

Judicial Council Meeting
Minutes

DRAFT

October 27, 1997

Second Judicial District
2525 Grant Avenue
Ogden, Utah

Chief Justice Michael D. Zimmerman, Presiding

Members Present:

Chief Justice Michael D. Zimmerman
Hon. Pamela T. Greenwood
Hon. Robert Braithwaite
Hon. Kay A. Lindsay
Hon. Michael Glasmann
James C. Jenkins, Esq.
Hon. Anthony W. Schofield
Hon. John Sandberg
Hon. Steven Van Dyke
Hon. Stan Truman
Hon. Anne M. Stirba

Members Excused:

Justice Leonard H. Russon

Staff Present:

Daniel J. Becker
Myron K. March
D. Mark Jones
Richard H. Schwermer
Jan Thompson
Fred Jayne
Holly M. Bullen
Timothy Shea
Cindy Williamson
Marilyn Branch
Gordon Bissegger
Margaret Satterthwaite
Peggy Gentles

Guests Present:

Hon. Anthony Quinn
Hon. Charles B. Behrens
Dale Kimball, Esq.
Hon. Dennis Fuchs
Lavell Prince, Taylorsville Mayor
John Brems, Taylorsville City Atty.

Welcome & Introductions:

Chief Justice Zimmerman welcomed guests, members and staff to the meeting. The Chief Justice introduced new members of the Council, Hon. Kay A. Lindsay, Hon. Michael Glasmann, and Hon. Stan Truman. Next, Chief Justice Zimmerman welcomed newly appointed judges to the judiciary, Hon. Anthony Quinn and Hon. Charles Behrens.

Approval of Minutes:

A motion was made by Mr. James Jenkins to approve the minutes of August 20, 21, & 22, 1997. The motion was seconded by Hon. Michael K. Burton and carried unanimously.

A motion was made by Hon. Michael K. Burton to approve the minutes of September 9, 1997. The motion was seconded by Mr. James Jenkins and carried unanimously.

Report from the Chair:

Chief Justice Zimmerman reported on proposed changes to the Nominating Commission statute. The changes are necessary because of a bill's passage last year which was defective. There will be ongoing discussions to better educate individuals about the Nominating Commission's policies and procedures.

On October 30, 1997, Chief Justice Zimmerman, Daniel J. Becker, Myron K. March, and Richard Schwermer will meet with Governor Leavitt and his staff to discuss the FY98 budget. Previously, a meeting was held between Administrative Office Staff and Robert Gross, the Governor's Chief of Staff. Chief Justice Zimmerman indicated that Mr. Gross appreciated the need to set certain budget items outside the 2% cap.

Chief Justice Zimmerman stated that he had received a letter from Ronald Yengich requesting that an agreement be reached between the Judiciary and members of the defense bar regarding security issues. Members of the Council considered placing this item on the next Management Committee agenda.

State Court Administrator's Report:

Judicial Appointments:

Hon. Anne Boyden will be sworn in as a new district court judge on November 5, 1997.

Grant Funding:

Dan Becker reported that the judiciary has received a grant in the amount of \$100,000 to employ a person for a period of two years to assist and conduct training sessions in case delay reduction. That person has yet to be selected. This program will also address and more fully develop the position of trial court executive.

The Commission on Criminal and Juvenile Justice (CCJJ) has agreed to provide \$62,000 for upgrading of the Juvenile Court automation system. Judge Mark Andrus is chairing a committee which will assist with the design of the new computer system.

A \$20,000 Violence Against Women Grant has also been received. This money will provide for computer training.

Budget:

During the budget meeting with Governor Leavitt on October 30, 1997, the Governor will consider the priority CCJJ has assigned various items. CCJJ has been very supportive of the judiciary and has given the request for a judge in the Third Judicial District an A rating, and the request for a juvenile court judge a B rating.

Presiding Judge and Court Executive Workshop:

A presiding judge/court executive workshop was held on October 3, 1997, in Moab. The session addressed the role of both the presiding judge and court executive. This focus will also serve to enhance case delay reduction. It was received well by the participants and it was suggested that this be a continuing effort.

National Association of Women Judges Conference:

During the month of September the National Association of Women Judges Conference was held in Salt Lake City. Judges McCully, Greenwood and Lewis served on the committee. In addition, the Education Department of the Administrative Office of the Courts played an extremely important role in hosting the conference. The conference was very successful and Mr. Becker expressed his appreciation to all those involved.

Judicial Council Sub-Committee Reports:

Policy and Planning Committee Report:

Judge Burton reported that the Policy and Planning Committee considered proposed changes to the court commissioner position under Rule 3-201. The outcome of the discussion was that the rule not be adopted as an emergency rule.

Motion:

A motion was made by Judge Greenwood that the Policy and Planning Committee limit their discussion of Rule 3-201 to specifics, i.e., retirement and sick leave benefits and submit a recommendation back to members of the Judicial Council. The motion was seconded by Mr. Jenkins and carried unanimously.

Management Committee Report:

Judge Greenwood reported on recent activities of the Management Committee which

included recommendations of newly appointed Judiciary Council members to various committees. The committee recommended that Judge Michael Glasmann serve on the Management Committee and Judges Truman and Lindsay serve on the Liaison Committee.

Motion:

A motion was made by James Jenkins to approve the recommendations and appointments of Judge Michael Glasmann to the Management Committee, and Judges Truman and Lindsay to the Liaison Committee. The motion was seconded by Judge Stirba and carried unanimously.

Liaison Committee Report:

Richard Schwermer distributed a list of proposed bills and their sponsors for the 1998 Legislative Session. The next meeting of the Liaison Committee will be in November.

There will be a request for the reauthorization of the Juvenile Justice Task Force for another year. Currently, there are no issues on their agenda. The authorization is for precautionary measures

The Utah State Bar has decided to take a more active role in the Legislature. The board will meet regularly during the session to discuss various legislation and will lobby independently for legislation. Chief Justice Zimmerman stated that this is a very proactive, long range activity that he would like to congratulate the Bar Commission on.

Motion:

A motion was made by James Jenkins to appoint Judge Anthony Schofield as chair of the Liaison Committee. The motion was seconded by Judge Stirba and carried unanimously.

Senior Judge Retirement Issues:

On behalf of senior court judges, Gordon Bissegger requested that members of the Judicial Council consider modification of a rule which governs insurance coverage of senior judges and their spouses. Previous to this meeting the issue had been considered by the Policy and Planning Committee and Management Committee of the Judicial Council. The Policy and Planning Committee recommended no revision to the existing rule. The Management Committee recommended against any modifications to the rule allowing for retroactivity and minimization of cost.

Motion:

A motion was made by Judge Nelson that no changes be made to the existing rules and statutes governing insurance provisions for retired judges. The motion was seconded by Judge

Greenwood and carried unanimously.

Funding for Collection of Accounts Receivable:

The Ad Hoc Committee on Collections has previously recommended that the responsibility for debt collection be transferred from the courts to the Office of State Debt Collection no later than 90 days after an account becomes delinquent. However, as of yet there has been no agreed upon funding mechanisms for the court's collection efforts and the clerical work necessary to record delinquent debts as a civil judgment and transfer cases to the Office of State Debt Collection.

Court staff, representatives from the Office of State Debt Collection and Bill Dinehart, Legislative Fiscal Analyst, have met and recommend the following:

- 1) reinstate for the juvenile court the authority to take from the fine payment, itself, a percentage that represents the cost to collect the delinquent account; and
- 2) in the district court, impose on all accounts receivable paid over time, interest at the rate set by the Office of State Debt Collection.

Motion:

A motion was made by Judge Greenwood to approve the recommendations of the committee. The motion was seconded by Judge Braithwaite and carried with three opposing votes.

Judicial Evaluation and Performance Committee Update:

Dale Kimball, Chair of the Judicial Evaluation and Performance Committee, was present to update Council members on recent activities of the committee. Harriet Marcus' term on the committee ends shortly and Dale Kimball will be resigning because of his recent appointment to the Federal Court Bench. Recommendations for these two upcoming vacancies are being sought.

Dan Jones and Associates has a one year to assess judicial performance. A survey of jurors indicates that jurors rate judges very high. The committee is also trying to determine how to increase attorney participation in the survey of judges. Currently, members of the Committee are considering ways to modify the survey by eliminating duplicative questions and eliminating the distinction between certification questions and those questions which relate to self improvement. Attention will also be given to eliminating the demographic questions.

Previously, this committee recommended to the Judicial Council that actual scores from the public surveys be used in reporting instead of the 5% incremental reporting. This recommendation was presented to judges at all levels and also to the Judicial Council. The District Court Board voted in favor of using the actual reporting scores, but by a split vote. All

other court levels and the Council approved the recommendation.

Chief Justice Zimmerman expressed his appreciation to Mr. Kimball for his presentation and also extended congratulations on behalf of the entire Judicial Council on Mr. Kimball's recent appointment to the Federal Court Bench.

Other Business:

Judge Van Dyke suggested the issue of family court be addressed. Chief Justice Zimmerman indicated that the issue is scheduled to be addressed in August of 1998, and will be addressed by a number of different groups and individuals. After continued discussion, Council members determined that the background of the family court proposed should be communicated to all judges. The family court issue will be placed upon the District Court Board agenda in December.

Motion:

A motion was made by Judge Stirba that a letter describing the family court concept and background be sent by Chief Justice Zimmerman to all members of the judiciary along with a copy of the Family Court Task Force Report. In addition, that the letter and report are sent along with a statement that no action will be taken on Family Court until August, 1998. The motion was seconded by Mr. Jenkins and carried unanimously.

Third District Drug Court Update:

Judge Dennis Fuchs reported on the Third District Drug Court. There are currently 256 drug court participants. Out of the 256 participants there has been a total of 18 bench warrants issued and 12 graduates. Judge Fuchs indicated that he expects 10-12 more graduates within the next couple of months. On an average it takes an individual approximately 18 months to graduate from drug court.

Funding for the drug court remains an issue but is presently sought through grant monies. Additional funding may be found through solicitation of private funds from local foundations.

A request has been made to the Salt Lake County Sheriff's Department to assign a full time deputy sheriff to the Third District Drug Court. This deputy sheriff would be present for all hearings, make home visits, and have the power to arrest when necessary.

Judge Fuchs said that the drug court is unique in its therapeutic adjudication process. The biggest advantages of drug court are sanctions that are immediate and there is also a great deal of positive reinforcement for a defendant who is doing well. The defendants are allowed contact with all entities involved with drug court, i.e., judge's phone number, legal defender's telephone numbers, pretrial services, etc.

Chief Justice Zimmerman expressed his appreciation and that of the entire Judicial Council to Judge Fuchs for his extraordinary efforts toward making this a very successful program. Judge Fuchs extended an invitation to all Judicial Council members to visit the Third District Drug Court.

Justice Court Task Force Update:

Judge Anthony Schofield reported on behalf of the Justice Court Task Force. On October 28, 1997, the Justice Court Task Force will review a draft interim report. This report has been prepared by Judge Schofield, Richard Schwermer, and Peggy Gentles. The interim report will recommend that all B and C misdemeanors and infractions be moved on a date certain, tentatively in the year 2002, to the justice courts and out of the district courts in every area where there is a justice court having territorial jurisdiction. This will result in a significant case shift and a significant financial impact on the general fund. There is no recommendation for a requirement that an area must create a county wide justice court if they do not want to.

The committee also proposes that there be no retention elections for municipal judges but once appointed, that the judges be reappointed unless there is good cause shown which would be reviewable by committee. This is an issue which is to be presented to the League of Cities and Towns, etc.,

Judge Schofield asked Council members their opinions with respect to the recommendation and its effect of having a significant case load shift. The following concerns were raised: a) increase in appeal numbers; b) city justice courts; c) judge projections and work loads.

The Justice Court Study Task Force will review the draft interim report and meet thereafter to approve finalization of the report so that it is prepared in time for the 1998 Legislative Session. Judge Schofield stressed that the issue of jurisdiction must be resolved because otherwise jurisdiction will expire in 1998. The report will be distributed to members of the Judicial Council upon final preparation.

Taylorsville Application for a New Justice Court:

LaVelle Prince, Taylorsville Mayor, and John Brems, Taylorsville City Attorney, were present and requested that the Judicial Council approve the city's application for the creation of a new justice court.

Motion:

A motion was made by Judge Braithwaite that members of the Judicial Council approve Taylorsville is application for the creation of a new justice court. The motion was seconded by Judge Stirba and carried unanimously.

Request for 1998 Supplementals:

Fred Jayne, Administrative Office Financial Director, requested that Council members approve a request for a 1998 supplemental in the amount of \$25,000. This request is the result of additional costs for an accelerated CORIS schedule. This money will not compete with the general funds requests.

Motion:

A motion was made by Judge Greenwood to approve the request for the supplemental in the amount of \$25,000. The motion was seconded by James Jenkins and carried with one opposing vote.

Motion:

A motion was made by Judge Anthony Schofield for members of the Judicial Council to go into an executive session. The motion was seconded by James Jenkins and carried unanimously.

Adjourn:

There being no further business, Chief Justice Zimmerman adjourned the meeting and members of the Judicial Council toured the new court complex in Ogden.