judges.

Council members meet before the retention election to discuss the information gathered for these judicial evaluations, and at the conclusion of the meeting, the Council publicly votes on its retention recommendations. Four votes by Council members are necessary for the Council to recommend for or against the retention of a judge.

What follows are short descriptions of the Alaska Judicial Council process:

Retention Evaluation Procedures

The legislature authorized thorough, objective reviews of each judge. These are the data items used by the Council in their evaluation.

Judge's Questionnaire

Each judge is asked to fill out a short questionnaire about the types of cases handled during the previous term, legal or disciplinary matters the judge may have been involved in, and health matters that could be related to the judge's ability to perform judicial duties. The questionnaire also asks the judge to describe satisfaction with judicial work during the previous term and to make any comments that would help the Council in its evaluations.

Attorney & Peace Officer Surveys

The Council employs an independent contractor to survey all active and all in-state inactive members of the Alaska Bar Association and all peace and probation officers in the state who handle state criminal cases. The survey asks about the judges' legal ability, fairness, integrity, temperament, diligence, and administrative skills.

Social Worker, Guardian ad Litem (GAL) and Court Appointed Special Advocate (CASA) Surveys

The independent contractor surveys social workers and citizens who participate in helping Alaska's children as GALs and CASA volunteers. The survey is similar in content to the attorney and peace officer surveys.

Juror and Court Employee Surveys

The Council surveys all jurors who have served with the judges up for retention, as well as all court employees.

Counsel Questionnaires

Each judge gives the Judicial Council a list of three trials, three non-trial cases, and any other cases that the judge found significant during his or her most recent term in office. The Council sends a brief questionnaire to all of the attorneys in each case. The questionnaire asks about the judge's fairness, legal abilities, temperament, and administrative handling of the case.

Other Records

Council staff reviews other public records, including conflict-of-interest annual statements filed with the Alaska Public Offices Commission and separate forms filed with the court system, court case files, and Commission on Judicial Conduct public files. The Council also reviews performance-related court data, such as the number of peremptory challenges filed against a judge, the number of times the judge recused him/herself and the number of reversals on appeal.

The Council scrutinizes performance-related data carefully, because the type of caseload or a judge's location may play a major part in the numbers of challenges or appeals and reversals. A domestic relations judge assigned 6,000 cases in one year may have more challenges (and possibly more appellate reversals) than a judge handling 1,000 criminal and civil cases. The Council investigates whether the judge has been involved in any disciplinary proceedings and whether the judge was subject to pay withholding for an untimely decision. The Council performs detailed follow-up investigations of any potential problem areas.

Public Hearings

The Council holds statewide public hearings for all judges standing for retention using the legislature's teleconference network and public meeting rooms. Subject to available funding, the Council advertises these public hearings in statewide newspapers to encourage public participation. Public service announcements on radio stations encourage public participation. Public hearings give citizens a valuable opportunity to speak out about their experiences with judges. They also provide a forum in which citizens can hear the opinions of others.

Interviews

Any judge may request an interview with the Council. The Council, in turn, may ask judges to speak with the Council members during the final stages of the evaluation process. Judges may respond to concerns raised during the evaluation process. The Council may conduct personal interviews with presiding judges, attorneys, court staff, and others about the judge's performance.

Other Publicity and Input

The Council widely publicizes the evaluation process through frequent press releases, personal contacts with radio and television stations, speeches to public groups such as community councils and feature articles in newspapers. Alaska Judicial Observers, a non-profit organization, provides independent observations of judicial performance.

Dissemination of Results

The Council meets in July to consider the information gathered and make retention recommendations. By law, the Council must make its evaluations and recommendations public at least sixty days prior to the election, and must submit materials to the Lieutenant Governor's Official Election Pamphlet. The Council's evaluation information and recommendations are summarized in the Election Pamphlet. Extremely detailed evaluation materials on each judge are available on the website, or in printed form.

Reports produced

The Council produces a lengthy report (46 pages) for each judge subject to retention election. The report lists the judge/justice, the office and whether the Council found the jurist qualified. The remainder of the report provides detail of all surveys, meetings, and research.

Example:

“The Judicial Council finds Justice Stowers to be qualified and recommends unanimously that the public vote “YES” to retain him as a Supreme Court justice.”

Or

“The Judicial Council finds Judge Estelle to be unqualified and recommends unanimously that the public vote “NO” to against his retention in office.”

The Council also produces voluminously detailed technical reports about survey methodology, observer reporting, staff surveys, juror surveys, pre-emptory challenge and recusal rate data, and reviews of the work of the Council itself.

Pro Tem Evaluations

Administrative Rule 23 of the Alaska Rules of Court authorizes the chief justice, or another justice designated by the chief justice, to appoint a retired judge to sit temporarily (pro tem) in any court in Alaska. Pro tem appointments may be made for one or more cases, or for a specified period up to two years. Appointments may be renewed.

Every two years, the chief justice must review the performance of all retired judges and justices who have served pro tem. The review is based upon an evaluation of the justices' and judges' performance conducted by the Alaska Judicial Council. The Council's review includes a survey of members of the bar in those judicial districts where the pro tem justices and judges have served in the past two years. The chief justice's review also includes formal performance evaluations conducted by the presiding judges under whom the pro tem justices and judges have served. At the conclusion of the review, the chief justice determines the eligibility of the retired justices and judges to continue to serve pro tem.

Council role in application for vacancies

The council also conducts the application and review process for new appointments to the judiciary. When a vacancy occurs, the Council announces the replacement process and accepts applications. The Council screens all applicants using a process similar to the retention evaluation process, this includes surveys, examination of a writing sample, review of the person's work history, and other factors related to ability to serve. Once this process is complete, the Council forwards a list of two or more qualified candidates to the Governor for appointment.

Council staffing and budget

The Council staff is seven people including an Executive Director, Staff attorney, research analyst, part time analyst, administrative officer, research assistant, and administrative assistant.

Contractor costs for surveying for retention evaluation last year was approximately \$14,000. These costs included administration of electronic surveys to bar members (3,057), peace and probation officers (1,652), and social service professionals (505); analysis; and report preparation. Those costs did not include mailing or printing costs for the paper surveys (some respondents prefer paper), or Council own staff time. Staff conducted and analyzed the court employee survey internally, but in the future, the contractor will also perform that function.

The core agency budget is approximately \$1.1 mil., which covers judicial selection, retention evaluation, and improvement of administration core functions. That includes the core six staff members and one "special projects" contract staff and operating expenses.

Tab 10

BOARD FOR JUDICIAL ADMINISTRATION RULES (BJAR)

TABLE OF RULES

Rule

Preamble

- 1 Board for Judicial Administration
- 2 Composition
- 3 Operation
- 4 Duties
- 5 Staff

BJAR
PREAMBLE

The power of the judiciary to make administrative policy governing its operations is an essential element of its constitutional status as an equal branch of government. The Board for Judicial Administration is established to adopt policies and provide strategic leadership for the courts at large, enabling the judiciary to speak with one voice.

[Adopted effective January 25, 2000.]

BJAR 1
BOARD FOR JUDICIAL ADMINISTRATION

The Board for Judicial Administration is created to provide effective leadership to the state courts and to develop policy to enhance the administration of the court system in Washington State. Judges serving on the Board for Judicial Administration shall pursue the best interests of the judiciary at large.

[Amended effective October 29, 1993; January 25, 2000.]

BJAR 2
COMPOSITION

- (a) Membership. The Board for Judicial Administration shall consist of judges from all levels of court selected for their demonstrated interest in and commitment to judicial administration and court improvement. The Board shall consist of five members from the appellate courts (two from the Supreme Court, one of whom shall be the Chief Justice, and one from each division of the Court of Appeals), five members from the superior courts, one of whom shall be the President of the Superior Court Judges' Association, five members of the courts of limited jurisdiction, one of whom shall be the President of the District and Municipal Court Judges' Association, two members of the Washington State Bar Association (non-voting) and the Administrator for the Courts (non-voting).
- (b) Selection. Members shall be selected based upon a process established by their respective associations or court level which considers demonstrated commitment to improving the courts, racial and gender diversity as well as geographic and caseload differences.
- (c) Terms of Office.
 - (1) Of the members first appointed, one justice of the Supreme Court shall be appointed for a two-year term; one judge from each of the other levels of court for a four-year term; one judge from each of the other levels of court and one Washington State Bar Association member for a three-year term; one judge from the other levels of court and one Washington State Bar Association member for a two-year term; and one judge from each level of trial court for a one-year term. Provided that the terms of the District and Municipal Court Judges' Association members whose terms begin on July 1, 2010 and July 1, 2011 shall be for two years and the terms of the Superior Court Judges' Association members whose terms begin on July 1, 2010 and July 1, 2013 shall be for two years each. Thereafter, voting members shall serve four-year terms and the Washington State Bar Association members for three-year terms commencing annually on June 1. The Chief Justice, the President Judges and the Administrator for the Courts shall serve during tenure.
 - (2) Members serving on the BJA shall be granted equivalent pro tempore time.

[Amended effective October 29, 1993; February 16, 1995; January 25, 2000; June 30, 2010.]

BJAR RULE 3
OPERATION

(a) Leadership. The Board for Judicial Administration shall be chaired by the Chief Justice of the Washington Supreme Court in conjunction with a Member Chair who shall be elected by the Board. The duties of the Chief Justice Chair and the Member Chair shall be clearly articulated in the by-laws. Meetings of the Board may be convened by either chair and held at least bimonthly. Any Board member may submit issues for the meeting agenda.

(b) Committees. Ad hoc and standing committees may be appointed for the purpose of facilitating the work of the Board. Non-judicial committee members shall participate in non-voting advisory capacity only.

(1) The Board shall appoint at least four standing committees: Policy and Planning, Budget and Funding, Education, and Legislative. Other committees may be convened as determined by the Board.

(2) The Chief Justice and the Member Chair shall nominate for the Board's approval the chairs and members of the committees. Committee membership may include citizens, experts from the private sector, members of the legal community, legislators, clerks and court administrators.

(c) Voting. All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Eight voting members will constitute a quorum provided at least one judge from each level of court is present. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

[Adopted effective January 25, 2000; amended effective September 1, 2014.]

BJAR 4
DUTIES

(a) The Board shall establish a long-range plan for the judiciary;

(b) The Board shall continually review the core missions and best practices of the courts;

(c) The Board shall develop a funding strategy for the judiciary consistent with the long-range plan and RCW 43.135.060;

(d) The Board shall assess the adequacy of resources necessary for the operation of an independent judiciary;

(e) The Board shall speak on behalf of the judicial branch of government and develop statewide policy to enhance the operation of the state court system; and

(f) The Board shall have the authority to conduct research or create study groups for the purpose of improving the courts.

[Adopted effective January 25, 2000.]

BJAR 5
STAFF

Staff for the Board for Judicial Administration shall be provided by the Administrator for the Courts.

[Adopted effective January 25, 2000.]



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BOARD FOR JUDICIAL ADMINISTRATION BYLAWS

ARTICLE I

Purpose

The Board for Judicial Administration shall adopt policies and provide leadership for the administration of justice in Washington courts. Included in, but not limited to, that responsibility is: 1) establishing a judicial position on legislation; 2) providing direction to the Administrative Office of the Courts on legislative and other administrative matters affecting the administration of justice; 3) fostering the local administration of justice by improving communication within the judicial branch; and 4) providing leadership for the courts at large, enabling the judiciary to speak with one voice.

ARTICLE II

Membership

Membership in the Board for Judicial Administration shall consist of the Chief Justice and one other member of the Supreme Court, one member from each division of the Court of Appeals, five members from the Superior Court Judges' Association, one of whom shall be the President; five members from the District and Municipal Court Judges' Association, one of whom shall be the President. It shall also include as non-voting members two members of the Washington State Bar Association appointed by the Board of Governors; the Administrator for the Courts; and the Presiding Chief Judge of the Court of Appeals, the President-elect judge of the Superior Court Judges' Association and the President-elect judge of the District and Municipal Court Judges' Association.

ARTICLE III

Officers and Representatives

The Chief Justice of the Supreme Court shall chair the Board for Judicial Administration in conjunction with a Member chair. The Member chair shall be elected by the Board and shall serve a two year term. The Member chair position shall be filled alternately between a voting Board member who is a superior court judge and a voting Board member who is either a district or municipal court judge.

ARTICLE IV

Duties of Officers

The Chief Justice Chair shall preside at all meetings of the Board, performing the duties usually incident to such office, and shall be the official spokesperson for the Board. The Chief Justice chair and the Member chair shall nominate for the Board's approval the chairs of all committees. The Member chair shall perform the duties of the Chief Justice chair in the absence or incapacity of the Chief Justice chair.

ARTICLE V

Vacancies

If a vacancy occurs in any representative position, the bylaws of the governing groups shall determine how the vacancy will be filled.

ARTICLE VI **Committees**

Standing committees as well as ad hoc committees and task forces of the Board for Judicial Administration shall be established by majority vote.

Each committee shall have such authority as the Board deems appropriate.

The Board for Judicial Administration will designate the chair of all standing, ad hoc, and task force committees created by the Board. Membership on all committees and task forces will reflect representation from all court levels. Committees shall report in writing to the Board for Judicial Administration as appropriate to their charge. The Chair of each standing committee shall be asked to attend one BJA meeting per year, at a minimum, to report on the committee's work. The terms of standing committee members shall not exceed two years. The Board for Judicial Administration may reappoint members of standing committees to one additional term. The terms of ad hoc and task force committee members will have terms as determined by their charge.

ARTICLE VII **Executive Committee**

There shall be an Executive Committee composed of Board for Judicial Administration members, and consisting of the co-chairs, a Judge from the Court of Appeals selected by and from the Court of Appeals members of the Board, the President Judge of the Superior Court Judges' Association, the President Judge of the District Municipal Court Judges' Association, and non-voting members to include one Washington State Bar Association representative selected by the Chief Justice, President-elect judge of the Superior Court Judges' Association, President-elect judge of the District and Municipal Court Judges' Association and the Administrator for the Courts.

It is the purpose of this committee to consider and take action on emergency matters arising between Board meetings, subject to ratification of the Board.

The Executive Committee shall serve as the Legislative Committee as established under BJAR 3(b)(1). During legislative sessions, the Executive Committee is authorized to conduct telephone conferences for the purpose of reviewing legislative positions.

ARTICLE VIII **Regular Meetings**

There shall be regularly scheduled meetings of the Board for Judicial Administration at least bi-monthly. Reasonable notice of meetings shall be given each member.

ARTICLE IX **Special Meetings**

Special meetings may be called by any member of the Board. Reasonable notice of special meetings shall be given each member.

ARTICLE X **Quorum**

Eight voting members of the Board shall constitute a quorum provided each court level is represented.

ARTICLE XI **Voting**

Each judicial member of the Board for Judicial Administration shall have one vote. All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

ARTICLE XII **Amendments and Repeal of Bylaws**

These bylaws may be amended or modified at any regular or special meeting of the Board, at which a quorum is present, by majority vote. No motion or resolution for amendment may be considered at the meeting in which they are proposed.

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Amended 03/16/07

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BOARD FOR JUDICIAL ADMINISTRATION

PROCESS AND GUIDELINES FOR RESOLUTION REQUESTS

The Board for Judicial Administration (Board) was established to adopt policies and provide strategic leadership for the courts at large, enabling the Washington State judiciary to speak with one voice. To fulfill these objectives, the BJA may consider adopting resolutions on substantive topics relating to the administration of justice.

Resolutions may be aspirational in nature, support a particular position, or serve as a call to action. Resolutions may support funding requests, but do not stand alone as a statement of funding priorities or indicate an intent by the Board to proactively seek funding. Resolutions are not long-term policy statements and their adoption does not establish the Board's work plan or priorities.

The absence of a Resolution on a particular subject does not indicate a lack of interest or concern by the Board in regard to a particular subject or issue.

In determining whether to adopt a proposed resolution, the Board shall give consideration to the following:

- Whether the Resolution advances the Principal Policy Objectives of the Judicial Branch.
- The relation of the Resolution to priorities delineated in existing strategic and long range plans.
- The availability of resources necessary to properly act upon the resolution.
- The need to ensure the importance of resolutions adopted by the Board is not diluted by the adoption of large numbers of resolutions.

In order to ensure timely and thorough consideration of proposed resolutions, the following guidelines regarding procedure, form and content are to be followed:

- Resolutions may be proposed by any Board member. The requestor shall submit the resolution, in writing, with a request form containing a brief statement of purpose and explanation, to the Associate Director of the Board for Judicial Administration.
- Resolutions should not be more than two pages in length. An appropriate balance must be struck between background information and a clear statement of action. Traditional resolution format should be followed. Resolutions should cover only a single subject unless there is a clear and specific reason to include more than one subject. Resolutions must be short-term and stated in precise language.

- Resolutions must include a specific expiration date or will automatically expire in five years. Resolutions will not be automatically reviewed upon expiration of their term, but may be reviewed upon request for reauthorization. Resolutions may be terminated prior to their expiration date as determined by the Board.
- The Associate Director shall refer properly submitted resolutions to appropriate staff, and/or to an appropriate standing committee (or committees) for review and recommendation, or directly to the Board's Executive Committee, as appropriate. Review by the Board's Executive Committee will precede review by the full Board membership. Such review may be done via e-mail communication rather than in-person discussion when practical. Resolutions may be reviewed for style and content. Suggestions and comments will be reported back to the initiating requestor as appropriate.
- The report and recommendation of the Executive Committee shall be presented to the BJA membership at the next reasonably available meeting, at which time the resolution may be considered. Action on the proposed resolution will be taken in accordance with the BJAR and bylaws. The Board may approve or reject proposed resolutions and may make substantive changes to the resolutions.
- Approved resolutions will be numbered, maintained on the Board for Judicial Administration section of the Washington Courts website, and disseminated as determined by the Board for Judicial Administration.

**PRINCIPAL POLICY OBJECTIVES
OF THE WASHINGTON STATE JUDICIAL BRANCH**

1. **Fair and Effective Administration of Justice in All Civil and Criminal Cases.** Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.
2. **Accessibility.** Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.
3. **Access to Necessary Representation.** Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interest at stake in civil judicial proceedings should have meaningful access to counsel.
4. **Commitment to Effective Court Management.** Washington courts will employ and maintain systems and practices that enhance effective court management.
5. **Appropriate Staffing and Support.** Washington courts will be appropriately staffed and effectively managed, and court personnel, court managers and court systems will be effectively supported.

BOARD FOR JUDICIAL ADMINISTRATION

RESOLUTION REQUEST COVER SHEET

(INSERT PROPOSED RESOLUTION TITLE HERE)

SUBMITTED BY: (INSERT NAME HERE)

(1) **Name(s) of Proponent(s):**

(2) **Spokesperson(s):** (List who will address the BJA and their contact information.)

(3) **Purpose:** (State succinctly what the resolution seeks to accomplish.)

(4) **Desired Result:** (Please state what action(s) would be taken as a result of this resolution and which party/-ies would be taking action.)

(5) **Expedited Consideration:** (Please state whether expedited consideration is requested and, if so, please explain the need to expedite consideration.)

(6) **Supporting Material:** (Please list and attach all supporting documents.)