

JUDICIAL COUNCIL MEETING

Minutes

Tuesday, September 13th, 2011

Timp 1 & 2

Homestead

Midway, Utah

Chief Justice Christine M. Durham, Presiding

ATTENDEES:

Chief Justice Christine M. Durham
Hon. Michael Westfall, vice chair
Justice Jill N. Parrish
Hon. Judith Atherton
Hon. Donald Eyre, Jr.
Hon. Kimberly K. Hornak
Hon. Paul Maughan
Hon. Jody Petry
Hon. Larry Steele
Hon. Keith Stoney
Hon. Thomas Willmore
Lori Nelson, esq.

EXCUSED:

Hon. Brendan McCullagh

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Lisa-Michele Church
Jody Gonzales
Debra Moore
Rick Schwermer
Tim Shea
Diane Abegglen
Nancy Volmer
Jessica VanBuren
Neira Siaperas

GUESTS:

Hon. Dennis Fuchs
Hon. Lynn Davis
Hon. Carolyn McHugh

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Christine M. Durham)

Chief Justice Durham welcomed everyone to the meeting.

She recognized the outgoing members for their service and contribution to the Council.

The outgoing members include: 1) Judge Michael Westfall, 2) Judge Donald Eyre, and 3) Judge Jody Petry.

The outgoing members offered their comments to the Council.

Motion: Judge Petry moved to approve the minutes as amended. Judge Atherton seconded the motion, and it passed unanimously.

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

Chief Justice Durham reported on the following items:

She attended a meeting with Bar leadership. Highlights will be provided by Ms. Nelson.

3. ADMINISTRATOR'S REPORT: (Daniel J. Becker)

Mr. Becker reported on the following items:

A meeting was held with the Legislative Audit Committee prior to the Council meeting.

Upon closing out FY 2011, a carry forward amount of \$200,000 in addition to the projected carry forward amount was noted. Recommendations for use of the additional carry forward monies will be discussed at a future Council meeting.

The presiding judges will meet on Wednesday, September 14. Discussion will take place on maximizing existing resources and creative use of senior judges as discussed among Council members at the August meeting. Feedback from the August meeting will be provided to the presiding judges and continued discussion on the topic will take place.

Mr. Becker mentioned that the National Convocation of Commissions on Children will be held in Salt Lake City September 21-23.

For the first month in which documents could be accessed through the XChange system, 7,896 documents were accessed. Additional information will be shared with the Council at a later meeting.

Ms. Lisa-Michele Church introduced and welcomed Ms. Neira Siaperas, new Assistant Juvenile Court Administrator. Her background was provided.

Mr. Wahl provided clarification on budget figures represented for district court and juvenile court on the Fiscal Data Trends sheet at the August Budget and Planning Session. Two different reports were used to compile the budget figures. A corrected Fiscal Data Trends sheet will be sent to Council members.

4. COMMITTEE REPORTS:

Management Committee Report:

Chief Justice Durham reported that the Management Committee meeting minutes accurately reflect the issues discussed. The items needing to be addressed by the Council have been placed on today's agenda.

Liaison Committee Report:

No meeting was held in September.

Policy and Planning Meeting:

No meeting was held in September.

Bar Committee Report:

Ms. Nelson reported on the following:

The Commission held their annual retreat where several new programs were introduced. Ms. Nelson highlighted the new programs to include: 1) a high school education project dealing with civics education, 2) a Pro Bono Commission to coordinate all legal services available through the different entities, 3) a Modest Means Program, and 4) books from Barrister project.

A speaker presented information on Leadership Principles to the Commission.

5. DRUG COURT CERTIFICATIONS: (Judge Dennis Fuchs and Rick Schwermer)

Chief Justice Durham welcomed Judge Fuchs to the meeting. She mentioned that Judge Fuchs conducts the evaluations for the drug courts up for certification. It was noted that the Management Committee recommends certification of the drug courts in question.

Judge Fuchs reported that there are 17 drug courts up for certification, and he is recommending certification for all of them. Each drug court evaluated have taken the necessary steps to come into compliance, as a result of the evaluation process.

Definition of a hybrid court and last chance court were provided by Judge Fuchs.

Motion: Judge Eyre moved to certify the drug courts being recommended by Judge Fuchs. Judge Stoney seconded the motion. The motion passed with Judge Hornak abstaining from voting on the two drug courts she is responsible for.

6. LEGISLATIVE UPDATE/INTERIM HIGHLIGHTS: (Rick Schwermer)

Mr. Schwermer reported that an interim session has not been held since the Council last met. He mentioned that other Committees, including the Civil Task Force Committee, have held meetings. The next interim session is scheduled for September 21. A special session is scheduled for early October.

7. RATIFICATION OF AMENDMENT TO CJA 6-101 TO ADD A FIFTH DISTRICT REPRESENTATIVE TO THE BOARD OF DISTRICT COURT JUDGES: (Judge Lynn Davis and Debra Moore)

Chief Justice Durham welcomed Judge Davis to the meeting.

Judge Davis provided background information relative to the request for ratification of an amendment to CJA 6-101 to add a Fifth District representative to the Board of District Court Judges. A presentation was made to the Board of District Court Judges in June by Judge James Shumate, Fifth District. The request would increase the membership of the Board of District Court Judges from 10 to 11 members. Further discussion took place at the August Board meeting. Upon considering the matter, the following factors were considered: 1) ratio, 2) population growth, 3) jurisdictional boundaries, and 4) unique circumstances. The matter was voted upon, and the recommendation was approved with a vote of 4-3 in favor of the motion. Judge Davis noted that he was absent at the time the vote was taken by the Board. Judge Westfall provided his opinion relative to the request. Ms. Moore provided a response to the request. Discussion took place. Judge Davis reported that his initial intention was to establish a protocol for changing the membership before bringing the request to the Council.

Motion: Judge Maughan moved to direct the Board of District Court Judges to develop a protocol for changing their membership before a vote is taken by the Council on the matter. Judge Eyre seconded the motion, and the motion passed with Judge Westfall voting no.

8. BOARD OF DISTRICT COURT JUDGES UPDATE: (Judge Lynn Davis and Debra Moore)

Judge Davis and Ms. Moore were welcomed to the meeting.

Judge Davis noted that he would provide followup to new judge orientation with his update. He then turned the time over to Ms. Moore who provided an update on the Board of District Court judges activities.

Ms. Moore highlighted the following in her update: 1) the membership of the Board, 2) goals and study item for the year ending October 2011, 3) new judicial weighted caseload, 4) electronic devices in the courtroom, 5) vexatious litigants rule, 6) objections to commissioner recommendations, 7) domestic case study, and 8) new judge orientation.

She reminded the Council that the new judicial weighted caseload for the district court has been completed and was approved at the August 18 Council meeting.

Judge Davis provided followup by supplementing Ms. Moore's report. He highlighted accomplishments of many district court judges and commissioners. He noted that the Board of District Court judges will be well represented in the area of recognition at the upcoming Utah State Bar's Fall Forum. A copy of the article written by Judge Davis and published in the Latino Harvard Review was circulated among the Council members. He highlighted the following in his update: 1) acknowledgment of significant contributions in district court at Board meetings, 2) annual service project, 3) commitment to meet with every new district court judge, and 4) Board's recommendations relative to new judge orientation.

Judge Davis was thanked for his leadership by Chief Justice Durham and Mr. Becker.

9. JUDICIAL OUTREACH COMMITTEE UPDATE: (Judge Carolyn McHugh and Nancy Volmer)

Chief Justice Durham welcomed Judge McHugh to the meeting.

Judge McHugh provided an update to the Council on the activities of the Judicial Outreach Committee.

She highlighted the following in her update: 1) membership of the Committee, 2) introduction, 3) challenges, 4) accomplishments, 5) media trends, 6) social media, 7) review of the 2011-2012 Strategic Communication Plan, 8) subcommittee work, and 9) implementation of Public Trust and Confidence Survey.

Judge McHugh noted the decline in public confidence in the courts as shown in national public opinion surveys which corresponds to the level of public knowledge about the courts. The Committee realizes the importance of enhancing the public's knowledge about the function of the courts with an emphasis on civic education.

One of the challenges being addressed deals with the changing face of media, an increase use of Social Media, and turnover of rural reporters.

The implementation of Social Media in the courts includes the following: 1) Twitter, 2) Face Book, 3) YouTube, and 4) Blogging.

The following key areas of the strategic plan were highlighted: 1) utilize media coverage proactively to create a better understanding of the Utah State Courts and the Judicial Branch, 2) foster an understanding of the courts' role as an open, fair, and independent branch of government through outreach efforts, 3) use tools effectively and maintain avenues of communication to relay the Courts' key messages to target audiences, and 4) maintain avenues of internal communication to recognize employee contributions and accomplishments, promote PIO services, and support new judges.

In closing, Judge McHugh left the Council with the following quote from Tom Hodson, Ohio University professor: "Courts should recognize that the number of journalists who cover the courts is diminishing and determine how to best fill the information gap."

Chief Justice Durham thanked Judge McHugh for her update.

10. REVIEW OF ACCESS AND FAIRNESS SURVEY: (Jessica VanBuren)

Mr. Becker provided history relative to the Access and Fairness Survey.

Ms. Van Buren was welcomed to the meeting.

She mentioned that the survey was administered in 2006, 2007, 2008, and 2011. Every court patron was surveyed at 35 court locations over a seven-week period. The survey was administered by three surveyors, of which, two spoke Spanish.

Ms. Van Buren provided data from the survey results. Ninety-seven percent of the surveys were completed in English, with three percent completed in Spanish. The following categories of the survey were highlighted: 1) satisfaction level, 2) highest rating, 3) lowest rating, 4) what was most helpful, and 5) what was most frustrating.

The survey results have been shared with the court executives and the clerks of court as well. Ms. Debra Moore and Ms. Lisa-Michele Church will share the data with the presiding judges and the court executives in the individual districts.

Ms. Van Buren was thanked for sharing the survey results with the Council.

11. LIBRARY NON-LAPSING ACCOUNT REQUEST: (Jessica VanBuren)

Ms. Van Buren requested approval from the Council to use funds from the Library non-lapsing account to purchase three new photocopiers for the Law Library, in the amount of \$10,464.

Mr. Becker provided an explanation of the use of the Library non-lapsing account.

Motion: Judge Stoney moved to approve the use of funds from the Library non-lapsing account to purchase three new photocopiers for the Law Library. Judge Hornak seconded the motion, and it passed unanimously.

12. LEGISLATIVE AUDIT REPORT: (Daniel J. Becker)

Mr. Becker provided an update on the legislative audit report. He mentioned that the original charge of the audit was to address budgeting and personnel practices used by the courts. He highlighted the following audit findings and recommendations: 1) implementation of the electronic record, 2) adoption of time standards, 3) process for reporting unethical behavior of custody evaluators, and 4) the practice and manner by which traffic citations and traffic schools are managed.

Discussion took place relative to e-filing recommendations and the adoption of time standards. It was noted that he has been discussing with presiding judges their readiness to go paperless, and that most districts were looking to January 1, 2012, as a target date. Mr. Becker reminded the Council of the pilot underway involving the model time standards.

Further discussion regarding mandatory e-filing and adoption of time standards will take place at a future Council meeting.

Overall, the findings of the audit were positive, particularly as related to the original purpose of the audit, namely, Human Resources, Budget and Operations.

13. SENIOR JUDGE CERTIFICATIONS: (Tim Shea)

The following judges have applied to be reappointed as active senior judges: 1) Judge John Anderson, 2) Judge John Backlund, 3) Judge Judith Billings, 4) Judge Roger Dutson, 5) Judge Sheila McCleve, 6) Judge Frank Noel, 7) Judge Rodney Page, and 8) Judge Gary Stott.

Motion: Judge Steele moved to forward the recommendations to certify the following: 1) Judge John Anderson, 2) Judge John Backlund, 3) Judge Judith Billings, 4) Judge Roger Dutson, 5) Judge Sheila McCleve, 6) Judge Frank Noel, 7) Judge Rodney Page, and 8) Judge Gary Stott for reappointment as active senior judges. Ms. Nelson seconded the motion, and it passed unanimously.

14. EXECUTIVE SESSION

Motion: It was moved and seconded to enter into an executive session. The motion passed unanimously.

15. ADJOURN

The meeting was adjourned.