

**Board for Judicial Administration
Meeting Minutes**

**June 17, 2011
SeaTac, Washington**

Members Present: Chief Justice Barbara Madsen, Co-Chair; Judge Michael Lambo, Member Chair; Judge Marlin Appelwick; Judge Sara Derr; Judge Deborah Fleck; Judge Janet Garrow; Mr. Jeff Hall; Judge Laura Inveen; Judge Teresa Kulik (by phone); Justice Susan Owens; Judge Christine Quinn-Brintnall; Judge Kevin Ringus; Judge Ann Schindler; Judge Scott Sparks; Mr. Steven Toole; Judge Gregory Tripp; and Judge Chris Wickham

Guests Present: Ms. Lynne Jacobs and Ms. Shelly Maluo

Staff Present: Ms. Beth Flynn, Ms. Shannon Hinchcliffe (by phone), Mr. Dirk Marler, Ms. Mellani McAleenan, and Mr. Ramsey Radwan

Judge Lambo called the meeting to order.

May 20, 2011 Meeting Minutes

It was moved by Judge Garrow and seconded by Judge Wickham to approve the May 20, 2011 meeting minutes. The motion carried.

BJA Resolutions

Mr. Hall stated that a small committee of Judge Garrow, Judge Wickham, Mr. Hall and Ms. McAleenan revised the Board for Judicial Administration (BJA) Process and Guidelines for Resolution Requests. The main revisions were to state that resolutions do not stand alone as funding priorities or stand alone to seek funding and are not long-term policy statements. The format was changed to include bulleted points and the Principal Policy Objectives of the Washington Judicial Branch are referenced but removed from the actual guidelines.

There was some discussion on various revisions to the guidelines regarding outside groups and if a specific action item should be a requirement. There was also discussion about the definition of "Board member" and if that included non-voting members. It was determined that all BJA members (voting and non-voting) were considered "Board members."

It was moved by Judge Inveen and seconded by Judge Garrow to change the wording in the guidelines as follows:

On the first page, in the second to last bullet, the first sentence should be revised to: "Resolutions may be proposed by any Board member."

On the first page, in the last bullet, the last sentence should be revised to: “Resolutions must be short-term and stated in precise language.”

The motion carried.

BJA Best Practices Committee

Mr. Marler stated that Judge Julie Spector, who chaired the Best Practices committee for several years, tendered her resignation. There is interest in the position from both Judge Quinn-Brintnall and Judge Jean Rietschel.

Judge Lambo moved and Chief Justice Madsen seconded to nominate Judge Jean Rietschel and Judge Quinn-Brintnall as co-chairs of the BJA Best Practices Committee. The motion carried.

Nevins Award Nomination

Chief Justice Madsen stated the first draft of the proposed language for the BJA’s nomination of Justice Mary Fairhurst for the Nevins Award was included in the meeting materials. The 2011 form is not available at this time but the language needs to be ready to go when the form is distributed later this summer.

Judge Ringus moved and Judge Wickham seconded that the BJA nominate Justice Mary Fairhurst for the Nevins Award. The motion carried with Judge Fleck abstaining.

Judge Fleck suggested that the wording on the nomination form focus on projects Justice Fairhurst has worked on in terms of public understanding of the law and the role of the judiciary in American society. Ms. Flynn and Judge Ringus will work on enhanced language for the award.

Resolution Regarding Racial and Ethnic Bias in the Justice System

Judge Fleck reported that the work group met by phone to revise the resolution and also had input from Chief Justice Madsen. The resolution has now been approved by the Supreme Court, the SCJA Board, the Minority and Justice Commission and the Access to Justice (ATJ) Board. Judge Tripp stated that the District and Municipal Court Judges’ Association (DMCJA) Board has not arrived at a decision yet because there is some confusion about the final language. They will not meet again until August but they could meet by conference call earlier. Judge Tripp would appreciate it if the resolution decision could be put over until the July or August BJA meetings.

Mr. Toole said the Washington State Bar Association (WSBA) Board of Governors (BOG) discussed the original resolution at their Board meeting this month. There was

some discussion about broadening the resolution to include bias based on sexual orientation. There is no need to change this resolution but the suggestion should be considered for future resolutions.

The resolution will be put on the July or August agendas depending on when the DMCJA makes a decision on the resolution.

BJA Long-Range Planning Committee

Ms. McAleenan stated that the BJA needs to appoint two BJA representatives to the BJA Long-Range Planning Committee to fill the expiring positions of Judge Jack Nevin and Judge Fleck.

Judge Ringus moved and Judge Garrow seconded to reappoint Judge Nevin to the BJA Long-Range Planning Committee. The motion carried.

Judge Fleck moved and Judge Wickham seconded to appoint Judge Sparks to the BJA Long-Range Planning Committee. The motion carried.

Ms. McAleenan said the BJA also needs to consider adding a "Past Chair" position to the BJA Long-Range Planning Committee with a two-year term. The BJA Member Chair is the Chair of the Long-Range Planning Committee and would step into the Past Chair position as soon as the Member Chair term is over.

It was moved by Judge Wickham and seconded by Judge Fleck to add a Past Chair position to the BJA Long-Range Planning Committee. The motion carried.

BJA Member Chair

Chief Justice Madsen stated that Judge Lambo's current position as Member Chair is coming to a close and the BJA needs to elect a new Member Chair.

It was moved by Judge Fleck and seconded by Judge Quinn-Brintnall to elect Judge Chris Wickham as the BJA Member Chair. The motion carried with Judge Wickham abstaining.

Judge Wickham stated he really wants this group to speak for all of the judiciary. It is a tough challenge to get everyone on the same page.

GR 31 and GR 31A Update

Chief Justice Madsen updated the BJA on the status of proposed General Rule 31A which was recently passed by the full Court for comments. She distributed a press release about proposed General Rule 31A regarding access to judicial branch

administrator records which is now open for public comment through November 30, 2011.

Proposed GR 12.4 regarding access to WSBA records has not yet been acted upon by the Supreme Court.

State Budget/Revenue Update

Chief Justice Madsen stated that the Supreme Court budget process was developed so all levels of the courts would be part of the process and have an opportunity to be heard. Once the decisions are made, the judiciary will all march together as one.

As tough as this past legislative session was, everyone worked hard and used resources well. The Law Library was saved with the help of the SCJA, WSBA, DMCJA, Supreme Court justices, etc. which shows that the power of speaking with one voice is effective.

Stakeholder groups all came together on the JSTA issue and decided that as painful as it could be to the judicial branch, a state/local split and a continuation of the filing fees would be requested. Even though it turned out differently than was requested, from beginning to end the stakeholders stuck together.

Chief Justice Madsen is going to hold a review meeting in late August or September to determine what went well and what did not go so well with the budget process this past legislative session. She would like to meet with the Office of Public Defense (OPD), the Office of Civil Legal Aid (OCLA), the BJA, SCJA, DMCJA, Washington Association of Juvenile Court Administrators (WAJCA), Court of Appeals and other stakeholders.

Mr. Radwan distributed a summary of the most recent revenue forecast. The amnesty program generated over \$184 million in May. It helped plug the hole for the current biennium but there is now concern about what that does for future tax revenue.

The state is still in the hole about \$40 million this biennium. The Office of Financial Management (OFM) sent an e-mail to state agencies asking them not to spend much money the last two weeks of the biennium. Part of the problem is that the supplemental budget did not pass until the end of May and they lost an opportunity to save money by not passing it earlier. It should have passed in March.

For the ensuing biennium, the revenue forecast keeps going down. Year over year, the revenue is growing but not at the rate that is forecast. Mr. Radwan thinks the Legislature will come back and cut funding for 2012.

Mr. Radwan included a summary of each judicial branch agency's 2011-2013 biennium budget in the meeting materials. Also included were copies of letters requesting that the Governor veto a portion of the state budget bill. One veto request was regarding

modification of the judgment and sentence form for juvenile and adult sentences. The other issue was in the Juvenile Rehabilitation Administration (JRA) section of the budget stating the JRA could have access to juvenile court records from the Administrative Office of the Courts (AOC). Neither section was vetoed. AOC staff will be meeting next week to decide what to do regarding the JRA language.

Mr. Hall provided a brief update on the budget reductions at AOC. The reductions proposed to the Supreme Court were the elimination of five positions, one of which has an incumbent; eliminate the jury source list pass-through funding; eliminate the Guardian ad Litem reimbursement funds; and decrease the pro tem reimbursement pass-through due to lack of use. AOC will also rely on less static funds such as vacancy rate savings. It is likely the Supreme Court will have a final decision on the proposed AOC reductions next week.

Legislative Update

Ms. McAleenan stated that most of the bills that passed during the regular session were discussed previously by the BJA.

The highlight from the special session is the Judicial Stabilization Trust Account (JSTA) bill. The House did not want to include a split and the Senate wanted a 50-50 split and they went behind closed doors and compromised on a 75-25 split. The fee was only extended for two years. The BJA will need to discuss the fee again prior to the expiration in 2013. King County notified the Governor that they want the split to be closer to 50-50 and that they want it permanent.

A 2011 legislative session report will be distributed in the next few weeks.

Washington State Bar Association

Mr. Toole reported that the Washington State Bar Association (WSBA) Board of Governors (BOG) met in Kennewick for their June meeting and they elected Ms. Michele Radosevich who will take over as WSBA President in 2012. She will be the fourth woman to serve as President.

During their Board meeting the Council on Public Defense (CPD) presented their proposals on caseloads and standards. The Board adopted all of their recommendation except the one area that had the most controversy which was the courts of limited jurisdiction caseload standards. They took that off the table and are working with the stakeholder groups and will bring it back to the BOG in the future.

The next Board meeting is in Ocean Shores on July 21 and 22.

Reports from the Courts

Supreme Court: Justice Owens reported that most of the justices attended the ATJ conference. They have one week left in their spring term and it has been a very difficult term.

Court of Appeals: Judge Schindler reported that since 2007 the Court of Appeals (COA) has taken \$4 million in cuts and now they are facing a \$1.2 million cut. They are currently working on a plan to incorporate the reduction into their budget. They have taken some cuts in FTEs and the remaining employees are doing more with less and they have not had any pay increases of any kind in four years and will now have a 3% pay cut.

Superior Courts: Judge Inveen stated that the Superior Court Judges' Association (SCJA) had a very successful conference at Suncadia. Many judges shared rooms and expenses because of budget reductions. She thanked everyone for their assistance with the education program.

Last weekend was their long-range planning meeting and SCJA Board meeting. They focused on a debriefing of the legislative session, budgeting, and a communication strategy within and outside of the judicial branch. They recognized they have to be deliberate about funding and realize there is contention and they had extraordinarily heated discussions on these issues. They want to ensure the risk assessment is implemented and will go through the JISC user group process. It is important that the Legislature sees that they do get a good product.

Courts of Limited Jurisdiction: Judge Tripp thanked Judge Lambo for serving as Member Chair of the BJA. He also thanked everyone for attending the District and Municipal Court Judges' Association (DMCJA) conference. Many from their association were at the spring conference and quite a few of the attendees were from part-time courts and the conference provided them an important opportunity to meet and talk to other judges. They had an excellent program by Judge Eileen Kato regarding aging and decision-making. They also elected new officers.

Mr. Hall and Judge Tripp will speak at an Association of Washington Cities (AWC) conference next week regarding working cooperatively with other branches of government.

Association Reports

Juvenile Court Administrators: Ms. Maluo reported that Becca funding was kept intact during the legislative session. The Legislature added proviso language regarding data sharing between the Juvenile Rehabilitation Administration (JRA) and AOC and the Juvenile Court Administrators met with the JRA yesterday to discuss the data sharing.

They had four representatives and one senator attend their spring conference. The legislators gave them feedback and tips regarding working projects through the Legislature. The tips validated some things they do and informed them of things they should not do.

District and Municipal Court Administrators: Ms. Jacobs reported that the District and Municipal Court Administrators held their spring conference at Suncadia which was well attended. They held their annual business meeting and elected new officers and are currently in the process of planning next event. Ms. Jacobs thanked the DMCJA for their educational funding assistance. Their priority is to educate court administrators and employees and they have talked about mandatory education for administrators. They met yesterday with AOC and representatives from the Institute for Court Management regarding training.

Administrative Office of the Courts

Mr. Hall stated that AOC staff just finished another spring educational season which is a very busy time for the education unit.

The Judicial Information System Committee (JISC) is meeting June 24 and they will receive the Feasibility Study on the Case Management System (CMS).

Spokane Municipal Court has asked the JISC to move to a private vendor for their computer system. The JISC needs to establish a policy on what they will look at for requests like this in the future. They will consider the request at their meeting next week.

The appellate court e-filing project is moving forward with a feasibility study.

Other Business

WSBA Judicial Membership Licensing Fee: Chief Justice Madsen stated the Supreme Court came up with language to implement the decision that was made to have a judicial membership licensing fee of \$50 and a copy of the order was provided in the meeting materials.

Office of Public Defense: Ms. Joanne Moore asked Chief Justice Madsen to communicate to the BJA that there was an article in the Spokesman-Review regarding the treatment of attorneys by the Office of Public Defense. Ms. Moore views this as an opportunity to revisit how compensation is made and sustainability of that type of work. She is starting a discussion with the attorneys statewide to see if they can come up with a more sustainable model.

Long-Range Planning: Long-Range Planning is getting underway for the judicial branch and also moving forward internally for the Supreme Court. Chief Justice

Madsen asked Judge Schindler to assist in that effort so they can have more of an appellate-wide plan.

BJA Member Chair: Chief Justice Madsen thanked Judge Lambo for his service as the BJA Member Chair the last two years. Judge Lambo stated that it was a pleasure working with Chief Justice Madsen and he enjoyed it immensely because they were always on the same page and worked very well together. Everybody on the BJA is dedicated to the bench and he enjoyed the atmosphere of the meetings.

Trial Court Operations Funding Committee (TCOFC): Judge Fleck stated that she wants to gently raise the issue of the TCOFC piece of the Justice in Jeopardy Implementation Committee (JIJIC) initiative. The TCOFC made a proposal meeting the deadline of the Supreme Court's budget timeline. The BJA did not approve the funding requests and ironically, the Senate passed their budget which was better than the House budget not long after the BJA denied the funding request. The SCJA Board voted to have the funding requests taken directly to the Supreme Court because they want the data refreshed regularly. Judge Fleck is raising the issue again to have this issue looked at during the upcoming budget process meeting.

The TCOFC is part of the BJA's funding arm. It seems appropriate that the BJA, at some point, consider the Court Operations piece. Refreshing the data would help when discussing the issues. The SCJA was notified by Mr. Hall that the TCOFC issues would not be moving forward through the Supreme Court. Judge Fleck just wants to have the conversation about the budgeting process.

Chief Justice Madsen reminded everyone that the BJA did reconstitute the TCOFC and part of the problem with the decision packages is if we know the funding requests are not a top priority and not going forward, it is not efficient to have staff take time to develop information. She wants the BJA to be very careful in spending energy on something that is not going forward and is hoping this will be part of the conversation during the upcoming meeting on the budget process.