

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Monday - June 27, 2005

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 Ronald Nehring
Hon. James Davis
Hon. Kevin Nelson
Hon. Jon Memmott
Hon. Mark Andrus
Hon. Jerald Jensen
Hon. Clair Poulson
Hon. Robert Hilder
Hon. L.A. Dever
Hon. Gary Stott
Hon. K.L. McIff
Hon. Hans Chamberlain
David Bird, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
AnNicole Faeth
Ray Wahl
Richard Schwermer
Mark Jones
Matty Branch
Tim Shea
Kim Allard
Kathy Elton

GUESTS PRESENT:

Peggy Gentles, *Trial Court Executive, Third District Court*
Hon. Sandra Peuler, *Presiding Judge, Third District Court*
Hon. Royal Hansen, *Chair, ADR Committee*
Elizabeth Neff, *Salt Lake Tribune*
Dan Hall, *Vice President, National Center for State Courts*

1. Welcome & Approval of Minutes: (Chief Justice Christine M. Durham)

All in attendance were welcomed to the meeting. The minutes of the Council's May meeting were discussed, and the following motion was then made.

Motion: Judge Chamberlain made a motion to approve the minutes. Judge Poulson seconded the motion. The motion carried unanimously.

2. Chair's Report: (Chief Justice Christine M. Durham)

Chief Justice Durham reported the following:

- Former Justice I. Daniel Stewart passed away over the weekend.
- The Second District Nominating Commission will be meeting shortly and submitting names to the Governor to fill a vacancy in that district.
- A Sixth District Nominating Commission has been formed. The Commission will convene July 11th to conduct interviews and provide names to the Governor to fill a vacancy in that district, resulting from Judge K.L. McIff's pending retirement.
- The Initiative for Utah Children in Foster Care is continuing its work with the formation of subcommittees.

3. Administrator's Report: (Daniel J. Becker)

Daniel J. Becker reported the following:

- The first Utah Drug Court Conference recently took place in Park City. The conference was very well attended and appeared to be well received.

- It appears that the Ogden City Council will be submitting an application for a justice court.
- The new West Jordan courthouse opened June 20th. It is anticipated that a formal dedication will take place in October, in conjunction with adjacent city building openings.

4. Reports:

Management Committee: (Chief Justice Christine M. Durham)

Chief Justice Durham reported that the Management Committee discussed the justice court approval process, and determined that an in depth conversation regarding justice court related issues should take place during the Council= s July meeting. The Management Committee also discussed issues surrounding the handling of cases in Parowan. Council members were directed to the committee= s minutes for additional information.

Policy and Planning: (Hon. Lee Dever)

Judge Dever reported that Policy and Planning discussed access to court records, and Judge Dever indicated that Tim Shea would be reporting on Judge Greenwood= s committee recommendation and would be providing a report to the Council later in the meeting related to this issue.

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 the following:

- Gus Chin has been elected president-elect of the Bar.
- Several new Bar Commission members have been appointed.
- The Bar= s Lawyers Helping Lawyers program is being evaluated to determine if enhancements could take place with existing funds.
- The Commission discussed the issue of lawyers disclosing the fact that they do not have malpractice insurance to clients.

5. Mission Statement, Goals & Principles: (Daniel J. Becker)

Daniel Becker reported that the Council recently discussed its mission, principles, and strategic agenda. Mr. Becker reviewed a document which outlined each of these elements with the Council. After Council discussion took place and a few minor modifications were suggested, the following motion was made.

Motion: Judge Jensen made a motion to approve the mission statement, goals and principles document as reviewed and discussed. Judge Hilder seconded the motion. The motion carried unanimously.

6. Recommendations of the Committee on Privacy and Public Court Records: (Tim Shea)

Tim Shea reported that the rules drafted by the Committee on Privacy and Public Court Records have been published for comment, and the Policy and Planning Committee has reviewed all of those received. The Policy and Planning Committee recommends that the draft rules be approved and made effective November 1, 2005. However, the Committee further recommends that the judiciary take the necessary steps to better protect the personal identifying information of parties, such as driver= s license number, social security number and address of parties. Mr. Shea reported that this further effort will take about two years and would require legislation to modify current requirements for personal identifiers in court records. During discussion that took place, the Council made a number of suggested changes to the proposed rules that were noted by Tim Shea. The following motion was then made.

Motion: A motion was made to approve the aforementioned rules as amended. The motion was seconded and carried unanimously.

7. Third District Court Commissioner: (Hon. Sandra Peuler, Peggy Gentles)

Judge Peuler reported that the Third District recommends that Michelle R. Blomquist be appointed to serve as a court commissioner, replacing Commissioner Susan Bradford. Judge Peuler reviewed Ms. Blomquist= s application and credentials with the Council.

Motion: Judge Davis made a motion to appoint Michelle Blomquist as a court commissioner in the Third District. Judge Stott seconded the motion. The motion carried unanimously.

8. Clerical Weighted Caseload Study: (Kim Allard, Peggy Gentles)

Kim Allard reported that an updated clerical weighted caseload study was recently conducted. The study was conducted with the assistance of the National Center for State Courts. It was noted that every clerk in the state participated in the study. Peggy Gentles reported that the Clerical Weighted Caseload Committee paid particular attention to addressing urban v. rural distinctions. Specifically, the committee looked for patterns in the data that indicated smaller or larger numbers in particular court locations. The data showed that court locations in both urban and rural areas were closer to the median response than previously thought.

Ms. Allard and Ms. Gentles then distributed and discussed the results of the 2005 clerical weighted caseload study with the Council. After discussions took place, it was mentioned that the Council needed to determine the placement of 7 one-time clerk positions that were approved by the Council for FY 2006. During discussions concerning the allocation of these positions, the Council determined that it would like to obtain feedback from the 2nd and 4th District TCEs regarding allocation, prior to the Judicial Council meeting, since they appear to be the districts in greatest need.

The Council thanked the Committee for its work, and thanked Kim Allard and Peggy Gentles for their report.

9. ADR Committee Update: (Hon. Royal Hansen)

Judge Royal Hansen, chair of the ADR Committee, provided a status report of the committee's work to the Council. Judge Hansen reported that the committee has been working to implement requirements associated with HB 4, which made mediation in contested divorce cases mandatory. Judge Hansen also reported that last year, the Board of Juvenile Court Judges temporarily redirected internal funds to provide for 2 additional full time child welfare mediators, and that the funding is to end June 30, 2006. It was reported that the Child Welfare Mediation Program is requesting that these two temporary positions be funded on a permanent basis.

Finally, Judge Hansen reported that the committee is reviewing the approval process for the ADR Roster. It was mentioned that a number of individuals who define themselves as mediators do not have the required training to qualify for inclusion on the Court Roster. These individuals have requested that the requirements for inclusion on the Court Roster be waived. It was reported that the ADR Committee made the decision that it would be inappropriate to waive any requirements outlined in Rule 4-510, which individuals must meet to be qualified to be included on the Court Roster. Specifically, the ADR Committee decided unanimously that under no circumstances should the requirement of 30 hours of basic mediation training be waived. In addition, the committee decided unanimously that basic mediation training should be received in a 30 hour block, meaning that several shorter courses on mediation added together to equal 30 hours are not equivalent to 30 hours of basic training. Additionally, the committee made the decision that the requirement of 24 hours of domestic/divorce mediation training will not be waived. It was reported that this is the requirement which must be met in order to be included on the Divorce Mediation Court Roster. However, the committee determined that this requirement could be deferred for 12 months at the discretion of the ADR Director.

10. Legislative Interim Agenda: (Mark Jones, Richard Schwermer)

Richard Schwermer reported that interim meetings of the legislature recently took place. Mr. Schwermer reported that the Judiciary Committee discussed tort reform. No action was taken in regards to this issue, however. Additionally, the Health and Human Services Committee met and discussed the status of FACT (Families Agencies Communities Together). The committee determined that, since the FACT Council consists of a number of new members, the council should be allowed to meet and report to the committee at a later date.

11. Status Report on 3 Case Management Measures: (Kim Allard)

Kim Allard reported that a number of outdated cases that had not been disposed were identified in a recent legislative audit of the court system. Ms. Allard reported that she and her staff reviewed these cases, and provided lists to districts in order to clean-up these cases in the system. Ms. Allard then provided an update on work on the three performance measures for case management: age of active pending cases, clearance rates, and time to disposition.

12. Courtools Presentation: (Dan Hall, Vice President, National Center for State Courts)

Daniel Becker introduced Dan Hall, Vice President of the National Center for State Courts. Mr. Hall is responsible for the court consulting arm of the NCSC, and is based out of Denver. Mr. Becker reported that Mr. Hall has been overseeing the development of A Courtools@ , performance measures available to courts throughout the country. Mr. Hall then shared a presentation outlining the core performance measures with the Council. The Council determined that it would like to evaluate several of these core measures as they relate to the Utah State Courts in the coming months.

The Council expressed appreciation to Mr. Hall for his presentation, and for his willingness to join them that day.

13. Adjourn:

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

