



Board for Judicial Administration (BJA)

Friday, May 18, 2012 (9:00 a.m. – 12:00 p.m.)

AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

MEETING MINUTES

Members Present:

Chief Justice Barbara Madsen, Chair
Judge Chris Wickham, Member Chair
Judge Marlin Appelwick
Mr. Stephen Crossland
Judge Deborah Fleck
Judge Janet Garrow
Mr. Jeff Hall
Judge Jill Johanson
Judge Kevin Korsmo (by phone)
Judge Michael Lambo
Ms. Paula Littlewood
Judge Craig Matheson (by phone)
Judge Jack Nevin
Justice Susan Owens
Judge Kevin Ringus
Judge Charles Snyder (by phone)
Judge Scott Sparks
Judge Gregory Tripp

Guests Present:

Mr. Jeff Amram (by phone)
Mr. Jim Bamberger
Ms. Bonnie Bush
Judge Harold Clarke
Ms. Ishbel Dickens
Ms. Joanne Moore

Public Present:

Mr. Christopher Hupy
Mr. Mark Mahnkey

AOC Staff Present:

Ms. Beth Flynn
Mr. Dirk Marler
Ms. Mellani McAleenan
Mr. Ramsey Radwan

The meeting was called to order by Judge Chris Wickham.

Mr. Hall reported that he has accepted a position as Administrator of the Deschutes County Circuit Court in Bend, Oregon and he will leave the Administrative Office of the Courts (AOC) at the end of June. He has heard that a few people are speculating that there may be a problem with the Superior Court Case Management System (SC-CMS) project and that is why he is leaving. The SC-CMS project is well positioned and moving forward to RFP release. The right people are in place to move the project forward, with leadership coming from Ms. Vonnie Diseth and Mr. Marler as project sponsors and Justice Mary Fairhurst as the Executive Sponsor. Mr. Hall related that his family has spent years vacationing in Bend and he and his wife have long intended to retire there. This was an unexpected opportunity to move to Bend earlier in life and return to working at the trial court level.

Chief Justice Madsen stated that this is an opportunity to think long-term about who the Supreme Court wants to see in the State Court Administrator position. It is best to have an interim person come in so there is some breathing room. The Supreme Court wants the interim to take stock of the agency and evaluate its strengths and weaknesses. The process to find an interim has begun. Chief Justice Madsen plans to include input from agency stakeholders in the State Court Administrator recruitment process.

April 20, 2012 Meeting Minutes

It was moved by Justice Owens and seconded by Judge Lambo to approve the minutes of the April 20, 2012 BJA meeting. The motion carried.

Appointment to the BJA Public Trust and Confidence Committee

The Washington State Bar Association nominated Mr. Andrew Sachs for appointment to the BJA Public Trust and Confidence Committee.

It was moved by Judge Garrow and seconded by Judge Tripp to appoint Mr. Andrew Sachs to the BJA Public Trust and Confidence Committee. The motion carried.

Interpreter Resolution

Justice Owens presented a resolution on behalf of the Interpreter Commission to provide interpreters in all case types and at court expense. The US Department of Justice takes the position that any court receiving federal funds is required to meet Title VI requirements for ensuring language access, including providing and paying for interpreters in all cases.

The Interpreter Commission was going to submit this as a budget request but they decided this was not the right time.

Ms. McAleenan stated that the resolution was sent to the BJA Executive Committee.

Mr. Hall said that the Department of Justice has been very aggressive in going after a number of states and they told some states that if they don't comply with their interpretation of this requirement they will take back their federal funding. If the current administration is reelected the focus on this issue will remain for the next four years. Even Washington will be at risk at some point if there is an individual who will be denied access to the courts.

Mr. Hall also stated that if the resolution is adopted, the BJA should seek legislation changing Washington law to provide interpreters in all cases.

There was discussion about corporations bearing the cost of interpreters when they are involved in court cases. If this resolution is supported, the state should be funding interpreters a lot more than they do now. There is no question that people need interpreters but the question is who is going to pay for them. It was suggested that with the collective melting pot that many of our communities are becoming, the courts need to explore different ways to provide interpreters.

Mr. Hall said there is a budget proposal for video remote interpreting. It is an area of growth on a national level and courts will continue to see that area grow as the technology improves.

Chief Justice Madsen stated that she has been involved in this because of the ABA Best Practices. There are some ways out there that can be explored for funding. Most counties are already doing this so there is already a fair amount of compliance. The BJA should go after

state funding and also address if there are other delivery methods that take advantage of technology.

Ms. Littlewood said the Washington State Bar Association (WSBA) Civil Legal Needs Work Group might be able to explore this issue. They should have a report coming out in June. Ms. Littlewood will check and see where it might dovetail.

This will go back to the Interpreter Commission and will be placed on a future BJA agenda.

Budget

Overview, History and Context: Mr. Radwan stated that this is an important new step in the budget process and it will provide input from the BJA into the priorities of the AOC budget.

The prioritization process will be a little bit cumbersome this first time. Mr. Radwan knows the information was sent out late and there was not a lot of detail in the materials, but the information is very similar to the information that was distributed in April. The BJA needs to discuss the budget requests and prioritize them as a preliminary step.

The BJA cannot prohibit proposals from being brought forward to the Supreme Court but the BJA will make recommendations to the Supreme Court.

It is critical that the BJA get through the process of deciding which requests will be supported by the BJA. There will be five to six Supreme Court Budget Committee meetings that will be held between May 30 and September 24.

Chief Justice Madsen reminded everyone that they are not sitting on the BJA as a representative of their judicial associations, but to pursue the best interests of the judiciary at large. This is really about each BJA member's wisdom as a judge over the years and the vote comes from that wisdom and experience.

Mr. Radwan explained that the 2013-15 judicial branch budget could start out with a \$20 million funding issue because of the sunset of the Judicial Stabilization Trust Account surcharges and previously enacted fund swaps this budget cycle. In addition, the state overall could be looking at a \$1.5 billion deficit for the 2013-15 biennium which could add a \$10 million hole to the judicial branch budget. In a worst-case scenario, the judicial branch could be facing \$30 million in cuts for 2013-15 biennium.

Chief Justice Madsen stated that the last couple of years have been very trying for the judicial branch. The value of this exercise is, from the beginning, to be on the same page.

Mr. Hall said that the odds of any of the requests getting through the Supreme Court, much less the Legislature, are very low. The value of going through this exercise is that it indicates which funding requests are important. The prioritization process could lead to reprioritizing projects within existing resources.

Trial Court Operations Funding Committee Budget Requests: Judge Clarke said the Trial Court Operations Funding Committee (TCOFC) would like to go forward and make the state a

partner in trial court funding. The TCOFC was constrained by reality and did not take on any large requests and they spent a lot of time discussing interpreter services. The TCOFC prioritized in the following order:

1. *Interpreter Restoration*: This request is simply asking the Legislature to restore the funding that has been cut from the interpreter funding. Supporting this item means supporting restoration—it still does not fully fund the state's share of interpreter costs. **The BJA unanimously supported this request to go forward.**
2. *Expand Interpreter Program*: This request is to provide a 50% state reimbursement to courts for in-court services (there is a mistake in first line in the materials regarding this request). This request does not put courts in compliance with federal interpreter requirements because it is not Judge Clarke's understanding that this request includes civil cases. In 2008 HB 2176 passed and it contains language stating ". . . up to half of the cost of the interpreter. . ." so legislation would not need to be created if this funding request moves forward. **The BJA supported this request to go forward with Judge Appelwick abstaining.**
3. *CASA Restoration*: This is just to replace the funding that was lost in the last few years. **The BJA unanimously supported this request to go forward.**
4. *Family and Juvenile Court Improvement Project Restoration*: This is just to replace the funding that was lost in the last few years. **The BJA unanimously supported this request to go forward.**
5. *Interpreter Services*: This request would provide 50% reimbursement to courts for interpreter services occurring prior and subsequent to in-court visits. **The BJA supported this request to go forward with Judge Appelwick abstaining.**
6. *Video Remote Interpretation*: This request is to pilot video remote interpretation in a few courts. It is an innovative way to supply interpreters at a lower cost. **The BJA supported this request to go forward with Judge Appelwick abstaining.**
7. *CLJ Salaries*: This request is for funding to increase the state contribution to district court and qualifying municipal court judges' salaries to 50% over three years. **The BJA unanimously supported this request to go forward.**

Quality Assurance Transfer and Spokane Water Rights Adjudication Budget Requests:

- *Quality Assurance Transfer*: Ms. Bush spoke about the Quality Assurance Transfer. The Washington Association of Juvenile Court Administrators (WAJCA) would like to transfer funding of three Quality Assurance positions. The positions are located in Snohomish County, at the Administrative Office of the Courts and at the Juvenile Rehabilitation Administration. They anticipate that consolidating the resources at the AOC will allow more consistent work with the Washington State Center for Court Research (WSCCR). They would like to dig deeper into the data that they have been generating. The next level would include pilot projects to study what is going on in the juvenile courts and it makes sense to

have all the resources under one entity. These are existing positions and the WAJCA is only asking to transfer the funding to the AOC.

The BJA supported this request to go forward with Judge Lambo opposed and Judge Appelwick abstaining.

- *Spokane Water Rights Adjudication:* Mr. Radwan said that in 2010 Governor Chris Gregoire and the Washington State Department of Ecology began initiation of adjudicating water rights in the Spokane area. At the time, the judicial branch stance was that it was more of an executive branch project because the choice to pursue the adjudication does not involve the judicial branch, but that the funding for the court should be supported.

It was suggested that if this issue moves forward that it should be requested that there is a direct appropriation to Spokane.

It was moved by Judge Garrow and seconded by Justice Owens that the BJA support a direct appropriation to the county involved, but not go through the AOC budget, if and when the Department of Ecology states a water rights adjudication is going forward. The motion carried with Judge Appelwick abstaining.

Administrative Office of the Courts Budget Requests: Mr. Hall stated that a total of five requests were generated by AOC staff.

- *Risk Assessment and Law Table Support:* Funds were appropriated from the JIS account to develop the Adult Static Risk Assessment tool. However, no resources were provided for the ongoing support needed for maintenance. One of the things that is needed with the tool is to assign a severity code for each state criminal law. In addition, local laws also need severity codes and they are not currently maintained at the state level. This budget request would allow AOC to maintain the local law tables which would ensure that similar local laws around the state would have the same severity code.

Discussion focused on the need to have AOC staff input this data and the benefit that would be gained by having the local law severity codes entered in one location. Some judges did not see the value of this because judges usually have a pretty good handle on what a defendant's risk is.

The BJA did not support this request to go forward. Two were in favor, six were opposed and Judge Appelwick and Judge Wickham abstained.

- *Criminal Justice Research Associate:* This request is also related to the risk assessment tool. It is a WSCCR position and there is no overlap between the two requests related to the risk assessment tool. The position would interpret and validate the data. It could also develop additional assessment modules to address specific criminal behavior. **The BJA did not support this request to go forward. Three were in favor, four were opposed and Judge Appelwick and Judge Wickham abstained.**

- *AOC Court Access Forms*: This request would allow the development, assembly and translation of court forms. **The BJA did not support this request to go forward. No one was in favor and Judge Appelwick abstained.**
- *Therapeutic Courts Coordinator*: This request would add a staff person to work with existing therapeutic courts, committees and associations to develop and strengthen evaluation and reporting standards and policies. **The BJA supported this request to go forward with four in favor; three opposed; and Judge Appelwick, Judge Wickham, and Judge Matheson abstaining.**
- *Guardianship Service Expansion*: This request would expand guardianship services to three to five additional counties. **The BJA did not support this request to go forward. No one was in favor and Judge Appelwick abstained.**

It was stated that these are promising ideas but in the context that the state is still in a deficit situation asking for anything other than restoration is not wise.

During the June 15 meeting the items that have been recommended to move forward will be prioritized.

There being no time for further business, the meeting was adjourned.

Recap of Motions from May 18, 2012 meeting

Motion Summary	Status
April 20 BJA Meeting Minutes	Passed
Appointment of Mr. Andrew Sachs to the BJA Public Trust and Confidence Committee.	Passed
The BJA will support a direct appropriation to the county involved, but not go through the AOC budget, if and when the Department of Ecology states a water rights adjudication is going forward.	Passed

Action Items updated for May 18, 2012 meeting

Action Item	Status
<u>April 20, 2012 Meeting Minutes</u>	
• Send the approved minutes to Camilla Faulk for the En Banc binders	Done
• Post the approved minutes online	Done
<u>Appointment of Mr. Andrew Sachs to the BJA Public Trust and Confidence Committee</u>	
• Send appointment letter to Mr. Sachs	In progress
<u>Budget Recommendations</u>	
• Add budget request prioritization to June agenda.	Done