

Judicial Council Meeting Minutes

JUDICIAL COUNCIL MEETING MINUTES

Tuesday, September 16, 2003
Snowbird, 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. Andrew Valdez
Hon. Gary Stott
Hon. Ronald Hare
Hon. K.L. McIff
Hon. Scott Johansen
David Bird, esq.

STAFF PRESENT:

Daniel J. Becker
Myron K. March
Richard Schwermer
D. Mark Jones
Ray Wahl
Tim Shea
Matty Branch
Nancy Volmer
AnNicole Faeth

GUESTS PRESENT:

Hon. Leslie Brown
Jerry Howe, *Office of Legislative
Research and General Counsel*

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

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

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

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

Chief Justice Durham indicated that she had nothing to report at that time.

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

Daniel J. Becker reported the following items:

- Randy Kester has withdrawn his name from consideration for a judicial appointment to the Fourth District Court. A notice of the judicial vacancy has been announced.
- Robert Parkes has been hired as the court's new Human Resources Director. He assumed this position September 15th.
- Sylvester Daniels has been hired as the Trial Court Executive in the Second District Court, replacing Rick Davis who is now the Trial Court Executive in the Fifth District. Mr. Daniels has been a Chief Probation Officer in the Third Juvenile Court for many years.
- Sen. Bell has agreed to sponsor a bill which would create a new judgeship in the Second District Court, per the Council's request.
- The Council's October 27th meeting will be held at the new courthouse in Logan, beginning at 10:30 a.m.
- Judge Kimberly Hornak's dependency drug court in the Third District has been selected to be a national model, and will be visited in the coming the coming year by judges and others interested in starting up a similar court.

• **REPORTS:**

Management Committee: (Judge James Davis)

Judge Davis reported that he had nothing to report in addition to what is included in the committee's minutes.

Policy and Planning: (Hon. Lee Dever)

Judge Dever reported that the committee primarily considered two topics in their recent meeting. One topic was regarding the Committee on Children and Family Law, and the other topic was related to disability benefits for judges. In regards to the disability issue, Judge Dever reported that the committee recommended that no action be taken related to these benefits at this time. He indicated that the issue of the Children and Family Law Standing Committee was on the Council's agenda and would be discussed later in the meeting that day.

Liaison Committee: (Hon. Jerald Jensen)

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

Bar Commission: (David Bird, esq.)

David Bird reported that the Bar Commission has not met since the Council's last meeting.

- **RECOGNITION OF OUTGOING COUNCIL MEMBERS: (Chief Justice Christine M. Durham)**

Chief Justice Durham reported that the terms of Judge Andrew Valdez and Judge Ben Hadfield were coming to an end. She presented Judge Valdez and Judge Hadfield with a token of the Council's appreciation for their service to the Judiciary through time spent on the Judicial Council.

- **POLICY & PLANNING REPORT: REVIEW OF COMMITTEE ON CHILDREN AND FAMILY LAW: (Tim Shea)**

Tim Shea reported that several months ago, the Policy and Planning Committee was asked to evaluate whether or not the Standing Committee on Children and Family Law should remain intact. Mr. Shea reported that, after review took place, the Committee recommends that the Committee on Children and Family Law be continued. It was reported that Policy and Planning feels that the committee continues to have meaningful work to do, and that there are a number of issues remaining for the Committee to evaluate. It was mentioned that the Standing Committee on Children and Family Law would be making their bi-annual report to the Council in October.

- **RULE AMENDMENTS: (Tim Shea)**

Tim Shea reported that the Policy and Planning Committee recommends that the Council approve a number of rule amendments to the Code of Judicial Administration. The Committee also recommends that several rules be repealed as part of the joint efforts with the Supreme Court to recodify the procedural aspects of the Code of Judicial Administration within the rules of civil, criminal, and juvenile procedure.

Mr. Shea reported that this was the first time that all rule amendments were sent out for comment in a strictly electronic manner. It was reported that a number of law offices are now screening out mass mailings, therefore, a number of notices may not have been received. In the future, measures will be taken to technologically correct this problem, and notification will also be posted in the Bar Journal.

After discussion took place, the following motion was made.

Motion: Judge Dever made a motion to approve these amendments. Judge Hadfield seconded the motion. The motion carried unanimously.

- **JUDICIAL COVERAGE IN THE FOURTH DISTRICT: (Mark Jones)**

Mark Jones reported that in light of Randy Kester's withdrawal from consideration for a judicial position in the Fourth District, the Fourth District is requesting judicial assistance. Mr. Jones reported that they are requesting the appointment of a judge pro tem to help manage the caseload until a new judge is appointed. It was also mentioned that Judge Guy Burningham is willing to serve as a senior judge in the district two days a week, per State Retirement restrictions. This only provides a partial solution, however. It was suggested that other districts be asked to volunteer judge time to the Fourth District. After discussion took place, the Council agreed that the Fourth District should ask Judge Burningham to hear cases two days a week, and that a notice should be sent to all other districts in the State, as well as to the Appellate Courts, asking other judges to volunteer to hear cases.

- **RESOURCE IMPLICATIONS OF PROTECTIVE ORDER WORKLOAD: (Hon. Leslie Brown, Ray Wahl)**

Judge Brown, chair of the Board of Juvenile Court Judges, reported that the Juvenile Court in Utah has historically dealt with two types of cases, delinquency and child welfare. Judge Brown reported that the Juvenile Court has typically used the services of agencies such as the Division of Child and Family Services (DCFS) in order to deal with child welfare cases. With the transfer of child protective orders to the Juvenile Court, the Juvenile Board has been monitoring the workload impact in order to report to the Judicial Council, which had in earlier action indicated that resources would be transferred to address this shift in work. Judge Brown reported that it has been estimated that it takes 1 - 2 hours of clerk time to assist the public with these cases when they are filed, and a large amount of judge time. Judge Brown reported that actual filings since the law was passed regarding the shift of jurisdiction in these cases has far exceeded initial estimates, by approximately 75%.

It was reported that the Board of Juvenile Court Judges is requesting that the Council reconsider allocation of resources to the Juvenile Court to address these cases. They would like the full time equivalent of 1.68 clerks (shared among the Second, Third, and Fourth Districts) and the use of senior judge assistance to help in the management of these cases in the Second, Third, and Fourth Districts.

After discussion took place, the following motion was made.

Motion: Judge Hilder made a motion to ask Daniel Becker to bring a proposal back to the Council to temporarily address the needs of the Juvenile Court related to addressing the workload associated with protective orders on behalf of children. The motion was seconded and carried unanimously.

- **STRATEGIC PLANNING/ZERO BASED BUDGETING INITIATIVE: (Daniel J. Becker)**

Daniel Becker reported that in a recent Council meeting, the notion of engaging in a strategic planning/zero based budgeting initiative was adopted. Mr. Becker provided additional information to the Council related to this concept. Mr. Becker suggested that this initiative be termed "program based budgeting", in which resources are reallocated based upon identified priorities.

It was mentioned that this project allows the courts to take a step back and review spending from a broader perspective in order to evaluate the effectiveness of the current allocation of funds. Additionally, since the prospect of new funding is somewhat poor, it makes sense for system needs to be addressed through existing funds.

It was mentioned that this initiative will include the involvement of the Judicial Council (including the AOC, senior judges and one time funds), the Appellate, Juvenile, District and Justice Court Boards, the Education Standing Committee, and the Technology Standing Committee. Mr. Becker noted that it is anticipated that the district and juvenile boards will include court executives in this process. A number of tasks and a timetable related to this initiative were also reviewed.

Mr. Becker then reported that there are a number of issues the Council needs to consider as this initiative progresses. These include: How will this initiative relate to the existing incremental budget process for FY 2005?; How does the Council address activities that cross court levels and offices?; How do you address budget items which are common to all?; and, Should there be a uniform format for reporting recommendations to the Council? Direction was provided on each of these issues. It was mentioned that this exercise will be limited to the Main Line Item, and not the Lease and Contract Budget, or the Jury, Witness, Interpreter budget.

- **EXECUTIVE SESSION:**

Motion: A motion was made to go into executive session to discuss personnel matters. 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.