

**JUDICIAL COUNCIL  
MINUTES**

August 22, 1997

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**Homestead  
Midway, Utah**

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*Chief Justice Michael D. Zimmerman, Presiding*

**Members Present:**

Chief Justice Michael D. Zimmerman  
Hon. Pamela T. Greenwood  
Hon. John Sandberg  
Hon. Rodney S. Page  
Hon. Michael K. Burton  
Hon. Kent Nielsen  
Hon. Stephen Van Dyke  
Hon. Leonard H. Russon  
Hon. Robert Braithwaite  
Hon. Anthony W. Schofield  
Hon. Joseph Jackson  
Hon. Anne M. Stirba  
James C. Jenkins, Esq.

**Staff Present:**

Daniel J. Becker  
Myron K. March  
D. Mark Jones  
Richard H. Schwermer  
Timothy Shea  
Jan Thompson  
Peggy Gentles  
Cindy Williamson  
Brent Johnson

**Members Excused:**

Hon. Jerald Jensen

**Welcome - Approval of Minutes:**

Chief Justice Zimmerman welcomed members and staff to the meeting.

The minutes of July 2, 1997, were reviewed and amended. Page two, seventh paragraph, will read as follows: There are ongoing discussions which address the Judicial Nominating Commission processes.

**Motion:**

A motion was made by Judge Jackson to approve the minutes as amended. The motion was seconded by Judge Stirba and carried unanimously.

### **Report from Chair:**

Chief Justice Zimmerman reported that efforts are still underway to modify the rules governing the voting process of the Judicial Nominating Commission. Currently, a candidate is required to receive six out of seven votes to make it out of commission. The voting is accomplished in rounds and if there is a tie, both names are sent to the Governor. Additionally, the Governor has requested that the Commission follow a uniform policy of sending five names to him for his consideration and give him the option to reject the list and start over.

Recently, Chief Justice Zimmerman and Camille Anthony, Director of the Commission on Criminal and Juvenile Justice, have discussed the structure and focus of the Juvenile Justice Task Force. There is the sense that the structure needs to be more formal. In conjunction with this conversation, Chief Justice Zimmerman, Hon. Pamela T. Greenwood, Hon. Kay A. Lindsay, and Dan Becker will meet to discuss the position of the Juvenile Court.

### **Court Administrator's Report:**

Dan Becker reported that Judge Roger Bean has announced his retirement which will be effective December 31, 1997. Also, Charles Behrens has been appointed as a new juvenile court judge in the Third District, and Anthony Quinn has been appointed as a new district court judge in the Third District. Mr. Behren's swearing-in is scheduled for September 5, 1997. Mr. Quinn's swearing-in date has yet to be set.

Margaret Satterthwaite, Second District Court Executive, has announced her retirement effective November 1, 1997. Dan Becker, Mark Jones and Judge Michael Lyon will meet on Monday, September 8, 1997, to discuss the vacancy within the Second Judicial District.

### **Judicial Council Sub-Committee Reports:**

#### **Management Committee Report:**

Judge Greenwood reported that during the Management Committee meeting on August 11, 1997, the following items were reviewed: a) status of the 1997 audit plan; b) approval of the appointment of a juvenile court probation officer to the Court Interpreter Advisory Panel; c) training for those individuals who would like approval to carry a firearm, pursuant to SB 132; and d) the fact that an issue with traffic schools has been referred to CCJJ.

#### **Policy and Planning Committee Report:**

Judge Burton stated that one item discussed during the last Policy and Planning Committee meeting was Rule 3-201(7). This rule indicates that the Council should look to "non-judicial officers" rather than "judges" when setting commissioner salaries. Judge Burton asked whether or not Council members wanted to change this statement. Tim Shea also brought up the

issue of accrued sick leave which could be used to purchase health insurance. These issues were referred back to the Policy and Planning Committee for further review and a request for a recommendation back to the Judicial Council.

**Liaison Committee Report:**

Judge Page reported that Liaison Committee has not met since the last reporting period.

**Justice Court Study Committee Update on Committee's Progress:**

Judge Anthony Schofield reported on the progress of the Justice Court Study Committee. The committee is composed of 16 members from diverse backgrounds. The committee has met with representatives from the League of Cities and Counties, various board levels and courts. Each entity has expressed their concerns and put together a ranking of issues to consider.

The committee has ranked the issues for study in the following order:

1. Exclusive/concurrent jurisdiction over which types of cases;
2. Formation of justice courts and oversight by Judicial Council;
3. Record keeping, information sharing, and technology;
4. Revenue share/surcharges;
5. Appointment/retention;
6. Appeals/trial de novo and "court not of record";
7. Judicial Conduct Commission discipline.

The committee concluded that all Class B and C misdemeanors and infractions should be transferred from the district courts to the justice courts. All committee members accepted the philosophy of eliminating forum shopping. Next, Judge Schofield stated that some of the formation issues include: a) location of the justice courts in proximity to existing courts; b) personnel; and c) revenue. Judge Schofield emphasized that he has tried not to be a Council spokesperson in an effort to maintain the committee's independence.

Council members expressed their appreciation to Judge Schofield, members of the committee, and to staff for their efforts in this regard.

**Court Security Task Force Report:**

Myron K. March stated that the Judicial Council had previously received the report of the Court Security Task Force but had not approved it. Because of upcoming budget and legislative considerations the matter is now before the Council for action.

Mr. March reiterated the committee's recommendations for the benefit of Council members. The recommendations of the committee include: a) retain the current basic service

providers; b) address funding issues; c) clarify selection process and minimum qualifications; d) clarify and increase training requirements; e) clarify duties and supervision responsibilities; and f) clarify responsibility for perimeter security.

After discussion among Council members about various agency responsibilities and funding, there were suggestions that this matter should be referred to the Commission on Criminal and Juvenile Justice, the Appropriations Committee or to the Policy and Planning Committee for review.

**Motion:**

A motion was made by Judge Jackson that court administration meet with various entities, i.e., local sheriffs, the Association of Counties, etc. to discuss the recommendations of the Court Security Task Force Report. The motion was seconded by Judge Stirba and carried unanimously.

**Motion:**

A motion was made, seconded and carried unanimously for members of the Judicial Council to move into Executive Session.

**Executive Session:**

After the conclusion of the executive session, Chief Justice Zimmerman adjourned the meeting.