

JUDICIAL COUNCIL MEETING

Minutes
Monday, June 23, 2014
Matheson Courthouse
Salt Lake City, UT

Chief Justice Matthew B. Durrant, Presiding

ATTENDEES:

Chief Justice Matthew B. Durrant
Hon. Kimberly K. Hornak, Vice Chair
Justice Jill Parrish
Hon. Greg Orme for Hon. James Davis
Hon. Brent West for Hon. Glen Dawson
Hon. George Harmond
Hon. Thomas Higbee
Hon. David Marx
Hon. Paul Maughan
Hon. David Mortensen
Hon. Reed Parkin
Hon. John Sandberg
Hon. Randall Skanchy
John Lund, esq.

EXCUSED:

Hon. James Davis
Hon. Glen Dawson
Hon. David Marx

STAFF PRESENT:

Daniel J. Becker
Ray Wahl
Jody Gonzales
Dawn Marie Rubio
Debra Moore
Rick Schwermer
Tim Shea
Alison Adams-Perlac
Tom Langhorne
John Bowers
Rob Godfrey
Kris Prince
Shirley Trujillo

GUESTS:

Judge Paul Lyman
Justice Christine M. Durham
Judge Elizabeth Lindsley

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

Chief Justice Durrant welcomed everyone to the meeting. A special welcome was extended to Judge Greg Orme who was sitting in for Judge James Davis, and Judge Brent West who was sitting in for Judge Dawson.

Motion: Judge Hornak moved to approve the minutes from the May 19, 2014 Judicial Council meeting. Judge Harmond seconded the motion, and it passed unanimously.

2. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant reported on the following items:

Last week, Chief Justice Durrant and Mr. Becker met with Mr. Roger Tew and Mr. David Bird, members of the Judicial Compensation Committee.

A letter will be sent to the Judicial Performance Evaluation Commission (JPEC) today regarding JPEC survey comments. A copy of the letter will be sent, by email, to Council members.

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

Mr. Becker reported on the following items:

Judicial Retirements. Judge Lee Dever has announced his upcoming retirement, effective November 1. Applicants from two separate applicant pools will be taken up at the same time by the Third District Nominating Commission when they meet to fill three vacancies resulting from the upcoming retirements for the following judges: 1) Judge Lee Dever, 2) Judge John Kennedy, 3) Judge Denise Lindberg.

Code Book Purchases. Mr. Becker provided the following results from the survey of judges on their preferred type of code book and rule book to include: 1) Annotated Code – 45 sets requested in 2014, compared to 75 sets requested in 2013; 2) Unannotated Code – 215 sets requested in 2014 compared to 312 sets requested in 2013; 3) Rule Books – 206 requested in 2014 compared to 331 requested in 2013; and 4) the cost for code and rule books at this time is down \$42,000.

Judicial Appointments. Governor Herbert has made the following judicial appointments, subject to Senate confirmation: 1) Mr. Roger Griffin to fill the vacancy in the Fourth District with the upcoming retirement of Judge Steven Hansen, and 2) Mr. Brandon Maynard to fill the vacancy in the First District with the upcoming retirement of Judge Ben Hadfield.

New Judge Orientation. Six new judges will be attending new judge orientation this week.

11-Month Case Filing and Juvenile Court Referral Update. Case filings in district court reflect a 4% decrease statewide. Juvenile court referrals reflect a 5% decrease statewide.

Judicial Weighted Caseload. Judicial weighted caseload numbers in the Fourth Juvenile Court and the Fifth District Court are at or exceeding 130%. Both districts are requesting new judgeships, for consideration, to their respective boards.

State Audit. The state auditor's office will be performing an audit of the drug courts.

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 June.

Policy and Planning Meeting:

Judge Maughan reported that the Policy and Planning Committee meeting minutes accurately reflect the issues discussed. Several rules were considered by the Committee at their June meeting which included discussion of an amendment to CJA 4-403 – Signature stamp use. The Committee is looking at amending the rule to include the use of electronic signatures, in addition, to signature stamps. A draft proposal to include the use of electronic signatures in this rule will be presented at the next Policy and Planning Committee meeting.

The remainder of the items for approval will be discussed later on the agenda or included on the consent calendar for approval.

Bar Commission Report:

Mr. Lund reported on the following items: 1) the Bar Commission met on June 13; 2) discussion of possible budget/dues increases took place; 3) appointment of the Utah State Bar's new auditor, Tanner and Company; 4) the Commission has approved revised advertising rules for lawyers for submission to the Supreme Court Advisory Committee on Rules for Professional Conduct; and 5) discussion of nominees for Lawyer of the Year and Judge of the Year took place with final selections to be made June 24; and 6) preparing for the Bar's Summer Conference in Snowmass, Colorado in July.

5. COMMISSIONER AND SENIOR JUDGE PERFORMANCE EVALUATIONS:

(Alison Adams-Perlac)

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

Ms. Adams-Perlac reviewed the process undertaken by the Policy and Planning Committee in preparing the senior judge and commissioner evaluation performance plans, which are modeled after the performance evaluations given to court employees. She mentioned that the requirements for evaluating senior judges differ from the requirements for evaluating commissioners. Ms. Adams-Perlac noted that checklists, form emails and other available resources are included with the plans, as an outline, to assist evaluators and court administrators in completing the evaluations, but the use of these resources is not mandatory.

Input and/or approval was received from the following: 1) Board of District Court Judges, 2) Board of Juvenile Court Judges, 3) Board of Senior Judges, 4) human resources, 5) all presiding judges, and 6) all TCEs.

Ms. Adams-Perlac reviewed the proposed evaluation performance plans for senior judges and commissioners, as well as, the proposed rule changes with the Council members. She noted that it will be the responsibility of the court executives to ensure the evaluation cycle for senior judges and commissioners is followed. Discussion took place.

Motion: Judge Hornak moved to approve the proposed Evaluation Performance Plans for Senior Judges and Commissioners and the proposed rule changes. The motion was seconded, and it passed unanimously.

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

The Policy and Planning Committee recommended the following rules for final action:
CJA 4-202.02 – Records classification. This rule has been amended to add a Utah residency requirement for individuals seeking to be credentialed as court-certified interpreters.

CJA 4-405 – Juror and witness fees and expenses. This rule has been amended to increase the rate for jury snacks and breaks from \$3 to \$4 in accordance with the state rate.

CJA 4-906 – Guardian ad litem program. This rule has been amended to allow the Office of Guardian ad Litem to remove a private guardian ad litem who has not met the continuing education requirements from their case assignment roster.

Motion: Judge Skanchy moved to approve the rules for final action as proposed by the Policy and Planning Committee. Judge Sandberg seconded the motion, and it passed unanimously.

7. SENIOR JUDGE CERTIFICATIONS: (Alison Adams-Perlac)

Judge Steven Hansen has applied to be appointed as an active senior judge. Ms. Adams-Perlac noted that he has met the minimum standards for appointment.

Judge Darwin Poulsen has applied to be appointed as an active senior justice court judge. He has met the minimum standards for appointment.

Judge Elayne Storrs has applied to be appointed as an inactive senior justice court judge. She has met the minimum standards for appointment.

The Board of Justice Court Judges has recommended certification for Judge Darwin Poulsen and Judge Elayne Storrs.

Motion: It was moved and seconded to forward the recommendations, on behalf of the Council, to the Supreme Court to certify the following judges: 1) Judge Steven Hansen as an active senior judge – effective July 1, 2) Judge Darwin Poulsen as an active senior justice court judge, and 3) Judge Elayne Storrs as an inactive senior justice court judge. The motion passed unanimously.

8. STANDING COMMITTEE ON CHILDREN AND FAMILY LAW UPDATE: (Judge Paul Lyman and Ray Wahl)

Chief Justice Durrant welcomed Judge Lyman to the meeting.

Judge Lyman provided an update to the Council on the activities of the Standing Committee on Children and Family Law. He highlighted the following in his update: 1) noted the membership of the committee, 2) noted the Council's approval, in 2011, of the continuation of the Standing Committee by placing them back on a six-year track for sunset review, 3) noted the work of the Divorce Procedures Subcommittee, and 4) noted the work of the Custody Evaluations Subcommittee.

Chief Justice Durrant thanked Judge Lyman for his update.

9. LEGISLATIVE UPDATE: (Rick Schwermer)

Mr. Schwermer highlighted the following in his legislative update: 1) continuing education on Federalism, 2) grand jury reform, 3) expungement of administrative records, 4) Department of Public Safety overview, 5) general policies for serving search warrants, 6) Prison Relocation Committee's efforts, and 7) confirmation of Mr. Michael Leavitt and Mr. Paul Dame as juvenile court judges in the Fifth Juvenile Court.

10. FIRST DISTRICT – MENTAL HEALTH COURT SPENDING PLAN: (Rick Schwermer)

In the 2014 Legislative Session, \$75,000 was appropriated to the First District for use with their mental health court needs.

The following is the plan prepared by the First District Court Executive Corrie Keller and Judge Kevin Allen to fund their mental health court: 1) 20% of the funding would be allocated for transitional housing subsidies, 2) 55% of the funding would be allocated for treatment subsidies, 3) 10% of the funding would be allocated for incentives, and 4) 15% of the funding would be allocated for district travel, supplies, training and published materials.

Discussion took place. Concern was expressed regarding funding needs of other mental health courts, in place, statewide. It was suggested to formulate a proposal for future mental health court funding requests.

Motion: Mr. Lund moved to approve the First District Mental Health Court spending plan as proposed, with the following conditions: 1) a reporting mechanism will be developed to track how the funding has been spent, 2) funding of the First District Mental Health Court will serve as a pilot for other districts, 3) a report on the increase in the number of participants covered by the program, and 4) monitoring by the appropriate state agency has been requested. A motion to amend clarifying the need to increase the court's capacity to handle more clients was made. Judge Hornak seconded the motion with the amendment, and it passed unanimously.

11. STANDING COMMITTEE ON EDUCATION UPDATE: (Justice Christine M. Durham, and Tom Langhorne)

Chief Justice Durrant welcomed Justice Durham and Mr. Langhorne to the meeting.

Justice Durham reported that the Standing Committee has focused their efforts on long-term continuity in development of programs for court and judicial staff with career-spanning educational programming. She noted that Mr. Langhorne is working to improve and regularize conference planning.

Mr. Langhorne provided the following highlights in his update: 1) he thanked the Council for their support and encouragement to the Standing Committee on Education and to the Education Department; 2) members of the Education staff were introduced; 3) succession planning efforts led to development of a non-supervisory staff court skills academy and a middle manager leadership academy; 4) delivery of a Train the Faculty two-day session and an advanced Train the Faculty two-day session to probation officers; 5) secured one-time funding to create a Train the Faculty session for judges to be offered in late spring of 2015; 6) secured one-time funding to develop Utah's first long-term comprehensive District Court Judges curriculum to be completed in the spring of 2015; 7) created online, new judge orientation resources, materials and videos, as a result of funding from an SJI grant; 8) provided live classes for court interpreters addressing various types of civil cases' procedures and legal terms; 9) delivered three of six live classes of the Judicial Administration Certificate Program for court executives, clerks of court, and chief probation officers 10) working towards "paperless" judicial conferences; 11) created and delivered 15 new "live" classes for court employees and AOC staff; 12) created new courses for justice court judges; 13) education room technology upgrade for use with future educational opportunities; and 14) delivered a high volume of educational and professional development opportunities.

Chief Justice Durrant expressed his gratitude to Justice Durham as chair of the Standing Committee of Education, to the committee and to Mr. Langhorne and the Education Department for all they do by way of providing educational opportunities for court and judicial staff.

Motion: Judge Hornak moved to enter into an executive session to discuss personnel matters. Judge Harmond seconded the motion, and it passed unanimously.

12. EXECUTIVE SESSION:

An executive session was held at this time.

13. BOARD OF JUVENILE COURT JUDGES UPDATE: (Judge Elizabeth Lindsley and Ms. Dawn Marie Rubio)

Chief Justice Durrant welcomed Judge Lindsley to the meeting.

Judge Lindsley provided an update to the Council on the activities of the Board of Juvenile Judges. She highlighted the following in her update: 1) project outlines were developed at the Juvenile Justice Reform Summit attended by Judge Lindsley, Mr. Dan Becker, Mr. Ray Wahl, Ms. Dawn Marie Rubio, and Ms. Susan Burke, to be addressed in the coming year; 2) the Board of Juvenile Court Judges will focus on improving ways to help truant youth, 3) the Board of Juvenile Court Judges will focus on improving youth in state care and state custody, 4) the Board of Juvenile Court Judges will focus on detention alternatives and guidelines, 5) Judge Tupaak Renteria, Judge Michael Leavitt, and Judge Paul Dame, are newly confirmed juvenile court judges, 6) Judge Larry Jones has announced his upcoming retirement, and 7) the advancement of a judgeship in the Fourth Juvenile Court will be recommended by the Board of Juvenile Court Judges to the Council at their August Budget and Planning Session.

The priorities set at the Juvenile Justice Reform Summit and approved by the Board of Juvenile Court Judges at their June meeting include: 1) address the issue of low risk but high needs kids penetrating further into the juvenile justice system, and 2) improve defense standards in the juvenile justice system.

Chief Justice Durrant thanked Judge Lindsley for her update.

14. ADJOURN

The meeting was adjourned.