

BOARD FOR JUDICIAL ADMINISTRATION



**WASHINGTON
COURTS**

MEETING PACKET

**FRIDAY, OCTOBER 19, 2012
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 Chris Wickham, Member Chair
Superior Court Judges' Association
Thurston County Superior Court

Judge Sara Derr, President
District and Municipal Court Judges'
Association
Spokane County District Court

Judge Deborah Fleck
Superior Court Judges' Association
King County Superior Court

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

Judge Jill Johanson
Court of Appeals, Division II

Judge Kevin Korsmo
Court of Appeals, Division III

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

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

Judge Craig Matheson, President
Superior Court Judges' Association
Benton and Franklin Superior Courts

Judge Jack Nevin
District and Municipal Court Judges'
Association
Pierce County District Court

Justice Susan Owens
Supreme Court

Judge Kevin Ringus
District and Municipal Court Judges'
Association
Fife Municipal Court

Judge Ann Schindler
Court of Appeals, Division I

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

NON-VOTING MEMBERS:

Ms. Callie Dietz
Interim State Court Administrator

Ms. Paula Littlewood, Executive Director
Washington State Bar Association

Mr. Patrick Palace, President-Elect
Washington State Bar Association

Judge Christine Quinn-Brintnall
Presiding Chief Judge
Court of Appeals, Division II

Ms. Michele Radosevich, President
Washington State Bar Association

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

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



Board for Judicial Administration (BJA)

Friday, October 19, 2012 (9:00 a.m. – 12:15 p.m.)

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

AGENDA

1. Call to Order	Chief Justice Barbara Madsen Judge Chris Wickham	9:00 a.m.
2. Welcome and Introductions	Chief Justice Barbara Madsen Judge Chris Wickham	9:00 a.m.
Action Items		
3. September 21, 2012 Meeting Minutes Action: Motion to approve the minutes of the September 21, 2012 meeting	Chief Justice Barbara Madsen Judge Chris Wickham	9:05 a.m. Tab 1
Reports and Information		
4. Disproportionality in Washington and Juvenile Detention Alternatives Initiative (JDAI)	Mr. Rand Young Dr. Sarah Veele Ms. Jennifer Zipoy	9:10 a.m. Tab 2
5. Filing Fee Workgroup	Judge Stephen Brown	9:55 a.m. Tab 3
6. Budget	Mr. Ramsey Radwan	10:10 a.m. Tab 4
7. Legislative Agenda	Ms. Mellani McAleenan	10:20 a.m. Tab 5
BREAK		10:45 a.m.
8. Retreat Recap	Chief Justice Barbara Madsen Judge Chris Wickham	11:00 a.m. Tab 6
9. Strategic Planning Recap	Chief Justice Barbara Madsen Judge Chris Wickham	11:10 a.m. Tab 7

Reports and Information (Continued)		
10. BJA Structure Workgroup	Chief Justice Barbara Madsen Judge Chris Wickham	11:20 a.m.
11. Overview of Current Committee Structure	Chief Justice Barbara Madsen Judge Chris Wickham	11:35 a.m. Tab 8
12. Other Business Next meeting: November 16 Beginning at 9:00 a.m. at the AOC SeaTac Office, SeaTac	Chief Justice Barbara Madsen Judge Chris Wickham	11:55 a.m.
Executive Session		12:00 p.m.
13. Adjourn		12:15 p.m.
<p>Persons with a disability, who require accommodation, should notify Beth Flynn at 360-357-2121 or beth.flynn@courts.wa.gov 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.</p>		



WASHINGTON
COURTS

BOARD FOR JUDICIAL ADMINISTRATION

**FILING FEE WORK GROUP
RECOMMENDATIONS TO BJA**

CHARGE

The Filing Fee Work Group (Work Group) was created as an *ad hoc* work group of the Board for Judicial Administration (BJA) to review the existing fee structure for civil cases in Washington State courts and other jurisdictions and to make recommendations to the BJA regarding whether changes should be made to the current structure.

The Work Group was also charged with developing a set of principles against which to weigh proposals for changes to the filing fee structure by this work group or other entities.

MEMBERSHIP

The Work Group's members were:

- Justice Debra Stephens, Washington Supreme Court;
- Judge Christine Quinn-Brintnall, Court of Appeals;
- Judge Deborah Fleck, King County Superior Court, on behalf of the Superior Court Judges' Association;
- Judge Stephen Brown, Grays Harbor District Court, on behalf of the District and Municipal Court Judges' Association and chair of this Work Group;
- Mr. Dirk Marler, Administrative Office of the Courts;
- Mr. Jim Bamberger, Office of Civil Legal Aid;
- Ms. Sophia Byrd McSherry, Office of Public Defense;
- Ms. Betty Gould, Thurston County Superior Court, and Ms. Barb Miner, King County Superior Court, on behalf of the Washington State Association of County Clerks;
- Mr. Peter Ehrlichman, Mr. Pete Karademos, and Ms. Joanna Plitcha Boisen, on behalf of the Washington State Bar Association;
- Ms. Ishbel Dickens, Access to Justice Board;
- Representative Roger Goodman, D-45, on behalf of the House Democratic Caucus;
- Representative Charles Ross, R-14, on behalf of the House Republican Caucus;
- Senator Tracey Eide, D-30, on behalf of the Senate Democratic Caucus; and
- Senator Mike Padden, R-4, on behalf Senate Republican Caucus.¹

¹ While a quorum of members was present at each meeting, not all members attended every meeting.

OPERATING PERIOD

The Work Group's operating period was from April 20, 2012 through October 2012. The Work Group met in person for four two-hour meetings and engaged in email correspondence.

RECOMMENDATIONS

Materials

In developing their recommendations, the Work Group reviewed, among other items:

- The BJA Filing Fee Work Group Charter;
- Washington's current filing fee structure;
- Civil filing fees in state trial courts as collected by National Center for State Courts;
- The 2011-2012 COSCA Policy Paper, *Courts are Not Revenue Centers*, which was co-authored by former Washington State Court Administrator Jeff Hall;
- Selected materials from the Court Funding Task Force Report, 2004;
- The Principal Policy Objectives of the Washington State Judicial Branch;
- A presentation from Mr. Hugh Spitzer, Affiliate Professor at the University of Washington School of Law, and his law review article, *Taxes vs. Fees: A Curious Confusion*, regarding the distinctions between taxes and user fees under the Washington State Constitution and laws; and
- A presentation by Mr. Ramsey Radwan, AOC's Management Services Division, regarding inflationary calculators.

Limitations

The Work Group limited its discussion to "civil filing fees and related surcharges," and did not contemplate other miscellaneous fees such as photocopying charges, parenting class fees, or local fees, believing that those fees were beyond the scope of their charge. Some members, however, believed that further review in the area of "local fees" is needed, and a motion was passed to note the value of exploring these other issues in the Work Group's final recommendations.

Principles

Much time was devoted to the development of the Filing Fee Principles. The Principles adopted by the Work Group for approval to the BJA are included on page four of this report. In developing the Principles, the Work Group referred to the Principal Policy Objectives and was guided by the prior work of the Court Funding Task Force.

Inflationary Calculations

Some discussion was devoted to whether filing fees should be periodically increased based on an inflationary calculation. Many different methods of calculating inflation are possible. The Work Group did not decide that fees should be increased based on an inflationary calculation at this time. However, after a presentation by Mr. Radwan, the Work Group generally, but not unanimously, agreed that the Office of Financial Management's Fiscal Growth Factor could serve as the starting point for assessing the impact of inflation on baseline filing fee levels. The Fiscal Growth Factor is used as the benchmark for determining allowable growth in expenditures under Initiative 601, codified at RCW 43.135.025. Whether funding should track changes in the Fiscal Growth Factor was not decided, nor did the Work Group embrace any other approach to automatic targeting of changes in filing fees to respond to inflation over time.

Changes to the Current Filing Fee Structure

Regarding changes to the existing filing fee structure in Washington, much weight was given to the observation that significant structural changes or fee increases would be difficult to pass during this legislative session. At the same time, the Work Group was concerned about the immediate prospect of a sunset in Judicial Stabilization Trust Account (JSTA) surcharges and the impact this would have on state and local judicial branch services. The Work Group, therefore, unanimously agreed to recommend to the BJA that a two-year extension of the JSTA surcharges, in their current form (including both the 2009 and 2012 surcharges and the 75%/25% state-local split), be supported by the BJA. Pending additional information regarding the impact of civil filing fees and surcharges on access to the courts for low and moderate income civil litigants, the Work Group recommends that no further substantive changes be suggested this year.

Further Discussion and Information

The Work Group generally believed that more discussion should be had regarding the impact of filing fees, including any impact from the JSTA surcharges, on access to the courts for low and moderate income civil litigants. The Work Group recommends that the BJA request the Washington State Center for Court Research Advisory Board to ask the Washington State Center for Court Research (WSCCR) at the Administrative Office of the Courts to study and report on the question by December 2013, including potential different impacts depending upon the type of cases involved (e.g., family, landlord-tenant, tort, contract, etc.).

The Work Group would like to reconvene in the fall of 2013 in anticipation of the report from WSCCR to consider changes to the current structure such as inflationary increases and changes to specific fees that may be indicated by the results of the WSCCR study.

Board for Judicial Administration

Filing Fee Principles

Principle One

As one of the three branches of government, the judicial branch should be funded largely from general tax revenues, enabling it to fulfill its constitutional and statutory mandates.

Principle Two

Court users may be charged reasonable filing fees², which should only be used to offset, in part, the cost of court and clerk operations and other necessary judicial branch infrastructure.

Principle Three

Filing fees should not preclude access to the courts and should be waived for indigent litigants.

Principle Four

The BJA, in conjunction with stakeholders, should periodically review filing fees to determine if they should be adjusted consistent with these principles.

Principle Five

Filing fee information should be simple, easy to understand, and easy to find.

Principle Six

Filing fees should not be used or charged in a way that infringes on the independence or appearance of independence of the judiciary.

In developing these principles, the BJA was guided by the work of the Court Funding Task Force. The following selected principles regarding trial court funding were approved by the BJA when it received the report of its Trial Court Funding Task Force in October 2004 entitled *Justice in Jeopardy: The Court Funding Crisis in Washington State* (pp. 23-24):

- Trial courts are critical to maintain the rule of law in a free society; they are essential to the protection of the rights and enforcement of obligations for all.
- Trial courts must have adequate, stable, and long-term funding to meet their legal obligations.
- Legislative bodies, whether municipal, county, or state, have the responsibility to fund adequately the trial courts.
- Trial court funding must be adequate to provide for the administration of justice equally across the state.
- The state has an interest in the effective operation of trial courts and the adequacy of trial court funding, and should contribute equitably to achieve a better balance of funding between local and state government.

² For the purposes of this document, the term “filing fee” refers to fees to initiate civil judicial proceedings, including fees to initiate a claim, counter-claim, third-party claim, or cross-claim, and surcharges such as those that fund state judicial branch operations, courthouse facilitators, dispute resolution, and the like.

Proposed 2013 BJA Request Legislation

- **New Judicial Position in Benton/Franklin County Superior Court**
 - Benton/Franklin County Superior Court requests authorization for one additional judicial position.
 - The Judicial Needs Estimate supports the request.
 - County funding is anticipated in January 2014 if the bill passes.
 - Supporting documents: JNE, 09/20/12 letter

Status: BJA Approval Requested; Leg/Exec Committee supports request to BJA.
- **New Judicial Position in Whatcom County Superior Court**
 - Whatcom County Superior Court requests authorization for one additional judicial position.
 - The Judicial Needs Estimate supports the request.
 - County officials are supportive and a local senator also indicated support.
 - Supporting documents: JNE, 10/08/12 letter

Status: BJA Approval Requested; Leg/Exec Committee supports request to BJA.
- **Judicial Stabilization Trust Account Surcharges**
 - Temporary JSTA surcharges were added in 2009 to offset state general fund reductions to judicial branch agencies.
 - Since passage in 2009, the sunset date of the surcharges has been extended, the surcharges have been increased by \$10, and a 75/25 split with local governments was added.
 - The existing surcharges expire in 2013.
 - The BJA Filing Fee Work Group recommends supporting the extension of the surcharges, in their existing amounts and with the existing split, for two years.
 - Supporting documents: FFWG report, ESHB 6608

Status: BJA Approval Requested; Leg/Exec Committee supports request to BJA.
- **Payment of interpreter expenses in civil hearings**
 - Require that interpreters be provided at no expense to non-English speaking persons regardless of indigency in all cases.
 - Whether state funding should be requested has not been determined.
 - The Interpreter Commission requested this bill last year, but BJA decided not to request legislation for the 2012 legislative session.
 - The issue has again arisen because of communications with the Dept. of Justice and discussions at the Supreme Court budget meeting on 10/08/12.
 - Supporting documents: 09/21/11 Interpreter Commission letter, 2011 survey (2012 survey pending), BJA resolution, RCW 2.43.040

Status: Leg/Exec Committee sends request to BJA without recommendation for further discussion.

superior court judicial needs

Superior Courts—Judicial Needs Estimates by Full-Time Equivalents, 2012 Projected Filings¹

Court	Judges	Authorized	Full-Time	Part-Time	Total Estimated Judge Need ³
		Unfilled Judge Positions ²	Commissioner s	Commissioner s	
Adams	1.00	0.00	0.00	0.00	1.02
Asotin/Columbia/Garfield	1.00	0.00	0.00	0.00	1.59
Benton/Franklin	6.00	0.00	2.00	0.50	9.87
Chelan	3.00	1.00	1.00	0.04	3.19
Clallam	3.00	0.00	1.00	0.00	3.47
Clark	10.00	0.00	3.00	0.60	14.02
Cowlitz	4.00	1.00	0.00	0.61	5.56
Douglas	1.00	0.00	0.00	0.09	1.27
Ferry/Stevens/PendOreille	2.00	0.00	0.00	0.40	2.54
Grant	3.00	0.00	0.00	1.00	4.04
Grays Harbor	3.00	0.00	0.00	0.00	3.66
Island	2.00	0.00	0.00	0.10	2.72
Jefferson	1.00	0.00	0.00	0.30	1.58
King	53.00	5.00	13.00	0.00	63.16
Kitsap	8.00	0.00	1.00	0.10	8.49
Kittitas	2.00	0.00	0.00	0.00	1.74
Klickitat/Skamania	1.00	0.00	0.00	0.13	1.53
Lewis	3.00	0.00	1.00	0.00	4.08
Lincoln ⁴	1.00	0.00	0.00	0.00	1.13
Mason	2.00	0.00	0.90	0.18	2.73
Okanogan	2.00	0.00	0.00	1.00	2.12
Pacific/Wahkiakum	1.00	0.00	0.00	0.00	1.27
Pierce	22.00	2.00	8.00	0.00	29.93
San Juan	1.00	0.00	0.00	0.00	0.75
Skagit	4.00	0.00	1.00	0.25	6.53
Snohomish	15.00	0.00	5.00	0.00	20.98
Spokane	12.00	1.00	5.00	0.80	18.12
Thurston	8.00	0.00	2.00	0.00	11.01
Walla Walla	2.00	0.00	0.00	0.30	2.84
Whatcom	3.00	0.00	3.00	0.80	7.02
Whitman	1.00	0.00	0.00	0.00	1.29
Yakima	8.00	0.00	2.00	0.60	9.51
TOTAL	189.00	10.00	48.90	7.80	248.77

1. Year 2012 projected filings are based on the previous five-year filing trends of the various case types in a given court. Needs estimates are based on the previous five years of data for the number of total judicial officers and case resolutions.
2. Superior court judge positions authorized by state statute yet unfunded at the county level.
3. This column represents the estimated number of judge positions needed, as required by RCW 2.56.030(11). Individual counties or judicial districts may choose to establish and fund court commissioner positions instead of superior court judge positions. Identical indicators are used to measure the workload of both judges and commissioners.
4. The estimation process eliminates Lincoln County due to caseload anomalies which strongly influence the overall results. In order to obtain a true statewide total, the estimated judge need for Lincoln County is imputed to be identical to the current judicial officer FTE count in that county.

**SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR BENTON AND FRANKLIN COUNTIES**

7122 W. Okanogan Place, Bldg. A, Kennewick, WA 99336

CAMERON MITCHELL
PRESIDING JUDGE

BENTON COUNTY JUSTICE CENTER
FRANKLIN COUNTY COURTHOUSE
TELEPHONE (509) 736-3071
FAX (509) 736-3057

September 20, 2012

Ms. Callie Dietz, Administrator
Office of the Administrator for the Courts
Temple of Justice
PO Box 41170
Olympia, Washington 98504-1170

Re: Judicial Position

Dear Ms. Dietz:

Last year this court wrote to Mr. Jeff Hall, State Court Administrator, and informed him that the judges of the Benton and Franklin Counties Superior Court Judicial District had determined that the Court's caseload warranted the creation of an additional judgeship. This determination was based upon the discussions among the local bench regarding increased population and the associated need that increase places on the courts, as well as the 2011 Judicial Needs Estimate and caseload statistics.

Due to the budget deficit at the state level last year the court temporarily withdrew its request for a judicial position, however, we would like to request that your office pursue legislation in 2013 creating a seventh judicial position in our district contingent and effective upon funding in 2014 by the local legislative authorities. We understand similar "contingent" legislation has been adopted in the past with an extended sunset date, which also seems appropriate at this time.

The court discussed support of the additional judicial position and 2014 funding of that position with the local legislative authorities last year and expected support at the local level. We are again scheduling a meeting within the next couple of weeks to reaffirm that support.

Please feel free to contact Pat Austin, our Administrator, or myself if you need any additional information or if there is any action we need to take locally. Thank you in advance for your time and efforts extended on our behalf.

Sincerely,



Cameron Mitchell
Presiding Judge

Board for Judicial Administration Request Legislation

Increases the number of superior court judges in Benton and Franklin Counties jointly. Provides that the addition judicial position created by this act shall become effective only if the county, through its duly constituted legislative authority, documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial position as provided by statute.

Contact:

Mellani McAleenan, Associate Director
Board for Judicial Administration
(360) 357-2113 (office)
(360) 480-3320 (cell)
Mellani.mcaleenan@courts.wa.gov

AN ACT relating to increasing the number of superior court judges in Whatcom County; amending RCW 2.08.064; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 2.08.064 and 2006 c 20 s 1 are each amended to read as follows:

There shall be in the counties of Benton and Franklin jointly, ((six)) seven judges of the superior court; in the county of Clallam, three judges of the superior court; in the county of Jefferson, one judge of the superior court; in the county of Snohomish, fifteen judges of the superior court; in the counties of Asotin, Columbia and Garfield jointly, one judge of the superior court; in the county of Cowlitz, five judges of the superior court; in the counties of Klickitat and Skamania jointly, one judge of the superior court.

NEW SECTION. Sec. 2. The additional judicial position created by section 1 of this act in Benton and Franklin Counties jointly becomes effective only if the counties, through their duly constituted legislative authority, documents their approval of the additional position and their agreement that they will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial position as provided by statute.

--- END ---

Superior Court of the State of Washington
For Whatcom County

311 Grand Avenue, Bellingham, Washington 98225

Chambers of
CHARLES R. SNYDER
Judge



(360) 738-2457
FAX (360) 676-6693
csnyder@co.whatcom.wa.us

October 8, 2012

Ms. Callie Dietz
Administrator for the Courts
1206 Quince Street SE
P.O. Box 41170
Olympia, WA 98504-1170

Re: Request for Superior Court Judge for Whatcom County

Dear Ms. Deitz,

I am writing on behalf of the Whatcom County Superior Court to formally request consideration of approval for a fourth Superior Court Judge for Whatcom County. The most recent two judicial needs surveys have shown that Whatcom County should have seven full-time judicial officers. At this time we have three elected judges and three full-time court commissioners, for a total of six. We have divided our workload to best utilize this arrangement, but find that our greatest need is for trial judge time to meet our criminal and, increasingly, backlogged civil trial calendars. Whatcom County last added a judge in the early 1970's and the population of the county has tripled in the ensuing years. A request was forwarded last year to the Board for Judicial Administration as well.

The Court has been working with our County Executive and County Council to this end. The County Council has authorized a design review for the needed courtroom space and there is a plan that should meet our needs. Our County Executive, Prosecuting Attorney, Public Defender and private bar are all in support of this request. Letters of support can be provided upon request.

The Court believes that efficient and effective administration of justice in Whatcom County requires the addition of a fourth Superior Court Judge. Please consider this request for the 2013 legislative session. Please feel free to seek further information or clarification.

Sincerely,

Charles R. Snyder
Judge, Whatcom County Superior Court

Cc: Jack Louws, County Executive
Mellani McAleenan
Senator Kevin Ranker

Board for Judicial Administration Request Legislation

Increases the number of superior court judges in Whatcom County. Provides that the additional judicial position created by this act shall become effective only if the county, through its duly constituted legislative authority, documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial position as provided by statute.

Contact:

Mellani McAleenan, Associate Director
Board for Judicial Administration
(360) 357-2113 (office)
(360) 480-3320 (cell)
Mellani.mcaleenan@courts.wa.gov

AN ACT relating to increasing the number of superior court judges in Whatcom County; amending RCW 2.08.063; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 2.08.063 and 2005 c 95 s 1 are each amended to read as follows:

There shall be in the county of Lincoln one judge of the superior court; in the county of Skagit, four judges of the superior court; in the county of Walla Walla, two judges of the superior court; in the county of Whitman, one judge of the superior court; in the county of Yakima, eight judges of the superior court; in the county of Adams, one judge of the superior court; in the county of Whatcom, (~~three~~) four judges of the superior court.

NEW SECTION. Sec. 2. The additional judicial position created by section 1 of this act in Whatcom County becomes effective only if the county, through its duly constituted legislative authority, documents its approval of the additional position and its agreement that it will pay out of county funds, without reimbursement from the state, the expenses of such additional judicial position as provided by statute.

--- END ---

CERTIFICATION OF ENROLLMENT

ENGROSSED SENATE BILL 6608

Chapter 199, Laws of 2012

62nd Legislature
2012 Regular Session

JUDICIAL STABILIZATION TRUST ACCOUNT SURCHARGES

EFFECTIVE DATE: 06/07/12

Passed by the Senate March 6, 2012
YEAS 39 NAYS 9

BRAD OWEN

President of the Senate

Passed by the House March 7, 2012
YEAS 54 NAYS 43

FRANK CHOPP

Speaker of the House of Representatives

Approved March 29, 2012, 7:40 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SENATE BILL 6608** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 29, 2012

**Secretary of State
State of Washington**

ENGROSSED SENATE BILL 6608

Passed Legislature - 2012 Regular Session

State of Washington 62nd Legislature 2012 Regular Session

By Senators Harper, Pflug, Frockt, Kline, and Eide

Read first time 02/24/12. Referred to Committee on Ways & Means.

1 AN ACT Relating to judicial stabilization trust account surcharges;
2 and amending RCW 3.62.060, 36.18.018, and 36.18.020.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 3.62.060 and 2011 1st sp.s. c 44 s 4 are each amended
5 to read as follows:

6 (1) Clerks of the district courts shall collect the following fees
7 for their official services:

8 (a) In any civil action commenced before or transferred to a
9 district court, the plaintiff shall, at the time of such commencement
10 or transfer, pay to such court a filing fee of forty-three dollars plus
11 any surcharge authorized by RCW 7.75.035. Any party filing a
12 counterclaim, cross-claim, or third-party claim in such action shall
13 pay to the court a filing fee of forty-three dollars plus any surcharge
14 authorized by RCW 7.75.035. No party shall be compelled to pay to the
15 court any other fees or charges up to and including the rendition of
16 judgment in the action other than those listed.

17 (b) For issuing a writ of garnishment or other writ, or for filing
18 an attorney issued writ of garnishment, a fee of twelve dollars.

19 (c) For filing a supplemental proceeding a fee of twenty dollars.

1 (d) For demanding a jury in a civil case a fee of one hundred
2 twenty-five dollars to be paid by the person demanding a jury.

3 (e) For preparing a transcript of a judgment a fee of twenty
4 dollars.

5 (f) For certifying any document on file or of record in the clerk's
6 office a fee of five dollars.

7 (g) At the option of the district court:

8 (i) For preparing a certified copy of an instrument on file or of
9 record in the clerk's office, for the first page or portion of the
10 first page, a fee of five dollars, and for each additional page or
11 portion of a page, a fee of one dollar;

12 (ii) For authenticating or exemplifying an instrument, a fee of two
13 dollars for each additional seal affixed;

14 (iii) For preparing a copy of an instrument on file or of record in
15 the clerk's office without a seal, a fee of fifty cents per page;

16 (iv) When copying a document without a seal or file that is in an
17 electronic format, a fee of twenty-five cents per page;

18 (v) For copies made on a compact disc, an additional fee of twenty
19 dollars for each compact disc.

20 (h) For preparing the record of a case for appeal to superior court
21 a fee of forty dollars including any costs of tape duplication as
22 governed by the rules of appeal for courts of limited jurisdiction
23 (RALJ).

24 (i) At the option of the district court, for clerk's services such
25 as processing ex parte orders, performing historical searches,
26 compiling statistical reports, and conducting exceptional record
27 searches, a fee not to exceed twenty dollars per hour or portion of an
28 hour.

29 (j) For duplication of part or all of the electronic recording of
30 a proceeding ten dollars per tape or other electronic storage medium.

31 (k) For filing any abstract of judgment or transcript of judgment
32 from a municipal court or municipal department of a district court
33 organized under the laws of this state a fee of forty-three dollars.

34 (l) At the option of the district court, a service fee of up to
35 three dollars for the first page and one dollar for each additional
36 page for receiving faxed documents, pursuant to Washington state rules
37 of court, general rule 17.

1 (2)(a) Until July 1, 2013, in addition to the fees required to be
2 collected under this section, clerks of the district courts must
3 collect a surcharge of (~~twenty~~) thirty dollars on all fees required
4 to be collected under subsection (1)(a) of this section.

5 (b) Seventy-five percent of each surcharge collected under this
6 subsection (2) must be remitted to the state treasurer for deposit in
7 the judicial stabilization trust account.

8 (c) Twenty-five percent of each surcharge collected under this
9 subsection (2) must be retained by the county.

10 (3) The fees or charges imposed under this section shall be allowed
11 as court costs whenever a judgment for costs is awarded.

12 **Sec. 2.** RCW 36.18.018 and 2011 1st sp.s. c 44 s 3 are each amended
13 to read as follows:

14 (1) State revenue collected by county clerks under subsection (2)
15 of this section must be transmitted to the appropriate state court.
16 The administrative office of the courts shall retain fees collected
17 under subsection (3) of this section.

18 (2) For appellate review under RAP 5.1(b), two hundred fifty
19 dollars must be charged.

20 (3) For all copies and reports produced by the administrative
21 office of the courts as permitted under RCW 2.68.020 and supreme court
22 policy, a variable fee must be charged.

23 (4) Until July 1, 2013, in addition to the fee established under
24 subsection (2) of this section, a surcharge of (~~thirty~~) forty dollars
25 is established for appellate review. The county clerk shall transmit
26 seventy-five percent of this surcharge to the state treasurer for
27 deposit in the judicial stabilization trust account and twenty-five
28 percent must be retained by the county.

29 **Sec. 3.** RCW 36.18.020 and 2011 1st sp.s. c 44 s 5 are each amended
30 to read as follows:

31 (1) Revenue collected under this section is subject to division
32 with the state under RCW 36.18.025 and with the county or regional law
33 library fund under RCW 27.24.070, except as provided in subsection (5)
34 of this section.

35 (2) Clerks of superior courts shall collect the following fees for
36 their official services:

1 (a) In addition to any other fee required by law, the party filing
2 the first or initial document in any civil action, including, but not
3 limited to an action for restitution, adoption, or change of name, and
4 any party filing a counterclaim, cross-claim, or third-party claim in
5 any such civil action, shall pay, at the time the document is filed, a
6 fee of two hundred dollars except, in an unlawful detainer action under
7 chapter 59.18 or 59.20 RCW for which the plaintiff shall pay a case
8 initiating filing fee of forty-five dollars, or in proceedings filed
9 under RCW 28A.225.030 alleging a violation of the compulsory attendance
10 laws where the petitioner shall not pay a filing fee. The forty-five
11 dollar filing fee under this subsection for an unlawful detainer action
12 shall not include an order to show cause or any other order or judgment
13 except a default order or default judgment in an unlawful detainer
14 action.

15 (b) Any party, except a defendant in a criminal case, filing the
16 first or initial document on an appeal from a court of limited
17 jurisdiction or any party on any civil appeal, shall pay, when the
18 document is filed, a fee of two hundred dollars.

19 (c) For filing of a petition for judicial review as required under
20 RCW 34.05.514 a filing fee of two hundred dollars.

21 (d) For filing of a petition for unlawful harassment under RCW
22 10.14.040 a filing fee of fifty-three dollars.

23 (e) For filing the notice of debt due for the compensation of a
24 crime victim under RCW 7.68.120(2)(a) a fee of two hundred dollars.

25 (f) In probate proceedings, the party instituting such proceedings,
26 shall pay at the time of filing the first document therein, a fee of
27 two hundred dollars.

28 (g) For filing any petition to contest a will admitted to probate
29 or a petition to admit a will which has been rejected, or a petition
30 objecting to a written agreement or memorandum as provided in RCW
31 11.96A.220, there shall be paid a fee of two hundred dollars.

32 (h) Upon conviction or plea of guilty, upon failure to prosecute an
33 appeal from a court of limited jurisdiction as provided by law, or upon
34 affirmance of a conviction by a court of limited jurisdiction, a
35 defendant in a criminal case shall be liable for a fee of two hundred
36 dollars.

37 (i) With the exception of demands for jury hereafter made and
38 garnishments hereafter issued, civil actions and probate proceedings

1 filed prior to midnight, July 1, 1972, shall be completed and governed
2 by the fee schedule in effect as of January 1, 1972. However, no fee
3 shall be assessed if an order of dismissal on the clerk's record be
4 filed as provided by rule of the supreme court.

5 (3) No fee shall be collected when a petition for relinquishment of
6 parental rights is filed pursuant to RCW 26.33.080 or for forms and
7 instructional brochures provided under RCW 26.50.030.

8 (4) No fee shall be collected when an abstract of judgment is filed
9 by the county clerk of another county for the purposes of collection of
10 legal financial obligations.

11 (5)(a) Until July 1, 2013, in addition to the fees required to be
12 collected under this section, clerks of the superior courts must
13 collect surcharges as provided in this subsection (5) of which seventy-
14 five percent must be remitted to the state treasurer for deposit in the
15 judicial stabilization trust account and twenty-five percent must be
16 retained by the county.

17 (b) On filing fees required to be collected under subsection (2)(b)
18 of this section, a surcharge of (~~twenty~~) thirty dollars must be
19 collected.

20 (c) On all filing fees required to be collected under this section,
21 except for fees required under subsection (2)(b), (d), and (h) of this
22 section, a surcharge of (~~thirty~~) forty dollars must be collected.

Passed by the Senate March 6, 2012.

Passed by the House March 7, 2012.

Approved by the Governor March 29, 2012.

Filed in Office of Secretary of State March 29, 2012.



September 21, 2011

TO: Chief Justice Barbara Madsen, BJA Chair; and
Judge Chris Wickham, Member Chair

FROM: Justice Susan B. Owens, Chair, Interpreter Commission

RE: PAYMENT OF INTERPRETER EXPENSES IN CIVIL HEARINGS

Washington law requires courts to secure the rights of persons who are unable to communicate in the English language by providing qualified interpreters.¹ Without the aid of interpretation, participants with limited English proficiency (LEP) are excluded from opportunity to exercise their legal rights. However, in civil matters, Washington law creates barriers to LEP individuals in exercising their rights. Courts may charge the cost of interpreter expenses to LEP parties in civil cases, unless they have demonstrated indigency.² And, in many cases, courts simply do not appoint court interpreters in civil matters.

Although in many respects we believe Washington far outpaces the national norms with respect to serving LEP persons, the Interpreter Commission is concerned that our state law regarding payment for interpreter services in civil matters may not meet federal standards. Developed pursuant to Title VI of the Civil Rights Act of 1964 and Executive Order 13166, the U.S. Department of Justice (DOJ) established Guidance addressing language access standards that must be met by federal funding recipients.³ DOJ's position is that courts that are direct and indirect funding recipients of federal funds are required to pay interpreter costs in all hearings, regardless of case type, and regardless of a party's economic status.⁴

The inconsistency between the requirements of Title VI and Washington statute create uncertainty and risk for all Washington courts.

¹ RCW 2.43.010).

² RCW §.43.040(3).

³ 28 C.F.R. §42.101 and §42.201.

⁴ October 14, 2010 letter from Thomas E. Perez, Assistant Attorney General, to Chief Justices and State Court Administrators.

Therefore, the Interpreter Commission respectfully requests that the BJA pursue a legislative change mandating the courts to pay interpreter expenses in all cases types, regardless of parties' economic status, harmonizing RCW 2.43.040 and federal requirements for civil hearings. The Commission is not requesting State funding to accommodate the change.

Current Practices in Washington Courts: Washington courts take inconsistent approaches to appointing and charging litigants for interpreter expenses in civil cases. Interpreter schedulers of thirty-two courts responded to an informal survey regarding payment of interpreter expenses. Respondents represented a mix of Superior, District and Municipal Courts. The survey showed that most responding courts already pay interpreter expenses in civil cases. Specific findings include:

- **Traffic Infraction Hearings:** All but one responding court pays for interpreter expenses in all traffic hearings.
- **Other Civil Hearings:** Of the twenty-one responding District and Superior Courts, seventeen pay interpreter costs in all civil cases. Four collect fees when parties are not found to be indigent.
- **Protection Order Hearings:** Twenty-one courts reported paying interpreter expenses in all protection order hearings. One reported paying only if the party is indigent, and one indicated "when ordered by the Judge."

Although the majority of responding courts reportedly cover the costs of interpreting in civil matters, some still do not. Advocates have brought concerns to the Interpreter Commission's attention regarding the provision of interpreters in civil cases. Transcripts illustrate that judges sometimes confuse the requirement to pay interpreter costs, with the right to having an interpreter. Additionally, the burden to prove indigency is placed on the LEP parties, without the benefit of an interpreter to address the procedural requirements.

Current Practices in Other States: Courts in at least sixteen states pay interpreter costs for all civil cases. Those states are listed below, along with the source of their directive:

- | | | |
|---------------------------------|---|--|
| 1. Colorado (result of DOJ MOU) | 7. Maryland (Supreme Court directive) | 13. New Mexico (statute) |
| 2. Georgia (court rule) | 8. Massachusetts (statute) | 14. New York (statute) |
| 3. Idaho (statute) | 9. Maine (result of DOJ MOU) | 15. Oregon (not firm in statute, but done as a matter of policy) |
| 4. Indiana (statute) | 10. Minnesota (statute) | 16. Wisconsin (statute) |
| 5. Kansas (statute) | 11. Nebraska (statute) | |
| 6. Kentucky (statute) | 12. New Jersey (administrative directive) | |

National Attention: In recent years the U.S. Department of Justice Civil Rights Division has increased its enforcement of language access requirements. To date the DOJ's only audit and investigation in Washington occurred with the Mattawa Police

Department in 2008.⁵ However, audits and investigations have occurred or are occurring with courts in California, Colorado, Maine, Wisconsin, North Carolina, Delaware, and Alabama. There has been increased visibility to the issue of court interpreting and requiring courts to pay those expenses. Washington has been identified as a state that does not pay interpreter expenses in non-indigent civil matters in the Brennan Center for Justice's publication *Language Access in State Courts*⁶ and COSCA's 2007 *White Paper on Court Interpretation: Fundamental to Access to Justice*.⁷

Cost Considerations: Paying the costs of interpreter cases in non-indigent civil matters will have a fiscal impact on counties and cities. However, courts may opt to use the opportunity to identify cost-savings approaches to interpreter management. Proven and effective cost saving approaches include, but are not limited to:

- Establishing "interpreter calendars" to better utilize paid interpreter time, and reduce the number of separate court events requiring interpreters;
- Consolidating interpreter scheduling responsibilities among neighboring courts, sharing costs and resources;
- Hiring staff Spanish interpreters for a single court, or to be shared by neighboring courts;
- Implementing online scheduling technology to reduce the amount of staff time used for finding and communicating with court interpreters.

Additionally, the AOC is currently piloting video remote interpreting technology, which has the potential to deliver services to courts statewide at reduced costs.

Alternative to Statutory Changes: An alternative to seeking a statutory change is establishing Court Rules regarding the payment of interpreters. The Supreme Court has certain inherent powers; among these is the power to prescribe rules for procedure and practice in State Courts.⁸ Case law indicates that, where the rule of court is inconsistent with procedural statute, the power of the court to establish the procedural rules for the courts of this state is supreme.⁹

Chapter 2.43 RCW applies not only to Washington State Courts, but also to any "department, board, commission, agency, licensing authority, or legislative body of the state or of any political subdivision thereof."¹⁰ Creating a Court Rule regarding the

⁵ http://seattletimes.nwsources.com/html/localnews/2004438670_bilingual26.html

⁶ http://www.brennancenter.org/content/resource/language_access_in_state_courts/ See page 19.

⁷ <http://cosca.ncsc.dni.us/WhitePapers/CourtInterpretation-FundamentalToAccessToJustice.pdf> See page 39.

⁸ *State v. Smith*, 84 Wn.2d 498, 502, 527 P.2d 674, 677 (1974).

⁹ *Petrarca v. Halligan*, 83 Wn.2d 773, 777, 522 P.2d 827, 830 (1974); *State v. Pollard*, 66 Wn.App. 779, 785, 834 P.2d 51, 54 (1992); *State v. Saldano*, 36 Wn.App. 344, 350, 675 P.2d 1231, 1235 (1984).

¹⁰ RCW 2.43.020(1) (2010).

payment of interpreters provides an opportunity to craft language specifically applicable to State Courts.

Summary: The Washington statutory standards regarding the payment of court interpreter costs in non-indigent civil cases do not conform to U.S. Department of Justice standards . Moreover, the general trend among Washington courts and other state judiciaries is to absorb these costs as a court expense. The Interpreter Commission respectfully requests that the BJA support and seek a legislative change to RCW 2.43.040 requiring courts to provide court interpreters at court expense for all hearing types. In the alternative, the Interpreter Commission requests the BJA's endorsement of establishing a procedural court rule requiring the same.

RESOLUTION of the BOARD FOR JUDICIAL ADMINISTRATION
of the State of Washington

In Support of Language Access Services In Court

WHEREAS, equal access to courts is fundamental to the American system of government under law; and

WHEREAS, language barriers can create impediments to access to justice for individuals who are limited-English proficient; and

WHEREAS, it is the policy of the State of Washington "to secure the rights, constitutional or otherwise, of persons who, because of a non-English-speaking cultural background, are unable to readily understand or communicate in the English language, and who consequently cannot be fully protected in legal proceedings unless qualified interpreters are available to assist them." RCW 2.43.010 (Interpreters for non-English speaking persons); and

WHEREAS, courts rely upon interpreters to be able to communicate with limited-English proficient litigants, witnesses and victims in all case types; and

WHEREAS, the State has previously acknowledged a responsibility to share equally with local government in the costs incurred in paying for quality court interpreting services; and

WHEREAS, the Board for Judicial Administration recognizes the benefit that interpreting services provide to limited English proficient litigants and to the fact-finder in the efficient and effective administration of justice; and

WHEREAS, the Board for Judicial Administration previously adopted a Resolution to, among other things, "remove impediments to access to the justice system, including physical and language barriers, rules and procedures, disparate treatment and other differences that may serve as barriers." (Board for Judicial Administration, Civil Equal Justice); and

WHEREAS, the provision of free and qualified interpreter services in all legal proceedings promotes the Principal Policy Objectives of the State Judicial Branch regarding fair and effective administration of justice in all civil and criminal cases, and accessibility to Washington courts;

NOW, THEREFORE, BE IT RESOLVED:

That the Board for Judicial Administration:

- 1) Endorses the provision of interpreter services, at public expense, in all legal proceedings, both criminal and civil;
- 2) Supports the elimination of language-related impediments to access to the justice system for limited English proficient litigants; and
- 3) Encourages the State to fulfill its commitment to share equally in the responsibility to provide adequate and stable funding for court interpreting services.

ADOPTED BY the Board for Judicial Administration on July 20, 2012.

Municipal Courts – Interpreter Costs in Civil Cases

Location	Approx. annual interpreter costs	Receive Federal funds?	Process to track reimbursement of interp. costs?	Approx. amount recovered annually	Provide interpreting at court expense in ALL civil hearings
Auburn	\$75,000	No	No	\$100	No
Bonney Lake	\$3,000	No	No	0	No
Brewster	\$100	No	No	0	No
Buckley	\$1,500	No	No	0	No
East Wenatchee	\$3,000	No	No	0	Yes
Edmonds	\$43,000	No	No	0	Yes
Federal Way	\$75,000	Yes	No	0	Yes
Fife	\$20,000	No	No	0	Yes
Gig Harbor	\$3,500	No	No	0	Yes
Kirkland	\$30,000	No	No	0	Yes
Lakewood	\$35,000	No	No	0	Yes
Lynnwood	\$84,000	No	No	0	Yes
Marysville	\$22,000	No	No	0	Yes
Mercer Island	\$12,000	No	No	0	Yes
Ocean Shores	\$3,000	No	Yes ¹	\$2000	No
Pacific and Algona	\$15,000	No	No	\$9000	No
Port Orchard	\$3,500	No	No	0	Yes
Renton	\$60,000	No	No	0	No
Roy	\$400	No	No	0	Yes
SeaTac	\$38,000	No	No	0	Yes
Seattle	\$350,000	Yes	No	0	Yes
Tukwila	\$60,000	No	No	0	Yes
Union Gap	\$24,000	No	No	0	Yes
Vancouver	\$60,000	Yes	No	0	Yes

	Protective Orders	Infractions	Other
We provide and pay for interpreters when requested.	9	22	3
We provide and pay for interpreters, but seek reimbursement of costs from the non-English speaking party, unless so ordered by the court.	0	2	2
We require non-English speaking parties to provide their own interpreters, unless so ordered by the court.	0	2	2

¹ We track it as restitution to the City of Ocean Shores.

District Courts – Interpreter Costs in Civil Cases

Location	Approx. annual interpreter costs	Receive Federal funds?	Process to track reimbursement of interp. costs?	Approx. amount recovered annually	Provide interpreting at court expense in ALL civil hearings
Clark	\$75,000	Yes	No answer	0	No
Columbia	\$1,000	No	No	0	No
Douglas	\$89,000	No	No	0	Yes
King	\$680,000	No	No	0	Yes
Kitsap	\$40,000	No	No	0	No
Klickitat	\$1,500	No	No	0	Yes
Okanogan	\$30,000	No	No	0	Yes
Pacific	\$300	No	No	0	Yes
Pend Oreille	\$150	No	No	0	Yes
Pierce	\$350,000	Yes	No	0	Yes
San Juan	\$2,000	No	No	\$500	No
Skamania	\$4,000	No	Yes ²	0	No
Spokane	\$2,100 (civil only)	Yes	No	0	Yes
Thurston	\$25,000	No	No	0	Yes
Whatcom	Unknown	No	No	0	Yes
Whitman	\$1,000	No	Yes ³	0	No
x	x	No	No	0	Yes
Yakima	\$146,000	No	No	\$500	Yes

	Protective Orders	Infractions	General Civil	Other
We provide and pay for interpreters when requested.	16	14	10	5
We provide and pay for interpreters, but seek reimbursement of costs from the non-English speaking party, unless so ordered by the court.	0	1	2	0
We require non-English speaking parties to provide their own interpreters, unless so ordered by the court.	1	3	5	0

² Setting 6 month reviews.

³ We have very few civil/small claim cases where an interpreter is requested - less than one per year. The finance coordinator keeps a folder with the case number and tracks payment manually.

Superior Courts– Interpreter Costs in Civil Cases

Location	Approx. annual interpreter costs	Receive Federal funds?	Process to track reimbursement of interp. costs?	Approx. amount recovered annually	Provide interpreting at court expense in ALL civil hearings
Benton & Franklin	\$72,250	Yes	No	0	Yes
Chelan	\$58,000	Yes	No	0	Yes
Clark	\$100,000	Yes	No	0	No
Cowlitz	\$43,000	Yes	No	0	Yes
Jefferson	\$3,000	No	No	0	Yes
King	\$800,000	Yes	No	0	No
Kitsap	\$45,000	Yes	No	0	Yes
Mason	\$18,000	Yes	No	0	No
Pierce	\$350,000	Yes	No	0	Yes
San Juan	\$0	No	No	0	Yes
Snohomish	\$150,000	Yes	No	0	No
Spokane	\$500	Yes	No	0	Yes
Stevens/Ferry/Pend Oreille	\$1,000	Yes	No	0	Yes
Thurston	\$40,000	Yes	No	0	Yes
Whatcom	\$34,000	Yes	No	0	Yes
Yakima	\$149,000	Yes	No	0	No

	Family	Protection Orders	Involuntary Commitments	General Civil	Other
We provide and pay for interpreters when requested.	11	15	15	12	6
We provide and pay for interpreters, but seek reimbursement of costs from the non-English speaking party, unless so ordered by the court.	2	0	0	2	0
We require non-English speaking parties to provide their own interpreters, unless so ordered by the court.	3	1	1	2	1

RCW 2.43.040

Fees and expenses — cost of providing interpreter — reimbursement.

(1) Interpreters appointed according to this chapter are entitled to a reasonable fee for their services and shall be reimbursed for actual expenses which are reasonable as provided in this section.

(2) In all legal proceedings in which the non-English-speaking person is a party, or is subpoenaed or summoned by the appointing authority or is otherwise compelled by the appointing authority to appear, including criminal proceedings, grand jury proceedings, coroner's inquests, mental health commitment proceedings, and other legal proceedings initiated by agencies of government, the cost of providing the interpreter shall be borne by the governmental body initiating the legal proceedings.

(3) In other legal proceedings, the cost of providing the interpreter shall be borne by the non-English-speaking person unless such person is indigent according to adopted standards of the body. In such a case the cost shall be an administrative cost of the governmental body under the authority of which the legal proceeding is conducted.

(4) The cost of providing the interpreter is a taxable cost of any proceeding in which costs ordinarily are taxed.

(5) Subject to the availability of funds specifically appropriated therefor, the administrative office of the courts shall reimburse the appointing authority for up to one-half of the payment to the interpreter where an interpreter is appointed by a judicial officer in a proceeding before a court at public expense and:

(a) The interpreter appointed is an interpreter certified by the administrative office of the courts or is a qualified interpreter registered by the administrative office of the courts in a noncertified language, or where the necessary language is not certified or registered, the interpreter has been qualified by the judicial officer pursuant to this chapter;

(b) The court conducting the legal proceeding has an approved language assistance plan that complies with RCW 2.43.090; and

(c) The fee paid to the interpreter for services is in accordance with standards established by the administrative office of the courts.

[2008 c 291 § 3; 1989 c 358 § 4. Formerly RCW 2.42.230.]

Notes:

Severability -- 1989 c 358: See note following RCW 2.43.010.



A nonprofit organization improving justice through leadership and service to courts

Mary Campbell McQueen
President

Daniel J. Hall
Vice President
Court Consulting Services
Denver Office

TO: Barbara A. Madsen, Chief Justice
Callie Dietz, Acting SCA
FROM: Laura Klaversma
Tom Clarke
DATE: September 25, 2012
RE: Washington Long-Range Planning
Site Visit Interviews 9/18-9/19
BJA Retreat 9/21-9/22

Issues and concerns that arose from those interviewed during the site visit:

- Who did the interviewees think is leading and in charge of the long-range planning effort?
Interviewees had a variety of answers; unclear as to who was leading and in charge. They mentioned the following:
 - Chief Justice?
 - Supreme Court?
 - BJA?
 - Steve Henley?
- What did the interviewees think is the long range planning strategy?
Interviewees were uncertain.
 - Some thought it was only an effort for the Administrative Office.
 - Some thought it was only an effort for the Supreme Court.
 - Quite a few did not know what the effort was trying to be.
 - Some said it was too broad.
 - Some said it was too top down.
 - Some said it did not affect them.
- What did those who have participated in the process think of the long range planning effort?
 - Too much "pie in the sky."
 - Too much time and no result.
 - No direction or plan.
 - Too many starts and stops.
 - Waste of time.

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Effort has a hidden agenda.

- What did those who have not participated in the process think of the long range planning effort?
 - Most do not know about it.
 - Others have no interest in it.
 - Some said it does not affect them.
 - Some said that decisions could not be enforced in a decentralized state.

Conclusion 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.

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 needs 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 clerks as well as staff in the Administrative Office of the Court that support them.
- 3) Once the first two recommendations are completed, a Long-Range Planning Effort designed for loosely coupled organizations can be initiated.

Next Steps:

Review material and information from Long-Range Planning effort. Develop a document that presents the accepted mission, vision and values. To accomplish this quickly, we suggest first having AOC staff develop the materials from the information that has

already been developed. The NCSC can then review and suggest changes to the document, especially with the Principles based on work in other states.

The following plan should be presented to the BJA membership at the October meeting. If the document with the Mission, Vision and Values is ready, this can also be presented to the BJA membership to start the process.

Phase 1:

- 1) Define BJA Structure, Roles and Responsibilities
 - a. A select group of BJA members, to include the President and President-Elect of each court level as well as the Co-Chairs of BJA, will meet at a retreat (one-two days) to do the initial development. Through electronic means or shorter meetings, the document can be reviewed, finalized and approved.
 - b. The document, once reviewed and approved by the group, will be presented, discussed and approved by the BJA members. The goal for completion of this document will be the end of January with the approval by BJA members at the February meeting.
 - c. Once approved, the BJA members will present to their associations for approval.

Phase 2:

- 1) AOC staff will provide a list of BJA and Association Committees, Boards, Commissions, Task Forces to the BJA members. It is preferable that the BJA members receive this at least one week prior to the next BJA meeting in October.
- 2) BJA will have a working meeting to discuss redundancies and plan for ways to consolidate Committees, Boards, Commissions, and Task Forces. One of the goals will be to reduce time and efforts by judges, clerks, court administrators and AOC staff. Another goal would be to increase the opportunity for communication by increasing the cross pollination of committees and efforts. Another goal would be to focus efforts of the Judiciary as a whole and increase the opportunity for successful results in the areas that the committees, boards, commissions and task forces have common objectives.
- 3) BJA will make a plan of action to run concurrently during the 90 day effort for delivering a BJA structure, roles and responsibilities document. The final recommendations of Phase 2 should enhance the efforts of Phase 1.

Phase 3:

The Long-Range Planning Process should be initiated once the governance is in place, through the auspices of the BJA. This process should follow the Strategic Planning for loosely coupled organizations model.

- What does the planning process look like?
 - Short term time line for process with planning taking three-six months
 - Designed around campaigns, two-three areas of focus with distinct steps for implementation
 - Based on the premise that those implementing the campaigns do so voluntarily
- What are the steps for the planning process?

- 1) Organize:
 - a. Select members of the BJA
 - b. Establish a timeline
 - c. Plan steps to completion
- 2) Gather input on campaigns:
 - a. Surveys
 - b. Focus groups
- 3) Review information gathered through surveys and focus groups
 - a. Refine possibilities for campaigns using criteria
 - b. Further in-depth analysis on selected campaigns
- 4) Make recommendations to BJA for campaigns selected
- 5) Develop strategies and steps for each campaign

