

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING

MINUTES

Monday, April 15, 2002
Council Room, Matheson Courthouse
450 South State Street
Salt Lake City, Utah

Chief Justice Christine M. Durham, Presiding

MEMBERS PRESENT:

Chief Justice Christine M. Durham, *Chair*
Justice Michael Wilkins
Hon. James Z. Davis
Hon. Ben Hadfield
Hon. Jerald Jensen
Hon. Robert Hilder
Hon. Lee Dever
Hon. Andrew Valdez
Hon. Lynn Davis
Hon. Clair Poulson
Hon. Ronald Hare
Hon. Lyle Anderson
Hon. Scott Johansen
Debra Moore, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
D. Mark Jones
Ray Wahl
Richard Schwermer
Matty Branch
Holly Bullen
Jan Thompson
AnNicole Faeth

PRESENTING STAFF:

Tim Shea
Kathy Elton
Kim Allard
Robert Turner
Jerome Battle
Dr. Diane Cowdrey

GUESTS PRESENT:

Steven Stewart, *Judicial Conduct Commission*
Hon. William Bohling, *Chair, ADR Standing Committee*
Hon. Robert Yeates, *Chair, Board of Juvenile Court Judges*

1. WELCOME/APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)

All members staff and guests were welcomed to the meeting. The minutes of the Council's March meeting were discussed. A motion was then made.

Motion: Judge Lynn Davis made a motion to approve the minutes. The motion was seconded and carried unanimously.

2. INTRODUCTION OF COUNCIL MEMBERS: (Chief Justice Christine M. Durham)

All members of the Judicial Council were introduced to, recently sworn in, Chief Justice Durham.

3. CHAIR'S REPORT: (Chief Justice Christine M. Durham)

Chief Justice Durham expressed that she is looking forward to working with the Judicial Council, and noted that she would appreciate any information that Council members would like to pass on to her from time to time.

4. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Daniel J. Becker reported the following items:

- A legislative update was held Friday, April 5, 2002. The update was well attended and appeared to be well received. A similar legislative update will be held Tuesday, April 16, 2002, in Provo for the Court Executives, Clerks of Court, and Chief Probation Officers.
- The Legislature has called itself into a veto override session to possibly override the Governor's veto of HB 136, which discusses the Judicial Conduct Commission.
- The Administrative Office of the Courts is developing a budget handbook for the Council. The handbook will provide more information about the budget process, as well as information about the Court's budget.
- The Governor announced changes to his Cabinet Friday, April 12th. Raylene Ireland will become the Executive Director of the Department of Workforce Services, Camille Anthony will become the Executive Director of Administrative Services, and Ed McConkie will serve as the new Executive Director of the Commission on Criminal and Juvenile Justice.

5. REPORTS:

Management Committee: (Chief Justice Christine M. Durham)

Chief Justice Durham reported that the Management Committee received a report from the Chair of the Education Standing Committee, Judge Kimberly Hornak, and Dr. Diane Cowdrey. The Committee decided that the Council's budget planning session will be held in Salt Lake City this year, but at a location where Council members and staff will be able to focus on the work before them. The Management Committee also recommended the formation of a new justice court in East Carbon City, and approved several appointments which were placed on the Council's consent calendar.

Policy and Planning: (Hon. Scott Johansen)

Judge Johansen reported that the Policy and Planning Committee met Friday, April 12th, and discussed three matters:

- 1) The Committee has been looking for some time at the possibility of offering judges the benefit of insurance coverage to pay defense costs incurred in the defense of claims before the Judicial Conduct Commission. It appears that judges are not interested in purchasing such insurance unless the premium is very low. Judge Johansen reported that the only way to keep the premium cost low would be to make participation mandatory for everyone, which is not a good option. Therefore, Policy and Planning is ending its inquiry into the matter.
- 2) The Committee has been looking for some time at whether the Guardian ad Litem Office should be housed in the Judiciary. Judge Johansen reported that Policy and Planning is getting close to bringing the issue back to the Council, but would first like to obtain input from the District and Juvenile Boards.
- 3) The Committee has discussed the issue of placing gun lockers in state courthouses, as mandated by the Legislature. A first draft of a rule addressing this issue was discussed by the Committee.

Liaison Committee: (Justice Michael Wilkins)

It was reported that the Liaison Committee has not met.

Bar Commission: (Debra Moore, esq.)

Debra Moore reported that the Bar Commission met in March during the Mid-Year Bar Conference. Debra Moore and Denise Dragoo were nominated for president of the Bar. Ballots will be mailed May 1st. Ms. Moore discussed the successful lobbying efforts the Commission made to have money allocated for the Pete Suazo Center. The Center, which will be located near West High School, will serve as a community legal center. The facility will allow for a co-location of legal services providers such as Legal Aid, Legal Services, the Multi Cultural Legal Center, and the Disability Law Center. The Bar Commission contributed \$60,000 of seed money for the Center.

Ms. Moore also reported that the Bar Commission has received biannual reports from various Bar entities.

6. CONTENT OF THE VOTER INFORMATION PAMPHLET: (Tim Shea)

Tim Shea reported that the Council is charged by statute with the responsibility of preparing descriptions of the performance of judges who are up for retention election. These descriptions are included in the Voter Information Pamphlet. The statute also requires the Council to prepare a description of the merit selection process. The Council approved a statement some time ago, and Mr. Shea presented a modified version based upon recent changes.

The Council reviewed the proposed description and recommended the following changes: in the third sentence of the third paragraph of page one, "three and five" should be changed to read "three and seven"; in the first and second sentences in the last paragraph on page three, the words "be retained in the general" should be deleted, and the word "for" should be inserted. A motion was then made.

Motion: Judge Lynn Davis made a motion to adopt the description of the merit selection process as amended. The motion was seconded and carried unanimously.

7. REPORT ON THE COURT IMPROVEMENT PROJECT EVALUATION ON CHILD WELFARE PROCESSES: (Hon. Pamela Greenwood, Ray Wahl)

Judge Pamela Greenwood reported that the Court Improvement Project was created by Congress in 1993 as a grant program to assist state courts in handling child abuse and neglect cases. Since 1995, Utah's Court Improvement Project has received approximately \$950,000 in federal funds. These funds have been used to assess problems in processing neglect and abuse cases, to implement system improvements, and to evaluate the effectiveness of the improvements. In 1997, Utah completed a comprehensive assessment of current practices and developed solutions for improving court processes and procedures. As a result of this assessment, procedures have been implemented to improve and expedite the processing of child abuse and neglect cases with the goal of placing children in permanent, safe homes.

Judge Greenwood reported that the Court Improvement Project is performing an evaluation of how the juvenile court is handling child welfare cases. The purpose of the evaluation is to ensure compliance with federal and state statutory guidelines, and to determine how compliance facilitates permanency for Utah children. The Court Improvement Project also aims to promote "Best Practices" in case handling in order to achieve permanency for abused and neglected children. The evaluation will study the following areas:

1. Timeliness of court steps in child welfare cases from the shelter hearing through finalization of adoption or permanency.
2. The number of cases closed at various stages in the process compared with the total number of cases.
3. Entities present in court hearings, in comparison with statutory requirements.
4. The nature of concurrent planning.
5. The question of reasonable efforts being made, and the documentation of those efforts.
6. The nature of delays.
7. The frequency of reviews being conducted.
8. The implementation of best practices.

In closing, Judge Greenwood mentioned that it is anticipated that the Court Improvement Project will issue the final report on the evaluation in the Summer of 2002.

8. REPORT: E-FILING PROJECT IN SANDY: (Jerome Battle)

Jerome Battle provided information on the Information Technology Standing Committee's recommendations for electronic filings in the Utah State Courts. Mr. Battle reported that the Standing Committee presented an e-filing study to the Council last year, at which time financial/time savings associated with e-filing were discussed. It was reported that e-filing is currently being utilized in Sandy. Currently in Sandy, there are approximately 300 - 400 cases being filed electronically per month. To illustrate the program's success, Mr. Battle mentioned that Intermountain Health Care currently files in the Sandy District Court through email transactions. This method of filing has allowed clerks to spend less time entering case data into CORIS, and saves the litigant time by allowing them to avoid visiting the courthouse.

9. REPORT: JUDICIAL CONDUCT COMMISSION: (Steven Stewart)

Steve Stewart reported to the Judicial Council on behalf of the Judicial Conduct Commission. It was mentioned that this will be Mr. Stewart's last report to the Judicial Council, since he will be leaving the Commission in May. Mr. Stewart reported that it is anticipated that 104 complaints will be filed against judges in FY 2002. That number is down from the previous year. It was mentioned that most complaints which are filed are Canon 3 complaints. Additionally, the Council discussed a case summary which was distributed. The case summary included examples of inappropriate conduct in various states in the United States.

10. CASE FILING UPDATE: (Kim Allard, Robert Turner)

Robert Turner provided information to the Council concerning recent case filing trends in the State Courts. Mr. Turner reported that, in the Juvenile Court, felony filings have risen slightly in the past year, and a slight decline

has been seen in misdemeanor filings. It was noted that there is generally a correlation between the number of youth ages 10 - 17 and delinquency referrals. A similar correlation can be observed in the number of youth ages 0 - 9 and child welfare referrals.

Mr. Turner reported that, in the District Court, the number of raw filings has generally decreased since 1999. It was reported that, while parking, probate, and small claims filings have increased, felony, misdemeanor, infractions, domestic, property rights, torts, and general civil filings have decreased. In regards to filings in the Third District Court, it was reported that it is projected that by the end of FY 2002 traffic filings will have decreased from 94,075 in FY 1999 to 10,847. It was pointed out that the estimated case filings based upon the creation of the justice courts in West Valley and Salt Lake were on target with last year's estimates from the Ad Hoc Committee on Court Resource Planning.

It was also reported that West Valley City is in the process of hiring a second justice court judge. This may result in West Valley taking on small claims cases.

11. REPORT: ADR STANDING COMMITTEE: (Hon. William Bohling, Kathy Elton)

Judge Bohling reported on some of the ADR Committee's past year accomplishments which include, serving as co-sponsor of the Fourth Annual ADR Symposium, expanding the Truancy Mediation Program to the First, Fifth, and Eighth Judicial Districts, expanding the Restorative Dialogue program in the First, Fifth, and Eighth Judicial Districts, creating proposed rule changes to the ADR Rule 105 and the ADR Ethical Code, expanding the Child Welfare Mediation Program in the First, Fifth, Sixth, and Eighth Judicial Districts, and updating the screening criteria for volunteer mediators.

It was also reported that the Committee is currently reviewing and updating the Child Welfare Program policy and procedures, including protocol for working with cases involving domestic violence. The Committee is also updating the mediation program information on the court's web site, providing outreach and training to landlords and tenants in the Salt Lake County area regarding landlord-tenant mediation, and promoting both ADR programs in the community and the success of Utah's ADR programs.

12. BUDGET REPORT: BOARD OF JUVENILE JUDGES: (Hon. Robert Yeates)

Judge Robert Yeates, Chair of the Board of Juvenile Judges, reported that the Board met Friday, April 12th, and decided what they would like to do with the 13.5 Deputy Probation Officer positions the Council restored. The Board determined that they would like to use the funding for the 13.5 Deputy Probation Officer positions to restore 9 Deputy Probation Officer positions, create 2 Probation Officer positions, and establish a day treatment program in Sanpete County. It was mentioned that the Board made these decisions based upon a need to work more effectively with juvenile delinquents by providing additional early intervention.

Motion: Judge Johansen made a motion to adopt the Juvenile Board's recommendations. Judge Lynn Davis seconded the motion. The motion carried unanimously.

13. EXECUTIVE SESSION:

Motion: A motion was made to go into executive session to discuss litigation. The motion was seconded and carried unanimously.

Motion: A motion was made to come out of executive session. The motion was seconded and carried unanimously.

Motion: Justice Wilkins made a motion to delegate responsibility to the Management Committee to deal with immediate litigation and tactical decisions related to Crank vs. Utah Judicial Council, and leave to their discretion the appropriate time to report back and get full Council involvement. The motion was seconded and carried unanimously.

14. ADJOURN:

Motion: A motion was made to adjourn the meeting. The motion was seconded and carried unanimously.