

## Judicial Council Meeting Minutes

### JUDICIAL COUNCIL MINUTES

**Monday  
November 23, 1998**

**San Juan County Public Safety Bldg.  
297 South Main  
P.O. Box 68  
Monticello, Utah  
\*\*\*\*\***

**Members Present:**

Chief Justice Richard C. Howe  
Hon. Anthony W. Schofield  
Hon. Scott Johansen  
Hon. Russell Bench  
Hon. Robert Braithwaite  
Hon. Michael K. Burton  
Hon. Kay A. Lindsay  
Hon. Michael Glasmann  
Hon. Ronald Hare  
Hon. Stanley Truman  
Hon. John Sandberg  
Steven Kaufman, Esq.

**Members Excused:**

Hon. Anne M. Stirba  
Hon. Leonard H. Russon

**Staff Present:**

Daniel J. Becker  
Myron K. March  
Raymond H. Wahl  
Holly M. Bullen  
D. Mark Jones  
Timothy Shea  
Marilyn Branch  
Cindy Williamson

**Guests:**

Chief Justice Robert Yazzie  
*Navajo Nation*  
James Zion  
*Navajo Nation*  
Hon. Lyle Anderson  
*Seventh District Judge*  
Hon. Lyon Hazelton  
*Justice Court Judge*  
Tim Simmons  
*Seventh District Court Executive*  
Jerry Howe  
*Legislative Counsel*

**Welcome - Approval of Minutes:**

Chief Justice Howe welcomed guests, members and staff to the meeting.

**Motion:**

A motion was made by Judge Lindsay to approve the minutes of October 27, 1998. The motion was seconded by Steven Kaufman and carried unanimously.

**Report from Chairman:**

Chief Justice Howe introduced Chief Justice Robert Yazzie from the Navajo Nation. The solicitor for the Navajo Nation, James Zion, accompanied Chief Justice Yazzie. Chief Justice Yazzie sits in Window Rock, Arizona.

Chief Justice Yazzie said that he has been the Chief Justice for the Navajo Nation since 1992. The Chief Justice's work includes supervising the work of judges and justices within the Navajo Nation that has a population of 250,000. Judges are required to have mastered both English and Navajo and know the tradition and culture of the people. In addition, the Chief also administers the court which is a two tiered system. In 1992, 92,000 cases were filed in the court.

Next, Chief Justice Yazzie presented his personal philosophy on justice and continued by promoting that difference courts share their knowledge with one another to create a better court system overall. The Navajo Nation supports the "Peacemaker Philosophy. This philosophy brings together the perpetrator, the victim and family members to develop a resolution to the problem.

Chief Justice Yazzie expressed his appreciation the Judicial Council for inviting him to the meeting.

James Zion, Solicitor, said he has been employed since 1981 with the Navajo Nation. Mr. Zion indicated that he was asked to reintegrated original Navajo law into practice. In 1982 the Navajo Nation revived "Peacemaking" and Mr. Zion wrote the procedural rules to reestablish the practice.

**State Court Administrator's Report:**

Chief Justice Howe, Dan Becker, Myron March, Richard Schwermer and Mark Jones met with Governor Leavitt several weeks ago. The meeting was very worthwhile and the Governor was attentive to the needs of the courts. However, this year Governor Leavitt seems only to be advancing mandates for all state agencies. The budget will be limited this year because there is a total of \$200,000,000 in new money and \$700,000,000 in new requests.

Earlier this year Dan Becker met with the Executive Appropriations Committee. Members of the committee expressed concern about three things, i.e., the court's failure to file an accounts receivable report as provided by law, the amount of debt carried by the courts and the progress of the transfer of debts to the Office of State Debt Collection. Another meeting was scheduled for November and Mr. Becker reported that the court's have made the transfer of debt to the Office of State Debt Collection a priority. The courts, thus far, have transferred more than \$10 million in accounts. In addition, there is an additional \$25 million to be examined. The court's will maintain approximately \$10 million in collectable debts.

**Management Committee Report:**

Judge Schofield indicated that most of the items discussed during the Management Committee meeting will be on today's Council agenda.

**Policy and Planning Committee Report:**

Judge Braithwaite indicated that minutes of the Policy and Planning Committee meeting accurately reflect what happened during the meeting.

**Liaison Committee Report:**

There was no report from the Liaison Committee.

**Rule Change - Rule 3-111:**

Last Spring, the Judicial Council agreed in concept with a recommendation of the Judicial Performance Evaluation Committee to make several changes to the process of surveying attorneys. The objective of the changes is to simplify the survey document to increase attorney participation. The Committee recommended elimination of duplicate questions, reduction in the frequency of the surveys administered and elimination of the demographic section. Mr. Shea requested that the proposed rule changes be approved as emergency changes under Rule 2-205 so the new survey may be administered in September of 1999.

**Motion:**

A motion was made by Judge Glasmann to approve the rule changes as requested. The motion was seconded by Judge Schofield and carried unanimously.

**Recertification of Senior Judge Ruggeri:**

During the last Management Committee meeting Holly Bullen presented an application for recertification of Senior Judge Ruggeri. There was a question raised about whether or not Judge Ruggeri has completed his education requirements during his current term in office. Holly Bullen has since investigated whether Senior Judge Ruggeri completed the requirements and has found that because of his wife's health problems he has not completed the necessary requirements. The Management Committee recommended that Judge Ruggeri not be recertified.

**Motion:**

A motion was made by Judge Lindsay that the Judicial Council approve the recommendation of the Management Committee and that Judge Ruggeri not be recertified but that he be encouraged to recertify by completing the necessary educational requirements. The motion was seconded by Judge Sandberg and carried unanimously.

**Report on Racial and Ethnic Fairness Public Hearings:**

The Racial and Ethnic Fairness Task Force has a total of approximately 140 members participating on various subcommittees. Each committee is reviewing hard data. Dan Becker reported that he has attended several Racial and Ethnic Fairness Public Hearings and there are constant themes emerging from the hearings. Recently, in Ogden there was a complaint about clerks' offices regarding advancement and hiring policies and about a judge. One of the most basic complaints was that of the courts' insensitivity to minorities. There is a hearing scheduled for this evening in Blanding from 6:00 p.m. - 8:00 p.m. and Mr. Becker encouraged Judicial Council and management staff attendance at this meeting.

In response to the discussion on the Racial and Ethnic Fairness Public Hearings, Chief Justice Yazzie suggested development of a glossary of legal terms in the most commonly used languages. The Chief Justice believes that language barriers present extraordinary problems for court users. Next, Chief Justice Yazzie suggested thorough training of interpreters. Currently, the Navajo Nation is setting up a comprehensive training which will begin in March of 1999. Holly Bullen stated that an interpreter from Utah is registered for training in March.

#### **Analysis of Voting Trends in Judicial Elections:**

Tim Shea reported on the voting trends in judicial elections in Utah. In the last ten years there have only been two instances in which judges received less than 70% of the vote. The voter information pamphlet contained information about judges for the first time in 1994. The actual judicial survey results were first published in 1998 and the judiciary statewide averaged an 80% approval rate. The court level did not seem to affect the score. However, voters do make a distinction in regions.

#### **Reappointment to the Justice Court Standards Standing Committee:**

Holly Bullen indicated that there is a vacancy on the Justice Court Standards Standing Committee. Craig R. Madsen, Utah County Deputy Attorney, has just completed his second term. However, under the exceptional circumstance rule Mr. Madsen may serve again. Mr. Madsen is the current chair of the committee and can provide the committee with continuity.

#### **Motion:**

A motion was made by Judge Truman that Craig R. Madsen be appointed to a third term under the exceptional circumstance rule. The motion was seconded by Judge Schofield and carried unanimously.

#### **Seventh Judicial District Update - Judge Anderson:**

Judge Lyle Anderson was present and spoke about the history of San Juan County. Judge Anderson stated that one thousand years ago there were probably more people in the county than there are right now. After the Native Americans' departure, John Taylor, then President of the LDS Church, sent settlers to San Juan County. However, there are still members of the Ute and Piute tribes present in the area. The reservation comprises one fourth of the total county.

The uranium boom affected San Juan and Grand Counties and the Federal Government has committed to spending a total of \$350,000 to clean up the uranium tailings. There are issues in San Juan and Grant Counties that do not affect other areas of the state, i.e., conflict of jurisdiction with tribal courts. In large part, individuals in the area make their living by farming/ranching, there is a college in Blanding and from the tourism industry.

#### **General Overview - Seventh Judicial District - Tim Simmons:**

Tim Simmons, Court Executive, provided an overview of the Seventh District. The Seventh District encompasses Carbon, Emery, Grant & San Juan Counties. The offices in the Seventh District are combined, i.e., juvenile and district court. Combining the offices and cross training has proven to enhance customer service. The training process was difficult and Mr. Simmons expressed his appreciation to staff for their hard work and diligence. There are no contract sites in the district.

Mr. Simmons introduced John Hacker, Kevin Dunn and Corey Johnson, probation officers in San Juan and Grand Counties. John Hacker, San Juan County Probation Officer, has worked in Blanding for five years. Mr. Hacker said five years ago they sent more than nine juvenile offenders per year to Youth Corrections. However, with the state supervised probation program there has only been one youth sent to Youth Correction the past year. State supervised probation allows a probation officer a minimum of 21 contacts a week with a juvenile offender. Corey Johnson indicated he has only been in probation a short time but stressed that frequent visits with offenders and various programs are working well within the area. Kevin Dunn stated that probation officers work closely with one another, and also with juvenile offenders. Mr. Dunn said that there is a high percentage of Navajo juvenile offenders.

#### **Seventh District Juvenile Court Update - Hon. Scott Johansen:**

Judge Johansen informed members of the Council that San Juan County is the largest county in the state and the third in the nation. San Juan County is larger than Massachusetts, Rhode Island, Connecticut and Vermont together. The Federal Government owns a large portion of the county and has 16% of the state's total population. In the past year, the Juvenile Court has collected a total of \$1.9 million in fines. The Seventh District collected \$47,000 of the total. Collection efforts in the Juvenile Court amount to 75% of all fines that Juvenile Court judges order. Statewide there are approximately 43,000 juveniles that pass through the system.

#### **Justice Court Presentation:**

Judge Lyon Hazleton, II, has been a Justice Court judge for five years. Judge Hazleton reported that the San Juan County Justice Court previously held a class I certification. However, due to a decrease in traffic offenders the court

was certified at a class II level. Judge Hazelton indicated that generally all trials in the area are held in Monticello. Before the following discussion, Chief Justice Howe excused himself from the room.

**Motion:**

A motion was made to move into executive session. The motion was seconded and carried unanimously.

**Motion:**

A motion was made by Judge Glasmann to moved out of executive session. The motion was seconded by Steven Kaufman. The motion carried unanimously.

At the conclusion of the executive session, a staff member announced to the public that the session had concluded. However, all interested parties had since left.

**Motion:**

A motion was made by Judge Lindsay that the Judicial Council join the motion for enlargement of time and urge a rehearing in In re: Young, involving more guidance on the issue of boards and commission and membership on those boards and commissions. Furthermore, that the Council request permission to participate as an amicus if the Council so chooses and that the proceedings be expedited to facilitate issues with the Legislature. The motion was seconded by Judge Braithwaite and carried unanimously.

**Motion:**

A motion was made by Judge Lindsay that the Judicial Council support the concept of legislators and judges on the Judicial Conduct Commission and that the Council attempt to explore with leadership ways to accomplish that goal. In addition, that Judge Anthony W. Schofield, as Vice-Chair to the Judicial Council, send a letter to leadership conveying the Council's position. The motion was seconded by Judge Glasmann. The motion carried unanimously.

**Motion:**

A motion was made by Judge Lindsay that the Judicial Council authorize the Liaison Committee to act on behalf of the Judicial Council when it is not possible for the Council to meet as interim decisions arise. In addition, that Judge Schofield, as Vice-Chair of the Council be authorized to act on behalf of Justice Russon when he may have to recuse himself as Chair of the Liaison Committee. The motion was seconded by Judge Sandberg. The motion carried unanimously.

**Adjourn:**

There being no further business, Judge Schofield adjourned the meeting.