



Board for Judicial Administration (BJA) Meeting

Friday, February 20, 2015 (9 a.m. – Noon)

AOC Olympia Office, 1112 Quince Street SE, Olympia

MEETING MINUTES

BJA Members Present:

Chief Justice Barbara Madsen, Chair
Judge Kevin Ringus, Member Chair
Judge Thomas Bjorgen
Judge Bryan Chushcoff
Judge Harold Clarke III
Ms. Callie Dietz
Mr. Anthony Gipe (by phone)
Judge G. Scott Marinella
Judge John Meyer
Judge Sean O'Donnell (by phone)
Judge Jeffrey Ramsdell
Judge Ann Schindler
Judge Laurel Siddoway (by phone)
Judge Scott Sparks
Judge David Steiner

Guests Present:

Mr. Jim Bamberger
Ms. Ishbel Dickens
Justice Mary Fairhurst
Ms. Ruth Gordon
Mr. Eric Johnson
Ms. Sophia Byrd McSherry
Ms. Joanne Moore

Public Present:

Dr. Page Carter
Mr. Tom Goldsmith

AOC Staff Present:

Mr. John Bell
Ms. Beth Flynn
Mr. Steve Henley
Ms. Mellani McAleenan

January 16, 2015 Meeting Minutes

It was moved by Judge Sparks and seconded by Judge Chushcoff to approve the January 16, 2015 BJA meeting minutes. The motion carried.

Washington State Association of Counties Legislative Agenda

Mr. Johnson presented information regarding the Washington State Association of Counties' (WSAC) 2015 legislative agenda. The WSAC is trying to make sure they have the resources to fund county services. They are looking at new sources of revenue, flexible ways to use existing revenue, and ways to control costs.

The WSAC identified several areas of new or flexible revenue sources. They cannot guarantee the increased revenue will go directly to the criminal justice system but it will go into the general government account and that funds the criminal justice system. They have several initiatives both big and small to try to generate or redirect revenue. Some of their revenue ideas are listed below.

- Create a shared system for marijuana taxes. They want the increased revenue to fund state services relating to the marijuana initiative which are currently funded by the counties.
- Propose a public utility tax for unincorporated areas.

- Use a portion of building permit fees to pay for the Growth Management Act. The counties are looking for some flexibility in the ways they can use building permit fees.
- Propose a new cap that utilizes inflation plus population growth for property tax.
- The Office of Public Defense (OPD) is requesting that the statewide infraction penalty be increased to pay for indigent defense. Counties are expending about \$120 million on indigent defense and receiving about \$5 million from the state. OPD is joining with the cities and the counties to increase the traffic infraction penalties.

Mr. Johnson stated that the WSAC will keep the judicial associations in the loop regarding their tax packages. They will provide information regarding their proposed revenue solutions for county government and how the tax packages make the county funding healthier. They are hoping the judicial associations will embrace their solutions even though there is no guarantee that the funding is going directly to the courts.

BJA Public Trust and Confidence Committee Report

Justice Fairhurst reported that the BJA Public Trust and Confidence Committee worked on seven projects last year and two of those projects are ongoing. Each project has a subcommittee dedicated to its completion with final approval from the committee.

A subcommittee co-chaired by Mr. David Johnson and Ms. Margaret Fisher completed the Myths and Misperceptions of Washington Courts video in cooperation with TVW. The Gender and Justice Commission, the Minority and Justice Commission and TVW provided financial support. The video included comments from people on the street about how they think the legal process works and experts from the legal community provided the actual explanation for how things work. The video was nominated for a regional Emmy. In addition, posters with a QR code link were created for use in courthouses. Subcommittee members were Mr. Mike Killian, Judge Elizabeth Stephenson and Mr. Andrew Sachs.

A subcommittee chaired by Judge Siddoway looked into public trust and confidence issues rural courts face. The results of the rural court survey were included in the meeting materials. The Committee decided the information should go to the BJA Policy and Planning Committee and the BJA to determine what should be done with the survey results. Subcommittee members were Judge Bill Bowman, Judge James Docter, Mr. Dennis Rabidou, Ms. Shirley Zimmerman and Ms. Kirsten Barron.

Also included in the meeting materials was the Washington State Guide for Civic Observances: Law Day and Constitution Day. The Law and Constitution Day Subcommittee, chaired by Ms. JulieAnne Behar, distributed a survey to poll county and specialty bar associations asking about activities regarding Law Day and Constitution Day. The results were just a snapshot of the activities taking place in Washington State but the report provides useful information for anyone wishing to celebrate Law Day and Constitution Day. Subcommittee members were Justice Mary Fairhurst and Ms. Kay Newman.

A subcommittee chaired by Justice Mary Fairhurst and Judge James Docter worked on the Informed Voters/Fair Judges project. This project developed by the National Association of Women Judges, involves an intensive outreach to encourage the public to be informed about and vote for judges. Working with AOC's Office of Communication and Public Outreach, the

videos were shown on community television, local court's websites and AOC's website. Subcommittee members were Ms. JulieAnne Behar, Ms. Barbara Fox, Mr. Dennis Rabidou, Judge Elizabeth Stephenson, and Mr. Andrew Sachs.

Ms. Kay Newman chaired a subcommittee to update Judicial Remarks to Prospective Jurors which was included in the meeting materials. The BJA made one change to the Judicial Remarks. Subcommittee members included Judge Bill Bowman, Ms. Barbara Fox and Ms. Kay Holland.

A subcommittee consisting of Justice Mary Fairhurst and Ms. Margaret Fisher developed and presented a half-day program on courts that is included in the Legislative Scholars Program. The Legislative Scholars Program is a weeklong program the Legislature holds each year for teachers.

An ongoing project of the Committee is the cataloging of the law-related education materials that Ms. Margaret Fisher has accumulated over 40 years in the field. Once catalogued, the materials will be transferred to an electronic format and made available for use statewide.

The Committee asked for the BJA's approval for all of the completed projects prior to publishing the information and posting it online.

By consensus, the BJA approved the publishing of all the information that was brought forward by Justice Fairhurst, with one change to the Juror Remarks.

Listed below are the 2015 projects of the Committee.

1. Create and disseminate a public service announcement video to encourage citizens to respond for jury duty, with a special outreach for audiences that don't normally respond. The Jury Pattern Instructions Committee asked for and is funding this project.
2. Review, update, as appropriate, and market all past products of the Committee.
3. Collaborate with the Access to Justice Board and the Office of Civil Legal Aid on a public education campaign to communicate why access to justice is important.
4. Market the established Judges in the Classroom Project to schools and the judiciary and provide supporting materials for the Children's Activity Book.
5. Liaise with the Minority and Justice Commission to discover any ways to assist on projects it is pursuing based on the Minority and Justice survey.
6. Review, update and present one-half day court portion of the Legislative Scholars program.
7. Continue cataloging the law-related education materials.

Suggested Rule GR 35 Judicial Performance Evaluations

Judge Steiner reported that the District and Municipal Court Judges' Association (DMCJA) had a mixed reaction the GR 35 proposal. The DMCJA asked to have a presentation regarding GR 35 at an upcoming Board meeting.

The Superior Court Judges' Association (SCJA) is in the same situation and will also have a presentation regarding the proposed rule.

Judge Schindler reported that the Court of Appeals (COA) expressed a lot of concerns and there were mixed reactions. There are concerns about confidentiality of this along with other concerns such as is this an inappropriate use of state funds to endorse candidates? It is not like a voter's pamphlet—it is a state funded group that would endorse candidates. The consensus from COA judges is that criteria in the proposed rule was worked on and validated over the course of a number of years and is specific to trial court judges. There are different roles for trial court judges and appellate judges and they were acknowledged in the National Conference on Evaluating Appellate Judges report on pages 75 and 76 of the meeting materials. If the BJA goes forward with the rule there would need to be a group convened to determine criteria and then the group would need to validate the criteria.

Chief Justice Madsen stated that the Supreme Court had mixed reactions. It really is going to have to be a project of the BJA if that is what the BJA decides to do. No one in the Supreme Court was willing to sign off on the rule as presented.

Ms. Dietz reported that she did not have a final estimate on the costs for the Administrative Office of the Courts (AOC) to run the program but possible costs would be very employee and administrative intense. She looked at Alaska and they have seven employees and have less work than Washington would have.

This will be on the March BJA meeting agenda for action. It was requested that there be two votes on this issue: 1) to support the proposal, and 2) to support the idea of a judicial evaluation.

Legislative Report

Ms. McAleenan reported that there were 27 legislators, 30 legislative staff, 20 judges and 30 others who attended the legislative reception last night. It was a really nice turnout and they received a lot of good feedback. They had the Superior Court Case Management System (SC-CMS) software set up during the reception and quite a few people asked questions and played with the software.

Today marks the 40th day of the legislative session and bills have to move out of policy committees by today to remain alive. Next week is the fiscal committee cutoff and they have to be out of those committees by the 47th day of the session. Next week will be devoted to appropriations hearings.

In terms of BJA bills, the court transcriptionist bill passed out of the House unanimously and is in the Senate. The Skagit County District Court bill is on both the House and Senate floor calendars. The juvenile records bill is moving but is being revised as it is going. The legal financial obligation bill is moving but continuing to be amended. The COA tax division creation bill passed out of the Senate Law and Justice Committee yesterday and was amended to include a small claims section and mediation component. Senator John Braun dropped his retirement bill and it currently does not include judges.

The February state revenue forecast is being released today. There will probably be cuts in the Senate budget but the House budget should be a little nicer to the judicial branch.

Standing Committee Reports

Budget and Funding Committee: Judge Schindler reported that the BJA Budget and Funding Committee is meeting after the BJA meeting today.

Court Education Committee: Judge Meyer stated that the Court Education Committee reached an agreement with Dean Clark from Seattle University to join their committee. He also submitted a written report which was included in the meeting materials.

Legislative Committee: No report.

Policy and Planning Committee: Judge Sparks submitted a written report. They have a long timeframe view. Everyone is really busy, especially this time of year, so they are communicating via e-mail to get some consensus.

BJA Account

Behind Tab 7 is the year end financial report for the BJA Business Account. The BJA Business Account is privately funded by judges and does not include state money. Dues assessments are only sent as needed and generally, there is a 50-60% compliance rate for the dues. The ongoing costs to the BJA Business Account are bookkeeping services, registration fees, mats and frames for BJA members leaving the Board and the biggest cost is for the legislative reception.

Ms. Dietz stated that it is time to audit the BJA Business Account and she would like to have someone in AOC's Fiscal department perform the audit in their own time for a small fee (about \$150).

It was moved by Judge Sparks and seconded Judge Bjorgen to go forward with the internal audit of the BJA Private Account. The motion carried.

Salary Commission Report

Ms. McAleenan reported that representatives from every court level attended the January Salary Commission meeting. The Commission proposed a 3% general wage increase in 2015 and a 1% general wage increase in 2016, and for the judicial branch they opted for an additional 1% increase in 2015 and an additional 1% in 2016 to maintain working toward the benchmark of federal court judges. They also recognized the additional responsibility of being the Chief Justice of the Supreme Court and proposed a 1.5% increase.

Judges will not be attending the other Salary Commission meetings.

The Commission will meet in May and determine a final recommendation.

GR 31.1 Suggested Rule Changes

Mr. Bell stated that there were several issues with GR 31.1 raised by different committees and outside groups. The meeting materials included the suggested revisions to GR 31.1.

The first suggested revision is with section (c)(1) and it is recommended that requesters identify themselves at the time of their requests.

The second is with section (h)(1) and it is recommended that language be added stating a fee may be charged for research or preparation of the records. The fee would be up to \$30 an hour after the first hour and each court could set their own fee as long as the first hour of research was free and the subsequent hours did not exceed \$30 per hour. During discussion about research fees, it was suggested that maybe this could be addressed in a comment as opposed to amending the substantive portion of the rule. Mr. Bell will draft additional wording for the comment section and present that language to the underlying internal work groups and committees for approval. If approved he will submit the language for the BJA to review at their March meeting.

The third is with section (k)(1). It is recommended that The Washington State Office of Civil Legal Aid and the Washington State Office of Public Defense be listed in this section and deleted from section (k)(2).

The fourth revision is with section (l)(5) and the recommendation is to add date of birth as an exemption.

The final revision is to section (m)(1) and it is recommended that "at chambers" be deleted from end of that paragraph.

If you have any thoughts on the recommended revisions to GR 31.1, please e-mail them to Mr. Bell between now and the March BJA meeting so there can be a full discussion during the meeting.

Mr. Bell also reviewed issues that were raised and rejected by the work groups.

GR 31.1 training will be held in April and May.

Other Business

Court Management Council 2014 Annual Report: Ms. Dietz asked the BJA members to review the Court Management Council 2014 Annual Report which was distributed in the meeting materials. She also presented a draft of the Court Management Council's juror scam poster which will be used in courts to alert the public about juror scams that are going on in Washington.

WSBA Task Force on the Escalating Costs of Civil Litigation: The BJA was asked to review this report and comment on it. This will be placed on the March BJA meeting agenda to determine if the BJA would like to submit a comment.

It was moved by Judge Steiner and seconded by Judge Schindler to adjourn the meeting. The motion carried.

Recap of Motions from the February 20, 2015 meeting

Motion Summary	Status
Approve the January 16, 2015 BJA meeting minutes	Passed
Approve the internal audit of the BJA private account	Passed
Adjourn the meeting	Passed

Action Items from the February 20, 2015 meeting

Action Item	Status
<u>January 16, 2015 BJA Meeting Minutes</u> <ul style="list-style-type: none"> • Post the minutes online • Send minutes to the Supreme Court for inclusion in the En Banc meeting materials 	Done Done
<u>BJA Public Trust and Confidence Committee</u> <ul style="list-style-type: none"> • Have the BJA Policy and Planning Committee decide what to do with the results of the rural courts survey • The Committee will publish the information that was brought forward during the meeting 	Information passed on to the staff of the BJA Policy and Planning Committee
<u>GR 35</u> <ul style="list-style-type: none"> • Add to March agenda for action (two action items: one for the proposal and one to support the idea of judicial evaluations) 	Done
<u>BJA Account</u> <ul style="list-style-type: none"> • Go forward with the internal audit of the BJA private account 	Done
<u>WSBA Task Force on the Escalating Costs of Civil Litigation</u> <ul style="list-style-type: none"> • Add to March BJA meeting agenda for action 	Done