

## Judicial Council Meeting Minutes

### JUDICIAL COUNCIL MINUTES

November 22, 1999

Judicial Council Room - Scott M. Matheson Courthouse  
450 South State - Salt Lake City, Utah

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*Chief Justice Richard C. Howe, Presiding*

#### **Members Present:**

Hon. Richard C. Howe, Chief Justice  
Hon. Lyle Anderson  
Hon. Russell Bench  
Hon. Lynn Davis  
Hon. L.A. Dever  
Hon. Michael Glasmann  
Hon. Ronald Hare  
Hon. Scott Johansen  
Hon. Kay Lindsay  
Hon. Clair Poulson  
Hon. Leonard H. Russon  
Hon. Anne M. Stirba  
Hon. Stan Truman

#### **Staff Present:**

Daniel J. Becker  
Myron K. March  
Marilyn Branch  
Holly Bullen  
D. Mark Jones  
Richard Schwermer  
Tim Shea  
Jan Thompson  
Cathie A. Montes

#### **Guests:**

Hon. Christine M. Durham, *Associate Chief Justice Utah Supreme Court*  
Hon. Larry Steele, *Presiding Judge 8<sup>th</sup> District Juvenile Court*  
Hon. Ben Hadfield, *1<sup>st</sup> District Court*  
Hon. Sandra Peuler, *3<sup>rd</sup> District Court*  
Hon. Michael Evans, *Domestic Relations Commissioner 3<sup>rd</sup> District Court*  
Hon. Anthony Schofield, *4<sup>th</sup> District Court*  
Marcella Keck, Lori Nelson, *Family Law Section, UT State Bar*  
Rep. Lamont Tyler, *State of Utah House of Representatives*  
Karma Dixon, *Assistant Atty. General*  
Robin Arnold-Williams, *Exec. Dir., State of Utah, DCFS*  
Rosalind McGee, Mary Boudreau, *Utah Children*  
Carol Hensley  
Ray Rivera, *Salt Lake Tribune*  
Jim Rayburn, *Deseret News*

#### **Welcome**

Chief Justice Howe welcomed all those in attendance. The approval of the minutes from the Council's October meeting was deferred to the December meeting.

#### **Report of the Chairman**

Chief Justice Howe presented to the Council a brief report in which the following items were mentioned:

- Chief Justice Howe, Dan Becker, and legislative liaisons Mark Jones and Rick Schwermer met with the Republican leadership on November 17<sup>th</sup>. The matter of the study conducted by the Constitutional Revision Commission (CRC) on the judicial retention process was discussed. The leadership was informed of the CRC's decision, after thorough examination, to recommend that no changes be made to the process currently in place. Leadership had no further comment on the matter at the time of the meeting. The Chief Justice continued by reporting that the Republican leadership was informed of Salt Lake City Corporation's plan to decriminalize certain traffic violations and misdemeanors, and create an administrative court to those matters. The fiscal impact on the state was discussed, and leadership was also informed that two cities -- Salt Lake City and West Valley City -- have pursued this action without legislative authorization. It is unclear whether a bill will be introduced at the upcoming legislative session to authorize this administrative procedure.

- A team from Utah attended a conference in Scottsdale, Arizona, on pro se litigation. The conference, held from November 18-21, was sponsored by the American Judicature Society. Attendees from Utah included: Chief Justice Howe, Judge David Mower (Sixth District Presiding Judge), Dan Becker, Paula Carr (Second District Clerk of Court), and Peggy Gentles (AOC staff attorney). Teams from 49 states and some U.S. territories attended the conference. The subject of the conference was the duty, if any, of courts to assist pro se litigants. Chief Justice Howe stated that Maricopa County, Arizona, has undertaken a major effort to assist pro se litigants by creating "service centers" wherein the public is able to obtain information and acquire forms in filing some actions in the courts, without dispensing legal advice. As a result, only 20% of divorce cases are handled with attorney representation on both sides. Another 20% of these cases have attorney representation of one of the parties. However, 60% of divorce cases have no attorney representation. The Chief Justice indicated that this would likely be a topic for future

discussion by the Council, and that consideration should be given concerning the extent, if any, that pro se litigants are seen in the Utah courts. That further, consideration should also be given to how the courts can help these litigants.

He continued by clarifying that pro se litigants are not always indigent, and that, as in other areas, there is an increasing number of people who wish to handle legal matters independently. He concluded by saying that this matter should be examined by the courts in the near future.

### **Administrator's Report**

Dan Becker presented his report to the Council. He began with an update of the schedule for the legislative outreach meetings. These meetings have been scheduled throughout the state, and invitations have been mailed to all legislators. He reiterated that attendance by judges at these meetings is welcomed and encouraged, and that this is a good opportunity for discussions between the two branches of government.

He informed the Council that he, Chief Justice Howe, and other AOC staff members had the opportunity to meet with the Governor and his staff to review the courts' budget. The courts were only one of four agencies with whom the Governor requested to meet regarding budget issues. Among the budget issues discussed: the need for clerks, data processing, the Guardian Ad Litem program, and mediation. The Governor was also informed about other matters of importance, e.g., the Family Law Initiatives, and the Racial and Ethnic Fairness Task Force.

Mr. Becker followed up in further detail the item reported by Chief Justice Howe, which was the meeting with the Republican legislative leadership. He also reported on the meeting of the Judiciary Interim Committee. The Council was further informed that the Constitutional Revision Commission will issue a report, recommending no change to the constitution as it relates to judicial retention. The Commission's only suggestion is that the courts seek ways to better inform the public regarding judicial performance.

As his final item, Mr. Becker distributed to the Council a packet of materials regarding the case management workshop, which was held by the district and juvenile courts in October. Included in these materials were plans proposed by each district's court executive to improve docket management. These plans will be implemented for a six-month period, at which time a follow-up workshop will be conducted to review the results of these plans.

### **Subcommittee Reports**

Judge Stirba presented to the Council the report of the Management Committee. She began by stating that most of the items discussed by the committee are on the Council's agenda.

She discussed two items on the Council's consent calendar, as follows:

- An Executive Order signed by the Governor creating the Council on Driving Under the Influence. The executive order directs that one of the members on the DUI Council is to be a representative of the Courts, appointed by the Judicial Council. The Management Committee recommended the appointment of Richard Schwermer to this council, and Judge Stirba indicated that the Board of Justice Court Judges endorsed said recommendation.
- Membership on the Court Interpreter Advisory Panel. The Management Committee recommended the appointment of Mr. Tony Ngo to this panel.
- The reappointment of Judge Ben Hadfield to the Ethics Advisory Standing Committee.
- The reappointment of Judge James Sawaya as an active senior judge.
- The Computer Use Policy. Court staff are requested to sign a policy agreement which outlines the parameters for computer and Internet use by court staff. A similar policy agreement is being developed for signature by judges, and Brent Johnson will advance this agreement to the Council for its review upon completion.
- Byrne Grant requests, which resulted from the Council's budget and planning session. Two requests are being made: 1) assistance in justice courts' development of an automation plan; 2) a request for two rural law clerks. The grant amount requested for these positions is \$150,000, which would extend over a four-year period.

Chief Justice Howe added to this report, informing the Council that the Conference of Chief Justices/Conference of State Court Administrators (CCJ/COSCA) jointly created a "Therapeutic Justice Task Force". That further, Dan Becker was chosen to co-chair this task force, along with Chief Justice Major Harding of the Florida Supreme Court. Members from various other organizations will comprise the task force. The objective of the task force is to create a national agenda advancing particular areas of therapeutic justice. The task force will receive testimony on this issue from academics, practitioners, and judges throughout the country. The results will be completed and prepared for presentation at the CCJ/COSCA Annual Meeting in August, 2000. Drug courts will most likely be used as an example in discussions in order to determine whether this type of court should be advanced and institutionalized as part of the court system.

Judge Glasmann presented the report from the Policy and Planning Committee. He noted that the proposed rule amendments are on the council's consent calendar. He added that the committee discussed the issue of the privacy of divorce records, and that this issue will be discussed by the full council at its December meeting.

Justice Russon reported that one matter discussed by the Liaison Committee would be discussed later in the meeting.

### **Update on Salt Lake City Administrative Court**

Rick Schwermer presented to the Council an update on the newly-created Salt Lake City Administrative Court. He distributed a draft of a proposed ordinance, and discussed related policy issues surrounding this administrative court. He indicated that there are two items to consider with regard to this ordinance. The first item is "quality in process", and queried whether the Legislature would be agreeable to a process for handling traffic matters which will vary between sites and law enforcement agencies. In addition, not all traffic matters are decriminalized, which will result in inconsistency. Other items he presented for consideration were: judge accountability; the role of the judiciary; process; access; notice; fines; reportability; and the process for appeals.

Regarding judicial accountability, Mr. Schwermer pointed out that, in the state court system, a mechanism is in place to ensure "structural fairness" in the event a judge errs. In an administrative court, city employees are not subject to either the Code of Judicial Conduct or any other ethical requirements.

Mr. Schwermer continued by discussing the issue of fines. He gave as an example the increased fine amount for jaywalking. This increase is not reflected in the fines imposed or bail schedule utilized by the courts, and also results in inconsistency. The matter of surcharges was also discussed. He indicated that while surcharges have been collected, this money has not been turned over to the State. At issue is whether the state treasurer will accept from a city a lump sum of money which purports to be a surcharge on a criminal fine where there is no underlying criminal fine. He stated that this issue has not yet been resolved by the Office of the Attorney General. He added that further, West Valley City will no longer collect the \$7.00 surcharge.

The fiscal impact of this issue was also reviewed. Both Salt Lake City and West Valley City project a new income revenue amount of \$1.2 million, which will impact the state general fund and the capital complex fund.

The proposed bill purports to apply only to cities of the first class (e.g., Salt Lake City, West Valley City, Sandy, and Provo). However, Mr. Schwermer indicated that other areas have expressed a similar interest in creating administrative court. In addition, some individuals who have previously agreed to sponsor legislation have now expressed a willingness to mediate any disputes that have arisen between the judiciary and the cities with administrative courts. The bill does not address the issues of access, bail schedules, or open process. Addressed in part is the matter of surcharges, and inclusion of collection of the \$7.00 surcharge is currently being considered. Mr. Schwermer stated that there is a reluctance to collect the \$7.00 surcharge, since justice courts are not required to pay this surcharge. That further, this requirement applies only to state entities. West Valley City is not currently leasing the court's portion of a state facility; therefore, the city does not consider itself subject to collection of said surcharge.

Mr. Schwermer was asked why a previous attempt to decriminalize traffic violations was not successful. Tim Shea responded by saying that the Council, at that time, formed a committee to study the possibility of decriminalization of certain criminal offenses and non-violent misdemeanors. At that time, no consensus for decriminalization was reached. Dan Becker presented background to the new Council members on the issue of the West Valley City administrative court. He stated at that time, West Valley City requested the Council's authorization to lease a portion of the building space in the Third District, West Valley, location.

After considering the issues surrounding creation of an administrative court, the Council expressed concerns on some of the aforementioned issues. That further, based on those concerns, the Council took the position that it could not endorse the city's lease request.

The Council discussed the matter before it in further detail. It was expressed that the largest problem is that of uniformity regarding processes, and that existing inconsistencies ultimately affect service to the public. It was also expressed that there are policy questions which can only be resolved by the Legislature. Following additional discussion, a motion was made.

### **Motion**

A motion was made to oppose the further creation of administrative proceedings for newly-decriminalized, moving traffic violations, until such time as the related policy, process, and fiscal issues can be studied and addressed. The motion was seconded and carried unanimously.

### **Family Law Initiatives**

The major part of the Council's meeting was devoted to the matter of the family law initiatives. Numerous presenters were invited to attend the meeting and offer final comments before the Council's consideration of and action on this matter. Chief Justice Howe began by recognizing the following judges: Hon. Sandra Peuler, Hon.

Larry Steele, Hon. Ben Hadfield, and Domestic Relations Commissioner Michael Evans. Representative Lamont Tyler, Chair of the House Judiciary Committee, was also in attendance. Judge Michael Glasmann, Chair of the Family Law Workgroup, offered brief opening remarks to those in attendance by presenting a brief history of the Council's undertaking of this issue since its inception in August of 1998.

Judge Glasmann continued, saying that during the months that followed, it became apparent to the Council that there was not a great deal of support for a structural change to a family court. However, there was a great deal of support for many of the ideas for changes which were recommended. He indicated that any reluctance for a structural change may have been attributed in part to the experience encountered by the judiciary during the consolidation of the circuit and district courts. Later in the process, the Council voted to create a subcommittee charged with both embracing many of the ideas which had been presented, and organizing a workshop to synthesize those ideas into a working draft of suggestions for change in the process for handling domestic matters. This draft, entitled, "Family Law Initiatives", was distributed some time earlier to the past presenters, interested agencies, and the Boards of Judges with a request to offer critical analysis of same. Responses were received from the Family Law Section of the Utah State Bar, the State Department of Human Services (DHS), and Utah Children.

Representatives of those groups were also in attendance, as follows: Marcella Keck and Lori Nelson (Family Law Section, Utah State Bar); Karma Dixon, Assistant Attorney General; Robin Arnold-Williams (Executive Director, DHS); and Rosalind J. McGee and Mary Boudreau (Utah Children). Presenters offered final, detailed comments to the following questions: 1) whether the proposed standing committee offers a sufficient forum in which to resolve family law issues;

2) modifications to the organization, membership, and charge to the proposed standing committee; and 3) opportunities and difficulties presented by the five proposed procedural reforms. The Council adjourned for lunch following the presentations.

After reconvening for lunch, Judge Glasmann requested the opportunity to present a few remarks to the full Council. He began by stating that part of the Council's commitment, since the release of the report and recommendations of the Family Court Task Force, was to consider those recommendations. The family law workgroup was mainly concerned that some of the resistance to the ideas the group has discussed was due to the perception that a structural change was the ultimate goal. The following motion was made:

**Motion** (*Glasmann motion*)

A motion was made that the Council reject the recommendation of the Family Court Task Force for a structural change, and that a structural change will not be part of the charge to the Standing Committee, unless it is so directed by the Judicial Council. The motion was seconded and carried unanimously.

Following this motion, it was stated that the proposed Standing Committee of the Judicial Council on Children and Family Law is core to the initiatives outlined by the Council's family law workgroup. If a standing committee is appointed and the recommendations pursuant to the family law workshop are adopted and implemented, this committee could operate in the same manner as other Council committees, reviewing and dealing with family law-related issues as they arise. Accordingly, the following motion was made.

**Motion** (*Lindsay motion*)

A motion was made that the Council should adopt the report of the workshop and approve the recommendation for a standing committee on children and family law, said recommendation resulting from the family law workshop held on September 24<sup>th</sup>, with the following amendment:

Regarding the charge to the standing committee, that the second paragraph on page 12 of the draft of the initiatives, the word "investigate" should be changed to, "discuss and make recommendations regarding . . .". This motion was seconded, and further discussion ensued with no vote.

**Amended Motion** (*Daniels' motion*)

An amended motion was made that, with respect to the composition of the standing committee, the executive branch representative to said committee should be the Executive Director of the Utah Department of Human Services, or her or his designee. In addition, an attorney with experience as a public defender or representing parents in juvenile court should also be added, said member to be appointed by the Judicial Council.

Judge Johansen expressed concern that the composition of the committee was too large. It was suggested that the number of members should be reduced in size by half, with the other proposed members invited to offer input to the standing committee as may be necessary, and that additional time should be devoted to discussing the size of the committee. He expressed additional concern that he did not receive the agenda and accompanying materials in a timely manner so as to allow adequate time for consideration of these matters. Based on these concerns, the following substitute motion was made:

**Substitute Motion** (*Johansen motion*)

With respect to the matter of the standing committee's composition, a motion was made that the standing committee be composed of the following:

- One State Senator
- One State Representative
- One representative of the Executive Branch, to be designated by the Utah Department of Human Services
- One attorney from the Family Law Section of the Utah State Bar
- One representative from a child advocacy organization
- The Director of the Office of the Guardian Ad Litem
- One Domestic Relations Commissioner
- Two District Judges
- Two Juvenile Judges

The motion was seconded, and further discussed. Judge Johansen stated that he agreed with presenters who expressed concern that the proposed standing committee, originally outlined in the Family Law Initiatives summary, might be unwieldy. He also agreed that there are other individuals who have not been considered for membership on the committee; that the committee should either be increased or decreased in size; or that the vote be delayed to permit consideration of the composition. Following additional discussion, Judge Stirba indicated that she could not support the substitute motion. She added that representation from groups outside of both the judiciary and government is a requirement for the committee to have the credibility necessary toward fulfilling the goals of the workgroup.

There was further discussion on the matter, and Judge Glasmann requested additional feedback both from Council members and AOC staff. Dan Becker indicated it is important to have an equal balance of the standing committee, particularly in the area of child development, as this is an important perspective.

Chief Justice Howe called for the vote on the substitute motion. Five were in favor of the motion, and eight opposed. The substitute motion failed.

A motion to amend the main motion was made, with respect to the composition of the standing committee:

#### **Motion**

A motion was made to delete from the proposed standing committee the Attorney General designee, the Court of Appeals judge, and the community representative. The motion was seconded, and discussed further. Scott Daniels indicated that in his past experience on other committees with citizen representatives, a community representative was beneficial, in that this allows for flexibility when appointing an individual not affiliated with other designated groups/agencies. Following additional discussion, the following amended motion was made:

#### **Amended Motion** (*Dever motion*)

A motion was made to delete from the proposed standing committee the Attorney General designee and the Court of Appeals judge, and that said standing committee should be comprised of the following members:

- One State Senator, appointed by the President of the Senate
- One State Representative, appointed by the Speaker of the House
- One representative of the Executive Branch, to be designated by the Utah Department of Human Services
- One attorney from the Family Law Section of the Utah State Bar
- One representative from a child advocacy organization
- The Director of the Office of the Guardian Ad Litem
- One Domestic Relations Commissioner
- Two District Judges
- Two Juvenile Judges
- One Community representative

- One attorney representative with experience in representing juvenile defendants, or representing parents in the juvenile court in child neglect and/or abuse cases
- One professional in child development
- One mediator

The motion was seconded and carried by a majority.

**Amended Motion** (*Lindsay motion restated*)

Judge Kay Lindsay restated her motion, amended as follows:

The motion was made to approve the workshop report with the description of the problem, and approve the recommendation for a standing committee on children and family law, said recommendation resulting from the family law workshop held on September 24<sup>th</sup>, with the following amendment:

Regarding the charge to the standing committee, that the second paragraph on page 12 of the draft of the initiatives, the word "investigate" should be changed to, "discuss and make recommendations regarding". That further, the AOC staff is directed to return to the Council's December meeting with a proposed rule to establish said standing committee, but allow the deadline to remain as outlined in the "Family Law Initiatives" draft, dated November 15, 1999.

This motion includes incorporation of the aforementioned motions made by Judge Lee Dever and Scott Daniels. The motion was seconded and carried with two opposed.

**Motion**

A motion was made to request the AOC staff to return to the Council's December meeting with a proposed rule to the Code of Judicial Administration creating the standing committee and its responsibilities. The motion was seconded and carried unanimously.

**Motion**

A motion was made that the Council should endorse the work of the Family Law workgroup; that further, the Council recommends to the newly-created standing committee that it should consider the efforts of the workgroup, as well as the refinement of and detailed work necessary for the implementation of the changes as recommended by the workgroup. The motion was seconded and carried unanimously.

**Video: "Parent to Parent"**

Ray Wahl and Jan Thompson presented this video to the Council, and Hon. Christine M. Durham, Associate Chief Justice of the Utah Supreme Court, offered additional remarks following the video presentation. Mr. Wahl began with a brief overview of the video's origin, and said that the Board of Juvenile Judges directed him to develop a project which would commemorate the 100 anniversary of the juvenile court. Mr. Wahl enlisted the help of Jan Thompson in producing a video for community outreach and education. The video was subsequently aired at the 100<sup>th</sup> Anniversary meeting of the National Council of Juvenile and Family Court Judges earlier this summer. The major funding for production of this video was provided by a grant from Board of Juvenile Justice and Delinquency Planning, a branch of the Commission on Criminal and Juvenile Justice (CCJJ).

The video explains how the juvenile court serves as a resource for families, juveniles, and the community. Several state juvenile court judges discuss what they have learned from their experiences as both parents and judges. Although cameras are not allowed in juvenile court rooms, permission was given by juvenile judges, parents of juvenile offenders, court personnel, and juveniles themselves to record actual cases of juvenile offenders. Following the screening of the video, Jan Thompson informed the Council that additional grant funds were awarded for purposes of providing extra copies of this video to be shown to any interested school districts. She added that this is one component of building public trust and confidence. Various school districts have been approached regarding any interest they may have in utilizing this video at PTA meetings, followed by informal discussions. Four pilot programs are underway in different levels of schools throughout the state for the video to be shown to school counselors and parents, in conjunction with judges. The video entitled, "The Judges", would be shown to students.

Justice Christine M. Durham also attended the meeting, and offered remarks to the Council in her capacity as co-chair of the Committee on Improving Jury Service. She stated that the committee has undertaken community outreach efforts or purposes of obtaining feedback regarding jury service, as well as the type of impact the courts have on the community by reason of the function of the jury. Based on these efforts, the committee felt that ways

of capitalizing on positive jury service experiences by the public should be pursued. Toward this end, the "Parent to Parent" video is a ready-made resource for schools eager for additional useful materials for curriculum units which provide information about the juvenile justice system. Justice Durham continued by saying that thus far, interfacing between the courts and the public education system has been fragmented. The committee is supportive of the concept of the use of this video, in part, to foster a partnership between the state judiciary, the state Bar, the existing law-related education programs, and the schools. She indicated that the committee would like to, in the near future, advance to the Council for its subsequent review and approval, a concept paper to pursue the aforementioned notion.

Mr. Wahl sought approval from the Council on a grant request he is submitting to the State Justice Institute. The request is for a technical assistance grant which would enable the juvenile court to purchase resource materials, and would also allow for a behavioral specialist at school outreach programs. No requests are being made for additional court personnel, and there are currently no outstanding, competing grant requests to SJI. A motion was made following this presentation.

### **Motion**

A motion was made to endorse the concept paper for the technical assistance funds grant as advanced by Ray Wahl. The motion was seconded after additional discussion, and the motion was carried unanimously.

### **Content of Self-Declaration Forms**

Tim Shea presented this matter to the Council upon the recommendation of the Management Committee. This matter involves the certification of judges. He stated that one of the standards for the certification decision in retention elections is whether the judge in question is in substantial compliance with the Code of Judicial Conduct (CJA 3-111(3)(E)). This is the exact question which appears in the self-declaration form. During a recent certification, Mr. Shea reported on two instances involving reprimands which did readily not come to light. Based on these instances, Mr. Shea submitted a memorandum to the Council for its consideration. In it, he recommended to the Council that the content of the self-declaration form should either be changed to include more specific questions regarding judicial discipline, or that a similarly pointed inquiry should be directed to the Judicial Conduct Commission. However, he said this would result in a new issue, that of the type of information the Council would want to consider in making its certification decision.

Questions were posed to the Council regarding the existence of a reprimand which falls short of final action. These questions explored the extent and type of information to be sought, and the level of action taken regarding reprimands. They are as follows:

- 1) Whether the judge is in substantial compliance (the current question);
- 2) Has the Supreme Court entered an order of discipline? (final action on disciplinary proceedings);
- 3) Has the Judicial Conduct Commission entered an order of discipline? (this is subject to automatic review by the Supreme Court, and that court's record of proceedings by the Judicial Conduct Commission is presumed public; however, a judge may request closure of the record.)
- 4.) Have formal proceedings commenced by the Judicial Conduct Commission? (this information would likely be available only from the judge; the Commission may be precluded from divulging the existence of such proceedings.)
- 5.) Has the Judicial Conduct Commission entered a non-public order of discipline? (information on this level is confidential.)

Mr. Shea recommended more specificity on these questions, with the type of specificity to be determined by the Council.

The Council was of the view that the question currently used is insufficient, and detailed discussion followed. Mr. Shea was asked to define the term "order of discipline". He stated that this would include actions by the Conduct Commission, reprimands, censures, involuntary retirements, removals from office, and suspensions.

A motion was made pursuant to the Council's discussion.

### **Motion**

A motion was made to eliminate the question on substantial compliance, which is currently used in the self-declaration form, and to substitute Question 3, with the addition of the term, "formal order" in said form. The motion was seconded, and it was suggested that the definition of "formal" be included for purposes of information

and clarification. An additional suggestion was made to include the following language: ". . . formal order of discipline that has not been reversed by the Supreme Court." The motion was seconded and further discussion ensued. Chief Justice Howe called for the vote, and the motion was carried with three opposed.

### **Supplemental Motion**

A motion was made for Question 1 to remain as the first question on the self-declaration form, as well as Question 3, as voted by the Council. The motion was seconded, and discussed further. The motion was carried with two opposed.

### **Forms**

Tim Shea re-submitted this item to the Council upon the recommendation of the Policy and Planning Committee. The Council had previously assigned to the committee the question of whether and to what extent to develop uniform forms. The committee attempted to design a formal adoption of a currently informal process, that of forms control. A model process was, in fact, developed, and Mr. Shea distributed the model draft to the Council. The objectives of the form control process are to develop and to maintain it necessary and useful forms are legally sufficient and clear. Approved forms will be accessible to those court patrons who may wish to use them. Local resources and initiatives would be relied upon in developing these forms.

This process would monitor those initiatives and resulting forms, and the forms would ultimately be presented to the Council and the Supreme Court for approval. During the approval process, the Council and the Supreme Court could determine which of the forms should be required for plenary use, and which should be limited to suggestions or guidelines.

The process was discussed with and reviewed by the Council, and Mr. Shea reported the responses from all court levels. He indicated that the Board of District Court Judges thought the list of mandated forms should be relatively short, and that most forms should be suggested only. The Board of Juvenile Court Judges voted to approve the suggested model, while the Board of Justice Court Judges supported greater use of mandated forms and observed that greater uniformity would be helpful to them. The Policy and Planning Committee concurred with the District Board that the use of most forms should not be mandated. A motion was made following discussion.

### **Motion**

A motion was made to approve the recommendation of the Policy and Planning Committee with regard to forms creation and uniformity. The motion was seconded and carried unanimously.

### **Report on King County Mental Health Court**

Judge Anthony Schofield and Rick Schwermer reported to the Council on their visit to the King County mental health court in Seattle, Washington. The Council received a brief memorandum which outlined an evaluation of this program as compared to what exists in the Utah court system. Judge Schofield reported that King County has an active program to deal with mentally ill offenders. He stated that all levels of the program are impressive, and that there is little difference between the court itself and other courts. He opined that, while this therapeutic justice court is not patterned after the drug court, there were certain components which he felt could be assimilated into specialty courts in Utah. He cited as an example the line which services a population half the size of metropolitan Salt Lake County. The psychiatric staff was comprised of up to 14 workers. Most of the misdemeanor offenders are incarcerated upon arrest. He also noted that in-house probation is provided in the jail.

Judge Schofield continued by saying that the factor which contributes to the success of this program is the close monitoring of the offenders by probation officers and mental health professionals. The reasoning behind the visit to this facility was reiterated to the new Council members. At one of its earlier meetings, the Council voted to support the concept of specialty courts, particularly drug and domestic violence courts; however, other specialty courts would be studied on a case by case basis. The Division of Mental Health sponsored a visit to the King

County facility, and was federally subsidized for this visit. Representatives from the courts were invited to participate in this visit, and the Board of District Judges designated Judge Schofield as a participant, while Mr. Schwermer served as the staff representative. A mental health task force has recommended that Utah consider creating a mental health court. A total of three mental health courts are currently in existence nationwide.

The Council discussed this matter, but no action was required nor was any action taken.

### **Motion**

A motion was made for the Council to convene an Executive Session. The motion was seconded, carried unanimously, and the Council proceeded into Executive Session.

The meeting was adjourned following the Executive Session.