

# **BOARD FOR JUDICIAL ADMINISTRATION**



**WASHINGTON  
COURTS**

## **MEETING PACKET**

**FRIDAY, MAY 16, 2014  
9:00 A.M.**

**AOC SEATAC OFFICE  
18000 INTERNATIONAL BOULEVARD, SUITE 1106  
SEATAC, WASHINGTON**

# Board for Judicial Administration Membership

## VOTING MEMBERS:

**Chief Justice Barbara Madsen**, Chair  
Supreme Court

**Judge Kevin Ringus**, Member Chair  
District and Municipal Court Judges' Association  
Fife Municipal Court

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

**Judge Judy Rae Jasprica**  
District and Municipal Court Judges' Association  
Pierce County District Court

**Judge Jill Johanson**  
Court of Appeals, Division II

**Judge Linda Krese**  
Superior Court Judges' Association  
Snohomish County Superior Court

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

**Judge John Meyer**  
Superior Court Judges' Association  
Skagit County Superior Court

**Judge Sean Patrick O'Donnell**  
Superior Court Judges' Association  
King County Superior Court

**Justice Susan Owens**  
Supreme Court

**Judge Jeffrey Ramsdell**, President  
Superior Court Judges' Association  
King County Superior Court

**Judge Ann Schindler**  
Court of Appeals, Division I

**Judge Laurel Siddoway**  
Court of Appeals, Division III

**Judge Charles Snyder**, President  
Superior Court Judges' Association  
Whatcom County Superior Court

**Judge Scott Sparks**  
Superior Court Judges' Association  
Kittitas County Superior Court

**Judge David Svaren**, President  
District and Municipal Court Judges' Association  
Skagit County District Court

## NON-VOTING MEMBERS:

**Judge Veronica Alicea-Galvan**, President-Elect  
District and Municipal Court Judges' Association  
Des Moines Municipal Court

**Judge Harold Clarke III, President-Elect**  
Superior Court Judges' Association  
Spokane County Superior Court

**Ms. Callie Dietz**  
State Court Administrator

**Mr. Anthony Gipe**, President-Elect  
Washington State Bar Association

**Judge Kevin Korsmo**  
Presiding Chief Judge  
Court of Appeals, Division III

**Ms. Paula Littlewood**, Executive Director  
Washington State Bar Association

**Mr. Patrick Palace**, President  
Washington State Bar Association



**Board for Judicial Administration (BJA) Meeting**  
**Friday, May 16, 2014 (9 a.m. – Noon)**  
 AOC SeaTac Office, 18000 International Blvd., Suite 1106, SeaTac

**AGENDA**

<b>1. Call to Order</b>	Chief Justice Barbara Madsen Judge Kevin Ringus	9:00 a.m.
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<b>2. Welcome and Introductions</b>	Chief Justice Barbara Madsen Judge Kevin Ringus	9:00 a.m.
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**Action Items**

<b>3. March 21 Meeting Minutes</b> Action: Motion to approve the minutes of the March 21, 2014 meeting	Chief Justice Barbara Madsen Judge Kevin Ringus	9:05 a.m. Tab 1 Page 6
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**Reports and Information**

<b>4. Preliminary Budget Request Presentations</b>	Mr. Ramsey Radwan	9:10 a.m. Tab 2 Page 12
<b>Group 1:</b> Becca, Juvenile Court and Juvenile Detention Alternatives Initiative	Mr. Bruce Knutson	
CASA Restoration and State CASA	Mr. Mike Merringer Mr. Ryan Murrey	
Family and Juvenile Court Improvement Program Expansion	Judge Linda Krese Representative Ruth Kagi	
<b>Group 2:</b> Guardian Monitoring	Judge James Lawler	
Misdemeanant Corrections	Judge Veronica Alicea-Galvan	
Telephonic Interpreting and Language Access	Justice Steven González	
Therapeutic Court Coordinator	Judge Michael Finkle	

<b>Break</b>		10:20 a.m.
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<b>5. GR 31.1 Committee Update</b>	Mr. John Bell	10:30 a.m.
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<b>6. Interim Standing Committee Charter Updates</b>	Ms. Shannon Hinchcliffe Interim Committee Chairs	10:45 a.m. Tab 3 Page 18
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<b>7. Court Reform and Regional Courts Report</b>	Ms. Shannon Hinchcliffe Mr. Steve Henley	11:35 a.m. Tab 4 Page 42
<b>8. Administrative Manager's Report</b>	Ms. Shannon Hinchcliffe	11:50 a.m. Tab 5 Page 86
<b>9. Other Business</b> Next meeting: June 20 AOC SeaTac Office, SeaTac	Chief Justice Barbara Madsen Judge Kevin Ringus	11:55 a.m.
<b>10. Adjourn</b>		Noon
Persons with a disability, who require accommodation, should notify Beth Flynn at 360-357-2121 or <a href="mailto:beth.flynn@courts.wa.gov">beth.flynn@courts.wa.gov</a> to request or discuss accommodations. While notice five days prior to the event is preferred, every effort will be made to provide accommodations, when requested.		

# Tab 1



## Board for Judicial Administration (BJA) Meeting

Friday, March 21, 2014 (9 a.m. – 11 a.m.)

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

### MEETING MINUTES

#### **BJA Members Present:**

Chief Justice Barbara Madsen, Chair  
Judge Kevin Ringus, Member Chair  
Judge Veronica Alicea-Galvan  
Judge Stephen Dwyer  
Judge Janet Garrow  
Judge Judy Rae Jasprica  
Judge Kevin Korsmo (by phone)  
Judge Linda Krese  
Justice Susan Owens  
Judge Ann Schindler  
Judge Charles Snyder  
Judge Scott Sparks  
Judge David Svaren

#### **Guests Present:**

Mr. Jim Bamberger  
Ms. Ishbel Dickens  
Mr. Brian Enslow  
Mr. Eric Johnson  
Ms. Sophia Byrd McSherry  
Ms. Sonya Kraski (by phone)  
Ms. Aimee Vance

#### **AOC Staff Present:**

Ms. Beth Flynn  
Mr. Steve Henley  
Ms. Shannon Hinchcliffe  
Mr. Dirk Marler  
Ms. Mellani McAleenan

#### February 21 Meeting Minutes

**It was moved by Judge Sparks and seconded by Judge Svaren to approve the February 21 BJA meeting minutes. The motion carried.**

#### County Fiscal Sustainability

Mr. Johnson stated that the Washington State Association of Counties (WSAC) launched their County Fiscal Sustainability Initiative and they would like to work with the judicial branch in securing sustainable county funding.

The counties are continuing to see a slow erosion of revenue sources and 75% of the revenue goes to justice/public safety. Resources for revenue generation are not keeping up with the cost drivers. They need growth in their number one revenue source: property tax; but raising the property tax lid is difficult.

County government serves a region, not just the unincorporated areas. The superior court, prosecutor, running elections, etc. are for the entire county. Outside of the road fund and sheriff, all other expenses are for the entire county, not just the unincorporated areas. The fundamental role of the county is to be the agent of the state. County tax revenues are heavily dependent on the unincorporated population, which is flat.

The WSAC legislative proposal for next session is to set the stage for the following session. They will be educating the Legislature that the need for a sustainable funding source is structural. They are currently working through a series of ideas to determine what legislative

proposals to bring forward next session and they will meet with association members in May to work on the proposals. They would like to come back to the BJA later to discuss working together to create a healthy county current expense fund. They are interested in ensuring that the current expense fund be fully funded to eliminate erosion. They would also like to assure that the system is whole and healthy and not dedicated funding for particular items.

It was pointed out that when lumping together justice and public safety, a very small portion of that is going to courts. It was suggested that the courts be listed separately and not lumped in with the other justice and public safety costs.

There was also a comment indicating that there needs to be recognition that the judicial branch is a separate and coequal branch of government. If there is a vote to lift the levy lid to fund police, it also needs to include funding for the impact on prosecutors and courts. Courts need to work with the counties on those administrative issues and counties need to invite the courts to the table when discussing the budget and recognize the judiciary as a separate but coequal branch of government. Mr. Johnson responded that there are 137 county commissioners and four county executives. They have tried to have someone from the judicial branch talk to each group about the relationship between the judicial, legislative and executive branches.

Chief Justice Madsen stated that if the BJA does not become invested in the issues facing the counties, they will lose out. It seems to be justified to have a strong relationship with the counties. The courts need to help the WSAC to increase resources.

Mr. Johnson stated that the WSAC will be working with the BJA on more precise proposals on the cost and revenue side. He would like a close relationship with the courts on those proposals.

### Legislative Report

Ms. McAleenan reported that 15 legislators and nine legislative staff attended the BJA legislative reception. It was a lower number of attendees than expected but there were several conflicting receptions that night and the invitations were sent fairly late. Ms. McAleenan compared the number of legislators who attended the legislative dinners in the past with the number who attended the reception and the reception was less expensive per legislator. Total cost for the reception was \$170 per legislator and the last legislative dinner was \$224 per legislator. If a reception is held in the future, there will be more time to choose a date without any conflicting events and there will be time to figure out ways to lower the cost of the event.

For the lawyer-legislator lunch, the costs have stayed about the same over the last few years. Eleven of the 18 lawyer-legislators attended the lunch. It is always difficult to get legislators for a lunch during the legislative session. The lunch cost \$600 and is sponsored by the Administrative Office of the Courts, the Office of Public Defense and the Office of Civil Legal Aid and seems to be well received.

Both of these events are very good opportunities to build relationships with legislators.

Ms. McAleenan is getting ready to send out the request for Trial Court Improvement Account (TCIA) reports to find out how local governments are using the funding which is about \$6 million per biennium. Court administrators and presiding judges respond and report about how that

money is spent. Ms. McAleenan has collected the data every year although it has not been compiled into a published report since 2009.

The legislative session ended on time on March 13. There were over 2,000 bills from the last legislative session that carried forward and another 1,300 bills introduced this year. Of the 229 bills that had an impact on the judiciary, 46 passed. Approximately 20% of the bills that passed affect the judicial branch. AOC completed 183 judicial impact notes this year, which is the third highest of all agencies in the number of fiscal notes.

The BJA's request legislation, the Mason County Superior Court judge bill, passed. The interpreter legislation went to Rules and stayed there. The juvenile records bill passed, but AOC is not required to make any major IT changes in order to implement the bill. The bill report is included in the meeting packet.

Ms. McAleenan stated that the new information-sharing process continues to be a work in progress. The listserv was not used daily, but it was a good way to get information out there as needed. Informal communication between the lobbyists went fairly well.

#### Budget Report

Ms. McAleenan reported that there were no major cuts to the judicial branch or judicial branch agencies. No funding was provided for the new judges in Whatcom County Superior Court, Benton/Franklin Counties Superior Court, and Mason County Superior Court. When the positions are ready to be filled and need to be funded, it is similar to a maintenance request and they will most likely be funded. The Court of Appeals and Supreme Court budgets did not include funding for merit increments or Step M increases.

The Appellate Court Enterprise Content Management System was fully funded.

The Superior Court Case Management System (SC-CMS) was funded, but budget provisos were included with the funding. The provisos changed the makeup of the SC-CMS Steering Committee. In addition, courts not part of the project will not receive funding for data exchanges or developing their own CMS. The provisos are most likely a result of the fact that King County pulled out of the project, and the provisos affect Pierce and King counties.

One major cut in the AOC pass-through budget was a 50% reduction in legal financial obligation collection fees (a \$440,000 reduction). Senator Hargrove believed the money given to the County Clerks for the LFO collection was to be startup funding and as they collected the money, the program would be self-sustaining.

The IT security request was fully funded.

#### Administrative Manager's Report

Ms. Hinchcliffe reported that a regionalization report will come to the BJA in the next few months for review and discussion. The report was requested by the BJA last fall.

Paying the BJA dues electronically is now an option and information about paying electronically was sent with the second dues notice. Approximately two-thirds of the judges have paid their BJA dues.

Regarding the Committee Unification Workgroup recommendations, a few ways have been explored to share the information gathered regarding committees. A letter was sent to committees/boards/commissions asking for their charters. There will be some follow-up with different organizations regarding their voluntary submittal of their charter. Once the information is received, decisions will be made on what information will be placed where. One idea is to use SharePoint which is used by AOC internally but could be opened to the BJA using RACF IDs on the Inside Courts Web site. The Washington Courts Web site was redesigned. The BJA Web site is in the queue to be redesigned and the committee information could be stored there but it would be accessible to everyone since it is a public site.

BJA and AOC staff are progressing through the work plan to create charters for all of the BJA's standing committees.

BJA staff are working on Court Management Council and BJAR 3 rule changes.

There have been three "Team of 8" meetings. The meeting attendees are the internal staff at AOC working on the BJA interim standing committees. The feedback Ms. Hinchcliffe is receiving is very positive. Each interim standing committee is working hard to create the charters and some are struggling with different issues regarding membership and terms. The Team of 8 will meet again next month.

AOC staff are using an internal SharePoint site and Ms. Hinchcliffe is looking at centrally locating the BJA files so all staff working with the BJA and/or the standing committees can easily find BJA-related documents.

The Public Trust and Confidence Committee will be presenting a report of their activities to the BJA in the next few months along with a report regarding GR 31.1.

#### Other Business

There was an error on the meeting agenda and the next Board for Judicial Administration meeting is scheduled for April 11.

Judge Dwyer was thanked for his service on the BJA.

Judge Snyder reported that Judge Churchill has asked to resign from the BJA and Judge Prochnau will be back to work the first of May but has decided not to serve on the BJA. The Superior Court Judges' Association will appoint new members at their next Board meeting and hold elections during their spring conference.

**It was moved by Judge Garrow and seconded by Judge Sparks to adjourn meeting. The motion carried.**

**Recap of Motions from the March 21, 2014 meeting**

<b>Motion Summary</b>	<b>Status</b>
Approve the February 21, 2014 BJA meeting minutes	Passed
Ratify the list of Trial Court Operations Funding Committee members	Passed

**Action Items from the March 21, 2014 meeting**

<b>Action Item</b>	<b>Status</b>
<u>February 21, 2014 BJA Meeting Minutes</u> <ul style="list-style-type: none"><li>• Post the minutes online</li><li>• Send minutes to the Supreme Court for inclusion in the En Banc meeting materials</li></ul>	Done Done

# Tab 2



May 2, 2014

**TO:** Members of the Board for Judicial Administration  
**FROM:** Ramsey Radwan   
**SUBJECT:** **May 16 BJA Meeting**

As you know, we are at the mid-point of the 2015-2017 judicial branch budget development and submittal process.

Our next steps are to review the preliminary budget requests, prioritize them, and form recommendations regarding which requests should move forward to the Supreme Court Budget Committee with the support of the BJA.

The review process began with the distribution on April 16 of a list of preliminary budget requests received by AOC. The second step in the review process will take place at the BJA meeting on May 16, 2014. At that time, proponents seeking BJA support will present requests which impact the budget of the AOC. Only requests for funding from the state general fund or near general fund sources will be presented. After each presentation, voting members will be asked whether they support sending the request forward to the Supreme Court Budget Committee as presented. While the BJA cannot stop a request from moving forward, the Supreme Court Budget Committee will give weight to recommendations made by the BJA.

Attached is a slightly modified version of the list distributed in April. I ask that you review the list prior to the May BJA meeting so that you can become more familiar with the requests being considered and formulate any questions you may have.

In June, the BJA will be asked to prioritize the requests presented at the May meeting. Recommendations from the May meeting and the prioritized list will then be forwarded to the Supreme Court Budget Committee for consideration in their decision making process.

While Washington's economy is stabilizing, financial resources will remain scarce. This process provides an opportunity for us to carefully examine requests for additional and restorative funding and ensure that only the highest priority requests move forward.

If you have questions regarding the summary or the process please feel free to contact me at [ramsey.radwan@courts.wa.gov](mailto:ramsey.radwan@courts.wa.gov) or 360-357-2406.

# **Board for Judicial Administration**

## **2015-2017 Preliminary Budget Request Review Process**

**May 16, 2014**

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### **Purpose**

To review, discuss and make recommendations regarding preliminary budget requests that would impact the budget of the Administrative Office of the Courts.

### **Process**

The following materials are included in your packet:

- Purpose and process overview
- Budget context spreadsheet
- Preliminary budget request summary

### **Staff Presentations**

AOC staff will present information regarding the current budget context within which the requests for funding should be viewed.

AOC staff will present information regarding the preliminary budget request for a staff salary adjustment.

### **Presentations by Requesting Groups**

Trial Court Operations Funding Committee:

- Bruce Knutson will present the Becca Program and the Juvenile Probation and Detention preliminary budget requests
- Mike Merringer and Ryan Murrey will present the CASA Restoration & State CASA preliminary budget request
- Judge Krese will present the FJCIP expansion preliminary budget request
- Judge Lawler will present the Guardian Monitoring preliminary budget request
- Judge Alicea-Galvan will present the Misdemeanant Corrections preliminary budget request
- Justice González will present the Telephonic and Civil/Criminal Interpreter preliminary budget requests
- Judge Finkle will present the Therapeutic Court Coordinator preliminary budget request

Discussion, clarifying questions and voting will take place after each presentation.

### **Preliminary Decision Package Support and Further Discussion**

BJA members may:

- Support a package as presented.
- Recommend that the Supreme Court Budget Committee not move a package forward.

The BJA will be asked whether the package is supported as presented or if the recommendation is that a package not move forward. Decisions will be made by majority vote.

### **Prioritization**

Packages supported by the BJA (those that have not been withdrawn by the requesting group or given 'Do Not Recommend' status) will be prioritized at the June 2014 BJA meeting.

Prioritization will be based upon a BJA majority vote in support of a particular priority. As an example, if the majority of BJA members believe that the CASA restoration preliminary decision package should be the highest priority, that decision package will be assigned priority number 1.

## Washington State Judicial Branch 2015-2017 Potential Funding Concerns

<b>Potential Fund Source Issues</b>	
Dollars in thousands (000)	
<b>Judicial Stabilization Trust Account (JSTA)</b>	
Existing surcharge authorized through July 1, 2017.	
<b>Judicial Information System Account (JIS)</b>	
Admin. Ofc of the Courts	\$3,000
Other	TBD
Total JIS	\$3,000
<b>Sub-Total Fund Source Issue</b>	<b>\$3,000</b>
<b>Potential Budget Reduction</b>	
State General Fund Deficit	
Statewide	\$19,500
Judicial Branch Share	\$0
<b>Total Potential Funding Concerns</b>	<b>\$3,000</b>
<p>The current 15-17 forecast anticipates a \$19.5 million surplus. However, there are items that are not accounted for in the current forecast, the most notable are impacts associated with McCleary and compensation increases. These two alone could add \$1.8 billion to anticipated costs thereby erasing the surplus and creating a deficit. Based upon the JB share of the general fund budget (.7%) the negative impact could be \$12.6 million, approximately 5% of the JB budget.</p>	

**Board for Judicial Administration  
2015-2017 Preliminary Budget Request Review  
May 16, 2014**

Title	FTE	Request	Support as Submitted	Do Not Recommend
<b>Employee Salary Adjustment</b>	<b>FTE 0.0</b>	<b>\$TBD</b>		
Funding is requested to bring selected salaries to an appropriate level. Staff salaries have not been compared to comparable public and private employees for over six years and staff has not received a cost of living increase since September 2007.				
<b>Becca Programs</b>	<b>FTE 0.0</b>	<b>\$5,090,000</b>		
Funding is requested to provide Becca Program services for youth found in violation of court-ordered conditions. Funding will be used to fund evidenced based programs and services beyond case processing such as coordination of services for low risk youth, functional family therapy and aggression replacement training.				
<b>Juvenile Court and Juvenile Detention Alternatives Initiative (JDAI) Staff</b>	<b>FTE 2.0</b>	<b>\$394,000</b>		
Funding is requested to provide coordination and quality assurance for probation and detention programs.				
<b>CASA Restoration &amp; State CASA Funding</b>	<b>FTE 0.0</b>	<b>\$1,656,000</b>		
Funding is requested to increase the number of Court Appointed Special Advocate volunteers and provide additional support to Washington State CASA, a nonprofit organization.				
<b>FJCIP Expansion</b>	<b>FTE 0.0</b>	<b>\$558,000</b>		
Funding is requested for expansion of the Family and Juvenile Court Improvement Program as proposed by a member of the legislature. The proposal would increase the number of participating courts from 13 to 17-21, depending upon workload factors.				
<b>Guardian Monitoring Program</b>	<b>FTE 4.0</b>	<b>\$956,000</b>		
Funding is requested for a regional approach to oversight of guardians serving vulnerable adults. Funds would be used to create a model volunteer guardianship monitoring program, modeled after an AARP program that is being successfully used by Spokane Superior Court to monitor guardianship under its jurisdiction.				

**Board for Judicial Administration  
2015-2017 Preliminary Budget Request Review  
May 16, 2014**

Title	FTE	Request	Support as Submitted	Do Not Recommend
<b>Misdemeanant Corrections</b>	<b>FTE 0.0</b>	<b>\$TBD</b>		
Funding is requested for a system of assessment and case management for offenders supervised under orders of courts of limited jurisdiction. The proposed system targets progressive corrections strategies to frequent misdemeanor level offenders, with a goal to provide meaningful intervention and interrupt criminal progression to more serious behavior.				
<b>Telephonic Interpreting</b>	<b>FTE 0.5</b>	<b>\$1,324,000</b>		
Funding is requested to offset 50% of the costs for telephonic interpretation for interactions outside courtroom proceedings (for example, filing paperwork, paying fines, requesting information).				
<b>Trial Court Funding for Language Access</b>	<b>FTE 0.5</b>	<b>\$6,609,000</b>		
Funding is requested for further improvement of quality and availability of interpreting services for civil and criminal proceedings in the courts.				
<b>Therapeutic Court Coordinator</b>	<b>FTE 1.0</b>	<b>\$191,000</b>		
Funding is requested for resources to support, enhance, and evaluate therapeutic courts.				

<b>Total General Fund Requests</b>	<b>FTE 8.0</b>			<b>\$16,778,000</b>
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**Information Only**

**Information Technology**

<b>Information Technology Requests</b>	<b>FTE 35.5</b>	<b>JIS Account</b>		<b>\$27,727,000</b>
Funding is requested to continue replacement of the superior court case management system as well as begin the replacement of the case management system for the courts of limited jurisdiction.				
<b>Total Preliminary Budget Requests All Sources</b>	<b>FTE 43.5</b>			<b>\$44,505,000</b>

# Tab 3



## Board for Judicial Administration Standing Committees Interim Work Plan

### General Outline of Goals, Objectives and Proposed Strategies

<b>Title:</b>	BJA Standing Committees Interim Work Plan
<b>Planned Start Date:</b>	January 2014
<b>Planned Finish Date:</b>	June 2014
<b>Sponsor:</b>	Board for Judicial Administration (BJA)
<b>Plan Coordinator:</b>	Shannon Hinchcliffe, BJA Administrative Manager

#### **I. Introduction and Background**

Under the current Board for Judicial Administration Rules (BJAR), the BJA is organized into three standing committees: Long-range Planning, Core Missions/Best Practices and Legislative (BJAR 3).

On November 15, 2013, the BJA voted to organize into four standing committees: Budget and Funding, Legislative, Policy and Planning, and Education. A second part of the motion was to relate the committee's purpose back to the BJA's Mission and Principal Policy Objectives of the Washington State Judicial Branch (Attachment 1 and 2). BJA staff has drafted an amended BJAR 3 which will be reviewed by the BJA and submitted to the Supreme Court on behalf of the BJA.

Ms. Hinchcliffe is making a presentation at the December 13 BJA meeting about next steps to populate the newly formed standing committees on an interim basis. After the committees are populated, AOC staff will be allocated on a limited basis for six months to assist members in their work.

#### **II. Purpose**

To establish the general expectation of work and timelines for standing committees interim work to carry out the recommendations adopted on November 15, 2013. The intent is for committees to meet on a monthly basis, at a minimum, until June 2014 wherein they will finalize their recommendations for presentation at the July 2014 BJA meeting.

### **III. Goals and Objectives**

Goal: Work within individual standing committees for a relatively short period of time to provide recommendations to the full BJA membership about how BJA committees will function and communicate with each other on an ongoing basis.

Objectives:

1. Each committee will create a charter which will include<sup>1</sup>:
  - Committee title
  - Authorization (court rule, court order, by-law, statute or other)
  - Charge or purpose (including the relationship to the BJA mission and to the Principal Policy Objectives)
  - Policy area
  - Other branch committees addressing the same topic
  - Other branch committees to partner with
  - Committee type: standing
  - Membership
  - Term limit
  - Duration/review date
  - Budget
  - Reporting Requirements
  - Expected deliverables or recommendations
  - Formal request for AOC staff support and resources to support the committee on an ongoing basis
2. Review recommendations about relevant BJA committees identified in the Committee Unification Workgroup Attachment 2<sup>2</sup> and evaluate their relationship to the standing committee's recommended scope of work.
3. Recommend any necessary communication strategies which may include how the committee's work would be the most effectively communicated between other BJA standing committees, subcommittees, workgroups and reported to the BJA body.
4. Identify roles and responsibilities of committee members in relation to the recommended scope of work.

### **IV. Strategies**

Each committee may approach their tasks in different ways depending on several variables. These variables include firsthand subject matter knowledge of committee members, breadth of information to review prior to drafting, and the amount and

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<sup>1</sup> [BJA Meeting Materials November 15, 2013 p. 17](#)

<sup>2</sup> [id pps. 21-23](#)

complexity of other related BJA committees to examine which would have a related nexus to the standing committee's work.

These committees may include active, inactive and dormant committees that have been reviewed by the Committee Unification Workgroup. The Workgroup presented its recommendations<sup>3</sup> to the BJA but no formal action has been taken as of November 15, 2013.

#### *Proposed General Strategy and Milestones*

##### **Create a Meeting Schedule for the Interim Period**

- *Individual committees should create a meeting schedule with at least one monthly meeting. Meetings should be held preferably in-person for at least half a day starting in the month the committee is populated. In-person meetings should continue until the information-gathering process has been completed. If in-person meetings are not possible, eCCL technology should be utilized in order to facilitate document sharing. One hour meetings are strongly discouraged unless the committee is wrapping up their work or there is no other viable option.*
- *The committee should designate one member to report on behalf of the committee to the BJA. Updates will be scheduled periodically on the BJA agendas during the interim work period for the purpose of reporting progress, and sharing challenges with the larger body.*

##### **Information Gathering and Review**

- *The information gathering stage should include a current system review, discussions or documentation provided by subject matter experts, and a review of any historical information which is relevant to the committee's task.*
- *Committee staff will be responsible for gathering and assembling information based on their subject matter expertise and at the direction of committee members. Committee members should plan to review materials in advance of the meeting and follow-up with staff prior to any meeting if they have additional requests or questions after reading the material. This will give staff the opportunity to research questions and have answers available for the meeting.*
- *Information gathering and review should conclude by March 2014 if possible, so drafting of a proposed charter and communication plan can begin.*

##### **Drafting and Document Review**

- *Staff will assist committee members in drafting the charter and any related recommendations using a standardized template based on the criteria approved during the November 2013 meeting.*
- *Drafting should be concluded by May 2014 to allow for any necessary review by those other than standing committee members if the committee desires.*

##### **Identify Communication Strategies for the Committee and Roles and Responsibilities for Committee Members**

- *The topics of communication strategies and identification of roles and responsibilities should be addressed after the committee's scope of work is*

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<sup>3</sup> [BJA Meeting Materials, November 2013 pps. 21-23](#)

*concluded because the outcome is likely highly dependent on the completed charter work.*

- *The four standing committees will likely have subject areas, projects, or issues which will overlap. It will be critical to discuss how committees should interact with each other when this happens. These strategies may largely rely on the scope of the committee's work.*
- *It is likely that the committees will identify other committees within the judicial branch that are doing similar work or where an ongoing relationship with them would be beneficial. After identification of those committees or other similar work, it would be helpful to contemplate any useful ongoing communication strategy with them.*
- *Some consideration of roles and responsibilities for committee members on an ongoing basis should be given. This exercise would likely be most useful after the determination of membership and terms. This exercise assumes, in part, that ongoing standing committees may include members outside of the BJA membership.*

**Construct Final Recommendation(s) for Presentation at the July 2014 BJA Meeting**

- *Staff will assist in creating presentation of recommendations. Recommendations should include proposed charter, and recommendations on current BJA committees. The recommendation may include any relevant communication strategies and roles and responsibilities.*

**V. Resources**

- A limited request for additional AOC staff, outside of dedicated BJA staff, to assist with the standing committees interim work plan for six months has been made.
- In addition to primarily staffing the Policy and Planning Committee, dedicated BJA staff will serve as secondary staff support to assigned staffers. This includes any necessary research, drafting and overall support in case of individual scheduling conflict.
- BJA staff will assist in the presentation of any final recommendations to the BJA.
- BJA will provide funding for committee-related expenses for staff and judges including travel, phone costs, printing and room rental expenses if necessary.
- Administrative support is limited and BJA staff will help to support administrative needs whenever possible. Directors, the Associate Director and Administrative Manager can evaluate the capacity of their administrative assistants and request their assistance in their discretion. In cases where there is no administrative support for standing committee meetings, primary staffers will be expected to take only action-related minutes.

## **Attachment 1**

### **Mission (from the 2008 Long-Range Strategic Plan for the Board for Judicial Administration<sup>4</sup>):**

To enhance the judiciary's ability to serve as an equal independent and responsible branch of government.

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<sup>4</sup> [2008 Long-Range Strategic Plan for the Board for Judicial Administration, p. 4](#)

## **Attachment 2**

### **PRINCIPAL POLICY OBJECTIVES OF THE WASHINGTON STATE 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.



## Board for Judicial Administration (BJA) Meeting Interim Standing Committees

### USE CASES

#### Background:

The BJA is currently implementing a work plan to develop proposed charters for the four newly formed standing committees. One of the tasks within the work plan is to understand not only what each standing committee will do internally but also how they will interact with the full board and among each other. The team of eight AOC staff members who are staff to the interim committees suggested that it would be easier to understand how the committees might work together if examples, or scenarios, were developed for purposes of discussion.

Issues can come to the BJA through any number of avenues. Some are brought to the attention of the Chief Justice as a co-chair, some are raised by members to the full board, perhaps at the request of a judicial association or other entity, some are presented by other entities within the judicial branch, or by stakeholder organizations.

The scenarios below are not purely hypothetical but reflect actual circumstances that the BJA has encountered in the past under the existing committee structure and may encounter in the future with a new committee structure. In considering how the board and the standing committees might interact in a given scenario, several questions can be framed, including:

1. When a matter is initially brought to the attention of the BJA, what procedural options does or should the board or co-chairs have? (Schedule for action, referral to committee, table, etc.)
2. What should be reasonably expected of each committee when a matter is referred to it? Where an issue implicates the subject matter of more than one committee how can a referral be handled? What role does a committee have when it is not the referral committee but has an interest in the matter?
3. When sitting as the full board, who shall speak for the views of a standing committee?

#### USE CASE #1

One of the courts' justice partners approaches a BJA Member about wanting to get BJA support for their fiscal sustainability initiative. Their initiative is broad in scope calling for ongoing effort. It relates to the judicial branch in that the success of the initiative would improve or stabilize local funding for courts in general or for specific programs. It is

likely the initiative will result in proposed legislation but no legislation has been proposed yet.

## **USE CASE #2**

A judicial officer contacts BJA staff about securing BJA's support for advancing education and funding for problem-solving courts in the State of Washington. Staff is aware that although there is a great deal of passion on behalf of some judicial members to support these courts, others have concerns about the role of the judicial branch in trying to deal with the social and economic dimensions of litigants' lives that have traditionally been the domain of the legislative and executive branches. The judicial officer asks that the matter be placed on the BJA agenda.

*4/2/2014*



## Board for Judicial Administration (BJA)

### PROPOSED COMMITTEE CHARTER: BUDGET AND FUNDING COMMITTEE

#### **Name**

Budget and Funding Committee (BFC) of the BJA, standing committee

#### **Authority**

The BFC is created pursuant to BJAR 3(b)(1) as amended.

#### **Purpose and Policy**

Funding Requests: The BFC is created by the BJA and exists to coordinate efforts to achieve adequate, stable and long-term funding of Washington's courts to provide equal justice throughout the state. The BFC will review and make recommendations to BJA in accord with BJA mission and core functions and the Principal Policy Goals of the Washington State Judicial Branch. The BFC will review and make recommendations regarding proposed budget requests routed through the BJA, streamline existing budget processes and review and make recommendations regarding existing budget committees.

#### Principal Policy Goals

- Fair and Effective Administration of Justice in All Civil and Criminal Cases
- Accessibility
- Access to Necessary Representation
- Commitment to Effective Court Management
- Appropriate Staffing and Support

#### **Membership and Terms**

Members of the BFC must be voting members of the BJA. Members will be selected by the representative associations.

<b>Representative</b>	<b>Term/Duration</b>
DMCJA Representative	End of BJA term
SCJA Representative	End of BJA term

COA Representative	End of BJA term
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**Committee Interaction**

Groups interested in seeking BJA support for funding initiatives must submit materials in accordance with AOC and BFC guidelines. The BFC will communicate and coordinate with other BJA standing committees when budget requests impact their mission.

**Reporting Requirements**

The BFC will review materials as submitted and forward its recommendation to the BJA.

**Budget Requested**

Travel reimbursement \$1,000/year (5 people, 6 times per year)

Judge Pro Tem reimbursement \$0

Coffee and light refreshments \$150

**AOC Staff Support Requested**

Director, Management Services Division or AOC Comptroller

Trial Court Services Coordinator

**Recommended Review Date**

January 1, 2019

***Adopted: Mo/Day/Year***

***Amended: Mo/Day/Year***



## Board for Judicial Administration (BJA)

### PROPOSED COMMITTEE CHARTER: COURT EDUCATION COMMITTEE

**I. Committee Title:**

Court Education Committee (CEC)

**II. Authorization:**

Board for Judicial Administration Rules (pending amendment to BJAR 3)

**III. Charge or Purpose:**

The CEC will improve the quality of justice in Washington by fostering excellence in the courts through effective education. The CEC will promote sound adult education policy, and develop education and curriculum standards for judicial officers.

[and non-judicial officers]

**IV. Policy:**

The CEC will establish policy and standards regarding curriculum development, instructional design, and adult education processes for statewide judicial education.

The CEC recommends adopting the National Association of State Judicial Educator's *Principles and Standards of Judicial Branch Education* listed below:

The goal of judicial branch education is to enhance the performance of the judicial system as a whole by continuously improving the personal and professional competence of all persons performing judicial branch functions.

- 1) Help judicial branch personnel acquire the knowledge and skills required to perform their judicial branch responsibilities fairly, correctly, and efficiently
- 2) Help judicial branch personnel adhere to the highest standards of personal and official conduct

- 3) Help judicial branch personnel become leaders in service to their communities
- 4) Preserve the judicial system's fairness, integrity, and impartiality by eliminating bias and prejudice
- 5) Promote effective court practices and procedures
- 6) Improve the administration of justice
- 7) Ensure access to the justice system
- 8) Enhance public trust and confidence in the judicial branch

**V. Expected Deliverables or Recommendations:**

The Court Education Committee shall have the following powers and duties:

- 1) To plan, implement, coordinate, or approve education and training for courts throughout the state
- 2) Establish adequate funding for education to meet the needs of courts throughout the state and all levels of the court
- 3) Collect and preserve curricula submitted by associations, to establish policy and standards for periodic review and update of curricula
- 4) Develop and promote instructional standards for education programs
- 5) Establish educational priorities
- 6) Implement and update Mandatory Continuing Judicial Education Credits for Judicial Officers
- 7) Develop working relationships with the other BJA standing committees (Policy and Planning, Legislative and Budget)
- 8) [Other?]

**VI. Membership:**

Voting Members:

Three BJA members with representation from each court level (appointed by the BJA Chair and Co-chair).

Education committee chair/co-chair from each judicial association and level of court. If they have co-chairs, only one vote per association.

Annual Conference Education Committee Chair: Chief Justice appoints.  
Chair: Court Education members elect the chair from the BJA members.

Non-Voting Members:

Liaison members: Education committee chair/co-chair or their designee from court administrator associations (DMCMA, AWSCA, WAJCA) and County Clerks.

BJA Members: The BJA Co-chairs will appoint the BJA members of the CEC.

Chair: CEC members will elect their chair from among the BJA members appointed.

**VII. Term Limits:**

Staggered terms recommended.

<b>Representative</b>	<b>Term/Duration</b>
BJA Representatives (3)	First population of members will be staggered (3 year term)
Appellate Court Education Chair (1)	Term determined by their association
Superior Court Judges' Association Education Committee Chair (1)	Term determined by their association
District and Municipal Court Judges' Association Education Committee Chair (1)	Term determined by their association
Annual Conference Chair or designee (1)	3 year term
<b>Liaisons</b>	<b>Term/Duration</b>
Association of Washington Superior Court Administrators Education Committee (1)	No term, no duration limit – association's choice
District and Municipal Court Management Association Education Committee (1)	No term, no duration limit – association's choice
Washington Association of Juvenile Court Administrators Education Committee (1)	No term, no duration limit – association's choice
Washington State Association of County Clerks Education Committee (1)	No term, no duration limit – association's choice

**VIII. Other Branch Committees Addressing the Same Topic:**

The CEC identified the following organizations involved in education:

- Association Education Committees
- Annual Conference Committee
- Gender and Justice Commission
- Minority and Justice Commission
- Court Interpreter Commission
- Certified Professional Guardian Board
- Court Improvement Training Academy
- Commission on Children in Foster Care
- AOC's Judicial Information Services Education

The CEC will establish or continue relationships with the above named entities.

**IX. Other Branch Committees to Partner With:**

Foster continual relationships with BJA Legislative, Budget and Funding and Policy and Planning committees. Court Education Committee will be in close contact with the other BJA standing committees in order to develop long-term strategies for the funding of education and the creation of policies and procedures that are aligned with the BJA strategies and mission statement.

**X. Reporting Requirements:**

The Court Education Committee will report at each regularly scheduled BJA meeting via paper or in-person.

**XI. Budget Requested:**

Reimbursement for voting members only.

Meetings will occur on a monthly basis consisting of face-to-face and online meetings as needed.

\$4,000 each fiscal year.

**XII. AOC Staff Support Requested:**

One AOC personnel from the Office of Trial Court Services and Judicial Education section.

**XIII. Recommended Review Date:**

Every two years from adoption of charter.

*Adopted: Mo/Day/Year*

*Amended: Mo/Day/Year*



## Board for Judicial Administration (BJA) Legislative Committee

### PROPOSED COMMITTEE CHARTER: LEGISLATIVE COMMITTEE

#### I. Committee Title:

Board for Judicial Administration Legislative Committee

#### II. Authorization:

BJAR 3

#### III. Charge:

The purpose of the Legislative Committee is to develop proactive legislation on behalf of the Board for Judicial Administration and to advise and recommend positions on legislation of interest to the BJA and/or the BJA Executive Committee when bills affect all levels of court or the judicial branch as a whole.

#### IV. Policy Area:

Staff to the Legislative Committee shall refer bills to the committee based on the following criteria:

- The topic is highly visible, controversial or of great interest to the judiciary;
- The bill applies to multiple court levels or the entire branch;
- The bill is referred by another entity;
- There is or could be disagreement between associations or judicial branch partners.

Legislation or ideas for legislation may be referred to the Legislative Committee by other entities at any time. Staff to the Legislative Committee shall confer with staff to the trial court associations for potential referrals when developing agendas. The Legislative Committee cannot reject referrals but may choose not to act on the referred issue or bill after discussion.

## **V. Expected Deliverables:**

The BJA Legislative Committee shall:

- Review and recommend positions on legislation as described in Section IV;
- Recommend action by associations or individual persons based on positions taken;
- React quickly as issues arise during the legislative session;
- Ensure regular communication and that no other committee's authority is being inappropriately or inadvertently usurped;
- Develop a communications plan regarding the how committee will interact with relevant stakeholders.
- During legislative sessions, conduct telephone conferences for the purpose of reviewing legislation and taking legislative positions. These calls should be held as soon as practicable in an effort to accommodate the weekly legislative schedule;
- During the interim, meet monthly or as needed, to develop legislative issues and potential "BJA request" legislation. These meetings should be held in conjunction with the standing BJA meetings whenever possible in order to minimize travel-related expenses and time away from court; and
- The BJA Executive Committee shall serve on the Legislative Committee as established under BJA 3(b) (1). A majority vote of the Executive Committee members shall be necessary for positions taken;
- The BJA Executive Committee shall take any emergency action necessary as a result of legislative proposals. All members of the Legislative Committee shall have a vote on the recommendation to the Executive Committee.
- Legislative Committee members shall be well versed in all bills they act upon and shall be expected to communicate all relevant positions or information to the organizations they represent, as well as other parties, including legislators, as needed.

## **VI. Membership:**

The BJA Legislative Committee shall be composed of

- The voting members of the BJA Executive Committee;
- DMCJA and SCJA Legislative Committee Chairs; and
- Three BJA members, one from each court level, as nominated and chosen by the BJA.
- Each member will have one vote per seat on the committee. In the event of co-chairs at an association level, that position will have only one vote.

- The chair of the Legislative Committee shall serve for a one-year term, shall be chosen from the three BJA members that are nominated by the BJA, and shall rotate between the three court levels.

**VII. Term Limits:**

The term of standing committee members shall be two years. Each committee member may be reappointed by the Board for Judicial Administration to one additional two-year term.

Term limits should be consistent with a member's term on BJA or commensurate with the term in the office that compels participation on the Legislative Committee.

<b>Representative</b>	<b>Term/Duration</b>
Chief Justice (Exec Com)	Same as term as BJA Chair
BJA Member Chair (Exec Com)	Same as term as BJA Member Chair
COA Presiding Chief Judge (Exec Com)	Same as term as COA PCJ
SCJA President (Exec Com)	Same as term as SCJA President
DMCJA President (Exec Com)	Same as term as DMCJA President
DMCJA Legislative Committee Chair	Same as term as DMCJA LC Chair
SCJA Legislative Committee Chair	Same as term as SCJA LC Chair
BJA Member, SCJA Rep.	2 years
BJA Member, DMCJA Rep.	2 years
BJA member, Appellate Courts	2 years

**VIII. Other Branch Committees to Partner With on Related Issues:**

- SCJA Legislative Committee;
- DMCJA Legislative committee; and
- Other Judicial Branch Boards, Commissions, and Associations.

**IX. Reporting Requirements:**

The BJA Legislative Committee shall report monthly, or upon request, to the BJA.

During session, staff to the Legislative Committee will provide an update to the full BJA after the chair of the committee has made opening remarks.

The Legislative Committees shall report in writing to the Board for Judicial Administration as requested.

The Chair of the Legislative Committee shall attend one BJA meeting per year, at a minimum, to report on the committee's work, if so requested.

**X. Budget Requested:**

In contemplation of activities beyond the legislative session, such as committee meetings and "retreats," as well as costs related to the legislative session, a budget of \$3,000 is requested.

Additional funding requests may be made to the BJA for special educational programs developed for legislators.

**XI. AOC Staff Support Requested:**

- Associate Director, Office of Judicial and Legislative Relations
- Senior Court Program Analyst, Office of Trial Court Services & Judicial Education
- Senior Administrative Assistant

**XII. Recommended Review Date:**

The committee will have a review date of every two years.

*Adopted: Mo/Day/Year  
Amended: Mo/Day/Year*



## Board for Judicial Administration (BJA)

### PROPOSED COMMITTEE CHARTER: POLICY AND PLANNING STEERING COMMITTEE

**I. Committee Title:**

Policy and Planning Standing Committee

**II. Authorization:**

BJA Rule 3(b)(1) as proposed for amendment.

**III. Charge or Purpose:**

The charge and purpose of the Policy and Planning Standing Committee is to create and manage a process of engagement within the judicial branch around policy matters, to identify and analyze priority issues, and to develop strategies to address those issues. In doing so the standing committee will work to advance the mission and vision of the BJA and the five principal policy goals.

The standing committee shall:

1. Create and oversee a planning process on a two-year cycle that accomplishes the following:
  - a. Sets out a clear and accessible plan and schedule for outreach to justice system partners and stakeholders that provides multiple opportunities for input from the judicial branch and identifies major decision points.
  - b. Provides for preliminary identification of issues advanced for attention by the BJA.
  - c. Produces written analyses of proposed issues that examine the substance of each issue, its impact on the courts, the scope of potential strategies to address the issue, the potential benefits and risks of undertaking a strategic initiative to address the issue, a statement of desired outcomes and the feasibility of achieving desired outcomes, the major strategies that might be

employed to address the issue, the resources necessary, and a timeline.

- d. Provides analyses of issues to branch stakeholders for their review and additional input.
  - e. Selects one or more issues for recommendation as strategic initiatives to be sponsored by the BJA.
  - f. For any strategic initiative approved by the BJA drafts and submits to the BJA a charter for a steering committee or task force to implement the initiative. The charter should provide for the composition of the task force or steering committee, its charge, desired outcomes of the campaign, its deliverables, a timeline for reporting and ending of the body, and a detailed identification of resources to be made available to the body, including AOC staff resources and fiscal resources.
  - g. Produces recommendations to the BJA for action, referral, or other disposition regarding those issues not recommended for a strategic initiative.
  - h. Provides a critique and recommendations for changes in the planning process for consideration in subsequent cycles.
2. Serve as the oversight body of any committee or task force created to implement a strategic initiative.
  3. Propose a process and schedule for the periodic review of the mission statement, vision statement, and principle policy goals of the Board for Judicial Administration and oversee any process to propose revisions and present proposed changes to the full Board.
  4. Provide analyses and recommendations to the full Board on any matters referred to the standing committee. (By who or what entities?)

#### **IV. Policy Area:**

*The role of the standing committee is plenary, extending to potentially any area of policy affecting the judicial system of Washington.* TOO BROAD?  
WHAT IS THE ROLE OF THE STANDING COMMITTEE?

#### **V. Expected deliverables or recommendations:**

The committee will produce interim and final reports and recommendations, shall provide analyses of issue conducted during its

planning cycle, and shall provide reports of the status of ongoing strategic initiatives.

**VI. Membership:**

<b>Representative</b>	<b>Term/Duration</b>
Chief Justice Chair (BJA voting)	Ex officio
Superior Court Judge (BJA voting)	
District or Municipal Court Judge (BJA voting)	
Court of Appeals Chief Judge (BJA non-voting)	Ex officio
President-elect of the SCJA (BJA non-voting)	Ex officio
President-elect of the DMCJA (BJA non-voting)	Ex officio

**VII. Term Limit:**

The terms of members shall coincide with their term and seat on the BJA. The president-elects of the judicial associations shall serve on the committee until becoming president, and shall be then be replaced by the incoming president-elects.

**VIII. Other Branch Committees Addressing the Same Topic:**

The standing committee has a uniquely general assignment concerning policy that affects the judicial branch. There are a number of existing committees within the branch created to address policy in specific subject matter areas or functions.

**IX. Other Branch Committees With Which to Partner:**

The standing committee will initiate and maintain dialog with a number of branch entities and committees both within and outside of the judicial branch.

Branch committees and entities include:

- Superior Court Judges' Association
- District and Municipal Court Judges' Association
- Judicial Information System Committee
- Access to Justice Board
- Gender and Justice Commission

- Minority and Justice Commission
- Office of Public Defense
- Office of Civil Legal Aid

Other entities include:

- The Office of the Governor
- The Washington State Legislature
- The Washington State Bar Association
- The Washington Association of Prosecuting Lawyers
- The Washington Association of Criminal Defense Attorneys
- The Washington State Association for Justice
- Washington State Association of Counties
- Association of Washington Cities
- The Washington State Association of Municipal Attorneys

## **X. Reporting Requirements:**

The standing committee shall provide a final report and recommendations near the conclusion of its two-year planning cycle, and shall provide an interim biennial report of activities and the status of any ongoing strategic initiatives or other projects.

## **XI. Budget:**

The anticipated activities of the committee include regular meetings as well as outreach activities and events.

The costs of the regular meetings depends on frequency and the home locations of members. Assuming bi-monthly, separate from BJA meetings or other events (six meetings a year): \$3,000.

The costs of outreach events cannot be calculated with certainty at this point. Some personal interactions will be necessary, either through events sponsored by the committee or by member attendance at events sponsored by others. Outreach to locations statewide is recommended during the planning and implementation phases. (Placeholder: \$5,000 - \$10,000.)

In addition the committee might employ a facilitator or consultant to assist in outreach planning and execution. (Placeholder: \$5,000.)

(Placeholder Total: \$13,000 - \$18,000)

**XII. Formal Request for AOC Staff Support and Resources to Support the Committee on an Ongoing Basis:**

Ongoing staffing of the standing committee:

- Planning Specialist .75 FTE
- BJA Manager .25 FTE
- Administrative Assistant .25 FTE

Subtotal: 1.25 FTE

Staffing for the Planning Cycle:

During the period in the planning cycle when issues are being analyzed the standing committee is expected to require additional support of various AOC staff with expertise in: programmatic subject matter, legal, statistical, fiscal, information systems, and others. Total contribution on an annualized basis of:

- subject matter .50 FTE
- legal .10 FTE
- statistical .10 FTE
- fiscal .10 FTE
- information systems .10 FTE
- other .10 FTE
- administrative support .25 FTE

Subtotal: 1.25 FTE

Staffing of Strategic Initiatives:

At the conclusion of each planning cycle it is expected that the standing committee will propose a charter for a task force or steering committee to implement the selected strategic initiative. The proposed charters will include estimates of staffing needs.

**XIII. Duration/Review Date:**

The standing committee should be reviewed every three years to ensure that it is functioning consistent with its charge, producing deliverables and that the mission and goals of the BJA are being advanced. The first review should occur in 2018 and reoccur every three years thereafter.

# Tab 4

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COURT REFORM AND REGIONAL COURTS:  
A REVIEW AND ANALYSIS OF REFORM  
EFFORTS IN WASHINGTON'S COURTS OF  
LIMITED JURISDICTION

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BOARD FOR JUDICIAL ADMINISTRATION  
WASHINGTON STATE COURTS

STEVE HENLEY AND SHANNON HINCHCLIFFE  
APRIL 2014

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## EXECUTIVE SUMMARY

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The Board for Judicial Administration requested a review and analysis of all activity, including committee reports, studies and other products, produced in relation to efforts to address concerns with the courts of limited jurisdiction through the development of regional courts. This paper provides that review and analysis, including summaries of legislation enacted or considered affecting the courts of limited jurisdiction. The paper also provides a menu of options for possible future action by the Board.

Concerns raised over the years regarding the courts of limited jurisdiction, particularly part-time municipal courts, can be summarized as follows:

- Services are provided inconsistently across jurisdictions, with some jurisdictions providing limited services while others provide a full range of services.
- Practice and procedures are inconsistent across jurisdictions.
- Hours of access are inconsistent across jurisdictions, with some jurisdictions providing very limited hours of operation.
- There are no authoritative standards that define operational or performance expectations.
- Judicial independence is compromised where city officials, rather than judicial officers, exercise effective control over the operations of the court in some municipal courts, including budgeting and the hiring, firing and supervision of court employees.
- In some courts putative court staff serve multiple functions including within the executive functions of city government, do not identify as court employees, and do not receive court training and support.
- Public accountability of judicial officers is undermined where judicial officers are appointed rather than elected.
- Public trust and confidence in the courts is undermined where there is a public perception that the primary role of the court is to collect revenues for the city or county.
- Public trust and confidence in the courts is undermined where there is a public perception of conflict created when a part-time judge is also actively engaged in practice of law, particularly as prosecutor or criminal defense counsel.
- Small volume courts operate at a lower level of efficiency.

The analysis focuses on understanding these concerns as manifestations of an underlying tension between the judicial branch and local government regarding institutional control of the limited jurisdiction courts. The difficulties of governing effectively within a decentralized system are examined using the organizational theoretic framework of loose coupling. The analysis concludes that attempts to substantially address the identified concerns will only occur when the judicial branch and local governments are able to collaborate effectively and agree on strategies for improvement.

Finally, a menu of possible options for strategic steps is provided, ranging from major reform attempts to smaller projects to achieve incremental improvement. These include:

- Advance previously drafted legislation to create and fund regional courts
- Convene stakeholder workgroup or summit to develop a new proposal
- Create demonstration projects
- Develop performance measures
- Renew work on the recommendations of past studies: election of all judges legislation, compliance with ARLJ 12, trial court coordination councils

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## I. BACKGROUND

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The Board for Judicial Administration (the BJA or Board) commissioned a study in 2012 of the state's limited jurisdiction courts, to be conducted by researchers with the National Center for State Courts (NCSC), with funding from the State Justice Institute (SJI).<sup>1</sup> The study, completed in 2013, examined the courts of limited jurisdiction using a methodology that included surveys and follow-up interviews with a sampling of city and court officials, and provided an assessment of the functioning of these courts along several dimensions. The results of this study are summarized in the appendix. The report included two recommendations: 1) that the BJA consider creation of a comprehensive set of standards for the limited jurisdiction courts with requirements for measuring and reporting performance against those standards; and 2) that the BJA consider conducting one or more evaluation projects of the regional court concept to further assess the impact of regionalization of limited jurisdiction court services.

On September 30, 2013, BJA Chair, Chief Justice Barbara Madsen, requested that BJA staff review the history of regionalization and provide it to the BJA to inform consideration of future actions. This paper is in response to that request. Detailed information of in-depth past studies, committees and workgroups related to Washington's courts of limited jurisdiction can be found in the appendix.

In addition to providing a historical review, this paper includes an analysis that contextualizes these studies within the backdrop of the political culture and governmental structure of Washington State. A discussion of the concepts of governance in a loosely coupled organization is included as it applies to the difficulties of governing local courts. This paper does not offer a specific course of action but provides a menu of possible future actions that the BJA may wish to consider.

## II. SUMMARY OF BJA EFFORTS ON REGIONALIZATION WITHIN THE COURTS OF LIMITED JURISDICTION

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The courts of limited jurisdiction are comprised of full and part-time municipal and district courts. These courts have changed significantly over time. These changes include everything from comprehensive court reform<sup>2</sup> to changes in subject matter jurisdiction and court organization.<sup>3</sup> Some of these changes have been made as a direct result of the BJA's work on the issues. Other changes have been initiated by the legislature or by individual jurisdictions in collaboration with others.

The BJA has been actively working on increasing the effectiveness and efficiency of courts of limited jurisdiction since at least 1995, when the results of a commissioned statewide survey, known informally as *The Wilson Report*,<sup>4</sup> were released. The Wilson Report identified seven major areas of concern and proposed over one hundred specific recommendations. Ownership of following up with the recommendations was divided between AOC, BJA and DMCA.

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<sup>1</sup> John Doerner and Nial Raaen, *Study on the Courts of Limited Jurisdiction in the State of Washington*, National Center for State Courts, May 2013.

<sup>2</sup> HB 36, Justice Act of 1961 (SSB 111), and ESSB 4430.

<sup>3</sup> RCW 3.50.815, *City of Medina v. Primm*, 160 Wash.2d 268, 157 P.3d, Wash 2007.

<sup>4</sup> W. L. & C. J. Wilson, *Washington State Courts of Limited Jurisdiction Assessment Survey Report*, 1995-1997.

The next major initiative sponsored by the BJA was *Project 2001, Coordinating Judicial Resources for the New Millennium*.<sup>5</sup> A major component of this initiative was consideration of trial court consolidation. At that time, the committee concluded that consolidation should not be attempted but that court reform should focus on improved performance and efficiencies. The committee encouraged courts to pool their resources to find new ways of solving common problems and created Trial Court Coordination Councils. This project and corresponding funding was eliminated in 2009 due to budget reductions.

In 2004, the Courts of Limited Jurisdiction Workgroup (CLJW) of the BJA Court Funding Task Force first advanced the concept of “regionalization.” The workgroup articulated six principles for courts of limited jurisdiction and developed a number of short-term and long-term recommendations. In 2005, the BJA slightly modified and then adopted the workgroup’s Regional Courts of Limited Jurisdiction Policy Statement:

Long term, the courts of limited jurisdiction in Washington State should be restructured as regional courts having a full range of judicial functions including jurisdiction over all applicable state laws, county and city ordinances, civil classes and small claims. Regional courts would be located in convenient locations serving both the public and other court users including law enforcement agencies, lawyers, and court personnel. Regional courts would operate full-time, have elected judges, and offer predictable recognized levels of service, including probation departments, and be appropriately funded by state and local government. A regional structure for courts of limited jurisdiction will offer convenience by making courts open and accessible to the public, and coordinate services, staff, and administration and achieve economies of scale for all participating jurisdictions.<sup>6</sup>

After this policy statement was adopted, several studies were conducted on different issues related to the organization of courts of limited jurisdiction, and workgroups have been created with different charges to study issues related to the fulfillment of the vision of regional courts. These efforts include the BJA commissioned study titled *Always the People, Delivering Limited Jurisdiction Court Services throughout Washington*,<sup>7</sup> the enactment of the Trial Court Improvement Act,<sup>8</sup> the proposed election of municipal court judges bill(s) and most recently, the study completed in 2013 by the National Center for State Courts.

Although some successes have been achieved through these efforts, the long-term vision of regional courts as articulated in the 2005 policy statement has not been realized.

### III. ANALYSIS

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The numerous examinations of the courts of limited jurisdiction conducted over the last 60 years, summarized above and in the appendix of this paper, reveal a long-standing dissatisfaction, primarily but not solely on the part of judicial branch leaders, with the organizational structure, operations and performance of the courts of limited jurisdiction, specifically with respect to smaller and part-time

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<sup>5</sup> *Project 2001, Coordinating Judicial Resources for the New Millennium, January 2001 BJA Final Recommendations as reported to the Legislature.*

<sup>6</sup> BJA Meeting Minutes, November 18, 2005.

<sup>7</sup> Douglas K. Somerlot and Aimee Baehler, *Always the People: Delivering Limited Jurisdiction Court Services Throughout Washington*, October 2003.

<sup>8</sup> E2SSB 5454 Revising Trial Court Funding Provisions (Chapter 457, Laws of 2005).

municipal courts. The specific focus of this dissatisfaction has varied and shifted over time, but the basic issues have been generally consistent.

In sum, concerns include:

- Services are provided inconsistently across jurisdictions, with some jurisdictions providing limited services while others provide a full range of services.
- Practice and procedures are inconsistent across jurisdictions.
- Hours of access are inconsistent across jurisdictions, with some jurisdictions providing very limited hours of operation.
- There are no authoritative standards that define operational or performance expectations.
- City officials, rather than judicial officers, exercise effective control over the operations of the court in some municipal courts, including budgeting and hiring, firing and supervision of court employees.
- In some courts putative court staff serve multiple functions including within the executive functions of city government, do not identify as court employees, and do not receive court training and support.
- Public accountability of judicial officers is undermined where judicial officers are appointed rather than elected.
- Public trust and confidence in the courts is undermined where there is a public perception that the primary role of the court is to collect revenues for the city or county.
- Public trust and confidence in the courts is undermined where there is a public perception of conflict created when a part-time judge is also actively engaged in practice of law, particularly as prosecutor or criminal defense counsel.
- Small volume courts operate at a lower level of efficiency.

Beneath these ongoing concerns is a fundamental structural tension, embedded in Washington law, between the principles of judicial independence on the one hand and local autonomy on the other. Specifically there is concern over the ability of the judicial branch to exercise institutional control of its courts, and that local governments exercise an inordinate level of authority over the courts.

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## LOCAL AUTONOMY AND JUDICIAL INDEPENDENCE

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Washington has a robust political culture, with local participation as one of its cornerstones. This culture has its formative roots in the pre-statehood era, when small communities, often remote from one another, were created and grew around various economic opportunities. By necessity these communities built the basic institutions of civic life, including local courts, and these institutions have come to define what it means to be a community.

Municipal officials value their institutions and are protective of their ability to manage their affairs locally. Throughout the decades of court reform efforts the cities have been clear and consistent in expressing the importance to them of local control. Regarding matters of criminal justice and the courts, the Association of Washington Cities has adopted the following policy statement:

City officials are best positioned to direct the criminal justice efforts that reflect community values and standards to ensure public safety within their boundaries. To achieve this, cities need an adequate array of resources, tools, and authority,

especially when criminal justice caseloads often rise during difficult economic times when traditional revenues are down.

This emphasis on local control has important implications for the courts and impedes the general national trends in court reform over the last century. The result of robust localism is, in the words of the NCSC consultants, a “predilection toward a high degree of city control over court operations (which) creates obvious concern in regards to judicial independence and the ability of the judiciary to exercise administrative authority over the court as an independent branch of municipal government.”<sup>9</sup>

The principle of local autonomy, as regards courts, comes into tension with the principle of judicial independence. Early conceptions of judicial independence focused on the individual judge, and the necessity that the judge be free from exogenous influences in the exercise of the adjudicatory function. “The judge must not only be independent – absolutely free of all influence and control so that he can put into his judgments the honest, unfettered and unbiased judgment of his mind – but he must also be freed of business, political and financial connections and obligations so that the public will recognize that he is independent.”<sup>10</sup> The concern from this perspective is that justice requires the judge’s actions might be, or might be perceived to be, influenced by improper factors.

A more contemporary perspective of judicial independence emerged in the latter half of the twentieth century and focuses on the court as an institution rather than on the individual judge. This view starts with the recognition that a modern court is not a solitary judge making decisions in isolation, but is a complex organization with a number of inputs and outputs aside from judicial decision-making that have an impact on case outcomes. From this institutional perspective, justice requires not only that the judge, but that the court organization overall, be free from undue external influence.

From this institutional perspective it is important that the court, and court staff, be oriented to the distinct mission and goals of the court, rather than the somewhat divergent mission and goals of local government. This perspective is reflected in the Trial Court Performance Standards:

Standard 4.1: The trial court maintains its institutional integrity and observes the principle of comity in its governmental relations.

Commentary. For a trial court to persist in both its role as preserver of legal norms and as part of a separate branch of government, it must develop and maintain its distinctive and independent status. It also must be conscious of its legal and administrative boundaries and vigilant in protecting them. Effective trial courts resist being absorbed or managed by the other branches of government. A trial court compromises its independence, for example, when it merely ratifies plea bargains, serves solely as a revenue-producing arm of government, or perfunctorily places its imprimatur on decisions made by others. Effective court management enhances independent decision-making by trial judges.<sup>11</sup>

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<sup>9</sup> John Doerner and Nial Raaen, *Study on the Courts of Limited Jurisdiction in the State of Washington*, National Center for State Courts, May 2013, 54.

<sup>10</sup> John J. Parker, *The Judicial Office in the United States*, *Tennessee Law Review* 20 (1949), 705-706.

<sup>11</sup> *Trial Court Performance Standards with Commentary*, Bureau of Justice Assistance, United States Department of Justice, 1997.

Standard 5.3 addresses public perception:

Standard 5.3: The public perceives the trial court as independent, not unduly influenced by other components of government, and accountable.

Commentary. The policies and procedures of the trial court, and the nature and consequences of interactions of the trial court with other branches of government, affect the perception of the court as an independent and distinct branch of government. A trial court that establishes and respects its role as part of an independent branch of government and diligently works to define its relationships with the other branches presents a favorable public image.

The issue of institutional control recurs throughout the record concerning the municipal courts, from the 1960 report of the Legislative Council to the present. In the 2013 report for the BJA, NCSC researchers John Doerner and Nial Raaen summarized surveys and telephone interviews of municipal officials and judges:

The issue of administrative and local control over court services was perhaps the most consistent theme among those interviewed, particularly the municipal officials. . . . The inherent tension between the roles of presiding judges as the primary administrative officer of the court and city officials that fund and manage human resources is characteristic of jurisdictions with localized court funding.<sup>12</sup>

This structural tension notwithstanding, local governments in Washington are, nonetheless, the source of most trial court funding and Washington law provides municipalities with a range of options and considerable discretion regarding how they will meet statutory obligations to provide for courts and judicial services. They have naturally been protective of these prerogatives. In a governmental structure such as this it is evident that little change in the organizational structures or operations of the municipal or district courts of Washington is likely to occur without, at a minimum, the consent of the municipalities and counties, and more probably without their active participation in negotiating those changes. It is certainly difficult to conceive of a legislative proposal mandating substantive change succeeding over the opposition of the municipalities or counties.

At the same time the municipalities and counties do not appear to be immovably wed to the status quo, and they have indicated willingness to consider changes that improve court services or control costs. And so there exists possibilities for improvements that are mutually acceptable to both local governments and the state judicial branch. Any strategy intended to modify the limited jurisdiction courts must necessarily include a strategy to engage the municipalities and counties in discussions to design those modifications. The challenge is not in conceptualizing potential improvements, whether through regionalization or other strategies, but in creating a path for the courts and local governments to agree on those improvements.

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## GOVERNANCE IN A LOOSELY COUPLED COURT SYSTEM

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In recent years, discussions within the national court community regarding court governance have come to understand non-unified court systems through the organizational theory framework of “loose

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<sup>12</sup> John Doerner and Nial Raaen, *Study on the Courts of Limited Jurisdiction in the State of Washington*, National Center for State Courts, May 2013, 52.

coupling,” and to start to grapple with the unique challenges of guiding decentralized systems.<sup>13</sup> “Loose coupling” refers to a pattern of structure and relations within a system in which interdependencies among component parts of a system, and between vertical layers of the system, are relatively weak. A loosely coupled system is one in which the central authority does not exercise direct command and control of the component parts and it does not supply all critical inputs, or resources needed by the parts. Rather, the component parts must look elsewhere for critical resources, and as a result, must balance responsiveness to the needs of those external sources with internal expectations and commitments. (For a full discussion of the application of coupling theory to the Washington court system see “Rethinking Planning in the Washington Court System” working paper, Administrative Office of the Courts, March 2014.) This conceptualization provides a useful model and vocabulary for thinking and talking about the Washington court system and its relationship with local courts and local government. In 2010, Gordon Griller, Director of the Trial Court Leadership Program at the NCSC’s Institute for Court Management, summarized the inherent challenge in governing a decentralized system:

There is little debate that to realize their full potential, loosely coupled organizations require some centralized management to achieve higher performance, greater efficiency, consistent direction, and economies of effort. So the real question is not autonomy versus subservience, or in organizational terms, decentralization versus centralization, but how the two concepts can best be blended to capture their strengths and minimize their disadvantages.<sup>14</sup>

More recently Mary McQueen, President of the National Center for State Courts, wrote that “(g)overning a loosely coupled organization requires a distinctive approach to leading.”<sup>15</sup> She counsels court leaders to be more attentive to the “glue” (processes) that connects loosely coupled systems than to the formal structure of those systems. She calls for a deftness of leadership and attention to developing processes that are viewed as legitimate and, ultimately, helpful to the parts of the organization.

The broad sweep of judicial reforms over the last 60 years has been toward consolidation of state court systems in terms of court jurisdiction, funding, and administration.<sup>16</sup> In writing about the future of court reform, Robert Tobin does not predict that the trend to consolidation will result in a complete vanquishing of local autonomy, but a shift in the boundaries of inter-branch relationships: “Localism will not lose its force as an influence acting on community level judicial systems, nor should it. At the same time the clear trend has been toward a more robust institutional concept of judicial independence, and with it a continued attention to boundaries between the judicial and the other branches of government.”<sup>17</sup> This suggests that to make progress in improving the limited jurisdiction courts in general, and the smaller and part-time municipal courts in particular, the challenge will be in finding a workable framework for negotiating change with the counties and municipalities to advance the values and interests of both the judicial branch and local government. Entrenched commitment to the status quo, or insistence on unilateral control, would not be constructive in moving toward an improved state.

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<sup>13</sup> Mary Campbell McQueen, *Governance: The Final Frontier*, June 2013.

<sup>14</sup> Gordon M. Griller, *Governing Loosely Coupled Courts in Times of Economic Stress*, National Center for State Courts, 2010, 49-50.

<sup>15</sup> *Id.*

<sup>16</sup> Tobin, Robert W., *Creating the Judicial Branch: The Unfinished Reform*. National Center for State Courts, 1998.

<sup>17</sup> *Ibid.*

This challenge is not unique to the courts. Research on loosely coupled systems has focused primarily on education and health systems, but now is being applied more broadly. Practitioners have focused on the concept of a “collaborative capacity” as an indicator of the ability of components within a loosely coupled system to work together and sustain commitment to a shared undertaking.<sup>18</sup> Where collaborative capacity can be enhanced and nurtured, a loosely coupled system can be capable of ongoing cooperation that produces favorable outcomes.<sup>19</sup>

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## CONCLUSION

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The issues of concern in the courts of limited jurisdiction are long-standing and are compounded by a governmental structure that divides governing responsibility and authority over the courts between the judicial branch and local government. Improvements can be made, whether through regionalization of services or other strategies, but are likely to occur only where the judicial branch and local governments are able to collaborate on an ongoing basis in designing and implementing such improvements. The BJA has legitimated authority among the judiciary, and is accepted by stakeholders as the voice of the judiciary. The Board can serve a central and unique role as an intermediary among the levels of court and other stakeholders. If any progress is to be made, it will come as a result of the BJA reaching out to the counties and cities as well as other stakeholders and engaging them in meaningful conversations about the limited jurisdiction courts and steps that can be taken to improve them that are acceptable to both the judicial branch and local government. While the BJA considers strategies to address specific concerns regarding the courts of limited jurisdiction, it should also be attentive to building and strengthening relationships with component parts of the system and with key stakeholders, and should consider deliberate efforts to enhance the collaborative capacities of system dynamics.

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## IV. OPTIONS FOR FUTURE ACTION

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### BJA STRATEGIC GOAL 5.2

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The BJA was created to provide effective leadership to the state courts and to develop policy to enhance the administration of the court system in Washington State.<sup>20</sup> The current strategic plan of the BJA includes a goal regarding the courts of limited jurisdiction which states:

GOAL 5.2      IMPROVE THE QUALITY AND CONSISTENCY OF SERVICES OFFERED BY COURTS OF LIMITED JURISDICTION.

The commentary and objective related to this goal speak to implementation of the concept of regionalization, first adopted in 2005, as the means to achieve this goal. The strategy that has been pursued to implement regionalization included changes in law to allow consolidation of functions across jurisdictions, to authorize county-level trial court coordination councils, a budgetary strategy to direct state funding to support regionalized operations, and a requirement that all judicial officers be elected.

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<sup>18</sup> Pennie. G. Foster-Fishman, *Building Collaborative Capacity in Community Coalitions: A Review and Integrative Framework*, et al, Michigan State University, East Lansing, Michigan.

<sup>19</sup> Jeffrey A. Alexander et al, *Sustainability of Collaborative Capacity in Community Health Partnerships*, *Medical Care Research and Review*, Vol. 60 No. 4 (2003).

<sup>20</sup> Board for Judicial Administration Rule (BJAR) 1.

These strategies have met with some success but have not achieved the desired result of fully formed regional courts.

The analysis provided in the last part describes an environment, both structural and cultural, in which local government retains a high degree of control over the organization and operations of the limited jurisdiction courts, including determining whether a municipality will even have a court. This structural and cultural environment has changed little in the decade since the goal of regionalization was first articulated by the Court Funding Task Force and adopted by the BJA. It is a governmental framework in which the capacity of the BJA and the judicial branch at the state level to unilaterally affect changes in the local courts is constrained by the limited mechanisms of command and control available to the branch, relative to more unified state court systems, and by operation of Washington's court funding structures.

This circumstance exemplifies the model of a loosely coupled system.<sup>21</sup> If the BJA accepts the validity of this analysis, and also remains committed to a goal to "improve the quality and consistency of services offered by the courts of limited jurisdiction," the question then turns to consideration of strategies to advance this goal within the context of a loosely coupled governance structure.

In addition to Goal 5.2, the BJA also adopted Goal 6.2 in the 2008 strategic plan, which provides:

GOAL 6.2 PROMOTE THE INSTITUTIONAL INDEPENDENCE OF THE JUDICIAL BRANCH IN A WAY THAT WILL FOSTER MUTUAL RESPECT AND COOPERATION AMONG THE BRANCHES OF GOVERNMENT.

The Board has a number of options available to it, summarized below, ranging from attempts at broad reform, to modest and limited incremental improvements. This paper suggests that these options be considered by the Board in terms of: 1) compatibility with Goal 5.2 as well as 6.2 of the long-range strategic plan and the overall mission and goals of the branch, and 2) feasibility given the existing dispersion of governing authority within the judicial branch and local government, as well as the availability of necessary resources.

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## MENU OF STRATEGIC STEPS

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### 1. Advance Previously Drafted Legislation to Create and Fund Regional Courts

The goal of creating regional courts was adopted by the BJA in 2005. In 2008, the Regional Courts Ad Hoc Workgroup enhanced the concept and prepared draft legislation for optional regional courts, including incentive funding for jurisdictions that elect to participate in a regional court. At its meeting of September 18, 2009, the Board agreed that it should not advance the proposal but hold it for possible advancement in a more favorable fiscal environment.<sup>22</sup> The Board could renew this effort and seek consideration of this proposal in the legislature.

### 2. Convene Stakeholder Workgroup or Summit to Develop a New Proposal

The 2008 proposal was drafted by an ad hoc workgroup that included several judges and one district court administrator. It was staffed by the AOC. The cities and counties were not engaged in developing the proposal but only to comment on it after it was drafted. The BJA could consider

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<sup>21</sup> Weick, Karl E., *Educational Organizations as Loosely Coupled Systems*, Administrative Science Quarterly, 21 (1976).

<sup>22</sup> BJA Minutes, September 18, 2009.

organizing a second effort to draft a proposal that includes local government stakeholders as meaningful participants from the start. If a proposal were to be jointly developed and supported by the judicial branch and local government it would likely have a greater probability of success in the legislature. This effort could be in the form of a workgroup or steering committee which would work over a period of months, perhaps a year, to develop a proposal.

In the alternative, the BJA could approach the cities and counties with a proposal to jointly sponsor a forum, or workshop, to discuss strategies for improving the quality and consistency of services offered in the courts of limited jurisdiction. This event could at least help forge consensus on a statement of basic values and goals, and possibly generate a framework to work cooperatively going forward.

### **3. Create Demonstration Projects**

The NCSC study produced as one of its two recommendations the creation of evaluation, or demonstration, projects to test and study the concept of regionalization. The consultants suggested that four major areas be examined as part of the evaluation framework: 1) services impact, 2) organizational impact, 3) external impact, and 4) cost/benefit analysis.

Any demonstration projects would necessarily require the voluntary participation of several municipal governments in proximity to one another as well as the district court. In overseeing the project and evaluation the District and Municipal Court Judges' Association, the District and Municipal Court Management Association, the Association of Washington Cities, the Washington State Association of Counties, the Washington State Association of Municipal Attorneys, the individual courts, and the specific municipal governments should all be involved. Collection of usable, comprehensive and comparable data would be a concern. A demonstration project would likely be the topic of a multi-year study, using a combination of methodologies.

### **4. Develop Performance Measures**

A recurring complaint in studies of the courts of limited jurisdiction is the lack of authoritative standards or measures against which performance of the courts of limited jurisdiction can be assessed and options in court structure and policy evaluated. In its 2013 study the NCSC recommended development of a set of comprehensive standards with the participation of municipalities, the DMCJA, AOC and others. Collateral to the creation and adoption of performance measures would be adoption of requirements for gathering and reporting of relevant data.

This recommendation mirrors similar recommendations produced by various study commissions and committees. The 1989 Judicial Council Task Force on Courts of Limited Jurisdiction, for example, recommended the adoption of operating standards for all of the courts of limited jurisdiction. The 1990 Commission on Washington Trial Courts recommended the establishment of "minimum standards for courts of limited jurisdiction in areas such as staffing, support services and programs in order to provide consistent and equal justice." The 1997 Wilson Report recommended that the branch establish "court operating standards in areas of staffing, support services, facilities and equipment, and others."

The technology of court performance measurement has evolved a great deal in recent decades. One change has been away from "standards," in the sense of targets or minimum requirements, and toward a terminology of "measures" as indicators that are useful for purposes of management and court improvement but do not impose normative expectations that might not fit the particular

situation of a court. One size, as has been said, does not fit all. The importance of performance statistics is often in the trend lines rather than the reported values at any given point in time.

Relevant to consideration of performance measures is progress toward identifying specific quantitative measures which should be present within the case management system. These measures can be specified to fields within a case management system so that reports can be generated for easy use. The conversation is timely with discussion of replacement of the legacy District/Municipal Court Information System (DISCIS) now known as JIS, with a new statewide case management system.

## 5. Renew Work on the Recommendations Of Past Studies

Detailed information regarding the delivery of services by courts of limited jurisdiction are contained within previous reports. Many recommendations resulting from these studies are still outstanding. For example, recommendations such as the proposed legislation for election of all judges, requiring courts to comply with ARLJ 12, and trial court coordination councils. The BJA may elect to pursue these more focused objectives.

### a. *Election of All Judges Legislation*

Several iterations of this legislation have been approved and supported. Although the proposal makes the most sense in the context of the pursuit of regionalization, it also provides reinforcement for judicial independence and would advance the goal of consistency at least as regards mechanisms of public accountability.

### b. *Compliance with ARLJ 12*

One of the short-term goals of the CWLJ was to require courts to post their hours regularly with AOC. This goal was somewhat accomplished by creating ARLJ 12 which requires courts of limited jurisdiction to report certain operational data annually. Unfortunately, only 60-70% of courts on average report the information and data are too limited to support significant conclusions. There is presently no enforcement mechanism for non-compliance with ARLJ 12. Although certification of courts of limited jurisdiction courts conditional on compliance has been suggested, the concept has not been adopted.

### c. *Trial Court Coordination Councils*

Trial court coordination councils were created to encourage cooperation among trial courts at the local level. This strategy is in contrast to attempts to advance cooperation at the state level. Trial court coordination councils are still authorized, but funding to support collaborative projects ended in 2009. At this point in time it is believed that the only functional trial court coordination council is in King County.

The BJA may elect to make an effort to revitalize the coordination councils through a budget request. In doing so the Board may wish to target the use of funds to encourage regionalization of services. In addition the BJA may wish to consider ways to engage local government officials through the councils, either as members or through a specific outreach effort implemented at the local level through reconstituted coordination councils.

## ASSESS RESOURCE REQUIREMENTS

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The possible next steps described above are not exhaustive, and the options are not mutually exclusive. The Board may wish to pursue one, or several, or none. It is important to note that the summaries provided above do not include a discussion of the resources that would be required. Some of the options, such as demonstration projects or development of performance measures, would be substantial undertakings requiring a sustained commitment of resources over a number of years. Others would be less onerous but not insignificant. After choosing any option, a resource evaluation should be made and reviewed before proceeding.

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APPENDIX: A SURVEY OF BJA EFFORTS  
RELATED TO IMPROVING THE DELIVERY  
OF JUDICIAL SERVICES AND  
REGIONALIZATION IN WASHINGTON  
COURTS OF LIMITED JURISDICTION

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## I. BRIEF ORGANIZATIONAL HISTORY OF THE COURTS OF LIMITED JURISDICTION

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### EARLY COURTS OF LIMITED JURISDICTION

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While the state constitution creates the Washington Supreme Court and a general jurisdiction court known as the superior court, it delegates to the legislature the authority to create other courts, including limited jurisdiction courts. Article IV, Section 1 of the Washington State Constitution provides:

JUDICIAL POWER, WHERE VESTED. The judicial power of the state shall be vested in a supreme court, superior courts, justices of the peace, and such inferior courts as the legislature may provide.

Prior to 1961, limited jurisdiction “inferior” courts were comprised of justices of the peace along with an assortment of other local fee-funded courts including municipal courts, police courts, mayor’s courts and night courts. In Washington, as in other states in the 1950s, legal reform efforts began to focus on the trial courts. At that time, trial courts nationally were widely regarded as “externally dominated, highly disorganized, often unprofessional, and poorly managed, to the point where the integrity of the state courts was being seriously undermined.”<sup>23</sup>

### EARLY COURT REFORM EFFORTS

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In 1957, the Legislative Council undertook a review of the trial courts and introduced a bill that would have consolidated the justices of the peace and other inferior courts into county-based “justice courts” to be funded by the counties rather than through fees.<sup>24</sup> The bill passed the House but died in the Senate on third reading on the last day of session. In 1961, the legislature approved a more incremental bill, mandating the replacement of justices of the peace with justice courts in the three most populous counties and authorizing them in the others as a county option.<sup>25</sup> Municipal and fee-based police courts could be maintained in counties without a justice court. In a county with a justice court, a municipality could also choose to create a department of the justice court or, if the population was under 20,000, could maintain an independent municipal court.

### COURT IMPROVEMENT ACT OF 1984

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This structure remained in place through the 1960s and 1970s. In the early 1980s attention again turned to reorganization of the courts of limited jurisdiction when a number of municipalities terminated their municipal codes and closed their courts to avoid the growing fiscal demands of prosecuting, defending and adjudicating cases. This eventually led to the most comprehensive reorganization of the trial courts of Washington in the modern era, the Court Improvement Act of 1984.<sup>26</sup> Under the Act, justice courts were retitled “district courts” and the remaining justices of the peace became district court judges. Other statutes relating to justice of the peace courts and police courts were repealed, leaving district courts and

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<sup>23</sup> Robert W. Tobin, *Creating the Judicial Branch: The Unfinished Reform*. National Center for State Courts, 1998.

<sup>24</sup> HB 36 (1957).

<sup>25</sup> New Justice Court Act of 1961 (SSB 111, Laws of 1961, ch. 299).

<sup>26</sup> The Court Improvement Act of 1984 (ESSB 4430, Laws of 1984, ch. 258 § 1).

municipal courts as the only authorized courts of limited jurisdiction. In addition, municipalities could still form a department of the district court or enter into an agreement with the county for the district court to take cases originating within the jurisdiction.

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## STATUTORY RESPONSIBILITY TO PROVIDE COURT SERVICES

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In 1996, the responsibilities of municipalities and counties were clarified in RCW 39.34.180, specifying that each county, city and town is responsible for the prosecution, adjudication, sentencing and incarceration of misdemeanors and gross misdemeanors committed by adults within the jurisdiction, whether charged under state law or city ordinance. A municipality could carry out these responsibilities with its own court, staff and facilities or may enter into an agreement with the county.<sup>27</sup>

In addition to the ability to enter agreements with counties, municipalities began to form interlocal agreements with other municipalities to provide court services. Although not expressly allowed by statute, cities proceeded to enter into increasingly sophisticated court services agreements.

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## EFFECT OF CITY OF MEDINA V. PRIMM

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In 2007, the Washington State Supreme Court weighed in on the court's authority to hear cases outside the geographical boundaries of their respective city or town pursuant to the interlocal agreements allowed under RCW 39.34.180 in *City of Medina v. Primm*.<sup>28</sup> In the majority opinion, the court concluded that cities may contract with another "to perform any governmental service," without exception for municipal court services and that the statutes did authorize extra-territorial operation of municipal courts pursuant to court-sharing agreements.

While the organization of district courts have remained largely unchanged since this ruling, the operations and administration of municipal courts have become a creature of both statute and interlocal agreements. Today, several regional arrangements for the delivery of court services have been established. In addition to municipalities that contract with a district court, some cities contract with other cities for court services or hold court in the same building as another city. In 2008, RCW 3.50.815 expressly allowed a city to fulfill its criminal justice responsibilities by entering in court services agreements with one or more cities.

Aside from the extra-territorial jurisdiction issue settled in *Primm*, other collateral issues continue to persist. Recently, the issue of terminating a municipal court within the judicial term has become the source of vigorous debate. Termination of municipal courts by the cities' executive and legislative branches has unseated both elected and appointed municipal court judges prior to the end of their judicial term, contrary to RCW 3.50.040 and RCW 3.50.050. In 2014, the District and Municipal Court Judges' Association sponsored a bill that would require cities to terminate their courts at the end of a statutory judicial term.<sup>29</sup> BJA voted to support the bill but it did not make it out of the House Judiciary Committee.

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<sup>27</sup> ESSB 6211, Relating to Criminal Justice Costs (Laws of 1996, ch. 308).

<sup>28</sup> *City of Medina v. Primm*, 160 Wash.2d 268, 157 P.3d 379, 2007.

<sup>29</sup> HB 2601, Relating to Municipal Court Terms.

## II. CURRENT ORGANIZATIONAL STATUS OF THE COURTS OF LIMITED JURISDICTION

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### ADMINISTRATIVE OFFICE OF THE COURTS' PUBLIC RECORDS REQUEST<sup>30</sup>

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In 2011, the Administrative Office of the Courts requested public records related to the operations of municipal courts from all cities served by a part-time judge in order to officially document them. Analysis of these documents identified nine areas of concern: 1) Judicial Salaries, 2) Terms of Office, 3) Judicial Discipline or Removal, 4) Judges Pro Tem, 5) Role of the Presiding Judge, 6) Staff Reporting Relationships, 7) Decisional Independence, 8) Institutional Independence, 9) Costs and Fees. The report provides specific information and examples, included but not limited to the following findings:

- Many cities have ordinances that give authority for the appointment of pro tem judges to city officials. Under current law, only the presiding judge has that authority.
- Most cities appear to honor the judge's independence and impartiality in the judge's adjudicatory role. However, provisions in some cities seem to intrude on the court's decisional independence.
- Some cities have enacted local fees that may either be prohibited by law or not authorized by law and that alter statutory revenue distribution schemes.

In response to these findings, the District and Municipal Court Judges' Association (DMCJA) created an ad hoc workgroup to review the documentation and contact each part-time judge about issues particular to his or her jurisdiction. The majority of the judges reported that they were working with their mayor and/or council to improve certain identified issues or agreed to do so if any municipal provision was in conflict with statutes or GR 29. Many judges reported that current practices and actual operations are in compliance.<sup>31</sup> The DMCJA Board of Governors voted to continue to monitor the situation and send out a survey in early 2014, after judges take office, to follow-up on individual progress.

### CURRENT ORGANIZATIONAL MODELS

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In 2012, the Association of Washington Cities (AWC) conducted a survey of its constituent cities and towns to gather information about how municipalities are meeting their obligations under RCW 39.34.180. The survey asked whether the municipality operated its own court or was in an interlocal agreement with a district court or another municipality. It also gathered information on the hours of operations of the court, and whether the judge or judges were elected or appointed.

The results indicate that at the time there were 100 municipal courts operating in the state. The remainder of the 281 responding municipalities either contract with the district court or another municipal court, or have a department of a district court.

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<sup>30</sup> Dirk Marler, *Part-Time Municipal Courts in Washington-Discussion Draft*, paper presented at BJA Meeting, Olympia, February 17, 2012.

<sup>31</sup> *Judicial Independence & Part-Time Municipal Courts, DMCJA Workgroup Report*, presented at DMCJA Board of Governors Meeting, SeaTac, September 14, 2012.

Court Services	Number	Description
Tribal Court	1	
Self-Operated Municipal Court	100	84 are stand-alone; 16 provide court services to other municipalities
Contract with District Court	148	
Contract with Other Municipalities	23	23 contract with a self-operated municipal court
Operate as a Municipal Department of District Court	9	Expansion of this model is no longer authorized by statute
Total Responding to Survey	281	

In terms of hours of operation, 16 of the 100 courts operate 35 or more hours per week. The remainder operate less than 35 hours per week, including 59 courts that report operating less than 10 hours per week:

Judicial Hours of the 100 Self-operated Municipal Courts:	
Less than 10 hours per month	19
From 5 to 15 hours per month	14
Less than 10 hours per week	26
From 10 to 20 hours per week	12
From 21 to 34 hours per week	13
Over 35 hours per week (Full-time)	16
<b>Total</b>	<b>100</b>

These organizational models of service within district and municipal courts were categorized by the NCSC Courts of Limited Jurisdiction Study, as:

- Model 1: City operates its own stand-alone municipal court
- Model 2: City operates its own court and also one or more other courts under an interlocal agreement
- Model 3.1: City contracts for court services through the district court
- Model 3.2: City contracts for court services through another city
- Model 4: City receives court services through a department of a district court<sup>32</sup>

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<sup>32</sup> John Doerner and Nial Raaen, *Study on the Courts of Limited Jurisdiction in the State of Washington*, National Center for State Courts, May 2013.

### III. BJA EFFORTS TO IMPROVE THE EFFECTIVENESS AND EFFICIENCY OF COURTS OF LIMITED JURISDICTION

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#### 1995 COURTS OF LIMITED JURISDICTION ASSESSMENT SURVEY REPORT, KNOWN AS *THE WILSON REPORT*

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In January 1995, then Chief Justice Barbara Durham commissioned a comprehensive survey of the policies, procedures, and facilities of Washington State’s district and municipal courts. The statewide survey, which became known as *The Wilson Report*,<sup>33</sup> included four major phases: 1) Research, 2) Development and Testing of the Survey Instrument; 3) Survey Administration, 4) Analysis and Presentation of the results. Out of 190 courts, 136 were surveyed and an on-site interview process took approximately 7 hours.

The report identified seven major areas of concern based on their survey responses: 1) Leadership, 2) Separation of Powers, 3) State Funding, 4) Judicial Officers, 5) Delivery of Judicial Services, 6) Minimum Enforceable Operating Standards, and 7) Court Registration and Certification. Over one hundred specific recommendations on topics of access, accounting, case processing, compliance, costs, court management, facilities, probation services, security, judicial independence, contracts and domestic violence were put forward.

In response to the recommendations, the DMCJA created an action plan, responding to many of the recommendations and implemented several of the recommendations in their organizational operations. Although AOC and the DMCJA were given ownership of most of the recommendations, the BJA was tasked with a few recommendations such as studying the advisability of legislation on a few subject areas. Several of these recommendations were implemented and some remain outstanding today.

#### PROJECT 2001, COORDINATING JUDICIAL RESOURCES FOR THE NW MILLENNIUM

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The Board of Judicial Administration, newly reconstituted in 2000, undertook as its first major initiative *Project 2001, Coordinating Judicial Resources for the New Millennium*. This project was an attempt to conduct “a thorough review of the judicial system, implement short-term solutions, and establish a continuing process for improving the courts.”<sup>34</sup> A major component of the initiative was the consideration of trial court consolidation.

After considering the potential benefits and risks and studying a number of states who had recently unified different levels of court, the group concluded that consolidation should not be attempted, but rather that court reform should focus on how to improve performance and efficiencies within the current trial court structure.

Through its research on court performance, the committee found there are essential characteristics among successful trial courts, regardless of their jurisdiction or configuration. These keys to success are

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<sup>33</sup> W. L. & C. J. Wilson, *Washington State Courts of Limited Jurisdiction Assessment Survey Report 1995-1997*.

<sup>34</sup> *Project 2001, Coordinating Judicial Resources for the New Millennium, January 2001 BJA Final Recommendations as reported to the Legislature, January 2001*.

the framework for the core recommendations of Project 2001:

- Clear authority of the presiding judge
- Flexible assignment of judges to cases
- Trial court coordination and collaboration<sup>35</sup>

The committee also found that the BJA could play a crucial role in encouraging courts to pool their resources to find new ways of solving common problems. This signified a shift in the underlying approach to advancing improvements in the limited jurisdiction courts; a decades-long trend toward consolidation pivoted to a strategy to encourage “cooperation, coordination and collaboration” among the existing courts.<sup>36</sup> Implementation measures flowing from this shift included the establishment of Trial Court Coordination Councils in a number of jurisdictions, and the allocation of funds to incentivize collaborative endeavors. In April 2002, the Supreme Court created General Rule 29 which outlined, among other things, administrative responsibilities, duties and authority of presiding judges.

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### TRIAL COURT COORDINATION COUNCILS

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The Trial Court Coordination Councils resolution envisioned that each jurisdiction would develop a comprehensive system of cooperation, coordination and collaboration among the trial courts and was a result of a Project 2001 recommendation. The goal was to work toward maximum utilization of judicial and other court resources by developing a comprehensive trial court coordination plan.<sup>37</sup>

As a result of these plans, 16 projects were facilitated between various jurisdictions to further the goal of maximum utilization of resources in several areas. These projects included things such as reducing juror non-response rate, internet-based video conferencing, cross-court pro se assistance, cross-court issuance of protection orders, and trainings. Trial Court Coordination funding was eliminated in 2009 due to budget reductions and a final report was submitted at the September 2009 BJA meeting.<sup>38</sup>

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### COURTS OF LIMITED JURISDICTION WORKGROUP (CLJW) OF THE BJA COURT FUNDING TASK FORCE

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In 2002, the BJA created the Court Funding Task Force. The Task Force created four work groups, one of which was the Courts of Limited Jurisdiction Workgroup, chaired by Judge Ann Schindler. Their charge was to:

“study structural and court funding issues in courts of limited jurisdiction, district and municipal courts that result from multiple delivery systems in the same geographic area and recommend efficient and effective methods of delivering judicial services and whether changes such as

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<sup>35</sup> *Id.* at vi.

<sup>36</sup> *Id.* at 1.

<sup>37</sup> [http://www.courts.wa.gov/committee/?fa=committee.display&item\\_id=196&committee\\_id=89](http://www.courts.wa.gov/committee/?fa=committee.display&item_id=196&committee_id=89), last visited on March 3, 2014.

<sup>38</sup> BJA meeting minutes, September 18, 2009, 5.

consolidation of district and municipal courts should be made under the current system.”<sup>39</sup>

2013-14 BJA members Justice Susan Owens and Judge Stephen Dwyer were part of the Task Force membership. This workgroup first advanced the concept of “regionalization,” a hybrid system that retained a role for municipalities, including deciding whether to provide a facility for a regional court within the municipality.

The workgroup articulated six “principles for courts of limited jurisdiction” that emphasized the need for courts to be managed effectively, efficiently, and independently.

- I. Courts will maintain their constitutional role as a separate, equal, and independent branch of government.
- II. Courts will be structured and function in a way that best facilitates the expeditious, efficient, and fair resolution of cases.
- III. Courts will be accessible to the community they serve and provide services that enable the public to navigate through the court process with a minimum of confusion.
- IV. The primary mission of the courts of limited jurisdiction is to expeditiously, efficiently, and fairly resolve cases and serve the residents of the community, not to generate revenue.
- V. Courts will operate in compliance with court rules and statutes.
- VI. Courts will be administered with sound management practices, which foster the efficient use of public resources and enhance the effective delivery of court services.<sup>40</sup>

The workgroup provided both short-term and long-term recommendations. The short-term recommendations included changes to Title 3 RCW to support a more regionalized court structure. These proposals included:

1. Clarify the statutory court options and encourage regionalization of courts of limited jurisdiction. All courts of limited jurisdiction court models should be contained in Title 3 RCW.
2. Update current provisions in Title 3 authorizing municipalities and counties to provide joint court services by interlocal agreement.
3. Create a new section in Title 3 authorizing cities to contract with other cities to form regional municipal courts with elected judges.
4. Elect judges at all levels of court to promote accountability and the independence of the judiciary.
5. Limit district and municipal court commissioner authority to differentiate their responsibilities from those of elected judges.
6. Amend Title 3 to emphasize a collaborative regional approach to the provision of district and municipal court services by expanding the role and membership of the districting committee.
7. Require each court of limited jurisdiction to provide court services to the public on a regularly scheduled basis at established hours posed with the Administrative Office of the Courts.
8. Authorize municipal courts to hear anti-harassment protection petitions.

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<sup>39</sup> *Court Funding Task Force, Courts of Limited Jurisdiction Delivery of Services Workgroup, Final Report, October 12, 2004, 3.*

<sup>40</sup> *Id.* 4.

9. Require courts of limited jurisdiction to timely hear domestic violence protection orders or have clear, concise procedures to refer victims to courts where the service is available.
10. Increase the civil jurisdiction amount in dispute that can be filed in district court to \$75,000.
11. Require district courts to implement dedicated civil calendars and case scheduling.<sup>41</sup>

The workgroup concluded by outlining the concept of a fully realized regional court. The BJA adopted the following as the Regional Courts of Limited Jurisdiction Policy Statement on November 18, 2005:

Long term, the courts of limited jurisdiction in Washington State should be restructured as regional courts having a full range of judicial functions including jurisdiction over all applicable state laws, county and city ordinances, civil classes and small claims. Regional courts would be located in convenient locations serving both the public and other court users including law enforcement agencies, lawyers, and court personnel. Regional courts would operate full-time, have elected judges, and offer predictable recognized levels of service, including probation departments, and be appropriately funded by state and local government. A regional structure for courts of limited jurisdiction will offer convenience by making courts open and accessible to the public, and coordinate services, staff, and administration and achieve economies of scale for all participating jurisdictions.<sup>42</sup>

The BJA adopted the principles, implementation concepts and the short-term recommendations of the workgroup in 2004, and in 2005 adopted a slightly modified version of the long-term vision of a regional court.

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## 2004 JUDICIAL MANAGEMENT INSTITUTE STUDY

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In 2004, the BJA commissioned a study by the Justice Management Institute (JMI) to support the work of the Trial Court Funding Task Force. The study, *Always the People, Delivering Limited Jurisdiction Court Services throughout Washington*,<sup>43</sup> surveyed a select group of limited jurisdiction courts to assess court structure, practices, and the effects of parallel systems for providing limited jurisdiction court services.

The interviews which were conducted under the project elicited observations of the interviewees on the issue of court structure. The JMI gave findings in the concept areas of: 1) Limited Jurisdiction Court Structure, 2) Judicial Branch Independence, 3) Public Trust and Confidence, 4) Access to Justice, 5) Administration and Management, 6) Enforcement of Judgments, and 7) Compliance, Competence, and Training. They stressed the relationship between judicial branch independence and public trust and confidence. Public confidence is based on the perception that courts are a buffer between citizens and government. In order for courts to be a buffer, citizens must have ready access to a full range of court

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<sup>41</sup> *Id.*, 5.

<sup>42</sup> BJA meeting materials, April 18, 2008, 25.

<sup>43</sup> Douglas K. Somerlot & Aimee Baehler, *Always the People: Delivering Limited Jurisdiction Court Services Throughout Washington*, October 2003.

services. The study found that the appearance of independence is heightened if judges are selected by other than the court's funding authority.

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### TRIAL COURT IMPROVEMENT ACT – E2SSB 5454

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In 2005, the legislature, responding to an initiative of the BJA, expanded state funding to provide that the state would contribute to salaries of district judges and elected municipal court judges.<sup>44</sup> E2SSB 5454 created an Equal Justice Sub-account and provided for disbursement of funds in the account to local governments for partial reimbursement of district and qualifying municipal court judges' salaries. The original bill as passed, required 25% of the amount of revenues be distributed to the equal justice account for the 2005-2007 biennium and required 50% of revenues be contributed for the 2007-2009 and subsequent bienniums.

In 2009, the Legislature passed ESSB 5073 which eliminated the sub-account and directed the money to the General Fund instead and currently the salary reimbursement comes from the General Fund. This funding was part of a coordinated effort to provide additional state funding for courts of limited jurisdiction. It also removed the requirement for ongoing 50% funding and replaced it with more aspirational intent language to fund at 50%.

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### ELECTION OF MUNICIPAL COURT JUDGES BILL

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In November 2005, a draft bill was presented to the BJA that incorporated several concepts from the court funding Task Force recommendations. The bill included: 1) electing all full-time and part-time judges by 2010, 2) allowance of a county to decrease the number of district court judges to be elected if a county contracts with a city for services and 3) the requirement that the judge must be elected of two or more cities that have contracted for services. In the 2006 legislative session, this legislation which became known as HB 3021 and SB 6342, was sponsored and introduced to change the election and appointment provisions for municipal court judges. Although the Senate version was voted out of the House, it died in the Rules Committee.

At the November 2009 BJA meeting,<sup>45</sup> members voted to continue to pursue legislation related to elections of municipal court judges and commissioners. This resulting bill was Senate Bill 6686 and while it made it over to the House Judiciary Committee, it was ultimately unsuccessful. When the BJA was asked whether or not to run the bill for the 2010 session, there was a consensus that it should be kept on the back burner but remain on the table and wait for a better economic climate.<sup>46</sup>

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### REGIONAL COURTS AD HOC WORKGROUP

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In 2008, the BJA created the Regional Courts Ad Hoc Workgroup, chaired by Judge Craig Matheson, to enhance the concept of a regional court and to draft legislation.<sup>47</sup> The intention was to produce a work

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<sup>44</sup> E2SSB 5454 Revising Trial Court Funding Provisions (Chapter 457, Laws of 2005).

<sup>45</sup> BJA meeting minutes, November 20, 2009, 2.

<sup>46</sup> BJA meeting minutes, September 18, 2009, 4.

<sup>47</sup> BJA meeting minutes, April 18, 2008.

product that would serve as a starting point for discussions among stakeholders, leading to a proposal to be submitted in 2009.

The initial proposal included the following concepts: 1) giving the district and municipal courts the option to form a regional court of limited jurisdiction, 2) several state funding incentives to do so, 3) having judicial elections every six years, 4) grandfathering existing judicial officers, 5) filling vacancies in the same manner as superior court judges, 6) restructuring of districting committees and 7) incorporating some minimum standards for those municipalities who chose to create a satellite location of the regional court.<sup>48</sup>

This project began in the spring of 2008 and was completed in November. In the intervening months, the national economy experienced a noticeable decline, and revenue forecasts for Washington projected a shortfall of more than five billion dollars. The proposed draft legislation which resulted from the effort, which included significant fiscal incentives for local participation, was not advanced due to the significant economic decline.

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## 2008 BJA LONG-RANGE STRATEGIC PLAN

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In 2008, the BJA adopted its most recent long-range strategic plan. This Long-Range Plan<sup>49</sup> was designed to formalize the vision of the BJA and to create a platform for ongoing operational deployment of goals, objectives and tasks. Specific to CLJs and the concept of regional courts, the plan included goal 5.2 and its associated commentary, objective and tasks:

**GOAL 5.2 IMPROVE THE QUALITY AND CONSISTENCY OF SERVICES OFFERED BY COURTS OF LIMITED JURISDICTION.**

*COMMENTARY:* The Court Funding Task Force recommended that courts of limited jurisdiction should be reorganized into regional courts funded by the state. These regional courts would have jurisdiction over all applicable state laws and county and city ordinances and causes of action as authorized by the legislature. Regional courts would operate full time, have elected judges, and offer predictable, recognized levels of service, including probation. A regional structure for courts of limited jurisdiction will decrease the proliferation of small, limited operation, part-time courts. Ideally, regional courts would offer convenience, consolidated services, staff and administration, and would achieve savings through economies of scale for all participating jurisdictions.

**Objective:** Organize courts of limited jurisdiction into convenient, regional courts which consolidate services now provided by multiple smaller courts.

**Task:** 1. In order to move toward the long-term goal of creating regional courts of limited jurisdiction, the BJA will support the update of Title 3 RCW including:

- Authorizing municipalities and counties to provide joint court services by interlocal agreement.
- Authorizing cities to contract with other cities to form regional municipal courts with elected judges.

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<sup>48</sup> BJA meeting materials, September 18, 2009, 40-41.

<sup>49</sup> *The Long-Range Strategic Plan for the Board for Judicial Administration*, adopted at July 18, 2008 BJA meeting.

- Emphasizing a collaborative regional approach to provision of district and municipal court services by expanding the role and membership of the districting committee.

In the plan the Board succinctly frames the issue and describes the challenge in general terms:

- Goal 6.2: Promote the institutional independence of the judicial branch in a way that will foster mutual respect and cooperation among the branches of government.

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## 2011 REGIONAL COURTS WORKGROUP

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In March 2011, as a result of the discussion about whether or not to sponsor the municipal court elections bill for the upcoming session, the BJA created the Regional Courts Workgroup<sup>50</sup>, chaired by Judge Sara Derr, and directed it to craft “a legislative proposal to modernize Washington’s courts of limited jurisdiction by regionalizing court services in a manner that promotes access to justice and administrative efficiency.”<sup>51</sup>

The workgroup concluded that the assortment of relationships between and among courts that already existed represented something of a naturally occurring experiment, and that the existing models should be evaluated to help determine the characteristics of effective collaboration among courts.<sup>52</sup> The workgroup proposed several options to evaluate regional court models as “one size does not fit all” due to geography and other considerations. The workgroup suggested conducting pilot court studies which would utilize already existing models; the evaluation would gather data for two to four years. Before continuing with the pilot studies, the workgroup asked whether they should move forward, the BJA members did not register any specific objections.

The outcome of this workgroup represented somewhat of a shift: instead of proposing a regional court that would replace multiple courts, the several courts would continue to exist in some form of consortia that regionalized selected functions, including the judge function along with “back house” administrative operations.

In December 2011, AOC staff indicated that there was specific legislative interest in consolidation and then State Court Administrator Jeff Hall and Chief Justice Madsen spoke with NCSC regarding a funding proposal to gather data related to examine the cost and major operational features of municipal courts representing various types of organizational structure and governance and study the options for consolidation.<sup>53</sup>

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## 2013 NATIONAL CENTER FOR STATE COURTS STUDY ON COURTS OF LIMITED JURISDICTION

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At the conclusion of the 2011 workgroup Mr. Hall submitted a proposal to the State Justice Institute for funding to conduct a study to evaluate existing court service arrangements in Washington. Funding was awarded, and the NCSC was contracted to conduct the study. This study began in the summer of 2012

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<sup>50</sup> BJA meeting minutes, March 18, 2011, 5.

<sup>51</sup> Regional Courts of Limited Jurisdiction Project Charter, approved at July 15, 2011 BJA meeting.

<sup>52</sup> BJA meeting minutes, October 21, 2011, 2-3.

<sup>53</sup> BJA meeting minutes, December 9, 2011, 4-5.

and the BJA created a Regional Courts Study Oversight Committee, chaired by Judge David Svaren, to serve as a liaison with the researchers. The final report was submitted in May 2013.

The report was intended to be a prelude to possible court organization reform with the goal of achieving a court organizational structure that would make Washington courts of limited jurisdiction more efficient and effective service providers.<sup>54</sup>

The final report described the perceived problems and benefits of the identified models and offered a comparative data analysis on various factors such as staffing and caseloads between the models. The study also discussed the lack of performance measure data upon which they could rely. The summary and observations provide commentary regarding municipal court organization, judicial independence, operational standards, judicial conduct and professionalism, court performance and consolidation.

The report made two recommendations. The first that the BJA could sponsor demonstration projects to evaluate the efficacy of the regionalization concept. The second is to undertake the development of a performance measurement system.

The demonstration projects should include four major areas in the project: 1) Services Impact, 2) Organizational Impact, 3) External Impact and 4) Cost/Benefit Analysis. Participants should include courts that are capable of providing all necessary data and judicial and executive leadership at the local level is necessary to the success.<sup>55</sup>

The other recommendation made by the National Center for State Courts was that the judicial branch engage in performance measurement through a designated task force including the participation from municipalities, the District and Municipal Court Judges' Association, the Administrative Office of the Courts, and others, as appropriate, to develop a comprehensive set of standards applying to limited jurisdiction courts. This would include some mandatory requirements for measuring and reporting by the courts with respect to the established standards.<sup>56</sup>

The BJA asked the Regional Courts Study Oversight Workgroup to provide its collective opinion regarding these two recommendations. The workgroup was generally supportive of an effort to develop a performance measurement system, and was not supportive of an initiative to create demonstration projects at the time, suggesting that the Board should first provide clear identification of the issues to be addressed.<sup>57</sup>

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<sup>54</sup> Id. 1.

<sup>55</sup> John Doerner and Nial Raaen, *Study on the Courts of Limited Jurisdiction in the State of Washington*, National Center for State Courts, May 2013, 60.

<sup>56</sup> John Doerner and Nial Raaen, *Study on the Courts of Limited Jurisdiction in the State of Washington*, National Center for State Courts, May 2013.

<sup>57</sup> Municipal Court Study Oversight Workgroup, *Review of NCSC Recommendations*, presented at the September 20, 2013 BJA meeting

working paper

May 2014

## **Rethinking Planning in the Washington Judicial Branch**

### **Introduction**

For several years leaders of the Washington State court system have attempted to establish a long-range planning program for the state's judicial branch, focused on instituting a conventional strategic planning process. Judicial branch stakeholders, however, have traditionally viewed central planning with caution, particularly in the trial courts, and are reluctant to commit to a process with uncertain outcomes. These efforts have therefore met with limited success.

Nationally, court management professionals have begun to focus on the limitations of the traditional strategic planning model as a vehicle for guiding courts and court systems. These writers have concluded that conventional strategic planning, while capable of producing positive outcomes under the right conditions, is much less likely to be successful where favorable conditions are not present. Critical among the relevant conditions is the degree of centralization of authority and decision making within a given court system. Conventional planning is generally easier to accomplish and more likely to be successful where the system exhibits a higher degree of centralization, and more difficult and less effective in conditions of relative decentralization. An abstract concept that has emerged as a useful tool to discuss and analyze relative centralization within a system or organization is "coupling," where "loosely coupled" refers to a system where decision-making is relatively decentralized. These writers advocate that in a loosely coupled court system traditional strategic planning not be attempted, and instead planning and governance in such a system be tailored to the particular attributes of that system.

This paper reviews the recent history of planning in the Washington State judicial branch, explores the concept of loose coupling and its application to the Washington court system, and discusses the possibilities of an approach to planning for the judicial branch of Washington as a loosely coupled system.

## Part I. Recent Planning Efforts

The Washington State judicial branch has not to date attempted a branch-wide strategic planning initiative, whether under the auspices of the Board for Judicial Administration (BJA or Board) or through another vehicle such as the Administrative Office of the Courts (AOC) or the office of the Chief Justice. To the extent planning has been carried out its scope has been limited. For example, the BJA developed a long-range plan in 2008 which was limited in scope to the BJA itself, and did not purport to plan for the wider branch. One goal in the BJA's strategic plan (Goal 3.1) was to create a long-range plan "for the judiciary." This phrase was chosen to distinguish the intention from an attempt to plan for the judicial branch more globally. This project, built on a compilation and review of past policy reports, was begun but discontinued. Other components of the branch have developed or attempted to develop long-range plans, including the Court of Appeals and the Administrative Office of the Courts. These plans were similarly limited in scope.<sup>1</sup>

The planning efforts within the judicial branch prior to 2011 were largely independent of one another, although there was some overlap of membership and staffing. In early 2011, an assessment of existing planning efforts was conducted by AOC staff. The assessment identified a number of positive attributes of the planning work, but concluded:

(P)lanning activities to date also demonstrate several significant weaknesses. These deficiencies are important and potentially critical to long-term success, but they are neither fatal nor irreversible. Planning efforts are still at a stage where these deficiencies can be addressed and the process strengthened going forward. These weaknesses can be summarized as:

- There is a lack of clarity regarding the contemplated scope of the planning efforts, with subsequent overlap of efforts.
- Some key actors were not engaged in developing and managing the planning process.
- Outreach to key stakeholders regarding substance of plans has not yet substantially occurred.
- Planning efforts did not include comprehensive analyses of external and internal environments.
- Draft planning documents do not clearly identify and focus on major strategic issues.
- There is a risk of inconsistent direction emanating from separate plans.

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<sup>1</sup> For a more thorough overview of planning efforts prior to the fall of 2012, see memo to Callie Dietz, *Summary and Status of Branch-Wide Strategic Planning Activities*, September 14, 2012.

- Insufficient staff and fiscal resources were allocated to support a comprehensive planning process.

The assessment went on to recommend several steps be taken to lay a foundation for a branch-wide planning initiative:

Branch leadership should consider identifying several guiding principles to be relied on in managing planning activities going forward, and to take a number of practical steps, consistent with these principles, to effectuate a more effective approach to planning efforts.

Guiding principles might include the following:

- Planning efforts should emphasize a collaborative approach, with a primary goal to create consensus among key stakeholders and constituencies around a shared understanding of major strategic issues, agreement on appropriate responses to these strategic issues, and to support the development of a successful coalition to carry out those responses.
- Planning should be forward thinking, capable of anticipating and responding to possible threats and opportunities in emergent environments.
- Planning should be practical, designed to provide both broad vision and strategic objectives of the branch as well as lead to specific guidance for component elements of the court system.
- Planning should focus on long-term strategic and structural issues rather than near-term tactical and operational issues.
- Planning efforts should be achievable, with an appropriate commitment of staff resources, funds for reasonable expenses, and availability of critical participants.

#### Advisory Workgroup

To advance this strategy, the Chief Justice formed an advisory workgroup in the summer of 2011 to discuss how a branch-wide planning effort might be organized. This group met three times from August 2011 to January 2012. The general intention was to follow a conventional approach to strategic planning, such as the Bryson model, and discussion came to focus on identifying or creating a planning body that would have sufficient credibility and organizational capacity to conduct an effective branch-wide planning initiative. The advisory body discussed the potential for the BJA and its Long-Range Planning Committee to serve as the institutional vehicle to lead a planning effort. The group saw this as problematic, and was concerned that the BJA was confronting growing perceptions, both internally and externally, that it lacked unity and a common sense of direction, and so was becoming ineffectual as a governing body. The conclusion of the advisory group was that at that time the BJA was not well

positioned as an institutional vehicle capable of this task. This view was not unanimous, and one member, a leading superior court judge, expressed the view that the BJA was the only legitimated body within the branch with the breadth of support necessary to lead a planning effort.

With the BJA eliminated for the time being as a potential vehicle for planning and no other apparent alternatives, the advisory body concluded that a planning effort could be organized under the auspices of the Chief Justice with support of major stakeholder constituencies. To explore this further and expand the discussion to key stakeholders, a meeting was convened in April 2012, with participants drawn from the leadership of the component parts of the judicial branch as well as representatives from the bar, county clerks, and state and local government. The meeting was facilitated by Dean Kellye Testy of the University of Washington School of Law. Discussions among presenters and participants were of a general nature, exploring some of the major challenges facing the state's justice system and the need to act collectively to address them. No specific proposal for a planning body or process was advanced.

Following the meeting, the Chief Justice sent letters to all participants thanking them for attending and asking them to confer with their constituencies and indicate their level of support for a planning effort. At this point the assumed paradigm for planning remained conventional: a large, multi-year project to develop a master plan for the judicial system. In response to the Chief Justice's outreach some of the participants wrote in full support of a planning initiative, while others expressed varying degrees of reservation.

#### BJA Retreat

In early 2012, while the discussions of the advisory group were taking place, the BJA had begun planning a retreat at which it would attempt to address growing concerns about the overall functionality of the body. As Chair of the BJA's Long-Range Planning Committee, Judge Chris Wickham had elected not to hold any meetings of that committee pending resolution of issues surrounding the role and structure of the BJA. Thus by August 2012, as feedback from the stakeholder meeting was being offered, the BJA was preparing for its retreat. In the interim Jeff Hall had resigned as State Court Administrator, and Callie Dietz had been appointed as Interim Administrator.

Ms. Dietz made arrangements with the National Center for State Courts (NCSC) for consultants Laura Klaversma and Tom Clarke to visit Washington for the purpose of advising her on governance and planning of the state court system. The consultants spent several days in the state, conducting

interviews with a range of branch leaders and with AOC staff. The consultants provided their assessment based on the interviews they conducted:<sup>2</sup>

#### Conclusions from Interviews:

The current long-range planning effort is ineffectual. This is due to at least two primary reasons.

1. There is no governance in place or accepted as governance to carry out the planning and implementation. The BJA, members and non-members, view the planning effort with distrust, disinterest or lack of understanding. The Washington Chief Justice and Supreme Courts of the past have been uninvolved and inactive in administering and leading any planning or governance effort. No precedence or cultural expectation that the Supreme Court or the Chief Justice would lead this.
2. The process, traditional strategic planning, is not a good fit for courts in general and particularly a heavily decentralized state such as Washington.

(Emphasis added.)

In addition to the site visit and interviews, Ms. Klaversma attended the BJA retreat. The consultants offered their conclusions and recommendations based on discussions at the retreat:

#### Conclusion from BJA Retreat:

During the BJA retreat it seemed that the members felt that there is a need for the BJA structure and culture to change in order to be effective. There was no indication that any of the members thought the BJA should cease to exist. The Board for Judicial Administration Rules (BJAR) state that one of its duties is to “establish a long-range plan for the judiciary.”

#### Recommendations:

1. The BJA structure, roles and responsibilities need to be clearly defined and acknowledged if it is to be of any value in governing or developing long-range planning.
2. The Commissions, Boards and Committees for the BJA and Associations need to be reviewed and modified to give clarity and authority to those within the BJA. This can also help in lessening the time strain on the volunteer judges, court administrators and

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<sup>2</sup> Memorandum to Chief Justice Madsen and Interim SCA Callie Dietz, *Washington Long-Range Planning*, September 25, 2012.

clerks as well as staff in the Administrative Office of the Courts that support them.

3. Once the first two recommendations are completed, a Long Range Planning Effort designed for loosely coupled organizations can be initiated.

(Emphasis added.)

In sum, the outcome after over a year of discussions which included the deliberations of the advisory workgroup, the dialog with stakeholders, the BJA retreat, and the consultants' observations, was a clarifying focus on two critical facts: First, while it remains an open question whether the BJA is capable of leading planning efforts in the Washington State court system, the BJA is nonetheless the only entity within the branch that has any meaningful potential to manifest the legitimacy – the credibility, expertise and political support – necessary to lead in this area. Second, efforts to apply a conventional approach to planning, such as the Bryson model, had been misguided. Traditional strategic planning, which has been successful in other states, has been viewed with suspicion in Washington, and attempts to convince component parts of the branch to support such an initiative only exacerbated concerns that the planning process would lead to micro-management and loss of autonomy for parts of the branch designed for and accustomed to a relatively high degree of independence.

Following the retreat, as advised by the NCSC consultants, the BJA set about to reassess the structure, roles, and responsibilities of the BJA in an effort to form a stronger, more focused leadership entity. A parallel effort would review and reorganize its committees. Thereafter, the BJA would undertake the role of institutional sponsor for branch-wide planning, but would abandon conventional “master planning” and develop an approach designed for the non-unified, loosely-coupled system that the branch is.

Both the restructuring and committee reorganization projects took much longer than anticipated. While the BJA ultimately did not adopt a proposal to restructure the Board, it has approved some of the proposed elements for restructure through the parallel committee reorganization. At present the BJA anticipates reorganizing its three standing committees into four, and renaming the Long-Range Planning Committee the “Policy and Planning Committee.” The charter to this committee is under development at this time.

## Part II. Loose Coupling and the Washington State Court System

Strategic planning has proven to be a powerful tool in both the governmental and private sectors. Those state judicial systems that have successfully used conventional strategic planning are unified court systems. The traditional planning model, however, has not been generally effective, or even achievable, in the context of non-unified court systems. Unified court systems, relative to non-unified court systems, more closely resemble singular entities analogous to executive branch agencies or most business entities. Non-unified court systems are very different in structure and internal governance function, and more closely resemble complex organizations like large hospital systems, major universities and highly diversified corporations. Court management leaders, as the NCSC consultants who attended the BJA retreat indicated, have increasingly come to the conclusion that conventional strategic planning is not the best approach for a non-unified court system, as it has been found not to be for similar organizations in other sectors. In an article published in June 2012, Mary McQueen, President of the NCSC, wrote:

This paper suggests that court leaders and their allies may have based reform efforts on incompatible organizational models, which has hindered progress in improving court governance. Too much attention and energy has been focused on finding ways to emulate in the court environment what appears to work in administering or governing executive branch agencies and private businesses. This paper argues that court leaders should instead consider what is called a “loosely coupled organization” model for governing courts and look to the processes and mechanisms that the leaders of those organizations use to achieve effective governance.<sup>3</sup>

To understand why conventional planning is not well suited to “loosely coupled organizations,” and to understand how planning might be conducted within a loosely coupled organization, it is instructive to explore the concept of loose coupling and the dynamics of loosely coupled systems, and to consider how these dynamics differ from more unified systems.

### The Concept of Loose Coupling

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<sup>3</sup> McQueen, Mary Campbell. *Governance, The Final Frontier*, Perspectives on Court Leadership, Harvard Kennedy School Program in Criminal Justice Policy and Management, June 2013.

What is today known as strategic planning originated in large bureaucracies and corporations, particularly as developed by the Rand Corporation for the Department of Defense during the post-war period to help manage the vast procurement programs of the modern defense industry. The underlying assumption of strategic planning is that the organization, whatever its scale, is fundamentally a machine in which the governance structure of the organization dictates and directs the behavior of its parts. Specifically, it is assumed that the organization has an executive apparatus which has an effective command and control capacity enabling it to make and carry out decisions about the operations of the organization, with specific mechanisms to control the deployment of resources, the creation of policies and goals, and the ability to give direction to the activities of the organization's employees. This bureaucratic and industrial model of organizations, rooted in industrial design, was the dominant view of organizations in the early and mid-twentieth century. It is known within the field of organizational theory as the "rational" perspective.

Other views of organizations emerged in the latter half of the century that came to understand organizations as much more complex entities than the rational perspective would indicate. The two principle perspectives came to be referred to as "natural systems" and "open systems" perspectives. The *natural systems* perspective emphasizes the human element, viewing organizations as not analogous to machines but instead as collectivities of people, human beings, drawn together for a common but limited purpose. From this perspective organizations are animated by individuals who exercise a degree of individual autonomy in making decisions about their commitment to the organization, their activities guided not exclusively or perhaps even primarily by the formal expectations of the organization. Organizations as seen from the *open systems* perspective are understood to exist and act and grow within and in response to their environments. Organizations are themselves seen as parts of larger systems, and are permeable, existing within and reactive to a larger ecosystem. Organizations respond to and move with forces external to the organization in ways sometimes in conflict with the intentions of the formal organizational structure emphasized in the rational perspective, and as well not always consistent with the will of individuals within them as emphasized in the natural perspective.

The construct of "coupling, within systems was developed in an attempt to integrate these very different perspectives into a more robust and dynamic understanding of organizations and organizational behavior. "Coupling" refers to the nature of relationships among parts of a system, specifically between whatever central authority exists at the hub and those parts which exist as spokes,

or satellites, within the system. “Loose coupling,” then, used generally, refers to a pattern of structure and relations within a system in which interdependencies among component parts of a system are relatively weak. Most particularly this means that the parts, or subsystems, within a loosely coupled system are less reliant on the central authority for critical inputs and so less responsive to the central authority. Critical inputs include resources, expertise and direction, and can have elements that relate to the “rational” nature of organizations, such as financial resources, as well as elements that relate to the “natural” or human aspects of organizations, such as professional satisfaction and recognition. The component parts within loosely coupled systems are relatively more dependent on local inputs, and are as a result proportionally more responsive to demands or expectations placed on it by local or external stakeholders. While loose coupling highlights weak connections within a system and relative autonomy of parts, it should not be confused with complete independence. The component parts are still integral elements of the system in which they exist, and retain a degree of connection, of interdependence, with the whole. The two words within the term itself set out this tension: *coupling* infers a close, reciprocal relationship, while *loose* infers a degree of flexibility, of space, within that relationship.

The concept of loose coupling within organizational theory was first applied to educational systems by Karl Weick. Weick wrote of the term: “it is important to highlight the connotation that is captured by this phrase and no other . . . By loose coupling, the author wishes to convey the image that coupled events are responsive, *but* that each event also preserves its own identity and some evidence of its physical and logical separateness . . . Loose coupling also carries connotations of impermanence, dissolvability and tacitness all of which are potential crucial properties of the “glue” that holds organizations together.”<sup>4</sup> The degree to which one part of the system is willing to act in concert with another is, in other words, situational and episodic. Loosely coupled organizations demonstrate intra-system relationships characterized by divergence of perspectives and interests, and exhibit shifting patterns of cooperation and conflict. Negotiation and positioning are constant and ongoing. This is almost a polar opposite of the mechanistic view or the rational perspective, in which the central authority can direct and synchronize the movements of the parts. The concept of coupling is a way of understanding, a language for talking about, the underlying tension between centrality and dispersion of authority. It illuminates the dynamics of decision-making in a complex environment, and provides a

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<sup>4</sup> Weick, Karl E., *Educational Organizations as Loosely Coupled Systems*, Administrative Science Quarterly, 21 (1976).

framework for evaluating the relative costs and benefits of unity and uniformity versus flexibility and adaptability.

There are a number of aspects of loose coupling that are helpful to understand. First, coupling, whether close or loose, should not be interpreted as either a positive or negative trait, but rather as an aspect of an organization to be recognized, understood, and managed constructively. Tight coupling can result in a highly focused and disciplined organization, responsive to executive direction, but it can also lead to rigidity and a hide-bound culture, with less creativity, innovation and adaptability. Loose coupling, on the other hand, has the benefits of flexibility and localized responsiveness, but it can lead to global inefficiency, inconsistency, lack of accountability, and difficulty in implementing change. Over time coupling within a system can be loosened or tightened through structural and environmental changes, but adjustments should be done thoughtfully and the consequences carefully considered.

Further, organizations can and commonly do exist simultaneously as both closely coupled and hierarchical systems in some aspects and loosely coupled in others. Within systems there is often a tendency to have intra-system clustering and levels: multiple subsystems that specialize in certain system activities. Interdependencies and connections within subsystems are often tighter than among subsystems. In other words units within a loosely coupled system can be, and often are, themselves relatively tightly coupled. Managers often work to promote cohesion and teamwork at the work group level to increase the effectiveness of that unit. While these relatively autonomous and stable subsystems can pose challenges to leading change in the overall system, their internal integrity and adaptability gives a distinct survival advantage to the entire system.

Organizations can be simultaneously closely coupled along some axes – in some functions – and loosely coupled along others. That is to say that some aspects of an organization can be centrally controlled while control of others are dispersed. Franchise business models, for example, might tightly manage branding, marketing and quality control while loosely controlling facilities and labor management.

In related academic work, scholars have begun to focus on the effectiveness and sustainability of relationships within loose systems, and the characteristics that tend to make cooperative relationships stronger or weaker. The concept of “collaborative capacity” is used as a general indicator of the ability of components within a loosely coupled system to work together in a shared undertaking.<sup>5</sup>

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<sup>5</sup> Pennie G. Foster-Fishman, et al, *Building Collaborative Capacity in Community Coalitions: A Review and Integrative Framework*, et al, Michigan State University, East Lansing, Michigan.

Where collaborative capacity can be enhanced and nurtured, a loosely coupled system can be capable of ongoing cooperation that produces favorable outcomes.<sup>6</sup>

In assessing collaborative capacity, these scholars focus on environmental elements that create the broad context for the relationships, in a manner similar to the open systems perspective, and examine aspects of the environment such as historic/cultural, political, physical, and economic. In a nutshell, where these external aspects effect system participants in such a way that cooperation leads to greater value than non-cooperation, they will work toward cooperative outcomes; where the effects reduce value, they will withdraw from cooperation.

#### The Washington State Judicial Branch as a Loosely Coupled System

In most respects the Washington State judicial branch demonstrates the characteristics of a loosely coupled system, particularly as regards the trial courts and the branch agencies. First, excluding the Administrative Office of the Courts, the branch agencies – the Judicial Conduct Commission, the Office of Public Defense, and the Office of Civil Legal Aid – are almost entirely independent of branch leadership in terms of their general administration and governance. This independence is intentional and necessary for these entities to carry out their constitutional roles. Although they are a part of the judicial branch they are not for most purposes under the control of the judiciary and the courts. The Administrative Office of the Courts, in contrast, is closely coupled to the Supreme Court and the Chief Justice, and to a significant extent the appeals court and the trial courts.

Regarding the courts themselves, most aspects of the trial courts are loosely coupled with the Supreme Court, the AOC, and largely with each other. The primary driver of this looseness is the funding mechanisms of the trial courts, which are primarily local, more so than in any other state. Trial court facilities are built, owned and managed locally. State funding of the trial courts that does exist generally comes with little flexibility in its allocation, to the extent that much of it is literally referred to as “pass-through” funding. The process of creating and funding judgeships is shared between state and local government. In addition, the selection and retention of trial court judges is largely local, except when a governor can fill a vacancy. Most trial court staff positions are locally funded, with levels of compensation for staff, retirements and other personnel policies in the hands of local officials. Judicial compensation is set by the Commission on Salaries for Elected Officials, with input from branch

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<sup>6</sup> Jeffrey A. Alexander, et al, *Sustainability of Collaborative Capacity in Community Health Partnerships*, Medical Care Research and Review, Vol. 60 No. 4 (2003).

leadership. In short, with regard to the traditional mechanisms of institutional command and control of operational funding, facilities, hiring, compensation, and management of staff, little control is in the hands of the centralized leadership at the Supreme Court, the AOC, the BJA, or any other authority at the state level of the judicial branch, and much is under local control.

In regards to the core function of trial courts, the dissolution of criminal and civil cases, local courts must respond to workload demands dictated not by a central authority, but that are almost entirely locally generated and externally controlled. Prosecutors and decisions of law enforcement dictate much of the volume of work, not the Supreme Court or the AOC. Further, county government provides for most of the due process services such as indigent defense, court reporting, language interpretation, and expert witnesses. Local government is responsible for the provision of facilities and security. In sum, the workload demands and resources relevant to the operations of the trial courts flow not from the state judicial branch but from the local institutional environment. Under these circumstances it can be of little surprise that the trial courts can appear somewhat indifferent to the desires of the Supreme Court and the AOC, and more responsive to the needs and expectations of local stakeholders.

The Court of Appeals, and the Supreme Court in its capacity as a court, are more tightly aligned with the Supreme Court in its capacity of an administrative body, and with the AOC. These courts derive essentially all of their resources from the state budget, which is reviewed, submitted and advocated by the Supreme Court through processes managed by the AOC. This close coupling is somewhat limited to the administrative affairs of the respective courts. The judges and justices are free to be less closely coupled with respect to their jurisprudence, each keeping attuned to their own judicial philosophy as well as the particular electorate that they feel is responsible for their election and potential reelection. Contrast this system to a system with unelected judges, such as New Jersey, where the governor must reappoint a judge or justice for subsequent terms in office, or to a system such as the federal courts with lifetime tenure.

The most significant area of close coupling within the otherwise loosely coupled Washington judicial branch is the subsystem of technology and information management. Washington's technology infrastructure is rare among non-unified court systems, and is perhaps more unified than that of many unified state court systems.

### Part III. Planning in a Loosely Coupled Judicial Branch

It is only recently that the court community nationally has come to understand and apply the conceptual framework of loose coupling to non-unified court systems, and begun to grapple with the challenges of guiding them. In 2010, Gordon Griller, Director of the Trial Court Leadership Program at the NCSC's Institute for Court Management, summarized the inherent tension in seeking to centralize planning for a decentralized system:

As in a business, the parallel judicial branch roles of the central office and branch entities take on a different character. A central administrative office of courts (AOC) targets a statewide court system that is consistent, predictable, and coordinated and provides baseline services among all trial courts. The goals are coherence and uniformity. Trial courts, on the other hand, are concerned about unique programs to address specific geographic, demographic, and procedural issues in their localities, which may range from rural to urban environments. The goals are autonomy and flexibility. As you would suspect, an inherent conflict of interests ensues.<sup>7</sup>

He continues:

There is little debate that to realize their full potential, loosely coupled organizations require some centralized management to achieve higher performance, greater efficiency, consistent direction, and economies of effort. So the real question is not autonomy versus subservience, or in organizational terms, decentralization versus centralization, but how the two concepts can best be blended to capture their strengths and minimize their disadvantages.

More recently Mary McQueen wrote that “(g)overning a loosely coupled organization requires a distinctive approach to leading.”<sup>8</sup> Following Wieck, she counsels court managers to be more attentive to the “glue” (processes) that connects loosely coupled systems than to the formal structure of those systems. She calls for a deftness of leadership and attention to developing a process that is viewed as legitimate and, ultimately, helpful to the parts of the organization. Employing the work of Larry Hirschhorn she advocates that leaders should adopt two overarching objectives in attempting to manage a loosely coupled system: protecting and guiding. As described by Hirschhorn:

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<sup>7</sup> Griller, G., *Governing Loosely Coupled Courts in Times of Economic Stress*. Future Trends in State Courts 2010. NCSC.

<sup>8</sup> *Supra* fn 1.

Leaders of loosely coupled or federated systems can plan for their future, but the plans they develop, the frameworks they use, the planning processes they deploy, must all fit the characteristics of the institution they lead. Recent experience suggests that planning consists of both protecting and guiding the system while acknowledging the semi-autonomous status of its component units. To protect the system, the executive keeps the system within its safety zone and manages its contradictions; to guide the system the executive develops strategic themes, builds a planning infrastructure and works at the “seams” between units, giving a boost to emerging synergistic combinations.<sup>9</sup>

In sum what Hirschhorn, Griller, McQueen and others recommend – including NCSC consultants Klaversma and Clarke following the BJA retreat – is an approach to planning that is dramatically different from the conventional strategic planning approach previously contemplated in Washington. Instead of a blue-ribbon commission that develops a comprehensive “master plan” for the entire system, they recommend a more modest, incremental strategy that is attentive to relationships, focusing on creating internal processes that encourage meaningful participation and engagement and are responsive to local needs. Leaders should not impose new demands on the component parts of the system, but instead work to determine what the parts need, in terms of protection from threats or guidance to improve functioning, and do that. In terms of the court environment, Griller suggests a focus on three elements:

In high-performing courts, decentralized decision making and operations must certainly be kept in balance with central strategies. Those strategies generally embrace three elements, which bind the separate units of the organization together and guide the direction of the whole organization: a common vision of a preferred future, helpful and productive support services that advance the capabilities of the organization’s component parts, and a shared understanding of the threats and opportunities facing the entire system.<sup>10</sup>

This guidance is consistent with the concept of collaborative capacity: where the overall context can be shaped and understood so that participants find greater value in cooperation than in non-cooperation, they will cooperate. Where participants perceive that cooperation will reduce their value received, they will resist or withdraw from cooperation.

The mechanism for approaching this challenge has come to be referred to as “campaign planning.” The idea is to facilitate mobilization of the parts of the organization around strategic themes that speak to the values of the component parts and offer promise of benefit. In a campaign approach

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<sup>9</sup> Hirschhorn, Larry, *Leading and Planning in Loosely Coupled Systems*.

<sup>10</sup> Griller.

the intention is not to generate system goals centrally and provide detailed directions for implementing them, but to marshal energy and resources around objectives that are defined by and agreed upon by participants, and to encourage innovation in implementation. Indeed the underlying strategic goal may not even be to effectuate a given improvement as much as it is to build strength and reinforce the collaborative capacity among the parts of the system while preserving, even reinforcing, the advantageous aspects of decentralized decision-making and local autonomy.

An important characteristic of a campaign approach is that it is relatively less threatening than a broad strategic plan. Stakeholders are not asked to sign onto a comprehensive planning system, the outcomes of which can be uncertain, but to agree only to take on issues on a case-by-case basis. The aim is to create a deliberate process to identify areas where the parts of the system recognize the mutual benefit of acting in concert while retaining autonomy in other areas. This approach reflects and respects the nature of the organizational relationship; it is situational, episodic, contingent.

It should also be noted that the same process that identifies areas where cooperation would be beneficial would also lead to identification of the inverse – recognition and agreement that some areas of activity are better off decentralized. These areas, and the capacity of local courts to manage them, could also be improved by bringing clarity to the separate responsibility of the local courts and by enhancing their capacity to do so.

#### Role of the Board for Judicial Administration

Within the Washington State judicial branch, the BJA has a central and unique role as an intermediary among the levels of court and other stakeholders. The BJA has a degree of legitimated authority among the judiciary, and is accepted by stakeholders as the voice of the judiciary. What it does not have, as the Supreme Court and the Chief Justice do not have, is direct command and control over most aspects of the courts. Its strength under the current rules is its potential to act as the “glue” within the system, as a source of leadership.

The BJA is presently reorganizing into four standing committees, one of which will be the Policy and Planning Committee. The Policy and Planning Committee may be the most viable body to facilitate a redesigned planning effort. This committee should develop mechanisms for outreach, meaningful and ongoing, with the aim of building a guiding coalition. A strategic vision should be developed, but not specific long-term goals. The planning process should have a transparent and deliberate mechanism to identify and select major issues to be addressed through affirmative strategic initiatives – the

“campaigns” of campaign planning. These issues should be selected using pre-established criteria. Criteria might include: whether the issue affects multiple jurisdictions or levels of court; whether the issue represents a significant threat to the mission of the courts; whether addressing the issue has broad support throughout the coalition; and whether a campaign is likely to result in significant success.

Once an issue is identified and analyzed, and preliminarily selected by the policy planning committee, it should be presented to the BJA for consideration. If the BJA supports a strategic initiative around the issue, it can be presented to relevant key stakeholders. Stakeholders in this approach are not, as under a traditional planning process, being asked to support a comprehensive soup-to-nuts master plan, but to enlist in a specific campaign to address a specific issue or promote a specific program. Support for one campaign does not obligate the stakeholder to support other campaigns. Each effort has its own context.

The BJA and its nascent Policy and Planning Committee must consider how they will address their obligation to undertake planning for the judicial branch of Washington. Past attempts to employ a conventional strategic planning model have been unsuccessful. An approach such as the one outlined above may represent a feasible alternative, and should be given careful consideration.

# Tab 5



May 9, 2014

**TO:** Board for Judicial Administration (BJA) Members and Liaisons  
**FROM:** Shannon Hinchcliffe, BJA Administrative Manager  
**RE:** MAY ADMINISTRATIVE MANAGER STATUS UPDATE

This report includes ongoing work and a review of the draft charters to date to determine whether the interim standing committee work plan can be completed by its proposed end date and whether they directly contribute to the duties and purpose of the BJA.

I. **Staff Updates**

Request for Staff to Look at the History of Regionalization and Bring Back to BJA, September 2013

*Court Reform and Regional Courts: A Review and Analysis of Reform Efforts in Washington's Courts of Limited Jurisdiction and Rethinking Planning* have been completed and are distributed with this month's materials for the Board's consideration.

Requested Rule Change to BJAR 3, January 2014

The Amended BJAR 3 and corresponding GR 9 cover sheet was sent to the Supreme Court Rules Committee for consideration during their May meeting.

First Quarter BJA Business Account Summary

The balance of the BJA Business Account as of March 18, 2014 is \$12,452.08. A detailed report is attached.

BJA Standing Committees Interim Work Plan Progress

BJA staff has reviewed the committees' progress toward completion of the work plan goals and objectives. Since the April BJA meeting was cancelled and committee updates are taking place at the May meeting, members will have a better idea of the work which is left to do. Staff conducted a review of the preliminary draft charters and has compiled information and analysis in relation to current Board for Judicial Administration Rules (BJAR) and BJA Bylaws. That information is attached.

II. **Are the committees progressing toward achieving the objectives of the BJA Standing Committees Interim Work Plan? Yes.**

The following is a summary of the work plan objectives within the BJA Standing Committees Interim Work Plan:

1. Each committee will create a charter with specific information – *Drafts Completed.*
2. Review recommendations about relevant BJA committees identified in the Committee Unification Workgroup Attachment 2 and evaluate their relationship to the standing committee’s recommended scope of work.

BJA COMMITTEES				
	NAME	Authorizing Entity	Mission/Purpose	Committee Unification Workgroup Recommendation
14	Board for Judicial Administration (BJA)	Supreme Court Rule BJAR 1	The Board for Judicial Administration (BJA) is charged with providing effective leadership to the state courts & to develop policy to enhance the administration of the court system in Washington State. Judges serving on the BJA shall pursue the best interests of the judiciary at large.	Retain with changes. Institute four standing committees: 1. Legislative 2. Policy and Planning 3. Budget 4. Education
14a	BJA Best Practices Committee	Supreme Court	2001: To define the core mission of the courts & recommend ways for courts to improve the administration of justice for the citizens of Washington. 2003: Focus turned to framework for performance audits. 2004: Propose General rule (GR32) & performance audit policy adopted by Supreme Court. Development of performance audits began with ACS project.	BJA review the committee as to the name of the committee, the charter the deliverables created, and what to do with those deliverables. Expedite the work and then sunset.
14b	BJA Trial Court Operations Funding Committee	Supreme Court	To develop specific funding proposals & implementation plans for trial court operations, in accordance with the Supreme Court budget development process, for recommendation to the BJA. Also to collect statistical & other data & make reports relating to the expenditure of public moneys, state & local for the maintenance & operation of the judicial system & the offices connected therewith.	BJA acknowledge the ad hoc nature of this group and examine how the work can be accomplished under a standing BJA budget committee. Recommend that group work more closely with association budget committees.

<b>BJA COMMITTEES</b>				
	<b>NAME</b>	<b>Authorizing Entity</b>	<b>Mission/Purpose</b>	<b>Committee Unification Workgroup Recommendation</b>
14c	BJA Legislative/ Executive Committee	Supreme Court	The role of the Leg/Exec Committee is to discuss & decide upon legislative issues that affect the judiciary, including developing legislation to be submitted to the legislature as BJA request legislation. Legislation may be referred to the Leg/Exec Committee for review by the trial court associations or others.	This committee will be subsumed by the new BJA standing legislative committee. As well as reviewing and proposing legislation that affects the judiciary, it should also play a role in coordinating the efforts of all leg committees.
14d	BJA Long Range Planning and Funding Committee	Supreme Court	To sponsor a long range planning process for the funding of the courts, taking into account unfunded state mandates, initiatives and changes to the way federal, state and local funds are distributed.	BJA rules require establishment of a long range plan and a funding strategy consistent with that plan (BJAR 4). BJA to discuss if this committee will add policy to its charter.
14e	BJA Public Trust and Confidence Committee	Supreme Court	To achieve the highest level of public trust in the judicial system by assessing & re-assessing public opinion, concern & level of trust in the judicial system while developing strategies to address them. Making recommendations to the BJA regarding the need for legislative changes, or changes to court rules & procedures including those that reduce court complexity, cost, & delay while ensuring that the courts demographically reflect the communities they serve. Identifying existing activities throughout the state aimed at achieving trust & confidence in the courts, while coordinating with the Council on Public Legal Education, Access to Justice Board, & other entities working to improve the system.	Retain with no changes. The Chair is supportive of aligning this committee with an Education Standing Committee, should that be approved.
14f	Regional Courts Oversight Committee	BJA	To provide oversight to NCSC study of Washington municipal courts.	Work completed. Sunset.

<b>BJA COMMITTEES</b>				
	<b>NAME</b>	<b>Authorizing Entity</b>	<b>Mission/Purpose</b>	<b>Committee Unification Workgroup Recommendation</b>
14g	BJA Filing Fee Workgroup	BJA	The Filing Fee Workgroup is created as an ad hoc workgroup of the Board for Judicial Administration (BJA) to review the existing fee structure for civil cases in Washington State courts & other jurisdictions & to make recommendations to the BJA regarding whether changes should be made to the current structure.	Sunset and allow restructured BJA to reconvene if need still exists.
14h	Problem Solving Courts Work Group	BJA	Determine whether the establishment of problem solving courts in statute is necessary and advisable. If it is advisable to establish problem solving courts in statute, determine whether it is preferable to have a separate statute for each type of problem solving court or to have a single statutory framework under which courts may establish different types of problem solving courts.	Work completed. Sunset.
14i	BJA – GR 34 work group (see 14b)	BJA	Determine judicial education opportunities around the implementation of GR 34.	Work suspended. Sunset.

*Information in the table above excerpted from the Report from the Committee Unification Workgroup to the Board for Judicial Administration, October 18, 2013.*

3. Recommend any necessary communication strategies which may include how the committee’s work would be the most effectively communicated between other BJA standing committees, subcommittees, workgroups and reported to the BJA body.
4. Identify roles and responsibilities of committee members in relation to the recommended scope of work.

In consultation with Team of 8 staff members, the committees have been progressing through the basic elements of their charters but many still have to discuss their recommendations for existing committees, communication strategies and individual roles and responsibilities. The May committee updates will help the Board gauge whether the remaining objectives can be completed by the end of the project timeline, July 2014.

III. **Are Membership, Appointing Authority and Member Terms Consistent Among the Different Committees? Yes and No.**

	<b>Policy and Planning</b>	<b>Budget and Funding</b>	<b>Education</b>	<b>Legislative</b>
<b>Proposed Membership</b>	<ul style="list-style-type: none"> <li>• Chief Justice</li> <li>• SCJA Judge</li> <li>• DMCJA Judge</li> <li>• Court of Appeals Chief Judge</li> <li>• SCJA President-Elect</li> <li>• DMCJA President- Elect</li> </ul>	<ul style="list-style-type: none"> <li>• COA Judge</li> <li>• SCJA Judge</li> <li>• DMCJA Judge</li> </ul>	<ul style="list-style-type: none"> <li>• COA Judge</li> <li>• SCJA Judge</li> <li>• DMCJA Judge</li> <li>• Education Committee Chairs</li> <li>• Annual Conference Education Committee Chair</li> <li>• Liaison Members (Ed Chairs or designees from DMCMA, SCA, JCA &amp; Clerks)</li> </ul>	<ul style="list-style-type: none"> <li>• COA Judge</li> <li>• SCJA Judge</li> <li>• DMCJA Judge</li> <li>• Chief Justice</li> <li>• Member Chair</li> <li>• SCJA President</li> <li>• DMCJA President</li> <li>• COA designee (Voting Members of the Executive Committee)</li> </ul>
<b>Appointing Authority</b>	Member assignments via Board Position (each position would be assigned a committee)	Member assignments selected by representative associations	Member assignments selected by BJA Chair and Member Chair	Aside from the ex-officio members, each court level representative is nominated and chosen by the BJA
<b>Proposed Member Term</b>	Follows the BJA members' term	Until the end of BJA members' term	Staggered 3 year terms	2 years

**Observations:**

*Relatively Consistent:*

- Membership amongst the BJA voting members is pretty evenly distributed with some exceptions.
- There are 15 voting members and 6 non-voting members on the BJA.
- All committees (except for Education) are populated solely by judicial officers.
- If all judge members were filled by different people in 2014, all 15 voting members would be utilized, however this will likely change after the terms start turning over in 2015.
- Some member positions are on more than one committee (Chief Justice and Court of Appeals Chief Judge).
- Non-voting members who are *not* included on any standing committee membership include the State Court Administrator, WSBA Executive Director, WSBA President and WSBA President-Elect.

- All standing committees include one BJA voting member from each level of court. (Legislative Committee includes more via Executive Committee voting members).

*Inconsistent:*

- All suggested appointing authorities are different.
- All suggested member terms are different.
- No Chair position is described within the individual charters, it is assumed that the appointment would follow the current Bylaws.
- All proposed terms exceed the current Bylaws concerning committees (except Legislative Committee).

**Relevant BJA Rules and Bylaws Regarding Committees:**

BJA Bylaws, Art. VI  
**Committees**

Standing committees as well as ad hoc committees and task forces of the Board for Judicial Administration shall be established by majority vote.

Each committee shall have such authority as the Board deems appropriate.

The Board for Judicial Administration will designate the chair of all standing, ad hoc, and task force committees created by the Board. Membership on all committees and task forces will reflect representation from all court levels. Committees shall report in writing to the Board for Judicial Administration as appropriate to their charge. The Chair of each standing committee shall be asked to attend one BJA meeting per year, at a minimum, to report on the committee's work. **The terms of standing committee members shall not exceed two years. The Board for Judicial Administration may reappoint members of standing committees to one additional term.** The terms of ad hoc and task force committee members will have terms determined by their charge.

The relevant BJA bylaws may need to be changed depending on the final outcome.

IV. **Is There a Naturally Occurring Committee Term Option based on the Staggered Member Terms Pursuant to BJAR 2? No.**

Position	Current BJA Term	BJA Terms after July 2014*	Example: 2 year appointment cycle starting 7/14
<b>Chief Justice</b>	1/17	1/17	7/16
<b>Justice #1</b>	6/15	6/15	7/16
COA Presiding Chief Judge	4/14	7/16	7/16
<b>COA Judge #1</b>	6/14	7/18	7/16
<b>COA Judge #2</b>	6/14	7/18	7/16
<b>COA Judge #3</b>	6/15	6/15	7/15/replace
<b>SCJA President</b>	6/14	7/15	7/15/replace
SCJA President-Elect	6/14	7/15	7/15/replace
<b>SCJA Judge #1</b>	6/17	7/17	7/16
<b>SCJA Judge #2</b>	6/14	7/18	7/16
<b>SCJA Judge #3</b>	6/17	6/17	7/16
<b>SCJA Judge #4</b>	6/14	7/18	7/16
<b>DMCJA President</b>	6/14	7/15	7/15/replace
DMCJA President-Elect	6/15	7/15	7/15/replace
<b>DMCJA Judge #1</b>	6/17	6/17	7/16
<b>DMCJA Judge #2</b>	6/17	6/17	7/16
<b>DMCJA Judge #3</b>	6/16	6/16	7/16
<b>DMCJA Judge #4</b>	6/16	6/16	7/16
Court Administrator	Indefinite	Indefinite	7/16
WSBA Executive Director	Indefinite	Indefinite	7/16
WSBA President	9/14	9/15**	7/15/replace
WSBA President-Elect	9/15	9/16**	

**Bold indicates BJA Voting Member.**

\*In May 2013, the motion was made to amend BJAR 2 and appoint members starting July 1 for those elected in 2014 and thereafter.

\*\*It is unclear whether the motion's start date would affect WSBA members.

**Observations:** There is no recommended committee membership term in light of staggered terms and constant turnover of committee members. Members and staff acknowledged the importance of continuity based on the cyclical work of the committees. Even if the member is assigned to a committee for their entire term, which attempts to retain the most continuity, the staggered terms ensure that committee membership will turn over frequently.

**Relevant BJA Rules and Bylaws Regarding Membership:**

**BJAR 2(c)(1) Terms of Office.**

Of the members first appointed, one justice of the Supreme Court shall be appointed for a two-year term; one judge from each of the other levels of court for a four-year term; one judge from each of the other levels of court and one Washington State Bar Association member for a three-year term; one judge from the other levels of court and one Washington State Bar Association

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

In May 2013, the following motion carried:

*It was moved by Judge Snyder and seconded by Judge Sparks to seek an amendment to BJAR 2 so it states July 1. For those elected in 2014 and thereafter all BJA members' terms will start July 1. The motion carried.*

#### **Recommendations for Next Steps:**

- Amend BJAR 2 pursuant to the May 2013 motion; work with trial court associations to amend Bylaws if necessary. Discuss the necessity for continued staggered terms, is maintaining staggered terms a more important value then continuity within the Board and committees?
- If the paramount value is to keep the staggered member terms, then length of terms should be individually determined by the committee based on their cycle of work (anywhere from 2-4 years).
- If the paramount value is for continuity of service within the Board or committees, discussion should be had about how to re-align terms and what is necessary to change impacted BJA Rules and Bylaws.
- Review proposed membership and the committees' intended operation to ensure broad-based input from non-voting members, Board Liaisons and other justice partners. For example, the Budget and Funding committee only has three members but, it is expected that through their operations they would include input and requests from others.
- Review and recommend how issues should be referred to committees pursuant to their scope of work, not the title of their committee.

#### V. **Do The Draft Standing Committee Charters Directly Contribute to Fulfilling the Current BJA Duties and Purpose? It's unclear.**

The BJA is organized under rules and governed by bylaws which spell out specific duties and purposes. Staff reviewed these to determine whether the committees, based on their current draft charters, plan to specifically take on any of these duties or if the full board will continue to be responsible for them.

1. Board for Judicial Administration Duties (BJAR 4)<sup>1</sup>

**(a) The Board shall establish a long-range plan for the judiciary;**

Current status: The last long-range plan was published in 2008, there is no plan for a traditional long range planning process within the proposed Policy and Planning charter based on following the new governance model of loosely-coupled organizations.<sup>2</sup>

**(b) The Board shall continually review the core missions and best practices of the courts;**

Current status: This duty is fulfilled by the Best Practices Standing Committee in addition to the Board's deliberation on specific missions and best practices.

**(c) The Board shall develop a funding strategy for the judiciary consistent with the long-range plan and RCW 43.135.060;**

Current status: The last major funding strategy focus was *Justice in Jeopardy*; Policy and Planning recommends to move away from static long-range plans toward a dynamic planning process; the proposed Education Committee charter includes partnering with other standing committees to develop long-term strategies for the funding of education.

**(d) The Board shall assess the adequacy of resources necessary for the operation of an independent judiciary;**

Current status: No specific committee, workgroup or project is dedicated to this duty, although the assessment function can be attributed to different efforts including the Best Practice Committee, the current Budget process and the GR 31.1 workgroups for example.

**(e) The Board shall speak on behalf of the judicial branch of government and develop statewide policy to enhance the operation of the state court system; and**

Current status: the BJA currently uses adopted Resolutions and the Legislative Committee to communicate the adopted statewide policies and legislative positions of the Board. A communication plan was adopted within the 2008 Long Range Plan but has not been enacted broadly.

**(f) The Board shall have the authority to conduct research or create study groups for the purpose of improving the courts.**

Current status: The body creates task forces and workgroups on an ad hoc basis after examining specific issues or in response to a request.

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<sup>1</sup> Last amended pursuant to findings published in [Project 2001](#).

<sup>2</sup> [Mary Campbell McQueen, Governance: the Final Frontier, June 2013](#).

2. Board for Judicial Administration Bylaws (Article I, Purpose)

**ARTICLE I**

**Purpose**

The Board for Judicial Administration shall adopt policies and provide leadership for the administration of justice in Washington courts. Included in, but not limited to, that responsibility is: 1) establishing a judicial position on legislation; 2) providing direction to the Administrative Office of the Courts on legislative and other administrative matters affecting the administration of justice; 3) fostering the local administration of justice by improving communication within the judicial branch; and 4) providing leadership for the courts at large, enabling the judiciary to speak with one voice.

The latter part of the work plan asks committees to contemplate communication strategies related to their scope of work and to identify roles and responsibilities of committee members. Completing this part of the work plan will help to identify the committee's communication efforts in relation to the Board's purpose.

## BJA BUSINESS ACCOUNT – FIRST QUARTER 2014 SUMMARY

JANUARY – MARCH 2014			
ITEM	WITHDRAWAL	DEPOSIT	BALANCE
<b>BEGINNING BALANCE</b>			<b>\$15,061.09</b>
BOOKKEEPING SERVICES	\$150.00		
EXPENSES	\$2,649.01		
DEPOSITS		\$140.00	
<b>ENDING BALANCE</b>			<b>\$12,402.08</b>

### BJA BUSINESS ACCOUNT FIRST QUARTER 2014 DETAIL ACTIVITY

DATE	CK #	TO	FOR	AMOUNT	CLEARED
1.17.14	3674	MELLANI MCALEENAN	EXPENSES FOR 1.16.14 BJA/LEG RECEPTION AT TOJ (PAPER, NAME BADGES, LIQUOR LICENSE)	89.27	X
1.17.14	3675	RAMBLIN' JACKS	EXPENSES (FOOD) FOR CATERING 1.16.14 BJA/LEG RECEPTION AT TOJ	2,153.70	X
1.21.14	3676	CELEBRATIONS	EXPENSES FOR BISTRO TABLES; LINENS - 1.16.14 BJA/LEG RECEPTION AT TOJ	406.04	X
1.30.14	3677	COLLEEN CLARK	JANUARY BOOKKEEPING	50.00	X
3.10.14	3678	COLLEEN CLARK	FEBRUARY BOOKKEEPING	50.00	X
3.14.14	3679	COLLEEN CLARK	MARCH BOOKKEEPING	50.00	X
				<b>\$2,799.01</b>	

Total BJA/Leg Reception costs = \$2,649.01

DEPOSIT DATE	AMOUNT
2.21.14	85.00
3.14.14	55.00
	<b>\$140.00</b>

# Tab 6

BOARD FOR JUDICIAL ADMINISTRATION RULES (BJAR)

TABLE OF RULES

Rule

Preamble

- 1 Board for Judicial Administration
- 2 Composition
- 3 Operation
- 4 Duties
- 5 Staff

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BJAR  
PREAMBLE

The power of the judiciary to make administrative policy governing its operations is an essential element of its constitutional status as an equal branch of government. The Board for Judicial Administration is established to adopt policies and provide strategic leadership for the courts at large, enabling the judiciary to speak with one voice.

[Adopted effective January 25, 2000.]

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BJAR 1  
BOARD FOR JUDICIAL ADMINISTRATION

The Board for Judicial Administration is created to provide effective leadership to the state courts and to develop policy to enhance the administration of the court system in Washington State. Judges serving on the Board for Judicial Administration shall pursue the best interests of the judiciary at large.

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

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BJAR 2  
COMPOSITION

- (a) Membership. The Board for Judicial Administration shall consist of judges from all levels of court selected for their demonstrated interest in and commitment to judicial administration and court improvement. The Board shall consist of five members from the appellate courts (two from the Supreme Court, one of whom shall be the Chief Justice, and one from each division of the Court of Appeals), five members from the superior courts, one of whom shall be the President of the Superior Court Judges' Association, five members of the courts of limited jurisdiction, one of whom shall be the President of the District and Municipal Court Judges' Association, two members of the Washington State Bar Association (non-voting) and the Administrator for the Courts (non-voting).
- (b) Selection. Members shall be selected based upon a process established by their respective associations or court level which considers demonstrated commitment to improving the courts, racial and gender diversity as well as geographic and caseload differences.
- (c) Terms of Office.

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

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

[Amended effective October 29, 1993; February 16, 1995; January 25, 2000; June 30, 2010.]

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BJAR 3  
OPERATION

(a) Leadership. The Board for Judicial Administration shall be chaired by the Chief Justice of the Washington Supreme Court in conjunction with a Member Chair who shall be elected by the Board. The duties of the Chief Justice Chair and the Member Chair shall be clearly articulated in the by-laws. The Member Chair shall serve as chair of the Long-range Planning Committee. Meetings of the Board may be convened by either chair and held at least bimonthly. Any Board member may submit issues for the meeting agenda.

(b) Committees. Ad hoc and standing committees may be appointed for the purpose of facilitating the work of the Board. Non-judicial committee members shall participate in non-voting advisory capacity only.

(1) The Board shall appoint at least three standing committees: Long-range Planning, Core Missions/Best Practices and Legislative. Other committees may be convened as determined by the Board.

(2) The Chief Justice and the Member Chair shall nominate for the Board's approval the chairs and members of the committees. Committee membership may include citizens, experts from the private sector, members of the legal community, legislators, clerks and court administrators.

(c) Voting. All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Eight voting members will constitute a quorum provided at least one judge from each level of court is present. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

[Adopted effective January 25, 2000.]

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BJAR 4  
DUTIES

(a) The Board shall establish a long-range plan for the judiciary;

(b) The Board shall continually review the core missions and best practices of the courts;

(c) The Board shall develop a funding strategy for the

judiciary consistent with the long-range plan and RCW 43.135.060;

(d) The Board shall assess the adequacy of resources necessary for the operation of an independent judiciary;

(e) The Board shall speak on behalf of the judicial branch of government and develop statewide policy to enhance the operation of the state court system; and

(f) The Board shall have the authority to conduct research or create study groups for the purpose of improving the courts.

[Adopted effective January 25, 2000.]

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BJAR 5  
STAFF

Staff for the Board for Judicial Administration shall be provided by the Administrator for the Courts.

[Adopted effective January 25, 2000.]

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## **BOARD FOR JUDICIAL ADMINISTRATION BYLAWS**

### **ARTICLE I**

#### **Purpose**

The Board for Judicial Administration shall adopt policies and provide leadership for the administration of justice in Washington courts. Included in, but not limited to, that responsibility is: 1) establishing a judicial position on legislation; 2) providing direction to the Administrative Office of the Courts on legislative and other administrative matters affecting the administration of justice; 3) fostering the local administration of justice by improving communication within the judicial branch; and 4) providing leadership for the courts at large, enabling the judiciary to speak with one voice.

### **ARTICLE II**

#### **Membership**

Membership in the Board for Judicial Administration shall consist of the Chief Justice and one other member of the Supreme Court, one member from each division of the Court of Appeals, five members from the Superior Court Judges' Association, one of whom shall be the President; five members from the District and Municipal Court Judges' Association, one of whom shall be the President. It shall also include as non-voting members two members of the Washington State Bar Association appointed by the Board of Governors; the Administrator for the Courts; and the Presiding Chief Judge of the Court of Appeals, the President-elect judge of the Superior Court Judges' Association and the President-elect judge of the District and Municipal Court Judges' Association.

### **ARTICLE III**

#### **Officers and Representatives**

The Chief Justice of the Supreme Court shall chair the Board for Judicial Administration in conjunction with a Member chair. The Member chair shall be elected by the Board and shall serve a two year term. The Member chair position shall be filled alternately between a voting Board member who is a superior court judge and a voting Board member who is either a district or municipal court judge.

### **ARTICLE IV**

#### **Duties of Officers**

The Chief Justice Chair shall preside at all meetings of the Board, performing the duties usually incident to such office, and shall be the official spokesperson for the Board. The Chief Justice chair and the Member chair shall nominate for the Board's approval the chairs of all committees. The Member chair shall perform the duties of the Chief Justice chair in the absence or incapacity of the Chief Justice chair.

### **ARTICLE V**

#### **Vacancies**

If a vacancy occurs in any representative position, the bylaws of the governing groups shall determine how the vacancy will be filled.

## **ARTICLE VI** **Committees**

Standing committees as well as ad hoc committees and task forces of the Board for Judicial Administration shall be established by majority vote.

Each committee shall have such authority as the Board deems appropriate.

The Board for Judicial Administration will designate the chair of all standing, ad hoc, and task force committees created by the Board. Membership on all committees and task forces will reflect representation from all court levels. Committees shall report in writing to the Board for Judicial Administration as appropriate to their charge. The Chair of each standing committee shall be asked to attend one BJA meeting per year, at a minimum, to report on the committee's work. The terms of standing committee members shall not exceed two years. The Board for Judicial Administration may reappoint members of standing committees to one additional term. The terms of ad hoc and task force committee members will have terms as determined by their charge.

## **ARTICLE VII** **Executive Committee**

There shall be an Executive Committee composed of Board for Judicial Administration members, and consisting of the co-chairs, a Judge from the Court of Appeals selected by and from the Court of Appeals members of the Board, the President Judge of the Superior Court Judges' Association, the President Judge of the District Municipal Court Judges' Association, and non-voting members to include one Washington State Bar Association representative selected by the Chief Justice, President-elect judge of the Superior Court Judges' Association, President-elect judge of the District and Municipal Court Judges' Association and the Administrator for the Courts.

It is the purpose of this committee to consider and take action on emergency matters arising between Board meetings, subject to ratification of the Board.

The Executive Committee shall serve as the Legislative Committee as established under BJAR 3(b)(1). During legislative sessions, the Executive Committee is authorized to conduct telephone conferences for the purpose of reviewing legislative positions.

## **ARTICLE VIII** **Regular Meetings**

There shall be regularly scheduled meetings of the Board for Judicial Administration at least bi-monthly. Reasonable notice of meetings shall be given each member.

## **ARTICLE IX** **Special Meetings**

Special meetings may be called by any member of the Board. Reasonable notice of special meetings shall be given each member.

## **ARTICLE X** **Quorum**

Eight voting members of the Board shall constitute a quorum provided each court level is represented.

## **ARTICLE XI** **Voting**

Each judicial member of the Board for Judicial Administration shall have one vote. All decisions of the Board shall be made by majority vote of those present and voting provided there is one affirmative vote from each level of court. Telephonic or electronic attendance shall be permitted but no member shall be allowed to cast a vote by proxy.

## **ARTICLE XII** **Amendments and Repeal of Bylaws**

These bylaws may be amended or modified at any regular or special meeting of the Board, at which a quorum is present, by majority vote. No motion or resolution for amendment may be considered at the meeting in which they are proposed.

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Approved for Circulation--7/27/87  
Amended 1/21/00  
Amended 9/13/00  
Amended 5/17/02  
Amended 5/16/03  
Amended 10/21/05  
Amended 03/16/07

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## BOARD FOR JUDICIAL ADMINISTRATION

### PROCESS AND GUIDELINES FOR RESOLUTION REQUESTS

The Board for Judicial Administration (Board) 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.

Resolutions may be aspirational in nature, support a particular position, or serve as a call to action. Resolutions may support funding requests, but do not stand alone as a statement of funding priorities or indicate an intent by the Board to proactively seek funding. Resolutions are not long-term policy statements and their adoption does not establish the Board's work plan or priorities.

The absence of a Resolution on a particular subject does not indicate a lack of interest or concern by the Board in regard to a particular subject or issue.

In determining whether to adopt a proposed resolution, the Board shall give consideration to the following:

- Whether the Resolution advances the Principal Policy Objectives of the Judicial Branch.
- The relation of the Resolution to priorities delineated in existing strategic and long range plans.
- The availability of resources necessary to properly act upon the resolution.
- The need to ensure the importance of resolutions adopted by the Board is not diluted by the adoption of large numbers of resolutions.

In order to ensure timely and thorough consideration of proposed resolutions, the following guidelines regarding procedure, form and content are to be followed:

- Resolutions may be proposed by any Board member. The requestor shall submit the resolution, in writing, with a request form containing a brief statement of purpose and explanation, to the Associate Director of the Board for Judicial Administration.
- 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 and stated in precise language.

- 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 Board.
- The Associate Director shall refer properly submitted resolutions to appropriate staff, and/or to an appropriate standing committee (or committees) for review and recommendation, or directly to the Board's Executive Committee, as appropriate. Review by the Board's Executive Committee will precede review by the full Board 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.
- 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 BJAR and bylaws. The Board may approve or reject proposed resolutions and may make substantive changes to the resolutions.
- Approved resolutions will be numbered, maintained on the Board for Judicial Administration section of the Washington Courts website, and disseminated as determined by the Board for Judicial Administration.

**PRINCIPAL POLICY OBJECTIVES  
OF THE WASHINGTON STATE 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.

# BOARD FOR JUDICIAL ADMINISTRATION

## RESOLUTION REQUEST COVER SHEET

(INSERT PROPOSED RESOLUTION TITLE HERE)

SUBMITTED BY: (INSERT NAME HERE)

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(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.)