BOARD FOR JUDICIAL ADMINISTRATION

WASHINGTON
COURTS

MEETING PACKET

FRIDAY, APRIL 17, 2009
9:30 A.M.

CHIEF JUSTICE'S RECEPTION ROOM
TEMPLE OF JUSTICE
415 12TH AVENUE SW
OLYMPIA, WASHINGTON

Board for Judicial Administration Membership

VOTING MEMBERS:

Chief Justice Gerry Alexander, Chair
Supreme Court

Judge Vickie Churchill, Member-Chair
Superior Court Judges' Association
Island County Superior Court

Judge Marlin J. Appelwick
Court of Appeals, Division I

Judge Rebecca M. Baker
Superior Court Judges' Association
Ferry/Stevens/Pend Oreille Superior Courts

Judge Ronald Culpepper
Superior Court Judges' Association
Pierce County Superior Court

Judge Sara Derr
District and Municipal Court Judges' Association
Spokane County District Court

Judge Susan Dubuisson
District and Municipal Court Judges' Association
Thurston County District Court

Judge Deborah Fleck
Superior Court Judges' Association
King County Superior Court

Judge Michael Lambo
District and Municipal Court Judges' Association
Kirkland Municipal Court

Judge Marilyn Paja, President
District and Municipal Court Judges' Association
Kitsap County District Court

Justice Barbara Madsen
Supreme Court

Judge Richard McDermott, President
Superior Court Judges' Association
King County Superior Court

Judge Robert McSeveney
District and Municipal Court Judges' Association
Kent Municipal Court

Judge Christine J. Quinn-Brintnall
Court of Appeals, Division II

Judge John Schultheis
Court of Appeals, Division III

NON-VOTING MEMBERS:

Judge Tari Eitzen, President-Elect
Superior Court Judges' Association
Spokane County Superior Court

Mr. Jeff Hall
State Court Administrator

Mr. Mark Johnson, President
Washington State Bar Association

Ms. Paula Littlewood, Executive Director
Washington State Bar Association

Mr. Salvador Mungia, President-Elect
Washington State Bar Association

Judge Glenn Phillips, President-Elect
District and Municipal Court Judges' Association
Kent Municipal Court

Board for Judicial Administration

April 17, 2009
9:30 a.m.
Temple of Justice – Reception Room
415 12th Avenue SW, Olympia

Agenda

1. Call to Order	Chief Justice Gerry Alexander Judge Vickie Churchill	
2. Welcome and Introductions	Chief Justice Gerry Alexander Judge Vickie Churchill	
Action Items		
3. March 20, 2009 Meeting Minutes **Action: Motion to approve the minutes of the March 20 meeting**	Chief Justice Gerry Alexander Judge Vickie Churchill	Tab 1
4. BJA Best Practices Committee Access Measures **Action: Motion to approve the BJA Best Practices Committee Access Measures 12, 15 and 16**	Ms. Mellani McAleenan	Tab 2
5. Proposed Changes to RPC 1.15 and ELC 15 **Action: Motion to recommend to the Supreme Court the proposed changes to RPC 1.15 and ELC 15**	Judge Vickie Churchill	Tab 3
Reports and Information		
6. BJA Court Security Committee Report	Judge Steven González	Tab 4
7. Trial Court Coordination Report	Ms. Mellani McAleenan	Tab 5
8. Legislative Report	Ms. Mellani McAleenan	Tab 6
9. WSBA Civil Legal Aid Proposals	Mr. Mark Johnson	Tab 7
10. Proposed BJA Rule Change	Ms. Mellani McAleenan	Tab 8
11. HB 2362	Ms. Mellani McAleenan	Tab 9
12. Access to Justice Board	Mr. M. Wayne Blair	
13. Washington State Bar Association	Mr. Mark Johnson Ms. Paula Littlewood	
14. Reports from the Courts Supreme Court Court of Appeals Superior Courts Courts of Limited Jurisdiction	 Justice Barbara Madsen Judge Marlin Appelwick Judge Richard McDermott Judge Marilyn Paja	

15. Association Reports County Clerks Superior Court Administrators Juvenile Court Administrators District and Municipal Court Administrators	 Ms. Barb Miner Ms. Marti Maxwell Mr. Michael Merringer Mr. Joe McGuire	
16. Administrative Office of the Courts	Mr. Dirk Marler	
17. Other Business BJA Financial Report Next meeting: May 15 Beginning at 9:30 a.m. at the AOC SeaTac Office, SeaTac	Chief Justice Gerry Alexander Judge Vickie Churchill	 Handout

Ehemalige Niedersächsische Justizminister und Justizministerinnen

›mehr...

Justizminister Bernd Busemann

Minister Bernd Busemann

Biography

- Born on 5th June 1952 in Dörpen, Emsland County
- Married, 2 daughters
- 1972 Abitur am Gymnasium Papenburg (High School/College)
- 1972 - 1974 Zeitsoldat in Buxtehude (Leutn. d. Res.) - Army
- anschließend Studium der Rechtswissenschaften an der Universität Köln, 1. jur. Staatsexamen 1979 - University
- Referendariat beim OLG Oldenburg, 2. jur. Staatsexamen 1982 – Internship at the Higher Court in Oldenburg
- seit 1982 Rechtsanwalt und seit 1985 Notar – Lawyer since 1982 and public notary since 1985
- Mitglied der CDU seit 1971 – member of the CDU party
- Abgeordneter im Niedersächsischen Landtag seit 1994 – Member of parliament of the state of Lower Saxony since 1994
- Niedersächsischer Kultusminister vom 4.3.2003 bis zum 26.02.2008 - Education Minister in Lower Saxony from March 4th 2003 to February 26th 2008
- ab dem 26.2.2008 Niedersächsischer Justizminister – Justice Minister in Lower Saxony since February 26th 2008

Lebenslauf

- geboren am 5. Juni 1952 in Dörpen, Kreis Emsland
- verheiratet, 2 Töchter
- 1972 Abitur am Gymnasium Papenburg
- 1972 - 1974 Zeitsoldat in Buxtehude (Leutn. d. Res.)
- anschließend Studium der Rechtswissenschaften an der Universität Köln, 1. jur. Staatsexamen 1979
- Referendariat beim OLG Oldenburg, 2. jur. Staatsexamen 1982
- seit 1982 Rechtsanwalt und seit 1985 Notar
- Mitglied der CDU seit 1971
- Vorsitzender des CDU-Kreisverbandes Aschendorf-Hümmling seit 1987
- Abgeordneter im Niedersächsischen Landtag seit 1994
- Niedersächsischer Kultusminister vom 4.3.2003 bis zum 26.02.2008
- ab dem 26.2.2008 Niedersächsischer Justizminister

http://www.mj.niedersachsen.de/master/C45245271_N1538249_L20_D0_I693.html

TAB 1

Board for Judicial Administration
Meeting Minutes

March 20, 2009
Temple of Justice
Olympia, Washington

Members Present: Chief Justice Gerry L. Alexander, Chair; Judge Vickie Churchill, Member-Chair; Judge Marlin Appelwick; Judge Rebecca Baker; Judge C. C. Bridgewater; Judge Ronald Culpepper; Judge Sara Derr; Judge Susan Dubuisson; Judge Tari Eitzen; Judge Deborah Fleck; Mr. Mark Johnson (by phone); Ms. Paula Littlewood; Justice Barbara Madsen; Judge Richard McDermott; Judge Robert McSeveney; Judge Marilyn Paja, and Judge Christine Quinn-Brintnall

Guests Present: Mr. Jim Bamberger, Ms. Marti Maxwell, Mr. M. Wayne Blair, Mr. Joe McGuire, Mr. Michael Merringer, and Judge Julie Spector

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

Chief Justice Alexander called the meeting to order.

February 20, 2009 Meeting Minutes

The following revisions to the minutes were requested: 1) indicate Judge Culpepper's attendance, and 2) reflect in the minutes that the local option user fees motion passed unanimously.

> **It was moved by Judge Paja and seconded by Judge Dubuisson to approve the minutes with the requested revisions. The motion carried.**

BJA Best Practices Committee Access Measures

Judge Spector reported that since they last reported to the BJA, the Best Practices Committee has been working on three measures related to access to justice. The measures have been tested, evaluated, and approved by the Committee. They are recommending that the BJA adopt these measures:

- Measure 12 – Access for the Self-Represented and/or the Financially Disadvantaged
- Measure 15 – Access for Court Users with Disabilities
- Measure 16 – Access for Court Users with Limited English Proficiency

For each measure, the Committee developed threshold standards that apply to all court levels. The measures were tested in three courts and then evaluated by the Committee

utilizing the BJA criteria and Generally Accepted Government Auditing Standards (GAGAS).

The Committee's next project will be the creation of a measure to evaluate courts' effective use of jurors, using the National Center for State Court's CourTools as a starting point for creating standards.

Judge Baker asked if there will be any AOC support to create model rural court written procedures as opposed to having to reinvent the wheel in each court. Judge Spector responded that the goal is to create standards that can be met by urban and rural, and large and small courts. The Committee recognizes that when the measures are implemented, there may be some courts that do not have the resources to meet the standards. In those instances, AOC will meet with the courts and determine how to proceed.

Mr. Bamberger stated that the Office of Civil Legal Aid (OCLA) is interested in all three measures and strongly recommends adoption. They provide a solid benchmark to assess courts. OCLA offered to help implement and apply the standards.

Judge Churchill thanked Judge Spector for all the hard work the Committee has put into these measures. Adoption of the measures will be on the action calendar at the April BJA meeting.

Bail Forfeiture – Proposed Revision to CrRLJ 3.2

Judge Paja reported that the District and Municipal Court Judges' Association (DMCJA) feels strongly that bail forfeiture should be removed from CrRLJ 3.2. The Association has 210 members and they polled them regarding their opinions of the rule revision. Approximately 10 of the members submitted negative responses which are all included in the meeting materials.

The DMCJA has had preliminary conversations with the agencies listed in the rule so they know a change is possible and that they will be able to set their own fees.

There were questions during the discussion of the proposed revision regarding access to justice issues by setting a standard bail amount. It is conceivable that something could be developed to address the issue in the future. It was determined that the BJA would look just at the rule as proposed at this point in time. Judge Paja will bring up other rule issues mentioned during the discussion with the DMCJA.

> **It was moved by Judge Fleck and seconded by Judge Derr that the BJA recommend to the Supreme Court the revision of CrRLJ 3.2 as proposed by the DMCJA. The motion carried with one nay (Judge Eitzen) and two abstentions (Chief Justice Alexander and Justice Madsen).**

Legislative Report

Ms. McAleenan reported that we are approximately two-thirds of the way through the legislative session. All of the BJA bills are in really good shape, with the exception of the jury pay bill which was heard in the House Judiciary Committee. A bill status list was included in the meeting materials.

Access to Justice Board

Mr. Blair shared that the Access to Justice (ATJ) Board met with the Supreme Court on March 5. Prior to the Board meeting, the Access to Justice Board prepared and submitted its Annual Report to the Washington State Supreme Court and the Washington State Bar Association Board of Governors. The report is available on the ATJ Web site. The Board discussed with the Court the legal technician rule, the WSBA state housing pro bono initiative, how the Board is spending the funds provided by the Court, along with other issues.

As an overview, the revenue is being cut substantially and the demand for services is rising rapidly. The ATJ Board recently went through a selection process for three open positions. They received 16 applications and have recommended four names to the Board of Governors. The Board of Governors has approved three of those names and is recommending them to the Supreme Court for Approval. One of those names is former Representative Pat Lantz.

Washington State Bar Association

Mr. Johnson stated that civil legal aid is in crisis and it is not going to get better in the near future. He proposes that the WSBA take a significant amount of money from the Continuing Legal Education (CLE) reserve fund to make a one-time donation to the LAW Fund's Campaign for Equal Justice. Mr. Johnson is also proposing a mandatory dues assessment for active attorneys of $70 per year to support civil legal aid. The WSBA Board of Governors will have a presentation regarding the recommendations during their April Board meeting. Ultimately, probably at the May meeting, the Board may take action regarding the special assessment but Mr. Johnson is not certain it will pass. This is a moment in time for lawyers to come together and help those people who simply cannot afford lawyers.

On April 17 the WSBA will host a civil legal aid summit at Seattle University Law School. Many of the BJA members will be receiving an invitation to the summit to discuss the state and the structure of civil legal aid funding. The access to justice community and partners from large law firms in the state were invited to the summit to raise awareness of what needs to be done for access to justice until the economy recovers.

Ms. Littlewood shared that some law firms are dealing with the economy by furloughing new attorneys and paying them $50,000 - $75,000 per year and urging them to work for legal aid agencies.

Reports from the Courts

Supreme Court: Justice Madsen stated the Gender and Justice Commission has been tasked with managing STOP grant funds to the courts. They had some funds remaining and have granted scholarships for 13 judges to attend classes related to domestic violence cases. In addition, the Commission will be soliciting proposals for additional grant monies that have come to the courts through the federal stimulus package. The RFP will require a very quick turnaround as the projects must be selected by the end of April.

The Supreme Court anticipates having a budget meeting later this afternoon.

Court of Appeals: Judge Bridgewater reported that the Court of Appeals is currently dealing with a cut of $380,000 from their budget this year and a supplemental cut could double that. The COA needs to come up with $380,000 in cuts very soon and it is possible they will have to make larger cuts.

Today, Judge Bridgewater will testify for the Division II's eighth judge.

Superior Courts: Judge McDermott stated that the SCJA has had a very busy year. Their last Board of Trustees meeting was March 7.

The SCJA Legislative Committee, chaired by Judge Fleck, has had some success with their bills this session. Legislators are discussing with the SCJA any of their suggestions that save money. They are working on a delayed sentencing bill which they think will work and save counties a significant amount of money.

The SCJA is doing everything they can think of to try to minimize the impact of budget cuts on the pass-through programs. They have no idea if their work will pay off but they are getting in to see legislators and talking with them.

Courts of Limited Jurisdiction: Judge Paja reported that the DMCJA is working with the Washington State Department of Transportation regarding the 520 bridge toll legislation. It is estimated there will be 10,000 violators per day but there is no funding for increased workload at courts.

Association Reports

Superior Court Administrators: Ms. Maxwell stated the Superior Court Administrators are busy planning their spring conference the week of April 27. They are also

continuing to work on budget issues. In Thurston County, they will save the court $10,000 - $15,000 by not holding court on holiday weeks. They will hold bench trials but not jury trials.

Juvenile Court Administrators: Mr. Merringer reported that their membership is struggling with budget cuts across the state. The main legislative issue for the JCAs has been the transfer of money from the JRA to the AOC.

District and Municipal Court Administrators: Mr. McGuire stated the DMCMA has noticed that dues and travel are taking a big hit in their association. Fewer members are paying dues and less are signed up for conferences.

Administrative Office of the Courts

Mr. Ruhl reported that the Interpreter Program recently graduated eight new interpreters.

Mr. Ruhl has been asked to coordinate a team at AOC to find out how they can get some of the economic stimulus funds for courts. The timeline is very short.

The Judicial Information System (JIS) Committee is meeting today at SeaTac. They are discussing how they want to approach a planned feasibility study to replace the JIS system.

Other Business

Judge Churchill reminded the BJA members that her term as Member Co-Chair expires in June and they need to start thinking about who the new Co-Chair will be from the DMCJA. This will be put on action calendar for the April or May meetings.

There being no further business, the meeting was adjourned.

TAB 2

Measure 12 Evaluation
Access for the Self-Represented and/or Financially Disadvantaged

Staff and Committee Assessment, November 2008

Evaluation Criteria	Staff Assessment	Committee Assessment[1]
Criteria for exclusion:		
1. Does the measure duplicate efforts?	No	Concur
2. Is the measure too costly to evaluate?	No	Concur
Criteria for inclusion:		
1. Does the measure address one of the BJA audit areas?	Yes	Concur
2. Is the measure of broad importance to the Washington courts?	Yes	Concur
3. Does the measure include a list of factors that enhance or detract from a court's ability to perform well in the area being measured (risk and protective factors)?	Yes	Concur
4. Does the measure specifically address court level(s) to which it is applied?	Yes	Concur
5. Are the standards reasonable and justifiable?	Yes	Concur
6. Are the standards objectively measurable by the auditor?	Yes	Concur
7. Is the measure's scope relevant and sufficient (timeframe , court level, activity being reviewed)?	Yes	Concur
8. Is the methodology and evidence appropriate (relevant, valid, reliable) and sufficient to convince a knowledgeable person that the conclusions are correct?	Yes	Concur
9. Has the risk of generating incorrect findings been identified and have steps to reduce that risk been identified?	Yes	Concur

[1] Does the Committee "concur," "concur in part" or "reject" the staff assessment?

Measure 12: Access for the Self-Represented and/or Financially Disadvantaged

Description

This measure examines the activities of trial courts to determine whether court services are accessible to the self-represented and/or financially disadvantaged.

Standards

The courts must be open and accessible to all. In order to facilitate this objective, every trial court should meet the following standards (as detailed in the accompanying audit guidelines):

A. Written policies and procedures designed to produce timely access to services for the self-represented and/or financially disadvantaged should be provided to court staff.

B. Referral information regarding legal aid and indigent defense services should be available for the financially disadvantaged and/or self-represented.

C. Pattern forms and instructions should be available to enable the self-represented to participate in legal proceedings.

D. Information on how to obtain waivers of court costs and fees should be available for the financially disadvantaged.

Methodology

The audit guidelines are designed to follow the standards listed above. Each section relates to a standard and provides a list of elements necessary to meet that standard.

The audit guidelines are completed by AOC audit staff during a court visit. The guidelines are used to interview counter or court staff who interact with self-represented and/or financially disadvantaged court users. For some items, additional information in blue text is provided to aid the auditor. The auditor obtains copies of any written policies and procedures related to the list of elements under each standard. Follow-up interviews are conducted with court administration and the presiding judge.

Audit Guidelines

Access for the Self-Represented and/or Financially Disadvantaged

Policies and Procedures for Court Staff

Standard A: Written policies and procedures designed to produce timely access to services for the self-represented and/or financially disadvantaged should be provided to court staff.

Court meets standard if boxes are checked for applicable matters in questions 1 and 2 and marked yes to questions 3 and 4.

1. In certain criminal and non-criminal matters there is a legal right to appointed counsel at public expense.[i] Does the court or the county clerk provide staff with written policies and procedures regarding the appointment of counsel for financially disadvantaged defendants or litigants for the following matters?

   Check all applicable boxes. If the court is not responsible for public defender screening, write N/A next to the adult and juvenile criminal categories. Enter N/A next to any matter for which the court does not have jurisdiction. Ask court or clerk staff for copies of any written policies and procedures.

   ☐ Criminal (Adult) – Pre-Adjudication

   ☐ Juvenile Offender – Pre-Adjudication

   ☐ Civil Commitment (Mental Health and Chemical Dependency)

   ☐ Dependency/Termination of Parental Rights

   ☐ Contempt

   ☐ Sexual Assault Protection Order

   ☐ Other: _____

2. Does the court or the county clerk provide staff with written fee and cost waiver policies and procedures for the following matters?

   Check all applicable boxes. Enter N/A next to proceeding types for which the court does not have jurisdiction. Ask court or clerk staff for copies of any written policies and procedures.

☐ Criminal (Adult)

☐ Juvenile Offender

☐ Civil Commitment (Mental Health and Chemical Dependency)

☐ Dissolution, Legal Separation

☐ Paternity

☐ Custody, Visitation, Support

☐ Dependency/Termination of Parental Rights

☐ Adoption

☐ DV, Sexual Assault, Anti-harassment Protection

☐ Guardianship/Probate

☐ Contempt

☐ Landlord/Tenant

☐ Lower Court Appeal (RALJ)

☐ Civil

☐ Small claims

☐ Other: _____

3. Does the court have staff available to assist the financially disadvantaged with seeking appointed counsel at public expense and applying for fee waivers?

   ☐ Yes ☐ No

   Interview court or clerk staff to determine if anyone is assigned to help court users identify resources that may be available to those who are unable to pay the normal court costs. This may be handled by counter staff. Cost and fee waivers may be handled in court by the judicial officer.

4. Does the court provide staff with written policies regarding the extent of the services court employees may provide to members of the public?[ii] (For example, has the court posted the Model Legal Information Notice?)

   ☐ Yes ☐ No

   Determine if the written policies address what type of assistance court employees are allowed to provide beyond distributing forms and written information. Policies should address the fact that court employees may explain basic procedures but may not offer legal advice.

Referral Information

Standard B: Referral information regarding legal aid and indigent defense services should be available for the financially disadvantaged and/or self-represented.

Court meets standard if boxes are marked yes to questions 1 and 2.

1. Does the court provide information to the financially disadvantaged that explains how to contact a legal aid program or lawyer referral service, or how to request appointed counsel at public expense. Are the materials reasonably accessible?

   ☐ Yes ☐ No

   Describe briefly what is available:

   _____

   _____

   _____

   _____

   _____

2. Does the court provide links to web-based legal services through public access computers, or does the court provide written information about the sites?

   ☐ Yes ☐ No

   Describe briefly what is available:

   _____

   _____

   _____

   _____

   _____

   For example:
   - Forms on the Washington Courts website (courts.wa.gov)
   - Northwest Justice Project website (WashingtonLawHelp.or)
   - Access to Justice Board website (WSBA.org/atj/)
   - Public Legal Education website(LawforWA.org)?
   - Referral to the local law library.

   Prior to the court visit, check with local legal aid providers to determine what information should be available about local resources. If some but not all resources are provided, the court may still meet the standard. The additional information may be used by the court in updating its resources – not as a negative finding in the report.

Procedural Information and Pattern Forms

Standard C: Pattern forms and instructions should be available to enable the self-represented to participate in legal proceedings.

Court meets standard if boxes are checked for applicable matters in columns a)-c) in the table below.

The quality of the forms and instructions themselves will not be evaluated. Simply determine whether the forms and instructions are current and available.

Standard D: Information on how to obtain waivers of court costs and fees should be available for the financially disadvantaged.

Court meets standard if boxes are checked for applicable matters in column d) in the table below.

Check all applicable boxes. Enter N/A next to matters for which the court does not have jurisdiction. Ask court or clerk staff for copies of waiver information.

Matters	a) Information (print or online) about self-representation	b) Forms (print or online)	c) Instructions for forms (print or online)	d) Written fee waiver procedures
Criminal (Adult)	☐	☐	☐	☐
Dissolution, Legal Separation	☐	☐	☐	☐
Paternity	☐	☐	☐	☐
Custody, Visitation, Support	☐	☐	☐	☐
Dependency, Termination	☐	☐	☐	☐
Adoption	☐	☐	☐	☐
DV, Sexual Assault, Anti-Harassment Protection	☐	☐	☐	☐
Guardianship/Probate	☐	☐	☐	☐
Contempt	☐	☐	☐	☐
Landlord/Tenant	☐	☐	☐	☐
Lower Court Appeal (RALJ)	☐	☐	☐	☐
Civil	☐	☐	☐	☐
Small Claims	☐	☐	☐	☐
Other:	☐	☐	☐	☐

Additional Information

No Standard.

This section is designed to identify any additional efforts undertaken by the court in the previous five years to promote access for the self-represented and/or financially disadvantaged.

Describe briefly:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

[i] Litigants currently have constitutional and/or statutory rights to counsel at public expense in certain non-criminal cases including, but not limited to:

- Civil commitments (RCW 71.05.360 (5)(b), RCW 71.05.380, 70.96A.140(9), 70.96B.090(5)(a)).
- Juvenile dependency/termination cases (RCW 13.34.090(2)).
- Contempt cases where there is a risk of jail time being served (although not specified by statute, the contemnor is entitled to appointment of counsel and a jury trial. See King v. Department of Social and Health Service, 110 Wn.2d 793, 756 P.2d 1303 (1988); State v. Boatman, 104 Wn.2d 44, 700 P.2d 1152(1985)).
- Sexual assault protection orders (RCW 7.90.070).
- Cases where appointment of counsel is a necessary and appropriate accommodation under the federal Americans with Disabilities Act and the Washington Law Against Discrimination.

In addition to the references above, the state Constitution and RCW 10.101.020 provide for the right to counsel at public expense for:

- Indigent persons in adult criminal and juvenile offender cases.
- Involuntary commitment actions (for mental health and chemical dependency treatment reasons).
- Juvenile dependency/parental rights termination cases.
- Other matters as provided for by law, including but not limited to sexual assault protection orders.

[ii] Exceptions to the definition of the practice of law:

GR 24 (6) Providing assistance to another to complete a form provided by a court for protection under RCW chapters 10.14 (harassment) or 26.50 (domestic violence prevention) when no fee is charged to do so.

GR 24 (11)(d) General Information: Nothing in this rule shall affect the ability of a person or entity to provide information of a general nature about the law and legal procedures to members of the public.

GR 27 defines the accepted practices of a Family Law Facilitator. GR 27(f) provides: Family law courthouse facilitators providing basic services under this rule are not engaged in the unauthorized practice of law.

Measure 15 Evaluation
Access for Court Users with Disabilities

Staff and Committee Assessment, November 2008

Evaluation Criteria	Staff Assessment	Committee Assessment[1]
Criteria for exclusion:		
1. Does the measure duplicate efforts?	No	Concur
2. Is the measure too costly to evaluate?	No	Concur
Criteria for inclusion:		
1. Does the measure address one of the BJA audit areas?	Yes	Concur
2. Is the measure of broad importance to the Washington courts?	Yes	Concur
3. Does the measure include a list of factors that enhance or detract from a court's ability to perform well in the area being measured (risk and protective factors)?	Yes	Concur
4. Does the measure specifically address court level(s) to which it is applied?	Yes	Concur
5. Are the standards reasonable and justifiable?	Yes	Concur
6. Are the standards objectively measurable by the auditor?	Yes	Concur
7. Is the measure's scope relevant and sufficient (timeframe , court level, activity being reviewed)?	Yes	Concur
8. Is the methodology and evidence appropriate (relevant, valid, reliable) and sufficient to convince a knowledgeable person that the conclusions are correct?	Yes	Concur
9. Has the risk of generating incorrect findings been identified and have steps to reduce that risk been identified?	Yes	Concur

[1] Does the Committee "concur," "concur in part" or "reject" the staff assessment?

Measure 15: Access for Court Users with Disabilities

Description

This measure examines the efforts being made by trial courts to ensure that court services are readily accessible to people with disabilities.

Standards

The intent of the Americans with Disabilities Act (ADA)[2] and Washington Law Against Discrimination (WLAD),[3] is to eliminate discrimination against people with disabilities. Title II of the ADA prohibits discrimination in providing state and local government services. It applies to all judicial programs and court services, and to all participants. Courts must accommodate persons with disabilities unless they can demonstrate that an accommodation would impose an undue hardship.[4] The responsible official for that accommodation in the trial courtroom is the judge.

Every court should meet the following standards (as detailed in the accompanying audit guidelines):

A. Reasonable modifications in policies, practices and procedures must be made to accommodate those with disabilities.[5]

B. The opportunity for effective communications must be ensured.

C. Physical facilities must be accessible.

Methodology

The audit guidelines are designed to follow the standards listed above. Each section relates to a standard and provides a list of elements necessary to meet that standard.

The audit guidelines are completed by AOC audit staff during a court visit. The guidelines are used to interview counter or court staff who interact with court users with disabilities. For some items, additional information in blue text is provided to aid the auditor. The auditor obtains copies of any written policies and procedures related to the list of elements under each standard. Follow-up interviews are conducted with court administration and the presiding judge.

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[2] 42 U.S.C. § 12101 *et seq.* (1990).

[3] Chapter 49.60 RCW (1977, expanded 2007).

[4] Undue hardship means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty or providing a specific accommodation. It refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. 42 U.S.C. § 12112(b)(5)(A) (1994).

[5] "Disability" is defined as the presence of a sensory, mental, or physical impairment that: (i) Is medically cognizable or diagnosable; or (ii) Exists as a record or history; or (iii) Is perceived to exist whether or not it exists in fact... RCW 49.60.040

Audit Guidelines
Access for Court Users with Disabilities

Policies and Procedures

Standard A
Reasonable modifications in policies, practices and procedures must be made to accommodate those with disabilities.

Court meets standard if 'Yes' is checked for questions 1 – 4.

Ask court staff for copies of any policies and procedures.

1. Has the court prominently displayed information on how a court user may request accommodation?

   ☐ Yes ☐ No

   The auditor should be able to easily locate this information.

2. Does the court provide staff with a written procedure on how to process a request for accommodation, including who to contact if the request cannot be accommodated?[6]

   ☐ Yes ☐ No

3. Does the court have written policies and procedures in place describing how to accommodate court users with disabilities?

Sight	☐ Yes	☐ No	Hearing	☐ Yes	☐ No
Deaf/Blind	☐ Yes	☐ No			
Mobility	☐ Yes	☐ No	Cognitive	☐ Yes	☐ No

4. Does the court make training available on how to accommodate court users with disabilities?

For Judicial Officers	☐ Yes	☐ No
For Court Staff	☐ Yes	☐ No

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[6] See General Rule 33, Requests for Accommodation by Persons with Disabilities

Communications

Standard B

The opportunity for effective communications must be ensured.

To provide equal access to its services, a court must ensure that its communications with people with disabilities are as effective as communications with others, and must make available appropriate assistive technology and services where necessary.[7]

Court meets standard if 'Yes' is checked for questions 1 and 2. If assistive technology and services are unavailable due to constraints outside the court's control, the court meets this standard if issues have been raised with the appropriate governing body.

1. Does the court provide staff with an inventory of assistive technology and services available at the courthouse for court users with a hearing or sight impairment?

   ☐ Yes ☐ No

   Assistive technology for people who are deaf or hard of hearing includes but is not limited to sign language interpreters, videophones, real time transcription, TTY, assistive listening equipment, and relay to sign-language interpreters.

   Assistive technology for people who have low vision or are blind includes but is not limited to magnifiers, overhead projectors or computers with enlarged print for viewing documents and other exhibits, providing a reader and/or someone certified to describe materials being shown, allowing a service dog during the trial and jury deliberations, the Braille Juror Guide, and the relocation or removal of barriers to movement.

   Ask court staff for a copy of the inventory.

2. Does the court have a plan in place to obtain assistive technology and services from another court, facility, or organization when necessary?

   ☐ Yes ☐ No

   Briefly describe: _____

   _____

   _____

   _____

[7] 28 C.F.R. § 35.160 to 35.164.

Physical Facilities

Standard C

Physical facilities must be accessible.

The ADA mandates that programs must be readily accessible. The court should ensure a continuous unobstructed route from accessible public transportation and parking through an accessible public entrance into the areas where court services are provided.

Court meets standard if 'Yes' is checked for questions 1 – 4. If access issues are outside the court's control, the court meets this standard if issues have been raised with the appropriate governing body.

1. Is there an unobstructed route into the court facility?

   ☐ Yes ☐ No

2. Is there an accessible restroom for court users and jurors?

   ☐ Yes ☐ No

3. Does each judicial officer have an inventory of obstructions or barriers for his or her courtroom?

   ☐ Yes ☐ No

   Ask the court administrator for a copy of each inventory.

4. Does the court have a plan in place to resolve physical access issues when necessary?

   For example, does the plan provide for the relocation of a trial or other court program activity to another courtroom or to another facility?

   ☐ Yes ☐ No

   Briefly Describe: _____

   _____

   _____

   _____

Additional Information

No Standard.

This section is designed to identify any efforts being undertaken or planned to improve access to courthouse activities for those with disabilities.

Briefly describe:

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Does the court have a designated ADA Coordinator?

_____

Name Title

Measure 16 Evaluation
Access for Court Users with Limited English Proficiency

Staff and Committee Assessment, November 2008

Evaluation Criteria	Staff Assessment	Committee Assessment[1]
Criteria for exclusion:		
1. Does the measure duplicate efforts?	No	Concur
2. Is the measure too costly to evaluate?	No	Concur
Criteria for inclusion:		
1. Does the measure address one of the BJA audit areas?	Yes	Concur
2. Is the measure of broad importance to the Washington courts?	Yes	Concur
3. Does the measure include a list of factors that enhance or detract from a court's ability to perform well in the area being measured (risk and protective factors)?	Yes	Concur
4. Does the measure specifically address court level(s) to which it is applied?	Yes	Concur
5. Are the standards reasonable and justifiable?	Yes	Concur
6. Are the standards objectively measurable by the auditor?	Yes	Concur
7. Is the measure's scope relevant and sufficient (timeframe , court level, activity being reviewed)?	Yes	Concur
8. Is the methodology and evidence appropriate (relevant, valid, reliable) and sufficient to convince a knowledgeable person that the conclusions are correct?	Yes	Concur
9. Has the risk of generating incorrect findings been identified and have steps to reduce that risk been identified?	Yes	Concur

[1] Does the Committee "concur," "concur in part" or "reject" the staff assessment?

Measure 16: Access for Court Users with Limited English Proficiency

Description

This measure examines the efforts being made by trial courts to ensure that court services are accessible to those who do not speak English or have limited English proficiency.

Standards

Every trial court should meet the following standards (as detailed in the accompanying audit guidelines):

A. Policies, practices, and procedures must be in place that will provide a framework for the provision of interpreter services in criminal and civil legal matters for those who do not speak English or have limited English proficiency.

B. Procedures must be in place for periodically evaluating the need for translation of written materials.

C. A process must be in place for training judges and court staff on working with interpreters.

Methodology

The audit guidelines are designed to follow the standards listed above. Each section relates to a standard and provides a list of elements necessary to meet that standard.

The audit guidelines are completed by AOC audit staff during a court visit. The guidelines are used to interview court staff responsible for arranging interpreter services for court users with limited English proficiency. For some items, additional information in blue text is provided to aid the auditor. The auditor obtains copies of the court's language assistance plan and any written policies and procedures related to the list of elements under each standard. Follow-up interviews are conducted with court administration and the presiding judge.

Audit Guidelines
Access for Court Users with Limited English Proficiency

Language Assistance Plan

Standard A
Policies, practices, and procedures must be in place that will provide a framework for the provision of interpreter services in criminal and civil legal matters for those who do not speak English or have limited English proficiency.

Court meets standard if 'Yes' is checked for questions 1 – 4 and the answer to question 5 indicates that the plan has been updated within the last five years.

1. Has the court prominently displayed the multi-lingual poster regarding the right to a court-appointed interpreter?[2]

   ☐ Yes ☐ No

   This poster is produced by AOC. The auditor should be able to easily locate the poster at the courthouse.

2. Does the court have a written language assistance plan?[3]

   ☐ Yes ☐ No

   Ask court staff for a copy.

3. Has the plan been approved by the Interpreter Commission?

   ☐ Yes ☐ No

4. Does the court have a written procedure in place for the ongoing evaluation of the language assistance plan and for monitoring the implementation?

   ☐ Yes ☐ No

   Ask court staff for documentation of the process.

5. When was the language assistance plan last updated? _____
   Date

---

[2] RCW 2.43.090 (1)(c)

[3] RCW 2.43.090 (1)

Translation of Written Materials

Standard B

Procedures must be in place for periodically evaluating the need for translation of written materials. [4]

Court meets standard if 'Yes' is checked for questions 1 – 3.

1. Does the court have a written procedure in place for updating court forms and materials in foreign languages as well as in English?

   ☐ Yes ☐ No

   Ask court or clerk staff for a copy.

2. Has the court designated a staff person to periodically review and identify translation needs?

   ☐ Yes ☐ No

   In superior courts, this may be a staff person in the county clerk's office.

3. Are translated court forms and materials readily accessible to the public?

   ☐ Yes ☐ No

   The auditor should be able to easily locate foreign language materials and forms.

---

[4] RCW 2.43.090 (1)(e)

Training

Standard C

A process for training judges and court staff on working with interpreters must be in place. [5]

Court meets standard if 'Yes' is checked for questions 1 – 5.

1. Does the court make training available to new judicial officers on the requirements of the court's language assistance plan?

   ☐ Yes ☐ No

   Briefly describe:

   _____

   _____

   _____

   _____

2. Does the court make training available to new court staff on the requirements of the court's language assistance plan?

   ☐ Yes ☐ No

   Briefly describe:

   _____

   _____

   _____

   _____

[5] RCW 2.43.090 (1)(f)

3. Does the court make training available to new judicial officers on how to work with interpreters?

☐ Yes ☐ No

Briefly describe:

_____

_____

_____

_____

Training could be offered at Judicial College, at judicial conferences, or by national organizations.

4. Does the court make training available to pro tems on how to work with interpreters?

☐ Yes ☐ No

Briefly describe:

_____

_____

_____

_____

5. Does the court make training available to new court staff on how to work with interpreters?

☐ Yes ☐ No

Briefly describe:

_____

_____

_____

_____

Additional Information

No Standard.

This section is designed to identify any additional efforts or outreach undertaken by the court during the past 5 years to promote equal access for those with limited English proficiency.

Briefly describe:

_____

_____

_____

_____

_____

_____

_____

_____

_____

TAB 3

Dear Justice Johnson:

On January 23, 2009, the Board of Governors of the Washington State Bar Association (WSBA) voted unanimously to recommend that the Washington Supreme Court adopt a comparability provision in the rules governing Washington's Interest on Lawyers Trust Accounts (IOLTA) program. Such a provision would require financial institutions participating in the IOLTA program to pay a rate of interest on pooled trust accounts comparable to the rate paid on similarly sized non-IOLTA products.

In particular, the WSBA recommends that the Supreme Court consider for adoption the following suggested rules and amendments:

- ELC 15.7 (new rule)
- Amendments to RPC 1.15A
- Amendments to ELC 15.4
- Amendments to ELPOC 15.4

These materials, along with a revised GR 9 Cover Memo in support of this proposal, are enclosed herewith. This proposal is intended to replace the suggested rule submitted to the Court by the Legal Foundation of Washington (LFW) in October 2008.

The WSBA and the Legal Foundation of Washington
Worked Together To Develop This Proposal

On October 15, 2008, in accordance with GR 9, the LFW submitted a suggested amendment to RPC 1.15A for consideration by the Supreme Court. Before making this proposal, LFW extensively researched the issue of comparability, including the hiring of a consultant to conduct a feasibility study to determine the effect a comparability rule might have on Washington State's IOLTA program. In addition, LFW consulted with other states as well as with national IOLTA experts from the American Bar Association Commission on IOLTA. This research confirmed that adoption of a comparability rule would result in a significant increase in funding for legal aid in Washington state without disrupting legal professionals' relationships with the financial institutions with which they have worked.

WSBA President Mark Johnson promptly requested that the Rules of Professional Conduct Committee of the WSBA review the proposal and make a recommendation to the Board of Governors. Accordingly, WSBA RPC Committee Chair Art Lachman convened a subcommittee to work with WSBA staff to review LFW's proposal. The subcommittee reviewed the proposal, together with extensive materials reflecting similar adopted rules in other jurisdictions. WSBA staff also met with LFW staff to obtain background information and discuss the comparability approach selected by LFW.

Nature of the Revised Proposal

During this process, the subcommittee and WSBA staff recommended a revised approach to accomplish the same end. The key feature of this alternative is that the technical provisions relating to interest-rate comparability and the LFW's administration of the IOLTA program are located outside of the RPC. Designed to avoid further complicating RPC 1.15A, this approach stemmed from a concern that adding comparability provisions directly to RPC 1.15A would substantially increase the length of that important rule and potentially create confusion for lawyers attempting to understand the nature of the lawyer's basic ethical duties with respect to handling client funds. Instead, the alternative draft placed both the new comparability provisions, together with other existing components relating to IOLTA administration, in a new rule to be added to Title 15 of the Rules for Enforcement of Lawyer Conduct (ELC). This would actually simplify RPC 1.15A, making it clear that in selecting a financial institution a lawyer's obligation is to exercise ordinary prudence and to choose a financial institution on an authorized list maintained by LFW. At the same time, matters relating to IOLTA administration and the role of LFW would be appropriately joined with existing ELC rules governing the IOLTA system. The mechanics of these amendments are further described in the purpose statement of the enclosed GR 9 Cover Memo.

Neither the RPC Committee nor the Board of Governors discussed or took a position on the issue of whether interest comparability should be applied to Limited Practice Officer (LPO) IOLTA accounts. As with the original proposal, the current proposal does not extend comparability requirements to LPOs, but it does include certain conforming amendments to ELPOC 15.4 to remedy an identified conflict between the amended/new rules and existing rules relating to trust account overdraft notification. As indicated in the LFW's original GR 9 Cover Sheet, LFW will work with the Limited Practice Board and other stakeholders to determine whether and when to similarly amend the LPO rules.

Summary and Request for Action

Although LFW's proposal was substantially modified during the RPC Committee's vetting process, LFW worked closely with WSBA through the revision process and participated in the redrafting. LFW agrees with the revisions that were made to its original submission.

WSBA and LFW submit these new and amended rules jointly to the Court for its consideration. Although expedited review is not being requested, given the importance of this proposal to the delivery of legal services for indigent residents of this State, WSBA and LFW ask that the rules be considered by the Court on a schedule that would allow for the rules to become effective no later than September 1, 2009.

Hon. Charles W. Johnson, Chair
Washington Supreme Court Rules Committee
Temple of Justice
415 12th Ave. SW
PO Box 40929
Olympia, WA 98504-0929

Re: Proposed Changes to RPC 1.15 and ELC 15
Requiring Comparable Treatment of IOLTA Accounts

Dear Justice Johnson:

I write in my capacity as Chair of the bipartisan Civil Legal Aid Oversight Committee. At our most recent meeting, we received a presentation from Ms. Caitlin Davis-Carlson, Executive Director of the Legal Foundation of Washington. Ms. Davis-Carlson provided the Oversight Committee with information regarding the current state of IOLTA revenues and the differential treatment accorded IOLTA accounts by many of the financial institutions which hold attorney trust accounts. According to Ms. Carlson, this differential treatment effectively reduces the level of revenues received on such accounts by fifty percent when compared with other similar demand accounts. Ms. Davis-Carlson explained the proposed amendments to the RPC's and ELC's that would require lawyers to maintain attorney trust accounts with financial institutions that pay interest at rates comparable to those paid on similarly situated demand accounts.

Until the recent financial crisis, IOLTA funding was the second largest source of support for civil legal aid in Washington State. IOLTA funding complements state funding of local volunteer attorney programs and six specialized legal aid providers in Washington. It also serves as the principal source of support for organizations that provide civil legal services to clients and on matters not eligible for federal or state support. We are currently experiencing a crisis in IOLTA funding and legal aid delivery capacity in large part due to the combination of historically low interest rates, a stagnant business climate and the inequitable treatment of IOLTA accounts by host financial institutions. The Civil Legal Aid Oversight Committee believes that equitable treatment of these accounts is an idea whose time has come, and therefore unanimously supports the proposed changes to RPC 1.15 and ELC 15.

Sincerely,

CIVIL LEGAL AID OVERSIGHT COMMITTEE

Judge Lesley Allan
Chair

C: Nicholas Gellert, Chair
Legal Foundation of Washington Board of Trustees

Caitlin Davis-Carlson, Executive Director
Legal Foundation of Washington

Mark Johnson, President
Washington State Bar Association

Paula Littlewood, Executive Director
Washington State Bar Association

GR 9 COVER SHEET

Suggested Amendments to

the RULES OF PROFESSIONAL CONDUCT (RPC)
RPC 1.15A
and
the RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)
ELC 15.4, ELC 15.7 (new rule), and Title 15 caption,
and
the RULES FOR ENFORCEMENT OF LIMITED PRACTICE OFFICER CONDUCT (ELPOC)
ELPOC 15.4

(A) Identity of the Proponent

The Legal Foundation of Washington

(B) Spokesperson:

Nicholas P. Gellert, President
Legal Foundation of Washington
1325 Fourth Avenue – Ste 1335
Seattle, WA 98101-2509
(206) 359-8000
ngellert@perkinscoie.com

Caitlin Davis Carlson, Executive Director
(206) 957-6288
caitlindc@legalfoundation.org

(C) Purpose of the Suggested Amendment:

The Legal Foundation of Washington suggests an amendment to RPC 1.15A, together with adoption of a new rule, ELC 15.7, and related amendments to ELC 15.4 and ELPOC 15.4 and the caption of ELC Title 15. The purpose of this proposal is to require attorneys to establish and maintain IOLTA accounts only with financial institutions that pay IOLTA accounts the highest rates generally paid to other, similarly-situated customers at that financial institution. This proposal is consistent with a national trend requiring equitable treatment of IOLTA accounts with other similar depository instruments. As of the time of

the filing of this Petition, twenty states and Washington, DC have amended their IOLTA rules to contain a comparability requirement similar to the rule amendment suggested here.

Interests of the Proponent

The Legal Foundation of Washington (LFW) is a not-for-profit 501(c)(3) corporation established by the Supreme Court in 1984 to collect and distribute interest on IOLTA accounts pursuant to DR 9-102 (recodified as RPC 1.15A). *In re Adoption of an IOLTA Program*, 102 Wn.2d 1101, 1115 (1984). Since 1985, LFW has received interest income from attorneys' pooled trust accounts. These funds have been used to support the delivery of civil legal aid services to low income people in Washington State.

In addition to its authority and responsibility to collect, administer and disburse IOLTA funds, LFW is also authorized to work to expand funding for civil legal aid services under its Supreme Court-approved charter. ARTICLES OF INCOPORATION OF THE LEGAL FOUNDATION OF WASHINGTON, Article IV. In recent years, LFW has actively exercised this authority by managing the Washington State Equal Justice Coalition (EJC), which educates public and governmental leaders about efforts to expand funding for civil legal aid. LFW also serves as the administrative host for the Legal Aid for Washington (LAW) Fund and the Campaign for Equal Justice, as well as the Endowment for Equal Justice, which are statewide efforts dedicated to increasing private, charitable support for civil legal aid. In 2005, LFW and the Washington Supreme Court's Access to Justice Board (ATJ Board) requested the Supreme Court amend Court Rule 23 to direct 25% of residuals from class action law suits in state court to LFW. The Court approved this rule amendment and this has generated some incremental additional funding for civil legal aid.

The grants made by LFW are the primary source of discretionary funding to the more than 30 legal aid programs that make up Washington State's Alliance for Equal Justice. In making decisions about how to allocate the resources available to it, LFW is guided by the ATJ Board's *Hallmarks of an Effective Legal Services Delivery System* (2004)[1] and *State Plan for the Delivery of Civil legal Services to Low Income People in Washington State*

[1] http://www.wsba.org/atj/documents/hallmark.htm

(revised May 2006)[2]. Over the past five years, LFW's grant making decisions have also been guided by the *Civil Legal Needs Study* published by the Supreme Court's Task Force on Civil Equal Justice Funding (October 2003).[3]

The degree to which low income people who experience civil legal problems are forced to face the justice system without any help is staggering. The *Civil Legal Needs Study* documents that:

- Eighty-seven percent (87%) of low-income households in our state experience a civil legal problem each year. Almost 9 out of 10 face their legal problems without any assistance.
- Low-income women and children experience a disproportionate number of unmet civil legal needs. Domestic violence victims experience the greatest number of civil legal problems.
- The most common civil legal needs are in areas involving basic human needs such as housing, personal safety and security and public safety. Many legal needs experienced by persons with disabilities and members of minority groups also involve concerns about differential treatment and discrimination.
- Legal assistance is the key to securing effective outcomes. Nearly two-thirds of those who secure legal assistance feel that they obtain a fair resolution to their legal problems, while only one-quarter of those who do not secure legal assistance are satisfied with the outcome of their problem.
- The lack of adequate legal assistance for those who are poor or vulnerable erodes public confidence in the fairness of the state's civil justice system. Nearly three-quarters of those who do not secure legal assistance have negative attitudes toward the civil justice system.

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[2] http://www.wsba.org/lawyers/groups/probono/2006stateplan.pdf
[3] http://www.courts.wa.gov/newsinfo/content/taskforce/CivilLegalNeeds.pdf

The Need and Rationale for a Rule Requiring Equitable Treatment of IOLTA Deposits

A. There Are Current Economic Pressures on Civil Legal Aid Funding

Washington State's civil legal aid system faces an immediate threat of significant proportions. Funding comes from three principal sources: The Federal Legal Services Corporation, the State of Washington through its Office of Civil Legal Aid, and the Legal Foundation of Washington.

Federal funding from the Legal Services Corporation has been flat for five years and is unlikely to see appreciable increases in the coming years. Despite significant gains at the state legislative level in recent years, current and prospective budget constraints present sobering obstacles to the Office of Civil Legal Aid's efforts to close the Justice Gap chronicled in the *Civil Legal Needs Study* and the Task Force on Civil Equal Justice Funding's *Final Report.*

IOLTA income is inherently sensitive to two principal factors – (a) the level of overall business activity which drives the number of legal transactions and correspondingly the overall level of money held in IOLTA accounts; and (b) interest rates. A significant decline in Washington State-based business activity (including, but not limited to, the level of real estate activity) has resulted in substantial reductions in average daily balances of IOLTA accounts. Similarly, interest rates have plunged in the past year, which has resulted in decreased IOLTA revenue available for civil legal aid.

B. There Is Unfair Treatment of IOLTA Accounts

Even in better times, IOLTA revenues are lagging behind where they should be.
The problem is that approved depository institutions historically have not paid market rates on IOLTA accounts. The rates paid on IOLTA accounts fall substantially below those of other similarly situated accounts.

Previously, only NOW accounts (interest-bearing checking accounts) were used for the deposit of IOLTA funds. In today's banking landscape, this creates disparities because even IOLTA accounts which, as pooled accounts, regularly carry very large balances receive only basic checking (NOW) account interest rates from virtually every IOLTA depository. In Washington State, many banks routinely pay one tenth of one percent interest (.10%), while at the same time paying 75% of the target Federal Funds rate – more than ten times than what is paid on the IOLTA account - on other similarly sized accounts. Some banks have paid higher rates, but only out of their own goodwill. The suggested amendments will make it clear that banks must pay comparable rates on comparable balances to participate in IOLTA.

The current Washington IOLTA rule, RPC 1.15A, simply states:

> "(i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any delay other than notice periods that are required by law or regulation."

In the absence of any requirement to pay more than a minimal level on interest bearing accounts, it is not surprising that financial institutions do not automatically provide return on IOLTA accounts like they do on comparable accounts. Traditional efforts in Washington State have focused on voluntary measures to persuade banks to pay higher rates. However, even with some banks paying acceptable interest rates with respect to the targeted Federal Funds rate, most financial institutions have chosen to maintain IOLTA accounts at substantially lower rates. The money that IOLTA funds have failed to earn is an "opportunity cost" that directly results in fewer civil legal aid services to vulnerable and low income people in Washington State.

LFW requests that the Supreme Court require that attorneys establish and maintain IOLTA accounts in otherwise qualifying depository institutions that treat IOLTA accounts on an equal footing with other similarly situated accounts.

What Does Comparability Mean?

The proposed comparability rule would require lawyers to maintain IOLTA accounts at eligible financial institutions that treat pooled interest trust accounts on an equal footing with other similarly-sized demand accounts – *i.e.*, comparability of treatment. The suggested amendment offers financial institutions that maintain IOLTA accounts five different instruments with which to structure IOLTA accounts and meet the terms of comparability. It also gives financial institutions the option of how to meet the comparable rate requirements: by establishing the IOLTA account as the comparable higher rate product; by instead paying that rate on the existing IOLTA account; or by paying a "benchmark" percentage named in the rule. The rule also authorizes LFW to determine which institutions are successfully meeting the requirements of comparability. Finally, the suggested rule sets forth significant safety standards to ensure that pooled client funds are adequately protected.

The proponent has not drafted a proposed rule amendment that includes comparability for IOLTA accounts of Limited Practice Officers (LPOs), who are given a limited license to practice law in real estate closings. Instead, the proponents intend to work with the Limited Practice Board and other interested entities or persons to determine whether and when it is appropriate to similarly amend the LPO rules.

Other States' Experiences with Comparability Rules

Twenty one jurisdictions have added comparability requirements to their IOLTA rule.[4] States that have adopted comparability amendments to their IOLTA rules generally experience revenue increases of between 50% and 100%.

To date, not one financial institution has dropped participation in the IOLTA program due to comparability rules in any of the states that have implemented an IOLTA comparability

[4] The jurisdictions include that have adopted and implemented comparability rules are Florida, Connecticut, Michigan, Ohio, Illinois, Massachusetts, New York, California, New Jersey, Maryland, New Mexico, Utah, Missouri, Pennsylvania, Texas, Washington, DC, Hawaii, Alabama, Arizona, Minnesota, and Maine.

rule. Indeed, IOLTA program administrators generally report that IOLTA comparability rules have not disrupted relationships between law firms and financial institutions. Virtually all banks have opted to pay the comparable rate on the existing IOLTA account rather than require that the higher rate product be established as the IOLTA account. That means that after banks work with the IOLTA program on implementing this, lawyers have not had to take any action to effect the new rates paid on qualified IOLTA balances. Even when banks pay comparable rates, IOLTA accounts remain profitable for the banks. Banks are only paying what they already pay to other depositors. While some banks offered initial resistance to the implementation of comparability rules, none have stopped offering IOLTA accounts and indeed, many banks have embraced the comparability rule concept with enthusiasm.

The Mechanics of Implementing Comparability – How the Rules Will Change

The key change recommended in order to implement comparability is the adoption of a new Rule for Enforcement of Lawyer Conduct (ELC) to become part of ELC Title 15 (Audits and Trust Account Overdraft Notification). If these changes are adopted, it is further suggested that Title 15 be re-named "IOLTA, Audits, and Trust Account Overdraft Notification."

New ELC 15.7, in paragraph (a), defines and describes the LFW and specifies its duty to maintain a list of authorized financial institutions and prepare and annual report for the Supreme Court. Most of these provisions at present are found in RPC 1.15A and are relocated to ELC 15.7. Paragraph (b), a definitions section, defines a number of financial concepts relevant the types of IOLTA accounts that may established. Paragraph (c) sets forth the requirements that a financial institution must adhere to in order for the LFW to list the financial institution as authorized for lawyers to use for IOLTA accounts. Paragraph (d) states fundamental requirements for all trust accounts (both IOLTA accounts and non-IOLTA trust accounts). Paragraph (e) establishes the requirements that IOLTA accounts must pay comparable rates of interest and remit that interest to the LFW. It also

defines the types of account fees and service that may be charged on IOLTA accounts. In addition, paragraph (e) sets forth the forms of IOLTA accounts that may be used.

The suggested amendments to RPC 1.15A are primarily designed to shift provisions relating to the function of LFW, the nature of authorized financial institutions, the requirements for financial institutions to become authorized, the system for remittance of interest to LFW, and the like, to new ELC 15.7. Thus, the focus of RPC 1.15A (with respect to funds) will be on the lawyer's obligation to hold client funds in a trust account, to choose the proper type of trust account under the circumstances, and to choose a financial institution that is on the LFW's "authorized" list. The text of amended RPC 1.15A references the provisions in ELC 15.7, making it clear that in selecting a financial institution a lawyer's obligation is to exercise ordinary prudence and to choose a financial institution on the authorized list. Newly drafted comments [18] – [20] further explain the relationship between the RPC 1.15A and ELC Title 15. These amendments will achieve a beneficial simplification of RPC 1.15A. Apart from the deletion of several provisions to be located in ELC 15.7 and the addition of references to ELC 15.4 and 15.7, the only significant change to the text of RPC 1.15A specifies that LFW determines which financial institutions may be selected by a lawyer when depositing funds into a trust account. One word ("transaction") has been added to paragraph (a) to correct a clerical error that has existed since the adoption of RPC 1.15A in 2006.

Finally, amendments to ELC 15.4 and ELPOC 15.4 shift responsibility for receipt and administration of trust account notification agreements from the WSBA Disciplinary Board to the LFW. Currently, administrative functions related to the IOLTA program are being performed by both the LFW and the WSBA. In light of the other changes being recommended, it is appropriate, in order to avoid duplication of effort and potential confusion, for the LFW to maintain a master list of all authorized financial institutions. The financial institutions will still be required to file overdraft notification agreements (though they would now be filed with the LFW rather than the Disciplinary Board) and to report trust account overdrafts to the WSBA, but the LFW would manage all of the clerical

and administrative aspects of this process. This change will improve the administration of the IOLTA program with no perceptible drawbacks.

(D) Public Hearing

The proponent does not request a public hearing.

(E) Expedited Consideration

Although the current civil legal aid funding situation is grave, LFW is not asking for expedited consideration of this proposal. However, LFW recognizes that because the proposed amendments were not published in January 2009, these rules are not at present on schedule for publication, comment, and adoption in accordance with the timelines set forth in GR 9(i). Given the importance of this proposal to the delivery of legal services for indigent residents of this State, LFW asks that this proposal be considered by the Court on a schedule that would allow for the amendments to become effective no later than September 1, 2009.

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

[Caption]

TITLE 15. IOLTA, AUDITS, AND TRUST ACCOUNT OVERDRAFT NOTIFICATION

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

[New Rule]

RULE 15.7. TRUST ACCOUNTS AND THE LEGAL FOUNDATION OF WASHINGTON

(a) Legal Foundation of Washington. The Legal Foundation of Washington (Legal Foundation) was established by Order of the Supreme Court of Washington to administer distribution of Interest on Lawyer's Trust Account (IOLTA) funds to civil legal aid programs.

(1) *Administrative Responsibilities.* The Legal Foundation is responsible for assessing the products and services offered by financial institutions operating in the state of Washington and determining whether such institutions meet the requirements of this rule, ELC 15.4, and ELPOC 15.4. The Legal Foundation must maintain a list of financial institutions authorized to establish client trust accounts and publish the list on a website maintained by the Legal Foundation for public information. The Legal Foundation must provide a copy of the list to any person upon request.

(2) *Annual Report.* The Legal Foundation must prepare an annual report to the Supreme Court of Washington that summarizes the Foundation's income, grants and operating expenses, implementation of its corporate purposes, and any problems arising in the administration of the IOLTA program.

(b) Definitions. The following definitions apply to this rule:

(1) *United States Government Securities.* United States Government Securities are defined as direct obligations of the United States Government, or obligations issued or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof, including United States Government-Sponsored Enterprises.

(2) *Daily Financial Institution Repurchase Agreement.* A daily financial institution repurchase agreement must be fully collateralized by United States Government Securities and may be established only with an authorized financial institution that is deemed to be "well capitalized" under applicable regulations of the Federal Deposit Insurance Corporation and the National Credit Union Association.

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

[New Rule]

RULE 15.7. TRUST ACCOUNTS AND THE LEGAL FOUNDATION OF WASHINGTON

(3) *Money Market Funds.* A money market fund is an investment company registered under the Investment Company Act of 1940, as amended, that is regulated as a money market funder under Rules and Regulations adopted by the Securities and Exchange Commission pursuant to said Act, and at the time of the investment, has total assets of at least five hundred million dollars ($500,000,000). A money market fund must be comprised solely of United States Government Securities or investments fully collateralized by United States Government Securities.

(c) Authorized Financial Institutions. Any bank, savings bank, credit union, savings and loan association, or other financial institution that meets the following criteria is eligible to become an authorized financial institution under this rule:

(1) is insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Administration;

(2) is authorized by law to do business in Washington;

(3) complies with all requirements set forth in section (d) of this rule and in ELC 15.4; and

(4) if offering IOLTA accounts, complies with all requirements set forth in section (e) of this rule.

The Legal Foundation determines whether a financial institution is an authorized financial institution under this section. Upon a determination of compliance with all requirements of this rule and ELC 15.4, the Legal Foundation must list a financial institution as an authorized financial institution under section (a)(1). At any time, the Legal Foundation may request that a listed financial institution establish or certify compliance with the requirements of this rule or ELC 15.4. The Legal Foundation may remove a financial institution from the list of authorized financial institutions upon a determination that the financial institution is not in compliance.

(d) Requirements of All Trust Accounts. All trust accounts established pursuant to RPC 1.15A(i) or LPORPC 1.12A(h) must be insured by the Federal Deposit Insurance Corporation

or the National Credit Union Administration up to the limit established by law for those types of accounts or be backed by United States Government Securities. Trust account funds must not be placed in stocks, bonds, mutual funds that invest in stock or bonds, or similar uninsured investments.

(e) IOLTA Accounts. To qualify for Legal Foundation approval as an authorized financial institution offering IOLTA accounts, in addition to meeting all other requirements set forth in this Rule, a financial institution must comply with the requirements set forth in this section.

(1) *Interest Comparability.* For accounts established pursuant to RPC 1.15A, authorized financial institutions must pay the highest interest rate generally available from the institutions to its non-IOLTA account customers when IOLTA accounts meet or exceed the same minimum balance or other account eligibility qualifications, if any. In determining the highest interest rate generally available to its non-IOLTA customers, authorized financial institutions may consider factors, in addition to the IOLTA account balance, customarily considered by the institution when setting interest rates for its customers, provided that such factors do not discriminate between IOLTA accounts and accounts of non-IOLTA customers and that these factors do not include that the account is an IOLTA account. An authorized financial institution may satisfy these comparability requirements by selecting one of the following options:

(i) Establish the IOLTA account as the comparable interest-paying product; or

(ii) Pay the comparable interest rate on the IOLTA checking account in lieu of actually establishing the comparable interest-paying product; or

(iii) Pay a rate on IOLTA equal to 75% of the Federal Funds Targeted Rate as of the first business day of the month or IOLTA remitting period, or .75%, whichever is higher, and which rate is deemed to be already net of allowable reasonable service charges or fees.

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

[New Rule]

RULE 15.7. TRUST ACCOUNTS AND THE LEGAL FOUNDATION OF WASHINGTON

(2) *Remit Interest to Legal Foundation of Washington.* Authorized financial institutions must remit the interest accruing on all IOLTA accounts, net of reasonable account fees, to the Legal Foundation monthly, on a report form prescribed by the Legal Foundation. At a minimum, the report must show details about the account, including but not limited to the name of the lawyer, law firm, LPO, or Closing Firm for whom the remittance is sent, the rate of interest applied, the amount of service charges deducted, if any, and the balance used to compute the interest. Interest must be calculated on the average monthly balance in the account, or as otherwise computed in accordance with applicable state and federal regulations and the institution's standard accounting practice for non-IOLTA customers. The financial institution must notify each lawyer, law firm, LPO, or Closing Firm of the amount of interest remitted to the Legal Foundation on a monthly basis on the account statement or other written report.

(3) *Reasonable account fees.* Reasonable account fees may only include per deposit charges, per check charges, a fee in lieu of minimum balances, sweep fees, FDIC insurance fees, and a reasonable IOLTA account administration fee. No service charges or fees other than the allowable, reasonable fees may be assessed against the interest or dividends on an IOLTA account. Any service charges or fees other than allowable reasonable fees must be the sole responsibility of, and may be charged to, the lawyer, law firm, LPO, or Closing Firm maintaining the IOLTA account. Fees or charges in excess of the interest or dividends earned on the account must not be deducted from interest or dividends earned on any other account or from the principal.

(4) *Comparable Accounts.* Subject to the requirements set forth in sections (d) and (e), an IOLTA account may be established as:

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

[New Rule]

RULE 15.7. TRUST ACCOUNTS AND THE LEGAL FOUNDATION OF WASHINGTON

(i) A business checking account with an automated investment feature, such as a daily bank repurchase agreement or a money market fund; or

(ii) A checking account paying preferred interest rates, such as a money market or indexed rates; or

(iii) A government interest-bearing checking account such as an account used for municipal deposits; or

(iv) An interest-bearing checking account such as a negotiable order of withdrawal (NOW) account, business checking account with interest; or

(v) Any other suitable interest-bearing product offered by the authorized financial institution to its non-IOLTA customers.

(5) Nothing in this rule precludes an authorized financial institution from paying an interest rate higher than described above or electing to waive any service charges or fees on IOLTA accounts.

RULES OF PROFESSIONAL CONDUCT (RPC)

RULE 1.15A. SAFEGUARDING PROPERTY

(a) This Rule applies to (1) property of clients or third persons in a lawyer's possession in connection with a representation and (2) escrow and other funds held by a lawyer incident to the closing of any real estate or personal property transaction. Additionally, for all transactions in which a lawyer has selected, prepared, or completed legal documents for use in the closing of any real estate or personal property transaction, the lawyer must ensure that all funds received or held by the Closing Firm incidental to the closing of the transaction, including advances for costs and expenses, are held and maintained as set forth in this rule or LPORPC 1.12A. The lawyer's duty to ensure that all funds received or held by the Closing Firm incidental to the closing of the transaction are held and maintained as set forth in this rule or LPORPC 1.12A shall not apply to a lawyer when that lawyer's participation in the matter is incidental to the closing and (i) the lawyer or lawyer's law firm has a preexisting client-lawyer relationship with a buyer or seller in the transaction, and (ii) neither the lawyer nor the lawyer's law firm has an existing client-lawyer relationship with the Closing Firm or an LPO participating in the closing.

(b) A lawyer must not use, convert, borrow or pledge client or third person property for the lawyer's own use.

(c) A lawyer must hold property of clients and third persons separate from the lawyer's own property.

(1) A lawyer must deposit and hold in a trust account funds subject to this Rule pursuant to paragraph (h) of this Rule.

(2) Except as provided in Rule 1.5(f), and subject to the requirements of paragraph (h) of this Rule, a lawyer shall deposit into a trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

(3) A lawyer must identify, label and appropriately safeguard any property of clients or third persons other than funds. The lawyer must keep records of such property that identify the

property, the client or third person, the date of receipt and the location of safekeeping. The lawyer must preserve the records for seven years after return of the property.

(d) A lawyer must promptly notify a client or third person of receipt of the client or third person's property.

(e) A lawyer must promptly provide a written accounting to a client or third person after distribution of property or upon request. A lawyer must provide at least annually a written accounting to a client or third person for whom the lawyer is holding funds.

(f) Except as stated in this Rule, a lawyer must promptly pay or deliver to the client or third person the property which the client or third person is entitled to receive.

(g) If a lawyer possesses property in which two or more persons (one of which may be the lawyer) claim interests, the lawyer must maintain the property in trust until the dispute is resolved. The lawyer must promptly distribute all undisputed portions of the property. The lawyer must take reasonable action to resolve the dispute, including, when appropriate, interpleading the disputed funds.

(h) A lawyer must comply with the following for all trust accounts:

(1) No funds belonging to the lawyer may be deposited or retained in a trust account except as follows:

(i) funds to pay bank charges, but only in an amount reasonably sufficient for that purpose;

(ii) funds belonging in part to a client or third person and in part presently or potentially to the lawyer must be deposited and retained in a trust account, but any portion belonging to the lawyer must be withdrawn at the earliest reasonable time; or

(iii) funds necessary to restore appropriate balances.

(2) A lawyer must keep complete records as required by Rule 1.15B.

(3) A lawyer may withdraw funds when necessary to pay client costs. The lawyer may withdraw earned fees only after giving reasonable notice to the client of the intent to do so, through a billing statement or other document.

(4) Receipts must be deposited intact.

(5) All withdrawals must be made only to a named payee and not to cash. Withdrawals must be made by check or by bank transfer.

(6) Trust account records must be reconciled as often as bank statements are generated or at least quarterly. The lawyer must reconcile the check register balance to the bank statement balance and reconcile the check register balance to the combined total of all client ledger records required by Rule 1.15B(a)(2).

(7) A lawyer must not disburse funds from a trust account until deposits have cleared the banking process and been collected, unless the lawyer and the bank have a written agreement by which the lawyer personally guarantees all disbursements from the account without recourse to the trust account.

(8) Disbursements on behalf of a client or third person may not exceed the funds of that person on deposit. The funds of a client or third person must not be used on behalf of anyone else.

(9) Only a lawyer admitted to practice law may be an authorized signatory on the account.

(i) Trust accounts must be interest-bearing and allow withdrawals or transfers without any delay other than notice periods that are required by law or regulation and meet the requirements of ELC 15.7(d) and ELC 15.7(e). In the exercise of ordinary prudence, a lawyer may select any financial institution authorized by the Legal Foundation of Washington (Legal Foundation) under ELC 15.7(c)~~bank, savings bank, credit union or savings and loan association that is insured by the Federal Deposit Insurance Corporation or~~

~~National Credit Union Administration, is authorized by law to do business in Washington and has filed the agreement required by ELC 15.4. Trust account funds must not be placed in mutual funds, stocks, bonds, or similar investments~~. In selecting the type of trust account for the purpose of depositing and holding funds subject to this Rule, a lawyer shall apply the following criteria:

(1) When client or third-person funds will not produce a positive net return to the client or third person because the funds are nominal in amount or expected to be held for a short period of time the funds must be placed in a pooled interest-bearing trust account known as an Interest on Lawyer's Trust Account or IOLTA. ~~The interest accruing on the IOLTA account, net of reasonable check and deposit processing charges which may only include items deposited charge, monthly maintenance fee, per item check charge, and per deposit charge, must be paid to the Legal Foundation of Washington. Any other fees and transaction costs must be paid by the lawyer~~.The interest earned on IOLTA accounts shall be paid to, and the IOLTA program shall be administered by, the Legal Foundation of Washington in accordance with ELC 15.4 and ELC 15.7(e).

(2) Client or third-person funds that will produce a positive net return to the client or third person must be placed in one of the following two types of non-IOLTA trust accounts,~~one of the following~~ unless the client or third person requests that the funds be deposited in an IOLTA account:

(i) a separate interest-bearing trust account for the particular client or third person with earned interest paid to the client or third person; or

(ii) a pooled interest-bearing trust account with sub-accounting that allows for computation of interest earned by each client or third person's funds with the interest paid to the appropriate client or third person.

(3) In determining whether to use the account specified in paragraph (i)(1) or an account specified in paragraph (i)(2), a lawyer must consider only whether the funds will produce a positive net return to the client or third person, as determined by the following factors:

(i) the amount of interest the funds would earn based on the current rate of interest and the expected period of deposit;

(ii) the cost of establishing and administering the account, including the cost of the lawyer's services and the cost of preparing any tax reports required for interest accruing to a client or third person's benefit; and

(iii) the capability of financial institutions to calculate and pay interest to individual clients or third persons if the account in paragraph (i)(2)(ii) is used.

(4) ~~As to IOLTA accounts created under paragraph (i)(1), lawyers or law firms must direct the depository institution:~~

~~(i) to remit interest or dividends, net of charges authorized by paragraph (i)(1), on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, monthly, to the Legal Foundation of Washington;~~

~~(ii) to transmit with each remittance to the Foundation a statement, on a form authorized by the Washington State Bar Association, showing details about the account, including but not limited to the name of the lawyer or law firm for whom the remittance is sent, the rate of interest applied, and the amount of service charges deducted, if any, and the balance used to compute the interest, with a copy of such statement to be transmitted to the depositing lawyer or law firm; and~~

~~(iii) to bill fees and transaction costs not authorized by paragraph (i)(1) to the lawyer or law firm.~~

~~(5)~~ The provisions of paragraph (i) do not relieve a lawyer or law firm from any obligation imposed by these Rules <u>or the Rules for Enforcement of Lawyer Conduct</u>.

~~(j) The Legal Foundation of Washington must prepare an annual report to the Supreme Court of Washington that summarizes the Foundation's income, grants and operating expenses, implementation of its corporate purposes, and any problems arising in the administration of the program established by paragraph (i) of this Rule.~~

Washington Comments

[1] A lawyer must also comply with the recordkeeping rule for trust accounts, Rule 1.15B.

[2] Client funds include, but are not limited to, the following: legal fees and costs that have been paid in advance other than retainers and flat fees complying with the requirements of Rule 1.5(f)), funds received on behalf of a client, funds to be paid by a client to a third party through the lawyer, other funds subject to attorney and other liens, and payments received in excess of amounts billed for fees.

[3] This Rule applies to property held in any fiduciary capacity in connection with a representation, whether as trustee, agent, escrow agent, guardian, personal representative, executor, or otherwise.

[4] The inclusion of ethical obligations to third persons in the handling of trust funds and property is not intended to expand or otherwise affect existing law regarding a Washington lawyer's liability to third parties other than clients. See, e.g., *Trask v. Butler*, 123 Wn.2d 835, 872 P.2d 1080 (1994); *Hetzel v. Parks*, 93 Wn. App. 929, 971 P.2d 115 (1999).

[5] Property covered by this Rule includes original documents affecting legal rights such as wills or deeds.

[6] A lawyer has a duty to take reasonable steps to locate a client or third person for whom the lawyer is holding funds or property. If after taking reasonable steps, the lawyer is still unable to locate the client or third person, the lawyer should treat the funds as unclaimed property under the Uniform Unclaimed Property Act, RCW 63.29.

[7] A lawyer may not use as a trust account an account in which funds are periodically transferred by the ~~bank~~financial institution between a trust account and an uninsured account or other account that would not qualify as a trust account under this Rule or ELC 15.7.

[8] If a lawyer accepts payment of an advanced fee deposit by credit card, the payment must be deposited directly into the trust account. It cannot be deposited into a general account and then transferred to the trust account. Similarly, credit card payments of earned fees, of retainers meeting the requirements of Rule 1.5(f)(1), and of flat fees meetings the requirements of Rule 1.5(f)(2) cannot be deposited into the trust account and then transferred to another account.

[9] Under paragraph (g), the extent of the efforts that a lawyer is obligated to take to resolve a dispute depend on the amount in dispute, the availability of methods for alternative dispute resolution, and the likelihood of informal resolution.

[10] The requirement in paragraph (h)(4) that receipts must be deposited intact means that a lawyer cannot deposit one check or negotiable instrument into two or more accounts at the same time, commonly known as a split deposit.

[11] Paragraph (h)(7) permits Washington lawyers to enter into written agreements with the trust account financial institution to provide for disbursement of trust deposits prior to formal notice of dishonor or collection. In essence the trust account bank is agreeing to or has guaranteed a loan to the lawyer and the client for the amount of the trust deposit pending collection of that deposit from the institution upon which the instrument was written. A Washington lawyer may only enter into such an arrangement if 1) there is a formal written agreement between the attorney and the trust account institution, and 2) the trust account financial institution provides the lawyer with written assurance that in the event of dishonor of the deposited instrument or other difficulty in collecting the deposited funds, the financial institution will not have recourse to the trust account to obtain the funds to reimburse the

financial institution. A lawyer must never use one client's money to pay for withdrawals from the trust account on behalf of another client who is paid subject to the lawyer's guarantee. The trust account financial institution must agree that the institution will not seek to fund the guaranteed withdrawal from the trust account, but will instead look to the lawyer for payment of uncollectible funds. Any such agreement must ensure that the trust account funds or deposits of any other client's or third person's money into the trust account would not be affected by the guarantee.

[12] The Legal Foundation of Washington was established by Order of the Supreme Court of Washington.

[13] A lawyer may, but is not required to, notify the client of the intended use of funds paid to the Foundation.

[14] If the client or third person requests that funds that would be deposited in ~~a separate interest-bearing account~~a non-IOLTA trust account under paragraph (i)(2) instead be held in the IOLTA account, the lawyer should document this request in the lawyer's trust account records and preferably should confirm the request in writing to the client or third person.

[15] A lawyer may not receive from financial institutions earnings credits or any other benefit from the financial institution based on the balance maintained in a trust account.

[16] The term "Closing Firm" as used in this rule has the same definition as in ELPOC 1.3(g).

[17] The lawyer may satisfy the requirement of paragraph (a), that the lawyer must ensure that all funds received or held by the Closing Firm incidental to the closing of the transaction including advances for costs and expenses, are held and maintained as set forth in this rule or LPORPC 1.12A, by obtaining a certification or other reasonable assurance from the Closing Firm that the funds are being held in accordance with RPC 1.15A and/or LPORPC

1.12A. The lawyer is not required to personally inspect the books and records of the Closing Firm.

The last sentence of Paragraph (a) is intended to relieve a lawyer from the duties of paragraph (a) only if the lawyer or the lawyer's law firm has a previous client-lawyer relationship with one of the parties to the transaction and that party is a buyer or seller. Lawyers may be called on by clients to review deeds prepared during the escrow process, or may be asked to prepare special deeds such as personal representative's deeds for use in the closing. A lawyer may also be asked by a client to review documents such as settlement statements or tax affidavits that have been prepared for the closing. Such activities are limited in scope and are only incidental to the closing. The exception stated in the last sentence of paragraph (a) does not apply if the lawyer or the lawyer's law firm has an existing client-lawyer relationship with the Closing Firm or with a limited practice officer who is participating in the closing.

[18] When selecting a financial institution for purposes of depositing and holding funds in a trust account, a lawyer is obligated to exercise ordinary prudence under paragraph (i). All trust accounts must be insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration up to the limit established by law for those types of accounts or be backed by United States Government Securities. Trust account funds must not be placed in stocks, bonds, mutual funds that invest in stock or bonds, or similar uninsured investments. See ELC 15.7(d).

[19] Only those financial institutions authorized by the Legal Foundation of Washington (Legal Foundation) are eligible to offer trust accounts to Washington lawyers. To become authorized, the financial institution must satisfy the Legal Foundation that it qualifies as an authorized financial institution under ELC 15.7(c) and must have on file with the Legal Foundation a current Overdraft Notification Agreement under ELC 15.4. A list of all authorized

financial institutions is maintained and published by the Legal Foundation and is available to any person on request.

[20] Upon receipt of a notification of a trust account overdraft, a lawyer must comply with the duties set forth in ELC 15.4(d) (lawyer must promptly notify the Office of Disciplinary Counsel of the Washington State Bar Association and include a full explanation of the cause of the overdraft).

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

RULE 15.4. TRUST ACCOUNT OVERDRAFT NOTIFICATION

(a) Overdraft Notification Agreement Required. To be authorized as a depository for lawyer trust accounts referred to in RPC 1.15A(i) or LPO trust accounts referred to in LPO RPC 1.12A(i), a~~Every~~ financial institution, bank, credit union, savings bank, or savings and loan association ~~referred to in RPC 1.15A(i) and LPO RPC 1.12A(i)~~ must~~will be approved as a depository for lawyer trust accounts and LPO trust accounts if it~~ files with the Legal Foundation of Washington~~Disciplinary Board~~ an agreement, in a form provided by the Washington State Bar Association~~Board~~, to report to the Washington State Bar Association~~Board~~ if any properly payable instrument is presented against a lawyer, LPO or closing firm trust account containing insufficient funds, whether or not the instrument is honored. The agreement must apply to all branches of the financial institution and cannot be canceled except on 30 days' notice in writing to the Legal Foundation of Washington~~Board~~. The Legal Foundation of Washington must provide copies of signed agreements and notices of cancellation to the Washington State Bar Association~~Board annually publishes a list of approved financial institutions~~.

(b) Overdraft Reports.

(1) The overdraft notification agreement must provide that all reports made by the financial institution must contain the following information:

(A) the identity of the financial institution;

(B) the identity of the (1) the lawyer or law firm, or (2) the limited practice officer or closing firm;

(C) the account number; and

(D) either:

(i) the amount of overdraft and date created; or

(ii) the amount of the returned instrument(s) and the date returned.

(2) The financial institution must provide the information required by the notification agreement within five banking days of the date the item(s) was paid or returned unpaid.

RULES FOR ENFORCEMENT OF LAWYER CONDUCT (ELC)

RULE 15.4. TRUST ACCOUNT OVERDRAFT NOTIFICATION

(c) Costs. Nothing in these rules precludes a financial institution from charging a particular lawyer or law firm for the reasonable cost of producing the reports and records required by this rule, but those charges may not be a transaction cost charged against funds payable to the Legal Foundation of Washington under RPC 1.15A(i)(1) and ELC 15.7(e).

(d) Notification by Lawyer. Every lawyer who receives notification that any instrument presented against his or her trust account was presented against insufficient funds, whether or not the instrument was honored, must promptly notify the Office of Disciplinary Counsel of the Association of the information required by section (b). The lawyer must include a full explanation of the cause of the overdraft.

RULES FOR ENFORCEMENT OF LIMITED PRACTICE OFFICER CONDUCT (ELPOC)

RULE 15.4. TRUST ACCOUNT OVERDRAFT NOTIFICATION

(a) Overdraft Notification Agreement Required. To be authorized as a depository for LPO trust accounts, ~~Every~~a bank, credit union, savings and loan association, or qualified public depository ~~referred to in LPORPC 1.12A(i) will be approved as a depository for LPO trust accounts if it files~~must file with the Legal Foundation of Washington (Legal Foundation)~~Association's Disciplinary Board~~ an agreement as provided for under ELC 15.4(a) and (b). The Legal Foundation ~~Association's Disciplinary Board annually~~ ~~publishes a list of approved~~maintains a list of financial institutions authorized to establish LPO trust accounts and publishes the list on a website maintained by the Legal Foundation for public information.

(b)-(c) [Unchanged.]

TAB 4

Court Security Committee 2009 Report

The Board for Judicial Administration created the Court Security Committee in 2006. At that time, the committee was charged with the following tasks:

- **Review and recommend revisions to Washington's court security guidelines.**
- **Recommend minimum security standards that should be met by all courts.**
- **Create a model protocol for court safety planning.**
- **Investigate funding sources for improving court security.**
- **Analyze funding requirements to meet minimum standards.**
- **Regularly review the security guidelines, local court security measures and evaluate the evolving security risks.**

The charges are, for the most part, on-going and in 2008 the committee:

- **Reviewed and updated Security Guidelines.** An updated Security Guidelines is attached. The updates include:
  - A Security & Safety Quick Reference Checklist tailored for local courts (appendix E)
  - Defining "Incident" more clearly in response to comments about confusion on when to report.
  - Updated the incident report form
- **The 2008 Incident Report Log,** which includes reports through April 2009, is attached.
- **Distribution of a Crisis Communications Plan**. Attached.

Conclusion:

Local court security is probably worse. The current state and local budget situations have not improved court security. As an example, Thurston District court no longer screens visitors because of their budget.

There was hope the federal funding might be available and, although a federal grant for state/local court security was established in early 2008, to date, these funds have not been made available.

WASHINGTON
COURTS

WASHINGTON STATE COURTHOUSE PUBLIC SAFETY STANDARDS

Washington State Courthouse Public Safety Standards

April 2009
Update

By the
Board for Judicial Administration
Court Security Committee

WA State Courthouse Public Safety Standards
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INTRODUCTION

Courts are intended to be peaceful, safe places to resolve disputes. Washington's court facilities typically are. But unfortunately, both locally and nationally, security breaches are occurring more and more regularly. Violence in our courthouses has resulted in lives being lost and injuries suffered by those targeted, as well as others who have just been in the wrong place at the wrong time. People who come to the courts as litigants, jurors, witnesses, attorneys, and staff must feel safe and be safe, if courts are to remain the forum for resolving disputes peacefully. If our courthouses are not safe and secure, access to justice is jeopardized. Because of this reality, the Board for Judicial Administration created a Court Security Committee that first convened in March 2006.

The Board for Judicial Administration (BJA) Court Security Committee prepared the Courthouse Public Safety Standards embodied in this document. The standards update, expand, and replace the Courthouse Public Safety Standards created by the Washington Supreme Court's 1995 Courthouse Security Task Force.

In preparing the Standards, the Committee reviewed standards of other states. The Standards identify basic fundamentals for safe and secure courthouses, beginning with the creation of local court security committees. These Standards require time and commitment from courts and their stakeholders, but are not necessarily dependent on budget expenditures. The Standards also identify best practices, some of which will not be feasible for all courts due to cost and facility configurations. While acknowledging this reality, the Standards are intended to be aspirational for all sizes of courts and for all jurisdictions.

SECTION 1
ADMINISTRATIVE STANDARDS

1.1 Standing Court Security Committee

Each court should have a Security Committee with a membership and charges substantially as outlined. The Security Committee may be jointly operated by the courts within a judicial district pursuant to the provisions of GR 29 (j).

The Security Committee should be responsible for implementing the Washington State Courthouse Public Safety Standards. The Security Committee should prepare and maintain a security manual as well as local court security policies and procedures. The Security Committee should meet regularly and not less than every four months. The Security Committee should be charged with conducting an annual security audit of the court security plans, and the security needs of the facilities and the surrounding areas. Whenever possible, but not less than once every three years, this audit should be conducted by an entity independent of the court and the county or city government with which the court(s) is associated. The results of the security audit should be made available to the county or city executive and legislative authority. Those aspects of the audit that would compromise the safety of persons or court operations should be confidential.

The Security Committee should be chaired by a Presiding Judge or a judge appointed by the Presiding Judge. Other members of the Security Committee should represent or be comprised of, but not limited to, the following:

- At least one additional judge so that the superior and courts of limited jurisdiction are represented.
- Superior Court Clerk.
- Court Security Coordinators (see Standard 1.3) from the superior and courts of limited jurisdiction.
- Juvenile Court Administrator.
- Sheriff's department or any other law enforcement agency that provides security for the courts.
- County executive and/or legislative authority.
- Lead staff for any court security unit.
- Corrections or other department responsible for the transporting of in-custody defendants for court hearings.
- Representatives of each agency housed in the court building and/or those who use the courthouse.
- Members of the Washington State Bar Association.

1.2 Court Security Plan

A written court security plan that addresses the elements listed below should be prepared for each court building and distributed to all court personnel and selected staff of other cooperating entities. A court security plan should contain, at a minimum:

- Policies and procedures that implement the Washington State Courthouse Public Safety Standards.
- Routine security operations, including a physical security plan that addresses features such as security screening for persons entering the court, secure storage of weapons not permitted in the courthouse, parking, landscaping, interior and exterior lighting, interior and exterior doors, intrusion and detection alarms, window security, protocol for building access for first responders, and provision of building floor plans for first responders.
- Security & Safety Quick Reference Checklist tailored for local courts (See Appendix E-Model Checklist.)
- Procedures that address the needs for high risk trials that emphasize security and emergency responses.
- Emergency procedures that address assaults; escapes; bomb threats; hostage situations; civil disturbances; and other situations. Procedures should address situations where facility lock downs or evacuations are necessary.
- Court security officer duties.
- Movement and courtroom security of in-custody defendants.
- Mail handling procedures including threatening or inappropriate correspondence. (see Appendix A)
- Incident reporting procedures.

1.3 Court Security Coordinator

Each court should appoint a Court Security Coordinator.

The Court Security Coordinator should be responsible for recommending ongoing updates to the Court Security Plan, monitoring the implementation of the Plan, training court staff on the Plan, and being a liaison to other organizations to implement and change the Plan.

1.4 Security Training for All Court Employees

All court staff should receive training on the Court Security Plan promptly after becoming a court employee. All court staff should receive annual supplemental training.

1.5 Incident Reporting

Courts should immediately report all security incidents to the local law enforcement agency. Courts should also report all security incidents to the local Court Security Committee and the AOC Security Coordinator using the AOC website: http://inside.courts.wa.gov/index.cfm?fa=cntlCourtResources.showIncidentReportForm (This website requires court employee login.)

- Local policy may also require that incident information be provided to the county or city risk manager.
- "Incident" is defined as a threat to or assault against the court or court community, including court personnel, litigants, attorneys, witnesses, jurors or others using the

courthouse. It also includes any event or threatening situation that disrupts the court or compromises the safety of the court or the court community.

A security incident is not limited to a violation of law, but may include any act or circumstance that may interfere with the administration of justice. Examples include but are not limited to:

- Threats from the public
- Threats from an employee
- Disruptive behavior on court property
- Assaults, robberies, intimidation or threats to the court community either on or away from court property
- Assaults, robberies, intimidation or threats adjacent to the courthouse that affect access to the courthouse
- Work space quarrels between employees leading to acts of violence

SECTION 2
SECURITY POLICIES

2.1 Security Policy Restricting Weapons

Each court should establish a security policy that restricts weapons or other items that pose a security risk in the court facility.

RCW 9.41.300 (see Appendix B) prohibits weapons in courts. The local judicial authority should designate and clearly mark those areas where weapons are prohibited, and should post notices at each entrance to the building, both outside the courthouse and just inside the court entrance in appropriate languages. (A general rule of thumb is that the sign should be readable from 20 feet.)

Notices should also state that individuals and their belongings will be, or are subject to being, searched.

2.2 Screening for Weapons

Weapons screening is an essential part of court security. All courts should screen for weapons at every access point. All persons entering a courthouse should be subject to security screening.

Weapons screening stations should have:

- Adequate room for people to congregate inside, out of the weather, without being so crowded as to present additional security problems.
- A magnetometer, x-ray equipment, and hand-held magnetometers for backup screening.
- A duress alarm to summon additional help if needed.
- Closed circuit television monitoring of the access point.
- Adequate staffing of at least two trained staff to monitor traffic flow and at least one officer with a weapon to observe and respond to emergencies.
- Access to a private area to conduct more thorough searches using same gender personnel.

The court's weapons screening policy should include:

- A list of restricted items.
- A secondary screening policy for people who have not successfully passed through after two tries.
- Storage and disposal of confiscated or unauthorized items.
- Protocol for an appropriate response to attempts made to bring in weapons.
- Protocols for dealing with law enforcement personnel.

2.3 Duress and Intrusion Alarms

The court should have both intrusion and duress alarms. Duress alarms are designed to signal for immediate help. Recommended locations include: judges' benches and/or

staff positions in the courtroom, chambers, cashier stations, probation offices, and any office where staff may meet alone with the public.

Key issues with duress alarms are:

- Staff must be trained in both the locations and use of the alarms.
- The alarm should sound at the court's security station and at the responding law enforcement agency.
- Clear response protocols must be established with responding agencies. The court should accept only a response protocol that includes immediate assistance and no verification or cancellation by telephone.
- An armed officer should be on duty along with other security personnel.

Door alarms should also be placed in all exits from the building. Unsecured doors should be marked, "Emergency exit only; alarm will sound."

Court policy should address:

- The process for activating and deactivating the building alarms.
- Response to building alarms after hours and requirements for notifying court staff.

Intrusion alarms are designed to alert the court to unauthorized entry after hours. The alarms can be of several varieties, including space alarms, vibration alarms, and door contact alarms. The alarm system can be set to produce a loud sound to alert law enforcement and deter entry, or alarms can be silent to alert law enforcement only.

2.4 Testing of Security Equipment

All courts should have a schedule for maintaining and testing security equipment.

Equipment should be properly maintained and tested on a recurring schedule to ensure that it works properly. High cost equipment, such as x-ray, should be included in the counties' or cities' Equipment Repair and Replacement (ERR) accounts.

2.5 Access to Caller ID or Call Trace on Phones

All courts should have access to "Caller ID" or "Call Trace" on their phone systems (see Appendix C).

Caller ID and Call Trace allow courts to identify individuals who call in bomb threats or make other threatening calls to the court. Although Caller ID can be blocked, law enforcement may have access to Call Trace. For Caller ID and Call Trace to work, the local Private Branch Exchange (PBX) must support those functions.

2.6 Use of Force Policy

The Security Committee should encourage the establishment of a courthouse "use of force" policy and be familiar with the terms of that policy.

The Security Committee should coordinate with the Sheriff's department or local law enforcement agency that provides security for the court in developing and understanding these policies.

2.7 Threat Assessment/Response

Any judge or staff that has been threatened should request, and be provided, a threat assessment by local law enforcement (see Appendix D).

SECTION 3
ACCESS CONTROL STANDARDS

3.1 Limited Access - Main Entrance and Exit

Courts should limit access to one main entrance and exit; however, if multiple entrances are used, each entrance should have weapon screening. Everyone entering the court should pass through a screening process.

Courts should make all reasonable efforts to have a separate access for judges and any other person subject to threat, in a particular proceeding. Attorneys, prosecutors, and staff may be accommodated by a separate screening line. These entrances should also be screened.

Limiting access/egress to one area allows better observation and detection, and reduces the cost of weapon screening equipment and staff. If the staff and judiciary use a non-public entrance, provisions should also be made for weapon screening at this entrance.

Entrances without screening should be locked and equipped with an alarm and a sign reading, "Emergency exit only; alarm will sound."

Courts with loading docks should make arrangements with all suppliers to provide necessary identification for drivers and to notify the court before making deliveries. The loading dock area should have personnel and equipment available to screen all incoming materials. All packages, when possible, should be x-rayed (including UPS, Federal Express, and USPS – see Appendix A).

Prisoner transport/access areas should be secured and used for prisoners only.

Multi-use buildings create special problems. Courts should make all reasonable efforts to reach agreements with all entities sharing a building. If the court cannot agree with other tenants and the funding unit, the court needs to clearly define and secure its space. Anyone entering the court area should pass through a single point for observation and screening.

3.2 Employee Identification Cards

All court building employees should wear a visible identification card while in the courthouse or secured areas.

Identification cards allow courts to identify legitimate workers from visitors and others. Employees should wear a picture ID at all times. This ID may also be used as a cardkey for access to offices, etc. The ID should only show the employee's first name.

Courts should require a list of authorized personnel from jails and police or sheriff departments, so security personnel can verify the authenticity of law enforcement badges and staff identification.

3.3 Locking Mechanisms

All locking mechanisms should be as sophisticated as electronic access cards or better.

Strict control of all locking devices should be maintained. The cleaning staff should not have unsupervised access to the court after hours. Keys and keypad locks are too easily compromised. New locking technology provides better security and easier replacement when compromised. The system should be administered by someone directly responsible to the court administrator or presiding judge.

Cardkey or Electronic Access Cards should be given to each employee. This is an individualized card that is programmed to allow access only to identified areas, during specific times. The access card also provides a record of each employee's movement in the building.

SECTION 4

PHYSICAL FACILITY STANDARDS

4.1 Facility and Office Design

Facility and office design should address security issues. Buildings should be designed to be secure and to protect against attack.

New facilities should be designed with three separate zones whenever possible: 1) public zone, 2) private zone for judges and staff, and 3) a secure zone for moving prisoners. These zones should not cross. Additionally, the design of offices, where staff meets regularly with clients or the public, should provide an escape route, either with a second exit or by strategic placement of the office furniture.

Current facilities should identify any areas, such as courtroom judges' benches, staff workstations, jury box, and public counters, which require additional protection. There are various options for adding security protection, such as bullet-resistant material, which fall within broad cost ranges.

Courts should also identify what rooms could be used as "safe rooms" where staff and jurors can go during an incident. The use of safe rooms should be included in initial and refresher staff training.

When necessary, and in all Domestic Violence cases, courts should provide security or an adequate secured area for the physical separation of adverse parties while waiting for trials or appearances.

4.2 Installation of Physical Barriers

All courts should make arrangements to install physical barriers around the court building when necessary to limit the approach of cars and trucks.

Each court should decide, in cooperation with local law enforcement, whether physical barriers are or may be required. Use of barriers can range from temporary, for high risk trials, to permanent structures. Information about where to get barriers and how they will be deployed should be part of a court security plan.

4.3 Secure Parking

All courts should have secured parking for any judge, staff, juror or party who has been or feels threatened.

Security incidents can occur in parking areas before the victim even reaches the courthouse. Judges and staff, who are vulnerable to attack simply by virtue of their positions, need secure parking. Jurors and threatened witnesses also need secure parking if they are to fulfill their roles in the justice system. However, jurors and witnesses should not park in the judge/staff parking area. Parking areas should be well

lighted with appropriate landscaping to prevent possible incidences. An escort to the parking area should be provided for any judge, staff, juror or party that has been or feels threatened.

Ideally, parking would be in a fenced area, with vehicle and pedestrian access limited by a gate, controlled by a cardkey or other access control device. Judges and/or staff should have direct access to secured corridors or elevators from the parking area. As an alternative, the court may reserve parking spaces for staff and provide patrols and monitoring. Judicial parking should be in reserved spots adjacent to the building. Signs reserving parking should in no way indicate who is parking in the space.

4.4 Holding Areas

All courts should have a secure, temporary holding area for prisoners.

Courts need secure holding areas where prisoners can be locked up and isolated while waiting to appear in court or be returned to jail. Holding areas should:

- Be constructed to lessen the possibility of self-inflicted injury.
- Be inspected daily for contraband.
- Include doors that allow for easy observation.
- Include toilet facilities.
- Be frequently checked by staff or law enforcement.
- Have CCTV monitoring, if possible.
- Have a self-contained breathing apparatus.

Courts should work with their local law enforcement to develop emergency procedures for prisoner control and evacuation.

4.5 Building Controls

All building controls (power, phone, environmental, computer, etc.) in court facilities should be secured, with access restricted to authorized personnel.

In order to avoid tampering and sabotage, access to controls for heating, air-conditioning, ventilation, etc., should be limited to authorized staff. Areas or rooms containing electrical or computer controls or maintenance equipment, should not be accessible by the public and should be secured at all times.

Outside air intake mechanisms should also be secured so they cannot be used as access to the building or as a conduit for biochemical attack.

APPENDICES

APPENDIX A

SECURITY OF THE MAIL

UNITED STATES POSTAL SERVICE

Security of the Mail

Best Practices for Mail Center Security
Incoming and Outgoing Operations
Presented by the United States Postal Inspection Service
There are millions of businesses that use the mail. The vast majority of these have only 'one to a few' person(s) responsible for mail center-type operations. Of these millions of businesses, there are thousands of large, complex corporate mail center operations. The best practices listed below are a summary of well-developed mail center security procedures that can be used by any mail center. **Procedures applicable primarily to large mail centers are identified as such, and *in bold.***

These recommendations come from businesses that use the mail and have been shared with the USPS for distribution to its customers. Since needs and resources are often different, every suggestion may not apply to all businesses. Mailers should determine which are appropriate for their company and conduct periodic security reviews of their operation to identify needed improvements. The list below contains general security concepts and a few specific examples of how to accomplish them.

General Mail Operation preventive measures recommendation:

- Appoint a Mail Security Coordinator (and an alternate if a large mail center).
- Organize a Mail Security Response Team, as practical, depending on the size of the mail center staff.
- Create, update and/or review SOPs, Security Procedures, Disaster Plans, and Operating Plans. **Keep a back-up copy of plan(s) off-site.**
- Train personnel in policies and procedures relative to mail security, i.e. biological, chemical, weapons or natural disasters.
- Include from the staff, when possible, certified firefighters, biohazard handlers, and/or corporate safety, environment and health personnel, or, train personnel in these duties.
- Members of the team should be equipped with cell phones/pagers and should be available up to 24 hours a day, 7 days a week, as is appropriate for the situation.

- Information, and updates, about the personnel and response procedures should be published and distributed company-wide.
- Federal Government Mail Managers should also refer to the General Services Administration (GSA) web site for specific and updated information concerning federal mail management policies and procedures.
- Publish an After-Action Report or Incident Report after every incident.
- Have senior management buy-in/sign-off on company's mail security procedures.

General Safety and Security Procedures for Incoming/Outgoing Mail Areas

- Notify internal and external customers, as appropriate, of steps taken to ensure safety of mail.
- Control or limit access of employees, known visitors and escorted visitors to the mail center with sign-in sheets, badges, and/or card readers. **(For large mail operations, include plant, workroom floor, etc.)**
- Subject to emergency exit safety requirements, lock all outside doors and/or prohibit doors from being propped open.
- Require deliveries to be made in a restricted, defined area.
- Restrict drivers (rest areas) to an area that is separate from the production/mail center facilities.
- Use video cameras inside and outside the facility/docks, as feasible.
- Keep the area for processing incoming and outgoing mail separate from all other operations, as feasible.
- If a separate processing area is used, it should not be part of the central ventilation system.
- Shut-off points of processing area's ventilation system should be mapped and should be part of an emergency procedures handout.
- Separate processing area should include appropriate personnel protection equipment and disposal instructions for such equipment, as approved by the CDC.
- Designate and publish/post evacuation routes for emergency situations.
- Conduct training, emergency preparedness drills, and information update meetings, as necessary.
- **X-ray all incoming mail. (Large mail centers.)**
- Maintain a Suspicious Package Profile.

- Ensure appropriate emergency access numbers are posted by or on every phone. Such numbers should include: call 911; CDC at 770-488-7100; local Postal Inspector; or local police or fire department.
- Maintain updated employee lists (name, address, phone/cell phone), and keep back-up copy off-site.
- Provide only vacuum systems for cleaning equipment, not forced air systems.
- If not already done, alter receiving procedures to require a manifest with all shipments and practice the acceptance of "complete" shipments only.
- Discarded envelopes, packages, boxes should be placed in a covered container and transported to the loading dock for removal. (Ensure local arrangements are in place for disposal of such material.)

Access to Information - Education and Communications

- Maintain a library of publications, videos, brochures, from appropriate information sources, and facilitate employee access to them as needed. Sources should include USPS, CDC, and OSHA.
- Maintain and publish a list of useful websites from appropriate authoritative sources. Bookmark appropriate web sites for easy access, i.e. CDC, OSHA, USPS, and GSA. Monitoring twice a day is a minimum recommendation, as situations warrant.
- Maintain and publish list of phone numbers to call in an emergency - Postal Inspectors, Fire Dept., CDC, OSHA, Police, etc.
- Present updated Best Practices from CDC, OSHA, GSA, USPS, and Fire Dept.
- Company-wide communications concerning mail center security procedures should be implemented.
- Require/encourage applicable employees to attend all local meetings pertaining to mail security issues.

Guidelines for Mail Center Theft Prevention

Mail is sometimes lost or stolen from company mail centers, or while en route to or from the Post Office. Much of this mail is quite valuable, containing cash, jewelry, and other high-value items. Needless to say, such losses are costly to the company and its investors. The following are some suggestions for improving theft prevention in your mail center operation:

- Know your employees. Don't put your new hires in your mail center without a criminal record check.
- Secure your mail center. Prevent access by unauthorized persons. Keep locked whenever possible, especially when no one is on duty. Maintain a sign-in sheet for

persons entering and leaving the mail center, including times of arrival and departure.

- Registered Mail™. Keep separate from other mail. Document transfer of Registered Mail by requiring the receiver to sign for custody.
- Protect company funds. If company funds are handled as part of the mail center operations, establish adequate controls to fix individual responsibility for any losses that may occur.
- Keep postage meters secure. Postage meters should be secured when not in use. Check mails periodically to determine if employees are using company postage meters for their personal mail.
- Vary times and lines of travel between post office and plant. If currency or other valuable mail is sent or received, check periodically to see if mail messengers are making unauthorized stops, or leaving mail unattended in unlocked vehicles.

Employees caught stealing should be prosecuted. There is no greater deterrent to a potential thief than the fear that he/she may go to jail. The Postal Inspection Service will extend its full cooperation.

Employee Security Procedures

- Maintain good hiring practices.
  - Provide in-depth screening/background checks when hiring new employees.
  - Make arrangements with one or two temporary employment agencies to ensure that a restricted, pre-screened group of individuals is available when needed to supplement the workforce.
  - Enforce/institute probationary period for evaluation of employees.
- Establish a strict employee identification/personnel security program.
  - Require employees to wear photo ID badges at all times.
  - Instruct employees to challenge any unknown person in a facility.
  - Where provided to employees, utilize uniforms with names and logos stitched on them for employees to wear at work.
  - Provide a separate and secure area for personal items (e.g., coats and purses). Prohibit employees from taking personal items into the main workspace.
  - Establish incoming/outgoing personal mail procedures.
  - **Hire or designate security personnel for mail center area. (Primarily for large mail centers.)**
- Establish health safety procedures.
  - **Have on-site medical personnel (large mail center) or arrange for off-site facility/personnel**
  - Encourage employees to wash hands regularly, especially prior to eating.

- Encourage employees to see doctor if suspicious symptoms occur.
- Encourage employee attendance in health seminars, talks, info updates.
- As practical, establish or take advantage of company health programs, i.e. shots, check-ups.
- Provide approved personal protection equipment according to CDC guidelines.

Some Critical Websites - bookmark for quick reference: (include your various suppliers/vendors).

US Postal Service - www.usps.com
Centers for Disease Control (CDC) - www.cdc.gov
Occupational Safety and Health Administration (OSHA) - www.osha.gov
General Services Administration (GSA) - www.gsa.gov
Federal Bureau of Investigation (FBI) - www.fbi.gov
Bureau of Alcohol, Tobacco and Firearms (BATF) - www.atf.treas.gov

The above information was obtained from the US Postal Service website at http://www.usps.com/communications/news/security/bestpractices.htm

APPENDIX B

RCW 9.41.300

Weapons prohibited in certain places—local laws and ordinances—exceptions—penalty.

(1) It is unlawful for any person to enter the following places when he or she knowingly possesses or knowingly has under his or her control a weapon:

(a) The restricted access areas of a jail, or of a law enforcement facility, or any place used for the confinement of a person (i) arrested for, charged with, or convicted of an offense, (ii) held for extradition or as a material witness, or (iii) otherwise confined pursuant to an order of a court, except an order under chapter 13.32A or 13.34 RCW. Restricted access areas do not include common areas of egress or ingress open to the general public;

(b) Those areas in any building which are used in connection with court proceedings, including courtrooms, jury rooms, judge's chambers, offices and areas used to conduct court business, waiting areas, and corridors adjacent to areas used in connection with court proceedings. The restricted areas do not include common areas of ingress and egress to the building that is used in connection with court proceedings, when it is possible to protect court areas without restricting ingress and egress to the building. The restricted areas shall be the minimum necessary to fulfill the objective of this subsection (1)(b).

In addition, the local legislative authority shall provide either a stationary locked box sufficient in size for pistols and key to a weapon owner for weapon storage, or shall designate an official to receive weapons for safekeeping, during the owner's visit to restricted areas of the building. The locked box or designated official shall be located within the same building used in connection with court proceedings. The local legislative authority shall be liable for any negligence causing damage to or loss of a weapon either placed in a locked box or left with an official during the owner's visit to restricted areas of the building.

The local judicial authority shall designate and clearly mark those areas where weapons are prohibited, and shall post notices at each entrance to the building of the prohibition against weapons in the restricted areas;

(c) The restricted access areas of a public mental health facility certified by the department of social and health services for inpatient hospital care and state institutions for the care of the mentally ill, excluding those facilities solely for evaluation and treatment. Restricted access areas do not include common areas of egress and ingress open to the general public;

(d) That portion of an establishment classified by the state liquor control board as off-limits to persons under twenty-one years of age; or

(e) The restricted access areas of a commercial service airport designated in the airport security plan approved by the federal transportation security administration, including passenger screening checkpoints at or beyond the point at which a passenger initiates the screening process. These areas do not include airport drives, general parking areas and walkways, and shops and areas of the terminal that are outside the screening checkpoints and that are normally open to unscreened passengers or visitors to the airport. Any restricted access area shall be clearly indicated by prominent signs indicating that firearms and other weapons are prohibited in the area.

(2) Cities, towns, counties, and other municipalities may enact laws and ordinances:

7(a) Restricting the discharge of firearms in any portion of their respective jurisdictions where there is a reasonable likelihood that humans, domestic animals, or property will be jeopardized. Such laws and ordinances shall not abridge the right of the individual guaranteed by Article I, section 24 of the state Constitution to bear arms in defense of self or others; and

(b) Restricting the possession of firearms in any stadium or convention center, operated by a city, town, county, or other municipality, except that such restrictions shall not apply to:

(i) Any pistol in the possession of a person licensed under RCW 9.41.070 or exempt from the licensing requirement by RCW 9.41.060; or

(ii) Any showing, demonstration, or lecture involving the exhibition of firearms.

(3)(a) Cities, towns, and counties may enact ordinances restricting the areas in their respective jurisdictions in which firearms may be sold, but, except as provided in (b) of this subsection, a business selling firearms may not be treated more restrictively than other businesses located within the same zone. An ordinance requiring the cessation of business within a zone shall not have a shorter grandfather period for businesses selling firearms than for any other businesses within the zone.

(b) Cities, towns, and counties may restrict the location of a business selling firearms to not less than five hundred feet from primary or secondary school grounds, if the business has a storefront, has hours during which it is open for business, and posts advertisements or signs observable to passersby that firearms are available for sale. A business selling firearms that exists as of the date a restriction is enacted under this subsection (3)(b) shall be grandfathered according to existing law.

(4) Violations of local ordinances adopted under subsection (2) of this section must have the same penalty as provided for by state law.

(5) The perimeter of the premises of any specific location covered by subsection (1) of this section shall be posted at reasonable intervals to alert the public as to the existence of any law restricting the possession of firearms on the premises.

(6) Subsection (1) of this section does not apply to:

(a) A person engaged in military activities sponsored by the federal or state governments, while engaged in official duties;

(b) Law enforcement personnel, except that subsection (1)(b) of this section does apply to a law enforcement officer who is present at a courthouse building as a party to an action under chapter 10.14, 10.99, or 26.50 RCW, or an action under Title 26 RCW where any party has alleged the existence of domestic violence as defined in RCW 26.50.010; or

(c) Security personnel while engaged in official duties.

(7) Subsection (1)(a) of this section does not apply to a person licensed pursuant to RCW 9.41.070 who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises or checks his or her firearm. The person may reclaim the firearms upon leaving but must immediately and directly depart from the place or facility.

(8) Subsection (1)(c) of this section does not apply to any administrator or employee of the facility or to any person who, upon entering the place or facility, directly and promptly proceeds to the administrator of the facility or the administrator's designee and obtains written permission to possess the firearm while on the premises.

(9) Subsection (1)(d) of this section does not apply to the proprietor of the premises or his or her employees while engaged in their employment.

(10) Any person violating subsection (1) of this section is guilty of a gross misdemeanor.

(11) "Weapon" as used in this section means any firearm, explosive as defined in RCW 70.74.010, or instrument or weapon listed in RCW 9.41.250.

[2004 c 116 § 1; 2004 c 16 § 1; 1994 sp.s. c 7 § 429; 1993 c 396 § 1; 1985 c 428 § 2.]

Notes:

Reviser's note: This section was amended by 2004 c 16 § 1 and by 2004 c 116 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Finding—Intent—Severability—1994 sp.s. c7: See notes following RCW 43.70.540.

Effective date—1994 sp.s. c7 §§ 401-410, 413-416, 418-437, and 439-460: See note following RCW 9.41.010.

Severability—1985 c 428: See note following RCW 9.41.290.

APPENDIX C

CALL TRACE PROCEDURES

Contact your local telephone service provider and the local agency that provides telephone services to your county or city for information on Caller ID and Call Trace features. Some local Private Branch Exchange (PBX) systems may not support this service.

(Information was obtained from Qwest)

CALL TRACE

With Call Trace, you can receive assistance from your local phone company or police department if you receive harassing or threatening phone calls. This service is available to most customers on a pay per use basis.

To Use Call Trace

- Lift the receiver and press *57 (or dial 1157 on a rotary phone) immediately after hanging up from the call.
- Follow the recorded instructions to take appropriate action.
- The telephone number of the caller will be recorded by the phone company. Deterrent action can be taken by local law enforcement agencies after one threatening call or your phone company after three harassing calls from an identified number.
- You will not be given the name or the telephone number of the person who called you. However, law enforcement agencies can be given this information.
- If it is a life threatening situation, contact the police immediately after completing the *57 call, or have someone else call 911 while you complete the call trace procedures.

If you receive a threatening phone call at your home, take the same actions as above and call the local police.

APPENDIX D

THREAT ASSESSMENT/RESPONSE

There are three standard threat assessment methods:

1. The threat assessment should include a determination of the suspect's intent, motive, and ability regarding the threat.

    - How was the threat delivered?
    - Is the suspect known or anonymous?
    - Who is the focus of the communication?
    - What is the immediacy of the threat?
    - What outcome is requested?
    - Is the suspect incarcerated?
    - Is the suspect affiliated with a group?
    - Does the suspect appear to know personal details about his/her target such as home address and family members?

2. *The Dietz 10* should be applied. Park Dietz is a psychiatrist who studied risk to public figures. He identified 10 characteristics common to assassins. He opines that up to three characteristics can be found in any individual. Four to six characteristics is cause for concern and more than seven should cause grave concern.

3. JACA - is an acronym for a method used by the U.S. Marshal's Office. It stands for Justification, Alternatives, Consequences, and Ability. This method was developed by Gavin de Becker who developed the software used by the Marshal's Analytical Support Center for threat assessment.

The agency doing the assessment should provide a safety bulletin, as appropriate, to the threatened person, surrounding personnel, and the personnel in charge of screening those who enter the courthouse. The bulletin should include a photo and description of the suspect, if available. Part of the assessment should include an investigation of criminal history, anti-harassment, and protection/no-contact order history, mental health history, access to weapons and firearm records, and other databases available to law enforcement.

NEW SECTION

APPENDIX E – MODEL CHECK LIST

Public Safety & Security Quick Reference Checklist (tailored for the Local Court)

General Public Security Emergency/Disturbance in Courtroom/Staff Area

- ☐ Press Duress alarm, if available.
- ☐ Get judge/jurors and staff out of courtroom/general facility as quickly as possible.
- ☐ Call building security / local law enforcement / 911.
- ☐ Complete an incident report form. Email incident report form to: Courtsecurity@courts.wa.gov, or fax form to (360)586-8869 attn: Court Security.

Remands into custody

- ☐ Before announcing that a defendant will be remanded into custody, contact local law enforcement / building security to determine if an officer is available to take the defendant into custody.

Anticipated Security Risk in Courtroom

- ☐ For major events (i.e., high-profile trial; additional media attention; emotionally charged trial) notify Court Security or local law enforcement prior to hearing date.

Bomb Threats and Personal Threats

- ☐ If you receive a bomb threat by telephone, immediately call law enforcement and security personnel, and put into action any policies your facility may have regarding such an incident.

- ☐ Make sure to record the following information:
  - ➢ Telephone number at which the threat was received
  - ➢ Time of the threat
  - ➢ The words of the caller

- ☐ Ask the following questions:
  - ➢ When will the bomb explode?
  - ➢ Where is the bomb?
  - ➢ What does the bomb look like?
  - ➢ What kind of bomb is it?
  - ➢ Why did you plant the bomb?
  - ➢ Where are you calling from?
  - ➢ What is your name?
  - ➢ What is your address?
  - ➢ What is your telephone number?

- ☐ Make special note of the caller's voice (calm, excited, disguised, accent, etc.); the caller's gender; the caller's age (as indicated by voice); if the caller's voice was familiar; and any background noise during the call.

- ☐ If you receive a personal threat via the telephone, follow the same basic procedures as outlined above for a bomb threat, but make sure to ask what the caller wants and make note of any related threats and inform law enforcement of any reason you suspect the threat was made.

- ☐ If the threat was left on voice mail or email, save the message and contact local law enforcement immediately.

- ☐ Complete an incident report form. Email incident report form to: Courtsecurity@courts.wa.gov, or fax form to (360)586-8869 attn: Court Security.

Suspicious Packages or Mail:

➡ Suspicious characteristics to look for:

- ➢ An unusual or unknown place of origin
- ➢ No return address
- ➢ Excessive postage or excessive tape
- ➢ Oily stains, discoloration or crystallization on wrapper
- ➢ Wires or stings protruding from, or attached to an item
- ➢ Incorrect spelling on label
- ➢ Odd looking or foreign-style handwriting or misspelled or incorrect address or title
- ➢ Different postmark and return address
- ➢ Strange odor (Many explosives smell like shoe polish or almonds.)
- ➢ Unusual package weight
- ➢ Uneven balance or odd shape
- ➢ Springiness in the top, bottom, or sides

NEVER DO THE FOLLOWING:

- ✘ Never cut tape, strings, or wrapping on a suspicious package.
- ✘ Never immerse a suspicious package or letter in water, as either of these actions could cause an explosive device to detonate.
- ✘ Never touch or move a suspicious package or letter.

➡ Actions to Take:

- ➢ Report any suspicious packages or mail to local law enforcement immediately.
- ➢ Complete an incident report form. Email incident report form to: Courtsecurity@courts.wa.gov, or fax form to (360)586-8869, Attn: Court Security.

Building Evacuation:

- ☐ Evacuate immediately unless told to remain where you are for safety reasons.

- ☐ Bailiffs – Take list of juror's names/phone numbers.
- ☐ Supervisors – Take list of employees' names for roll call.
- ☐ Gather at a pre-designated site and check in with Supervisor who will conduct roll call and give further instructions.

Security at Building Entrances:

- ☐ Use only authorized entrances and exits.
- ☐ If your facility utilizes employee identification badges, make sure to always display your badge when entering the facility. Never allow anyone else to use your employee badge, and never use your badge to provide entry to visitors.

Security Inside Buildings:

- ☐ Make sure all doors leading to public areas have secure locking mechanisms.
- ☐ Use an organized key control system to track possession of keys. A key inventory should be conducted semi-annually and, if any keys are missing, locks should be replaced.
- ☐ Maintain a list of emergency contacts for all employees at your facility.
- ☐ If your facility is equipped with alarms, know their location and how to use them.
- ☐ Do not admit unexpected visitors, including repair and delivery people, without checking with your supervisor or security personnel first.
- ☐ Keep security doors locked at all times.
- ☐ Keep sensitive files, valuable items, and valuable personal property under lock and key at all times.
- ☐ Do not leave personal property in locations where it can be stolen or tampered with.
- ☐ Be alert for strange objects and packages in and around your facility. Report any such package or object to law enforcement and/or security personnel immediately.
- ☐ Try to be inconspicuous when using public facilities and transportation. Do not wear clothing that calls attention to your official position. Your mannerisms and conduct should not attract attention.

Building Security Quick Reference

1. **Emergency Telephone Numbers**
   For all emergencies, call 911 (or 9-911 depending on your jurisdiction's telephone system.) Additionally:

   a. For Fire, call _____

   b. For Medical, call _____

   c. For Police, call _____

   d. For Security, call _____

   e. For immediate Security response call _____

2. **Duress alarms**
   Duress alarms are to be used when an immediate need for emergency assistance occurs. Depression of the duress alarm will result in immediate police dispatch to the area in which the duress alarm was activated. After depressing duress alarm, contact Police at _____ to provide details regarding the emergency.

   a. Duress alarm(s) at the public counter Yes _____ No _____

   b. Duress alarm(s) in the courtroom(s) Yes _____ No _____

   c. Duress alarm(s) in chambers Yes _____ No _____

   d. Duress alarm in _____

   e. If you accidentally depress a duress alarm, immediately call Police at _____ to cancel the Police response.

Court Personnel - Home & Personal Security Checklist

Residential Security:

- Arrange for an unlisted home telephone number so your address will not be as readily accessible.
- Check your phone number using google.com, and if your address (and a map) appear you can request that google.com remove it.
- Change or re-key the locks if the keys are ever lost or stolen. Also, remember to change the locks when moving into a previously occupied home.
- Refuse any unordered packages and any unrequested deliveries.
- Post emergency numbers by the phone, i.e. local law enforcement, hospitals, doctors, and the fire department.
- Do not answer your home phone with your name or official title.
- Report all threatening phone calls to local law enforcement.
- Consider using an answering machine to screen your phone calls, and do not include your name or phone number in your answering machine message.
- Do not put your name on the outside of your residence or mailbox.
- Make sure your home is well lit and use security (motion sensing) lighting.
- Control vegetation and landscaping to eliminate hiding places and prevent obstruction of lines of sight. Trim trees at least 6 feet from the ground.
- Consider varying route and travel times to and from work.
- Consider having your local law enforcement or Sheriff conduct a security assessment of you residence.

Identification:

- Do not use personalized plates that identify you by name or official position.
- Do not have your name or title displayed at your office parking place.

Identity Theft Protection:

- Separate personal and professional email accounts; update antivirus software.
- Shred or destroy documents and paperwork with personal information before you discard the documents.
- Never provide personal information on the phone, via mail, or via the internet unless you are dealing with an entity you know and trust.
- Never click on links in unsolicited e-mails, or provide any personal or financial information unless you type in the web address. Make sure you use effective internet security measures that are up to date like anti-virus software, antispyware programs, and a personal firewall. Also, make frequent back-up copies of important data on a removable disk and store it in a safe place.

- Be particularly wary of "phishing" e-mails which may appear to come from your bank or another company with which you do business, and request you click on a link to "verify personal information."
- Make sure passwords and pin numbers are not obvious or easily guessed, and change passwords frequently.
- Do not leave mail in your mailbox overnight or on weekends.
- Put all outgoing mail in a secure U.S. Postal Service collection box.
- Keep all personal information and important documents in a secure location.
- Make sure you include information on all your accounts, including customer service numbers.
- Be alert to signs your identity may have been stolen, such as bills that do not arrive, unexpected account statements or credit cards, denial of credit for no apparent reason, and calls or letters about purchases you did not make.
- Monitor your credit report for suspicious activity. To obtain a free copy of your report go to www.annualcreditreport.com or call 1-877-322-8228.
- Carefully review all financial and account statements for suspicious or unauthorized activity.
- For more information on what to do if your identity is stolen, go to www.ftc.gov/idtheft.

Campaigning Precautions:

- Arrange for security at parades, dinners, and events.
- Take someone along when going door to door.
- Do not use your home address on campaign materials.

COURTROOM SECURITY CHECKLIST

- ☐ Set rendezvous point for courtroom personnel in the event of a building evacuation.
- ☐ Create a safety plan for jurors in the event of an emergency or building evacuation.
- ☐ Establish emergency communications plan for courtroom staff, including contact information.
- ☐ Provide list with contact information for building security, courtroom staff and emergency personnel near telephones.
- ☐ Find a secure place to lock sensitive information.
- ☐ Regularly test duress alarms in the courtroom.
- ☐ Scan for and remove all potential weapons.
- ☐ Regularly check performance of court security cameras.
- ☐ Review visibility of courtroom and chambers at day and at night from the outside.
- ☐ Account for all keys to the courtroom and court office.

INCIDENT REPORT FORM

(ANY form of threat or threatening actions that occur)

SECURITY REQUESTED ON:

Date: _____

Calendar/Location: _____

"Incident" means a threat to or assault against the court or court community, including attorneys, court personnel, litigants, witnesses, jurors or others using the courthouse. It also includes any event or threatening situation that disrupts the court or compromises the safety of the court or the court community.

A security incident is not limited to a violation of law, but may include any act or circumstance that may interfere with the administration of justice. Examples include but are not limited to:

- Threats from the public
- Threats from an employee
- Disruptive behavior on court property
- Assaults, robberies, intimidation or threats to the court community either on or away from court property
- Assaults, robberies, intimidation or threats adjacent to the courthouse that affect access to the courthouse
- Work space quarrels between employees leading to acts of violence

SUMMARY OF INCIDENT

Date & time incident/threat occurred: _____

Location of Incident: _____

If a threat occurred, was the threat made in person, or by letter, email or telephone?

Explain: _____

Your Name & Dept.: _____ Phone: _____

Names of Witnesses and phone numbers, if available:

_____

_____

_____

Describe what you observed happen/contents of any threats made. (If more space is required, use back of form.)

_____

_____

_____

_____

_____

_____

_____

SUMMARY SECURITY/LAW ENFORCEMENT ACTION

Was Court Security or Law Enforcement contacted? ☐ YES ☐ NO

If so, what was the response? (i.e. called back, physically responded) _____

_____

SUMMARY OF INJURIES

Was anyone injured? ☐ YES ☐ NO

If so, what action was taken? _____

SIGNATURE: _____ DATE: _____

E-mail form to: Courtsecurity@courts.wa.gov or Fax to: (360) 586-8869 **Attn: Court Security**

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY	
Reported: 04/07/09 Incident date: 2/06/09	Grant County District Court	Apparently the defendant and mother had an altercation the morning they came to District Court as it was learned later that the Grant County Sheriff had been called to their residence. A defendant came to the front counter to pay a fine with his mother. He grabbed something from his mother and then gave her a small push. He also was using foul language. The clerks warned him to stop or he would have to leave. He then asked where to file an anti-harassment report. As they left the office they got into another altercation ; the GCS office responded; took defendant into custody.	Incident	
Reported: 04/07/09 Incident: 02/04/09	Grant County District Court	Two jurors got into a fist fight in the lobby of the Moses Lake District Court office prior to jury selection. An officer who was present to testify on the case intervened by threatening to use his taser to break up the fight. There was blood on the walls, so maintenance was called to clean it up.	Incident	
Reported: 04/07/09 Incident: 01/16/09	Grant County District Court	Defendant who has made numerous threats in writing against the Judge and the Prosecutor appeared in the courtroom, though he was not scheduled for court. He was carrying a backpack. He sat down in the first row and took off his coat. Before the Deputy could ask him to leave, he put on his coat, picked up his backpack and walked out of the courtroom.	Incident	
3/26/09	King County Superior Court	Upon entering the courtroom from chambers, staff observed a man sleeping in a chair in back of the courtroom. After being asked, "May I help you?" three times he finally awoke. He said that he needed to talk to the judge briefly. After the proper procedures were explained he was getting agitated. He said his attorney said he could talk to the judge and that's what he wanted to do. She again tried to explain proper procedures and told him that if he does have counsel then he needs to call them. She gave him her business card. He kept rubbing his head saying that she didn't understand. He was getting more agitated and upset. She asked him to leave and he began calling her names and talking loud. She informed him that, if he didn't leave she would call security. He just stood there calling her names, but, as she walked towards the phone, he left. After a couple minutes she went to inform the deputy on the 2nd floor where she observed the individual standing. He and another deputy talked with the individual. Later she was told that he had a problem with the DOC on a DV matter and that if he comes back to push the panic button.	Incident	

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY	
4/1/2009	Spokane County Superior Court	Plaintiff in an action against several attorneys for several claims including intentional infliction of emotional distress has issued several vague threats via email, phone, and in person toward the judge in the case, who recently granted summary judgment to the defendants, and toward other court personnel. The written submissions of the subject in this case, as a whole, leads court administrator to be apprehensive that judicial officers are potentially in danger. Documents submitted and signed by the subject contain a number of threats to file complaints and publish derogatory and slanderous materials about various judges and officials. Subject has filed complaints with the WSBA and the Judicial Ethics Commission regarding a number of attorneys and judicial officers. He accuses those regulatory entities of being involved in the conspiracies. Concerns expressed by court administrator include: 1. Though carefully worded, the more recent writings appear to be more overtly threatening. They demand the court take certain action or face consequences. The threats demand the court take specific actions to avoid action on the part of the subject. A deadline was set. Subject wrote, "Judge ____ still has a chance to save herself and minimize the damage to her colleagues. But if I don't receive a complete reversal of her rulings within ten days, and I am granted what I requested at the hearing - justice - then she knows what to expect, justice." Plaintiff's Motion to Reconsider, p. 9, filed March 11, 2009. Also, within the past few days staff has informed the judge that the subject has become verbally abusive, demanding, and out-of-control on the phone with her, to the extent that she has had to hang up on him. In the context of all the pleadings the court administrator believes the individuals named are all in some danger. 2. The recent writings are direct attempts to intimidate the court into changing rulings under threat of some sort of damage.	Threats	
3/27/09	King County Superior Court	Litigant in Family Law Courtroom engaged in dispute post-hearing with an attorney for the petitioner. The litigant persisted in adding and deleting verbiage contained in the court order being drafted by the attorney. The attorney asked her not to do that, and moved the litigant's hand from the order so that she would stop writing on it. The litigant claimed she had been assaulted by the attorney and left the courtroom.	Incident	
3/24/09	King County Superior Court	Petitioners in an anti-harassment action had requested that security be present because both were fearful of the respondents in the action. Though not a witness to the hearings, the reporter said that she believes all parties were appropriate to each other while in the courthouse and that nothing of consequence happened at the hearing. Another woman was also trying to file for a temporary protection order against the same respondents that morning; however, while waiting in the courtroom, the woman had several seizures and had to be taken to the hospital by the medics.	Incident	

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY	
Reported: 3/17/09 Incident: 2/26/09	Pierce County Superior Court	Another threatening letter was received by Judge McCarthy from an inmate at McNeil Island. A copy of the letter was sent to CSC with the Incident Report Form. The four-page letter included accusations of lying and cover-ups; veiled threats, etc.	Threat	
3/9/09	Spokane County Superior Court	Subject's first contact was with staff in a closed office with no other staff. As Subject began to re-interpret what information he was given, Staff brought Subject into the hall so that other staff would be available as a witness. Two other staff members were also witnesses to this over the span of another 20 minutes of asking for names and information, and then reinterpreting information and threatening a "federal probe" of the issue. One of the witnesses was asked to phone security officer. Subject had been given correct information several times that, if he wanted to check the court file or order any transcript regarding that file, to go to the Clerk's Office. As an officer was arriving, he left to the Clerk's Office, where we do not know what happened. Sometime later, Subject went to Judge's courtroom demanding to speak to the Judge. The judicial assistant explained that was not possible at present because of an ongoing trial. Subject became disruptive and refused to leave. Officer who was contacted first was on lunch at the time, and responding officers in his stead were lost and took more than 10 minutes to arrive; they could not find the Court Administrator's Office. From Judge's courtroom, Jail Transport Officers were called; a total of 6 arrived. Subject was escorted out of the building. Our office is told that Subject became uncooperative with law enforcement, flinging himself to the ground among other things, and was later arrested. Further discussion with security officer indicates that on another occasion Subject was displeased with court proceedings and refused to leave the area outside of our ExParte Department, relieving himself while seated on a bench.	Threat	
Reported 03/02/09 Incident: 2/5/09	King County Superior Court	Litigant came into the FLIC wanting a new court date. Staff attempted to assist, but he became more and more frustrated and began referring to himself in the 3rd person. Subject has numerous DV actions and protection orders in place. He told staff angrily to "set the date; they're your people; set the date". Security was contacted and escorted the person out of the office. Officer noted that he appeared to be "on the verge of breaking from reality", and instructed staff to advise them immediately if he showed up again.	Threat	

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY	
2/25/09	Lynnwood Municipal Court	Defendant was being remanded into custody after an arraignment hearing on new charges. Security staff from the jail asked the defendant to sign paperwork, the defendant became loud. Staff asked the defendant if he was refusing to sign. The defendant became increasingly agitated. Security staff went to take the defendant into custody; the defendant fought staff and yelled. Security got the defendant pinned into the corner; the defendant was yelling and trying to get out of the hold. Additional staff from the Jail and Police Department intervened and helped contain the defendant.	Threat	
2/20/09	Spokane County Superior Court	2/06/09, 10:00 a.m. – a bomb threat was phoned in. Proper notification was made to the Court Administrator. The Administrator's Office Coordinators met to alert of the threat and to review procedures for checking work areas and alerting court departments of events. Close to the noon hour, the buildings were evacuated sequentially and searched by K-9 units.	Threat	
2/18/09	Grays Harbor District Court	District Court was conducting in-custody video hearings for three felony cases. During the first case, the father of the deceased victim walked into the court room and sat down in the front row right behind the defense table. Court reporter saw the subject slap the defense attorney across the back of the head and yell, "I want him loose. Get him cut loose." Immediately, law enforcement ran up and grabbed the subject and escorted him out of the courtroom.	Incident	
1/30/09	Pierce County Superior Court	A letter was received from inmate of McNeil Island Correctional Center, addressed to a judge. Same inmate has written prior letters to the same judge, in which he expressed displeasure with the judge's rulings in his case. The inmate has been evaluated by WSH as a moderate risk to harm others. Given this history, the judge has been placed on the DOC Community Notification List for this inmate out of concern for the judge's safety should the inmate be at large in the community.	Incident	
1/27/09	Spokane County Superior Court	A male witness for the family law trial was standing in the windows making gestures at the female witness for the opposing party as she was testifying on the stand. He was asked to stay away from the windows; it could have been construed as tampering with a witness. He was asked further to sit on a bench in the hallway until the witness was finished. His attitude was very uncooperative. Court Security was contacted and the deputy responded.	Incident	
01/26/09	Pierce County Superior Court	During a Family Law motion case, the petitioner would not stop addressing the court after numerous requests from the commissioner to stop. Court Security was contacted. Security office physically responded and handled the situation.	Incident	

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY	
01/09/09	Lynnwood Municipal Court	Probationer appeared at Probation Services window to turn in his Mental Health Treatment paperwork. He had an aggressive manner, demanding to actually see staff give the paperwork to his PO. Staff told him that would not happen but that she was the one who enters in all the paperwork and that she would do so. He became accusatory and told her that the Mental Health facility has sent in his information in the past but that it isn't being entered. Staff told him that she enters all paperwork received by the department and suggested there may have been an error in previous mailings or perhaps it had been faxed. Staff turned around to review subject's case on the computer and told him to wait for a minute while she reviewed his case. As her back was turned, she heard the sound of his phone taking pictures, so turned back around to ask him what he was taking pictures of. He said he was taking pictures of her so that he will have proof that his paper work was turned in. Staff called downstairs to the police clerk for a security officer, but the police clerks didn't answer. Called a different extension and asked staff to call the jail for security. 5-6 officers responded. They observed the rest of the transaction with the defendant. Staff cancelled the defendant's violation hearing and gave him proof of that, then gave him an appointment card for a future date with his PO. Subject was asked to delete the pictures he had taken, and he did so, showing the officer as he did it.	Incident	
01/09/09	King County Family Court Services	Subject came in for his appointment with Family Court Services during which time he expressed his frustration with his mother and stated that "she is going to make me just kill her or kill myself."	Threat	
01/09/09	Lynnwood Municipal Court	Defendant was resisting being taken into custody. Staff overheard loud voices from a female defendant with the in-custody officer ordering defendant to comply. Staff noted that the defendant was clearly agitated and resisting being taken into custody going down the back staircase prior to being taken into jail. She thought the in-custody officer would need some assistance, so asked a court clerk to push the panic button, resulting in security officer coming to his aid.	Incident	

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY	
01/07/09	King County Superior Court	Family Court Services staff received a call from the subject with questions about the fee schedule, why he was transferred into FCS for mediation, and how to fill out the paperwork. After staff provided answers to his various questions, the subject said that he was ordered by the court to pay spousal maintenance of $2000 per month. He then stated, "I now understand why people go around killing other people or commit suicide." Staff assured him that the courts did not wish to provoke any such action. He went on to list his concerns/ complaints regarding the parent seminar. When asked if he listed these on the survey handed out at the end of the seminar, he replied, "No, by that time I had a bitter taste in my mouth for the court and I didn't think they took those seriously." At this time he again indicated that "he understands why people go around killing other people or commit suicide." Staff provided the name of a person to contact regarding his concerns with the parent seminar and gave him the number to the front FCS desk in Seattle. Staff asked him if he needed further assistance, and he said "No, thank you."	Incident	
01/05/09	Pierce Co. Juvenile Court (Remann Hall)	A Sheriff's Officer was paged to Courtroom 3 and told that one of the participants in a hearing had a felony warrant for her arrest. Officer left the courtroom and phoned LESA Records, and confirmed warrant for the Subject's arrest. The Officer returned to the courtroom. The hearing was underway. When the judge told him to take the Subject into custody, Officer escorted Subject to the patrol car and placed her in it. He called Pierce Co. Communications Officer to advise he had someone in custody. The Officer then contacted court security and requested a deputy to transport Subject to jail. He was told a deputy would be sent. Right after that, the Officer was called by a Security Officer in Lobby 'B' and told there was an escalating verbal altercation there that could become physical. The Security Officer stated that he needed the Officer in the Lobby right away. With Subject in the backseat, the Officer drove to Lobby 'B', and contacted the Security Officer and others under Case #09-005-0790. The transport for the Subject arrived while the Officer was still involved with 09-005-0790. While dealing with #0790, the Officer forgot to read the Miranda warning to the Subject. The transporting deputy took custody of the Subject and took her to the Pierce Co. Jail.	Incident	
12/11/08	Pierce County Superior Court	During a hearing in a case involving various family members regarding alleged abuse of the elder mother, some of the family members in the hallway began yelling. Court Security was contacted in advance to let them know that there might be a problem. When the yelling began, staff called security and an officer was sent over for the duration of the trial.	Incident	

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY	
12/03/08	Bonney Lake Municipal Court	Person appeared with a defendant for court and was waiting in the lobby to enter the courtroom. The lobby was full of other people also waiting to enter the courtroom. The 2 subjects were speaking inappropriately and were asked by the City Receptionist to stop, and was told to mind her own business. The subject became loud and was asking others in the lobby if they were offending them. The subject leaned over the receptionist work area and told her to mind her own business and stay out of his. This was done in a threatening demeanor. The security officer had been on his way to court and was called to see how close he was and was informed of what was taking place and upon his arrival he spoke with them. When leaving, the subject stopped at the receptionist's desk and told her goodbye and that he would see her soon.	Threat	
Reported: 12/2/08 Incident: 10/10/08	King County Mental Health Court	A package was received from a former patient addressed to one of the prosecutors. (The patient had been involuntarily committed over two years ago, was treated and subsequently released.) Security was contacted and supervising sergeant responded and inspected the package externally. Unsuccessful attempt to contact the sender was made. SPD was contacted and SPD explosive tech was sent, who cut open the package, which didn't contain anything explosive or harmful.	Incident	
11/28/08	Spokane County Superior Court	A death threat was made to Judge Salvatore "Sam" Cozza. Telephone threat was made to the Judge through one of his relatives by home telephone. Court Security was contacted. A police investigation was launched and charges are pending.	Threat	

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY	
11/25/08	King County District Court	The subject was present for a relicensing program hearing. After the hearing, the subject returned to ask more questions about the impounding of his vehicle. He seemed upset, so staff inquired if he had a question. He replied that he wants the judge to give him an impound release document to get his vehicle out of impound. Staff informed him that he could request information on impound hearings in Rm. 327, to which he replied that he had already gone there and was told they can't help him since it's been more than 30 days. Staff told him that he would have to follow whatever instructions were given to him at the front counter. He then responded, frustrated, "I feel like setting this place on fire." Staff immediately informed him that he cannot make that type of remark in the courtroom and suggested he leave. He replied that he was just joking. He left and returned 5 minutes later and was much calmer. He asked to please speak with the judge. Staff informed the court clerk that the subject would like to speak to the judge. Subject was informed that the judge would talk with him after finishing with the remaining participants. The subject walked into the courtroom and was observed leaving the courtroom about ten minutes later.	Incident	
11/24/08	Spokane County District/Municipal Court	On 11/12/08 - defendant was booked on minor in possession of liquor during the DV Show Cause docket based on failure to comply with probation. Subject became disruptive and attempted to leave the courtroom, but was detained by security. Defendant was observed removing a number of pills from a prescription bottle and ingesting them. Defendant was removed to the hall outside the courtroom where he was questioned. Transport was called and the defendant was cuffed by transport and led through back of the court room and up the stairs to the jail. He became increasingly agitated and aggressive, yelling obscenities loud enough to be heard in the courtroom.	Incident	
11/21/08	Clallam County Superior Court	Court security reported receiving a report from the Lacey Police referencing a threat against a judge made via email from Monroe inmate to a friend.	Threat	
11/13/08	Spokane County Superior Court	Adult son of defendant came to the office door and explained that he had been approached in an aggressive manner by some people who were in the courtroom. The Criminal Court Coordinator was contacted and a request for security officers was made. Two security officers came within a couple minutes. They questioned the subject and observed the people leaving the gallery of the courtroom.	Incident	

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY
10/31/08	Lacey Police Dept.	Suspicious Person Activity – Seattle PI contacted Lacey Police to report a possible threatening advertisement. After reading the ad, the police detective thought it could be asking someone to hire a hit man. Detective contacted the Chief Investigator for DOC and briefed him on the situation. They will monitor the activities of the subject.	Threat
10/23/08	Pierce County Superior Court	Following a ruling on a family law custody case, parties went into the hallway and began arguing very loudly, disrupting court. Security was called and made a physical response.	Incident
10/06/08	Pierce County Superior Court	Heated argument on a family law case. Pushing, shoving and verbal arguments between the two parties and their families.	Incident
10/01/08 2:00 p.m.	King County Superior Court RJC	SC Receptionist at RJC opened a letter in the mailroom, hand-addressed to "King County Superior Court". White powder fell out of the letter and a note was inside (staff did not look at the note). Court Protection was immediately contacted. The ten staff members currently occupying that suite of offices were quarantined and the HVAC in the area was temporarily shut down. HazMat crew was contacted to perform a test of the material found in the envelope, which was determined to be a simple protein powder. Quarantined personnel were released at 6 p.m. as soon as lab results were known.	Incident
10/01/08 11:15 am	King County Superior Court RJC	A threat was made over the phone. A person called Swedish Hospital in Seattle and stated that "people are going to die today at the Kent Courthouse." The person indicated that he was currently in the Kent area and also that he had been "put away" for a number of years in jail. Building had recently been reoccupied after full sweep had been completed of the facility after first bomb threat was called in that same morning. Decision was made not to re-evacuate, but bomb unit and dogs were kept on-site and perimeter monitoring continued.	Threat
10/01/08 8:30 & 9:15 a.m.	King County Superior Court	A bomb threat was called in to local TV station – suspect stated that two incendiary devices were planted at the RJC and would go off at 10 a.m. One call was made at 8:30; another call made at 9:15 stating same information. KC Sheriff's Court Protection Unit contacted Kent PD and consulted with bomb unit; decision made to evacuate the courthouse at 9:45 a.m. Bomb squads and dogs completed a sweep of the building, which was reoccupied at 11:15 a.m.	Threat

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9/28/08	King County Superior Court	A threat was made over the phone by a pro se plaintiff in an employment security case, who appeared by phone at motion hearing. The case was dismissed per defendant's motion. The plaintiff responded with multiple obscenities directed at the judge and the system. Court Protection Unity was notified and FMD Security also contacted.	Threat	
9/2/08	Skagit County Superior Court	The Skagit County Courthouse was in lockdown due to the suspect from Alger being apprehended across the street in the parking lot of the Sheriff's Office. Multiple law enforcement agencies were involved and weapons were drawn. Court rovers secured the courthouse and allowed no person to enter or leave until the situation was under control.	Threat	
9/2/08	Skagit County District Court	Law Enforcement had been in pursuit of a suspect from Alger to the Skagit Co. Sheriff's Office parking lot. The road in front of the office was blocked and the office was in lock-down status due to the suspect with a gun in the parking lot at the end of the building. The incident took about ten minutes to provide clearance for staff and the public.	Threat	
8/28/08	Pierce County Superior Court	During a strongly contested domestic violence/placement of minor children hearing, the litigants' various family members were present in the courtroom. The mother of the petitioner was asked to leave the courtroom because she was making comments. She then turned around and started yelling at the respondent's family members. Courtroom staff called the sheriff's dept. A deputy responded and remained in the courtroom until the hearing was over. Another deputy was stationed in the hall to monitor family members.	Incident	
8/25/08	Pierce County Superior Court	People in the hallway outside Courtroom 105 were yelling and arguing. Court staff opened the door to observe two women arguing over a child. She asked them to keep their voices down or move down the hall. They continued to argue so staff returned to courtroom and called the sheriff. She remained in the courtroom, so is unsure of what the outcome was.	Incident	
08/19/08	Chelan County District Court	Court deputy called subject from courtroom and confronted him about his possession of a pocket knife with a 2 ½" blade. Subject said he had forgotten about the knife. He was instructed to either leave his knife with the security station or secure it elsewhere. Subject was permitted to return to courtroom and the knife was turned over to the MPS officer at the security station.	Incident	
08/07/08	Pierce County Superior Court	Verbal confrontational exchanges between witnesses and spectators in a threatening manner. Court Security was contacted and physically responded.	Incident	

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7/28/08	King County Superior Court	Defendant made verbal threats to deputy prosecuting attorney in court post-sentencing.	Threat	
7/16/08	Pierce County Superior Court	Intense verbal confrontation between two parties in a family matter took place in the courtroom and adjacent hallway. Officer was called and responded to courtroom.	Incident	
7/15/08	King County Superior Court	Bomb threat phoned in by an irate parent of a juvenile offender. Court Security was contacted and ten officers responded from various agencies including King County, SPD, Dept. of Homeland Security and US Coast Guard. Each floor was searched by dogs, including offices and building perimeter. No bombs or explosive devices were located.	Threat	
7/10/08	Chelan County District Court	During a trial, court officer observed a woman trying to cut on her left arm with some type of object. He called for staff assistance. Three deputies arrived and escorted subject to the lobby where she was searched by deputies while one called River Com and waited until WPD arrived to talk with subject. The subject refused treatment and was released at the scene.	Incident	
7/07/08	Bremerton Municipal Court	Police received a domestic call to the 800 block of Pacific Ave. (3 doors down from courthouse). The police went to the scene and then reported hearing shots fired. Patrol officers contained the house. The courthouse went into lockdown, and we informed our neighbors the YWCA to do the same. We used our traffic cones to block off traffic at 11th and Pacific. We held up foot traffic between Pleasant and Pacific via the alley way north of our building. All courthouse personnel and clients were kept inside. By 1410 hours the scene was secured, and we were removed from lockdown. Traffic cones were moved from 11th and Pacific to 9th and Pacific diverting traffic down 9th to Cogean. CenCom was advised. All security staff and court staff responded well to the situation.	Incident	
7/07/08	Pierce County Superior Court	Respondent's father refused to be quiet. When asked to sit down, he continued to speak, intimidate, and threaten.	Incident	

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7/02/08	Clallam County Superior Court	Subject of a protection order became belligerent with the Court Commissioner, refusing to follow the order to stop talking. He was cautioned that he would be sent to jail for contempt. The jail was called; two officers responded to the courtroom, at which time subject quieted down and left the courtroom. Later, the subject approached the Commissioner in the parking lot and continued his barrage of questions. The Commissioner again responded to his questions, but was fearful that the subject might do something to him. However, the subject walked away, and the Commissioner got into his car and left.	Incident	
7/01/08	Pierce County Superior Court	A CCO at the DOC Community Corrections Office received a phone message from subject who threatened to "make the judge pay." He said he was going to physically harm the judge as soon as he is able. Court Security was contacted and the suspect was arrested on a parole violation. The threats are being reviewed for charges by DPA.	Threat	
6/18/08	Pierce County Superior Court	A visiting judge came to hear a dissolution trial because the husband had previously sued the Pierce Co. Superior Court Bench. He brought a representative with him, but became agitated that the Court refused to recognize the representative because he was not an attorney. The subject made it abundantly clear that he did not recognize the court's jurisdiction over him or his marriage. He was angry that the Court insisted his trial go forward. He claimed he was unprepared and didn't know a trial was going to occur. The Judicial Assistant thought it prudent to notify court security in case of an outburst.	Incident	
6/17/08	Pierce County Superior Court	After repeated attempts to ask people in the hallway to quiet down, security was call. They checked on the situation and quieted the people.	Incident	
6/11/08	Pierce Co. Superior Court	While the Commissioner was making his ruling, the respondent interrupted and tried to "shout down" the Commissioner. He did not overtly threaten the Commissioner, but refused to quiet down when asked several times by the court and he ignored the court order to cease shouting. Court security was contacted and two deputies physically responded. No injuries reported.	Incident	
6/11/08	Thurston County Superior Court	Threat made through a Thurston County Corrections Facility Inmate Request Form written by an inmate and given to a Corrections Officer. The memo said, "I have heard that silencer and laser can be improvised for a D.C. Sniper Telescopic rifes.lex. Pass on to Strophy, Case, Pomeroy, etc. Oly Judge S--t. I look forward to killing them."	Threat	

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6/9/08	Pierce County Juvenile Court	Domestic Violence victim reported to Deputy that the suspect in the DV case had phoned a third party (his cousin) and told him that he'd been in the Kmart parking lot across from Remann Hall waiting for the DV victim to leave the court house so he could kill her. The third party phoned the victim to warn her and told her the make/model of car the suspect was driving. The deputy requested a patrol unit drive through the Kmart parking lot to look for the vehicle and suspect. Deputy advised victim to contact the Tacoma PD and file a Threats Report with them, and that she should follow through with obtaining a DV Order for Protection against the suspect. Security Personnel in Lobby "A" was informed and given the suspect's description.	Threat	
6/5/08	Spokane County Superior Court	A woman reported to Security that she witnessed three people outside of the Family Law Center Rm. 101 speaking in elevated voices and clearly upset. They were throwing documents on the floor and "throwing punches" in the air. When the individuals were contacted they said that they were not actually fighting, but were upset that they couldn't get in to see the Court Facilitator.	Incident	
5/27/08	Spokane County Superior Court	As Judge read rights to him, the defendant became very tense, hyperventilating, clenching and releasing his jaw, and clenching and releasing fists. When asked if he understood his rights he said "no." As the defendant began to address the Judge he became more animated and referred to the Judge as "Homey." The Judge ruled for the stay, which seemed to further aggravate the defendant and he began shouting. He became uncooperative with Transport Officers (additional ones began to arrive) at which point remaining staff persons left the video courtroom. The remaining defendants in the jail courtroom were instructed to move as far out of the way as possible. As observed by others, the defendant lunged toward one of the Transport officers with a clenched fist and was taken forcefully to the floor, handcuffed and removed from the courtroom.	Threat	
5/21/08	Chelan Co. District Court	Adult male proceeded past the security check without stopping. When he was stopped by security officer and directed to step back to the front of the security desk, he became belligerent. Subject exhibited a great deal of anger and behaved aggressively, using profane language and extreme body language. Subject had been cited for Vehicle License Expired more than two months. Officer anticipates Mr. Holmes will be challenging at best in any future contacts with law enforcement.	Incident	

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5/20/08	Chelan Co. Regional Justice Center	After obtaining permission to search purse of defendant, officer found grey metal knife with 3½" folding blade. Defendant was permitted to proceed into courtroom after clearing security. Wenatchee PD officers responded to request for assistance and the knife was turned over to them after they were briefed. Defendant had been booked into JD on a separate PV case. PD officers determined they would not be arresting defendant on a 'weapon in a prohibited/certain place charge' based on the security station setup in conjunction with the detention entrance.	Incident	
5/20/08	King County Superior Court	Security screener saw what appeared to be handcuffs and weapon in a bag that went through screening equipment. Screener asked person thought to be bag's owner if he was with law enforcement, to which he responded no. Bag was then taken by its owner, who then entered the courthouse without being detained. Screener did not immediately notify onsite Sheriff's deputy located at the station. Later, screener was unable to identify the bag's owner.	Threat	
5/19/08	King County Superior Court	Judge's chambers door was found wide open on Monday morning. It had been locked Friday night when judge and staff left. It is unclear if anything was disturbed or taken, but judge had confidential court documents in chambers. Security tapes are being reviewed to ascertain who entered this area; facilities personnel are expected to be escorted by Superior Court employee whenever accessing judges' chambers.	Incident	
5/16/08	King County Superior Court	A judge received a letter via email from a litigant who had appeared before the judge in a divorce proceeding. The letter plus attachments totaled 30 pages and was also copied to Chief Justice Alexander. Letter was forwarded to the Sheriff's Court Protection Unit; further investigation is pending.	Threat	
5/16/08	Pierce County Superior Court	Son, mother and her attorney appeared in ex parte for an emergency restraining order. Court made ruling and asked parties to step into hallway and draft agreed order. Attorney returned with client-mother and request police escort for her client, reporting that the mother and son had gotten into a heated argument in the hallway and son appeared to be menacing. Sheriff's Dept. was called to escort mother and attorney to avoid conflict.	Threat unknown (in person - mother & son)	
5/16/08	Pierce County Juvenile Court	Defendant was observed at Remann Hall as being in violation of RCW 70.155.080. The officer contacted the defendant and issued him a Notice of Infraction for being a Minor in Possession of Tobacco.	Incident	

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5/16/08	Pierce County Juvenile Court	Court officer informed regarding a parent coming into court with a warrant for his arrest. Officer took subject into custody without incident.	Incident	
5/13/08	Spokane County Superior Court	Letter sent by inmate to Presiding Judge, threatening to shoot the judge and blow up the courthouse. Letter was given to Deputy for purpose of making a report. The Sheriff's Dept. will attempt to fingerprint the letter.	Threat	
5/13/08	Pierce County Juvenile Court	Officer was advised that a defendant who was present at Remann Hall, had a warrant for her arrest. He confirmed the warrant and then contacted defendant, who had her daughter with her. Officer took defendant into custody without incident and transported her to the Pierce County Jail. Defendant said she did not know about her warrant The child was later picked up by her grandparents, who also picked up the vehicle that the defendant apparently arrived in.	Incident	
5/13/08	Pierce County Juvenile Court	Defendant who was remanded into custody due to lack of supervision threatened Judge. Court Officer heard him say, "Wait 'til I find out where he lives!" Several witnesses were present, including a court reporter, so the defendant's comments are recorded.	Threat	
05/12/08	Pierce County Superior Court	The subject called the front desk and began complaining about the Superior Court. (i.e. the system doesn't work and is taking advantage of him, etc.) He spoke with two staff people. When the second person got on the line, he told her that if she didn't do something to help him, he was going to "start picking people off" from the Auditor's office to the CCB. He has an active case 06-2-08638-0. His name and phone number were also available on caller ID. Court Security was not contacted.	Threat	
5/10/08	Pierce County Superior Court	While a judge was working in chamber, she saw a white Prism vehicle pull into the loading dock. Two of the four people in the vehicle got out of the car – a man and a woman. The man appeared to be wrapped in a silver space blanket. They walked along the sidewalk, appearing to examine the seams in the new wall where construction is taking place. The license plate number was recorded and sent to Court Security. They will investigate further.	Incident	

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05/09/08	Kent Regional Justice Center – Family Court Svcs.	Litigant in pending case came into staff person's office seeking help with quashing a restraining order because her soon-to-be ex-husband (petitioner) had sold their house and she needed to move her things out. She said she has an attorney but they did not return her calls. When the staff person advised her that she could not assist, given that she's represented by an attorney, the litigant stood up, shut the office door and started yelling at the staff person. The staff person went to try to open the door, but the litigant blocked her way and refused to let her open the door. The litigant continued yelling, and the staff person called Security. Sheriff's deputy arrived at the scene approximately two minutes after notification. The litigant continued yelling at the staff person in the officer's presence, who then told her to leave the office.	Threat	
05/02/08	King County Superior Court Youth Services Center	A confrontation between friends and family of a victim and the friends and family of the alleged assailant took place in the lobby. The assailant was being held in detention and was scheduled for a first appearance hearing. The bailiff observed the victim and friends approaching the respondent's mother and other family members. They appeared angry and were talking loudly. Bailiff contacted security. It is unconfirmed that one person was asked to leave the building. The hearing was moved to a courtroom on the third floor, and no additional problems were reported.	Incident	
5/01/08	Spokane County District/Municipal Court	The defendant rushed into the courtroom at approx. 4:45 PM and said he was to report to jail by 5:00 PM, but couldn't because he was in the middle of a construction job and is awaiting test results of possible MRSA. He showed the officer the sore on his stomach. The officer told him not to touch anything and then informed Judge Hayes, who granted a special motion date for 5/6/08 at 1:30 p.m. The defendant is to appear to present test results. If negative, he will report to jail on order of the court. When he left, the Judicial Operations Manager was informed. He and Judge Hayes decided to have all areas cleaned that the officer thought the defendant had touched. The officer brought the motion order to the Clerk's office and, on 5/2/08, left a message for the defendant's attorney regarding the incident.	Incident	

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5/02/08	Pierce County Juvenile Court	Security Officer was contacted by adult female who had just arrived in the parking lot in front of Lobby 'B' and reported she had seen a knife lying on the curb by her vehicle. Officer escorted her to the location and saw the knife. He reported that it looked like it had been placed there. He took the knife and later placed the knife into Property at the PCSD Main Property Room. A juvenile came though Lobby 'B' while officer was still holding the knife. He commented that the officer had found "somebody's blade." The officer answered in the affirmative. The youth then joked, "But you didn't find mine," as he left the building.	Incident	
5/01/08	Clallam County Superior Court	Report was made to Court Security by SW who, on 4/18/08, was contacted by grandfather of a child who was ultimately removed from home by CPS. He said that the child's father had threatened grandparents who had filed complaints against parents. The father had said, "no one is gonna get my daughter. I'll kill anybody that tries to take my daughter. I've got a shotgun. I've got a pistol. I will lock and load and kill anybody who tries to take her." Subject was arrested and on 4/23/08 charged in Clallum County Court with three counts of Assaulting a Child in the Second Degree. The subject has admitted to harming the family dog and inflicting injury on the child. Social worker filed report on 5/01/08 with Court Security.	Threat	
4/25/08	Spokane County Superior Court	A defendant was being sentenced for attempted child luring. The victim's mother was present with a victim advocate. Just prior to the hearing, the courtroom was full; the double doors were opened and crowded with people as was the hallway and staircases. The JA was unsure if the people were on opposing sides or what would happen when sentence was given. Deputy Marten was unavailable on the first call. Jail transport was called and 3 officers arrived within 3 minutes. Sheriff's desk called again; Sgt. Hill arrived with deputies, analyzed the situation and called for more assistance for crowd control. Street officers also appeared.	Threat	
4/22/08	King County Superior Court	Collect call was made from the King County Jail to a judge's home. The caller was later identified as a defendant who had identified the judge as one of several persons on his self-titled "hit list" found previously in defendant's jail cell. Call was not accepted; caller was later identified. Sheriff and DAJD were contacted.	Threat	
4/17/08	Pierce County Superior Court	Large group of people with small children speaking loudly and unable to control screaming children. Asked to be quiet and didn't cooperate. Also made rude comments the second time they were asked to be quiet. Court security was contacted and physically responded.	Incident	

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1st Qtr. 2008 (rec'd 4/16/08)	King County Superior Court (Two incidents)	An aggravated murder trial was attended by both defendant's family and the friends of the deceased. The first incident occurred during testimony by the defendant's maternal aunt. Defendant's mother started yelling at the witness from the gallery and was escorted out of the courtroom and out of the building by Security. Second incident occurred at sentencing when individuals, including the defendant's father, confronted camera operators in the hallway outside the courtroom after the verdict. Judge heard shouting but was not made aware at the time of what had happened. He was told that these people confronted the camera operators and challenged their right to film the defendant and his family. Security officers moved these individuals from the area outside the courtroom. After the verdict, the jurors were escorted to elevators on an adjacent floor by means of the inside stairway in order to leave the building.	Threat	
4/11/08	Pierce County Superior Court	Defendant called and left a lengthy message. Towards the end, he said things like, if he's going to go, he's not going alone and he's talking multi-thousands. He said he would make Virginia Tech look like pea-shooters. Court Security was called and the officer telephone and then went in person to the court office. He followed up in person 2-3 times. The message (along with nine other messages from the defendant) was recorded on a CD. A copy was given to the Pierce County Sheriff's office via the officer who investigated.	Threat	
4/11/08	Pierce County Juvenile Court	The defendant came to Remann Hall to attend a Shelter Care Hearing. There was a Probable Cause to arrest her for 2nd Degree Assault of a Child. Deputy took defendant into custody without incident and escorted her to his patrol car in the parking lot in front of the "A" Lobby. Court Security Deputy took custody of defendant.	Incident	
04/04/08	Shelton Municipal Court	The defendant came into court wanting to change court date, became agitated and escalated when advised he would have to appear. Threatened to break out the glass barrier between the clerk's counter and the lobby.	Threat	
3/28/08	Pierce County Juvenile Court	Grandmother of juvenile in custody stated that the probation officer should be shot. She stated this to another family member in court while they were leaving.	Threat	
3/26/08	Pierce County Superior Court	The defendant in a criminal case became extremely agitated and parties in the courtroom became concerned for their safety. The Court requested assistance from the jail guards in the form of a stun device and extra guards for the duration of this matter.	Threat	

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3/24/08	Pierce County Superior Court	Juror placed book on belt at security station. While being wand by security personnel, the juror's book was stolen from the conveyer belt at the security station.	Incident	
3/20/08	Pierce County Juvenile Court	Deputy noticed car parked inappropriately and ran license plates to find owner. Discovered plates belonged to difference vehicle. The driver's boyfriend had changed the plates. Subject's driver's status was suspended in the 2nd Degree for DUI. Subject's driver's status had expired on 2-9-08. Subject was issued a Criminal Citation for Driving While License Suspended 2nd Degree and released.	Incident	
3/19/08	Spokane County Superior Court	The pro se respondent in a supplemental proceeding indicated he wished to have a uniformed officer present for proceeding. He indicated there was a protection/no-contact order in place and he would not proceed without an officer present. Courthouse security was contacted and remained in courtroom throughout proceeding. The pro se individual resisted all efforts by the court to facilitate the proceedings and had to be reminded on several occasions to answer questions. No physical/verbal threats were made.	Incident	
3/18/08	Spokane County Juvenile Court	AAG requested a sheriff be present for a shelter care hearing. The social working also worried as the father of the child had made previous threats of violence. No specific threat on this particular date. Law enforcement was present at the hearing.	Incident	
3/17/08	Pierce County Juvenile Court	AAG advised deputy that subject was waiting to go into courtroom 4 who had a Felony Warrant for her arrest. Deputy contacted subject and took her into custody without incident. Subject was advised of her rights and transported to the County Jail.	Incident	
3/17/08	Pierce County Juvenile Court	Subject appeared with her son for his court hearing. She had a DV Assault Warrant, so was detained by Deputy. Subject resisted arrest, spitting in the deputy's car and kicking the deputy.	Incident	
3/17/08	Lynnwood Municipal Court	Defendant was in the process of a remand when he fled court. Chase ensued by court security. Defendant was not apprehended.	Incident	
3/13/08	Pierce County Superior Court	Disturbance outside of courtroom caused by man yelling at the court facilitators and clerk's office staff. Deputies were contacted and responded to situation.	Incident	

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3/10/08	Pierce County Superior Court	Inmate was advised by the court that his bail would be $1,000, cash only. Inmate became disruptive in Court, swearing at the judge and interrupting the proceedings. The inmate's disrespectful behavior continued as he was escorted back to jail.	Incident	Inmate was re-classed to Level 2 for 10 days.
2/29/08	Pierce County Superior Court	Respondent was told to have a seat in the jury box until the jailer came. He sat down for a few seconds then ran out the door as the next case was being called. Security was called. The report didn't indicate if the person was caught.	Incident	
2/27/08	Clallam County Superior Court	Juveniles and her father became disruptive while waiting in the lobby at the youth court. The security was called to see about the incident when they were called into court. They left the building after the case was heard.	Incident	
2/27/08	Chelan County District Court	A man was taking his clothes off at the security station. He claimed that the security officer had assaulted him with the hand metal detector on purpose when his hand hit the wand accidentally as he gestured toward his pocket when it beeped. He became very angry at the security officer, began cursing and taking off his pants to prove he had nothing on him. The security officer and the man's wife both tried to get the man to stay still while using the wand. The deputy was contacted and the man admitted that he had not followed instructions and it was his fault. The man left yelling obscenities at the security officer. No arrest was made.	Incident	
2/27/08	King County Superior Court	Defendant wrote several letters to a judge since being sentenced and has filed a lawsuit against two judges, the court, and jail. No threats have been made, but the tone of the letters caused concern. The sheriff's unit referred the incident to a detective to run a criminal background check and look closer into the matter.	Incident	
2/21/08	King County Superior Court	A man has been contacting a judge's chambers for a couple of years sending letters to him and leaving voicemails. No threats have been made but the man appears to be mentally unstable.		
2/20/08	King County Regional Justice Center	A FCS social worker received a voicemail from a person that was upset over the evaluation that had been done. The person didn't make a threat, but had spent 20 years in jail for murder. Security was not notified.	Incident	

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2/13/08	King County Superior Court	An attorney tried to get past security at the courthouse using a false police badge (on-duty officers are allowed to bypass screening). The sheriff's unit is following up with an incident report and pursuing formal charges.	Incident
2/13/08	Pierce County Superior Court Family Court Rm.	Respondent became disruptive and unruly after hearing the outcome of and statements made during a hearing. Security was notified and responded to the courtroom.	Incident
2/8/08	King County Superior Court	A voicemail was left on the courtroom phone of a Judge by a defendant that he had sentenced. The defendant complained of being unable to fulfill the requirements of the sentence and threatened that someone would lose their life if the police showed up at her door. The CPU was notified and Seattle police department was contacted. The investigator contacted CCO and is attempting to have the precinct put out a bulletin on the defendant.	Threat
2/6/08	Spokane	A physical altercation occurred between two defendants during a court recess. Police, who were in and around the courtroom at the time, took control of the situation.	Incident
2/01/08	King County Superior Court	A threat was made over the phone to the residence of a Judge by a defendant who had listed her on a hit list that was found in his jail cell at the correctional facility. The hit list report was previously submitted.	Threat
2/1/08	King County Superior Court	A councilmember received pornographic photos and papers in the mail. King County Sheriff's Court Protection Unit is completing an investigation.	Incident
1/29/08	Pierce Co. Juvenile Court	Deputy was advised that a subject was present in the courtroom who had a warrant for her arrest. Deputy confirmed a misdemeanor arrest warrant for subject's arrest. Deputy contacted subject and advised her that she was under arrest. The judge had ordered subject to take a UA, which she did. She was then handcuffed, advised of her rights, transported to Pierce Co. Jail and booked.	Incident
1/29/08	King County District Court (Redmond)	A male called from a payphone in Kirkland and made a threat that someone in custody at Redmond court would be executed. Police were called to the courthouse and a lockdown was performed.	Threat
1/29/08	King County Superior Court	Two employees were approached by a man asking for money and cigarettes; when they refused he began swearing at them and made advances toward them. As they left, he said that he wanted a beer and cut off the one person when they tried to enter the building. The other person contacted security.	Incident

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1/25/08	King County Superior Court Family Court Services	A FCS social worker received a phone call referencing a restraining order that had been placed on them. The social worker said the person sounded frustrated and very agitated. Later in the day, when the person came to the courthouse, law enforcement became involved in the situation. (The report did not say why security became involved or that there was a threat.)	Incident
1/23/08	Bremerton Municipal Court	A probation officer took a flyer to the court security that had been marked with gang threats. The threats made reference to the court using a death symbol.	Threat
1/17/08	Grant County District Court - Moses Lake	A woman who appeared at the Moses Lake courthouse for a hearing at Ephrata became angry and emotional insisting that she be provided transportation to the Ephrata courthouse, and began making derogatory remarks about a judge, saying that she'd seen the judge in a store and wanted to tell her what she thought of her. Security was notified and the woman was escorted out of the building.	Threat
1/16/08	Pierce County Juvenile Court.	Automobile stolen from the parking lot in front of the "A" lobby by the son of the victim. The Tacoma PD responded and took the report. The deputy advised the TPD officer that he would wait for the Suspect to return and would detain him. At about 1254 hrs. the suspect, returned with the vehicle in question. Deputy detained Suspect and advised TPD. The same officer returned and took custody of Suspect.	Incident
1/15/08	Chelan County Regional Justice Center	An attorney attempted to enter the courthouse with a concealed weapon. She didn't have a permit and the weapon was concealed in a black case inside her briefcase. She claimed that someone else must have put the gun in the case because she had been threatened. The security contacted law enforcement and the attorney was arrested.	Incident
1/14/08	King County Courthouse	As the verdict was read, the defendant yelled at the deputy prosecutor that she had sent him to prison for ten years. After the jury was excused the defendant stood up and yelled at the prosecutor that she had just made his hit list. The judge ordered the defendant removed, the defendant began yelling at the jail officer. The officers cuffed and removed the defendant. The judge had the clerk make a minute entry and told the bailiff to report the incident to the AOC. The superior court protection program was also notified.	Threat

BOARD FOR JUDICIAL ADMINISTRATION
COURT SECURITY COMMITTEE
INCIDENT REPORT LOG
01/02/2008 – 04-14-09

DATE	LOCATION	SUMMARY OF INCIDENT	CATEGORY	
1/9/08	Spokane Superior Court	A man called inquiring about the arraignment of his girlfriend. He demanded to talk to the judge. When he was told that he couldn't, he told the clerk that if they knew who he is, they would let him. When the clerk asked who he is and if he was threatening her, he said "if I were threatening you, I'd be at your desk and I'd be doing more than talking." The clerk told him the conversation was over and that she would be alerting security, and hung up. When she was contacting security he called back twice. The second time she let the call go to voicemail. He left a message saying that she'd better not file any complaint against him because if she does, all that she owns will belong to him. The clerk looked up the defendant's information and found that he is a level three sex offender. The clerk never got a reply from court security; she notified jail transport who advised her to call the police. She then called the police and reached a recording, the police responded the next morning.	Threat	
1/2/08	Pierce County Superior Court	A death threat letter was sent to one of the parties in a civil case. The claimant requested heightened security for the trial because of the threat. Security officers discussed the situation but because there were so many high security cases for those days, they could only check in occasionally and keep the courtroom on video.	Threat	

WASHINGTON
COURTS

Crisis Communications Plan

A Communications Guide
for use by
Presiding Judges of Local Courts
in the event of a court emergency

Developed by the
BOARD FOR JUDICIAL ADMINISTRATION
Court Security Committee

2008

This booklet is intended to serve as a guideline to assist local courts in developing advance communications strategies for use in the event of a court emergency. It includes information on evaluating the emergency, steps to take when court closure is necessary, and post-emergency assessment. Also included are lists of court personnel and local authorities who should be contacted, and a list of statewide media agencies.

CRISIS COMMUNICATIONS PLAN
INITIAL INFORMATION

PLEASE FILL OUT THE FOLLOWING INFORMATION AND SHARE WITH THE COMMUNICATIONS TEAM.

Who has been affected? _____

What happened? _____

_____

_____

When did this occur? _____

Where? _____

Why? (If known) _____

How? _____

_____

_____

1. SITUATION LEVEL

Level 1: (On-duty response)
- Office fire
- Minor earthquake
- Partial flooding.
- Minor security incident
- Other

Level 2: (On and off-duty response)
- Natural disaster, i.e. fire, flood or earthquake resulting in a closure
- Major technological failure
- Major security incident such as courthouse bombing

Level 3: (On and off-duty response)
- Disaster or event requiring long-term office closure
- Employees harmed
- Unknown technological consequences

Level 4: (On and off-duty response)
- Large-scale crisis such as a workplace shooting.
- Natural disaster that includes loss of employee life.

2. CRISIS TEAM NOTIFICATION

a. Presiding Judge
   Work: _____
   Pager: _____
   Fax: _____
   Home: _____

b. Court Administrator
   Work: _____
   Pager: _____
   Fax: _____
   Home: _____

c. County Clerk
   Work: _____
   Pager: _____
   Fax: _____
   Home: _____

d. Facility Manager _____

e. City or County Public Information Officer _____

Supreme Court/AOC Contacts During Emergencies

a. State Court Administrator Jeff Hall
   Work: 360-357-2120
   Fax: 360-357-2127

b. Chief Justice Gerry Alexander
   Work: 360-357-2029
   Fax: 360-357-2085

c. Court PIO Wendy Ferrell
   Work: 360-705-5331
   Cell: 206-940-4758
   Fax: 360-586-8869
   Home: 253-838-2027

3. IF AN EMERGENCY COURT CLOSURE IS REQUIRED:

General Rule 21(a) provides "a court may be closed if weather, technological failure, or other hazardous or emergency conditions or events are or become such that the safety and welfare of the employees are threatened or the court is unable to operate or demands immediate action to protect the court, its employees or property."

GR 21 also provides that:
Closure of a court may be ordered by the chief justice, the presiding chief judge, presiding judge, or other judge so designated by the affected court who signs an administrative order closing the court and files the original order with the clerk of the affected court.

The judge who directs the closure of the court or his or her designee must notify the Administrative Office of the Courts (AOC) of the decision to close the court by either:

a. An e-mail to the AOC at: customerservices1@courts.wa.gov, or
b. A phone call to AOC Customer Services at 1-800-442-2169, option 1.

The judge must send to the AOC, as soon as practicable, a written statement, outlining the condition or event necessitating the closure, and the anticipated length of the closure. The written statement should be mailed to:

Jeff Hall, State Court Administrator
Temple of Justice
PO Box 41174
Olympia, WA 98504-1174

If an e-mail is sent for initial notification, attaching an unsigned, electronic copy of the order will satisfy the requirement of sending the written statement.

Upon receiving an e-mail or telephone notification of court closure, AOC staff will post an announcement of the closure under the News and Announcements section on the Washington Courts Web site.

4. FIRST PUBLIC STATEMENT

This is what we can confirm at this time:
At approximately _____ this morning/afternoon/evening, the court experienced: _____

_____

At this time our information is limited, however the _____ is continuing to assess the situation. Our primary goal is to ensure (the safety of everyone) (the security of the facility) (restoration of services to the courts) and to provide the most accurate information we can as quickly as possible.

(OPTIONAL) We can confirm that damage has occurred to: _____

_____

We have requested assistance from (state patrol, etc.): _____

_____

We can confirm _____ persons have been injured.
At this time there are _____ known fatalities.

At this time, I would ask that members of the media stay in touch with us to confirm all facts so that the public is assured the most accurate information possible. We will conduct another briefing as soon as possible to provide you with further information. In the meantime, please bear with us.

OPTION: At this time, we would ask that members of the media stay in touch with us to confirm all facts so that the public is assured the most accurate information possible. Future updates will be posted on our web site at _____ as information becomes available.

5. VERIFICATION SHEET

What are the facts?

What is the impact to the public?

How do we plan to resolve the situation?

When and how will we return to normal operations?

6. MEDIA NOTIFICATION

Order of notification:

- First, those on site, via first critical statement.
- Second, those who were not on site for the statement should receive it via fax.

Included on the next pages are lists of contact numbers for major media outlets. Select those that are appropriate for your locale, and list them here for quick reference.

LOCAL MEDIA OUTLETS (For localized emergency, i.e. temporary office closure, partial damage to office)			
Name	FAX	Phone	Email

STATEWIDE MAJOR MEDIA OUTLETS (For any emergency assessed at **Level 2** or higher)			
Name	FAX	Phone	Email

CAPITOL PRESS CORPS WIRES & BUREAUS:

Associated Press FAX: (360) 956-9405 Phone: (360) 753-7222 dammons@ap.org	News Tribune FAX: (360) 943-7240 Phone: (253) 597-8657 peter.callaghan@thenewstribune.com
Seattle Times FAX: (360) 943-9883 Phone: (360) 943-9878 dpostman@seattletimes.com	Spokesman Review FAX: (360) 664-4978 Phone: 360-664-2598 srwestside@comcast.net
KIRO TV FAX: (360) 753-2712 Phone: (360) 753-1024 newstips@kirotv.com	Northwest Public Radio FAX: (360) 664-0914 Phone: (360) 352-3971 ajenkins@kplu.org

DAILY NEWSPAPERS :

Everett Herald FAX: (425) 339-3435 Phone: (425) 339-3400 postmaster@heraldnet.com	***Seattle Times*** FAX: (206) 464-2261 Phone: (206) 464-2200 jdeutsch@seattletimes.com
So. County Journal *(Kent)* FAX (253) 872-6611 Phone: (253) 872-6721	***Seattle Post-Intelligencer*** FAX: (206) 448-8166 Phone: (206) 448-8030 davidmccumber@seattlepi.com
Olympian FAX: (360) 357-0202 Phone: (360) 754-5420 news@theolympian.com	***Spokesman Review*** *(Spokane)* FAX: (509) 459-5482 Phone: (509) 459-5430 Email: garyg@spokesman.com
The News Tribune (Tacoma) FAX: (253) 597-8274 Phone: (253) 597-8686 hunter.george@thenewstribune.com	***The Columbian*** (Vancouver) FAX: (360) 699-6033 Phone: (360) 694-3391 metrodesk@columbian.com
Yakima Herald-Republic FAX: (509) 577-7767 Phone: (509) 577-7640 news@yakima-herald.com	

BROADCAST TV:

KING-TV (Seattle) FAX: (206) 448-4525 *Phone*: (206) 448-3850 Email: mginpher@king5.com	KEPR-TV (Tri-cities) FAX: (509) 547-5365 *Phone*: (509) 547- 0547 Email: newsroom@keprtv.com
KIRO-TV (Seattle) FAX: (206) 441-4840 *Phone*: (206) 728-8308 Email: newstips@kirotv.com	KREM-TV (Spokane) FAX: (509) 448-6397 *Phone*: (509) 838-7350 Email: JJohnson@krem.com
KOMO-TV (Seattle) FAX: (206) 443-4141 *Phone*: (206) 443-4141 Email: tips@komo4news.com	KNDO-TV (Yakima) FAX: (509) 225-2330 *Phone*: (509) 225-2323 Email: news@kndo.com
KCPQ-TV (Seattle) FAX (206) 674-1713 *Phone*: (206) 674-1305 Email: tips@Q13.com	NW Cable News FAX: (206) 448-3797 *Phone*: 1-888-847-6926 Email: nwnews@nwcn.com
KNDU-TV (Tri-cities) FAX: (509) 737-6767 *Phone*: (509) 737-6700 Email: news@kndu.com	

RADIO:

KRKO AM (Everett) FAX: (425) 304-1382 Phone: (425) 304-1381 rkonews@northsound1380.com	KOMO AM (Seattle) FAX: (206) 404-3646 Phone: (206) 404-4000 Email: bcalvert@fisherradio.com
KIRO AM (Seattle) FAX: (206) 726-5446 Phone: (206) 726-5476 Email: newsdesk@710kiro.com	KPLU FM (Tacoma) FAX: (253) 535-8332 Phone: (253) 535-7758 Email: info@KPLU.org
KJR AM/ FM (Seattle) FAX: (206) 494-2000 Phone: (206) 285-2997 Email: (none listed)	KQNT AM (Spokane) FAX: (509) 242-1160 Phone: (509) 242-2400 Email: (none listed)

TIPS FOR CRISIS COMMUNICATIONS

(Courtesy of the National Center for Courts and Media)

- ***Establish a crisis communications plan.***
  Before a crisis strikes, develop workable procedures that include: what to do, what to say, what not to say, who the spokesperson should be, what other agencies to coordinate with, a designated communications team leader, and who needs to be kept informed.

- ***Establish a central communications point.***
  Have on hand everything needed for immediate response: important contact names and telephone numbers from whom to obtain data and critical information, media lists with telephone and fax numbers, and additional staff to handle phone calls. If an off-site communications center is needed, arrange for cell phones and laptop computers.

- ***Gather factual information.***
  Don't speculate or offer opinions. This only fuels rumors and perpetuates bad information.

- ***Create a fact sheet.***
  List the names and titles of key people, such as the court's presiding judge and the administrative or executive officer, and as much factual information as possible, such as in the case of earthquakes, fire, floods or riots, the court locations that have been closed, and those still open. Update the fact sheet as new information becomes available. The spokesperson(s) should be media-trained, speak with the media only on the record and coordinate all interviews through the communications team leader.

- ***Prepare official news releases.***
  The spokesperson(s) should be available, prepared, and ready to respond to breaking developments because if "officials" are not on hand, the media will interview anyone they can grab.

- ***Know who the players are.***
  Depending on the type of crisis, local, state, federal agencies, as well as bar and/or business leaders might play an important role in your communication loop. Get contact names and phone numbers for every appropriate person and/or agency.

Tips for Crisis Communications – continued

- ***Coordinate, Coordinate, Coordinate.***
  Keep a steady flow of information going among all involved, including the crisis team, spokesperson(s), staff, law enforcement, and other local officials. Your crisis communications plan might include daily briefings with representatives from all affected agencies and entities.

- ***Don't stonewall, say "no comment," or lie.***
  If an official response has not yet been developed, say so and say when it will be available, then follow through. In responding to a question about something that can't be discussed, say so, instead of "no comment." No comment implies secrecy or that you have something to hide. By saying you can't discuss something and explaining why it can't be discussed (it involves personnel issues which are confidential, it involves a pending case which according to judicial canons can't be discussed, etc.), you've given the media something, even though it's not exactly what they want. That increases your court's credibility.

- ***Be sensitive to media and public needs for timely information.***
  Be aware of news deadlines and update the media as often as possible, even if it's to let them know you don't have any new information.

- ***Hold a post-crisis debriefing.***
  Review the crisis communication plan. What worked? What didn't work? What could be improved? What could or should have been done differently. Thank everyone involved: staff, volunteers, media, and other agencies for their support and assistance.

TAB 5

Trial Court Coordination

Progress Report Summary

March 31, 2009

Black Diamond/Buckley/Milton Municipal Courts
In-Custody Hearings

Project Goals

To increase access to justice, assure compliance with CrRLJ 3.2.1, allow cross court issuance of protection orders, reduce the resources consumed by prisoner transport, reduce the officer and courthouse safety issues brought on by prisoner transport, allow cross court training of court staff on video conferencing equipment, and the use of combined purchasing to save costs and assure compatibility through the use of an interlocal agreement and internet based video conferencing.

Project Objectives

To coordinate video hearings between member courts so that those arrested on new charges will receive a preliminary hearing by the next court day.

Status

We have made significant progress since our last report. We have installed, tested, and actually used the video conferencing equipment in a number of hearings. The Buckley Jail has installed an internet based video conferencing hub. The Black Diamond Court has installed a video conferencing endpoint in the courtroom, and the Black Diamond judge has a laptop with the ability to make video calls. The system works very well and allows for all participants in the courtroom, the jail, and the judge's location to see and hear each other. The judge is often located in his Seattle office, so the mobility his laptop provides is wonderful. When either the prosecutor or the public defender are not in the courtroom (for example, if the prosecutor is in another jurisdiction), then the judge, the courtroom, and the jail conduct a video conference and the prosecutor participates by telephone.

The Bonney Lake Municipal Court has dropped out of our project. However, the Milton Municipal Court has joined the project, and the Orting Municipal Court has asked to join the project as well.

The Milton, Buckley and Black Diamond judges have agreed to appoint each other as pro-tem judges which will give each judge the authority to conduct preliminary hearings for all three courts.

The City of Buckley and the City of Milton are currently putting together their requests for technology. We hope to make a purchase in the next 2-4 weeks.

Columbia County
In-Custody Hearings

Project Goal

To seek a solution for the insecure transport of in-custody defendants, facilitate access to justice, and assist in the alleviation of excessive costs. Phase I of the project includes a video system for in-custody appearances between the current jail and courtroom.

Project Objectives

Purchase of equipment, installation of equipment, training on equipment.

Status

We have utilized the installed equipment on a routine basis since September of 2008. The advantages are exactly as hoped for in our initial proposal. Unfortunately, until funding and the general economy improve, further expansion of the project is suspended.

However, we do intend on utilizing it for victim testimony during sensitive trials—particularly with children.

King County
Jury Summons Response

Project Goal

Increase jury summons response. This supports two TCCC goals: increase flexibility to distribute work more efficiently among trial courts within a jurisdiction; and reduce functional redundancies among trial courts within a single jurisdiction.

Project Objectives

Improve jury management by reducing juror non-response rate throughout King County.

Status

Marketing campaign: The methodology to evaluate this campaign continues to be discussed. Four TCCC courts continue to report "surges" in juror response. The project co-chairs studied the Juror Pay Research Project recently conducted by the Washington State Center for Court Research (WSCCR), and consulted with the authors about the evaluation of the project. It was decided that as surveys were not used during the 8-week marketing period, it would be problematic to conduct a survey now. Evaluation activities will include identifying four court sites (such as King County Superior Court, and Kent, Tukwila, and Kirkland municipal courts) and reviewing their juror data, currently managed by Superior Court, to determine if yield can be measured. WSCCR staff cautioned that yield data analysis could inform us whether the response rates changed, but could not be definitive as to whether any change was due to the bus banners. The collection of yield data continues.

Learning that Metro advertising is experiencing a downturn, we were able to obtain a commitment from them to reinstall banners without charge on 20 bus routes: 8 buses serving the Central District, 8 buses serving the East Side and 4 buses serving the North End. TCCC membership have been kept informed of the project progress by email. Bus banners being run without charge has resulted in positive and enthusiastic responses from more of the 'silent' TCCC members than all earlier communications about this and other TCCC projects.

The project expenditures to date total $23,081.21 for the bus banner campaign and the jury room posters.

Purchasing bus banners for jury rooms: Most of the project activity in this quarter focused on delivering framed posters of the bus banners to jury rooms in participating courts. Nine sets (each including 4 posters) have been purchased through the TCCC grant. The framed posters are also being considered for public display during Juror Appreciation Week, May 2009.

Re-design of the Jury Summons. New judicial member assignments have been made to the Superior Court Jury Management Committee. It is anticipated a group will be convened in early April to continue the re-design activity.

Developing a web site to link the jury service addresses for all courts in King County. Activity on completing this website is deferred until the District Court Jury Service website is completed (early April) as the county courts' sites are integral to the TCCC activity. Once the District Court website is in place, the TCCC website can be rolled out and linked to other courts in King County. King County Superior Court re-designed their website to include photos of the bus banners. The site address is: http//www.kingcounty.gov/courts/superiorcourt/juror.aspx.

Pierce County
Volunteer Coordination

Project Goals

The goal of this project is to create a customer service information booth and function in the County-City Building in downtown Tacoma, the building in which all three courts conduct primary functions.

The goal included obtaining consulting services to assist in developing a Volunteer program to staff an effective information booth. (We have now determined that this will not be necessary.)

Project Objectives

1. To develop and maintain an ongoing volunteer pool from which a customer service information booth can be staffed on a daily basis.
2. To reach an agreement between the three courts and the county for the future ongoing use of a small percentage of Trial Court Improvement Fund monies to provide a staff (0.5 FTE) Volunteer Coordinator.
3. To build a computer equipped information booth on either the first or second floors of the building for these purposes.

Status

No funds have been expended at this point. The District Court, Tacoma Municipal Court, and Superior Court have agreed to use an existing public service window located in the first floor main lobby of building (not being used at this time by Tacoma Municipal Court), as one of two sites for these services.

We continue to review and retrofit the materials provided by the staff Volunteer Coordinator in the Juvenile Court (coordinates approximately 500 volunteers, including the CASA program), and are now reviewing the materials and suggestions made based upon her experience. We believe this will reduce the need to create the program infrastructure from the "ground up."

We anticipate cost estimates on the construction and location of the information booth and the computer costs for the volunteer station(s) by mid Mid-March. We have returned to consideration of hiring a part time contractor to perform the basic duties on an ongoing basis. The long term costs would be shared by the three courts in the future from Trial Court Improvement funds.

We now believe the grant funds will be used for construction, computer hardware, upfront cost of supplies, relocation of a calendar Kiosk, and training. The three courts involved continue to find an approach for joint funding of ongoing volunteer coordination and training, notwithstanding the very serious budget difficulties we all face in 2009.

Skagit County
Regional Staff Training

Project Goal

Professional training is provided to management at the Association conferences at least twice yearly, and regional training is provided for District and Municipal Court staff. However, County Clerk and Superior Court Administration staff does not have the same opportunity for training. The purpose of this project is to provide regional, cross-jurisdiction communication skills training for all line-staff from the courts of Skagit, Island, San Juan and Whatcom Counties. Approximately 107 employees will be participating in this training.

Project Objectives

Staff will have a better understanding of why it is so tough to communicate, why miscommunication occurs, how people can push your buttons, and how active listening affects the process.

Status

This project was successfully completed and the results were detailed in the 9-30-2008 progress report.

TAB 6

BOARD FOR JUDICIAL ADMINISTRATION

2009 Legislative Session

Current as of 4/15/09

The legislature is just over one week away from *sine die*, the end of the regular, 105-day session. Only bills that are necessary to implement the budget remain subject to hearing in the Ways & Means Committees. Otherwise, floor action is fully underway with the last day to hear policy bills in the opposite house this Friday, April 17th. The last week of session will be devoted to concurrences and disputes regarding opposite house amendments, bills necessary to implement the budget, and crafting agreement on the transportation budget, capital budget, and operating budget appropriations bills.

With the exception of the juror pay proposal, the BJA request legislation continues to move steadily through the process with three bills having now been signed by the Governor. Chief Justice Alexander testified before the House Judiciary Committee on March 11th but, due to the state's budget crisis, the bill will not move forward this session.

BJA Request Legislation

Bill	Description	Position	Status, Comments
HB 1158 ~~SB 5134~~	**Electronic Juror Signatures** Allowing electronic signatures on juror questionnaires	Request	Needs House concurrence.
~~HB 1159~~ SB 5135	**King Co. district court judges** Adding 5 judges to King County district court (phased in over 3 years)	Request	5135 was amended to add removal of 2 Spokane district court judges. Signed by Governor.
~~HB 1204~~ SB 5102	**Benton Co. district court judges** Adding 2 district court judges in Benton County	Request	Signed by Governor.
HB 1205 ~~SB 5205~~	**Court of appeals judges** Adding one judge to division two, district two	Request	Signed by Governor.
HB 1238 ~~SB 5133~~	**Juvenile case records access** Allowing WSCCR and OPD access to records	Request	1238 will be amended to clarify that AOC shall maintain the records. Access will be granted in the same manner as in current law and court rule. In Senate Rules.
HB 1937	**State juror expenses funding** Increasing juror pay and state funding	Request	1937 was heard in House Judiciary on 3/11

Legislation BJA has taken a position on as of April 15, 2009
(Bills with a "No Position" status are not listed. Bills with a strikethrough are dead.)

Bill	Description	Position	Status, Comments
~~HB 1147~~	Local option tax provisions	Support	Support maximizing availability of services but no position on tax policy – same for 1147, 5301, 5433
~~HB 1175~~	State govt. ethics	Concerns	Concern re section 5 – state judicial officers should be excluded.
HB 1257	Deferred prosecution files	Support	Delivered to Governor. DMCJA bill. BJA Long Range Planning Committee.
~~HB 1317~~	Disclosure of public records	Concerns	Support amendment to add specific language to make certain bill applies to executive branch criminal justice agencies.
~~HB 1382~~	Expanding DNA collection to time of arrest	Concerns	Oppose section 5(9) – new unrelated fee. Large fiscal note.
~~HB 1476~~	Requiring court to advise crime victims of their rights	Oppose	Suggested alternative to sponsor. Fiscal impact.
~~HB 1497~~	Eliminating certain boards and commissions	Concerns	Oppose elimination of Sentencing Guidelines Commission.
HB 1517	Restoration of right to vote	Support	Passed both Houses.
~~HB 1739~~ ~~SB 5902~~	Adding nonwaivable penalty to parking violation to promote accessible communities for persons with disabilities	Concerns	BJA letter to committee
~~HB 1742~~ ~~SB 5523~~	Public retirement benefits for court employees	Support	
~~HB 1781~~ ~~SB 5819~~	Changing OPD funding distribution between cities and counties	Concerns	
~~HB 1862~~ ~~SB 5782~~	Contracting for judicial services between jurisdictions	Oppose	
HB 1902	Consolidating accounts into the general fund	Oppose	Oppose due to inclusion of Equal Justice Subaccount.
HB 1919	Drug court funding	Support	SCJA bill. In Senate Rules.
HB 2211	SR 520 tolls	Oppose	Court related provisions amended into 5556. Still contains some concerning language.
~~HB 2216~~ ~~SB 6025~~ ~~HJR 4210~~	Transferring functions from WSBA to Supreme Court	Oppose	
SSB 5013	Increasing and adding fees at superior court level	Oppose	Section 28 (creditors claim fee) removed. Needs Senate concurrence.

SB 5073	Consolidating accounts into the general fund	Oppose	Oppose due to inclusion of Equal Justice Subaccount. Amendment possible.
~~SB 5082~~ ~~SB 5093~~ ~~SJR 8203~~ ~~SJR 8204~~	Filling supreme court vacancies through a nominating commission	Oppose	No hearings have been scheduled on any of these bills at this time.
~~SB 5115~~	Modifying the judicial conduct commission	Concerns	Necessary resolution did not pass so bill is likely dead. If not, will need amended to address Commission and DMCJA concerns.
~~SB 5146~~	Revising the accrual of interest on judgments entered against offenders	Concerns	
SB 5151	Authorizing appointment of criminal court commissioners	Support	Delivered to Governor.
~~SB 5225~~ SB 6167	Updating property theft values	Support	Some provisions in Budget. New bill dropped.
~~SB 5240~~	Making unenforceable court rules with fiscal impact	Oppose	
SB 5277	District court clerk fees	Support	DMCJA bill. Needs Senate concurrence.
SB 5301	Permissible uses for sales & use taxes	Support	Support maximizing availability of services but no position on tax policy – same for 1147, 5301, 5433
~~SB 5386~~	Electronic court recording	Oppose	
SB 5433	Local option tax provisions	Support	Support maximizing availability of services but no position on tax policy – same for 1147, 5301, 5433
SB 5556	Toll enforcement infractions.	Concerns	Court process language has been amended in. Still needs further refinement. King County needs start-up funding.
~~SB 5577~~	Standardizing dependency forms	Concerns	Amended into another bill. Support with amendments on funding and timelines.
~~SB 5970~~	Telephonic hearings in civil and traffic cases	Oppose	No hearing scheduled at this time.
~~SB 6067~~	Delayed sentencing for certain offenders	Support	SCJA bill.
No bill at this time	CASA funding	Support	Support effort to retain partial CASA funding.
No bill at this time	Local option user fees	Oppose	

TAB 7

Justice Seasoned with Mercy

The Washington Lawyers' Fund for Civil Justice and Other Proposals to Help Solve the Civil Legal Aid Catastrophe

WSBA President Mark Johnson

Shakespeare's *The Merchant of Venice* has a courtroom scene in which mercy, in the context of justice, is discussed:

> The quality of mercy is not strained. It droppeth as the gentle rain from heaven upon the place beneath. It is twice blessed; it blesseth him that gives and him that takes.

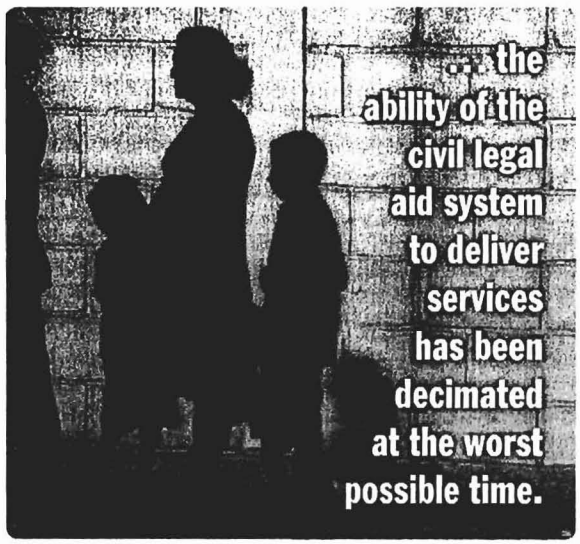
Shakespeare actually considers a merciful justice system to be godlike:

> And earthly power then doth show likest God's, when mercy seasons justice.[1]

The Reality. Hundreds of thousands of jobs are vanishing every month. Evictions are epidemic, cars are becoming homes, and families are dissolving. More people are indigent, and more indigent people need the assistance of lawyers on issues of housing and personal safety. In addition, IOLTA revenues have been halved and the Federal Reserve has cut interest rates on IOLTA accounts (and others) to essentially zero. As a result of substantially increased need and significantly diminishing revenues, the ability of the civil legal aid system to deliver services has been decimated at the worst possible time.

The Need. In 2003, the Task Force on Civil Equal Justice Funding, created by our Supreme Court, published the Washington State Civil Legal Needs Study, the results of a research project which was intended to identify the nature and extent of unmet civil legal needs in Washington. The study found that more than 75 percent of low-income households in Washington face at least one civil legal problem *annually* and the problem often involved an issue of "basic need," including housing and personal safety. The study also found that 85 percent of the problems were faced without assistance, that women and children were disproportionally impacted, and that the need was most acute in rural areas.

The System. Our civil legal aid system consists of statewide service providers such as Northwest Justice Project, Northwest Immigrant Rights Project, TeamChild, and Columbia Legal Services, and more than 20 county bar-sponsored voluntary legal aid programs. The Access to Justice (ATJ) Board, together with the Office of Civil Legal Aid and the Legal Foundation of Washington, are working to implement strategies to provide services to those with the most critical needs. The ATJ Board was created by the Supreme Court and is funded by the WSBA pursuant to the Court's directive. The ATJ Board budget does not include funds to directly provide legal services. Pro bono legal services, including those provided by WSBA members holding Emeritus licenses, are also an integral part of the civil legal aid system. To date for the calendar year 2008, 3,017 lawyers, or about nine percent of our members, reported pro bono hours of direct services to low-income clients or organizations that serve low-income clients.



The Funding. The federal Legal Services Corporation, which provides one source of funding for the Northwest Justice Project, has not increased its contribution appreciably since 2003.[2] The Legal Foundation of Washington (LFW), a nonprofit corporation created at the direction of the Supreme Court, is responsible for administering IOLTA revenues. Grants from the LFW provide direct support to 32 county and community pro bono and legal services clinics. Because of the petrified real estate market, IOLTA revenues were demolished last year. **The tough facts: IOLTA revenues in 2007 were $9,179,877; in 2008, they were $4,691,500. In addition, LAW Fund's Campaign for Equal Justice raised $439,000 less in 2008 than in 2007.** Understandably, a $5 million reduction in funds for an organization that distributed $8.3 million in civil legal aid grants in 2007 is devastating, and the LFW recently made the difficult decision to reduce grants for 2009 by 18 percent. According to Caitlin Davis Carlson, executive director of LFW,

the lawyer donation rate to the Campaign for Equal Justice varies from 5 to 20 percent per county.

Washington state also provides funds for civil legal aid. The civil legal aid money provided by the state is administered by the Office of Civil Legal Aid (OCLA). OCLA has a biennial budget of $22.5 million and is headed by legal aid stalwart Jim Bamberger. The Northwest Justice Project (NJP) essentially gets the entirety of the OCLA budget, save administrative expenses. NJP, in turn, subcontracts approximately $1.9 million of its budget annually to other legal service providers. Given Washington state's enormous budget deficit, predicted to be $8.3 billion at the time this article was submitted for publication, it is highly unlikely that the Legislature will increase funding this year and, in fact, it is more likely that funding will be cut. In addition, our county bars pursue fundraising activities (the King County Bar has a foundation) for their pro bono clinics, usually at their bar dinners or at special fundraising events.

Lawyers do not have the resources to personally fund the justice system, but for less than $6 per month, we can make a significant difference in civil legal aid and show the Court and the Legislature that we are committed to assisting in solving the problem. The current economic situation, while difficult for us, has been devastating for the poor, and their legal problems are multiplying as a result.

At the time this article went to press, one of the budget proposals circulating in Olympia was a 20 percent across-the-board funding cut. According to Northwest Justice Project's service reduction scenarios, if the OCLA budget were to be cut 20 percent, the results would be, *inter alia*: (1) the Northwest Justice Project would need to close four rural offices — three of which opened only in 2007—2008; (2) "between 5,800 and 6,000 families facing domestic violence threats and threats to the safety of children" would not receive any legal assistance from NJP; (3) "between 2,500 and 3,000 families facing eviction" would not receive any help from NJP; and (4) "between 12,000 and 15,000 families" would not receive "limited assistance from volunteer attorneys and/or representation by specialty providers" such as TeamChild to help meet basic human needs.[3]

Our Regulated Monopoly and Access to Justice. With a few exceptions, our licenses to practice law give us a representational monopoly on access to the courts. The policy basis of the monopoly, which is intended to benefit the public, is that, given the expanse and complexity of the law and legal problems, well-educated, rigorously examined, and highly regulated lawyers are the best way to protect the public and ensure competent, effective representation. The most effective argument against maintaining the legal profession's regulated monopoly is that justice is available only to those who can pay — an argument that is reinforced when people are unable to get the services of a lawyer, even when the matter involves personal safety or other basic need. The Supreme Court is currently considering the Family Law Legal Technician Program (FLLTP) proposed by the Practice of Law Board. I am opposed to the FLLTP and I am solidly in support of maintaining the current legal structure, but that will not occur if we do not step forward to take leadership on, and ownership of, this issue now and show the court that we are serious about solving the problem.

The Washington Lawyers' Fund for Civil Justice. At the Board of Governors Meeting in Richland on April 24 and 25, I intend to ask the Board to support, and to submit to our Supreme Court for its approval, a proposal creating the Washington Lawyers' Fund for Civil Justice and to require every lawyer with an active license to practice law in Washington State to support civil legal aid by paying an additional $70 per year ($5.84 per month), beginning with the 2010–2011 licensing cycle. I know this will make many of you very unhappy.

If the proposal is enacted, Washington will join the Bars of Illinois, Minnesota, Missouri, Ohio, Texas, West Virginia, and Wisconsin in using licensing fees to fund legal services.[4]

If the Fund for Civil Justice were approved and assuming that the Supreme Court approves the proposed $450 active license fee for the 2009–2010 and 2010–2011 fiscal years for lawyers in practice three years and longer (50 percent of that for lawyers in practice up to three years) and the proposed Lawyers' Fund for Client Protection assessment of $30 per lawyer per year, the total financial contribution of each active license lawyer in practice 3 years or more would be $550. (Approximately 20 percent, or $90, of the proposed annual licensing fee of $450 is attributable to costs related to lawyer discipline — a mandatory function delegated to the WSBA by the Supreme Court). Given current membership numbers, the Washington Lawyers' Fund for Civil Justice would raise slightly over $2 million annually for indigent civil legal aid.

WSBA Donation to the Campaign for Equal Justice. In addition, the WSBA has several segregated funds, one of which is the CLE reserve fund. Due to prudent business practices and accounting decisions whereby the CLE Department was not fully charged for "indirect costs" (in particular, staff time paid by general fund revenue), the fund has a balance of approximately $2 million. The CLE Department needs a significant portion of that money for retooling for online CLEs and other technical improvements, but, in my opinion, the fund is too large, so I intend to propose to the Board that it authorize a substantial one-time donation to the LAW Fund's Campaign for Equal Justice.

The Path Forward. The current crisis will not resolve soon and we need to think creatively. I have asked King County Superior Court Judge Steve González and Seattle University law professor and former U.S. Attorney John McKay to serve as honorary chairs of this effort on finding solutions to the crisis, and they have kindly consented to do so. Judge González and Professor McKay's formidable task will begin on April 17, when the WSBA will host a civil legal aid crisis summit at Seattle University School of Law.

Conclusion: Justice Seasoned with Mercy. Civil legal aid for the indigent is not the only crisis that the justice system is facing; our courts and the public defense system are woefully underfunded. The Justice in Jeopardy Coalition (JIJC), led by the Board for Judicial Administration, is continuing to work for increased state

funding for public defense, court funding, and civil legal aid, and in 2005 and 2007, the JIJC was successful in obtaining increases from the Legislature for all three. Washington state still ranks last, however, in funding provided by the state to the counties for court funding; our counties fund approximately 80 percent of the budget of the trial courts. Ideally, our trial courts, criminal public defense system, and civil indigent legal aid should be fully and adequately funded by the state as a societal obligation of a democracy. That is not going to happen in the near term — the money is not there. If OCLA suffers a 20 percent budget cut, the gains made since in extending civil legal aid to the indigent will essentially be undone. Lawyers do not have the resources to personally fund the justice system, but for less than $6 per month, we can make a significant difference in civil legal aid and show the Court and the Legislature that we are committed to assisting in solving the problem. The current economic situation, while difficult for us, has been devastating for the poor, and their legal problems are multiplying as a result. We know, although some may think otherwise, that lawyers are generous, kind, and genuinely concerned for the welfare of others. We work very hard at creating justice and it is time for us to seize this moment to show others that we can season our justice with mercy.

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NOTES

1. *The Merchant of Venice* also contains, unfortunately, Shakespeare's highly anti-Semitic character, Shylock, an undeniable blot on the Bard's work.
2. 2003 — 5.34 million; 2004 — 5.44 million; 2005 — 5.41 million; 2006 — 5.34 million; 2007 — 5.73 million; 2008 — 5.76 million.
3. Source: Northwest Justice Project Service Reduction Scenarios FY 2010 and 2011, executive summary.
4. Illinois, Minnesota, and Ohio are voluntary bars; Missouri, Texas, West Virginia, and Wisconsin are unified (mandatory) bars. West Virginia's contribution is small — $150,000; Illinois contributes about 2.6 million a year. Source: ABA Resource Center for Access to Justice Initiatives — "Using Attorney Registration Fees or Bar Dues to Fund Legal Services" — Updated February 19, 2009, by Meredith McBurney, ABA resource development consultant.

TAB 8

BOARD FOR JUDICIAL ADMINISTRATION RULES -- BJAR 2 -- COMPOSITION

(a) Membership. The Board for Judicial Administration shall consist of judges from all levels of court selected for their demonstrated interest in and commitment to judicial administration and court improvement. The Board shall consist of five members from the appellate courts (two from the Supreme Court, one of whom shall be the Chief Justice, and one from each division of the Court of Appeals), five members from the superior courts, one of whom shall be the President of the Superior Court Judges' Association, five members of the courts of limited jurisdiction, one of whom shall be the President of the District and Municipal Court Judges' Association, two members of the Washington State Bar Association (non-voting) and the Administrator for the Courts (non-voting).

(b) Selection. Members shall be selected based upon a process established by their respective associations or court level which considers demonstrated commitment to improving the courts, racial and gender diversity as well as geographic and caseload differences.

(c) Terms of Office.

(1) Of the members first appointed, one justice of the Supreme Court shall be appointed for a two-year term; one judge from each of the other levels of court for a four-year term; one judge from each of the other levels of court and one Washington State Bar Association member for a three-year term; one judge from the other levels of court and one Washington State Bar Association member for a two-year term; and one judge from each level of trial court for a one-year term. Provided that the terms of the District and Municipal Court Judges' Association members whose terms begin on July 1, 2010 and July 1, 2011 shall be for two years and the terms of the Superior Court Judges' Association members whose terms begin on July 1, 2012 and July 1, 2013 shall be for two years each. Thereafter, voting members shall serve four-year terms and the Washington State Bar Association members for three-year terms commencing annually on June 1. The Chief Justice, the President Judges and the Administrator for the Courts shall serve during tenure.

(2) Members serving on the BJA shall be granted equivalent pro tempore time.

[Amended effective October 29, 1993; February 16, 1995; January 25, 2000.]

BJA Term Stagger – In Support of Proposed BJA Rule Revision

The chart below shows the current term staggers for the DMCJA and SCJA BJA members. The DMJCA term ending in 2010 will end in the middle of the DMCJA member chair term and the SCJA term ending in 2012 will end in the middle of the next SCJA member chair term.

Current Stagger

2009	2010	2011	2012	2013	2014	2015	2016
1 each							
1 each							
1 each							
1 each							
SCJA Co-Chair	DMCJA Co-Chair		SCJA Co-Chair		DMCJA Co-Chair		SCJA Co-Chair

The alternative stagger (below) would essentially lay out two terms with two judges each for each association level that would put all of their members in a position to serve as member chair in either the middle two or final two years of their terms. Looking at the dark purple, DMCJA terms would end in 2011 and 2012 and SCJA terms would end in 2013 and 2014. Two terms with two members each is not a good approach, as no member would essentially be eligible during the first year of their term and brand new members are unlikely to be elected in any event. And, basically all four members from each association would be viable candidates each member chair election cycle.

In terms of practical implementation, the current DMCJA terms that expire in 2011/12 would remain unchanged. And for the terms that end in 2009 and 2010, the easiest thing to do would probably be to have the Associations simply elect for short two-year terms when the current terms expire, and that would then put the subsequent terms into the proper rotation. Same logic for different years would apply for SCJA.

Alternative Stagger

2009	2010	2011	2012	2013	2014	2015	2016
SCJA (2)							
SCJA (2)							
DMCJA (2)							
DMCJA (2)							
SCJA Co-Chair	DMCJA Co-Chair		SCJA Co-Chair		DMCJA Co-Chair		SCJA Co-Chair

TAB 9

H-3213.1

HOUSE BILL 2362

State of Washington **61st Legislature** **2009 Regular Session**

By Representative Kessler

AN ACT Relating to providing support for judicial branch agencies by imposing surcharges on court fees and requesting the supreme court to consider increases to attorney licensing fees; amending RCW 36.18.018; reenacting and amending RCW 36.18.020; adding a new section to chapter 43.79 RCW; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 36.18.018 and 2005 c 282 s 43 are each amended to read as follows:

(1) State revenue collected by county clerks under subsection (2) of this section must be transmitted to the appropriate state court. The administrative office of the courts shall retain fees collected under subsection (3) of this section.

(2) For appellate review under RAP 5.1(b), two hundred fifty dollars must be charged.

(3) For all copies and reports produced by the administrative office of the courts as permitted under RCW 2.68.020 and supreme court policy, a variable fee must be charged.

(4) In addition to the fees established under subsection (2) of this section, a surcharge of two hundred dollars is established for appellate review. The county clerk shall transmit this fee to the state treasurer for deposit in the judicial stabilization trust account.

Sec. 2. RCW 36.18.020 and 2005 c 457 s 19 and 2005 c 374 s 5 are each reenacted and amended to read as follows:

(1) Revenue collected under this section is subject to division with the state public safety and education account under RCW 36.18.025 and with the county or regional law library fund under RCW 27.24.070, except as provided in subsection (4) of this section.

(2) Clerks of superior courts shall collect the following fees for their official services:

(a) In addition to any other fee required by law, the party filing the first or initial paper in any civil action, including, but not limited to an action for restitution, adoption, or change of name, and any party filing a counterclaim, cross-claim, or third-party claim in any such civil action, shall pay, at the time the paper is filed, a fee of two hundred dollars except, in an unlawful detainer action under chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case initiating filing fee of forty-five dollars, or in proceedings filed under RCW 28A.225.030 alleging a violation of the compulsory attendance laws where the petitioner shall not pay a filing fee. The forty-five dollar filing fee under this subsection for an unlawful detainer action shall not include an order to show cause or any other order or judgment except a default order or default judgment in an unlawful detainer action.

(b) Any party, except a defendant in a criminal case, filing the first or initial paper on an appeal from a court of limited jurisdiction or any party on any civil appeal, shall pay, when the paper is filed, a fee of two hundred dollars.

(c) For filing of a petition for judicial review as required under RCW 34.05.514 a filing fee of two hundred dollars.

(d) For filing of a petition for unlawful harassment under RCW 10.14.040 a filing fee of fifty-three dollars.

(e) For filing the notice of debt due for the compensation of a crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

(f) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of two hundred dollars.

(g) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, or a petition objecting to a written agreement or memorandum as provided in RCW 11.96A.220, there shall be paid a fee of two hundred dollars.

(h) Upon conviction or plea of guilty, upon failure to prosecute an appeal from a court of limited jurisdiction as provided by law, or upon affirmance of a conviction by a court of limited jurisdiction, a defendant in a criminal case shall be liable for a fee of two hundred dollars.

(i) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: PROVIDED, That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(3) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.33.080 or for forms and instructional brochures provided under RCW 26.50.030.

<u>(4) In addition to the fees required by this section, clerks of superior courts shall collect the surcharges required by this subsection, which must be remitted to the state treasurer for deposit in the judicial stabilization trust account:</u>

<u>(a) On unlawful detainer actions filed under chapter 59.18 or 59.20 RCW, a surcharge of ninety-three dollars.</u>

<u>(b) On all other filing fees required by this section except for filings in subsection (2)(d) of this section, a surcharge of fifty dollars.</u>

<u>NEW SECTION.</u> **Sec. 3.** A new section is added to chapter 43.79 RCW to read as follows:

The judicial stabilization trust account is established in the custody of the state treasurer. All receipts from the fee increases authorized by sections 1 and 2, chapter . . ., Laws of 2009 (sections 1 and 2 of this act), shall be deposited in this account. Moneys in

1 the account may be spent only after appropriation, except as otherwise
2 provided by this section.
3 Expenditures from the account may be used only for the support of
4 judicial branch agencies.
5 It is the intent of the legislature that the state supreme court
6 consider authorizing increases in attorneys' licensing fees in order to
7 support the operation of the state law library. Revenue from these
8 increases may be deposited in the judicial stabilization trust account
9 and may be expended by the administrator for the courts at the
10 direction of the state supreme court for the operation of the state law
11 library.

12 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
13 preservation of the public peace, health, or safety, or support of the
14 state government and its existing public institutions, and takes effect
15 July 1, 2009.

--- END ---