JUDICIAL COUNCIL MEETING

Minutes
Monday, July 20, 2015
1004A Conference Room, 1st Fl
Ogden Juvenile Courthouse
Ogden, Utah

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:
Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, Vice Chair
Justice Thomas Lee
Hon. Marvin Bagley
Hon. Ann Boyden
Hon. Glen Dawson
Hon. Paul Farr
Hon. Thomas Higbee
Hon. David Marx
Hon. David Mortensen
Hon. Reed Parkin
Hon. Randall Skanchy
Hon. Kate Toomey
John Lund, esq.

EXCUSED:

STAFF PRESENT:
Daniel J. Becker
Ray Wahl
Jody Gonzales
Dawn Marie Rubio
Rick Schwermer
Tim Shea
Alison Adams-Perlac
Alyn Lunceford
Nancy Sylvester

GUESTS:
Colin Winchester, JCC
Aimee Thoman, JCC
Brad Christopherson, Farmington
Mike Kendall, Davis County
Judge Mary Noonan, 4th Dist
Judge Michelle Heward, 2nd Dist
Judge John Morris, 2nd Dist
Judge Brent West, 2nd Dist
Judge Jeffrey Noland, 2nd Dist
Travis Erickson, 2nd Dist TCE

1. **WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)**
Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

Motion: Judge Toomey moved to approve the minutes from the June 22, 2015 Judicial Council meeting. Mr. Lund seconded the motion, and it passed unanimously.

2. **CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)**
Chief Justice Durrant reported that he will be attending the CCJ/COSCA meeting in Omaha, Nebraska later in the week.

3. **ADMINISTRATOR'S REPORT: (Daniel J. Becker)**
Mr. Becker reported on the following items:
Site Assessment of Procedural Fairness Practices. The Utah Courts, along with three other court sites, has been selected to participate in a site assessment of procedural fairness

practices. The study will be coordinated by the Center for Court Innovation through a Bureau of Justice Assistance Grant.

Council Study Committee Updates. Mr. Becker reported on the following two committees: 1) Representation Committee – they are meeting monthly, drafting a final report and final legislation, and they will be prepared to report to the Council at its October meeting; and 2) Pre-Trial Release Committee – they are meeting monthly, and they will be prepared to report to the Council at its November meeting.

Judicial Confirmation. Ms. Elizabeth Knight was confirmed as the Third District Juvenile Court Judge on July 15. She will be sworn in on August 14. Ms. Kristin Fidel will fill in as the acting GAL Director until a successor is named.

Judicial Performance Evaluation Commission (JPEC) Update. Mr. Schwermer provided an update on the survey process for the 2016 retention election for judges. A handout outlining the current format and the proposed format for the adjective question summary included with evaluation results was distributed to members of the 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:

No meeting was held in July, but a meeting will be held in August.

Policy and Planning Meeting:

Judge Parkin reported that several rules will be recommended for final action later in the meeting.

Bar Commission Report:

Mr. Lund reported on the following items: 1) the Bar's Summer Convention to be held July 29 – August 1 in Sun Valley, Idaho; and 2) winding up the work of the Future's Commission.

Mr. Lund highlighted the following relative this year's summer convention: 1) the keynote address will be given by Justice Anthony Kennedy, and 2) a judges and lawyer reception will be held on July 31.

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

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

The public comment period for the rules listed below has closed with no public comments being received.

CJA 01-0205 – Standing and ad hoc committees. The rule is being amended to eliminate the Justice Court Standards Committee and provides for the Judicial Council's Management Committee to review standing and ad hoc committees every six years and make a recommendation to the Judicial Council as to whether the committee shall continue.

CJA 03-0109 – Ethics Advisory Committee. The rule is being amended to include the following: 1) to allow the committee 60 days to issue an opinion, 2) to allow the committee chair to extend the time for deliberations on an opinion when necessary, and 3) to allow the boards of judges to request reconsideration of an opinion.

CJA 03-0112 – Justice Court Standards Committee. The rule is being repealed. The Justice Court Standards Committee will be eliminated with responsibility of the justice court standards being moved to the Board of Justice Court Judges.

CJA 03-0418 – Model Utah Jury Instructions. The proposed rule is new and provides direction on developing jury instructions on the Model Utah Jury Instructions to the appropriate committees.

CJA 04-0202.02 – Records classification. The rule has been amended to classify affidavits supporting motions to waive fees as private records.

CJA 06-0501 – Reporting requirement s for guardians and conservators. The rule has been amended to require a guardian or conservator to file a verified Private Information Record with the Administrative Office of the Courts (AOC) within seven days of appointment.

CJA 09-0101 – Board of Justice Court Judges. The rule has been amended to give the Board of Justice Court Judges responsibility for overseeing justice court standards.

CJA 09-0108 – Justice Court Standards. The proposed rule is new and outlines the justice court standards as previously outlined in Rule 3-112.

The Policy and Planning Committee recommended approval of the proposed rules for final action, effective November 1, 2015.

Motion: Judge Hornak moved to approve the rules for final action as recommended by the Policy and Planning Committee, effective November 1, 2015. Judge Toomey seconded the motion, and it passed unanimously.

6. SENIOR JUDGE CERTIFICATION: (Nancy Sylvester)

Chief Justice Durrant welcomed Ms. Sylvester to the meeting.

Judge O. Lane McCotter has applied to be appointed as an active senior justice court judge. He meets the minimum performance standards, and the Board of Justice Court Judges recommended approval for certification as an active senior justice court judge.

Motion: Judge Higbee moved to forward the recommendation, on behalf of the Council, to the Supreme Court to certify Judge O. Lane McCotter as an active senior justice court judge. The motion was seconded, and it passed unanimously.

7. LEGISLATIVE UPDATE: (Rick Schwermer)

Mr. Scherwermer highlighted the following from the July Legislative Interim meetings:

1) Judiciary Committee – family law – child welfare discussions, 2) Judiciary Committee – judicial discretion in sentencing amendments, 3) Judiciary Committee – interim study items, and 4) status of Justice Reinvestment Initiative relative to sentencing guidelines.

8. JUDICIAL CONDUCT COMMISSION UPDATE: (Colin Winchester)

Chief Justice Durrant welcomed Mr. Winchester to the meeting.

Mr. Winchester introduced Aimee Thoman, Investigative Counsel, to the Judicial Conduct Commission.

Mr. Winchester highlighted the following in his update of the Judicial Conduct Commission's activities: 1) the lowest number of complaints received by the Judicial Conduct Commission in FY 2014, with 70 complaints being received; 2) reported the number of complaints received each year for the past four years, overall, and by court type; 3) no public disciplines took place in FY 2014; 4) four dismissals with a warning were issued in FY 2014; 5) 11 complaints pending in FY 2014; 6) the Judicial Conduct Commission meets every other month; 7) complaints received by the Judicial Conduct Commission are resolved within 120

days; and 8) upcoming legislation.

Mr. Winchester was thanked for his update.

9. FARMINGTON INTERLOCAL AGREEMENT: (Rick Schwermer)

Chief Justice Durrant welcomed Mr. Brad Christopherson, Farmington City representative, and Mr. Mike Kendall, Davis County representative to the meeting.

Farmington City is requesting approval to enter into an interlocal agreement with the following governing entities effective January 1, 2016: 1) West Bountiful, 2) Kaysville City, 3) Fruit Heights City, 4) West Point, and 5) Davis County. With this, they are requesting that the required notice period of 180 days be waived.

Mr. Schwermer reminded the Council of Davis County's previous requests to waive the two-year waiting period to dissolve their justice court, with the recent request being denied at the Council's March 13 meeting. Discussion with Davis County and affected municipalities resulted in Farmington City's proposed interlocal agreement. He mentioned that Farmington City previously had a justice court in the early 1990s which was dissolved. At that time, they entered into an interlocal agreement with Davis County.

Discussion took place.

Mr. Kendall provided insight from Davis County's point of view.

Motion: Judge Toomey moved to approve the creation of the Farmington Justice Court and to allow them to enter into an interlocal agreement with the interested governing entities and to waive the required notice period of 180 days allowing them to begin operation on January 1, 2016. Mr. Lund seconded the motion, and it passed unanimously.

10. BOARD OF JUVENILE COURT JUDGES UPDATE: (Judge Mary Noonan, Judge Michelle Heward, and Ms. Dawn Marie Rubio)

Chief welcomed Judge Noonan and Judge Heward to the meeting.

Judge Noonan thanked the Council, on behalf of the Board of Juvenile Court Judges, for their support of the need for a second law clerk for the juvenile bench.

One of the past goals of the Board of Juvenile Court Judges was to study law clerk needs for the juvenile bench, statewide. During the Judicial Council's April budget session, funding for an additional juvenile law clerk position was approved. Interviews have been conducted, and the new juvenile law clerk will soon begin working for the courts.

Judge Noonan highlighted the following board goals in her update: 1) e-filing – implementation of the juvenile court e-filing action plan, 2) judicial leadership in education of youth in State care, and 3) evaluating representation in juvenile court proceedings.

She mentioned that Rule 4-905 – Restraint of minors in juvenile court was adopted by the Judicial Council at their June meeting and is out for public comment.

Chief Justice Durrant thanked Judge Noonan for her update.

11. EXECUTIVE SESSION

An executive session was not needed at this time.

12. TOUR OF OGDEN JUVENILE COURTHOUSE: (Travis Erickson)

Mr. Travis Erickson led a tour of the new Ogden Juvenile Courthouse for Judicial Council members and AOC staff.

13. LUNCH/SECOND DISTRICT AND JUVENILE COURT UPDATE: (Judge John Morris, Judge Brent West, Judge Jeff Noland, and Travis Erickson)

Chief Justice Durrant welcomed Judge John Morris and Judge Brent West to the meeting.

Judge Morris highlighted the following in his update to the Council on Second District: 1) three counties included in Second District, 2) staffing of the district, 3) seven specialty courts, 4) a regional substance abuse treatment program, and 5) participated in various pilot programs throughout the years.

Chief Justice welcomed Judge Noland and Mr. Erickson to the meeting.

Judge Noland highlighted the following in his update to the Council on Second District Juvenile: 1) staffing of the district, 2) a decrease in felony case filings has been seen, 3) specialty courts, 4) educational achievement court, 5) three child welfare courts for parents, 6) paperless in the district, 7) training in Bridges Out of Poverty Program.

Chief Justice Durrant thanked the judges in the Second District for their update.

14. ADJOURN:

The meeting was adjourned.