

**Board for Judicial Administration
Meeting Minutes**

**April 17, 2009
Temple of Justice
Olympia, Washington**

Members Present: Chief Justice Gerry L. Alexander, Chair; Judge Vickie Churchill, Member-Chair; Judge Marlin Appelwick; Judge Ronald Culpepper; Judge Sara Derr; Judge Tari Eitzen; Judge Deborah Fleck; Mr. Jeff Hall; Mr. Mark Johnson; Ms. Paula Littlewood; Justice Barbara Madsen; Judge Richard McDermott; Judge Marilyn Paja; and Judge Christine Quinn-Brintnall

Guests Present: Mr. Jim Bamberger, Minister Bernd Busemann, Judge Steven González, Dr. Ralph Guise-Rübe, Mr. Haarmann, Mr. Michael Klusmeier, Ms. Tara Larson, Ms. Cathy Maras, Ms. Marti Maxwell, Mr. Joe McGuire, Ms. Joanne Moore, Mr. Julian Sohn, and Mr. Georg Wessling

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

Chief Justice Gerry Alexander called the meeting to order.

March 20, 2009 BJA Meeting Minutes

It was moved by Judge Paja and seconded by Judge McDermott to approve the March 20, 2009 BJA meeting minutes. The motion carried.

BJA Best Practices Committee Access Measures

It was moved by Judge Paja and seconded by Judge McDermott to approve the BJA Best Practices Committee Access Measures 12, 15 and 16. The motion carried.

Proposed Changes to RPC 1.15 and ELC 15

Mr. Bamberger reported that historically, financial institutions have been paying less interest on IOLTA accounts than similarly situated demand accounts. The proposed rule has been adopted in a number of states in varying forms. No financial institution has declined to participate because of the comparability requirements. They probably will not like this rule change but major financial institutions know it is coming. It is an equity issue.

It was moved by Judge Fleck and seconded by Judge Derr to recommend to the Supreme Court the proposed changes to RPC 1.15 and ELC 15. The motion carried with Chief Justice Alexander and Justice Madsen abstaining.

BJA Court Security Committee Report

Judge González presented the BJA Court Security Committee's annual report to the BJA. Because of the budget problems facing counties and the state, the Committee has seen court security budgets being reduced, and consequently, reductions in security—both in staffing and in plans to improve security.

A statewide incident report log was included in the meeting materials. So far, 21 court security incidents have been reported this year. There are incidents that are not reported in some courts. For example, weapons missed on initial screening found upon secondary screening. They are starting to measure court security and it is beginning to matter more.

The Committee produced a model checklist for use in evaluating court security and they also revised the incident report form. In addition, they distributed a Presiding Judge Crisis Communication Plan.

BJA members were encouraged to e-mail Judge González or Mr. Rick Coplen at AOC (rick.coplen@courts.wa.gov) with any court security questions.

Trial Court Coordination Report

Ms. McAleenan shared that the Trial Court Coordination project that has garnered the most interest from the BJA is the King County Juror sign project. They have been able to replace the juror public service announcements on Metro free of charge because of the downturn in the economy and the lack of other advertisers. King County will give a report on their project at a future BJA meeting.

Legislative Report

Today is the last day for bills to be heard in the opposite house. A week from Sunday is the end of the session. A few updates to the legislative report in the meeting materials were discussed.

- HB 1919 (drug court funding) still needs to be voted on by 5 p.m. tonight.
- HB 1158 (electronic juror signatures) is on the concurrence calendar and not bound by the 5 p.m. deadline tonight.
- SSB 5013 (increasing and adding fees at the superior court level) was amended and now the BJA supports the bill.
- SB 5556 (toll enforcement infractions). There will be a meeting with stakeholders regarding this bill after the BJA meeting.

WSBA Civil Legal Aid Proposals

Mr. Johnson stated that he rolled out the following two proposals regarding civil legal aid funding.

- Mandatory assessment on attorney license fees to help fund civil legal aid
- Move existing CLE funds to the civil legal aid fund

At the Richland Board of Governors meeting they will discuss the proposals along with any additional proposals. Mr. Johnson does not expect a vote at that meeting.

There is a Civil Legal Aid Crisis Summit this afternoon at Seattle University School of Law with an expected attendance of 75. Chief Justice Alexander and Judge González will participate in the Summit.

Proposed BJA Rule Change

Ms. McAleenan explained that the proposed rule change would stagger the DMCJA and SCJA BJA membership terms differently so more members would be eligible as the BJA Member-Chair.

Judge Churchill thinks this is a very good proposal and stated it will be put on the action calendar for next month.

Judge Paja mentioned that she took the proposal to the DMCJA Board as a general concept, and because DMCJA has term limits and would need to amend its Bylaws to be in conformity with BJA changes, also referred it to the DMCJA Bylaws Committee. The DMCJA Board looked at the membership term change positively.

HB 2362

HB 2362 (court fees for Judicial Stabilization Trust Account) was dropped Wednesday. The BJA Legislative Executive Committee has not had a chance to take a position on this bill but Chief Justice Alexander testified on the bill yesterday morning.

It was suggested that the BJA discuss the bill during this meeting and the BJA Legislative Executive Committee will take a position on the bill later.

Chief Justice Alexander pointed out that the bill creates a permanent increase in filing fees. The filing fee for appeals would go from \$250 to \$450. Chief Justice Alexander testified that the bill is counter to core beliefs of the judiciary. Large filing fee increases 1) inhibit access to justice, 2) are a stumbling block to people who want to use this public justice system which has been established in the state constitution, and 3) fly in the face of the core belief that an efficient and available justice system benefits society

as a whole. In addition, most of the costs of the justice system should be borne by all taxpayers.

Access to Justice Board

Judge González reported that the Access to Justice Conference will be held in Yakima in May and focus on assisting people of poverty.

The Access to Justice Board is in favor of proposed new rule GR 34 regarding a waiver of court and clerk's fees and charges in civil matters on the basis of indigency. They have also been active in the housing initiative.

Washington State Bar Association

Ms. Littlewood mentioned that the housing initiative is moving forward and they are trying to find state or federal funding. In the interim, the Board of Governors (BOG) approved \$160,000 in WSBA funds to be spent on the initiative. The Northwest Justice Project is a partner on the initiative and recruiting of attorneys will begin on May 1. Attorney training will be held at the end of May. On June 1 they hope to go public and begin the client intake process.

The BOG will meet in Richland later in the month and will hear the final report of the Discipline Review Committee. The BOG will forward their recommendations to the Supreme Court for consideration. The Board will also discuss President Johnson's proposal to create a Lawyers' Fund for Civil Justice.

The WSBA is working closely with judicial associations on a proposed amendment to RPC 8.5 – Disciplinary Authority Over Judges. They will have the first reading at the April BOG meeting and they hope to take action in May.

The WSBA has been looking at ways to trim costs and they are reviewing a proposal to fund a videoconferencing system for the WSBA so they can reduce meeting travel costs. Another cost saving measure of the WSBA BOG is that they will no longer provide Board books at their BOG meetings. Meeting attendees will download the materials on their laptops and view the materials electronically.

Reports from the Courts

Supreme Court: Justice Madsen reported that the Supreme Court is currently on recess between terms. When they come back they will have a memorial service for two former Supreme Court justices: Justice Robert Brachtenbach and Justice Keith Callow.

The appellate judges conference was very informative and well received.

Court of Appeals: Judge Appelwick said that the Court of Appeals is waiting to see where the budget lands and then they will internally agree on a budget process.

Judge Quinn-Brintnall reported that the Court of Appeals is taking a look at conferences and whether there should be a Fall Conference and a Spring Conference every year. One option might be to hold business meetings by videoconference.

Superior Courts: Judge McDermott stated the Superior Court Judges' Spring Conference begins April 26. One highlight of the conference will be a presentation by Chief Justice Alexander and Mr. Charles Wiggins. The conference will also provide education regarding evidence-based treatment programs. The SCJA has tried very hard to make their Spring Conference topics timely and they have done a good job of presenting a program that most of the judges feel is essential to attend. They currently have over 190 judges registered for the conference.

Courts of Limited Jurisdiction: Judge Paja reported that at the request of the BJA, she will be attending an ABA conference regarding Fair and Impartial State Courts in early May along with a team from Washington (Judge Eitzen, Mr. Hall, Mr. John Lane from the Governor's Office, Senator Adam Kline, and Representative Roger Goodman). The Conference is funded in part by the NCSC and the ABA.

The DMCJA and WSBA are partnering to provide an opportunity for training of lawyers interested in being appointed as pro tem judges. With an eye toward the retirement of many judges over the next decade, the project will educate those interested in pro tem work as to the ethics and processes involved. The training will hopefully add diversity to the available pro tem judges. The training will not change in any way the discretion of a presiding judge to determine her own pro tem list.

Upcoming this month, with funding and leadership from the BCE, is an online ethics seminar addressed to limited jurisdiction judicial officers. It will be in a format similar to the ethics seminar offered online for superior court judges last year.

The annual DMCJA Board retreat is scheduled for early May. Ms. Joanne Moore from the Office of Public Defense will speak regarding public defender issues affecting courts of limited jurisdiction, including the split of available funds between counties and cities, the progress of change to DWLS3 this legislative session, and the process for cities to access available public defender funds.

The DMCJA Annual Spring Conference is June 7-10 at Semiahmoo and the judges are looking forward to that training. This fall, with funding from the Traffic Safety Commission, the DMCJA will once again offer regional training at four locations statewide concerning current DUI issues. Judges from all levels will receive information closer to the dates.

Association Reports

County Clerks: The Clerks had an excellent Spring Conference in March with presentations on guardianship cases and leading in difficult times. They are currently gearing up for regional staff training the week of the upcoming judicial conference and getting their agenda together for the Annual Conference in June.

The Clerks are being hit hard with budget cuts and are doing their best to come up with new ways to continue to provide services with less staff.

District and Municipal Court Administrators: Mr. McGuire thanked the DMCJA for the scholarships they provided to three court administrators to attend Institute for Court Management (ICM) training. The District and Municipal Court Management Association (DMCMA) has been working on succession planning and the ICM training is a step in the right direction.

The software system PCMS, in use by courts, is DOS based and over 20 years old. Individual courts cannot correspond electronically with each other and the DMCMA is working with AOC to connect the courts electronically. To fund the update of the PCMS system, they are seeking funding from the National Center for State Courts and the State Justice Institute.

It is Mr. McGuire's last meeting as the DMCMA President. Ms. Jeri Cusimano will become President during their Annual Conference which will be held in Vancouver next month. Chief Justice Alexander thanked Mr. McGuire for his leadership of the DMCMA and appreciates Mr. McGuire's service to the judiciary.

Administrative Office of the Courts

Mr. Hall reported that the Legislature and the budget are taking up a lot of time for AOC staff. The Judicial Information System Committee is meeting today to decide how they will go forward with the Roadmap.

Other Business

BJA Financial Report: Ms. McAleenan noted that most of the BJA expenses were mileage reimbursements for people coming to Olympia to testify on BJA issues.

Bernd Busemann, Minister of Justice, Lower Saxony: Chief Justice Alexander introduced Bernd Busemann, the Minister of Justice for Lower Saxony in Germany. Chief Justice Alexander explained that the Minister of Justice position appears to be a blend of state court administrator, attorney general and department of corrections secretary. Chief Justice Alexander welcomed him and explained the purpose of the BJA.