

## Judicial Council Meeting Minutes

### JUDICIAL COUNCIL MEETING MINUTES

Monday, April 28, 2003

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  
Justice Matthew Durrant  
Hon. James Davis  
Hon. Ben Hadfield  
Hon. Jerald Jensen  
Hon. Clair Poulson  
Hon. Robert Hilder  
Hon. Lee Dever  
Hon. Gary Stott  
Hon. K.L. McIff  
Hon. Ronald Hare  
Hon. Scott Johansen

#### **STAFF PRESENT:**

Daniel J. Becker  
Myron K. March  
Richard Schwermer  
D. Mark Jones  
Ray Wahl  
Tim Shea  
Matty Branch  
Heather Mackenzie-Campbell  
Kim Allard  
Gordon Bissegger  
Fred Jayne  
AnNicole Faeth

#### **MEMBERS EXCUSED:**

Hon. Andrew Valdez  
Hon. C. Dane Nolan, esq.

#### **GUESTS PRESENT:**

Hon. Sharon McCully (for Judge Valdez)  
Bruce Thomas,  
*Court Executive, Third District Juvenile Court*  
Paul Sheffield, *Court Executive, Fourth District Court*  
John Greene, *Court Executive, Eighth District Court*  
Rick Davis, *Court Executive, Second District Court*  
Sue Vierhoff, *Legislative Auditor*  
Hon. Judy Atherton,  
*Co-Chair, Standing Committee on Children and Family Law*  
Hon. Charles Behrens,  
*Co-Chair, Standing Committee on Children and Family Law*  
Hon. Ronald Nehring, *Presiding Judge, Third District Court*

#### • **WELCOME & APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)**

All in attendance were welcomed to the meeting. The minutes of the Council's March meeting were discussed. A few minor corrections were mentioned. The following motion was then made.

**Motion:** Judge Poulson made a motion to approve as amended. Judge Davis seconded the motion. The motion carried unanimously.

#### • **CHAIR'S REPORT: (Chief Justice Christine M. Durham)**

Chief Justice Christine M. Durham reported that a committee is looking at the definition of the practice of law. The committee will study this issue and report back to the court. Chief Justice Durham also reported that she recently spoke at the Annual Justice Court Judges' Conference, and that Nominating Commissions are meeting in the 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> Districts to consider applicants for judicial vacancies.

#### • **ADMINISTRATOR'S REPORT: (Daniel J. Becker)**

Daniel J. Becker reported the following items:

- A recruitment is currently taking place for the court's vacant Public Information Officer position. It was reported that there were 114 applicants for the position, and that an interview committee is being assembled which includes Judge Jim Davis, Judge Sharon McCully, Judge William Barrett and others.
- Bill Engle has been selected to serve as the Trial Court Executive in the 7<sup>th</sup> District Court, replacing Tim Simmons who has retired.
- Information was distributed to the Council outlining budget changes in state offices as a result of recent budget cuts. It was reported that the courts have experienced a 4.5% cumulative reduction, and that the state as a whole has experienced a 7% reduction.
- Eric Ludlow's confirmation to a judicial vacancy in the Fifth District Court has been deferred and a new hearing date set for April 30<sup>th</sup>.
- Sue Vierhoff was introduced to the Council as the legislative auditor working on an audit of the Administrative Office of Courts. It was reported that the audit has been expanded to look at the time it takes to process civil cases, and the use of senior judges.

Mr. Becker turned the time over to Judge John Sandberg, chair of Board of Justice Court Judges, who wished to make a brief presentation. Judge Sandberg expressed appreciation to the Judicial Council on behalf of Utah's justice courts for their sensitivity to the needs of justice courts and of the issues they face. A small token of their appreciation was presented to each of the Council members. Additionally, plaques were presented to Judge K.L. McIff and Judge Andrew Valdez in recognition of their recent efforts on retention election legislation as members of the Council's Liaison Committee.

- **REPORTS:**

**Management Committee: (Chief Justice Christine M. Durham)**

Chief Justice Durham reported that she had nothing to share with the Council in addition to what was included on the Council's agenda.

**Policy and Planning: (Hon. Lee Dever)**

Judge Dever reported that the Policy and Planning Committee had not met since the Council's last meeting. They are scheduled to meet again May 2<sup>nd</sup>.

**Liaison Committee: (Hon. Jerald Jensen)**

Judge Jensen reported that the Liaison Committee had not met since the Council's last meeting.

**Bar Commission:**

C. Dane Nolan, esq. was excused from the meeting. No report was made on behalf of the Bar Commission.

- **REPORT: TRIAL COURT EXECUTIVES: (Bruce Thomas)**

Bruce Thomas, Trial Court Executive of the Third Juvenile Court, provided an update to the Council on behalf the Trial Court Executives (TCE's). Mr. Thomas reported that a number of changes have occurred in the last year in regards to those in TCE positions. It was reported that Tim Simmons (7<sup>th</sup> District TCE) and Jim Nelson (5<sup>th</sup> District TCE) both retired this year. Additionally, Sherry Stettler of the 8<sup>th</sup> District, and Larry Gobelman of the 3<sup>rd</sup> District have both resigned.

Mr. Thomas reported that the past year was full of challenges for the court system, in terms of implementing necessary budget reductions. Mr. Thomas reported, however, that the courts have a fine workforce which has, for the most part, been cooperative and adaptive to changes. It was mentioned that the districts developed creative solutions to implement budget reductions, and that they have attempted to minimize the impact on services provided to the public.

Mr. Thomas also reported the following:

- The new Vernal courthouse was dedicated in November of 2002, and the new Logan will be dedicated early Summer 2003.
- Numerous public outreach activities are taking place in districts throughout the state.
- All court employees participated in cultural competency training during 2002.
- Progress is being made on the Court Access Records Exchange System (CARE) which will replace the Juvenile Court's outdated JJIS system. Also, a system called Functional Family Probation Resource System (FFPRS) is now being used in the Juvenile Court.

The Council thanked Mr. Thomas and the Trial Court Executives for the fine work they are performing in managing the court system statewide.

- **UPDATE ON FIFTH JUDICIAL DISTRICT AUDIT: LESSONS LEARNED: (Heather Mackenzie-Campbell)**

Heather Mackenzie-Campbell reported on the results of a special audit of the Fifth District Court, which looked at the extent to which fraud was perpetrated by Susan Scott, the former clerk of court in Washington County. Ms. Mackenzie-Campbell reported that the fraud was identified when two employees of the Finance Division of the Administrative Office of the Courts discovered strange occurrences in the acts of Ms. Scott. It was reported that an investigation began at that time, and charges were subsequently filed. Ms. Mackenzie-Campbell reported that the results of the investigation indicated that approximately \$80,000 was embezzled between July 1998 and August 2002, through the circumventing of established procedures. It was noted that Ms. Scott was sentenced in March.

- **CASE FILING REPORT: (Kim Allard)**

Kim Allard provided FY 2003 mid-year caseload projections. It was reported that projections indicate that general criminal and small claims filings are down. It was mentioned that percentages differ by district, with criminal and civil filings up in some districts and down in others.

Ms. Allard reported that justice court filings are up 11% statewide, as a result of the recent shift of cases from the Third District Court to large justice courts such as Salt Lake City and West Valley City. It was mentioned that in FY 2002, justice courts handled 16% of small claims filings statewide, and the district courts handled 84%. It is projected in FY 2003 that justice courts will be handling 57% of small claims filings, and the district courts will only be handling 43%.

Ms. Allard reported that Juvenile Court referrals are down, with felonies down 1%, misdemeanors down 7%, status offenses down 16%, and dependency, neglect, and abuse filings down 5%. It was again mentioned that these figures vary by district.

- **FY 2004 BUDGET: (Daniel J. Becker)**

Daniel J. Becker reported that the Council needed to identify a spending plan with ongoing and one time funds, and to reduce the FY 2004 budget by \$832,000. The Council discussed possibilities for reducing the court's budget.

Myron K. March then reported that no pay increases were awarded in FY 2003, and that the legislature did not provide for increases in FY 2004. It was reported that it will cost \$123,682 to implement career ladder increases in FY 2004, and \$41,500 will be required to implement longevity increases. Mr. March reported that these amounts are lower than previously anticipated, as the result of a reduction in the turnover rate. Mr. March shared a proposal with the Council of granting one-time performance awards to those employees who will not be receiving career ladder/longevity increases in FY 2004 (excluding judges, and GALs). Employees rated outstanding would receive an award of \$500, employees rated exceptional would receive an award of \$400, and employees rated satisfactory would receive an award of \$300. It was emphasized that this would be awarded on a one-time basis, with one-time funds. Additionally, employees rated unsatisfactory, and those on corrective action would not be eligible to receive this award. After discussion took place, the following motion was made.

**Motion:** Judge Johansen made a motion to carry the Council's budget discussion to its May 27<sup>th</sup> meeting. The motion was seconded and carried unanimously.

- **REPORT: STANDING COMMITTEE ON CHILDREN AND FAMILY LAW: (Hon. Judith Atherton, Hon. Charles Behrens, Tim Shea)**

Hon. Charles Behrens reported that Lori Nelson, esq. has asked to form a subcommittee of the Standing Committee on Children and Family Law to deal with legislative issues. Judge Behrens and Judge Atherton reported that the committee has some concerns about this committee being a subcommittee of the Council's Standing Committee since it may conduct advocacy on certain issues.

The Council also discussed the present workload of the Standing Committee on Children and Family Law, and asked what they anticipate their future direction to be. After discussion took place, the following motion was made.

**Motion:** Judge Johansen made a motion to have the Council ask the Standing Committee on Children and Family Law to give them a recommendation on subject matters to be dealt with in the future by the committee, and for Policy and Planning to review the recommendations and recommend to the full Council the direction of the committee which may also include sunset. Judge Jensen seconded the motion. The motion carried unanimously.

Tim Shea discussed a number of proposed forms with the Council. The following motion was then made.

**Motion:** Judge Johansen made a motion to adopt the forms with one change to the "Verified Petition for Child Protective Order", as follows: on page one, a change should be made to read "Petitioner made a referral of abuse or neglect to the Division of Child and Family Services within the last 30 days based upon the incidents alleged in

the petition.". It was also included in the motion that the "Notice of Dismissal of Child Protective Order" form not be approved at that time. Judge Davis seconded the motion.

- **BAILIFF SERVICE CONTRACTS: (Hon. Ronald Nehring)**

Judge Ronald Nehring reported that the Salt Lake County Sheriff, by statute, is the sole provider of bailiff services in Salt Lake County, and that they tend to request increased pay for services the courts don't necessarily need. It was mentioned that the courts need a bailiff, not a deputy sheriff in the courtroom. Judge Nehring suggested that an ad hoc committee be formed to look at this issue, as well as to examine contracts/providers statewide. Judge Jensen suggested that the justice courts have input on this issue.

The Council agreed that an ad hoc committee should be formed to examine the issue of bailiff service contracts. The Management Committee will consider membership of this committee.

- **SECURITY FEE BAIL SCHEDULE AMENDMENTS: (D. Mark Jones)**

Mark Jones reported that HB 371, the court security fee bill, will become effective the beginning of May, and that the Council needed to approve amendments to the bail schedule consistent with this bill.

**Motion:** Judge Jensen made a motion to approve the bail schedule, as amended. Judge Hare seconded the motion. The motion carried unanimously.

- **EXECUTIVE SESSION:**

**Motion:** A motion was made to go into executive session. 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.

- **ADJOURN:**

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