

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Monday, May 24, 2004
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. Jon Memmott
Hon. J. Mark Andrus
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
David Bird, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Richard Schwermer
Mark Jones
Ray Wahl
Tim Shea
Gordon Bissegger
Jerome Battle
Kim Allard
Rob Parkes
AnNicole Faeth

GUESTS PRESENT:

Hon. Paul Lyman, *Chair, Board of Juvenile Court Judges*
Hon. Michael Kwan, *Chair, Board of Justice Court Judges*
Hon. John Sandberg, *Former Chair, Board of Justice Court Judges*
Hon. William Barrett, *Chair, Board of District Court Judges*
Hon. William Thorne, *Chair, Technology Standing Committee*
Barbara Polich
Elizabeth Neff
Dave Walsh
Jerry Howe

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

All in attendance were welcomed to the meeting. The minutes of the Council's April meeting were discussed. After a few minor changes were mentioned, the following motion was made.

Motion: Judge Dever made a motion to approve the minutes as modified. The motion was seconded and carried unanimously.

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

Chief Justice Durham reported that the Supreme Court recently discussed legislation passed pertaining to bonds posted on appeal. The Court referred the matter to one of its advisory committees for review.

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

Daniel J. Becker reported the following items:

- Deno Himonas was confirmed by the Senate and will be sworn in June 8th.
- The Governor appointed Christine Decker to fill a judicial vacancy in the Third Juvenile Court.
- Judge Bill Bohling, of the Third District Court, has announced his retirement, effective November 1st.

- Judge Michael Burton, also of the Third District Court, will retire Friday, May 28th.
- After the Council's April meeting, the Council created a committee to review hours of operation. Mr. Becker recently met with the West Valley City Manager who indicated that West Valley would remain on a five day work week through the completion of the committee's work.
- The legislature is continuing to review mandatory divorce mediation and co-parenting mediation, and the possibility of expanding the programs statewide.
- Law Day activities celebrating the 50th anniversary of the U.S. Supreme Court's Brown v. Board of Education decision recently took place throughout the state.

• **REPORTS:**

Management Committee: (Chief Justice Christine M. Durham)

Chief Justice Durham reported that the Management Committee heard a report concerning an audit of the Grand County Justice Court. They also heard a report regarding tracking time spent on child protective orders, and discussed an updated judicial application form.

Policy and Planning: (Hon. Lee Dever)

Judge Dever reported that the Policy and Planning Committee considered the justice court technology, security, and training account. They also discussed whether or not there should be a uniform fax policy.

Liaison Committee: (Hon. Jerald Jensen)

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

Bar Commission: (David Bird, esq.)

David Bird reported that the Bar Commission had not met since the Council's last meeting. Mr. Bird reported, however, on Law Day activities which recently took place. In addition to other activities that took place, Mr. Bird reported that the president-elect of the ABA was the Law Day speaker, and films related to the Brown v. Board of Education decision were shown.

• **RACIAL AND ETHNIC FAIRNESS COMPOSITION DATA: (Rob Parkes)**

Rob Parkes reported that the final report of the Task Force on Racial and Ethnic Fairness recommended that the Court's Human Resources Office provide data to the Council each year concerning the composition of the Court's workforce. Mr. Parkes shared the following data:

Total Number of Court Employees (excluding Judges)

By EEO Category	Courts	State Population *	Female	Male
			73%	27%
White	87%	89%		
Asian American or Pacific Islander	4%	2%		
American Indian or Alaskan Native	1%	1%		
Black	2%	1%		
Hispanic	7%	9%		

* 2000 Census Data

Minorities in Probation Positions

	Total Employed Minority	Percentage	Female	Male
Deputy Probation Officer	52 13	25%	29%	71%
Probation Officer I	53 12	23%	51%	49%
Probation Officer II	52 16	31%	62%	38%
Probation Officer III	82 16	20%	49%	51%
Probation Supervision	23 4	17%	22%	78%
Chief Probation	13 1	8%	38%	62%

Minorities in Clerk Positions

	Total Employed Minority	Percentage	Female	Male
Deputy Court Clerk	369 35	9%	97%	3%

Lead Deputy Court Clerk	102 9	9%	98%	2%
Chief Deputy Court Clerk	35 2	6%	94%	6%
Assistant Clerk of Court	23 1	4%	95%	5%
Clerk of Court	16 3	19%	75%	25%

After discussion took place, the Council thanked Mr. Parkes for his report.

- **PROPOSED PLAN FOR FINANCING THE TOOELE COURTHOUSE PROJECT: (Gordon Bissegger)**

Gordon Bissegger reported that the legislature approved the construction of a new courthouse in Tooele, if the courts could identify funding. Mr. Bissegger reported that the courthouse could be funded through a lease/revenue bond through the State Building Ownership Authority, at an estimated annual lease payment of \$560,000. Mr. Bissegger also reported that the courts may experience savings as the result of refinancing the West Valley Courthouse; lower negotiated lease payments in American Fork, Emery, and Kanab; a funding shift related to improvements to the Tooele lease; closure of some or all of the Salt Lake County/Tooele probation leases; and, payoff of the West Valley bond in August of 2007. These actions would result in \$557,400 that could be used to pay for a courthouse in Tooele. After discussion took place, the following motion was made.

Motion: A motion was made to approve the proposed funding plan. The motion was seconded and carried unanimously.

- **REPORTS ON PROGRAM BASED BUDGETING:**

Board of Juvenile Court Judges: (Hon. Paul Lyman, Ray Wahl)

Judge Lyman reported that the Juvenile Board met seven times over the course of several months, and reviewed 40 separate programs. Results of the Board's prioritization process were shared with the Council. It was mentioned that the Board was unable to identify programs that could be permanently reduced in order to fund higher priority items.

In regards to needs identified by the Juvenile Board, Judge Lyman reported that concerns were identified related to child welfare matters, since the role of juvenile judges in child welfare cases continues to grow. The Board identified a need for two additional child welfare mediators, at a cost of about \$65,000 each. Judge Lyman indicated that, less than full expenditures in probation officer staffing and state supervision contracts would allow funding to be temporarily diverted to address the need for child welfare mediators. The Board suggests a sunset of the reallocation of \$130,000 in two years, June 30, 2006, to meet the juvenile court's immediate needs. The Board also determined that the juvenile court is in need of additional clerical and case management resources, but was unable to identify funding sources.

Judge Lyman expressed appreciation, on behalf of the Board, to the Council for asking them to participate in the program based budgeting exercise.

Board of District Court Judges: (Hon. William Barrett, Mark Jones)

Judge Barrett reported that after several months of consideration, the Board determined that their first priority is law clerks. Their second priority is to take into account inequities in pay for Deputy Court Clerks, and to increase their numbers. The Board's third priority is to maintain an adequate number of certified court reporters employed by the court so that an accurate record can be created for the appropriate cases. Judge Barrett reported that the Board was unable to identify areas that could be reduced in order to fund higher priority items.

Judge Barrett, on behalf of the Board, expressed appreciation for their recent support in approving the funding of two law clerks on a one time basis, and for providing the Board with the opportunity to review district court programs.

Board of Justice Court Judges: (Hon. Michael Kwan, Hon. John Sandberg, Richard Schwermer)

Judge John Sandberg reported that most of the Justice Court Board's budget consists of local funds rather than state court funds. State court funds that were reviewed in the program based budgeting exercise include justice court administration, and funds which support Board activities for meetings, travel, and other related expenses. The Board determined that those funds should be maintained, and neither increased nor decreased.

Technology Standing Committee:

Jerome Battle provided information to the Council regarding the Information Technology Division's budget, staffing, and case management. Judge Thorne reported that where the Committee identified funding needs, money was identified to fund those needs through sources such as grants.

- **DRUG COURT ACTION: (Richard Schwermer)**

Richard Schwermer reported that the National Association of Drug Court Professionals (NADCP) has established 7 minimum guidelines for the creation of adult drug courts. These guidelines include:

- 1) Compliance with the 10 Key Components of drug courts as promulgated by the National Association of Drug Court Professionals.
- 2) Bi-weekly judicial reviews, at least in the first phase of participation.
- 3) A 52 week phased treatment protocol.
- 4) Written eligibility criteria.
- 5) Written testing protocol.
- 6) Reasonable, if any, participant co-pay for treatment.
- 7) An evaluation component, including administration of the ASI, recidivism tracking, and graduation rates.

The Council determined that the guidelines would be modified to a preference for weekly, rather than bi-weekly, reviews. It was then determined that these guidelines should be shared with judges throughout the state who work with drug courts, for the solicitation of feedback. Mr. Schwermer will then report to the Council's Management Committee in June.

Motion: Judge McIff made a motion to adopt minimum guidelines for the creation of adult drug courts. The motion was seconded and carried unanimously.

- **PRESENTATION TO FORMER TECHNOLOGY STANDING COMMITTEE MEMBER, BARBARA POLICH:**

Chief Justice Durham presented a plaque to Barbara Polich for her longstanding, dedicated work on the Technology Standing Committee.

- **REVIEW OF AOC PERFORMANCE AUDIT: (Chief Justice Christine M. Durham)**

Dan Becker reported that the final report of the Legislative Audit of the Administrative Office of the Courts was released May 18th. The audit took 14 months to complete, and it resulted in approximately 16 recommendations. Mr. Becker mentioned that 10 of the recommendations were directed specifically to the Judicial Council. Recommendations directed to the AOC either have already been implemented or are in the process of being implemented.

Mr. Becker reported that the audit report was presented to the Legislative Audit Committee May 18th, which forwarded the audit to the Judiciary Interim Committee for their review. It was reported that the Judiciary Interim Committee scheduled discussion of the audit June 16th.

After Mr. Becker reviewed the recommendations made in the audit with the Council, the Council determined that the Management Committee would be asked to look at recommendations made in the report that are directed specifically to the Judicial Council. The Management Committee would be asked to form recommendations to present to the Council in its June 28th meeting.

- **ADJOURN:**

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