

**Board for Judicial Administration  
Meeting Minutes**

**November 21, 2008  
AOC SeaTac Office  
SeaTac, Washington**

**Members Present:** Chief Justice Gerry Alexander, Chair; Judge Vickie Churchill, Member-Chair; Judge Rebecca Baker; Judge Ronald Culpepper; Judge Sara Derr; Judge Susan Dubuisson; Judge Tari Eitzen; Judge Deborah Fleck; Mr. Jeff Hall; Mr. Mark Johnson; Ms. Paula Littlewood; Judge Marilyn Paja; Justice Barbara Madsen; Judge Richard McDermott; Judge Robert McSeveney; and Judge Glenn Phillips

**Guests:** Mr. M. Wayne Blair, Mr. Joe McGuire, Mr. Michael Merringer, Ms. Barb Miner, and Judge Ann Schindler

**Staff:** Ms. Jane Beaulieu, Ms. Beth Flynn, Mr. Dirk Marler, Ms. Mellani McAleenan (by phone), Dr. Carl McCurley (by phone), and Mr. Chris Ruhl

Chief Justice Alexander called the meeting to order. Mr. Hall introduced Ms. Beaulieu who is the new Administrative Office of the Courts (AOC) Human Resources Associate Director.

Judge Churchill introduced Mr. Merringer, the President of the Washington Association of Juvenile Court Administrators (WAJCA), who will attend the BJA meetings for the WAJCA.

October 17, 2008 Meeting Minutes

Judge Dubuisson stated the minutes need to be revised to indicate she was in attendance at the October 17 BJA meeting. Ms. Flynn will make the requested revision.

**It was moved by Judge McDermott and seconded by Judge McSeveney to approve the October 17, 2008 BJA meeting minutes with the requested revision. The motion carried.**

BJA Request Legislation

Ms. McAleenan reviewed the BJA request legislation.

**Washington State Center for Court Research (WSCCR) Legislation:** During the October BJA meeting there was a motion to table to this request until the November meeting when draft legislation could be reviewed by the BJA. The legislation would allow the WSCCR access to, and retention of, case records so they could do some

long-term research. Dr. McCurley stated the proposed legislation is motivated by aspects of RCW 13.50.010. The proposed legislation adds RCW 13.50.010(11).

**It was moved by Judge Baker and seconded by Judge Paja to approve the WSCCR proposed legislation with the revision of adding a comma after the word “only” on the first line of section 11 (line 85 on page 16 of the BJA meeting materials). The motion carried.**

**New Judicial Positions in King County District Court:** Ms. McAleenan and Mr. Hall spoke with Judge Barbara Linde and Ms. Tricia Crozier of King County District Court earlier this week. During the conversation Ms. Crozier shared that the King County Council has not given an official opinion of the request for an increase of five district court judicial positions, but Ms. Crozier thinks they will not oppose the request but they might not be able to support the request because of the state of the county budget. Judge Linde and Ms. Crozier expressed their willingness to stagger the effective dates of the five positions so all five positions will not need immediate funding. For example, the first two judicial positions would become effective immediately with a later effective date for next two positions followed by an even later effective date for the remaining position. King County District Court is willing to move a commissioner position into a judge position so that takes care of most of the funding for the first judicial position. They expect an increase in sales tax for mental health court funding which will assist in funding the second judicial position.

**It was moved by Judge Paja and seconded by Judge McDermott to approve King County District Court’s request for funding five additional judicial positions with the understanding that the positions will be phased using a 2-2-1 model. The motion carried.**

Mr. Hall stated that the court will continue to talk with county officials regarding their approval of the request. By approving the request today, it frees up the court and Ms. McAleenan to work with the county officials regarding this request. The BJA Legislative Executive Committee will approve the legislation in the future.

**New Judge Positions in Benton County District Court:** Benton County District Court would like to convert their two existing commissioner positions to judge positions. The judicial needs estimate backs up the request and they have complete agreement from the county commissioners.

**It was moved by Judge Derr and seconded by Judge Dubuisson to approve the request for two new judge positions in Benton County District Court. The motion carried.**

**Juror Pay Legislative Proposal:** During the October meeting, the BJA discussed a staggered implementation of this proposal to save money and decided to wait for the

next budget forecast before approving this request. There is now a \$5.1 billion budget shortfall.

Ms. McAleenan said there are a few different approaches to this request: 1) AOC is going to need to transmit the juror pay research project report to at least the judiciary committees. A statement can be made in the report cover letter that the BJA wanted to pursue raising juror pay legislatively but because of the budget shortfall, legislation will not be submitted this session. 2) This issue can also be addressed in the State of the Judiciary address. 3) Legislation regarding juror pay can be submitted this session. Realistically, the legislation will not go beyond the judiciary committees but Ms. McAleenan does not think it will hurt the BJA politically. The BJA can state it is understood the legislation will not go forward but also state how important it is to properly reimburse jurors for their service.

**Judge Fleck moved and Judge McSeveney seconded to approve the phased-in approach to increased juror funding that is on the table from the October meeting (Plan A) and that the bill be heard in the judiciary committees with the agreement that it will not go forward. The motion carried.**

#### 2009 BJA Meeting Schedule

**Judge Dubuisson moved and Judge McSeveney seconded to approve the 2009 BJA meeting schedule as submitted in the meeting materials. The motion carried.**

#### 2009 Salary Commission

Chief Justice Alexander reported that this issue was before the BJA previously and it was tabled until this meeting so the various court levels could discuss it. In the past, the judges have asked for a COLA and then asked the Salary Commission to increase salaries incrementally toward parity with the federal courts.

Judge Schindler commented that the Court of Appeals agreed to ask for a 2% COLA because that is apparently being requested for all state employees.

Judge McDermott reported that several members of the Superior Court Judges' Association (SCJA) felt strongly that a message should be given to the Legislature that they do not want a raise this year. The majority of the SCJA Board would not oppose seeking a COLA but nothing else.

Judge Paja said the District and Municipal Court Judges' Association's position is not to request anything, in particular, from the Salary Commission.

Mr. Hall pointed out that on page 41 of the meeting materials, there is a proposed 2009 BJA position on judicial salaries which includes the recommendations to 1) keep pace with inflation, 2) maintain a 5% differential in pay between the four levels of courts, 3) use federal judicial salaries in setting Washington judicial salaries, and 4) consider other states' judicial salaries in determining Washington judicial salaries.

**It was moved by Judge Fleck and seconded by Judge Culpepper to adopt the proposed 2009 BJA position on judicial salaries. The motion carried.**

District and Municipal Court Judges' Association (DMCJA) Representative to the BJA Court Security Committee

**It was moved by Judge Paja and seconded by Judge Dubuisson to appoint Judge Elizabeth Cordi-Bejarano, as a representative of the DMCJA, to the BJA Court Security Committee. The motion carried.**

BJA Long-Range Planning Committee Taskforce Referral

Mr. Hall said the BJA needs to take action on the following referral from the BJA Long-Range Planning Committee.

“DMCJA should propose legislation that would require public defense costs to be placed outside the budget of the courts.”

On page 49 of the meeting materials there is a letter from the Office of Public Defense (OPD) recommending that this issue not be acted upon at this time.

Judge Paja stated the DMCJA was waiting for OPD's response prior to discussing this recommendation and has not discussed it.

Justice Madsen commented that there is enough information to know this issue should remain part of the BJA long-range plan. Implementation is the question.

**It was moved by Justice Madsen and seconded by Judge Baker to recommend to the BJA Long-Range Planning Committee that this issue continues to be a concern to the BJA and courts and should be kept in the long-range plan but it is not necessary to draft legislation to address this issue. The motion carried.**

Supreme Court Budget Update

Chief Justice Alexander discussed the Supreme Court Budget Committee's meeting yesterday. There were a number of requests for new funding in their budget. The AOC and the Law Library were asking for implementation of a salary survey (\$665,000 for the

Supreme Court, \$1.7 million for the AOC, and \$191,000 for the Law Library). There were also requests for funding for the Commission on Children in Foster Care, new staff in the Supreme Court Commissioner's office, Interpreter Program expansion, Family and Juvenile Court Improvement Plan funding, Judicial Information System (JIS) funding, LFO funding for the County Clerks, and an additional King County Superior Court judge position.

It is doubtful any of the requests will receive funding from the Legislature due to the state of the economy. The recommendation of the Supreme Court Budget Committee was to include only the King County Superior Court judge and JIS requests in their budget. The full Court will consider the Budget Committee's recommendation at the December En Banc.

**Judge Fleck moved and Judge Paja seconded that the BJA endorse the Supreme Court Budget Committee's recommendation to drop all additional funding requests except for the King County Superior Court judge request and the Judicial Information System request. The motion carried and Justice Madsen abstained.**

#### Court Closures Related to County Budgets

Judge McDermott reported that the King County Executive is trying to close the county budget gap by proposing a furlough for all county employees. The proposal was not discussed with the King County courts. King County Superior Court Presiding Judge Bruce Hilyer wrote a letter to Chief Justice Alexander regarding the furlough which would be for ten days with no pay and no county offices open. Chief Justice Alexander's letter of response stated that courts have to be open on all judicial days. Non-judicial days are the only days courts can be closed: legal holidays and those days in which there is a natural disaster or emergency (bomb threat, no plumbing, etc.). A county's budgetary problems or county's prioritization of funding are not an emergency.

Chief Justice Alexander had the Supreme Court review his letter of response and the Supreme Court is fully behind the letter. He also wrote letters for King County District Court, Snohomish County Superior Court, and Kitsap County Superior Court. He was told by Judge Larry McKeeman and Judge M. Karlynn Haberly that the letters were very useful.

The SCJA supports Chief Justice Alexander's letter and Judge McDermott is in the process of drafting a letter to all superior court judges regarding this issue and he plans to distribute the letter in the next few days.

### Access to Justice Board

Mr. Blair reported that the Access to Justice (ATJ) Board is in the process of implementing their statewide plan and strengthening their pro bono programs.

The Access to Justice community is not immune to budget cuts. The Legal Foundation of Washington, which makes grants from interest on lawyers' trust accounts, is looking at a revenue reduction from \$9 million in grants last year to more like \$6 million this year.

The ATJ Board has been working with the Washington State Bar Association (WSBA) Bylaws Review Committee regarding their recommendation that Emeritus Program participants complete at least 80 hours of pro bono work each year to participate in the Emeritus Program. In exchange for the pro bono work, their WSBA licensing fee would be waived. Currently, the Emeritus Program consists mostly of retired lawyers who want to do pro bono work. Because of their volunteer work, they are not required to pay the entire WSBA license fee. Some of the Emeritus Program members think the proposed 80-hour requirement is too high and they would prefer to pay a portion of the WSBA license fee and keep the current Emeritus Program requirements. The ATJ Board has voiced their concerns to the Bylaws Review Committee.

### Washington State Bar Association

Mr. Johnson reported that the WSBA Lawyers' Fund for Client Protection Committee is working on a large claim from the 2008 fiscal year. A \$15 annual assessment on all active WSBA members provides the funding for the account.

The WSBA is working on their discipline procedures based on a report from the American Bar Association (ABA) regarding their discipline system. Over the next five meetings, the BOG will be considering the recommendations from the committee that looked in depth at the ABA's recommendations.

Ms. Littlewood stated the WSBA BOG recently met in Spokane and will meet in Bellingham the first week of December where they will hear from the Local Rules Task Force and the Legislative Committee will present information about their proposed 2009 legislative agenda.

### Reports from Courts

**Supreme Court:** Justice Madsen reported that Tuesday was the Supreme Court's last day of the fall term.

On November 6 the Supreme Court met with the Practice of Law Board at the Temple of Justice. The proposed legal technician rule was explained and the Supreme Court Rules Committee is scheduled to review the rule in the near future.

There was an Initiative for Diversity reception at the Temple of Justice co-sponsored by the Gender and Justice Commission and the Minority and Justice Commission. Other receptions were held in Seattle, Spokane and Yakima. Attendees were asked to sign a commitment stating they will recruit, hire, and retain women and minorities in their offices.

On December 2 the Supreme Court will host a reception for the Thurston County Chapter of the Washington Women Lawyers and the Thurston County Volunteer Legal Clinic lawyers.

A BJA Legislative Dinner will be held at the Temple of Justice on December 4. Chief Justice Alexander is unable to attend so Justice Madsen will attend.

**Court of Appeals:** Judge Anne Schindler stated that the Court of Appeals has been focused on impending budget cuts. The BJA has approved legislation in support of a Division II judge and Division I has offered to assume some cases from Division II to assist with their caseload.

**Superior Court:** Judge McDermott reported that the SCJA Board of Trustees met November 1 and heard information regarding the Judicial Information System (JIS). They also heard from Judge Fleck and Mr. Tom Parker regarding the upcoming legislative session. Mr. Parker said to fully expect the budget deficit to be over \$5 billion by the time the session begins. The SCJA is taking the approach of showing the Legislature how much money innovative programs can save instead of focusing on the cost of the programs. They are currently working on drug court savings.

The SCJA met with the WSBA regarding the Bar investigating sitting judges. They are trying to come to an agreement that they can take to the Supreme Court as a recommendation. They are just beginning to work on some language.

**Courts of Limited Jurisdiction:** The DMCJA annual report to the Supreme Court was included in the meeting materials.

Judge Paja reported that the DMCJA Board has been working on two issues: 1) the number of district court judges who are subject to the Salary Commission. The DMCJA includes a number of district court judges who work part-time. The statute doesn't state how the county commissioners are to interrelate with the court regarding how part-time judge salaries are set. The DMCJA has been talking with AOC about this issue and will investigate it further. 2) The DMCJA is considering an amendment to CrRLJ 3.2 as it concerns bail forfeitures that will be coming to the BJA at a future meeting.

Administrative Office of the Courts

Mr. Hall stated that AOC had a great employee recognition event in October which recognized the service of AOC employees.

AOC is 1) working on a process to implement legislation more efficiently in the future; 2) coordinating the BJA legislative dinners and Mr. Hall brought a copy of the new budget process handout that will be distributed during the legislative dinners; and 3) working on the 09-11 budget.

There being no further business, the meeting was adjourned.