JUDICIAL COUNCIL MEETING

MINUTES

Monday, December 19th , 2005
Matheson Courthouse
450 South State Street
Salt Lake City Utah

Chief Justice Christine M. Durham, Presiding

MEMBERS PRESENT:
Chief Justice Christine M. Durham
Hon. James Davis
Hon. Hans Chamberlain
Hon. Kevin Nelson
Hon. J. Mark Andrus
Hon. William Barrett
Hon. Jody Petry
Hon. Rand Beacham
Hon. Jon Memmott
Hon. Jerry Jensen
Hon. Robert Hilder
Hon. Gary Stott
David Bird, esq.

STAFF PRESENT:
Daniel J. Becker
Myron K. March
Richard Schwermer
Mark Jones
Ray Wahl
Tim Shea
Holly Frischknecht
Nancy Volmer
Kim Allard

GUESTS PRESENT:
Pam Madsen, Salt Lake Tribune

1. Welcome and Approval of Minutes: (Chief Justice Christine M. Durham)

Chief Justice Durham welcomed everyone to the meeting and thanked them for attending. Chief Justice Durham excused Judge Memmott and welcomed Pam Madsen from the Salt Lake Tribune. After discussing the minutes, the following motion was made.

Motion: Judge Hilder motioned to approve the minutes, the motion was seconded and the motion passed unanimously.

2. Chair's Report: (Chief Justice Christine M. Durham)

Chief Justice Durham reported the following:

-During the Management Meeting the 2006 Judicial Council schedule was discussed and due to conflicting schedules with the national Conference of Chief Justices and State Court Administrator's meetings that Dan and the Chief attend, the July 31st meeting will now be held on Tuesday, July 25th.

-The Judicial Council meetings in 2006 will begin at 9:00 a.m. instead of 9:30 a.m.

-The Management Committee addressed some of the issues that required follow up from Mr. Schwermer's presentation about justice courts during the last Council meeting. The Management Committee determined it would be helpful to review these items with the

Board of Justice Court Judges and then create a committee made up of Judicial Council members, other judiciary representatives and organizations that are connected to the justice courts. This committee would further research justice court issues and consider any needed Rule changes necessary and then make recommendations to the Council.

3. Administrator's Report: (Daniel J. Becker)

Mr. Becker Reported the following:

-Chief Justice Durham and administrative staff met with the Presiding Juvenile Judges earlier this month to discuss operational issues. The District Court Presiding Judges will meet some time after the Legislative session.

-The Commission on Criminal and Juvenile Justice has approved 3 grant requests the courts had submitted. The first request creates the position of a juvenile law clerk to provide services to the juvenile court. This position will also collect legal research and provide this information to the entire juvenile court. Assistance for presiding judge training was also approved. The third grant will provide funding for a consultant to manage the assessment tools program.

-The Governor has included the 7% increase for judicial compensation in his budget. The Executive and Judicial Compensation Committee have requested the following information for next year:

-Salary comparisons between judges and attorneys (public and private) that take the employee benefits into account;

-Consideration of the implications of raising judicial salaries on retirement costs

-More discussion about the proposition of deterioration in the quality of applicants for judicial positions - if ratings are used, the Committee would like to see an analysis of ratings at the time of application, 5 years after hiring, and 10 years after hiring

-Some analysis of reasons other than salary for a decline in number of applications for judicial positions

4. Reports:

Management Committee:

Chief Justice Durham reported that she covered the issues addressed in the Management Committee Meeting in her report and any further information can be found in the minutes.

Policy and Planning:

Judge Stott reported that there has not been a Policy and Planning meeting since the last Judicial Council Meeting.

Liaison Committee:

Justice Nehring reported that the Liaison Committee had not met since the last Judicial Council Meeting.

Bar Commission:

David Bird reported that the Bar had met and that the Lawyers Helping Lawyers program continues to move forward and PEHP will be assisting with the peer program beginning August 1st. Mr. Bird reported that Rob Parkes has been a great help to the program.

5. CourTools Presentation: (Kim Allard)

Kim Allard reviewed the needs of the Reliability and Integrity of Case Files and how it would apply to the Utah courts case file reporting. This core measure evaluates the length it takes a clerk to find a hard copy of a file, content reliability between the case history and the case file and file organization and completeness.

These issue were considered by the Records Quality Committee and they have determined that there are measures to evaluate these items, but that the regularity of these evaluations were not consistent. The committee proposed that beginning in July of 2006, a sample of cases will be chosen to evaluate if the core measures are being implemented. Domestic cases will be considered first followed by civil cases. This process will happen twice a year to ensure the reliability and integrity of case files. Ms. Allard reported that once the CARE transition has passed, there will be many areas to test for reliability within the juvenile court. The records quality committee consists of TCE's, clerks of court and probation officer's.

Ms. Allard reported that some evaluation of the justice court case files have been done, but different mechanisms are used in the justice courts. The Records Quality Committee will be applying for the justice court security grant to help fund the survey of the justice courts. Once the checklists of the district, juvenile and justice courts are completed, a regular report will be given to the Council.

Motion: A motion was made to approve the process that will allow the Records Quality Committee to survey the district and juvenile court to ensure the reliability and integrity of case files. The motion was seconded and approved unanimously.

Mr. Becker reported that Ms. Allard presented at the midyear COSCA Conference and indicated that Utah is headed in the right direction with the CourtTools measures.

6. Security Evaluation Technical Assistance: (Myron K. March)

Mr. March reported on the progress court security has made in the past. Mr. March indicated that Mr. Becker has been working on a national effort that allows Homeland Security funds to cover court security issues as well. Mr. March and Mr. Becker met with Commissioner Flowers and Verdi White with Homeland Security and discussed the security needs of the court. Creating a FTE responsible for security at this time is not a possibility but Captain Steve Rapich will provide assistance to the courts in reviewing and improving each court's site security plan.

Mr. March provided material that outlined Captain Rapich's duties and responsibilities throughout the state for the next six months. Captain Rapich will address security needs as well as create alternative plans for what will happen to court operations if a disaster should occur.

Discussion took place about how recommendations will be implemented and what funding will be provided. Once those recommendations are made, the Council will have to determine what options are available. The RFP that was recently sent out to evaluate the needs and cost of perimeter security around the Wasatch front courthouses was also discussed. The RFP and Captain Rapich's report will both be available around June.

Mr. Becker reported that the courts should be taking a leadership role in defining the needs and standards of their security concerns and work with law enforcement to carry those needs out. The ultimate goal would be to have a full time person work for the courts and possibly create a standing committee to address security needs.

7. Legislative Bill Requests: (Rick Schwermer, Mark Jones)

Mr. Schwermer reported that the numbered bills have still not been released. Mr.

Schwermer indicated that the Supreme Court's bill addressing access to judge's voter information and registration has been prioritized and should be one of the first bills out. The housekeeping bill has been amended to remove the requirement that the Supreme Court must approve bail bond forms. Mr. Schwermer reported that this year appears to be a bare year for the continuation of putting procedure in legislation.

A bill allowing an apology in medical malpractice cases to be admissible in a case continues to move forward. This could possibly create a statute that would characterize certain testimony or information as privileged or inadmissable.

There is an effort for the Legislature to adopt a base budget within the first few days of the legislative session in order to address the remainder of the expansion requests throughout the session.

Mr. Schwermer indicated that the State of the Judiciary Address will be January 17th at 2:00 p.m. Mr. Jones reported that Representative Fowlke met with the Board of District Judges and Representative Hougue met with the Board of Juvenile Judges.

A bill is also being proposed that would raise the divorce filing fee. Mr. Schwermer reported that the amount of individuals using the Online Court Assistance Program for divorces has dramatically increased. Mr. Schwermer reported that there are more filed bills this year than in previous years.

8. Governor's Budget Submission: (Daniel J. Becker)

Last Friday, Governor Huntsman released his proposed budget and has been very supportive of the needs of the courts. Included in the proposed budget is:

- Funding of the 7% increase in judicial salaries recommended by the Executive and Judicial Compensation Commission ($1,030,300)
- 5 additional district court law clerks ($409,600)
- an additional judgeship for the 4th District Court w/ two deputy clerks ($257,500)
- an additional judgeship for the 3rd Juvenile Court w/two deputy clerks ($257,500)
- increase in court facility and security contracts ($882,500 ongoing and $90,000 one-time)
- automated equipment purchases ($240,000 one-time)
- increased Guardian ad Litem funding ($774,400 ongoing and $89,000 one-time)
- increased juror, witness, interpreter funds ($150,000 ongoing and $277,600 supplemental)
- DORA Pilot expansion ($20,000)

In addition, the Governor is recommending a $2,000,000 increase in district and juvenile drug court funding; 13% or $260,000 would come directly to the courts for personnel. Also of interest, the Governor has proposed funding the Commission on Racial and Ethnic Fairness in the Justice System within the Commission on Criminal and Juvenile Justice(CCJJ).

Under the proposed budget, a 2.5% COLA would be provided to state employees. An additional 2% would be provided for discretionary increases.

All together the Governor is recommending an 8.1% increase in the courts budget; more support than at any time in recent memory. Of course, this is an incremental process with legislative hearings to follow next month. Those Judicial Council requests not included in the Governor's proposed budget - court commissioner, child welfare mediator, law library increase, and court facilities - will be presented to the various appropriations committees along with the items recommended by the Governor.

The Governor's budget included a $60 million tax cut although the senate and house has

not yet addressed that. There is also a large effort towards increasing the rainy day fund.

The Legislature has approximately $577 million additional one time money. Tax cuts will most likely be the largest item to affect the 2007 budget.

9. Executive Session: (Tim Shea)

Motion: Judge Davis motioned to move into executive session, the motion was seconded and approved unanimously

9. Standing Committee on Education Report: (Judge Gordon Low, Diane Cowdrey)

Chief Justice Durham welcomed Judge Low and Dr. Cowdrey to the meeting and thanked them for attending the Council meeting. Dr. Cowdrey reviewed the committee members on the Standing Committee on Education and outlined the programs that the education department manages. The new programs developed this year include a presiding judges training and a TCE training that was assisted by funding from the National Center for State Courts.

Dr. Cowdrey reported on the new employee training that was offered, the probation officer safety training, the cultural competency for justice court clerks and divorce education programs for parents. The education department was responsible for training and testing court interpreter's and focused on certifying Vietnamese interpreters. This training will move to the legal department beginning in January.

The new projects that the Standing Committee on Education is working on is continued presiding judge training, TCE core training, the senior clerk academy, a second phase to the new judge orientation and justice court projects. Dr. Cowdrey highlighted the increased amount of justice court programs that will be offered in 2006.

Judge Low reported on the recommendations that the audit addressed in reference to the education department. Judge Low reported that the requirement for Judges to meet 30 hours of judicial education has remained but attendance at the Annual Judicial Conference is no longer a requirement. Those judges who exceed the required amount usually are attending programs that are held out of state or held on weekends or evenings.

Chief Justice Durham thanked Dr. Cowdrey and Judge Low for all their hard work and their effort. Judge Low recognized Dr. Cowdrey's expertise and the assistance her department provides to the judiciary.

10. Application for Sr. Judge Status: (Tim Shea)

Motion: Judge Hilder motioned to approve Judge Newey as an active Senior Judge, the motion was seconded and passed unanimously.

Motion: Judge Hilder motioned to deny approval of active Sr. Judge status to Judge Brian but approve him as an inactive Sr. Judge. The motion was seconded and approved unanimously.

Motion: Judge Chamberlain motioned to move back into executive session, the motion was seconded and approved unanimously.

12. Adjourn

Motion: A motion was made to adjourn the meeting, th motion was seconded and it passed unanimously.