

BOARD FOR JUDICIAL ADMINISTRATION



**WASHINGTON
COURTS**

MEETING PACKET

**FRIDAY, FEBRUARY 18, 2011
9:30 A.M.**

**RECEPTION ROOM
TEMPLE OF JUSTICE
OLYMPIA, WASHINGTON**

Board for Judicial Administration Membership

VOTING MEMBERS:

Chief Justice Barbara Madsen, Chair
Supreme Court

Judge Michael Lambo, Member Chair
District and Municipal Court Judges'
Association
Kirkland Municipal 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 Stephen Brown, President
District and Municipal Court Judges'
Association
Grays Harbor County District Court

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

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

Judge Janet Garrow
District and Municipal Court Judges'
Association
King County District Court

Judge Jack Nevin
District and Municipal Court Judges'
Association
Pierce County District Court

Justice Susan Owens
Supreme Court

Judge Christine Quinn-Brintnall
Court of Appeals, Division II

Judge Kevin Ringus
District and Municipal Court Judges'
Association
Fife Municipal Court

Judge Dennis Sweeney, Presiding Chief
Judge
Court of Appeals, Division III

Judge Stephen Warning, President
Superior Court Judges' Association
Cowlitz County Superior Court

Judge Chris Wickham
Superior Court Judges' Association
Thurston County Superior Court

NON-VOTING MEMBERS:

Mr. Steven Crossland, President-Elect
Washington State Bar Association

Mr. Jeff Hall
State Court Administrator

Judge Laura Inveen, President-Elect
Superior Court Judges' Association
King County Superior Court

Ms. Paula Littlewood, Executive Director
Washington State Bar Association

Mr. Steven Toole, President
Washington State Bar Association

Judge Gregory Tripp, President-Elect
District and Municipal Court Judges'
Association
Spokane County District Court

Board for Judicial Administration

February 18, 2011
 9:30 a.m. – Noon
 Temple of Justice
 Olympia, Washington

Agenda

1. Call to Order	Chief Justice Barbara Madsen Judge Michael Lambo	
2. Welcome and Introductions	Chief Justice Barbara Madsen Judge Michael Lambo	
Action Items		
3. January 12, 2011 Meeting Minutes Action: Motion to approve the minutes of the January 12 BJA meeting	Chief Justice Barbara Madsen Judge Michael Lambo	Tab 1
4. Proposed GR 31A Action: Motion to recommend approval of proposed General Rule 31A to the Supreme Court Rules Committee	Judge Marlin Appelwick	Tab 2
5. BJA Resolution Guidelines Action: Motion to approve the proposed BJA Process and Guidelines for Resolution Requests	Ms. Mellani McAleenan	Tab 3
6. Diversifying the Bench Guidebook Action: Motion to co-sponsor the Diversifying the Bench Guidebook	Judge Deborah Fleck	
Reports and Information		
7. Legislative Update	Ms. Mellani McAleenan	Tab 4
8. Proposed Salary Schedule	Chief Justice Madsen	Tab 5
9. Washington State Bar Association	Mr. Steven Toole Ms. Paula Littlewood	
10. Reports from the Courts Supreme Court Court of Appeals Superior Courts Courts of Limited Jurisdiction	Justice Susan Owens Judge Dennis Sweeney Judge Stephen Warning Judge Stephen Brown	

<p>11. Association Reports</p> <p>Superior Court Administrators County Clerks District and Municipal Court Administrators Juvenile Court Administrators</p>	<p>Ms. Delilah George Mr. Kevin Stock Mr. Joseph McGuire Ms. Shelly Maluo</p>	
<p>12. Other Business</p> <p>BJA Account Update</p> <p>Next meeting: March 18 Beginning at 9:30 a.m. at the Temple of Justice, Olympia</p>	<p>Chief Justice Barbara Madsen Judge Michael Lambo Ms. Mellani McAleenan</p>	

**Board for Judicial Administration
Meeting Minutes**

**January 12, 2011
Temple of Justice
Olympia, Washington**

Members Present: Chief Justice Barbara Madsen, Chair; Judge Michael Lambo, Member Chair; Judge Marlin Appelwick; Judge Stephen Brown; Judge Deborah Fleck; Judge Janet Garrow; Mr. Jeff Hall; Ms. Paula Littlewood; Judge Jack Nevin; Justice Susan Owens; Judge Christine Quinn-Brintnall; Judge Kevin Ringus; Mr. Steven Toole; Judge Gregory Tripp; Judge Stephen Warning; and Judge Chris Wickham

Guests Present: Ms. Tricia Crozier, Ms. Delilah George (by phone), Ms. Betty Gould, Mr. Doug Klunder, Judge Barbara Linde, Judge Richard McDermott, Ms. Linda Myhre Enlow, Mr. Rowland Thompson, and Ms. Kristal Wiitala

Staff Present: Mr. Charley Bates, Ms. Beth Flynn, Mr. Dirk Marler, Ms. Mellani McAleenan, and Mr. Rick Neidhardt

The meeting was called to order by Judge Lambo.

December 10 BJA Meeting Minutes

It was moved by Judge Warning and seconded by Judge Ringus to approve the December 10 BJA meeting minutes. The motion carried.

Appointments to the BJA Public Trust and Confidence Committee

It was moved by Judge Ringus and seconded by Judge Wickham to appoint Judge Elizabeth Stephenson and Mr. Michael Killian to the BJA Public Trust and Confidence Committee. The motion carried.

Resolution Regarding Notice of Potential Consequences of Guilty Pleas

Ms. Littlewood stated that the Resolution Regarding Notice of Potential Consequences of Guilty Pleas came to the Washington State Bar Association (WSBA) Board of Governors (BOG) at their October meeting and Mr. Hall suggested at that time that it come to the Board for Judicial Administration (BJA). There were some WSBA concerns and it was pulled from the BOG agenda. They revised the fourth clause down and the revised language is included in the materials. The BOG would like to know that the BJA is okay with this language before they approve the resolution.

Discussion focused on the following areas:

- That there is a false impression of only having the consequences if the defendant pleads guilty. In reality, the defendant can plead not guilty but be found guilty and have the same consequences.
- Judges were concerned about what happens if, for some reason, they do not distribute the fliers to defendants.
- There is a Uniform Collateral Consequences of Conviction Act that is being developed that could be used to solve this issue.
- The District and Municipal Court Judges' Association (DMCJA) has not had time to review the resolution and take a position on it.
- Judges should not be encouraging or advising defendants whatsoever. Judges should not feel like they are wearing more than one hat.
- How would the resolution be used? Consequences can be very broad and can come up decades later. You never know what the consequences could be.
- To the extent this can be phrased that it is a best practice so it doesn't convey any mandatory consequences of a judge not doing it, it would be okay.
- This is an excellent instrument to send a message to the counties and cities that courts need to be funded so everyone has counsel.
- There is a lot of text in this and will every non-English proficient person have the expectation that this document will be translated by interpreters?
- Is there any consequence if the BJA does not endorse this?
- Difficult to make sure this works for every court since a lot of them operate differently.

This resolution will be revisited next month.

Reconsideration of Position on Judicial Salaries

Chief Justice Madsen commented that since the BJA adopted a position on salaries, there was quite a bit of commotion in the political area regarding salaries. Some elected officials sent a letter to the Salary Commission asking that their salaries be reduced even though according to the Washington State Constitution salaries cannot be reduced during their term of office. The Supreme Court supports the 2011 position as it was approved in the fall in an effort not to have to play catch-up in the future.

Judge McDermott indicated that many of his colleagues on the King County bench were concerned that a salary reduction would lead many judges to a reassessment of their judicial career versus a return to the private sector, in particular those judges who are relatively new to the bench.

Mr. Hall stated that the BJA Legislative/Executive Committee has not taken a position on the legislation. The first piece of legislation, HJR 4201, amends Article XXVIII, Section 1 of the Constitution of the State of Washington. It proposes that whenever the omnibus operating appropriations act reflects a general salary reduction for state employees, the Salary Commission shall decrease salaries adopted pursuant to this section at a commensurate rate and for the same period of time.

The second piece of draft legislation, H-0478.1/11, amends a different section of the Constitution, Article XXX, Section 1, eliminating the current provision which prohibits salary reductions during a term of office. This legislation includes municipal and county officials along with state elected officials.

What position does the BJA want to take, if any, on this legislation?

There was a lot of discussion regarding the legislation with the key points being:

- District and municipal court judges' salaries are not paid for by the state so this legislation makes no sense. The bill creates the possibility to decrease salaries with a trigger unrelated to funding source.
- From September 2008 to September 2013 there will be a 7% reduction in judicial salaries based on inflation. The reduction due to inflation will erase the pay increases made prior to that.
- A number of judges who are baby boomers and many judges around the state will be retiring in the next six years. The pay reduction will affect their retirement.
- Judges in the Court of Appeals, Division II are opposed to a COLA because they would need to make layoffs and furloughs to accommodate the salary increase and they do not want to do that.
- Recently, there was a question regarding the BJA possibly changing their position on judicial salaries based on the elected officials' letter to the Salary Commission. The position taken by the BJA is not asking for a raise but stating these are the factors that should be considered regarding judicial salaries.

Justice Madsen stated that unless someone who votes in the majority wants to change position, the BJA already has a position on salaries. There were no motions for reconsideration. The position adopted previously will continue to be used for the judiciary with the Salary Commission.

GR 31A Discussion

The revised draft of General Rule 31A was included in the meeting materials. Judge Appelwick explained that there were still several issues for the BJA to resolve:

- The deliberative process exemption/chambers records exclusion

- Other potential exclusions such as family court files and date of birth
- Issues discussed by the Work Group such as the common law balancing test and the prospective application
- Issues brought up by the BJA members such as excluding incarcerated individuals from making requests
- Fees

The BJA discussed the outstanding issues and made the following decisions:

Regarding the exemptions for family court evaluation/DV files, family court mediation, and juvenile court probation's social files:

It was moved by Judge Fleck and seconded by Judge Wickham to add these three exemptions to GR 31A: family court evaluation/DV files, family court mediation, and juvenile court probation's social files. The motion failed because of a tie with 4 in the affirmative, 4 in the negative and 3 abstentions, including Chief Justice Madsen and Justice Owens. The file types will be called out expressly in a comment in the final draft of GR 31A.

Regarding the exemption for date of birth:

There was a recommendation from the Superior Court Judges' Association (SCJA) to include birth date in the category of "personal identifying information" in the list of excludable records. The recommendation carried with 4 in the affirmative, 3 in the negative and 4 abstentions, including Chief Justice Madsen and Justice Owens.

Regarding the exemption of raw datasets:

Raw datasets were discussed but there was no motion on this issue so an exemption will not be added.

Regarding the proposals to charge fees for public records and research:

A vote was taken based on a recommendation from the SCJA to allow courts to charge the same amount that County Clerks charge for public records. The recommendation failed with 2 in the affirmative, 5 in the negative and Chief Justice Madsen and Justice Owens abstaining.

Regarding the request from the SCJA to exempt records that originate in chambers:

There was a lot of discussion regarding this issue. Judge Appelwick clarified that the Work Group viewed chambers records as related to work of chambers staff and communications between chambers staff, not overall court administration material.

Some members were concerned about the release of budget information to county/city executives and thought maybe the deliberative process exemption could be narrowed down to the budget issue.

The proposed rule, under the deliberative process exemption, currently protects the work-up material from disclosure until the product is final and then everything is discloseable. The SCJA would like the work-up materials to never be disclosed. The deliberative process issue is imported in this rule by way of the Public Records Act (PRA).

A vote was taken to adopt a deliberative process exemption like the PRA but make it permanent. It failed with 3 in the affirmative, 4 in the negative and Chief Justice Madsen and Justice Owens abstaining.

A vote was taken to adopt the PRA deliberative process exemption but make budget-related materials (only) exempt permanently. It failed with 1 in the affirmative, 6 in the negative and Chief Justice Madsen and Justice Owens abstaining.

Language will be set out dealing with this issue in the draft rule at the next meeting.

Regarding the exemption of trial and appellate court public defense reports and invoices:

There is a request to delete "but only during the pendency of the case." from (6) on page 7 of the draft rule.

A vote was taken to delete, "only during the pendency of this case." from (6) on page 7 of the draft rule. It carried with Chief Justice Madsen and Justice Owens abstaining.

Regarding incarcerated individuals requesting records:

There was discussion regarding this issue and it will be discussed at the February meeting.

Regarding further review within the court or agency:

An amendment will be made to B (3) on page 10 in the proposed rule. The amendment will give the option to the presiding judge to designate another judicial officer to hold a review proceeding. This will be brought back for discussion at the February meeting.

Regarding a Best Practices work group:

A vote was taken to include language to formally request the convening of a Best Practices work group to assist with the implementation of GR 31A. It carried with Chief Justice Madsen and Justice Owens abstaining.

Regarding removing the County Clerks from the draft rule:

Judge Appelwick pointed out that the County Clerks can be removed from this rule since it is now a standalone rule and no longer applies to case records. See page 1 (c) (1) B on page 1 of the draft rule.

There were no objections so the County Clerks were removed from the rule.

Regarding the proposed amendments submitted by the Washington Association of Criminal Defense Lawyers (WACDL):

At the time that WACDL submitted their amendments, they were not aware that GR 31A separated from GR 31 and was now a standalone rule.

A vote was taken to add the following language in proposed GR 31A: "An attorney or entity appointed by a court or judicial agency to provide legal representation to a litigant in a judicial or administrative proceeding does not become a judicial agency by virtue of that appointment." It carried with Chief Justice Madsen and Justice Owens abstaining.

Regarding prospective application:

Should this rule apply to all records currently in possession as of the date of the rule or begin with only records created from the effective date of the rule forward? The SCJA requested that this be absolutely prospective only. There is a concern about public perception. Will records be kept a different way or handled a different way?

This issue will be addressed at the February meeting.

A new draft will be brought to the February meeting for consideration and the draft will include inmate records request language from the PRA and the effective date amendment.

BJA Resolution Guidelines

Justice Madsen stated she would like to see the BJA have an expanded role in the life of the courts of Washington and stated the mechanism to make that happen is resolutions.

It was the consensus of the BJA to go forward with the use of resolutions in order to expand the role of the BJA in the life of Washington courts.

Mr. Hall stated that the question now is that the BJA currently has no mechanism to process resolutions. The BJA needs to be selective or their resolutions will carry no weight.

Ms. McAleenan reported that she included a draft Process and Guidelines for Resolution Requests in the BJA meeting materials. The guidelines include a procedure to have resolutions reviewed/screened by the BJA Legislative/Executive Committee before coming to the full BJA. The resolutions would not be broad policy statements but they would be specific and directive.

It was moved by Judge Ringus and seconded by Judge Fleck to put the BJA Resolution Guidelines on the February meeting agenda as an action item. The motion carried.

Diversifying the Bench Guidebook

Judge Fleck reported that the Diversifying the Bench Guidebook is a product of the Minority and Justice Commission's Workforce Diversity Subcommittee. The diversity of the bench has been declining and the Guidebook contains information about how to run for election and how to seek appointments. The "Judges' Insight" section should be particularly helpful. It was a result of a meeting of about 15 judges from all levels of court from around the state who came together three years ago to answer questions that people frequently ask of judges if they have the opportunity.

The Workforce Diversity Subcommittee would like as many of the tentatively listed law schools, bar groups, and judicial associations to co-sponsor this guidebook as possible. The reason it is on the agenda today is to ask the BJA to become a co-sponsor.

Judge Lambo said he thought a lot of the BJA members would like more time to review the guidebook and stated it will be an action item on next month's agenda.

Washington State Bar Association

Mr. Toole reported that the Washington State Bar Association (WSBA) Board of Governors (BOG) met December 10 and 11 in La Conner. They are mindful of all the budgetary issues going on and the BOG's Budget and Audit Committee is working on an exercise to see how cutting 10% of the budget would impact programming.

The Washington Leadership Institute surveyed female members of the WSBA. It was quite an interesting project. The Bar is taking a broader survey and this is an ongoing two-year process.

The WSBA is drafting a new rule, GR 12.4 to address the BJA's recommendation to exclude the WSBA from the proposed GR 31A. They established a work group and have a recommendation that will be presented to the BOG in Olympia in a few weeks.

Ms. Littlewood reported that the WSBA launched their Moderate Means Program in December and they now have over 100 attorneys. They hired staff at the Washington law schools to train their students to process clients.

Reports from the Courts

Supreme Court: Justice Owens reported that the Supreme Court is back in session. Last week they were busy with administrative matters and with the swearing-in of new Justice Charlie Wiggins. Chief Justice Madsen shared that there will be a roundtable discussion on race and the criminal justice system on March 2 in the Supreme Court courtroom. She was asked by the WSBA and others to hold a meeting on this issue and hopefully it will result in a meeting of the minds on the issue.

Court of Appeals: Judge Appelwick reported that Division II has a retirement dinner planned for Judge C. C. Bridgewater and Judge Jill Johanson will take the bench soon. They are working on budget issues.

Superior Court Judges: Judge Warning updated the BJA on the legislation the SCJA is working on. Judge Warning testified on the assault of the judge bill. He asked that judges have the same protections as police dogs. Judge Wickham reported that Thurston County is working with Mr. Barney Barnoski on a risk assessment tool. If it is successful, it will satisfy a concern raised across the state that the static domestic violence risk assessment is not satisfactory.

District Court Judges: Judge Brown stated that the DMCJA Board meeting is this Friday. The Legislative Committee is up and running and are always on the lookout for new fees.

Association Reports:

County Clerks: Ms. Gould reported that there is a lot going on and the legislative session has a huge impact on the clerks. They are trying to monitor bills for impact on county clerks. They are also mentoring some new clerks and continuing to look at technology.

District and Municipal Court Administrators: Ms. Crozier said they are working hard with a lot of transition at their level of court.

Administrative Office of the Courts (AOC)

Mr. Hall reported that it has come to his attention over the past several weeks that all of the JISC plans are finally coming off the page and they are moving forward.

Mr. Hall thanked all the stakeholder groups for their participation in the prioritization of AOC's services. He will be using the information to make some possible short-term decisions, with the Legislature, and with final budget appropriations this spring. He will also use to communicate the AOC services with the stakeholders.

There being no further business the meeting was adjourned.

**PROPOSED GR 31A – ACCESS TO THE JUDICIARY’S ADMINISTRATIVE RECORDS:
SUMMARY OF ISSUES TO BE RESOLVED ON FEBRUARY 18**

The proposed General Rule 31A on public access to the judiciary’s administrative records is scheduled for final review at the BJA’s meeting on February 18th. Several issues still need to be resolved. We have grouped these issues as follows:

- (1) Issues that were held over at the last BJA meeting for further drafting;
- (2) Issues for clarification that have arisen in discussions since the last BJA meeting; and
- (3) Issues that were voted on at the last BJA meeting, but for which SCJA has requested a re-vote.

The expectation is that these issues can be addressed, and a final vote on the proposed rule be taken, at the February 18th meeting.

The following summary is intended to provide BJA members with a brief overview of the issues and to make sure that any alternative language is presented in writing, so that members can vote on actual language rather than merely on concepts. The summary is not intended to capture all of the arguments pro and con on the issues.

(1) ISSUES HELD OVER FROM THE LAST MEETING.

- (a) Inmate records requests.** At the last meeting, the BJA decided to incorporate the PRA’s new approach for addressing inmate records requests. The PRA’s approach, RCW 42.56.565, essentially involves a court review process under which injunctions can be issued if the judge finds that an inmate’s requests meet certain criteria (such as involving intimidation or harassment, involving threats to safety or security of individuals, etc.). Staff was asked to draft the applicable language, modifying it to fit the circumstances of our rule. The language begins on **page 9** of the current draft.

QUESTION: Should the new language on **page 9** be approved?

- (b) Prospective/retroactive application of rule.** At the last meeting, members of the BJA discussed whether the rule should apply prospectively only (i.e., only to documents that are created on or after the rule’s effective date) or whether it should instead apply to documents regardless of the date of creation. Staff was asked to draft different options for addressing this issue.

Three alternatives have now been drafted. The alternatives appear on **page 14** of the current draft.

QUESTION: Which alternative should be used?

(2) ISSUES THAT HAVE ARISEN SINCE THE LAST MEETING.

- (a) **Records on a judge's personal computers and cell phones.** A question has arisen whether a judge's records on portable electronic devices still constitute "chambers records" when the electronic devices are taken out of chambers. The current proposal's definition of "chambers records" is not limited based on the physical location of the records, as long as the record is "under chambers control." The comment already recognizes this in a general sense, stating that "Records may remain under chambers control even though they are physically stored elsewhere." See page 4 of the current draft.

The corresponding comment could be revised to make the point more directly with regard to portable electronic devices, by inserting the following sentence: **"For example, records relating to chambers activities that are stored on a judge's personally owned or workplace-assigned computer, laptop computer, cell phone, and similar electronic devices would still be chambers records."**

QUESTION: Should this sentence be added to the comment?

- (b) **Shared chambers records.** A question has arisen as to how the rule would apply to chambers records that are shared among the several chambers of a court, such as, a database that is shared only among the judicial officers of the court and their chambers staff. The definition of "chambers record" is not limited to the records of a single judicial chambers, requiring instead that the record be maintained "under chambers control." See page 4 at section (d)(4).

Again, the comment for that part of the rule could be revised to address shared records more directly, by adding two sentences: **"Chambers records do not change in character by virtue of being accessible to another chambers. For example, a data base that is shared by multiple judges and their chambers staff is a 'chambers record' for purposes of this rule, as long as the data base is only being used by judges and their chamber staff."**

QUESTION: Should these two sentences be added to the comment for section (d)(4)?

- (c) **Personal liability of judges and judicial staff.** A concern has arisen that judges and judicial staff might be subject to liability for attorney fees and costs under the rule. The current draft of the rule, on page 13 at section (e)(3)(B)(6), does not directly state whether liability for attorney fees and costs attaches to individuals or to entities. The rule certainly suggests that only entity liability is anticipated, because the rule refers to only two parties – the requesting party and the court/judicial agency.

This is an important point, which could be expressly stated in the rule. The rule's section (B)(6), on page 13, could be expanded to include a new subsection (iv), to state: **"No individual judicial officers or judicial agency employees may be assessed a monetary sanction under this section (6)."** The comment could then be expanded to indicate that **"Only a court or judicial agency may be assessed monetary sanctions. This is consistent with the approach of the Public Records Act. The monetary sanctions would be payable from**

state/city/county funds, absent some insurance or risk pool availability. Whether the state/city/county requires the payment to come out of the budget of the court or judicial agency, or be paid from other funds, is a matter for local resolution. ”

QUESTION: Should section (e)(3)(B)(6), and the accompanying comment , be revised as indicated?

- (d) **Direct statement that PRA does not apply to judicial records.** A suggestion has been made to add to the rule a direct statement that the Public Records Act does not apply to judicial records. Currently, the rule states that access to the judiciary’s administrative records is governed by this rule, but it does not expressly state that the rule supplants the PRA.

QUESTION: Should the following language be added to the rule’s scope section (page 1, section (b)): **“Judicial records are not governed by the Public Records Act, except as provided for elsewhere in this rule.”**?

(3) ISSUES FOR WHICH A RE-VOTE HAS BEEN REQUESTED.

- (a) **Deliberative process exemption.** At the last meeting, the BJA considered two approaches for this exemption. The approach that was chosen was to follow the PRA, under which deliberative process documents (drafts, notes, recommendations as to policy or opinions) are confidential until a final decision is made on that issue, and then they become public. See page 6 of the current version, section (e)(1)(B)(4). The other approach was to keep these documents confidential after the final decision is made. The BJA’s SCJA members have asked that this issue be reconsidered in favor of the second approach, expressing particular concern about preliminary budget documents later being subject to disclosure.

QUESTION (if the issue is to be reconsidered): Should a second sentence be added to section (e)(1)(B)(4), stating that: **“This exemption applies both before and after a final decision is made on the opinion or policy at issue.”**? Or, should a second sentence be added to this section, stating that: **“This exemption does not lapse with respect to preliminary records on budgetary matters, even though a final decision has been implemented.”** If this change is made, then the comment would be revised to explain that the provision deviates from the PRA’s approach: **“Unlike the Public Records Act, in which the deliberative process exemption expires when a decision is made, this rule provides a continuing exemption.”**

- (c) **Staff product exemption.** At the last meeting, the BJA decided against adding the following language to the exemption for minutes of judges’ meetings: “Minutes of meetings held by judges within a court and staff products prepared for judicial discussion or decision making at the meeting”. See page 6, section (e)(1)(B)(3). The BJA’s SCJA members have asked that this vote be retaken.

QUESTION (if the issue is to be reconsidered): Should the **underlined language** in the paragraph above be added to section (e)(1)(B)(3), along with a new comment indicating:

“Records produced by staff for consideration in judges’ meetings and identified in the minutes would be exempt under this section.”?

- (d) **“Chambers record” definition.** At the last meeting, the BJA decided against adding the following sentence at the end of the rule’s definition of “chambers record”: **“Chambers records include all writing between judicial officers, between judicial officers and chambers staff, and between judicial officers and court administration.”** The current definition of “chambers record” is limited to records that are created or maintained by the judicial officer or chambers staff and that are maintained under chambers control. See **page 4**, section (d)(4). Communications between judicial officers or their chambers staff and court administration are not within the current definition of chambers records. This was intentional. The BJA’s SCJA members have asked that this vote be retaken.

QUESTION (if the issue is to be reconsidered): Should the quoted sentence in the preceding paragraph be added to section (d)(4)(1)?

- (e) **Research and production costs.** At the last meeting, the BJA decided against adding the following language to the provision on fees that can be charged to requesters:

“A fee of \$30 per hour may be charged for research services required to fulfill a request taking longer than one hour. The fee shall be assessed from the second hour onward.”

The current version of the rule allow for fees to be charged for copying or scanning records, but it does not allow fees that cover the cost of staff time. See **page 13**, section (3)(B)(6).

The BJA’s SCJA members have asked that this vote be retaken. In support, they indicate that this is not an access to justice issue and that there should be some ability to charge a modest fee or charge the actual cost.

QUESTION (if the issue is to be reconsidered): Should the quoted language be added to section (3)(B)(6)?

- (e) **Additional exemptions for sensitive categories of files.** At the last meeting, the BJA decided not to create exemptions for three categories of files, but to instead note in the comment that statutory protections already exist in these areas. See **page 7**. The categories of files are:
- a. family court evaluation and domestic violence files when no action is legally pending;
 - b. family court mediation files; and
 - c. juvenile court probation’s social files.

A **separate memorandum**, enclosed in these materials, summarizes the scope of these current statutory protections. Proposed GR 31A keeps those statutory protections in place (see **page 5**, section (e)(1)(A)). Discussion has continued about these three categories of files.

QUESTION: Should any of these three categories of files be expressly added to the rule? If any are added to the rule, a brief comment would be added based on the information in the accompanying memorandum.



February 16, 2011

TO: BOARD FOR JUDICIAL ADMINISTRATION (BJA)
FROM: STAFF, BJA PUBLIC RECORDS WORK GROUP
RE: PROPOSED RULE 31A EXEMPTIONS CONSIDERATION

The proposed new rule 31A addresses access to administrative records for the judicial branch.

§(e)(1)(A) indicates the public has a right to access records unless access is exempted or prohibited under the rule, other court rules, federal statutes, state statutes, court orders, or case law. This includes any exemptions under the Public Records Act. It also contains a provision for deletion of identifying details for significant risk to individual privacy or safety interests.

§(e)(1)(B) indicates that in addition to exemptions referred to in §(e)(1)(A), a list of additional enunciated exemptions exist as part of the proposed rule. The general criteria that has been used for creating this list is that if the Work Group or BJA believes an exemption is appropriate for a particular category of records, but also believes that exemption is adequately addressed in the exemptions covered in §(e)(1)(A), it is not listed separately. However, if the Work Group or BJA believes an exemption is appropriate for a particular category of records, but are not comfortable that an exemption for that category of records is adequately addressed in the exemptions covered in (e)(1)(A), then that category is listed separately under §(e)(1)(B).

The three categories of (file) records that have been proposed as candidates for individual listing under §(e)(1)(B), and their potential existing coverage under §(e)(1)(A) are:

Family court evaluation and domestic violence files when no legal action is pending

- If an official court file – If the file is an official court case file, then it will be governed by GR 31, not by the proposed new rule GR31A.

- If a chambers' record – If the file is being kept in a judge's chambers, separate from the official court file, then the file is a chambers record and thus exempt from disclosure.
- If outside an official court file and not a chambers record – If the file is being kept by somebody other than a judge, then the parts of the file that contain statutorily-protected information (e.g. mental health evaluations, drug dependency evaluations, alcohol evaluations) would be protected, but other parts of the file would probably not be protected. We would need to cite to protected information in these files, such as mental health evaluations, drug dependency evaluations, alcohol evaluations, etc. if not disclosing those records, and cite the appropriate statute, absent creating a blanket exception to disclosure. Also, see 42 USC § 290dd-2 and 42 CFR Part 2 (2.1 – 2.67).
 - Mental health records: RCW 71.05.390, RCW 71.05.630, and RCW 70.02.
 - Drug and alcohol records: RCW 70.96A.150, and 42 CFR Part 2.
 - Child welfare issues: RCW 13.50.100; definition of juvenile justice or care agency in RCW 13.50.010.
 - Child support records: RCW 26.23.120.
- Domestic violence program – Rape crisis center clients are exempt from disclosure under RCW.56.370, but whether that exemption would carry forward to these records when held by the courts outside of court records could be an issue of dispute.
- Also see RCW 26.12.080: Superior Court may order family court files closed to protect privacy.

Family court mediation files

- RCW 5.60.070 Mediation: (1) If there is a court order to mediate, a written agreement between the parties to mediate, or if mediation is mandated under RCW 7.70.100, then any communication made or materials submitted in, or in connection with, the mediation or proceeding, whether made or submitted to or by the mediator, a mediation organization, a party, or any person present, are privileged and confidential and are not subject to disclosure in any judicial or administrative proceeding except: [lists (a)-(g) minor exceptions].
- RCW 7.07.070 Confidentiality: Unless subject to chapter 42.30 RCW, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this state. Also see RCW 26.12.080: Superior Court may order family court files closed to protect privacy, and RCW 26.09.015: Divorce

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mediation proceedings as protected by RCW 7.07.070. See also RCW 7.07.050(5) Mediation communications.

- RCW 42.56.600 Mediation communications: Records of mediation communications that are privileged under chapter 7.07 RCW (Uniform Mediation Act) are exempt from disclosure under this chapter.

Juvenile court probation's social file

- See generally RCW 13.50.050: Records relating to commission of juvenile offenses – Maintenance of, access to, and destruction; Release of information to schools, and more specifically:
- RCW 13.50.050(3): All records other than the official juvenile court file are confidential and may be released only as provided in this section, RCW 13.50.010, 13.40.215, and 4.24.550.
- Also, RCW 71.34.335, for court files and records committing minors to inpatient mental health treatment.
- Child welfare issues: RCW 13.50.100; definition of juvenile justice or care agency in RCW 13.50.010.

Summary/Action:

In evaluating each of the above category of records candidates for separate exemption listing under §(e)(1)(B) you need to decide:

- If you believe an exemption is appropriate and believe it is adequately addressed in §(e)(1)(A), then no action is required.
- If you believe an exemption is appropriate and are relatively comfortable it is adequately addressed in §(e)(1)(A), but out of caution would like to see it contained in a comment as an intended exemption, then that action can be taken.
- If you believe an exemption is appropriate but are not comfortable it is adequately addressed in (e)(1)(A), then you can decide for that category of records to be listed individually under §(e)(1)(B).

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1 ***NOTE FOR BJA:*** *This draft incorporates the BJA's decisions from the January*
2 *12th meeting. The substantive changes to the rule that were made at the January*
3 *12th meeting are shown below with underlined and stricken-through language.*
4 *The BJA's changes from earlier meetings are already incorporated into the*
5 *underlying language.*

6 *Also included in the draft is proposed language for two issues that were held*
7 *over from BJA's previous meeting:*

- 8 • *For inmate requests, the BJA decided at the January meeting to*
9 *incorporate the concept from the PRA of having a supervising judge review*
10 *problematic inmate requests. The BJA needs to review the proposed*
11 *language on this issue, which begins on page 9.*
- 12 • *For prospective/retroactive application of the new rule, the BJA needs to*
13 *review three alternative options. See page 14.*

14
15
16 **[SUGGESTED NEW RULE]**

17
18 **General Court Rule 31A**

19
20 **DRAFT dated February 16, 2011**

21
22 **ACCESS TO ADMINISTRATIVE RECORDS**

23
24 **(a) Policy and Purpose.** It is the policy of the judiciary to facilitate access to
25 administrative records. Access to administrative records is not absolute and shall be
26 consistent with reasonable expectations of personal privacy as provided by article 1,
27 section 7 of the Washington State Constitution, restrictions in statutes, restrictions in
28 court rules, and as required for the integrity of judicial decision-making. Access shall
29 not unduly burden the business of the judiciary.

30 **(b) Scope.**

31 This rule governs the right of public access to administrative judicial records. This
32 rule applies to all administrative records, regardless of the physical form of the record,
33 the method of recording the record, or the method of storage of the record. Access to
34 court records is governed by GR 15, 22, and 31.

35 *COMMENT: "Court records" is a term of art, defined in GR 31 as meaning case*
36 *files and related documents.*

1 **(c) Application of Rule.**

2 (1) This rule applies to the Supreme Court, the Court of Appeals, the superior
3 courts, the district and municipal courts, and the following judicial branch
4 agencies:

5 A. All judicial entities that are overseen by a court, including entities that are
6 designated as agencies, departments, committees, boards, commissions,
7 task forces, and similar groups;

8 B. The Superior Court Judges' Association, the District and Municipal Court
9 Judges' Association, and similar associations of judicial officers and
10 employees; and

11 C. All subgroups of the entities listed in this section (1).

12 *COMMENT: The elected court clerks and their staff are not included in this*
13 *rule because (1) they are covered by the Public Records Act and (2) they*
14 *do not generally maintain the judiciary's administrative records that are*
15 *covered by this rule.*

16 (2) This rule does not apply to the Commission on Judicial Conduct. The
17 Commission is encouraged to incorporate any of the provisions in this
18 rule as it deems appropriate.

19 *COMMENT: The Commission on Judicial Conduct is not governed by a*
20 *court. The commission has a heightened need for maintaining*
21 *independence from courts. It would be inappropriate to dictate to the*
22 *commission its policies on public records.*

23 (3) This rule does not apply to the Washington State Bar Association.
24 Public access to the Bar Association's records is governed by GR 12.4.

25 *COMMENT: This paragraph (3) presumes that the Bar Association's*
26 *proposed rule 12.4 (currently being drafted) is adopted.*

27 (4) This rule does not apply to the Certified Professional Guardian Board.
28 Public access to the board's records is governed by GR 23.

29 (5) A judicial officer is not a court or judicial agency.

30 *COMMENT: This provision protects judges and court commissioners from*
31 *having to respond personally to public records requests. Records requests*
32 *would instead go to the court's public records officer.*
33

34 (6) An attorney or entity appointed by a court or judicial agency to provide legal
35 representation to a litigant in a judicial or administrative proceeding does not
36 become a judicial agency by virtue of that appointment.

1
2 COMMENT: The Washington Association of Criminal Defense Lawyers
3 (WACDL) expressed a concern that appointed criminal defense attorneys and
4 their agencies not be covered by this rule by virtue of their appointment.
5 Paragraph (6) removes them from the scope of this rule.

- 6 (7) A person or agency entrusted by a judicial officer, court, or judicial agency with
7 the storage and maintenance of its public records, whether part of a judicial
8 agency or a third party, is not a judicial agency. Such person or agency may
9 not respond to a request for access to administrative records, absent express
10 written authority from the judicial agency or separate authority in court rule to
11 grant access to the documents.

12
13 *COMMENT: Judicial e-mails and other documents sometimes reside on IT*
14 *servers, some are in off-site physical storage facilities. This provision*
15 *prohibits an entity that operates the IT server from disclosing judicial records.*
16 *The entity is merely a bailee, holding the records on behalf of a court or*
17 *judicial agency, rather than an owner of the records having independent*
18 *authority to release them. Similarly, if a court puts its paper records in*
19 *storage with another entity, the other entity cannot disclose the records. In*
20 *either instance, it is the judicial agency that needs to make the decision as to*
21 *releasing the records. The records request needs to be addressed by the*
22 *judicial agency's public records officer, not by the person or entity having*
23 *control over the IT server or the storage area. On the other hand, if a court*
24 *or judicial agency archives its records with the state archivist, relinquishing by*
25 *contract its own authority as to disposition of the records, the archivist would*
26 *have separate authority to disclose the records.*

27
28 *Because of the broad definition of "public record" appearing later in this rule,*
29 *this paragraph (6) would apply to electronic records, such as e-mails (and*
30 *their meta-data) and telephone records, among a wide range of other records.*
31

32 **(d) Definitions.**

- 33
34 (1) "Access" means the ability to view or obtain a copy of an administrative record.
35
36 (2) "Administrative record" means a public record created by or maintained by a
37 court or judicial agency and related to the management, supervision, or
38 administration of the court or judicial agency.

39 *COMMENT: The work group has developed a list of categories of records*
40 *maintained by judicial agencies. The list is annotated with the work*
41 *group's expectation of whether such records are subject to disclosure. The*
42 *list is found as an appendix to the work group's report. It is intended for*
43 *illustrative purposes only.*
44

1 The term "administrative record" does not include any of the following: (1)
2 "court records" as defined in GR 31; (2) chambers records as set forth
3 later in this rule; or (3) an attorney's client files that would otherwise be
4 covered by the attorney-client privilege or the attorney work product
5 privilege.

6 (3) "Court record" is defined in GR 31.

7
8 (4) A. "Chambers record" means any writing that is created by or maintained by
9 any judicial officer or chambers staff, and is maintained under chambers
10 control, whether directly related to an official judicial proceeding, the
11 management of the court, or other chambers activities. "Chambers staff"
12 means a judicial officer's law clerk and any other staff when providing
13 support directly to the judicial officer at chambers.

14
15 B. Chambers records are not public records. Court records and administrative
16 records do not become chambers records merely because they are in the
17 possession or custody of a judicial officer or chambers staff.

18 *COMMENT: Access to chambers records could necessitate a judicial officer*
19 *having to review all records to protect against disclosing case sensitive*
20 *information or other information that would intrude on the independence*
21 *of judicial decision making. This would effectively make the judicial officer*
22 *a de facto public records officer and could greatly interfere with judicial*
23 *functions. Records may remain under chambers control even though they*
24 *are physically stored elsewhere. For example, records relating to*
25 *chambers activities that are stored on a judge's home computer, laptop*
26 *computer, personal cell phone, and similar electronic devices would still be*
27 *chambers records. However, records that are otherwise subject to*
28 *disclosure should not be allowed to be moved into chambers control as a*
29 *means of avoiding disclosure.*

30
31 (5) "Judge" means a judicial officer as defined in the Code of Judicial Conduct
32 (CJC) Application of the Code of Judicial Conduct Section (A).

33
34 (6) "Public" includes an individual, partnership, joint venture, public or private
35 corporation, association, federal, state, or local governmental entity or agency,
36 however constituted, or any other organization or group of persons, however
37 organized.

38
39 (7) "Public record" includes any writing, except chambers records and court
40 records, containing information relating to the conduct of government or the
41 performance of any governmental or proprietary function prepared, owned,

1 used, or retained by any court or judicial agency regardless of physical form or
2 characteristics. "Public record" also includes meta-data for electronic
3 administrative records.

4 *COMMENT: The definition in paragraph (7) is adapted from the Public*
5 *Records Act. The work group added the exception for chambers records,*
6 *for consistency with other parts of the proposed rule.]*
7

8 (8) "Writing" means handwriting, typewriting, printing, photostating, photographing,
9 and every other means of recording any form of communication or
10 representation including, but not limited to, letters, words, pictures, sounds, or
11 symbols, or combination thereof, and all papers, maps, magnetic or paper
12 tapes, photographic films and prints, motion picture, film and video recordings,
13 magnetic or punched cards, discs, drums, diskettes, sound recordings, and
14 other documents including existing data compilations from which information
15 may be obtained or translated.

16 *COMMENT: The definition in paragraph (8) is taken from the Public*
17 *Records Act. E-mails and telephone records are included in this broad*
18 *definition of "writing."*
19
20

21 **(e) Administrative Records.**

22 **(1) Administrative Records—Right of Access.**

23 A. The public has a right of access to court and judicial agency administrative
24 records unless access is exempted or prohibited under this rule, other court
25 rules, federal statutes, state statutes, court orders, or case law. To the
26 extent that records access would be exempt or prohibited under the Public
27 Records Act, Chapter 42.56 RCW, access is also exempt or prohibited
28 under this rule. In addition, to the extent required to prevent a significant
29 risk to individual privacy or safety interests, a court or judicial agency shall
30 delete identifying details in a manner consistent with this rule when it makes
31 available or publishes any public record; however, in each instance, the
32 justification for the deletion shall be provided fully in writing.

33 *COMMENT: The paragraph states that administrative records are open to*
34 *public access unless an exemption or prohibition applies. The paragraph's*
35 *final sentence allows agencies to redact information from documents*
36 *based on significant risks to privacy or safety.*

37 *Any public-access exemptions or prohibitions from the PRA and from other*
38 *statutes or court rules would also apply to the judiciary's administrative*
39 *records. For example, GR 33(b) provides that certain medical records*
40 *relating to ADA issues are to be sealed; the sealed records would not be*
41 *subject to access under this proposed GR 31A.*

1 B. In addition to exemptions referred to in paragraph (A) above, the following
2 categories of administrative records are exempt from public access:

3 (1) Requests for judicial ethics opinions;

4 *COMMENT: This exemption was requested by the Judicial Ethics Advisory*
5 *Committee.*

6 (2) Identity of writing assignment judges in the appellate courts prior to
7 issuance of the opinion;

8 *COMMENT: This exemption was suggested by Judge Quinn Brintnall at a*
9 *BJA meeting.*

10 (3) Minutes of meetings held by judges within a court;

11 (4) Preliminary drafts, notes, recommendations, and intra-agency
12 memorandums in which opinions are expressed or policies formulated or
13 recommended are exempt under this rule, except that a specific record
14 is not exempt when publicly cited by a court or agency in connection with
15 any court or agency action.

16 *COMMENT: Paragraph (4) is the "deliberative process" exemption from*
17 *the Public Records Act, RCW 42.56.280. The exemption is expressly set*
18 *forth in this rule, even though all of the PRA exemptions already apply to*
19 *this rule by virtue of paragraph (e)(1)(A) above. The exemption is*
20 *included here because (1) it broadly applies to many administrative*
21 *documents relating to the development of judicial policy, and (2) expressly*
22 *stating the exemption will reduce the chance that it would be overlooked.*

23 *In the PRA, this exemption has been construed by the courts to apply only*
24 *until a final decision has been implemented, at which time the preliminary*
25 *documents become open to public viewing. See Progressive Animal*
26 *Welfare Soc'y v. University of Wash., 125 Wn.2d 243, 257, 884 P.2d 592*
27 *(1994). The judicial interpretation of the PRA exemption would apply*
28 *equally to the substantively identical paragraph (4) of this rule.*

29 (5) Evaluations and recommendations for candidates seeking appointment
30 or employment within a court or judicial agency;

31 *COMMENT: Paragraph (5) is intended to encompass documents such as*
32 *those of the Supreme Court's Capital Counsel Committee, which evaluates*
33 *attorneys for potential inclusion on a list of attorneys who are specially*
34 *qualified to represent clients in capital cases.*

35 (6) Personal identifying information, including individuals' home contact
36 information, birth dates, Social Security numbers, driver's license
37 numbers, and identification/security photographs;

1 *COMMENT: The exemption was requested by staff for the Office of Public*
2 *Defense. The work group considered including private financial*
3 *information in this provision, but ultimately concluded that financial*
4 *information is already addressed in the Public Records Act's exemptions.*
5

- 6 (7) An attorney's request to a court or judicial agency for a trial or appellate
7 court defense expert, investigator, or social worker, any report or
8 findings submitted to the attorney or court or judicial agency by the
9 expert, investigator, or social worker, and the invoicing and payment of
10 the expert, investigator or social worker, ~~but only during the pendency of~~
11 ~~the case .~~

12 *COMMENT: The exemption was requested by the Office of Public Defense.*
13

- 14 (8) Documents, records, files, investigative notes and reports, including
15 the complaint and the identity of the complainant, associated with a
16 court's or judicial agency's internal investigation of a complaint against
17 the court or judicial agency or its contractors during the course of the
18 investigation. The outcome of the court's or judicial agency's
19 investigation is not exempt.

20 *COMMENT: The exemption was requested by the Office of Public Defense.*
21

22 *COMMENT: Additional express exemptions were also requested. Some*
23 *were not included in the rule because it is currently believed that the*
24 *items were already exempt from disclosure under other laws. These items*
25 *include:*

- 26 • *"Family court evaluation and domestic violence files when no*
- 27 *legal action is pending";*
- 28 • *"Family court mediation files";*
- 29 • *"Juvenile court probation's social files";*
- 30 • *Private financial information, including financial account*
- 31 *numbers;*
- 32 • *Dockets/index information for protected case types; and*
- 33 • *Testing/screening materials/results.*

34 *Other items were not included for other reasons, including when*
35 *insufficient information was available to evaluate the items, such as*
36 *information about the implications of excluding an item and about the*
37 *variety of practices used by judicial agencies and courts. These items*
38 *include:*

- 39 • *Investigative records of regulatory or disciplinary agencies;*
- 40 • *Copyrighted information; and*

- *Performance measures for evaluating court processes. (Some of this subject matter is taken care of with the deliberative process exemption, above.)*

(2) Chambers Records. Chambers records are not subject to disclosure.

(3) Administrative Records—Process for Access.

A. Administrative Records—Procedures for Records Requests.

(1) **AGENCIES TO ADOPT PROCEDURES.** Each court and judicial agency must adopt a policy implementing this rule and setting forth its procedures for accepting and responding to administrative records requests. The policy must include the designation of a public records officer and must require that requests for access be submitted in writing to the designated public records officer. Best practices for handling administrative records requests shall be developed under the authority of the Board for Judicial Administration.

(2) **PUBLICATION OF PROCEDURES FOR REQUESTING ADMINISTRATIVE RECORDS.** Each court or judicial agency must prominently publish the procedures for requesting access to its administrative records. If the court or judicial agency has a website, the procedures must be included there. The publication shall include the public records officer's work mailing address, telephone number, fax number, and e-mail address.

(3) **INITIAL RESPONSE.** Each court and judicial agency must initially respond to a written request for access to an administrative record within five working days of its receipt. The response shall acknowledge receipt of the request and include a good-faith estimate of the time needed to respond to the request. The estimate may be later revised, if necessary. For purposes of this provision, "working days" mean days that the court or judicial agency, including a part-time municipal court, is open.

(4) **COMMUNICATION WITH REQUESTER.** Each court or judicial agency must communicate with the requester as necessary to clarify the records being requested. The court or judicial agency may also communicate with the requester in an effort to determine if the requester's need would be better served with a response other than the one actually requested.

(5) **SUBSTANTIVE RESPONSE.** Each court and judicial agency must respond to the substance of the records request within the timeframe specified in the court's or judicial agency's initial response to the request.

1 If the court or judicial agency is unable to fully comply in this timeframe,
2 then the court or judicial agency should comply to the extent practicable
3 and provide a new good faith estimate for responding to the remainder of
4 the request. If the court or judicial agency does not fully satisfy the
5 records request in the manner requested, the court or judicial agency
6 must justify in writing any deviation from the terms of the request.

7 (6) EXTRAORDINARY REQUESTS LIMITED BY RESOURCE

8 CONSTRAINTS. If a particular request is of a magnitude that the court
9 or judicial agency cannot fully comply within a reasonable time due to
10 constraints on the court or judicial agency's time, resources, and
11 personnel, the court or judicial agency shall communicate this
12 information to the requester. The court or judicial agency must attempt
13 to reach agreement with the requester as to narrowing the request to a
14 more manageable scope and as to a timeframe for the court's or judicial
15 agency's response, which may include a schedule of installment
16 responses. If the court or judicial agency and requester are unable to
17 reach agreement, then the court or judicial agency shall respond to the
18 extent practicable and inform the requester that the court or judicial
19 agency has completed its response.

20
21 ***NOTE: The BJA still needs to review the following proposed language***
22 ***for addressing inmate requests. Per the BJA's discussion at the last***
23 ***meeting, the language follows the statutory language (RCW 42.56.565),***
24 ***with modification to fit this rule.***

25 (7) LIMITATIONS ON INMATE REQUESTS.

- 26 (i) The inspection or production of any nonexempt public record by
27 persons incarcerated in federal, state, local, or privately
28 operated correctional facilities may be enjoined pursuant to this
29 section. The request shall be made by motion and shall be a
30 summary proceeding based on affidavits or declarations, unless
31 the court orders otherwise.
- 32 (ii) The injunction may be requested by a court or judicial agency
33 which is the recipient of the records request or its
34 representative, or by a person to whom the records request
35 specifically pertains or his or her representative. The injunction
36 request must be filed in the superior court in which the court or
37 judicial agency which is the recipient of the records request is

1 located. If the injunction request is filed by a superior court the
2 decision on the injunction must be made by a visiting judicial
3 officer.

4 (iii) The court may enjoin all or any part of a request or requests. In
5 order to issue an injunction, the court must find by a
6 preponderance of the evidence that: the request was made to
7 harass or intimidate the court or judicial agency or its
8 employees; fulfilling the request would likely threaten the
9 security of the court or judicial agency; fulfilling the request
10 would likely threaten the safety or security of staff, family
11 members of staff, or any other person; or fulfilling the request
12 may assist criminal activity. Based on the evidence, the court
13 may also enjoin, for a period of time the court deems
14 reasonable, future requests by the same requestor or an entity
15 owned or controlled in whole or in part by the same requestor.

16 (iv) In deciding whether to enjoin a records request the court may
17 consider all relevant factors including, but not limited to: other
18 requests by the requestor; the type of record or records sought;
19 statements offered by the requestor concerning the purpose for
20 the request; whether disclosure of the requested records would
21 likely harm any person or vital government interest; whether the
22 request seeks a significant and burdensome number of
23 documents; the impact of disclosure on the court or judicial
24 agency security and order, the safety or security of court or
25 judicial agency staff, families, or others; and the potential
26 deterrence of criminal activity.

27 (v) The court or judicial agency shall not be liable for any attorney
28 fees, costs, civil penalties, or fines under (e)(3)(B)(6) for any
29 period during which an order under this section is in effect,
30 including during an appeal of an order under this section,
31 regardless of the outcome of the appeal.

32
33 **B. Administrative Records—Review of Public Records Officer’s**
34 **Response.**

35 (1) NOTICE OF REVIEW PROCEDURES. The public records officer’s
36 response to a public records request shall include a written summary of

1 the procedures under which the requesting party may seek further
2 review.

3 (2) TIMELINE FOR SEEKING REVIEW. The timelines set forth in section
4 (e)(3)(A) shall apply likewise to requests for review of the public records
5 officer's response.

6 (3) FURTHER REVIEW WITHIN COURT OR AGENCY. Each court and
7 judicial agency shall provide a method for review by the judicial agency's
8 director, or presiding judge, or judge designated by the presiding judge.
9 For a judicial agency, the presiding judge shall be the presiding judge of
10 the court that oversees the agency. The court or judicial agency may
11 also establish intermediate levels of review. The court or judicial agency
12 shall make publicly available the applicable forms. The review
13 proceeding is informal and summary. The review proceeding shall be
14 held within five working days. If that is not reasonably possible, then
15 within five working days the review shall be scheduled for the earliest
16 practical date.

17 *COMMENT: The work group discussed whether the rule should authorize*
18 *the director or the presiding chief judge to designate another person to*
19 *handle these reviews. The work group did not reach agreement on this*
20 *question.*

21 (4) ALTERNATIVE REVIEW. As an alternative to review under section
22 (e)(3)(B)(3), a requesting person may seek review by a person outside
23 the court or judicial agency. If the requesting person seeks review of a
24 decision made by a court or made by a judicial agency that is directly
25 reportable to a court, the outside review shall be by a visiting judicial
26 officer. If the requesting person seeks review of a decision made by a
27 judicial agency that is not directly reportable to a court, the outside
28 review shall be by a person agreed upon by the requesting person and
29 the judicial agency. In the event the requesting person and the judicial
30 agency cannot agree upon a person, the presiding superior court judge
31 in the county in which the judicial agency is located shall either conduct
32 the review or appoint a person to conduct the review. The review
33 proceeding shall be informal and summary. In order to choose this
34 option, the requesting person must sign a written waiver of any further
35 review of the decision by the person outside the court or judicial agency.
36 The decision by the person outside the court or judicial agency is final
37 and not appealable. Attorney fees and costs are not available under this
38 option.

1 *COMMENT: The bifurcated procedures for review are*
2 *intended to provide flexible, prompt, informal, and final*
3 *procedures for review of public records decisions. The*
4 *option for a visiting judge allows a requester to have the*
5 *review heard by an outside decision-maker; in the interest*
6 *of obtaining prompt, final decisions, a requester selecting*
7 *this option would be required to waive further review. If*
8 *the Legislature creates a new entity to review public*
9 *records decisions made by agencies of the executive*
10 *branch, then the work group recommends that the BJA*
11 *consider using this entity for review of judicial records*
12 *decisions as well.*
13

14 (5) REVIEW IN SUPERIOR COURT.

- 15 i. A requester may seek review of a decision under section
16 (e)(3)(B)(3) by commencing an action in superior court. The
17 burden of proof shall be on the court or judicial agency that
18 made the public records decision to establish that refusal to
19 permit public inspection and copying is in accordance with
20 section (e)(1) which exempts or prohibits disclosure in whole
21 or in part of specific information or records. Judicial review of
22 all court or judicial agency actions shall be novo. The superior
23 court shall apply section (e)(1) of this rule in determining the
24 accessibility of the requested documents. Any ambiguity in
25 the application of section (e)(1) to the requested documents
26 shall be resolved by analyzing access under the common
27 law's public-access balancing test.

28 *COMMENT: A civil proceeding to review a denial may be*
29 *brought in superior court in the same manner as under the*
30 *Public Records Act.*

31 *The common law's balancing test is addressed in detail in*
32 *Cowles Publishing v. Murphy, 96 Wn.2d 584 (1981), and*
33 *Beuhler v. Small, 115 Wn.App. 914 (2003). The interest in*
34 *disclosure is balanced against the extent to which*
35 *disclosure poses a significant risk to individual privacy or*
36 *safety.*

- 37 ii. The right of de novo review is not available to a requester who
38 sought review under the alternative process set forth in section
39 (e)(3)(B)(4).

40 *COMMENT: The Supreme Court may wish to clarify any period of*
41 *limitation on the bringing of an action for judicial review under this*
42 *section, expressly or by reference to the limitations on such actions*
43 *under the PRA.*

1 (6) MONETARY SANCTIONS.

- 2 i. In the de novo review proceeding under section (e)(3)(B)(5), the
3 superior court may in its discretion award reasonable attorney fees
4 and costs to a requesting party if the court finds that (1) the court or
5 judicial agency's response was deficient, (2) the requester specified
6 the particular deficiency to the court or judicial agency, and (3) the
7 court or judicial agency did not cure the deficiency.
- 8 ii. Sanctions may be imposed against either party under CR 11, if
9 warranted.
- 10 iii. Except as provided in sections (6) (i) and (ii), a court or judicial
11 agency may not be required to pay attorney fees, costs, civil
12 penalties, or fines.

13 *COMMENT: Monetary sanctions for failure to produce records available*
14 *under the PRA are not available under this rule.*
15

16 **(f) Administrative Records—Court and Judicial Agency Rules.** Each court by
17 action of a majority of the judges may from time to time make and amend local rules
18 governing access to administrative records not inconsistent with this rule. Each
19 judicial agency may from time to time make and amend agency rules governing
20 access to its administrative records not inconsistent with this rule.

21
22 **(g) Judicial Records—Charging of Fees.**

- 23 (1) A fee may not be charged to view administrative records.
- 24 (2) A fee may be charged for the photocopying or scanning of judicial records. If
25 another court rule or statute specifies the amount of the fee for a particular type
26 of record, that rule or statute shall control. Otherwise, the amount of the fee
27 may not exceed the amount that is authorized in the Public Records Act,
28 Chapter 42.56 RCW.
- 29 (3) The court or judicial agency may require a deposit in an amount not to exceed
30 ten percent of the estimated cost of providing copies for a request. If a court or
31 judicial agency makes a request available on a partial or installment basis, the
32 court or judicial agency may charge for each part of the request as it is
33 provided. If an installment of a records request is not claimed or reviewed
34 within 30 days, the court or judicial agency is not obligated to fulfill the balance
35 of the request.

36 *COMMENT: Paragraph (3) incorporates a modified version of the Public*
37 *Records Act's "deposit and installments" language.]*
38

1 **(h) Best Practices.** Best practice guidelines adopted by the Supreme Court may be
2 relied upon in acting upon public requests for documents.

3 *COMMENT: A new work group is contemplated to recommend best*
4 *practices to guide courts and judicial agencies in implementing this rule's*
5 *necessarily broad, general standards. Courts and judicial agencies would*
6 *benefit greatly from further work in applying the general principles to the*
7 *specific types of documents and requests that are most likely to arise. For*
8 *example, best practices could include designating more specific lists of*
9 *records that are presumptively characterized as "chambers records" or as*
10 *being within other categories of records under this rule. The BJA's first*
11 *work group prepared some documents to assist a new best-practices*
12 *group in this regard. The best practices work group could also*
13 *recommend the best methods and resources for training judges and staff.*

14
15 **NOTE:** *The BJA still needs to consider the following proposed options for*
16 *addressing prospective or retroactive application of the rule.*

17 **(i) Effective Date of Rule.**

18 **ALTERNATIVE 1 (This is the Work Group's proposal, which applies the rule**
19 **to all requests made on or after effective date, even for records created**
20 **prior to that date):**

- 21 (1) This rule goes into effect on January July 1, 2012, and applies to records
22 requests submitted on or after that date, regardless of when the requested
23 records were created.
- 24 (2) Until January July 1, 2012, public access to administrative records shall
25 continue to be analyzed using the existing court rules, applicable statutes,
26 and the common law balancing test. The Public Records Act, Chapter
27 42.56 RCW, does not apply to judicial records, but it may be used for non-
28 binding guidance.

29
30 **ALTERNATIVE 2 (This is King County's proposal, which applies the rule only**
31 **to records created on or after the rule's effective date):**

- 32 (1) This rule goes into effect on July 1, 2012, and applies to records that are
33 created on or after that date.
- 34 (2) Public access to records that are created before that date are to be
35 analyzed according to other court rules, applicable statutes, and the
36 common law balancing test. The Public Records Act, Chapter 42.56 RCW,
37 does not apply to judicial records, but it may be used for non-binding
38 guidance.

1
2 **ALTERNATIVE 3 (This is an “opt-out” proposal, which uses Alternative 1, but**
3 **allows courts/agencies to opt out in favor of Alternative 2):**

4 (1) Except as provided in paragraph (2):

5 (a) This rule goes into effect on July 1, 2012, and applies to records
6 requests submitted on or after that date, regardless of when the
7 requested records were created.

8 (b) Until July 1, 2012, public access to administrative records shall continue
9 to be analyzed using the existing court rules and statutes, as applicable,
10 and the common law balancing test. The Public Records Act, Chapter
11 42.56 RCW, does not apply to judicial records, but it may be used for
12 non-binding guidance.

13 (2) (a) A court or judicial agency may elect to have this rule apply only to
14 records that are created on or after July 1, 2012. The election shall be
15 made by court order or by a written decision of a judicial agency. The
16 election shall be prominently stated in the court’s or judicial agency’s
17 policies and procedures, including any that are posted on a website.

18 (b) If an election is made under this paragraph (2), then records that are
19 created before July 1, 2012 are to be analyzed according to other court
20 rules, applicable statutes, and the common law balancing test. The
21 Public Records Act, Chapter 42.56 RCW, does not apply to judicial
22 records, but it may be used for non-binding guidance.

BOARD FOR JUDICIAL ADMINISTRATION

PROCESS AND GUIDELINES FOR RESOLUTION REQUESTS

The Board for Judicial Administration (BJA) was established to adopt policies and provide strategic leadership for the courts at large, enabling the Washington State judiciary to speak with one voice. To fulfill these objectives, the BJA may consider adopting resolutions on substantive topics relating to the administration of justice in accordance with the Principal Policy Goals of the Washington Judicial Branch:

1. **Fair and Effective Administration of Justice in All Civil and Criminal Cases.** Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.
2. **Accessibility.** Washington courts, court facilities and court systems will be open and accessible to all participants regardless of cultural, linguistic, ability-based or other characteristics that serve as access barriers.
3. **Access to Necessary Representation.** Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interest at stake in civil judicial proceedings should have meaningful access to counsel.
4. **Commitment to Effective Court Management.** Washington courts will employ and maintain systems and practices that enhance effective court management.
5. **Appropriate Staffing and Support.** Washington courts will be appropriately staffed and effectively managed, and court personnel, court managers and court systems will be effectively supported.

In order to help ensure timely and thorough consideration of proposed resolutions, the BJA has established these guidelines regarding procedure, form and content. Care must also be taken not to dilute the importance of resolutions by adopting too many or without proper consideration.

Resolution requests may be initiated by BJA members or by outside parties. The requestor shall submit the resolution, in writing, with a request form containing a brief statement of purpose and explanation, to the BJA Associate Director.

The Associate Director shall refer properly submitted resolutions to appropriate AOC staff, and/or to an appropriate standing committee (or committees) for

review and recommendation, or directly to the BJA's Executive Committee, as appropriate. Review by the BJA's Executive Committee will precede review by the full BJA membership. Such review may be done via e-mail communication rather than in-person discussion when practical. Resolutions may be reviewed for style and content. Suggestions and comments will be reported back to the initiating requestor as appropriate.

Review should include discussion of priorities relative to existing strategic or long-range plans, whether resources are available to properly act upon the resolution, and any recommended language changes. Resolutions must be consistent with the Principal Policy Goals and long-range goals.

The report and recommendation of the Executive Committee shall be presented to the BJA membership at the next reasonably available meeting, at which time the resolution may be considered. Action on the proposed resolution will be taken in accordance with the BJA's rules and bylaws. The BJA may approve or reject proposed resolutions and may make substantive changes to the resolutions.

This process will ensure that (1) BJA members receive a written explanation of the resolution; (2) resolutions are screened in order to avoid last minute emergency debates and possible mistakes of fact or inaccurate statements; (3) when feasible, a thoughtful recommendation as to the resolution can be provided by the Executive Committee or a responsible committee; (4) a clear description is provided to requestors regarding how to proceed to obtain BJA consideration; and (5) a simple, expedited process exists, where time allows, for referral to the Executive Committee or other committee, followed by full membership consideration.

Resolutions should not be more than two pages in length. An appropriate balance must be struck between background information and a clear statement of action. Traditional resolution format should be followed. Resolutions should cover only a single subject unless there is a clear and specific reason to include more than one subject. Resolutions must be short-term, stated in precise language, and include a specific call to action. They are not long-term policy statements.

Resolutions must include a specific expiration date or will automatically expire in five years. Resolutions will not be automatically reviewed upon expiration of their term, but may be reviewed upon request for reauthorization. Resolutions may be terminated prior to their expiration date as determined by the BJA.

Approved resolutions will be numbered, maintained on the BJA section of the AOC website, and disseminated as determined by the BJA.

BOARD FOR JUDICIAL ADMINISTRATION

RESOLUTION REQUEST COVER SHEET

(INSERT PROPOSED RESOLUTION TITLE HERE)

SUBMITTED BY: (INSERT NAME HERE)

- (1) **Name(s) of Proponent(s):**
- (2) **Spokesperson(s):** (List who will address the BJA and their contact information.)
- (3) **Purpose:** (State succinctly what the resolution seeks to accomplish.)
- (4) **Desired Result:** (Please state what action(s) would be taken as a result of this resolution and which party/-ies would be taking action.)
- (5) **Expedited Consideration:** (Please state whether expedited consideration is requested and, if so, please explain the need to expedite consideration.)
- (6) **Supporting Material:** (Please list and attach all supporting documents.)

Board for Judicial Administration

2011 Legislative Session AGENDA and POSITIONS before 02/14/2011 Conference Call

BJA Request Legislation

HB 1236 (5170)	Judges in Grant county Increasing the number of judges to be elected in Grant county. H Rules C - Leg Link	01/18/2011	Sponsor
HB 1245 (5630)	Municipal court judges Changing the election and appointment provisions for municipal court judges. H Judiciary - Leg Link	01/26/2011	Sponsor
HB 1794 (5046)	Assault/court-related empl. Adding court-related employees to the assault in the third degree statute. H Pub Safety - Leg Link	02/01/2011	Sponsor

All Other Legislation

Bill	Description	Date	Position
SHB 1001	Pro se defendant/sex offense Placing restrictions on pro se defendants when questioning witnesses. H 2nd Reading - Leg Link	02/14/2011	Watch
		02/07/2011	Under Review
		01/31/2011	-----
HB 1030	Felons' voting rights Requiring felons to pay court-ordered financial obligations before restoration of voting rights. H SGTribalAff - Leg Link	01/25/2011	Watch
		01/24/2011	-----
		01/18/2011	No Position
		01/18/2011	-----
HB 1034 (5025)	Inmate public record request Concerning making requests by or on behalf of an inmate under the public records act ineligible for penalties. H SGTribalAff - Leg Link	01/18/2011	-----
		01/18/2011	No Position
		01/12/2011	Under Review
		01/10/2011	-----
SHB 1053	Guardianship task force Implementing recommendations from the Washington state bar association elder law section's executive committee report of the guardianship task force. H Gen Gov Apps - Leg Link	02/14/2011	Oppose
HB 1115	State officials' salaries Authorizing immediate salary reductions for state officials when there is a general salary reduction for state employees.	01/24/2011	Concerns
		01/18/2011	-----

	H SGTribalAff - Leg Link	01/18/2011	Concerns
HB 1153	DNA sample collection costs Concerning costs for the collection of DNA samples. H Gen Gov Apps - Leg Link	01/18/2011	Support
		01/18/2011	-----
HB 1159	Crime victims' rights Addressing the rights of crime victims. H Judiciary - Leg Link	01/18/2011	Oppose
		01/18/2011	Oppose
HB 1194	Bail for felony offenses Continuing to determine bail for the release of a person arrested and detained for a felony offense on an individualized basis by a judicial officer. H Rules R - Leg Link	01/18/2011	Under Review
		01/18/2011	-----
HB 1201	Retirement age for judges Eliminating the mandatory retirement age for judges. H Judiciary - Leg Link	01/21/2011	Support
		01/18/2011	Under Review
		01/18/2011	-----
HB 1206	Criminal justice participants Making harassment against criminal justice participants a crime under certain circumstances. H Gen Gov Apps - Leg Link	01/18/2011	-----
		01/18/2011	No Position
HB 1235	Nonconviction records Concerning the privacy of nonconviction records. H Pub Safety - Leg Link	01/24/2011	Oppose
HB 1276 (5533)	Legal financial obligations Addressing court-ordered legal financial obligations collected by the county clerks. H Judiciary - Leg Link	01/29/2011	Oppose
		01/26/2011	Oppose
		01/18/2011	Under Review
		01/18/2011	-----
HB 1664	State supreme court Transferring all mandatory, regulatory, licensing, and disciplinary functions of the Washington state bar association to the Washington state supreme court. H Judiciary - Leg Link	02/14/2011	Oppose
		02/07/2011	Under Review
		01/31/2011	-----
		01/29/2011	-----
HB 1793	Access to juvenile records Restricting access to juvenile records. H Erly Lrn/H Svc - Leg Link	02/07/2011	No Position
HB 1898	Supreme court campaigns Establishing a public funding program for supreme court campaigns. H SGTribalAff - Leg Link	02/14/2011	Oppose
HB 1945	Judges' free speech rights Affirming the constitutional free speech rights of	02/14/2011	Watch

	judges and judicial candidates. H Judiciary - Leg Link		
HJR 4201	State officials' salaries Amending the Constitution to authorize immediate salary reductions for state officials when there is a general salary reduction for state employees. H SGTribalAff - Leg Link	01/24/2011	Concerns
		01/18/2011	-----
		01/18/2011	Concerns
HJR 4203 (8204)	Retirement age for judges Eliminating the mandatory retirement age for judges. H Judiciary - Leg Link	01/21/2011	Support
		01/18/2011	Under Review
		01/18/2011	Under Review
		01/18/2011	-----
HJR 4204 (8209)	Salary reductions/officials Amending the Constitution to allow salary reductions for public officials during an economic crisis. H SGTribalAff - Leg Link	01/24/2011	Concerns
		01/21/2011	Concerns
		01/18/2011	Concerns
HJR 4216	State supreme court Requiring that all mandatory, regulatory, licensing, and disciplinary functions regarding the practice of law and administration of justice reside exclusively in the supreme court. H Judiciary - Leg Link	02/14/2011	Oppose
		02/07/2011	Under Review
		01/31/2011	-----
		01/29/2011	-----
SB 5007	Criminal justice agencies Making an exemption regarding the public inspection and copying of voter registration information of criminal justice agency employees or workers. S GovtOp & Elect - Leg Link	01/12/2011	Support
		01/10/2011	-----
SB 5010	Supreme court campaigns Concerning public funding for supreme court campaigns. S GovtOp & Elect - Leg Link	01/26/2011	Oppose
		01/12/2011	Oppose
		01/10/2011	-----
SB 5014	Pro se defendants & victims Placing restrictions on pro se defendants when questioning witnesses. S Judiciary - Leg Link	01/12/2011	Under Review
		01/10/2011	-----
SB 5019	Nonconviction records Concerning the privacy of nonconviction records. S HumServ/Corr - Leg Link	01/24/2011	Oppose
		01/12/2011	Concerns
		01/10/2011	-----
SB 5024	Correctional inmate claims	01/12/2011	Concerns

	Placing restrictions on legal claims initiated by persons serving criminal sentences in correctional facilities. S HumServ/Corr - Leg Link	01/10/2011	-----
SSB 5056	Bail and pretrial release Concerning bail and pretrial release practices. S Ways & Means - Leg Link	02/14/2011	Support
SB 5126	Govt officials' compensation Concerning compensation adjustments for government officials. S Ways & Means - Leg Link	01/24/2011	Concerns
SB 5147	Retirement age for judges Removing the mandatory retirement age for judges. S Judiciary - Leg Link	01/21/2011	Support
		01/18/2011	Under Review
		01/18/2011	-----
SB 5195	Driving w/ suspended license Requiring information to be filed by the prosecuting attorney for certain violations under driving while license is suspended or revoked provisions. S subst for - Leg Link	01/18/2011	No Position
SB 5558	Juvenile records Regulating dissemination of juvenile records by consumer reporting agencies. S HumServ/Corr - Leg Link	02/07/2011	No Position
		02/01/2011	Refer to Com.
SB 5668	Public agency attorney dues Waiving Washington state bar association dues for public agency attorneys. S Judiciary - Leg Link	02/14/2011	Oppose
SJR 8200	Retirement of judges Amending the Washington state Constitution so that judges may retire at the expiration of his or her term of office after attaining the mandatory retirement age. S Judiciary - Leg Link	01/21/2011	Support
		01/18/2011	Support
SJR 8202	Public officials' salaries Authorizing the reduction of public officials' salaries. S Ways & Means - Leg Link	01/24/2011	Concerns
		01/18/2011	Concerns
		01/18/2011	-----
SJR 8203	Public officials' salaries Amending the Constitution to allow for public official salary reductions. S Ways & Means - Leg Link	01/24/2011	Concerns
		01/18/2011	Concerns
		01/18/2011	-----

LEGISLATIVE DINNERS – COMPARISON

	1998	2004	2008	2010
SEATTLE				
Legislators	6	9	4	9
Other Attendees	13	14	13	15
Dinner Cost	\$1,385.64	\$1,266.98	\$1,039.29	\$1,228.26
OLYMPIA				
Legislators	15	9	7	17
Other Attendees	23	16	16	14
Dinner Cost	\$1,368.35	\$1,544.61	\$1,637.52	\$1,110.04
VANCOUVER				
Legislators	7	4	3	3
Other Attendees	9	10	7	6
Dinner Cost	\$781.23	\$868.17	\$889.52	\$662.18
SPOKANE				
Legislators	7	3	5	Cancelled
Other Attendees	21	10	9	All in Olympia
Dinner Cost	\$1,188.25	\$881.56	\$1,100.00	
TRI-CITIES				
Legislators	Cancelled	6	4	4
Other Attendees		22	13	12
Dinner Cost		\$673.16	\$1,228.71	\$657.70
YAKIMA				
Legislators	4	5	4	5
Other Attendees	16	11	6	7
Dinner Cost	\$1,052.56	\$1,022.09	\$986.55	\$1,233.18
EVERETT				
Legislators	5	n/a	n/a	n/a
Other Attendees	12			
Dinner Cost	\$548.73			
	Other Costs Unknown	Other Costs \$431.70	Other Costs \$1,317.42	Other Costs \$1,161.00
	Airfare/Mileage Unknown	Airfare/Mileage \$1,323.91	Airfare/Mileage \$2,287.20	Airfare/Car \$567.01*
TOTAL COST	\$6,324.76	\$8,012.18	\$10,486.21	\$6,619.37
Total Legislators	Sen 16/Rep 28 =44	Sen 13/Rep 23 =36	Sen 9/Rep 18 =27	Sen 10/Rep 27 =37

Other Attendees: Judges, Staff, WSBA. Other Cost: Misc (hotel, parking, stamps/supplies, etc.)

2010 expenses were lower: one less dinner (no hotel/air), airfare was combined for two dinners (*cost still outstanding as of 12.31.10), and fewer judges requested mileage reimbursement.

2010 Legislative Dinner FINAL Information

Meal Cost	
Vancouver – Heathman Lodge	662.18
Seattle – Radisson Hotel	1228.26
Olympia – Mercato	1110.04
Spokane – [cancelled]	00.00
Tri-Cities (Pasco) – Birchfield Manor	657.70
Yakima – Red Lion Hotel	1233.18
Meal Total	4891.36
Other Expenses (see below)	1161.00
*Airfare	488.80
Car Rental (Yakima/Pasco)	78.21
GRAND TOTAL	6619.37

*1.7.11 – waiting for bill to come in

Total Senators = 10
 Total Representatives = 27
 Judges/Staff/WSBA = 54
 Total food cost/91 attendees = \$53.75 pp

Other Expenses:

Who	For	CK #	Amount
USPS	Stamps for legislative dinner mailings	3547	144.00
Office Depot	Supplies for legislative dinners	3548	45.55
Colleen Clark	Postcards for legislative dinners	3549	26.03
Stephen Warning	Mileage for Vancouver leg dinner	3551	45.00
Colleen Clark	Folders for legislative dinners	3555	17.22
Mellani McAleenan	Expenses and mileage (leg dinner)	3557	85.22
Dirk Marler	Mileage – SeaTac legislative dinner	3559	61.00
Darrel Ellis	Mileage – Yakima legislative dinner	3562	63.50
Mellani McAleenan	Expenses/mileage (Yakima/Pasco dinners)	3563	349.68
Jeff Hall	Expenses/mileage (Yakima/Pasco dinners)	3565	323.80
			1161.00

Legislative Dinner Attendees

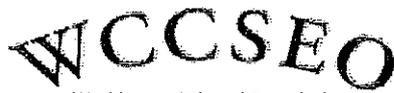
November 17, 2010 - Vancouver	
Legislative	Judicial
Rep.-elect Phil Harris	Chief Justice Barbara Madsen
Rep.-elect Ann Rivers	Judge Stephen Warning
Rep. Dean Takko	Judge Michael Evans
	Jeff Hall
	Mellani McAleenan
	Loren Etengoff (WSBA)

November 30, 2010 - Seattle	
Legislative	Judicial
Rep. Jeannie Darneille	Chief Justice Barbara Madsen
Rep.-elect Joe Fitzgibbon	Judge Ronald Cox
Sen.-elect Nick Harper	Judge Robert Leach
Rep. Christopher Hurst	Judge Andrea Darvas
Rep. Marko Liias	Judge Laura Inveen
Sen. Cheryl Pflug	Judge Kimberly Prochnau
Rep. Mary Helen Roberts	Judge Deborah Fleck
Sen. Phil Rockefeller	Judge Glenn Phillips
	Judge Douglas Fair
	Judge Elizabeth Bejarano
	Judge Anne Harper
	Judge Michelle Gehlsen
	Mellani McAleenan
	Dirk Marler
	Steve Toole (WSBA)

December 7, 2010 - Olympia	
Legislative	Judicial
Rep.-elect Ahern	Chief Justice Barbara Madsen
Rep. Jan Angel	Justice Gerry Alexander
Rep.-elect Katrina Asay	Justice Susan Owens
Sen. Randi Becker	Justice Debra Stephens
Rep.-elect Andy Billig	Judge Lisa Worswick
Sen. Mike Carrell	Judge Stephen Warning
Rep.-elect Cathy Dahlquist	Judge Kitty van Doorninck
Rep.-elect David Frockt	Judge Stephen Brown
Rep.-elect Paul Harris	Judge Samuel Meyer
Rep.-elect Laurie Jinkins	Judge Kevin Ringus
Sen. Bob Morton	Judge Brett Buckley
Rep. Timm Ormsby	Jeff Hall
Sen. Linda Evans Parlette	Mellani McAleenan
Rep.-elect Chris Reykdal	Loren Entengoff (WSBA)
Rep.-elect Cindy Ryu	
Rep. Matt Shea	
Rep.-elect Steve Tharinger	

December 15, 2010 - Yakima	
Legislative	Judicial
Rep. Bill Hinkle	Judge Stephen M. Brown
Sen. Jim Honeyford	Judge David Elofson
Rep. Norm Johnson	Judge Kelley Olwell
Sen. Curtis King	Judge Darrel Ellis
Rep. Charles Ross	Jeff Hall
	Mellani McAleenan
	Leland Kerr (WSBA)

December 16, 2010 - Tri-Cities (Pasco)	
Legislative	Judicial
Sen. Jerome Delvin	Judge Dennis Sweeney
Rep. Larry Haler	Judge Craig Matheson
Rep. Terry Nealey	Judge Vic VanderSchoor
Rep. Joe Schmick	Judge Carrie Runge
	Judge Robert Swisher
	Judge Bruce Spanner
	Judge Jerry Roach
	Jeff Hall
	Mellani McAleenan
	Pat Austin
	Sharon Paradis (JCA)
	Steve Crossland (WSBA)



Washington Citizens' Commission
on Salaries for Elected Officials

2011-12 Salary Proposal Adopted February 4, 2011

Position	Salary Effective 9/1/2011	Salary Effective 9/1/2012
Executive Branch		
Governor	166,891	166,891
Lieutenant Governor	93,948	93,948
Secretary of State	116,950	116,950
Treasurer	116,950	116,950
Auditor	116,950	116,950
Attorney General	151,718	151,718
Insurance Commissioner	116,950	116,950
Supt. Public Instruction	121,618	121,618
Commissioner of Public Lands	121,618	121,618
Judicial Branch		
Supreme Court Justices	164,221	164,221
Court of Appeals Judges	156,328	156,328
Superior Court Judges	148,832	148,832
District Court Judges	141,710	141,710
Legislative Branch		
Legislator	42,106	42,106
Speaker of the House	50,106	50,106
Senate Majority Leader	50,106	50,106
House Minority Leader	46,106	46,106
Senate Minority Leader	46,106	46,106

This "Proposal" is "on the table" for public review and comment until May 18th at which time the Commission will adopt a "final" salary schedule for 2011-12. The "Final Salary Schedule" may or may not be the same as the "Proposal". The "Proposal" freezes salaries. Salaries of the elected officials have been frozen since September 1, 2008.

The Commission regrets that constitutional provisions prohibit the reduction of salaries for the state elected officials.