

**Washington  
State  
Commission  
on Justice,  
Efficiency  
and Accountability**

**August 1999**

# Washington State Commission on Justice, Efficiency and Accountability

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Ms. Sandy Widlan, Reporter



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# Foreword

“Justice is the ligament  
which holds civilized  
beings and civilized  
nations together.  
Wherever her temple  
stands, there is security,  
happiness and progress...  
And whoever labors on  
this edifice, whoever  
clears its foundations,  
strengthens its pillars or  
contributes to raise it  
still higher in the skies  
connects themselves with  
that which is and must be  
as durable as human  
society itself.”

Daniel Webster  
1866

Over 100 years ago Daniel Webster, the great American educator and folk philosopher, courageously suggested that judges themselves should be the architects of a court system - a system built with the bricks and mortar of justice, efficiency and accountability. That principle of self determination is the cornerstone of our report and the effort to equip judges with the tools to manage our courts is the foundation of our recommendations.

Various commissions and task forces have struggled over the last quarter of a century to explore ways to improve the operation of our courts. But even though many of these efforts resulted in extensive recommendations which we agree would improve our courts, change has been limited.

Dean Roscoe Pound, former Dean of Harvard Law School and father of judicial reform, observed that -

*“Grave obstacles stand in the way of improvement. The present system works well enough in the average rural community, and legislators from those communities see no need of change. The instinct of lawyers to scrutinize with suspicion all projects to reform has always retarded the progress. Imperfection of our legislative methods will hold back statutory improvements.*

*Popular suspicion of lawyers . . . will impede the adoption of durable methods. . .*

*But these obstacles will hinder little in the end, if our projects have a sound basis in thorough, impartial research.”*

In recommending the best system for equipping the judiciary to set a course for our courts, the Commission recognized the need to establish a governance structure which would encourage dialogue among the various court levels, initiate impartial studies leading to soundly-based recommendations for change and incorporate the participation of other elected officials and the public. Once in place, the re-created Board for Judicial Administration and its committees composed of legislators, lawyers, court managers and the public will “advance the effective operation to the Washington state court system.”

Applying the principle of self direction to a system composed of separately elected officials funded by a variety of methods and agencies requires determination and cooperation. Suspicions are not always vocalized and status quo is comfortable. The Commission’s recommendations are intended to eliminate Pound’s obstacles and equip the judiciary to achieve Webster’s justice.

*Douglas P. Beighle, Chair  
Commission on Justice, Efficiency and Accountability  
August 1999*

# Summary of Recommendations

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## 1. Mission of the BJA

The Mission of the Board for Judicial Administration should be revised to emphasize a governance versus “representative” purpose.

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## 2. BJA Leadership

2.1 The Chief Justice of the Washington state Supreme Court should chair the Board for Judicial Administration. The co-chair should be elected from the membership.

2.2 The duties of the chair and co-chair should be clearly articulated in the bylaws, including the co-chair’s role as chair of the long-range planning committee.

2.3 The chair in consultation with the co-chair should establish the meeting agenda and meetings should be held bi-monthly. The chair and co-chair should each have independent authority to convene meetings of the BJA.

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## 3. Standing Committees

3.1 At least three standing committees should be created: Long-range Planning (including funding issues); Core Mission/Best Practices; and Legislative.

3.2 Other committees such as Civil Process, Domestic Relations or Jury Improvement should be convened on an “as needed” basis.

3.3 The chair, with the concurrence of the co-chair, shall nominate for the Board’s approval the members and chairs of the various Board committees. Committee membership should be open to citizens and experts from the private sector.

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## 4. Judicial Participation

In order to encourage judges’ participation on the Board for Judicial Administration and its committees, members should be granted equivalent pro tempore time.

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## 5. Staff Support

The Office of the Administrator for the Courts should continue to provide staff to the Board for Judicial Administration.

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## 6. Board Membership

6.1 In order to reinforce the governance versus representative role of the Board for Judicial Administration, the membership of the Board for Judicial Administration should be revised. Membership should include:

Appellate Courts

Supreme Court - 2 (one being the Chief Justice)

Court of Appeals - 3

Superior Courts - 5 (one being the President)

District & Municipal Courts - 5

(one being the President)

Washington state Bar Association - 2 (non-voting)

State Court Administrator (non-voting)

6.2 Members should serve four-year staggered terms based upon a selection process established by their respective associations. President judges should serve for their term of office.

6.3 The Board for Judicial Administration members should be selected for their demonstrated interest in improving the courts and reflect ethnic and gender diversity as well as geographic and caseload differences.

# Summary of Recommendations

*continued*

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## 7. Voting

7.1 All Board for Judicial Administration decisions will be made, whenever possible, by consensus. Final decisions should be made on the basis of majority vote of those present and voting with the requirements that there be at least one affirmative vote from each level of court.

7.2 Eight voting members will constitute a quorum, provided each court level is represented. Telephone or electronic attendance should be permitted but no proxy representation should be allowed.

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## 8. Best Practices

8.1 The Board for Judicial Administration should recognize the court performance standards and charge the Core Mission/Best Practices standing committee with the integration of these standards into daily court operations.

8.2 The Board for Judicial Administration should develop an education program for judges and courts on the usage of court performance standards to improve court operations.

8.3 The Board for Judicial Administration should establish within the Core Mission/Best Practices standing committee a clearinghouse for sharing best practices ideas.

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## 9. Core Functions of Courts

9.1 The Board for Judicial Administration standing committee on Core Mission/Best Practices should conduct a more comprehensive study of the core and noncore function of the courts.

9.2 The standing committee shall conduct an evaluation of the core mission of courts on an annual basis and report its findings to the Board for Judicial Administration.

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## 10. Adequate Resources for Courts

10.1 The Board for Judicial Administration shall assume the responsibility for assessing the adequacy of resources that are available to the Washington state Court system to fulfill its mission.

10.2 The assessment of resources required for the Washington state Court system must involve an ongoing assessment of the core mission and best practices used by courts.

10.3 The Board for Judicial Administration should develop an overall funding strategy for the judiciary, consistent with the long-range plan including consideration of Initiative 62.

10.4 The Board for Judicial Administration should evaluate the desirability of the state assuming greater responsibility for funding mandated judicial services.



# Introduction

“Our constitutional scheme for judicial independence and accountability is imprecise and untidy.”

Stephen Breyer  
Associate Justice  
United States Supreme Court

As an outgrowth of their long-range planning meetings in 1996, the Superior Court Judges’ and the District and Municipal Court Judges’ Associations asked the Board for Judicial Administration (BJA) to undertake a long-range planning process for court funding. Later that year the president-judges of the judicial associations met with focus groups comprised of presiding judges from both levels of trial courts to discuss funding issues including the state’s assumption of funding non-discretionary services. At the direction of then Chief Justice Barbara Durham, these efforts culminated in the BJA forming the Commission on Justice, Efficiency and Accountability in 1997.

Over the last year and a half, the full Commission and four subcommittees have held more than 27 meetings. Additionally, the Commission chair and various subcommittee chairs met with the Board for Judicial Administration and the governing boards of the Superior Court Judges’ Association, the District and Municipal Court Judges’ Association, and County Clerks in the summer of 1998. Several members of the Commission participated in a session at the 1998 Washington Judicial Conference reporting on their work and future plans. The judges attending this session were given an opportunity to comment and ask questions about the Commission’s progress. Comments received from the participants were distributed and discussed at the conference’s closing session. These comments were also reviewed by the Commission and its subcommittees. Individual members of the court community were kept informed of the Commission’s work through a quarterly newsletter to all judges, commissioners, clerks, administrators, members of the Commission and subcommittees and members of the public who expressed an interest in the Commission’s work. An e-mail address was established to provide another avenue for comment on the Commission’s activities.

The JEA Commission developed the following mission statement:

*To advance the effective operation of the Washington state Court System by preparing a comprehensive Washington state Court Business Plan that: 1) Identifies the mission and strategic direction for the Washington state Court System, including its core functions; 2) Assesses the adequacy of the Washington state Court System’s structure, organization, business practices and recommends an improvement plan; 3) Identifies a preferred model of court funding and provides a detailed strategy for implementing the model; and 4) Recommends a detailed work plan for implementing the improvement and funding plans and subsequently assessing the effectiveness of the plans.*

## Introduction

*continued*

The Commission reviewed past court planning efforts in Washington state as well as the Courts of Limited Jurisdiction Assessment Survey which contained over 100 recommendations for ways to improve the operation of the courts of limited jurisdiction. In an education session, Arthur Andersen Consulting presented the components of effective business planning. A representative from the California Judicial Council reviewed that state's multi-year funding proposal. Dr. Ron Harrison, a management consultant, helped the Commission apply management principles effectively used by other government organizations and the private sector. Reports were presented on the *Trial Court Performance Standards* and the pilot project involving their use in the superior courts in Spokane, Thurston and Whatcom Counties.

# Historical Perspective on Court Improvement Efforts

In recent years, a variety of efforts have been undertaken to explore ways to improve the operation of Washington courts. Typically, these efforts have been led by a “blue ribbon” commission appointed to study a particular problem within the court system. Such commissions have been responsive in nature; once their analysis is completed, however, they have dissolved leaving someone else to implement the recommendations. Although many of these efforts resulted in extensive recommendations for ways to improve the court system, implementation of those recommendations has been limited.

The *Judicial Administration Commission* was formed by the Legislature in 1984 and chaired by Justice James M. Dolliver. The Commission was convened to “evaluate the existing structure of Washington’s judicial system, the jurisdiction of each level of court, and the existing means of administering and financing the state’s courts and related court services, including probation, family court, court reporting, and juvenile services.” The Commission recommended concurrent civil jurisdiction between superior and district courts be eliminated, state funding of superior and district court judges and indigent defense, definition of the responsibilities of presiding judges, and a task force to consider problems of civil court congestion and delay.

The *Commission on Washington Trial Courts* was formed in 1990 by Chief Justice Keith Callow, and chaired by Mr. Bill Gates. The Commission conducted an extensive examination of the trial court reform and concluded that neither “adequate support or organization” existed in the civil and criminal justice system. The Commission recommended the Board for Judicial Administration evaluate models for enhancing the management of the Washington judicial system, strengthening the authority of presiding judges, allowing pro tem judges to sit without consent from parties, and set minimum standards for limited jurisdiction courts.

*Washington Courts 2000* was convened by the Board for Judicial Administration (BJA) in 1992. Chaired by Mr. Bill Gates, the committee recommended expanded membership on BJA from the trial courts, court management groups and citizens, and a majority vote approach to decision making.

*The Courts of Limited Jurisdiction Assessment Survey* was initiated by Chief Justice Barbara Durham and completed in 1997. The

## Historical Perspective On Court Improvement Efforts

*continued*

assessment made over 100 recommendations for operational improvements in district and municipal courts. General recommendations concern the need for judicial system leadership, strengthening the independence of the judiciary, increased state funding, and minimum court operational standards.

In part, the focus of the JEA Commission was re-shaped by its review of the past commissions and study groups which were charged with finding ways to improve the judicial system. One participant suggested the true objective of the JEA should be to set in place a mechanism for *continuous process improvement* so that ad hoc commissions would no longer be necessary. Against the backdrop of numerous past efforts, the JEA began to discuss how to design a structure to enable the judiciary to plan and initiate its own agenda for the future, in an ongoing, rather than reactionary way.

When the reports of previous commissions are reviewed, they present a composite picture of the court system in Washington. Common themes emerged that offered the JEA Commission, particularly the governance subcommittee, an overview of the environment in which the judiciary functions:

- Threats to judicial discretion and independence

The perception that judicial independence is at risk is reflected in numerous documents, including the 1998 Assessment of the Courts of Limited Jurisdiction and a 1994 survey of Washington judges. The perception is regularly reinforced by the Legislature by the introduction and passage of bills that seek to direct the business of the courts.

- Governance and leadership

In a 1994 survey, 91 percent of judges stated their view that the BJA should coordinate long-range planning and problem solving within the judiciary. The report of the Assessment of Courts of Limited Jurisdiction notes... “the major problems facing the courts of limited jurisdiction can be traced to a lack of effective leadership.”

- Decentralized court system

When given opportunities to constitutionally reform the judicial system, Washington state citizens have consistently expressed their preference for decentralized, locally autonomous courts. However, recent threats to judicial independence and the growing demands

placed upon courts have prompted courts to consider ways the judicial branch can become more cohesive in its relationship with the other branches of government - and speak with a single voice -within the context of a decentralized court system. Washington judges have similarly voiced consistent preference for a two-tiered trial court system. In recent years, however, trial court judges have recognized the desirability to operate in coordination on issues of mutual interest.

- Access to Justice

In a 1994 survey of judges, 89 percent said they believe the public finds our courts “intimidating and confusing.” Pro se litigants were seen by 93 percent of the responding judges as the source of an increasing demand for services. The growth of diverse cultures in the general population presents additional communication challenges for courts in their efforts to make services accessible to all citizens.

- Inadequate resources for courts

Status-quo budgets in the face of increasing demands on the criminal and civil justice system have led courts to cut corners and reduce services. In the 1994 survey of judges, 81 percent reported that criminal caseloads are transforming the judicial system into criminal law courts, with increased restrictions on the time to resolve civil disputes. Additionally, unfunded mandates diminish the ability of courts to “keep-up.”

- Public confidence in government

Public confidence in government institutions has eroded in recent years. In an atmosphere of skepticism and distrust, there is an unprecedented need for courts to be accountable, “user-friendly” and employ sound management practices. Quality assurance through performance measures, professional standards, or other methods for ensuring high levels of professional conduct is insufficient.

- Elected judiciary

An elected judiciary necessitates that judges balance the public’s need for information with their own professional obligation to remain neutral and impartial. Judges are called upon to make tough, sometimes unpopular decisions on individual cases, and to exercise innovative leadership in the administration of their courts, while also periodically running for election. The interrelationship of these dynamics is significant.

## Historical Perspective On Court Improvement Efforts

*continued*

- Rapidly changing environment

While it is not expected or desirable for courts to frequently change the way they do business as a result of societal pressures, litigants expect courts to resolve their disputes in a responsive way. Some have suggested that specialty courts (family, drug, teen, etc.) may be a reflection of the court system's difficulty in adopting new strategies for effectively resolving disputes. Technology has introduced new expectations that judges will make use of dramatically increasing sources of information in their job as decision-makers. They must be able to access and rely upon data from courts across the state, and they must ensure that court staff are proficient and reliable in using technology to manage the court.

# JEA Subcommittees

Based upon generally accepted business planning principles, the Commission initially established three subcommittees: Core Mission - to identify the existing responsibilities and roles of the courts; Best Practices - to consider ways for courts to assess their business practices and recognize innovation; and Funding - to evaluate various options for seeking additional state revenue while preserving local administration of justice. As the Commission proceeded with its review of previous studies, a fourth subcommittee, Governance, was appointed to evaluate the judiciary's governance and leadership structure.

## Best Practices Subcommittee

The Commission charged the Best Practices Subcommittee with the responsibility of assessing the adequacy of the structure, organization, and business practices of the Washington state Court System to fulfill its mission over the next decade, and to recommend an improvement plan for each level of the court system to effectively accomplish its portion of the mission in a cost-effective manner.

The subcommittee took the charge from the Commission and adopted the following mission statement: "To recommend ways for courts to improve the administration of justice for the citizens of Washington." How courts can provide higher levels of service and responsiveness to meet the increasing needs was a major topic of the subcommittee's deliberations.

The subcommittee utilized various resources during its deliberations including:

- *Courts That Succeed: Six Profiles of Successful Courts*;
- *ABA Standards Relating to Court Organization, 1990 Edition*;
- Courts of Limited Jurisdiction Assessment Survey Report;
- Minimum Services for Courts of Limited Jurisdiction, promulgated by the District and Municipal Court Judges' Association;
- Trial Court Performance Standards; and
- Appellate Court Performance Standards.

The subcommittee discussed the definition of best practices and efficiency, especially in relationship to courts. The subcommittee agreed on the following definition of efficiency. Without compromising the quality of the just result, the objective is to: 1) increase timeliness, 2) decrease cost, 3) enhance accessibility for appropriate cases and litigants, 4) increase case management, and 5) improve customer satisfaction.

### Core Mission Subcommittee

The Core Mission Subcommittee was charged with identifying the roles and responsibilities of the courts. The subcommittee conducted a search of the Washington Constitution, Revised Code of Washington, court rules and orders to compile a list of expectations and the mandatory functions courts must perform. The subcommittee then endeavored to identify primary functions or missions and those which could possibly be performed by some other agency or branch of government.

Following the fall conference session at which judges commented on the summary of what courts do compiled by the subcommittee, the subcommittee met to review those comments received on the summary. It also further identified functions by court level and what areas might be handled by other entities if they are not handled by the courts.

### Funding Subcommittee

This subcommittee grappled with finding a solution to the perpetual problem of adequately funding courts within a more broadly underfunded judicial system, particularly, identifying a more fair sharing of all costs between state and local revenue. This subcommittee compiled several funding approaches to support five specific non-discretionary areas of trial court expenses to be borne by the state: indigent defense, judicial salaries, jury fees, expert witness fees and interpreter fees.

Ultimately, the JEA Commission approved the Funding Subcommittee's recommendation contained in the Court Funding and Improvement Act of 1999, otherwise known as SB 5035 and HB 1026. As introduced, the legislation sought to establish a special fund for courts to implement innovative projects, provide 100 percent state funding for district court judicial salaries, benefits for superior court judges and state assumption of costs for trial court indigent defense and juries. Even though the bill failed to pass the legislature, the chair of Senate Ways and Means requested the Chief Justice to convene a meeting with legislative leadership regarding funding needs of the courts and report back to the next legislative session.



### Governance Subcommittee

The Governance Subcommittee recommended ways to strengthen the leadership structure of the judiciary - to enable the third branch to manage external influences and initiate change effectively.

The Governance Subcommittee began its work by reviewing how the judicial system sets strategic direction for the courts. The subcommittee concluded that given the current constraints of the BJA's operating procedures and the fact that most current planning focuses on a specific problem identified by a specific group, changes needed to be made to the BJA's structure and operating procedures.

The Governance Subcommittee reviewed the work of previous commissions that were charged with examining the leadership structure of the Washington judiciary. The subcommittee evaluated the statutorily established role of the Office of the Administrator for the Courts and its effectiveness in supporting the judiciary. The structure and role of other leadership groups within the judicial branch, such as the Judicial Information System Committee and the Board for Court Education were also considered as effective leadership models. Finally, the subcommittee invited previous members of the Board for Judicial Administration to provide the subcommittee with their observations and suggestions for improving the effectiveness of BJA.

# Recommendations and Commentary

## 1

### Mission of the BJA

The mission of the Board for Judicial Administration should be revised to emphasize a governance versus “representative” purpose.

The full Commission reviewed and extensively discussed the four subcommittee reports (see Appendix A) at a two-day retreat on May 20 and 21, 1999.

The Commission concluded that changes in the governance and leadership structure of the Washington judiciary were essential to effective future direction of the state court system and made the following findings and recommendations.

#### COMMENTARY:

The Commission determined that an essential component of an effective organization is its ability to initiate and execute its own agenda. The only way for a decentralized organization like the Washington state judiciary to cast a single vision is through an effective governance structure authorized to adopt policies and provide strategic leadership. The Board for Judicial Administration will not have any inherent executive or legislative powers over individual judges. Thus it must be recognized that “governance” as used in this report must be understood to mean policy making and developing strategic leadership, vital functions, both wholly wanting at the present time.

While the Board for Judicial Administration was created to bring the various judicial constituencies together to formulate policy on issues of mutual interest, the Board has historically represented the various judicial stakeholder groups (Supreme Court, Court of Appeals, Superior Courts and the District and Municipal Courts). The current representative mind set results in the Board’s diffused allegiance and reluctance to attack controversial issues. When interviewed, past Board representatives observed that trial court judges basically fear Supreme Court control, either in terms of state funding or through the Office of the Administrator for the Courts. The Board for Judicial Administration has been viewed as an instrumental of the Chief Justice acting on behalf of the Supreme Court. Even though the Board for Judicial Administration rules articulates a “policy” or governance purpose, its actual role appears, at times, to be “advisory” to the Supreme Court. The Commission considered whether or not to recommend abolishing versus revitalizing the Board for Judicial Administration including changing the name of the Board.

## Mission of the BJA

After lengthy discussions, the Commission determined that restructuring the existing Board would produce the most effective result. The Board for Judicial Administration's mission and the court rule creating it should redefine its allegiance to a larger community - the judiciary at large - and clearly articulate a governance versus advisory role. The structure of the Board for Judicial Administration must enable the judiciary to speak with one voice without squelching dissent or pretending unanimity. Toward that end, the new mission statement should provide for continuity of membership and criteria for appointment emphasizing accountability to the judiciary at large.

## BJA Leadership

**2.1 The Chief Justice of the Washington state Supreme Court should chair the Board for Judicial Administration. The co-chair should be elected from the membership.**

**2.2 The duties of the chair and co-chair should be clearly articulated in the bylaws, including the co-chair's role as chair of the long-range planning committee.**

**2.3 The chair in consultation with the co-chair should establish the meeting agenda and meetings should be held bi-monthly. The chair and co-chair should each have independent authority to convene meetings of the BJA.**

### COMMENTARY:

While the Washington Constitution establishes a hierarchy of courts for the purpose of appeal, responsibility for policy must reside within the Board for Judicial Administration if the judiciary is to function as an effective branch of government. The position of Chief Justice carries honorific as well as actual governance responsibilities (RCW 2.56). The chair's job requires skilled handling of process and an ability to fairly, but firmly, lead a group to confront and welcome diversity of opinion. After discussion, the Commission agreed that the Chief Justice should continue to be designated as chair of the Board for Judicial Administration.

The Commission also determined that conferring additional authority on the "co-chair" will increase the trial court judges' confidence in the role of the Board for Judicial Administration. Electing a co-chair from the Board's membership contributes to developing greater trust among court levels. Additionally, designating the co-chair to lead the long-range planning process further reinforces the Board's policy role and extends the message of speaking with one voice.

Bi-monthly, daylong meetings would allow Board committees to pursue their objectives and focus policy issues for Board action. In addition, moving Board meetings to Mondays rather than Fridays would allow a weekend for members to review materials.

Finally, the Commission determined that the Board should report annually at the Washington Judicial Conference.

# 3

## Standing Committees

**3.1 At least three standing committees should be created: Long-range Planning (including funding issues); Core Mission/Best Practices; and Legislative.**

**3.2 Other committees such as Civil Process, Domestic Relations or Jury Improvement should be convened on an "as needed" basis.**

**3.3 The chair, with the concurrence of the co-chair, shall nominate for the Board's approval the members and chairs of the various Board committees. Committee membership should be open to citizens and experts from the private sector.**

# 4

## Judicial Participation

**In order to encourage judges' participation on the Board for Judicial Administration and its committees, members should be granted equivalent pro tempore time.**

# 5

## Staff Support

**The Office of the Administrator for the Courts should continue to provide staff to the Board for Judicial Administration.**

### COMMENTARY:

Committees should assist the Board in achieving its mission and implementing the approved long-range plan. Committees can work simultaneously to identify problems and formulate solutions for Board action. Each committee should study, deliberate, formulate and finally, recommend a course of action to the Board for Judicial Administration. Committee work should result in recommendations for consideration and adoption by the Board. Committees should do pre-Board work. If the Board is to deliberate and adopt policy positions, it will do a better job if presented with options.

The committees should produce alternative/implication reports for the Board's consideration. The Long-range Planning Committee should include representatives from the Judicial Information System Committee, the Court Management Council and the Board for Court Education. The Board for Judicial Administration should use committee reports, surveys and studies to form its decisions. As part of the long-range planning effort, the Board should review and comment on the OAC Business Plan.

### COMMENTARY:

The size of courts and judicial workload severely limits the ability of judges to serve on the Board for Judicial Administration and its committees. Necessary changes in statutes or court rules should establish the ability for judges to be granted equivalent pro tempore time to allow for participation in the Board's work. The Office of the Administrator for the Courts should be directed to include the Board for Judicial Administration pro tempore costs in its operating budget.

### COMMENTARY:

Providing staff support to the Board for Judicial Administration and its committees should be included in the Office of the Administrator for the Courts' Business Plan as a core mission. The Office of the Administrator for the Courts should be responsible for the timely distribution of the agenda, minutes and materials prior to Board meetings.

# 6

## Board Membership

**6.1 In order to reinforce the governance versus representative role of the Board for Judicial Administration, the membership of the Board for Judicial Administration should be revised. Membership should include:**

### **Appellate Courts**

**Supreme Court - 2**

**(one being the Chief Justice)**

**Court of Appeals - 3**

**Superior Courts - 5**

**(one being the President)**

**District & Municipal Courts - 5**

**(one being the President)**

**Washington state Bar**

**Association - 2 (non-voting)**

**State Court Administrator**

**(non-voting)**

**6.2 Members should serve four-year staggered terms based upon a selection process established by their respective associations.**

**President judges should serve for their term of office.**

**6.3 The Board for Judicial Administration members should be selected for their demonstrated interest in improving the courts and reflect ethnic and gender diversity as well as geographic and caseload differences.**

### COMMENTARY:

If the judiciary is to “speak with one voice” the Board for Judicial Administration must truly represent the overall system interests rather than the agenda of individual court levels. The Judicial Information System Committee (JISC) was identified as a governance model that works well and is supported by all the various constituent groups within the court system.

Members should be selected by their affiliate associations and have explicit responsibility to the judiciary as a whole, not to their respective constituencies. Each court level should determine how to select its representatives with an attempt to achieve diversity. The BJA bylaws should be amended to remove any reference to association officers.

Board for Judicial Administration members should serve four-year staggered terms with the ability to be reappointed. In addition, the Commission discussed adding two public, non-voting members and two non-voting members of the Court Management Council, one being a County Clerk. The Commission deferred the decision to the restructured BJA and noted that public members, county clerks and court administrators should be appointed to the various Board committees and work groups.

# 7

## Voting

**7.1 All Board for Judicial Administration decisions will be made, whenever possible, by consensus. Final decisions should be made on the basis of majority vote of those present and voting with the requirements that there be at least one affirmative vote from each level of court.**

**7.2 Eight voting members will constitute a quorum, provided each court level is represented. Telephone or electronic attendance should be permitted but no proxy representation should be allowed.**

# 8

## Best Practices

**8.1 The Board for Judicial Administration should recognize the court performance standards and charge the Core Mission/Best Practices standing committee with the integration of these standards into daily court operations.**

### COMMENTARY:

The existing unilateral “right of veto” perpetuates the balkanized, representative nature of the Board for Judicial Administration. Preferably, all positions would be reached by consensus but final decisions could be determined by a majority vote after significant deliberation.

The adoption of majority vote is a dramatic departure from past procedures. The requirement of including one or more judges from each court level in any vote provides a meaningful check and balance. Also, as a practical matter it is unlikely that any issue will be badly or arbitrarily decided because of the recognition, shared by all, that ultimately the decisions of the Board for Judicial Administration and the effectiveness of the Board itself must rest on the twin piers of their intrinsic merit and a broad consensus support from constituent judges.

### COMMENTARY:

The Commission recommends the BJA accept the Trial Court Performance Standards (TCPS) as listed in Appendix B to serve as an aspirational goal for all courts. The TCPS and the measurement tools associated with the standards are a valuable management and planning tool for judicial leaders who, increasingly, are being held accountable for the performance of courts. Benefits of the TCPS include: 1) the development of a common language to describe and communicate court functions and activities; 2) a framework for understanding the work of the courts; and 3) a means for individual courts to self-assess, self-improve, and improve accountability. The framers of the Trial Court Performance Standards indicate that, “The use of the standards as a basis for cross-court comparisons or as part of a national or regional accreditation of State courts is not intended or recommended.” The standards are also “not intended, nor are they appropriate, for gauging the performance of individual judges.”

The Commission recommends the BJA Core Mission/Best Practices Standing Committee identify the cost and obstacles that come with implementing best practices. Obtaining initial seed money to implement innovative procedures and subsequently evaluating the procedure to determine if it is indeed a best practice is one of the obstacles identified. Limitations of judicial and staff resources both at the state and local level are also obstacles in implementing the TCPS.

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## Best Practices

**8.2 The Board for Judicial Administration should develop an education program for judges and courts on the usage of court performance standards to improve court operations.**

**8.3 The Board for Judicial Administration should establish within the Core Mission/Best Practices standing committee a clearinghouse for sharing best practices ideas.**

It is important to acknowledge that there is not one best practice for all courts. The size of the court, the geographic area the court serves, and the demographics of the community are some of the things which might impact the best practices of a court. The best practices that are recommended need to ensure the quality of justice is not diminished but rather enhanced by the best practice.

**COMMENTARY:**

The Commission recommends a BJA-sponsored education program to review the Trial Court Performance Standards (TCPS) with a leadership team from each court. The objective of the program would be: 1) to provide information and training on the use of the measurement system associated with the standards as developed by the National Center for State Courts; and 2) to assist courts in integrating the standards and measurement system into the daily court operations. Such a session was recommended by a participant at the Commission session at the 1998 Washington Judicial Conference. It was also clear from the feedback of the participants that such an education program would be helpful as many indicated they did not know much about the performance standards and measurement system.

**COMMENTARY:**

The Commission recommends the establishment of a clearinghouse to evaluate proposals for innovative programs and best practices; assist in funding them; assess results of pilot programs; and disseminate these programs within the court community.

Innovative programs and best practices would be referred to the clearinghouse for recognition as a best practice. The standing committee would prepare a written description of the project, review any evaluations of the project, and if none, develop and conduct an evaluation of the project. An annual report of projects funded and/or certified as best practices would be prepared and disseminated to judges, court managers, and legislators.

## Core Mission

**9.1 The Board for Judicial Administration standing committee on Core Mission/Best Practices should conduct a more comprehensive study of the core and noncore function of the courts.**

**9.2 The standing committee shall conduct an evaluation of the core mission of courts on an annual basis and report its findings to the Board for Judicial Administration.**

### COMMENTARY:

The Commission recommends a standing committee of the Board for Judicial Administration use the case categorization developed by the Core Mission Subcommittee as a starting point for a more comprehensive study of the core and noncore functions of the courts. That subcommittee emphasized in its final report to the full Commission that it had to this point only segregated functions, as either core or noncore functions, which courts are required to perform by either the constitution or the legislature. This is only a first step in examining what courts do. A true assessment of the functions must now follow using the criteria set forth herein.

The standing committee, in the interest of improving the administration of justice, should accept the categorization of case types proffered by the Core Mission Subcommittee to determine: 1) why courts do what they do; 2) whether courts should be performing a particular function; and 3) what efficiencies could result from implementing changes with respect to functions which courts perform. In undertaking an exploration of these issues, there should be an examination of: 1) the real mission of the courts, justice and the highest and best use of resources available to the judiciary; and 2) what process should be used to identify what ought to be the core mission of the courts, regardless of the present statutory or constitutional scheme setting forth what functions courts are to perform. The recommendation should also: 1) identify the entity which would assume the responsibility for performing the function if it were transferred from the judiciary; 2) prioritize the functions which courts would continue to perform; 3) use the established list of priorities in funding discussions with the legislature; and 4) factor access to justice considerations into this assessment.

### COMMENTARY:

Improvement in the judicial process will be facilitated by a continuing evaluation of whether functions performed by the courts are appropriate, would be more efficiently performed by another entity or are no longer needed. This evaluation process must be conducted on an annual basis to ensure that courts are vigilant in putting resources to the best use. The annual report shall be made to the Board for Judicial Administration.

The Commission strongly believes the utility of this assessment can only be preserved if the review conducted is comprehensive and timely. In addition to having the assessment conducted on a scheduled recurring basis, attention should be given to ways in which technology can be used to enhance the performance of the courts.



## Adequate Resources for Courts

**10.1 The Board for Judicial Administration shall assume the responsibility for assessing the adequacy of resources that are available to the Washington state Court system to fulfill its mission.**

**10.2 The assessment of resources required for the Washington state Court system must involve an ongoing assessment of the core mission and best practices used by courts.**

**10.3 The Board for Judicial Administration should develop an overall funding strategy for the judiciary, consistent with the long-range plan including consideration of Initiative 62.**

### COMMENTARY:

In 1997 the Board for Judicial Administration sponsored focus group discussions throughout the state asking judges to identify problems in the court system. The lack of adequate resources emerged as one of the major issues facing the courts. It was noted that in many counties the law enforcement and jail costs were eroding the ability to meet the resource needs of the courts. Criminal matters consume nearly all of the available court resources. In most, if not all locations, civil cases are delayed for months and sometimes for years before a trial date is confirmed. The trial judges participating in the focus groups identified two specific issues: 1) they felt the state should share in the costs of courts to a greater degree; and 2) they felt the counties should be relieved of costs that are mandated by public law.

### COMMENTARY:

Commission members concluded that adequate funding for the courts is directly linked to the ability of courts to be accountable for their operations. While efficiency should never take priority over quality, courts must demonstrate their commitment to continual improvement and finding better ways to be responsive to their customers.

### COMMENTARY:

With the approval of the Commission, legislation titled “The Court Improvement Act of 1999” was drafted and introduced into the 56th legislature. The Act embodied the principles of local option and state funding for judicial salaries, as well as state responsibility for other non-discretionary court programs. The legislation was sponsored in both houses of the legislature by the Chairs of the Judiciary committees. After hearings and numerous amendments, neither bill was passed by the legislature.

However, the Act did stimulate significant discussion about court funding. Legislative leaders have requested the Chief Justice to convene a work group to continue the work initiated by this Commission. Clearly the legislative leaders believe the Board for Judicial Administration should appoint a standing committee to develop a continuing plan for court funding. To quote one leader of the legislature “I, like you, have been concerned about the lack of funding for the state’s trial courts and the corresponding impact on access to justice for some time now. I am pleased that more people are now becoming engaged in looking for solutions to these problems, and I would like these efforts to continue.”

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## Adequate Resources for Courts

10.4 The Board for Judicial Administration should evaluate the desirability of the state assuming greater responsibility for funding mandated judicial services.

## Conclusions

### COMMENTARY:

The Commission recognized that judges have differing views about the most appropriate sources of stable and adequate funding for the court system. The work initiated with the 1997 focus groups should continue - judges should be given opportunities to consider options for greater state assistance while preserving local autonomy.

The Commission determined that evolution was preferable to revolution and small steps ultimately arrive at the same destination. But every journey begins with a single step. These recommendations identify steps the judiciary must take to become an effective organization setting its own agenda. Effective governance is essential to an effective judiciary.

# Appendix





# Best Practices Subcommittee

## Final Report

### Introduction

The Commission charged the Subcommittee with the responsibility of assessing the adequacy of the structure, organization, and business practices of the Washington state Court System to fulfill its mission over the next decade, and to recommend an improvement plan for each level of the court system to effectively accomplish its portion of the mission in a cost-effective manner.

The Subcommittee adopted the following mission statement: “To recommend ways for courts to improve the administration of justice for the citizens of Washington.” How courts can provide higher levels of service and responsiveness to meet the increasing needs was a major topic of the Subcommittee’s conversations.

The membership of the Subcommittee included five superior court judicial officers: Judges Susan Cook, Michael Donohue, Larry McKeeman, and Commissioner Fred Aronow. There were two representatives of the District and Municipal Court Judges’ Association: Judges James Riehl and Greg Tripp. There were four county clerks on the Subcommittee: Joyce Denison, Lorena Hollis, JoAnne McBride, and Siri Woods. Three superior court administrators were on the Subcommittee: David Hardy, N.F. Jackson, and Michael Planet. There were three district court administrators on the Subcommittee: Maury Baker, Linda Bell, and Theresa Doty. Lish Whitson represented the Bar Association. The other members of the Subcommittee included: Bruce Dammeier, Doug Martin, Jim Mahoney, Mary Pat Treuthart, and James Vache.

### Process of Review

The Best Practices Subcommittee held meetings on the following dates: February 23, 1998; March 27, 1998; April 17, 1998; May 29, 1998; June 26, 1998; July 24, 1998; August 28, 1998; and September 25, 1998.

The Subcommittee utilized various resources during its deliberations including:

*Courts That Succeed: Six Profiles of Successful Courts;*  
*ABA Standards Relating to Court Organization, 1990 Edition;*  
*Courts of Limited Jurisdiction Assessment Survey Report;*  
*Minimum Services for Courts of Limited Jurisdiction, promulgated*

*continued*

## Process of Review

*continued*

## Subcommittee Findings and Recommendations

by the District and Municipal Court Judges Association; Trial Court Performance Standards; and Appellate Court Performance Standards.

The Subcommittee discussed the definition of best practices and efficiency, especially in relationship to courts. The Subcommittee agreed on the following definition of efficiency. Without compromising the quality of the just result, the objective is to: (1) increase timeliness, (2) decrease cost, (3) enhance accessibility for appropriate cases and litigants, (4) increase case management, and (5) improve customer satisfaction.

The Subcommittee determined that courts need benchmarks and measurement tools to ensure efficiency and promote best practices. It also recognized that funding for courts is limited and used for the day-to-day functioning of the courts. There is little extra money available to try new innovative approaches. Therefore, the Subcommittee adopted the following recommendations.

1. The Best Practices Subcommittee recommends that the Commission on Justice, Efficiency, and Accountability adopt, in concept, the Trial Court Performance Standards promulgated by the United States Justice Department, Bureau of Justice Assistance, as Court Performance Standards for the state of Washington as Guiding Principles for Washington state Courts at every court level. The Commission should recommend the adoption, in concept, of these standards by the governing bodies of each level of the courts in Washington state. The Court Performance Standards are listed in Appendix B.
2. The Best Practices Subcommittee also recommends the establishment of a Court Improvement Clearinghouse to evaluate proposals for innovative programs and best practices, which comply with the Guiding Principles for Washington state Courts; assist in funding them; assess results of pilot programs; and promulgate those programs to the court community. The Court Improvement Clearinghouse concept is described in Attachment A.

*continued*

## Conclusions

The findings and recommendations of the Subcommittee are submitted for the consideration of the Commission on Justice, Efficiency, and Accountability. The Subcommittee members appreciate the opportunity to provide the Commission with the views of the representatives of the judiciary, court management, Bar, academia, and the public.

*Michael E. Donohue*  
*Chair, Best Practices Subcommittee*

## Actions needed to implement recommendations

### **Best Practices Subcommittee**

Recommendation	Action	Responsible for Action
Adopt the Trial Court Performance Standards (TCPS) as Guiding Principles	Pass Resolution adopting TCPS	Board for Judicial Administration
Establish Court Improvement Clearinghouse	Establish Clearinghouse	Board for Judicial Administration
	Request funding for projects	Board for Judicial Administration

# Court Improvement Clearinghouse

## *Draft Proposal*

### PURPOSE

The Court Improvement Clearinghouse is proposed as a means for identifying innovative programs and “best practices” in the Washington State courts, providing funding to evaluate and implement innovative programs which courts can apply for, and monitoring these programs as they grow and expand to other courts.

### STRUCTURE AND ORGANIZATION

The Court Business Advisory Committee, supported by the Office of the Administrator for the Courts (OAC) Court Services and/or Research and Information Services, would be the “staff committee.” Recommendations would be forwarded to the Board for Judicial Administration (BJA) and Court Management Council (CMC) for approval.

### FUNDING

The Court Improvement Clearinghouse should be funded from state appropriations, federal grant moneys, and a private endowment. The endowment would be created through the efforts of private volunteers to raise private funds from individuals, foundations, and corporations. The Clearinghouse would use these moneys as grants to initiate new programs in state courts using established criteria.

### PROCEDURES

1. Innovative programs and best practices are referred to the clearinghouse for adoption as a best practice. Referrals can be made by:

- Judges and staff from courts who have implemented a program, or
- Members of the bar, academia, or public who have heard of or seen an innovative program.

2. Judges and staff from courts may apply for funding to implement an innovative program. Funding would be made available only to state courts.

3. The clearinghouse reviews the referral or request for funding and sends it to the staff group to:

- Prepare a written description of the project,
- Review any evaluations of the project, and
- Develop and conduct an evaluation of the project.

4. Following the review, staff will present a report and recommendation to the clearinghouse as to whether the program should be adopted as a “best practice” or the requested funding should be provided. Criteria to be applied in making the recommendation will include:

- Whether the project has measurable performance indicators,
- Whether the project has been demonstrated to be cost effective, and
- Whether the project is transferable to other courts.

5. The clearinghouse will recommend to the BJA and the CMC that the project be adopted as a best practice and is eligible for court improvement funds.

6. OAC disseminates information to courts on how to apply for funding to implement court improvement projects.

7. OAC prepares and disseminates an annual report of projects funded and/or certified best practices to judges, court managers, and legislators.



# Core Mission Subcommittee

## Final Report

### Introduction

The mission statement for the Core Mission Subcommittee is:

*Many organizations suffer from the “Christmas tree syndrome” in which more and more responsibilities are hung on the original structure until it bends or breaks under the added weight. The judicial branch of government is no exception. Its responsibilities have multiplied over time as legislators, citizens, attorneys and conscientious judges have looked for ways to resolve an ever-increasing number and variety of disputes. We have reached the point where we must ask ourselves which of these responsibilities and roles properly belong in the judicial system. This subcommittee will evaluate the responsibilities the Constitution and laws require our courts to discharge as well as those we have voluntarily accepted or imposed on ourselves over time. We will then make recommendations for refining the role the judiciary should be expected to successfully fulfill.*

The purpose of courts is to resolve disputes. In order to keep courts focused on this purpose, the Core Mission Subcommittee attempted to delineate core and noncore court functions; that is, to separate nonessential functions from those functions which courts perform in order to carry out their essential purposes or because the Constitution or the Legislature requires the courts to perform. The subcommittee recognizes that not all levels of court function in the same way. Even at the same level of court, there will be variations in practice and different meanings applied to the same terms by courts around the state. For instance, how one district court handles probation services may differ significantly from the practice or custom in other counties. This may also be true for superior courts in areas such as calendaring and family court services. These differences are not reflected in this summary of court functions.

In addition to defining core and noncore functions, we have reviewed all court functions to assess whether they might be accomplished less expensively or more efficiently by other entities such as administrative law judges or court commissioners and to determine how much value there is in having courts perform them. In many cases, as this

subcommittee has, the Commission will have to verify the burden on the justice system against the need for the high quality of decision making that courts can offer.

This document is intended to assist the full Commission and other subcommittees in making recommendations to improve the efficiency of the courts. We anticipate that it will be used as a starting point for making decisions and recommendations and will therefore continue to evolve. Not all members of the subcommittee agreed on all points in the report, but it does represent a consensus of those participating in the meetings.

The following persons served on the Core Mission Subcommittee:

Honorable Susan R. Agid, Chair  
Court of Appeals, Division I

Honorable Rebecca M. Baker  
Stevens/Ferry/Pend Oreille Counties Superior Court

Honorable Craig J. Matheson  
Benton/Franklin Counties Superior Court

Honorable R. Joseph Wesley  
King County Superior Court

Honorable David Frazier  
Whitman County District Court

Honorable Barbara L. Linde  
King County District Court, Seattle Division

Honorable William C. Stewart  
Hoquiam Municipal Court

Honorable Patricia A. Chester  
Stevens County Clerk

Honorable Pam Daniels  
Snohomish County Clerk

Honorable Gloria Perchynski  
Ferry County Clerk

Honorable Siri Woods  
Chelan County Clerk

Ms. Sheryl Willert  
Attorney at Law, Seattle

Ms. Deborah Norwood  
State Law Librarian

## Process of Review

The Core Mission Subcommittee began meeting in March 1998 and met three more times until November 1998. In addition to these meetings, the subcommittee circulated working discussion drafts for comment and reviewed the comments received at the 1998 Fall Judicial Conference. The subcommittee chair, together with the other two subcommittee chairs, met with the leadership of the judicial associations and the county clerks to discuss our charge and the progress we were making as well as participating in the plenary discussion at the 1998 Fall Judicial Conference at which the work of the Commission on Justice, Efficiency and Accountability was discussed.

During its meetings the subcommittee drafted and revised a summary of what courts do which was broken down by the areas in which courts function. The final version of this document is included here in the section entitled "Findings and Recommendations".

The subcommittee consulted various resources including:

- WA Const. art. IV
- RCW Title 2—Courts of Record
- RCW Title 3—District Courts—Courts of Limited Jurisdiction
- 1994 WA State Judicial Survey
- 1994 Court Managers' Survey
- Judicial Council of CA—Profile—Committees—Training and Education—AOC
- Trial Court Performance Standards with Commentary
- ABA Standards Relating to Court Organization
- NCSC National Conference on the Future of the Judiciary

## Findings and Recommendations

The subcommittee separated the functions performed by the courts into these six function areas:

- civil cases
- criminal cases
- non-criminal cases involving the government
- reviewing cases on appeal
- administration
- regulating the practice of law

Functions are further segregated by delineating them as either core or noncore and noting the level of court performing each of the functions or hearing a particular type of case. Finally, each function category, except hearing appeals and regulating the practice of law, concluded with a listing of those areas which the subcommittee thinks could be handled by another entity.

## Findings and Recommendations

*continued*

### **Function 1: Deciding civil cases between private litigants (Courts of Original Jurisdiction).**

This function involves applying laws to achieve a just resolution of a disagreement between two parties, neither of which generally is a governmental entity.

This function involves cases involving property rather than life or liberty.

This function is sometimes performed, at least in part, by non-governmental entities such as non-judicial resolution of disputes, including alternative dispute resolution centers, private arbitration and private mediation.

The steps involved in this function include: discovery, motions, contempt, ex parte practice, jury trials, bench trials, final decisions, and enforcement of judgments.

#### **Categories of cases include:**

Torts (Superior and District Courts)

Contracts (Superior and District Courts)

Property rights (title to property, landlord-tenant issues, liens)  
(Superior Court for property rights affecting title and District Court for landlord-tenant issues)

Family law (marriage, dissolution, adoption, paternity)  
(Superior Courts)

Probate/Guardianship/Settlement of minor's claims (Superior Courts)

Name Changes (Superior and District Courts)

Impound Hearings (District Courts)

Small Claims Appeals (de novo) (Superior Courts)

Private Writs/Injunctions (Superior Courts)

Custodial Habeas Corpus (Superior Courts)

Antiharassment/Protection Orders (Superior and District Courts)

Courts that handle these matters through trial:

Superior courts

District courts (including small claims departments)

Municipal courts

Functions performed by courts but not necessarily at the core of this function include: arbitration, settlement conferences, mediation, court facilitators, monitoring guardianships, family court services, wedding ceremonies.

## Findings and Recommendations

*continued*

Areas which might be handled by another entity (arranged according to those having the lowest impact on the courts' caseload to those having the highest):

Small claims (District Court)  
Performing weddings (All Court Levels)  
Name changes (except minors) (Superior and District Courts)  
Emancipation petitions (Superior Courts)  
Impound hearings (District Court)  
Monitoring guardianships (Superior Court)  
Family law (except matters involving children) (Superior Court)

### **Function 2: Deciding criminal cases.**

This function involves resolving cases where the government accuses persons and the justice system's role is to determine guilt, impose punishment, and set restitution.

It involves issues of life and liberty (incarceration, conditions of release, etc.), adult and juvenile, as well as payments for restitution, fees and fines.

The steps involved in this function include all types of warrants, authorizing interceptions of communication, competency hearings, pre-trial appearances (e.g., probable cause, assigning counsel, arraignments, bond hearings), extradition (Superior Court), discovery, motions, bench trials, jury selection/trials, determinations of guilt/acquittal, decline hearings (Superior Court), post-trial matters (e.g., sentencing, attorneys fees in successful self-defense cases, sentencing and probation violations), contempt, special inquiry proceedings (Superior Court). (Unless indicated otherwise, these functions are performed by Municipal, District and Superior Courts.)

Functions performed by courts but not necessarily at the core of this function: coroner's inquests (RCW 36.24.160) (District and Superior Courts), diversion (Juvenile—Superior Court and Alternative Disposition—Municipal and District Courts), probation, counseling, detention, probation supervision. (Unless indicated otherwise, these functions are performed by Municipal, District and Superior Courts.)

Areas which might be handled by another entity:

Detention (Delegate first)  
Probation supervision and counseling (Municipal and District Courts) (Delegate second)

Findings and Recommendations

*continued*

Indigency screening for court-appointed counsel  
Returning firearms to felons  
Coroner's inquest (Study standardization of practices)  
Diversion (Already out of court system except some staff monitoring)

**Function 3: Deciding non-criminal cases involving the government.**

These functions generally involve less governmental intrusion than in criminal cases but more intrusion than in general civil cases involving only private litigants. They may include restrictions which involve loss of liberty or civil rights.

Mental commitment hearings (Superior Courts)  
Alcohol commitment hearings (Superior Courts)  
Sexual predator commitment hearings (Superior Courts)  
Juvenile court matters: (Superior Courts)  
    Children in Need of Services (CHINS) and  
    At Risk Youth (ARY) cases  
    Dependency petitions  
    Termination of parental rights/guardianship  
    Truancy  
Civil infractions (Municipal and District Courts)  
    Traffic  
    Natural resource  
    Commercial vehicle  
    Boating  
Restraining orders (Municipal, District and Superior Courts)  
Property seizure/forfeiture/impoundment [drug-related (Superior Court), DUI-related (Municipal, District and Superior Courts), firearms (Municipal, District and Superior Courts), animals (District Courts)]  
Paternity (Superior Court)  
Eminent domain (Superior Court)  
Enforcement of regulations/election/recall cases (Superior Court)  
Nuisance abatement (Superior Court)  
Taxpayers suits (Superior Court)  
Writs involving the government (Superior and Appellate Courts)  
Sexually transmitted disease hearings (Superior Court)

## Findings and Recommendations

continued

Areas which might be handled by another entity:

Truancy (Has resulted in high increase in workload. Delegating should be given highest priority.)

Civil infractions (Incentives should be explored to encourage people to pay fines early or otherwise ensure compliance to eliminate the need to use the court system to have fines reduced.)

### **Function 4: Reviewing cases on appeal.**

Superior court decisions being reviewed in appellate courts (RAP)

Limited jurisdiction court decisions being reviewed in superior and appellate courts (e.g., RALJ, RAP, small claims de novo trials)

Agency actions being reviewed in superior court (e.g., WAPA, LUPA, L&I)

PRPs and reference hearings (Court of Appeals and Superior Courts)

Federal court certification of questions to Supreme Court

### **Function 5: Administration.**

#### **Core Functions**

Employ staff

Supreme Court Clerk's Office

Prepare and implement budgets

Receive, transmit and account for funds

Provide security

Prepare, maintain and store records of case activity and judicial operations

Coordinate and share data (JIS)

Maintain state law library (Supreme Court)

Develop operational policies, including calendar management

Propose, review and adopt rules governing judicial matters

Reporting requirements (e.g., errors and omissions in the law, wiretap reports, PDC, sentencing and caseload statistics)

Jury Management (e.g., orientation, excusing from service)

Reporter of Decisions

#### **Noncore functions currently performed by the court system**

Pursue adequate funding for court operation

Educate judges and judicial staff

Assist the Legislature and public in getting information from and about the court system, including judicial impact of legislation

Participate in the Legislature's enactment of laws

*continued*

## Findings and Recommendations

*continued*

Issue ethics advisory opinions  
 Maintain county law libraries  
 Managing GAL programs (Superior Court)  
 Building and space management  
 Individual caseflow management (except speedy trials in criminal cases)  
 Meetings of professional organizations and others related to the court operations and funding (e.g., executive and legislative branches, prosecutors, defense counsel, law enforcement, public, DOL, DOC, jails, and media)

Areas which might be handled by another entity (arranged according to those having the highest impact to the lowest):

Security  
 Maintaining county law libraries  
 Jury administration (e.g., summoning pool)  
 Supreme Court Clerk (Const. allows legislature to make elected office)  
 Receiving, transmitting and accounting for funds  
 Building and space management  
 In all areas efficiency can be improved. Explore ways to establish centralization or standardization.

### **Function 6: Regulating attorneys (primarily through the Bar Association)**

The Supreme Court sets the qualifications for admission of attorneys and oversees the Bar Association’s activities, which includes licensing and lawyer discipline.

The Supreme Court oversees the programs under which non-attorneys can undertake activities usually reserved for attorneys: Limited Practice Officers (for real estate transactions), Non-attorney Judges and Court Commissioners (GR 8).



## Conclusion

The findings and recommendations of the subcommittee are submitted for the consideration of the Commission on Justice, Efficiency and Accountability. The subcommittee members appreciate the opportunity to provide the commission with the views of the representatives of the judiciary, clerks and Bar.

I also appreciate having the opportunity to chair this subcommittee. I recognize the hard work and commitment which the subcommittee members have put into this undertaking. This report is a collaborative product of all of the members of the subcommittee and would not have been generated without the efforts of the individual members of the subcommittee.

*Respectfully submitted,  
Susan R. Agid*

## Actions needed to implement recommendations

### Core Mission Subcommittee

Recommendation	Action	Responsibility
<p>1) <i>Deciding civil cases between private litigants</i></p> <ul style="list-style-type: none"> <li>• Small Claims</li> <li>• Performing Weddings</li> <li>• Name changes (except minors)</li> <li>• Emancipation petitions</li> <li>• Impound hearings</li> <li>• Monitoring guardianships</li> <li>• Family law (except involving minor)</li> </ul>	<p>RCW Chap. 12.40 RCW 26.04.050 RCW 4.24.130 RCW Chap. 13.64 RCW Chap. 46.55 RCW Chaps. 11.88 &amp; 11.92 RCW 26.12.010</p>	Legislature
<p>2) <i>Deciding Criminal Cases</i></p> <ul style="list-style-type: none"> <li>• Detention</li> <li>• Probation supervision and counseling</li> <li>• Indigency screening for court appointed counsel</li> <li>• Returning firearms to felons</li> <li>• Coroner's Inquest</li> </ul>	<p>RCW 9.94A.270, 10.64.120  RCW 10.101.20  RCW 9.41.047, 9.41.098 RCW 36.24.160</p>	Legislature
<p>3) <i>Deciding non-criminal cases involving the government</i></p> <ul style="list-style-type: none"> <li>• Truancy</li> <li>• Civil Infractions</li> </ul>	<p>RCW 28A.225.090 RCW Chap. 7.80</p>	Legislature

# Funding Subcommittee

## Final Report

### Subcommittee Charge/Mission Membership

The Commission charged the subcommittee with the responsibility of assessing the adequacy of the resources including funding of the Washington state Court System to fulfill its mission over the next decade and to recommend a funding strategy. In 1997 the Board for Judicial Administration sponsored focus group discussions throughout the state asking judges to identify problems in the court system. The lack of adequate resources emerged as one of the major issues facing the courts. It was noted that in many counties the law enforcement and jail costs were eroding the ability to meet the resource needs of the courts. Criminal matters consume nearly all of the available court resources. In most, if not all locations civil cases are delayed for months and sometimes for years before a trial date is confirmed. The trial judges participating in the focus groups identified two specific issues: first they felt the state should share in the costs of courts to a greater degree; and secondly, they felt the counties should be relieved of costs that are mandated by public law.

The membership of the subcommittee included the following; Judges Ken Grosse, Faith Ireland, Gary Utigard, Robert McBeth, and Sara Derr; State Representatives Helen Sommers and Tom Huff; State Senator Jim West; County Executive Robert Drewel; Mayor Earl Tilly; Governor's General Counsel Everett Billingslea; Court Administrator Bob Carlberg; Governmental Relations Directors Tom McBride, Michael Shaw, and Debbie Wilke. Other interested persons attended one or more of the meetings. Judge Grosse served as chair of the subcommittee.

### Process of Review

The subcommittee held public meetings on the following dates: January 15, 1998; March 26, 1998; April 20, 1998; and May 11, 1998. The committee made liberal use of e-mail and telephone conversations through June, July and August before making its final report to the full commission in September 1998. As noted previously, focus groups identified inadequate funding as a singularly important issue. The subcommittee reexamined data collected from the focus groups and from various governmental entities on court related costs. Both the state and local government levels produced extensive expenditure detail for the entire justice network. From the data examination it became clear the total costs of court operations was hundreds of millions of dollars per year. Local governments were the predominate source of funding for the trial courts. The

*continued*

## Process of Review

*continued*

state funds the Supreme Court and the Court of Appeals and only half of the salary and benefits of Superior Court Judges. Cities and counties provide all of the remaining costs for Superior, District and Municipal Courts. Fixed assets and facilities costs were not part of the subcommittee’s analysis. Funding “court operations” became the focus of the work. Defining “court operations” was not easy. Eventually the group identified mandated services as the core to “court operations” and those services included judicial salaries and benefits, indigent defense, jury service, expert witnesses, and interpreters. The five services were deemed mandated by the constitution or other laws. In addition the group concluded local governments have little lawful ability to reduce the costs of those services. Further failure to provide the mandated court operations has a direct and deleterious impact upon access to justice. Finally the members concluded that, in fact, some of the five services were not available in all Washington trial courts.

The subcommittee discussed various options of funding trial court costs for judicial salaries and benefits, indigent defense, juries, expert witnesses, and interpreters.

## Subcommittee Findings and Recommendations

The subcommittee determined the five identified areas for funding were in essence mandated costs for all courts. Therefore, the subcommittee concluded the following;

**1. Funding associated with the five mandated services is currently inadequate and inconsistent from county to county.** Most counties are unable to fund the needed judicial salaries, therefore, too few judges are available. Also in many counties indigent defense costs have replaced other essential services or the reverse is true and indigents do not benefit from counsel. Experts are not called because their services are beyond the ability of some local governments to fund. Great pressure is brought to avoid a trial because costs of juries and interpreters are beyond the budget. Civil matters are frequently not heard in a public court where the record is public and the rulings can serve the definition of law. The wealthy obtain the service of a private judge to render judgment. For those who cannot afford a private judge for their civil matter, they face months and even years before their issue is resolved.

**2. The funding is not only inadequate but inconsistent; therefore, access to justice varies from county to county.** Often plea negotiations are required because of inadequate resources. In one county

Subcommittee Findings and Recommendations

*continued*

the prosecutor was not able to file charges based upon the evidence but based upon what the budget would support. Judges frequently cannot impose incarceration for a convicted criminal because of the costs. Trials are delayed because of the expenses associated with interpreters and/or expert witnesses.

**3. The state should assume the costs of the five enumerated cost centers for all courts.** The statewide cost of the five mandated services is one hundred million dollars per year at the current level of service. To fund the services at the appropriate level would likely exceed one hundred and eighty million dollars per year. Local governments simply cannot meet such an obligation.

**4. Legislation is essential to address the fundamental funding requirements.** Such legislation should provide local options for state funding with the approval of the local judiciary and the local legislative body. All judicial salaries and benefits should be paid with state funds. A fund should be created at the state to pay for the costs associated with jury service, expert witnesses, interpreters and indigent defense for all trial courts.

**5. Any funding proposal for the five mandated services can only be considered a beginning.** Significant additional resources are needed to adequately support the courts in Washington. Court facilities, support staff, technology, and redesign are essential for the courts to meet contemporary standards. Most trial court facilities were constructed at the turn of the century; they are inadequate in most counties. Minimal security for those who use and work in courthouses is not available. Few, if any, trial courts are served by sufficient support staff; only a few are served with full-time security staff, and none have adequate clerical support. In most court facilities, jurors are compelled to mix with witnesses and parties to trials because of poor construction and design. In one of the urban counties a storage closet serves as judge's chambers, and clerks work in windowless rooms too small to accommodate a normal desk. In several counties, the judge holds court in hallways and other inappropriate locations. Municipal courts seldom provide even inadequate court services. They are looked upon as revenue centers and some judges have been dismissed because they failed to raise sufficient revenue for the city.

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## Conclusions

The findings and recommendations of the subcommittee were submitted to the Commission on Justice, Efficiency, and Accountability, along with a draft legislative proposal. The subcommittee members appreciated the opportunity to provide the Commission with the views of the representatives of the judiciary, legislature, court management, Governor, cities, counties, and the public.

With the approval of the Commission, legislation titled “The Court Improvement Act of 1999” was drafted and introduced into the 56th legislature. The Act embodied the principles from finding number 4 and was sponsored in both houses of the legislature by the Chairs of the Judiciary committees. After hearings and numerous amendments, neither bill was passed by the legislature.

However, the Act did stimulate significant discussion about court funding. Legislative leaders have requested the Chief Justice convene a work group to continue the work initiated by this commission. Clearly the legislative leaders believe the Board for Judicial Administration should appoint a standing committee to develop a continuing plan for court funding. To quote one leader of the legislature “I, like you have been concerned about the lack of funding for the states trial courts and the corresponding impact on access to justice for some time now. I am pleased that more people are now becoming engaged in looking for solutions to these problems, and I would like these efforts to continue.”

*Judge Kenneth Grosse*  
*Chair, Funding Subcommittee*

## Actions needed to implement recommendations

### Funding Subcommittee

Recommendation	Action	Responsibility
State funding of five non discretionary categories (judicial salaries; jury costs; interpreter costs; trial court indigent defense costs; and expert witness costs)	Introduce Legislation	Board for Judicial Administration, counties
Reduce inconsistent funding among counties	Establish funding standards	Board for Judicial Administration
State assumption of court costs	Enact court funding legislation	Legislature
Identify total resource needs of all courts	Establish minimum standards for court services and identify resources necessary to provide said services	Board for Judicial Administration; Office of the Administrator for the Courts

# Governance Subcommittee

## Final Report

### Introduction

Since the introduction in 1967 of a constitutional amendment to reform the state court system, Washington's judiciary has been evaluated, studied, probed and prodded. Most recently, four "blue ribbon" commissions convened to recommend various ways to improve the judiciary (Judicial Administration Commission (1985); Washington Courts 2000 (1992); the Walsh Commission (1996); and the Court of Limited Jurisdiction Assessment Survey (1997)). A review of those commission's reports reveals surprisingly similar concerns and recommendations, but little change.

How can the court system respond to change? How can the judiciary effectively solve problems? How can the judiciary speak with one voice?

The Governance workgroup was convened to consider these questions and recommend positive solutions.

Members of the workgroup are:

Mr. Paul Steere, Chair  
Judge Susan Agid  
Mr. Douglas Beighle  
Judge Michael Donohue  
Judge C. Kenneth Grosse  
Dr. Ronald Harrison, facilitator  
Mr. Walt Howe  
Judge Robert E. McBeth  
Ms. Sandy Widlan, Reporter

### Process

The subcommittee began its work by discussing the following questions:

**How does Washington's judicial system set strategic direction for the courts?**

- Current planning is typically focused on specific problem areas as identified by a specific group, such as the District and Municipal Court Judges' Association (DMCJA) or the Superior Court Judges' Association (SCJA).
- Attention is usually focused on problem areas in an uncoordinated way, that is one group or association usually undertakes planning in isolation from other groups. The current statutory authorities for

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## Process

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the trial court associations are narrow and limited to one court level.

- Although the Board for Judicial Administration (BJA) might be a logical governing body to undertake comprehensive planning, it is constrained by the requirement that it only act with unanimous consent from members. This may have a chilling effect on issues that are brought to the table.
- The BJA does not see itself as having a mandate to act as the strategic planning group for the judicial system.
- The personality and interests of the Chief Justice have largely driven the activities of the BJA.

### **What is working well within the Washington judicial system?**

- Courts keep operating. Judges are dedicated to their work – cases get resolved. The system is not corrupt. Generally, good decision-making occurs.
- The system responds to crisis when it happens
- OAC “works.” It is the only entity that has, at the core of its mission, the improvement of the courts.

### **What is not working well within the Washington judicial system?**

- As pressure builds within the system to do more with less, there is no way for the judiciary to exert control. Courts cannot continue to take on everything the legislature mandates.
- Funding is critically inadequate to perform quality work.
- While some say the system is broken, many would agree that there is no system from day to day to assure that it won’t break down. The judicial system does not have a mechanism to assess and articulate what its status is, and what changes must be made.
- The judicial system is reactive by character.
- Complex organizations and corporations do not view the courts as well equipped to decide certain types of complicated issues. As a consequence, business may go elsewhere (JAMS, corporate headquarters move out of state, etc.)
- Judicial resources available for civil cases are continually restricted due to the demands of the criminal caseload.
- Unfunded mandates diminish the ability of courts to “keep up.” Recent enactments in domestic violence laws, and new responsibilities to adjudicate truancies are examples.

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## Process

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- Public confidence in governmental institutions, including courts, appears to be weak. (The group noted however, that among the branches of government, new responsibilities are often placed in the judicial branch because of the expectation that courts can “get the job done.”)
- There is no mechanism to allow and encourage capability of the judiciary to speak with a singular voice to the other branches and other outside entities.
- Specialty courts (family, drug, teen, etc.) may be emerging because of the system’s inability to adapt to changes.
- Court customers depend on judges to be well qualified to preside over complex cases (patent, land-use, bio-technical, etc.), while the mechanisms for developing specialization among judges are not well-developed
- Quality assurance through performance evaluation, professional standards, or other methods for ensuring high levels of professional conduct is lacking.

Next, the group discussed possible alternatives for creating an authority within the judicial branch whose responsibility would be to systematically plan for the court system.

- The trial court associations are viewed more as professional organizations, rather than leadership or “change-oriented” groups. Consequently, they may be unable to play a more strategic planning role.
- Although the Supreme Court is at the “top” of the judicial system from a case-flow perspective, it does not necessarily follow that the Court has the interest or capability to play a strategic planning role on behalf of the judiciary. Although Supreme Court rule-making authority is clear, the role of the Court with respect to leadership and management authority is less clearly established.
- Creating a structure that would involve presiding judges might promote a method for system-wide attention to problems and strategic planning.
- Redefining the BJA so that it is not viewed as a “top-down” dominated organization is desirable. Also, redefining its membership so that it becomes more representational of courts, as opposed to merely reflecting the leadership of the trial court professional organizations, might be an important consideration.



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## Process

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- In the definitional stages of finding a structure for strategic planning, the relationship of the OAC to the governing body becomes an important issue.
- The building of trust, through a consensus approach to problem solving, is seen as critical to real change. Judges must have a way to be heard and to contribute to the development of changes. There is a distinction between the absolute authority of individual judges in their role as decision-maker, versus the system's need to define an overarching authority that can plan and lead the administration of justice.

The Judicial Information System Committee (JISC) was identified as a leadership model that works well for the judiciary for the following reasons:

- It has a mission, structure, and rules for operating that are clearly identified.
- It incorporates all constituent groups within the court system.
- It is firmly supported by judicial leaders from the Supreme Court down.
- It has direct, continuing staff support that does not get fragmented on other work.
- It deliberately sets priorities for action that do not change unless the whole group agrees. A process for considering unplanned projects exists, but the overall business plan drives consideration of these.

If the judiciary is to lead rather than follow, it needs to move to the other end of the parade. Instead of following agendas, the judiciary must initiate the agenda.

The only way for a decentralized organization like the Washington state judiciary to become proactive is through an effective governance structure authorized to adopt policies, cast a single vision and provide strategic leadership. The subcommittee's recommendations embody the essential components for creating an effective governance structure.

## Recommendations

1. The “mission” of the Board for Judicial Administration should be revised to emphasize a governance versus “representative” purpose.

COMMENTARY:

Without restating the obvious, the subcommittee determined that an essential component of an effective organization is its ability to initiate and execute its own agenda.

While the Board for Judicial Administration was created to bring the various judicial constituencies together to formulate policy on issues of mutual interest, the Board has historically represented the various judicial stakeholder groups (Supreme Court, Court of Appeals, Superior Courts and the District and Municipal Courts). The current representative mind set results in the Board’s diffused allegiance and reluctance to attack controversial issues. When interviewed, past Board representatives observed that trial court judges basically fear Supreme Court control, either in terms of state funding or through the Office of the Administrator for the Courts. The Board for Judicial Administration is viewed as an instrumentality of the Chief Justice acting on behalf of the Supreme Court. Even though the Board for Judicial Administration rule articulates a “policy” or governance purpose, its actual role appears, at times, to be “advisory” to the Supreme Court. The subcommittee considered whether or not to recommend abolishing versus restructuring the Board for Judicial Administration including changing the name of the Board. John Carver in “Boards that Make a Difference,” advises, “when a function has been assembled from bits of historical practice more than it has been designed, it cannot so gracefully incorporate wisdom, but must patch it on here and there.”

After lengthy discussions, the subcommittee determined that restructuring the existing Board would produce the most effective result. The Board for Judicial Administration’s mission should redefine its allegiance to a larger community - the judiciary at large - and clearly articulate a governance versus advisory role. The structure of the Board for Judicial Administration must enable the judiciary to speak with one voice without squelching dissent or pretending unanimity. Toward that end, the new mission statement should provide for continuity of membership and criteria for appointment emphasizing accountability to the judiciary at large.

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## Recommendations

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**2. The Chief Justice of the Washington state Supreme Court should chair the Board for Judicial Administration. The vice-chair should be re-designated as “president” and elected from the membership.**

**The duties of the chair and the president should be clearly articulated in the bylaws, including the president’s role as chair of the long-range planning committee.**

COMMENTARY:

In order to be effective, the Board for Judicial Administration needs to behave as a holistic organization. While, the Washington Constitution establishes a hierarchy of courts for the purpose of appeal, responsibility for policy must reside within the Board for Judicial Administration if the judiciary is to function as an effective branch of government. The position of Chief Justice carries honorific as well as actual governance responsibilities (RCW 2.56). The chair’s job requires skilled handling of process and an ability to fairly but firmly lead a group to confront and welcome diversity of opinion. After discussion, the subcommittee agreed that the Chief Justice should continue to be designated as chair of the Board for Judicial Administration.

The subcommittee believes that redesignating the position of “vice chair” to “president” is one way of building the trial court judges’ confidence in the role of the Board for Judicial Administration. Electing a president from the Board’s membership contributes to developing greater trust among court levels. Additionally, designating the president to lead the long-range planning process, further reinforces the Board’s policy role and extends the message of speaking with one voice.

**3. At least four standing committees should be created: Long-range Planning; Core Mission/Best Practices; Funding; and Legislative. Other committees such as Civil Process, Domestic Relations or Jury Improvement should be convened on an “as needed” basis. The membership should be open to citizens and experts from the private sector with the Chief Justice and vice-chair nominating committee chairs for the Board’s approval.**

COMMENTARY:

Board committees are established to aid in the process of governance (Carver 1990). Committees should assist the Board in achieving its mission and implementing the approved long-range plan. Commit-

## Recommendations

*continued*

tees can work simultaneously to identify problems and formulate solutions for Board action. Each committee should work as a mini-board, studying, deliberating, formulating and finally, recommending a course of action for the Board for Judicial Administration. Committee work results in recommendations for consideration and adoption by the Board. If the Board is to deliberate and adopt policy positions, it will do a better job if presented with options.

The Chief Justice in consultation with the president will appoint people to chair the standing committees. The committees should produce alternative/implication reports for the Board's consideration. The Board for Judicial Administration should use committee reports, surveys and studies to inform its decisions as a holistic board.

**4. In order to encourage judges' participation on the Board for Judicial Administration and its committees, members should be granted equivalent pro tempore time.**

COMMENTARY:

The size of courts severely limits the ability of some judges to serve on the Board for Judicial Administration and its committees. Necessary statutory or court rules should establish the ability for judges to be granted the equivalent pro tempore time. The Office of the Administrator for the Courts should be directed to include the Board for Judicial Administration pro tempore costs in its operating budget.

**5. The Chief Justice along with the president should establish the meeting agenda and meetings should be held bi-monthly to allow for intervening subcommittee work. The Office of the Administrator for the Courts should continue to provide staff to the Board for Judicial Administration.**

COMMENTARY:

The Board for Judicial Administration must begin to shift its attention from immediate monthly agendas to the year's agenda. The Board must organize its agenda looking at "the big picture" or long-range plan.

The long-range plan leads to a more specific, short-term agenda. The Board can then establish objectives and measure effectiveness. Objectives yield a sequence of single meeting agendas and committee work.

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## Recommendations

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Bi-monthly, day long meetings would allow the subcommittees to pursue their objectives and focus the policy issues for the Board for Judicial Administration’s consideration. In addition, moving the Board meetings to a Monday would allow a weekend for members to review materials.

Providing staff support to the Board for Judicial Administration and its committees should be included in the Office of the Administrator for the Courts’ business plan as a core mission. The Office of the Administrator for the Courts should be responsible for the timely distribution of agenda, minutes and materials prior to Board meetings.

**6. In order to reinforce the governance versus representative role of the Board for Judicial Administration, the membership of the Board for Judicial Administration should be revised. Membership should include:**

Chief Justice	
Administrator for the Courts	
Court of Appeals	3 judges
Superior Court	4 judges
District/Municipal Courts	4 judges
Washington state Bar Association	2 non-voting

The Board for Judicial Administration members should be selected for their demonstrated interest in improving the courts and reflect diversity as well as geographic and caseload differences. Members should serve four year staggered terms.

COMMENTARY:

If the judiciary is to “speak with one voice” the Board for Judicial Administration must truly represent the overall system interests rather than the agenda of individual court levels. The Judicial Information System Committee (JISC) was identified as a leadership model that works well and is supported by all the various constituent groups within the court system.

Each court level should determine how to select their representatives with an attempt to achieve diversity. The bylaws should be amended to remove any reference to association officers.

Board for Judicial Administration members should serve four year staggered terms with ability to be reappointed.

**7. All Board for Judicial Administration policy positions should be determined by majority vote.**

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## Recommendations

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### COMMENTARY:

The existing unilateral “right of veto” perpetuates the balkanized representative nature of the Board for Judicial Administration. Preferably, all positions would be by majority vote after significant deliberation. However, recognizing the mistrust among the levels of courts, a workable alternative might provide that any position vote would require a “super majority” (2/3).

*“Little steps, for little feet.”*

– Paul Steere

## Conclusion

The subcommittee determined that evolution was preferable to revolution and small steps ultimately arrive at the same destination. But every journey begins with a single step. These recommendations identify steps the judiciary must take to become an effective organization setting its own agenda. Effective governance is essential to an effective judiciary.

## **Actions needed to implement recommendations**

### **Governance Subcommittee**

Recommendation	Action	Responsibility
1) <i>“Governance” Mission for the BJA</i>	Amend BJAR Amend BJA Bylaws Article I	Supreme Court BJA
2) <i>BJA Leadership (chair; president; duties)</i>	Amend BJAR 2(2) Amend BJA Bylaws Article III (officers & reps.) Article IV (duties of officers)	Supreme Court BJA
2.3) <i>Meetings; agenda</i>	Amend BJAR 2(3) Amend BJA Bylaws Article VII (regular Meetings) Article IX (special mtgs.)	Supreme Court BJA
3) <i>Standing committees/ subcommittees</i> <ul style="list-style-type: none"> <li>• Long-range planning</li> <li>• Core mission/best practices</li> <li>• Funding</li> <li>• Legislative</li> </ul>	Amend BJA Bylaws Article VI (committees) Article VII (Executive Committee)	BJA
4) <i>Pro Tempore time</i>	New section RCW 2.08 RCW 2.06 [see RCW 3.34.130(2)(d)]	Legislature
6) <i>Membership</i>	Amend BJAR 2(a); (b); (c) Amend BJA Bylaws Article II (membership) Article III (officers & reps.) Article V (vacancies)	Supreme Court BJA
7) <i>Voting</i>	Amend BJAR 2(d)5 Amend BJA Bylaws Article XI (voting) Article XIII (amendment and repeal of bylaws)	Supreme Court BJA
8) <i>Best Practices</i>	Amend BJA Bylaws Article VI (committees)	BJA
9) <i>Core Functions</i>	Amend BJA Bylaws Article VI (committees)	BJA
10) <i>Adequate Resources</i>	Amend BJAR Amend BJA Bylaws Article I	Supreme Court BJA





# Appendix





# Court Performance Standards

## Guiding Principles

### ACCESS TO JUSTICE

#### *Standard 1.1 Public Proceedings.*

The court conducts its proceedings and other public business openly.

#### *Standard 1.2 Safety, Accessibility,*

*and Convenience.* Court facilities are safe, accessible, and convenient to use.

#### *Standard 1.3 Effective Participation.*

The court gives all who appear before it the opportunity to participate effectively, without undue hardship or inconvenience.

#### *Standard 1.4 Courtesy, Responsiveness, and Respect.*

Judges and other court personnel are courteous and responsive to the public, and accord respect to all with whom they come in contact.

#### *Standard 1.5 Affordable Costs of Access.*

The costs of access to court proceedings and records—whether measured in terms of money, time, or the procedures that must be followed—are reasonable, fair, and affordable.

### EXPEDITION AND TIMELINESS

#### *Standard 2.1 Case Processing.*

The court establishes and complies with recognized guidelines for timely case processing while, at the same time, keeping current with its incoming caseload.

#### *Standard 2.2 Compliance with Schedules.*

The court disburses funds promptly, provides reports and information according to required schedules, and responds to requests for information and other services on an established schedule that assures their effective use.

#### *Standard 2.3 Prompt Implementation of Law and Procedure.*

The court promptly implements changes in law and procedure.

### EQUALITY, FAIRNESS, AND INTEGRITY

#### *Standard 3.1 Fair and Reliable Judicial Process.*

Court procedures faithfully adhere to relevant laws, procedural rules, and established policies.

#### *Standard 3.2 Juries.*

Jury lists are representative of the jurisdiction from which they are drawn.

#### *Standard 3.3 Court Decisions and Actions.*

Courts give individual attention to cases, deciding them without undue disparity among like cases and upon legally relevant factors.

#### *Standard 3.4 Clarity.*

The court renders decisions that unambiguously address the issues presented to it and clearly indicate how compliance can be achieved.

#### *Standard 3.5 Responsibility for Enforcement.*

The court takes appropriate responsibility for the enforcement of its orders.

#### *Standard 3.6 Production and Preservation of Records.*

Records of all relevant court decisions and actions are accurate and properly preserved.

### INDEPENDENCE AND ACCOUNTABILITY

#### *Standard 4.1 Independence and Comity.*

The court maintains its institutional integrity and observes the principle of comity in its governmental relations.

#### *Standard 4.2 Accountability for Public Resources.*

The court responsibly seeks, uses, and accounts for its public resources.

#### *Standard 4.3 Personnel Practices and Decisions.*

The court uses fair employment practices.

#### *Standard 4.4 Public Education.*

The trial informs the community about its programs.

#### *Standard 4.5 Response to Change.*

The court anticipates new conditions and emergent events and adjusts its operations as necessary.

### PUBLIC TRUST AND CONFIDENCE

#### *Standard 5.1 Accessibility.*

The public perceives the court and the justice it delivers as accessible.

#### *Standard 5.2 Expeditious, Fair, and Reliable Court Functions.*

The public has trust and confidence that basic court functions are conducted expeditiously and fairly, and that court decisions have integrity.

#### *Standard 5.3 Judicial Independence and Accountability.*

The public perceives the court as independent, not unduly influenced by other components of government, and accountable.