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

Friday, November 17, 2017 (9 a.m. – 12 p.m.)
AOC SeaTac Office, 18000 International Blvd, Suite 1106, SeaTac

MEETING MINUTES

BJA Members Present:
Chief Justice Mary Fairhurst, Chair
Judge Judy Rae Jasprica, Member Chair
Judge Scott Ahlf
Judge Bryan Chushcoff
Judge George Fearing
Judge Blaine Gibson
Judge Gregory Gonzales
Judge Dan Johnson
Ms. Paula Littlewood
Judge Mary Logan
Judge Bradley Maxa
Judge Sean Patrick O'Donnell
Judge Kevin Ringus
Judge Rebecca Robertson
Judge James Rogers (by phone)
Judge Ann Schindler
Judge Michael Spearman
Justice Charles Wiggins

CMC Members Present:
Ms. Susan Carlson (Co-chair)
Mr. Darryl Banks
Ms. Barbara Christensen
Mr. Frank Maiocco
Ms. Cynthia Marr
Mr. Mike Merringer
Mr. Dennis Rabidou
Ms. Renee Townsley
Ms. Margaret Yetter

Guests Present:
Mr. Jim Bamberger
Mr. Ted Bryan
Mr. Michael Fenton
Judge Anne Hirsch
Mr. William Hyslop
Judge Carol Murphy
Judge Christine Schaller
Mr. Paul Sherfey (by phone)

Public Present:
Dr. Page Carter

AOC Staff Present:
Ms. Lynne Alfasso (by phone)
Ms. Misty Butler
Ms. Jeanne Englert
Ms. Beth Flynn
Ms. Sharon Harvey (by phone)
Mr. Brady Horenstein (by phone)
Mr. Monto Morton
Mr. Ramsey Radwan
Ms. Janet Skreen
Ms. Intisar Surur

The meeting was called to order by Chief Justice Fairhurst.

Court Management Council

Overview and Update: Ms. Marr gave a brief overview of the Court Management Council (CMC) which was established in 1987 to provide a forum for enhancing the administration of the courts through legislation, direction to the Administrative Office of the Courts (AOC), and fostering communication among the various entities providing court administration. The CMC members represent the Washington State Association of County Clerks (WSACC), District and Municipal Court Management Association (DMCMA), Association of Washington Superior Court

Administrators (AWSCA), Washington Association of Juvenile Court Administrators (WAJCA) and appellate court clerks.

Early this year they reviewed the National Center for State Courts (NCSC) poll regarding public trust and confidence in the courts which indicates that although the courts remain the most trusted branch of government there is not a vast amount of confidence in the courts—partly because the public does not understand the limits on the assistance that can be provided by court staff. If court staff are unsure of how much information they can provide before it becomes legal advice, how can the public know what is considered legal advice? The CMC decided to work on the issue and created two subcommittees to advance the knowledge of legal advice vs legal information. The first subcommittee created a PowerPoint presentation and developed talking points, a curriculum, handouts, and objectives for education programs on legal information vs. legal advice. The second subcommittee updated and added to the Clallam County Clerk's *Legal Information vs. Legal Advice* guidebook. They also developed a checklist that can be used by court staff. These materials will be finalized and distributed in the near future.

In 2016 the CMC proposed amendments to GR 17, Facsimile Transmission; and GR 30, Electronic Filing and Service. The recommended amendments to GR 30 were not adopted by the Supreme Court and the amendments to GR 17 were adopted and became effective September 1, 2017.

Presentation of the Court Manager of the Year Award: Ms. Carlson explained that the Court Manager of the Year Award was established in 1987 to honor outstanding court managers who exemplify the leadership and ideals of their profession. There were nine nominations this year including Ms. Patricia Austin, Benton/Franklin Superior Court; Ms. Jill Dorsey, King County District Court; Mr. Mike Fenton, Thurston County Family and Juvenile Court; Mr. Chris Gaddis, Pierce County Superior Court; Ms. Cathleen Kinter-Christie, Kalispel Tribal Court; Ms. Deannie Nelson, Skagit County District Court; Mr. David Ponzoha, retired from Court of Appeals, Division II; Ms. Patsy Robinson, Mason County District Court; and Ms. Karen Wyninger, Skamania County District Court.

Ms. Carlson was pleased to present Mr. Mike Fenton with the Court Manager of the Year Award. Mr. Fenton is a forward thinker, innovative, progressive, respected, an agent of change, patient, and understanding. He started the Seeds of Change garden and it has produced 2069 pounds of produce for the Thurston County Food Bank. He is active statewide in the WAJCA and the Governor's Council of Juvenile Justice.

Judge Schaller said she wrote the nomination but the entire board of judges decided he should receive the award. Mr. Fenton is always focused on how the court can better serve kids in Thurston County and statewide. Judge Schaller is thankful for all he does for their court, community and statewide.

Mr. Fenton stated he is honored to work with such great people and that this award is really for all of us, thank you.

AWSCA, DMCMA, WAJCA, WSACC

DMCMA: Ms. Marr stated that the District and Municipal Court Management Association (DMCMA) was established in 1970. The DMCMA has 180 members representing 108 courts and their Board meetings have 30 members in attendance. They are a fully engaged association. They aim to increase efficiency, strive for standardization of procedures, and coordinate efforts with other associations to act on or improve laws impacting their courts. DMCMA members serve on various task forces, committees, and commissions. Their 2017 accomplishments include excelling at building and promoting a quality education system which included employing a cooperative model which exceeded all their expectations; holding leadership seminars in various locations with 300 attendees from all levels of courts; and publishing the DMCMA Connections communication which highlights topics and discussions from DMCMA Board meetings and disseminates information to all courts of limited jurisdiction.

AWSCA: Mr. Maiocco stated that the Association of Washington Superior Court Administrators (AWSCA) is up to 42 members (36 regular court administrators as well as six members who serve in an associate role). This year they are focused on: 1) Educating themselves because they have a lot of new members (between one-half and two-thirds of their members have changed recently because of retirements and so forth). 2) Updating/revising their desk reference manual which included using their Fall Summit to update four to five chapters of the desk reference manual. 3) Partnering with the SCJA for their spring conferences and they may have to realign their education sessions based on core competencies and will need to refocus on how they deliver their education to more effectively gain training in their core competencies. 4) The roll-out of SC-CMS which includes a very well supported roll-out strategy.

WAJCA: The Washington Association of Juvenile Court Administrators (WAJCA) is made up of the juvenile court administrators along with probation managers. This year they developed detention guidelines and created leadership training for mid-level managers. They have high turnover and wanted some succession planning and added employment and education training. They expanded the menu of evidence-based programs. The WAJCA is working with Commerce for ways to reduce CHINs. They continue to work on truancy and move that forward. They are also working with AOC and the State Auditor to look at best practices with the school audit. They reviewed the CMC's legal advice vs. legal information and that is very good information.

WSACC: Ms. Christensen gave an overview of the Washington State Association of County Clerks' (WSACC) recent activity, which includes: 1) The final stages of developing an association records retention policy and partnering with the Washington Association of County Officials (WACO) to store records electronically. 2) Implementing SC-CMS. 3) Updating their desk reference manual, making it more interactive, and it should be finalized by December or January.

BJA Organizational Goal Development

Judge Jasprica stated that the BJA Organizational Goals were discussed at the previous meeting. Judge O'Donnell and Ms. Butler worked together on the fourth goal which addressed the composition of the BJA committees. Goals one through three remain the same as in the previous meeting materials. The title was changed to Organizational Goals.

It was moved by Judge Schindler and seconded by Judge Ringus to adopt the BJA Organizational Goals with the revision of Goal 4 to include the wording of BJAR 2(b) in the goal along with citing the rule. The motion carried.

Ms. Butler stated that the BJA will need to identify the steps to achieve these goals in the future.

Chief Justice Fairhurst stated that she would like the BJA Organizational Goals document to reflect the date it was adopted and to include adoption dates on all BJA documents.

Branch Budget Overview

State legislative staff create graphs that show how funds are distributed in the operating budget throughout the state. The percentage of state funds for the judicial branch has been the same since the 2007 biennium and it is a standard used by Mr. Radwan to see if anything has changed in the budget. A significant change in judicial branch funding would have to occur in order to change the percent allocated. The first chart on Page 5 of the meeting materials shows the amount allocated from the general fund while the second chart shows the amount of funding allocated from all operating funding sources. The percentage allocated to the judicial branch is .7% and .4% respectively.

There was a question regarding how Washington's judicial branch funding compares to other states. Mr. Radwan explained that it is difficult to compare unified systems to non-unified systems but he will take a look at the information and bring it back to a future BJA meeting.

The graph on Page 6 of the meeting materials depicts how the branch budget is allocated between the judicial branch agencies. Approximately 51% of the judicial branch budget is allocated to AOC.

The graph on Page 7 of the meeting materials shows how AOC's budget is broken out between the areas of "Personnel," "Contracts," "Non-Personnel," "Pass Through" and "Uncontrollable." The uncontrollable expenses represent costs for items such as rent, dues to the National Center for State Courts, providing Westlaw access to all court and clerk personnel and funds appropriated to pay for services provided by other state agencies such as the Attorney General's Office, State Auditor's Office, Department of Enterprise Services and other statewide service costs. Over 84% of AOC's general fund budget is allocated to pass-through or uncontrollable costs, neither of which are controlled by AOC. The funding amount looks large but AOC has very little flexibility when it comes to funding priorities. Most of the remaining general fund, 16%, is allocated to costs for staff that provide direct services to the trial and appellate courts. The JIS account funds technology and 96% of the JIS budget is for personnel. The "Other" funding source is for grants and public/private funding.

2018 Supplemental Budget Requests

Judge Schindler stated that a list of budget requests from the state general fund that flow through the AOC have been previously submitted to the Office of Financial Management (OFM). The list is on Page 9 of the meeting materials. The supplemental budget process is different than how things will proceed during the biennial budget process. Because supplemental budget requests are generally maintenance in nature, the BJA has a more limited role than during the development and prioritization of biennial budget requests. The Budget and Funding

Committee (BFC) prioritized the supplemental budget requests via conference call. The prioritizations will be used when communicating with the Legislature.

It was moved by Judge O'Donnell and seconded by Judge Ahlf to adopt the November 2017 supplemental budget priorities. The motion carried.

Proposed Biennial Budget Process

On Page 11 of the meeting materials is a chart that lays out the process for the 2019-21 biennial budget process. Judge Schindler reviewed the process. There are some items that need to be adjusted on the chart so it will be updated and brought back to the BJA for approval in February. Chief Justice Fairhurst will have the Supreme Court weigh in on the process prior to the February BJA meeting.

BJA Strategic Initiatives

Ms. Englert provided the BJA with an update on each of the task forces. Both task forces met the first week in November. Things are moving forward at a quick, but good and thoughtful, pace. Both task forces reviewed and revised surveys that will go out in the next two weeks. The interpreter survey will be released first and about ten days later the education funding survey will be released. They will identify the demand for funding and the gaps. The interpreter survey will most likely be completed by the administrators. The education funding survey will be completed by judicial officers, county clerks and court administrators. Both task forces meet again in December to review budget packages, survey progress, and strategies for a high survey response rate. Ms. Englert thanked everyone in advance for completing and returning the surveys and she encouraged everyone to pass along the importance of returning the surveys.

Judicial Branch Legislative Overview

Mr. Horenstein stated that the memorandum on Page 15 of the meeting materials provides an overview of legislative updates and issues. There will be a big change in dynamic of the Legislature since it will be completely controlled by Democrats. The judicial associations are adopting their legislative agendas and a preview of those was included in the memorandum. It is a short session and precedes elections in the fall so some legislators may drop bills with political messages. Mr. Horenstein encouraged anyone with questions about legislative issues to contact him.

There was discussion regarding the Department of Corrections (DOC) legislation regarding a statewide judgment and sentencing (J&S) form. At this point in time, the Superior Court Judges' Association (SCJA) is opposing the DOC legislation. They propose entering into a memorandum of understanding (MOU) with the DOC, SCJA, Washington Association of Prosecuting Attorneys (WAPA), public defenders and the Administrative Office of the Courts (AOC). The SCJA does not think a legislative fix is necessary because of the frequency of changes to the law for felony sentences. There can be many changes in a year and the process for updating the form seems to be more trouble than it is worth.

Chief Justice Fairhurst stated that this continues to be a subject important to the Governor. She would like to have a conversation with DOC letting them know we want to help them with this

and figure out how we can help each other. There needs to be a system, with a point person to contact, to respond to issues that arise. She would like, prior to the legislative session if possible, to find out what the first step, second step, etc. would be to fix the issue. Everyone shares the goal that judgement and sentences should be clear and enforced. If there are concerns that this will not be fixed Chief Justice Fairhurst wants to elevate it so that it receives the attention it needs to get this resolved prior to the legislative session. She appreciates what Mr. Marler and Mr. Horenstein have been doing with DOC. She would like a small group to get together and come up with some solutions prior to the legislative session if other measures do not result in a resolution. The group will be separate from the work of Mr. Horenstein and Mr. Marler.

Judge Ahlf stated that the District and Municipal Court Judges' Association (DMCJA) is dealing with several legislative items they had last session that did not make it all the way through the Legislature last year. Discover Pass penalty fees is one of the things they are working on along with court commissioners being able to solemnize marriages.

Legislative Communication Plan and 2018 BJA Legislative Agenda

The BJA 2017-19 Legislative Communications Plan is on Page 17 of the meeting materials. The plan lists all of the ways the BJA communicates with the various stakeholders and outlines how legislative decisions are made.

The Office of Public Guardianship (OPG) bill is the only BJA request legislation for the 2018 legislative session.

Chief Justice Fairhurst stated that when legislation comes in for the BJA's consideration it would be helpful to have a fiscal note as information that the BJA can use to make a decision. Mr. Horenstein will send the fiscal note for the OPG legislation to the BJA members.

> **It was moved by Judge Chushcoff and seconded by Judge Logan to approve the Office of Public Guardianship request legislation. The motion carried.**

Mr. Horenstein stated that it is common for groups to prepare legislative one-pagers to use with the Legislature. The Washington Courts Legislative Priorities handout is on Page 20 of the meeting materials. The handout can be used by BJA members for legislators and justice partners so everyone is working from the same high level list. It is a good opportunity to restate what the BJA is focusing on. Mr. Horenstein will use the document to continue discussions about these priorities.

Judge Ringus reminded everyone that the BJA Legislative Committee will have weekly phone calls during the legislative session and the BJA reception will be held on Thursday, January 18 from 5:30 – 8 p.m. and everyone is invited.

Standing Committee Reports

Budget and Funding Committee (BFC): Judge Schindler stated there is nothing to add regarding the BFC.

Court Education Committee (CEC): Judge Jasprica reported that the CEC has not met since the last BJA meeting. There is a written report on Page 29 of the meeting materials. They have completed their conversations with all the associations. If there is anything the CEC can do to help with association education as they move forward, please contact them. They look forward to working with the Court System Funding Task Force on funding issues.

Legislative Committee (LC): Judge Ringus had nothing to add regarding the LC.

Policy and Planning Committee (PPC): Judge Robertson stated that the PPC will meet this afternoon and they have a lot of information to review. There is a written report on Page 31 of the meeting materials.

October 20, 2017 Meeting Minutes

Judge O'Donnell requested that information be included in the October 20 meeting minutes regarding the discussion of King County's cancellation costs, approximately $100,000/year, when interpreters are no longer needed but the court is not notified. The information should be added to the end of the Interpreter Commission section of the minutes.

Judge Chushcoff requested that the second sentence in the second to last paragraph under Leadership Goals be replaced with "It was pointed out that BJAR 2(b) requires diversity so the associations need to keep that in mind when they choose their BJA representatives."

> **It was moved by Judge Chushcoff and seconded by Judge Ringus to approve the October 20, 2017 meeting minutes with the suggested amendments. The motion carried.**

Meeting Feedback

Judge Jasprica said that the agenda was rearranged to leave time for topics that need discussion. Chief Justice Fairhurst said that they are trying to use the meeting time to make decisions, move forward, and have room for continuing discussions. They will continue to have discussions about the timing of the BJA meetings and probably bring this topic back in February for discussion.

Recap of Motions from the November 17, 2017 Meeting

Motion Summary	Status
Approve the October 20, 2017 BJA meeting minutes with the addition of information about the cost to King County for canceled interpreter need under the Interpreter Commission section and the addition of BJAR 2(b) wording under the BJA Leadership Goals section.	Passed
Adopt the BJA Organizational Goals with the revision of Goal 4 to include the wording of BJAR 2(b) in the goal along with citing the rule.	Passed
Adopt the November 2017 supplemental budget request prioritizations.	Passed
Approve the OPG legislation.	Passed

Action Items from the November 17, 2017 Meeting

Action Item	Status
October 20, 2017 BJA Meeting Minutes • Post the revised minutes online. • Send minutes to the Supreme Court for inclusion in the En Banc meeting materials. • Send minutes to JISC staff for inclusion in JISC meeting materials.	 Done Done Done
BJA Organizational Goal Development • Change wording in Goal 4 to include the wording from BJAR 2. • Add date document adopted to the Organizational Goals (and all future BJA documents).	 Done Done
Branch Budget Overview • Bring information about how Washington's budget compares with other states to a future meeting.	 Done
2018 Supplemental Budget Requests • Use budget priorities as talking points during 2018 legislative session.	
Proposed Biennial Budget Process • Update the Proposed 2017-2019 (change to 2019-2021) Biennial Budget Development Process-Requests That Flow Through AOC document with the current information and include all the boxes and consolidate if possible (such as the June and June 15, 2017 boxes if they can be consolidated). • Add to the February BJA meeting agenda.	 Done Done
BJA Contact Card • Create and distribute to BJA members.	 Done
Judicial Branch Legislative Overview • For the judgment and sentence forms issue, Chief Justice Fairhurst would like to have a small group meet with DOC and figure out how we can resolve this issue if other measures do not result in a resolution. Would like it done prior to the legislative session.	 Done
Legislative Communication Plan and 2018 BJA Legislative Agenda • When legislation comes in for the BJA's consideration it would be helpful to have a fiscal note as information that the BJA can use to make a decision. Mr. Horenstein will send the fiscal note for the OPG legislation to the BJA members.	