

**Board for Judicial Administration
Meeting Minutes**

**March 18, 2011
Temple of Justice
Olympia, Washington**

Members Present: Chief Justice Barbara Madsen, Co-Chair; Judge Marlin Appelwick; Judge Stephen Brown; Judge Ronald Culpepper; Judge Deborah Fleck; Judge Janet Garrow; Judge Laura Inveen; Justice Susan Owens; Judge Christine Quinn-Brintnall; Judge Dennis Sweeney; Judge Gregory Tripp; Judge Stephen Warning; and Judge Christopher Wickham

Guests Present: Mr. Jim Bamberger, Judge Steven González, Mr. Frank Maiocco (by phone), and Ms. Shelly Maluo

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

Chief Justice Barbara Madsen called the meeting to order.

February 18, 2011 Meeting Minutes

It was moved by Judge Garrow and seconded by Judge Culpepper to approve the February 18, 2011 Board for Judicial Administration meeting minutes. The motion carried.

Legislative Update

Ms. McAleenan updated the Board for Judicial Administration (BJA) on the status of the BJA request legislation. The Grant County judge bill is in the Senate and moving well. The House version of the assault bill will be heard in the Senate. The municipal court judicial election bill died without a floor vote in the Senate.

Other bills of interest were also discussed. The bail bill did not move in the Senate because of a large fiscal note. The House bill might have some of the language amended into a Senate bill. Judge Warning reported that the risk assessment piece is still possible as a budget item.

SJR 8202, the Salary Commission bill, was amended in Senate Ways and Means to exclude judges but it died in Senate Rules. It is still being discussed and might have traction. Senator Lisa Brown prefers that the judges be excluded from the bill.

The one bill with a fee attached that is still moving is SHB 1053 which is a Washington State Bar Association (WSBA) guardianship bill. There is a hearing in the Senate Judiciary on March 23.

BJA Courthouse Security Committee

Mr. Marler said that the budget situation requires the Administrative Office of the Courts (AOC) to make some tough choices about priorities. The staffing and administrative support of committees is made difficult by the hiring freeze and furloughs. The reality is that AOC has fewer people at the organization than in the past and remaining staff have less time to devote to covering everything. This problem is compounded by furloughs because employees are restricted from working extra hours during a furlough week.

The AOC requests the Board for Judicial Administration (BJA) to consider sunsetting the BJA Courthouse Security Committee because of a position vacancy that will not be filled due to the anticipated budget reductions in the 2011-13 biennium. The other duties covered in that position have been disbursed throughout the agency but AOC is unable to provide staff support to the BJA Courthouse Security Committee.

Mr. Jeff Hall had discussions about agency priorities with judicial and administrator groups in the fall and every group indicated this committee was a low priority.

Mr. Marler reported that the impact from sunsetting the committee is small. The information that is gathered is not something that is generally relied on because security matters are normally handled at the local level. The Courthouse Security Committee recently updated a security manual that is available online. The AOC maintains a security log but that is not something customers have indicated they would miss if it is gone.

Judge Fleck indicated a preference to put this committee on hiatus for now and possibly bring it back later. She recommends maintaining the incident log. Mr. Marler stated the incident log is labor-intensive and one of the biggest uses of committee staff time.

Judge Fleck moved and Judge Brown seconded to suspend the BJA Courthouse Security Committee as a standing committee for three years rather than sunset it. The motion carried with Justice Owens opposed.

There was some concern about not maintaining the incident log and ensuring courts know the log will no longer be maintained but there are national resources available to courts if needed.

State Budget Report

Mr. Radwan presented information about the March Revenue forecast which was released yesterday. It was down another \$80 million in the current biennium. About \$733 million has been cut by the Legislature for the current fiscal year. They still have not created a caseload supplement due to the caseload forecast that came out last week. The current deficit could be \$80 million to \$200 million which would result in additional decreases in the current biennium.

The 2011-13 biennium was down another \$698 million and keeps the current deficit to about \$5 billion which is less of a deficit than at the beginning of the 09-11 biennium. That is good news. Mr. Radwan is not sure how the Legislature will address the deficit but he assumes they will push an across-the-board cut to the judicial branch.

2012 Supplemental Budget Process

Mr. Radwan distributed a letter from Chief Justice Madsen regarding the 2012 Supplemental Budget Process. All supplemental requests need to be submitted to AOC by April 22. There are two opportunities in the process for presentations to be made to the Supreme Court Budget Committee. Supplemental budget instructions are posted on both the Washington Courts and Inside Washington Courts Web sites.

A few BJA members expressed concern about the feasibility of the timeline and Mr. Radwan explained that the information due on April 22 is very high-level, just ideas, not all the details. This is the same timeframe from previous years. If the timeline is pushed out any farther, it impedes the ability of the judicial branch to meet budget submittal timeframes.

Judge Fleck stated that she sent additional materials to the BJA yesterday because of the timeline. The BJA has a responsibility to carry forward the Justice in Jeopardy Implementation Committee (JIJIC) piece which includes trial court operations and the Office of Public Defense (OPD) and the Office of Civil Legal Aid (OCLA). She is quite concerned that something needs to be put before the Supreme Court related to court operations during the budget process. The BJA has a responsibility to keep the trial court operations piece fresh and useable and the judicial branch needs to be able to hold onto current funding. This is a major BJA responsibility and it is very concerning that it is not being kept up-to-date and refreshed.

Chief Justice Madsen said the supplemental budget process is for new initiatives, not run-of-the-mill items. If the budget timeline is a problem, the JIJIC agenda needs to be backed up to be prepared to go forward when supplemental budget information is needed.

Ms. McAleenan clarified the process that has been used in the past is for funding new initiatives. If the BJA decides to explore certain funding options, that decision is made at the BJA level and then the Trial Court Operations Funding Committee (TCOFC) works on the details.

Mr. Marler stated that in 2008 the TCOFC was basically an ad hoc committee with Judge Harold Clarke as the chair. It was his understanding that it was a one-time committee and would be reconstituted later on if needed. Direction needs to come from the BJA on what it wants the TCOFC to be working on and a charter needs to be created for the TCOFC so it can be institutionalized. Mr. Marler will work with Mr. Ruhl to figure out how to successfully staff and reconstitute the TCOFC.

Judge Fleck stated that the TCOFC was not an ad hoc committee but rather the necessary result of the BJA approved request by the Trial Court Operations Implementation Committee that it be renamed as the Justice in Jeopardy Implementation Committee. This created the necessity of an additional BJA committee to review and make proposals regarding the "Court Operations" leg of the Justice in Jeopardy three-legged stool. This committee was active in 2008, and has been dormant since that time.

Judge Appelwick stated that he does not know anyone who thinks there will be any money available in 2012. Unless it is an emergency, he does not see any need to work on anything now.

Judge Garrow likes the idea of refreshing the trial court operation information, especially for new legislators. That would indicate how long each issue has been a problem and show legislators it is getting worse. It would be good to show legislators annually what the problems are but not necessarily ask them for funding at this point in time.

Mr. Radwan commented that refreshing the data is good but he hopes the Court does not send decision packages out to the Legislature because it will look like the branch is ignoring the economic situation.

Judge Fleck stated that the judicial branch really needs to reenergize speaking with one voice when it comes to addressing legislators. That is not necessarily being done right now.

By consensus, the BJA decided to ask that Judge Harold Clarke, the Chair of the BJA Trial Court Operations Funding Committee from 2008, and Judge Fleck should be in touch, activate the committee and make presentations on interpreters, CASAs and the Family and Juvenile Court Improvement Plan, at the April 15 BJA meeting in order to meet the April 22 date in the budget process.

Regional Courts

Chief Justice Madsen reported that she would like to put some energy into talking about regional courts. Chief Justice Madsen, Mr. Hall, Ms. McAleenan, and Mr. Marler met recently and determined that there is not a good vehicle, at this point in time, for legislation. Does the BJA want to go forward with this issue? Should a committee be created to study the issue and possibly draft legislation for next legislative session?

If the BJA decides to go forward with this, a committee charter needs to be proposed and the committee membership determined.

It was moved by Judge Wickham and seconded by Judge Brown that the BJA take on this legislative issue for next year and that a group be formed to work on this issue. The motion carried with Judge Quinn-Brintnall opposed.

Justice Owens, Judge Garrow, Judge Brown, and Judge Tripp are all interested in participating in the group. It was also suggested that Mr. Ron Ward and Judge Ann Schindler be invited to participate.

Judge Quinn-Brintnall stated that the southwest and northeast portions of the state were opposed to this in the past because of access to justice issues.

SCJA Resolution Regarding Disproportionality and Disparity in the Justice System

Judge Fleck presented a resolution regarding disproportionality and disparity in the justice system. The SCJA adopted a similar resolution which was prompted by a guest editorial by Chief Justice Madsen and the creation of the Race and Justice Task Force. It seems particularly important that the BJA recognize the issue and take steps to address it.

Following the new BJA Resolution Guidelines, Ms. McAleenan sent the proposed resolution to the BJA Executive Committee but did not receive any comments so the resolution, as submitted, is now before the BJA for consideration.

It was determined that the format of the resolution needs to be changed to include wording commonly used in resolutions (“whereas” and “therefore,” etc.). It also needs to only include goals the BJA can impact. If the BJA is going to take this on, it needs to be taken on in a way that is meaningful and useful.

It was suggested that the BJA possibly work on a series of resolutions: one looking internally to what the judiciary can do within its operations, without assistance; another would include additional support from the Legislature, cities and counties; and a third would contain non-cost issues.

Assistance from the judicial associations, the Gender and Justice Commission and the Minority and Justice Commission will be required to accomplish the goals in the resolution.

It was moved by Judge Fleck and seconded by Justice Owens to draft a resolution on the topic of eliminating racial disproportionality and disparity in Washington Courts and the justice system. The motion carried.

The next step is to put together a group of people willing to draft a resolution and bring it back to the BJA in a few months. Judge González will assist along with Judge Fleck, Justice Owens, Judge Garrow, Judge Wickham, Judge Quinn-Brintnall, and Judge Culpepper.

Chief Justice Madsen extended her appreciation to Judge González and Judge Fleck for sticking with this issue.

Access to Justice Board

Judge González reported that the Access to Justice (ATJ) Board is exploring an initiative with the Washington State Bar Association (WSBA) regarding unmet civil legal aid. There is a fairly large swath of the middle class that is unable to get civil legal aid. The WSBA has asked Mr. Wayne Blair to chair that group.

The ATJ Board co-sponsored the *Diversifying the Bench Guidebook: How to Become a Judicial Officer* which was produced by the Washington State Minority and Justice Commission.

The Office of Civil Legal Aid Oversight Committee and the ATJ Board are trying to work together better as two entities with similar missions.

With the revision of GR 34 and new forms from the AOC, the ATJ Board is working through the differences between the county and state forms so people who want to request waivers can get them.

In response to the comments made by two Supreme Court justices last fall, the ATJ Board reached out to the Korematsu Center for Law and Equality to put together a report to address the bias in our justice system. The report was presented to the Supreme Court on March 2 and the presentation webcast can be viewed on the TVW Web site.

Reports from the Courts

Supreme Court: Justice Owens reported that the Supreme Court finished hearing Winter Term cases yesterday.

Court of Appeals: Judge Sweeney said the appellate courts have a meeting on April 4 in lieu of their spring conference. During the meeting they will elect a new Presiding Chief Judge—Judge Schindler. The Court of Appeals is continuing to work on budget issues. The clerks and administrators are working on electronic filing.

Superior Courts: Judge Warning reported that because of the SCJA legislative agenda, he is spending a lot of time in Olympia. The JRA funds transfer is probably dead and the SCJA is continuing to pursue the QA transfer. They hope to end up with a risk assessment tool.

Courts of Limited Jurisdiction: Judge Brown said the DMCJA is continuing to work with the SCJA on the risk assessment tool. He thanked Chief Justice Madsen for her assistance with the municipal court elections bill.

Association Reports

Superior Court Administrators: Mr. Maiocco reported that they are working on their spring conference which begins on May 1. The conference focuses on visioning and strategic planning and will take a look at Chelan County's case management system. They are also working on their desk manual.

Administrative Office of the Courts

Mr. Marler said legislation continues to be something that consumes AOC staff time across the agency. So far, the agency has completed 244 fiscal notes and is tracking 298 bills that are alive and 407 that are in some version of dead. In early February AOC requested a series of public records from municipalities that have part-time judges to get a handle on how they are structured. They received responses from the majority of the jurisdictions and now will be analyzing the information received.

The AOC is taking a hard look internally to do a refresh on how various boards, commissions, and committees are supported. It is a significant project but hopefully it will pay dividends upon completion.

There being no further business, the meeting was adjourned.