

**Board for Judicial Administration
May 16, 2008
AOC SeaTac Office
SeaTac, Washington**

Members Present: Chief Justice Gerry Alexander, Chair; Judge Vickie Churchill, Member Chair; Judge Rebecca Baker; Mr. Stan Bastian; Judge Sara Derr; Judge Susan Dubuisson; Judge Deborah Fleck; Mr. Jeff Hall; Justice Barbara Madsen; Judge Larry McKeeman; Judge Robert McSeveney; Judge Marilyn Paja; Judge Christine Quinn-Brintnall; and Judge Stephen Shelton

Guests Present: Mr. Jim Bamberger, Mr. M. Wayne Blair, Ms. Roni Booth, and Ms. Marti Maxwell

Staff Present: Ms. Beth Flynn, Mr. Dirk Marler, Ms. Mellani McAleenan, Ms. Regina McDougall, and Mr. Ramsey Radwan

The meeting was called to order by Chief Justice Alexander.

April 18, 2008 Meeting Minutes

It was moved by Judge Shelton and seconded by Judge McSeveney to approve the minutes of the April 18, 2008 meeting. The motion carried.

Draft Criteria of Family and Juvenile Court Improvement Plan

Ms. McDougall stated that because of the law that passed last session, the BJA has an obligation to approve the Family and Juvenile Court Improvement Plan funding criteria.

Judge Fleck moved and Judge Dubuisson seconded to approve the Phase I funding application. The motion carried.

Judge McKeeman suggested the following wording for the Phase II, Criteria 5:

5] Identify ~~which UFC will be incorporated into~~ the ways in which the plan is consistent with the WFJCIP. Each request shall identify at least one UFC principle ~~that with which~~ the improvement will aim to accomplish be consistent with principles adopted for UFC. [See Attachment C detailing the UFC Principles]

Judge Fleck moved and Judge Dubuisson seconded to approve the Phase II funding application as revised per Judge McKeeman's amendments. The motion carried.

BJA Long-Range Planning Committee Taskforce Recommendation Reviews

Ms. McAleenan explained that this agenda item was carried over from the April BJA meeting.

Recommendation: The Supreme Court should establish a task force to recommend a uniform schedule of filing fees, evaluate the practice of recovery of filing fees, and create a model contract defining court services.

DMCJA should draft legislation requiring that all contracts or agreements for court services be reduced to writing and filed with OAC.

It was moved by Judge Fleck and seconded by Judge Dubuisson to refer this recommendation to the DMCJA to draft a proposed rule to ARLJ 12 to add the responsibility to the presiding judge to transmit a copy of the contract for court services to AOC. The motion carried.

It was moved by Judge Dubuisson and seconded by Judge Baker that this recommendation should be included in the Judiciary's Long-Range Plan and should be referred to the following group for action: BJA Long-Range Planning Committee to recommend establishment of a BJA subcommittee to create a checklist for use by courts and government agencies to use in drafting contracts related to court services; checklist should include with each item a brief narrative about the need for such topic, from the BJA perspective. The motion carried.

Recommendation: All candidates for judicial office shall have been active members of the state bar and/or shall have served as a judicial officer for at least the stated time periods:

- Supreme Court and Court of Appeals – 10 years
- Superior Court – 7 years
- District Court – 5 years

Judge McKeeman moved and Judge Dubuisson seconded that this does not warrant further action or consideration.

Judge Fleck asked for a friendly amendment to add that the BJA would be supporting steps to further educate the public about judicial candidates regarding their judicial experience. Judges McKeeman and Dubuisson accepted the friendly amendment.

The motion carried with Justice Madsen opposing.

Recommendation: All candidates for judicial office shall have resided in the judicial district or county for the stated time periods immediately preceding candidacy:

- Supreme Court – 7 years in state
- Court of Appeals – 5 years in judicial district
- Superior Court – 5 years in judicial district
- District Court – 2 years in county

Judge McKeeman moved and Judge McSeveney seconded that this recommendation does not warrant further action or consideration. The motion carried.

Recommendation: Courts should publish and post for public review, the amounts charged for all fees and costs.

Ms. Roni Booth stated this is currently being done by all County Clerks.

Judge McKeeman moved and Judge Dubuisson seconded that this recommendation has previously been acted upon and is completed. After discussion, the motion was withdrawn.

Mr. Bamberger said that not only should there be publication of the fees and costs but also the procedures regarding how the fees and costs can be waived. From the Office of Civil Legal Aid's perspective, they think it is very important to have this information readily available to the public.

It was moved by Judge Fleck and seconded by Judge Derr to include this recommendation (Courts should publish and post for public review, the amounts charged for all fees and costs and the procedures for obtaining waivers of the fees and costs) in the Judiciary's Long-Range Plan and it should be referred to the following groups for action: Washington State Association of County Clerks, Association of Washington Superior Court Administrators and the District and Municipal Court Management Association. The motion carried.

Recommendation: The Commission recommends that the Supreme Court require, and state and local legislative bodies fund, community supervision and probation services in the courts of limited jurisdiction, so that such services will be available in all courts for all defendants who need them.

It was moved by Justice Madsen and seconded by Judge McSeveney to refer this recommendation back to the Long-Range Planning Committee to continue to develop this recommendation and that it

be broadened to include probation services for all courts. The motion carried.

Revised Principal Policy Goals of the Washington State Judicial Branch

Judge Baker reported that several revisions were made to the Policy Goals. The quote from Alexander Hamilton was deleted because it gave the impression the judicial branch was more important than the other two branches of government. They agreed that the Policy Goals are plainly aspirational with a goal-oriented statement. They worried about creating actionable rights so they included the footnote.

Goal number six was deleted from the goals. It is not one of the judiciary's main policy goals. It is something the judiciary does, but is not a goal, and it was thought it would create some confusion on how the public records policy applies to the judicial branch of government.

Judge Baker moved and Judge Quinn-Brintnall seconded to have the Board adopt the Principal Policy Goals of the Washington State Judicial Branch.

Chief Justice Alexander asked for a friendly amendment to indicate the BJA recommends the Policy Goals to the Supreme Court. Both Judges Baker and Quinn-Brintnall accepted the amendment.

Chief Justice Alexander asked about the footnote. Judge Quinn-Brintnall stated that at the time of the first draft of the objectives, it was thought that a question could be brought about by goal number six that the judiciary was subject to the public records act. Case law indicates that is not the case even though most courts attempt to meet reasonable records requests. The footnote was added to show these are goals and not create enforceable rights. The footnote also wasn't needed when the beginning of the document clearly indicated that the goals were for budget purposes only. That information was deleted and the document is no longer narrowed to budget purposes only.

Judge McKeeman asked for a friendly amendment to change the word "individuals" to "litigants" in goal number three. Judges Baker and Quinn-Brintnall agreed. The motion failed.

Judge Fleck moved and Judge McSeveney seconded that the Principal Policy Goals of the Washington State Judicial Branch be recommended to the Supreme Court with the following revisions. In goal number three, the word "individuals" should be changed to

“litigants” and the footnote should be deleted. The motion carried with Judge Quinn-Brintnall opposing.

2009-11 Biennium Budget Update

Mr. Radwan reported that the Supreme Court Budget Committee made preliminary budget recommendations to the full Court regarding the Justice In Jeopardy Court Operations funding requests (juror compensation, increased state funding for district/municipal salaries, and increased interpreter funding).

The Budget Committee recommended that the interpreter funding request be included in the Supreme Court budget submission. This essentially means that the proposal will proceed to detailed decision package development and will receive further consideration in September.

The juror package will not be submitted in the Supreme Court budget. Rather, the Committee recommended that this proposal proceed as policy legislation.

The same route was decided on for the increased state funding of district and municipal judge salaries. Right now, the state pays for approximately 20% of the salaries. An increase of about 10% over the next three biennia will get the state funding to 50% of the salaries. It will take a statutory fix to change the funding mechanism.

The Court, sitting en banc, will consider the budget committee recommendations on June 5.

Chief Justice Alexander wanted to make clear that these are all provisional approvals. Final decisions will be made in the fall after the proposals are more developed.

The total amount of new judicial branch funding proposals for 2009-11 exceeds \$120,000,000. Therefore, the Budget Committee paid very close attention to the total amount being approved to go forward in the budget proposal (versus pursued as policy legislation).

Mr. Hall added that in September, depending on what the budget outlook looks like, the Supreme Court could determine that they need to send more requests through policy changes instead of including them in the Supreme Court budget.

Access to Justice Board

Mr. Blair shared that the annual Access to Justice Conference will be held

June 6-8 at the Red Lion Hotel in Vancouver. The theme is justice without borders.

Judge Gregg Tripp rotated out as Chair of the Access to Justice Board and was replaced by Judge Steven González who is Chair-elect. Chair of the Access to Justice Board for the next two years is Mr. Dan Gottlieb.

Mr. Blair also shared that the latest issue of the *Bar News* was dedicated to access to justice.

Washington State Bar Association

Mr. Bastian reported that every April the Equal Justice Coalition sends a group to Washington DC to lobby Congress to fund access to justice. Mr. Bastian attended as President of the WSBA. As a member of the Appropriations Committee, Senator Murray has never felt it was appropriate to sign a letter asking for access to justice funding but she did sign it this year.

The Judicial Selection Task Force will report at the next WSBA Board of Governors meeting. The majority report recommends moving away from the current judicial election system. The minority report recommends keeping it the same as it currently is. Mr. Hall will try to attend the meeting and make the position of the BJA known regarding judicial elections.

The ABA Model Code Judicial Conduct is being reviewed and the WSBA will have three members serve on the revision team. The WSBA wanted representatives who spent their career in court, had experience with judges, and were new to serving on WSBA committees. The three WSBA representatives will be approved by the Board of Governors.

Report from the Courts

Supreme Court: Justice Madsen stated that the Supreme Court recently heard oral arguments at Highline Community College. They had a wonderful visit with the faculty and students.

Court of Appeals: Judge Quinn-Brintnall reported that Division I has space on their docket so Division II sent some of their cases there to assist with a backlog of cases. Because of their caseload, Division II is requesting an eighth judge. She reported that it appears that General Administration will extend Division II's lease for another ten years but they do not yet know who will own the building.

Superior Courts: Judge Churchill stated that the SCJA has a Long-Range Planning Committee meeting on June 6. Judge Harris will attend the upcoming WSBA Board of Governors meeting and report back.

Judge Fleck reported that the SCJA is developing a legislative strategy which will focus on families, children, criminal law, and achievement of the Justice in Jeopardy Initiative.

Judge McKeeman stated this is his last meeting and Judge Culpepper will attend the next meeting.

Courts of Limited Jurisdiction: Judge Shelton shared that it is also his last meeting and he enjoyed the last two years as DMCJA President-Elect and President.

Judge Paja said the DMCJA just concluded a Board retreat where they heard from WSBA staff about increasing diversity in the judiciary.

There being no further business, the meeting was adjourned.