Notes from WDA Meeting with Supreme Court Candidate Judge Ian Birk, October 6, 2026

Note: The video of WDA's meeting with Judge Birk did not record properly so this is a partial reconstruction of his comments from notes.

Tell us about yourself and why you are running for the WA Supreme Court? Has been a judge at the Division One Court of Appeals since April 2022. Before he was appointed by Governor Inslee he did civil work for 20 years. He was a law clerk for Justice Owens. When he was appointed, he saw his weakness as not having practiced criminal law so he educated himself in that area and has continued to focus on improving his understanding. He had not planned to run for the Supreme Court, but was urged by colleagues, including Judge Coburn, to do so thinking he would be a good contributor. It was meaningful to him to have the support of colleagues, including 32 on the court of appeals.

What are your experiences with public defense practice in Washington? His experience really has been shaped since coming to the court. There are many former public defenders on the court of appeals and they talk across the divisions. He has relied upon them to understand the criminal justice system and the constraints of public defense practice and the challenges faced. He has worked with a legal assistant whose husband was a criminal defense lawyer and she also helped him understand the challenges of working with an untrusting client population.

How do you assess the standards rule as adopted by the Supreme Court and are there any modifications you would like to see? He hasn't taken a position on what has been done. He is sympathetic to the need to address the issue. The Sixth Amendment requires the state to provide counsel. There is a bottom-line to the problem, the government pays for two lawyers in the court room and there is a clear outlier when we look at the state level of funding for both roles. It is the role of the court to require that the Sixth Amendment is met. He is confident the issue will be back and that the Supreme Court can't solve it by itself. It requires better funding. It also is not just defenders; there is a prosecutor shortage in Eastern Washington and a funding gap for the court system. He is a firm partner to protect rights when challenged by funding authorities.

What would want to see in the planned three-year review? More information on what is driving the increased workload. Over the last 20 years cases have taken 3 times longer to disposition. Would like to know how increased digital evidence and other issues are affecting the practice. Would like to see a plan for better state funding and how to evaluate and measure workload and caseloads. May need to adjust to ensure don't have ineffective assistance of counsel.

Is interested in rule making and there have been some discussions about changing the way the court approaches it. Interested in studying the California model of a constitutionally separate body that benefits from deep expertise. It is critical that the process brings in subject matter expertise and that it not just be a volunteer activity.

How would you respond to legislators or county commissioners complaining that they just cannot pay for more defenders? The Sixth Amendment is uncompromising, and the burden falls on the state. In Franklin County there was a testy exchange relating to prosecutorial needs, but it is not more important to have funding on one side than the other. The Constitution is a big unfunded mandate and how funding is doled out is important and to have the presence of judges in the room. The fact that funding is tight is not an admissible argument.

Questions from Members:

At the KCBA forum some candidates focused on the need for more support for victims' rights. How does that square with the rights of the accused? Safeguarding the constitutional rights of all parties is a primary focus of court. Don't think sitting judges should specify who they favor. The core role of their work must be to be open to all arguments and to the balance of competing interests.

What has been the balance of your work on the court between criminal and civil cases? About 45% criminal. Civil is a very diverse umbrella term and many economic rights are in the state constitution but enforced by federal courts.

How do you view your role in promoting a more humane legal system? Need for the judges to see the humanity in all. How to put the principle into practice has been an honor and responsibility as a lawyer, and he hopes as a judge he will never forget that any given case may be the most important issue in someone's life. It is daunting to write opinions relating to people's lives and it's important that the facts and law are correct and he spends a lot of time considering when to paraphrase and how to treat everyone with respect.

Is there anything over your career as a lawyer or judge that you would do differently? Intellectual humility as a judge is important. Losses as a lawyer still stay with him. He looks forward to motions for reconsideration and the ability to correct if there is an error in facts. If overruling precedent, need to make sure you give arguments for scrutiny, focus on legal reasoning, and underpinnings of the law. Predictability and stability are important for justice and fairness. Is the reasoning adequate in its own terms and does it stand up today. He has participated in rulings that have overturned precedence.

Racism in our System and Addressing Imbalances: Equal opportunity is a bedrock. Often people are locked out of a system because of resources. The court has a responsibility to take on the problem of bias. Implicit bias is talked about a lot, but there still are explicit historical vestiges of bias that have subjected individuals and populations to legal inequality. The letters from the court addressing racism have given the system permission to take on racism seriously.

What do you want after your first year on the court if you are elected? That he always understood the arguments, listened, and fairly gave each side a chance to win. Issues before a court should be decided on reason and the best effort to determine what Washington laws is. Not on who is deciding or politics or the personal predilections of the judge. There is a collaborative court responsibility of all 9 members to each other to do their best.

Have you dealt with a criminal law case that relates to the substantive due process clause as applied to criminal sentences? It requires government action on constitutional issues. Strict scrutiny is necessary. The SRA was adopted to respond to racial disparities in criminal sentences and there is the heaviest weight on past criminal convictions. That exacerbates the issue it is supposed to address. Amendments now not meant to address the underlying issues. Federal system ruled unconstitutional. Role of legislators set the punishment for the crime. Should have the ability in court to hear the specifics of individuals.