

# JUDICIAL COUNCIL MEETING

## Minutes

Monday, February 22, 2016

Judicial Council Room

Matheson Courthouse

Salt Lake City, Utah

**Chief Justice Matthew B. Durrant, Presiding**

### ATTENDEES:

Chief Justice Matthew B. Durrant  
Justice Thomas Lee  
Hon. Marvin Bagley  
Hon. Ann Boyden  
Hon. Mark DeCaria  
Hon. Paul Farr  
Hon. Thomas Higbee  
Hon. David Marx  
Hon. David Mortensen  
Hon. Mary Noonan  
Hon. Reed Parkin  
Hon. Randall Skanchy  
Hon. Kate Toomey

### STAFF PRESENT:

Daniel J. Becker  
Ray Wahl  
Jody Gonzales  
Debra Moore  
Dawn Marie Rubio  
Rick Schwermer  
Tim Shea  
Alison Adams-Perlac  
Nancy Sylvester  
Derek Byrne

### GUESTS:

### EXCUSED:

John Lund, esq.

1. **WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)**

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

**Motion:** Judge Skanchy moved to approve the minutes from the January 25, 2016 Judicial Council meeting. Judge Toomey seconded the motion, and it passed unanimously.

2. **CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)**  
Chief Justice Durrant had nothing new to report.

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

Mr. Becker reported on the following items:

Judicial Performance Evaluation Commission (JPEC). Ms. Jennifer Yim has been selected as the Executive Director of JPEC, with the upcoming retirement of Ms. Joanne Slotnik in March. Mr. Becker provided background information of her work experience.

Utah Anti-Discrimination Division. Ms. Alison Adams-Perlac has accepted a position as the director of the Anti-Discrimination Division of the Department of Labor. Mr. Becker thanked her for her service to the courts and wished her well in her new position.

Court Security Director. Mr. Chris Palmer has been selected as the new court security director who will begin working for the courts on March 14. Mr. Becker provided background information of his work experience.

2016 Legislative Session – Capital Improvements. The Building Board has approved over \$6 million dollars from the Alteration, Repairs and Improvement Budget for court buildings in FY 2017.

PEW Meeting. A preliminary meeting with members from the PEW charitable trust will be held on February 23 regarding the study to be conducted relative to juvenile court, similar to the study conducted in district court last year.

Judicial Performance Evaluation Commission – Retention Reports. Concerns were expressed by members of the Council as to the delay in notifying judges who failed any part of the minimum performance standards or judges with whom there were other concerns of the JPEC vote on their retention.

Discussion took place.

This issue will be raised with JPEC representatives during their next report to the Judicial Council.

#### **4. COMMITTEE REPORTS:**

##### ***Management Committee Report:***

Chief Justice Durrant 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:***

Judge Mortensen reported on the following items: 1) meetings are being held every Friday, 2) SJR 13 – Joint Resolution Amending Rules of Evidence, 3) HB 160 – Justice Court Judge Qualifications Amendments, 4) HB 297 – Bail Bond Amendments, 5) HB 148 – Protective Order Amendments, 6) SB 155 – Indigent Defense Commission, 7) no position was taken on 12 bills, 8) drafted recommendations on several bills, and 9) HB 68 – Post-Exposure Blood Testing Amendments.

##### ***Policy and Planning Meeting:***

Judge Parkin reported on the following items: 1) a meeting was held with several rules being discussed, 2) there are two rules for final action later on the agenda, 3) several rules are being recommended for public comment on the consent calendar, 4) Ms. Adams-Perlac was recognized for her work on the committee, and 5) consideration of the senior judge rule continues.

##### ***Bar Commission Report:***

Mr. Shea reported on the following items: 1) a meeting was held with Representative Craig Hall regarding HB 160 – Justice Court Judge Qualifications Amendments, 2) Justice Deno Himonas and Mr. Tim Shea presented the Paralegal Practitioner report to the Bar Commission, and 3) members of the Paralegal Practitioner Steering Committee were appointed and held their first meeting last week.

#### **5. RULES FOR FINAL ACTION: (Alison Adams-Perlac)**

Chief Justice Durrant welcomed Ms. Adams-Perlac to the meeting.

He expressed his gratitude to Ms. Adams-Perlac for all she has done for the judiciary.

The public comment period for Rule CJA 03-0114 and Rule CJA 04-0503 has closed with no comments being received.

Rule CJA 03-114 – Judicial outreach. The rule has been amended to provide that model outreach programs shall take into account existing curricula and require the committee to propose and implement rather than develop policies that encourage judicial participation in outreach programs.

Rule CJA 04-0503 – Mandatory electronic filing. The rule has been amended to require an attorney seeking an exemption from e-filing to submit a written request to the District Court Administrator.

**Motion:** Judge Skanchy moved to approve Rule CJA 03-114 – Judicial outreach and Rule CJA 04-0503 – Mandatory electronic filing, as recommended by the Policy and Planning Committee with the suggested wording change. Judge Higbee seconded the motion, and it passed unanimously.

**6. LEGISLATIVE UPDATE AND INTERIM HIGHLIGHTS: (Daniel J. Becker and Rick Schwermer)**

2016 Legislative Session – Appropriations Update. Mr. Becker highlighted the following items: 1) the courts base budget and expansion requests were presented in two separate hearings to the appropriation subcommittee; 2) the prioritized list of 42 requests will be considered by the Executive Offices and Criminal Justice Appropriations Subcommittee; 3) the subcommittee recommended \$23 million in ongoing funding requests and \$17 million in one-time funding requests; 4) Fourth District Juvenile Court Judge request – 6<sup>th</sup> priority; 5) the courts contracts and leases – 10<sup>th</sup> priority; 6) Fifth District Court Judge request – 13<sup>th</sup> priority; 7) general fund replacement to court complex fund – 16<sup>th</sup> priority; 8) jury/ witness/interpreter base budget increase – 18<sup>th</sup> priority; 9) money from the Operations and Maintenance Budget for the Provo Courthouse was made available, in the amount of \$549,100, for the CORIS rewrite request; 10) the \$200,000 difference for the CORIS rewrite request to be covered with a one-time request; and 11) jury/witness/interpreter supplemental request.

2016 Legislative Session – Bills highlighted:

HB 160 – Justice Court Judge Qualifications Amendments

SB 90 – Falsification of Information in a Protective Order Proceeding

HB 297 – Bail Bond Amendments

HB 101 – Disabled Adult Guardianship Amendments

SB 155 – Indigent Defense Commission

HB 362 – Traffic Citation Hearing Amendments

SJR 13 – Joint Resolution Amending Rules of Evidence

SB 79 – Child Welfare Revisions

HB 307 – Termination of Parental Rights Amendments

SB 187 – Reclassification of Misdemeanors

SB 181 – Judiciary Amendments

SB 202 – Pre-Trial Release Amendments

HB 207 – Fourth District Juvenile Court Judge

SB 209 – Fifth District Court Judge

**7. ETHICS ADVISORY COMMITTEE UPDATE: (Judge Michele Christiansen and Brent Johnson)**

Chief Justice Durrant welcomed Mr. Johnson to the meeting.

Mr. Johnson highlighted the following in his update to the Council: 1) the committee only meets when they receive a request for an opinion, 2) one request received last year, 3) a

request by the subject of the opinion to reconsider the request was made, and the request was declined; 4) members of the committee were noted; 5) a new opinion request was recently received; and 6) books containing all ethic opinions and code of judicial conduct were prepared for all judges.

Judge Christiansen was available to respond to any questions posed by members of the Council.

Chief Justice Durrant thanked Judge Christiansen and Mr. Johnson for their update.

#### **8. WINGS UPDATE: (Karolina Abuzyarova)**

Chief Justice welcomed Ms Abuzyarova to the meeting.

Ms. Abuzyarova provided an update regarding the work of the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS). WINGS is a multi-disciplinary problem-solving body, formed in April 2013, that relies on court-community partnerships to: 1) oversee the guardianship process, 2) address key policy issues, 3) improve the current system of guardianship and less restrictive alternatives, 4) engage in outreach and education, and 5) enhance the quality of care and quality of life for vulnerable adults.

She highlighted the following in her update: 1) membership of the steering committee, 2) committee accomplishments, and 3) committee activities in progress.

The WINGS accomplishments include: 1) held a statewide Guardianship Summit in November 2013; 2) published three papers from the Summit in the 2014 Utah Bar Journal; 3) court staff published guardianship web pages; 4) created an active WINGS listserv in February 2014, 5) formed the WINGS Executive Committee in February 2014; 6) international profiling of the Utah guardianship monitoring program at the Third World Congress on Adult Guardianship in May 2014; 7) adopted organization bylaws in August 2015; 8) started collaboration efforts with the Social Security Administration and the Veteran's Administration via national conference calls and information exchange; 8) established the Guardianship Signature Program, in partnership with the Utah State Bar; 9) a panel of the Utah WINGS leaders were featured on a panel at the 13<sup>th</sup> Rocky Mountain Geriatrics Conference in September 2015; 10) organized three public classes for guardianships and caregivers on: a) alternatives to guardianship, b) guardianship procedures, and c) community resources, in the Fall of 2015; and 11) participated in an interview on KUED on the guardianship monitoring program in December 2015.

The WINGS activities in progress include: 1) create an online training program for the public on guardianship resources, 2) reach out to the minorities to disseminate information and build partnerships, 3) translate the guardianship web pages into Spanish, and 4) organize live public classes on guardianship to Latino communities.

A meeting will be held next week to assess the work of the committee and determine the status and progress of current activities.

Chief Justice Durrant thanked Ms. Abuzyarova for her update to the Council.

#### **9. LEGISLATIVE AUDIT OF CASH BAIL UPDATE: (Rick Schwermer)**

Mr. Schwermer mentioned that a copy of the report entitled *A Limited Review of the Use of Cash Bail in Utah District Courts* was included in the Council materials.

The legislative auditors were asked to review the process for collecting cash bail from defendants, specifically in the Fourth District Court, to determine whether cash bail was used appropriately, and if bail proceeds went toward restitution for victims.

The legislative limited review was conducted in the following courts: 1) Second District Court, 2) Fourth District Court, 3) Seventh District Court, and 4) Eighth District Court.

Two additional questions for review at the end of the review included: 1) whether cash

bail is an effective tool to ensure a defendant's court appearance when compared with bonding, and 2) what costs are incurred when using cash bail versus bonding.

No problems were noted in the findings of the limited review. The matters were addressed by an informal letter rather than in a formal audit.

**10. EXECUTIVE SESSION**

An executive session was not held at this time.

**11. ADJOURN**

The meeting was adjourned.