

# JUDICIAL COUNCIL MEETING

## Minutes

Monday, December 16, 2013

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. James Davis  
Hon. Glen Dawson  
Hon. George Harmond  
Hon. Thomas Higbee  
Hon. David Marx  
Hon. Paul Maughan  
Hon. Derek Pullan for Hon. David Mortensen  
Hon. Reed Parkin  
Hon. John Sandberg  
Hon. Randall Skanchy  
Rob Rice for John Lund, esq.

### **STAFF PRESENT:**

Daniel J. Becker  
Ray Wahl  
Alison Adams-Perlac  
Dawn Marie Rubio  
Debra Moore  
Jody Gonzales  
Rick Schwermer  
Tim Shea  
Nancy Volmer  
Jessica Van Buren  
Mary Jane Ciccarello

### **GUESTS:**

Judge Dennis Fuchs  
Judge Elizabeth Lindsley

### **EXCUSED:**

John Lund  
Hon. David Mortensen

#### **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 Mr. Rob Rice who was sitting in for Mr. John Lund and Judge Derek Pullan who was sitting in for Judge David Mortensen. He mentioned that a copy of the Council photo was distributed to each member.

**Motion:** Judge Skanchy moved to approve the minutes from the November 25, 2013 Judicial Council meeting. Judge Marx 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:

Award. The courts received the 2013 Golden Spike Award of Merit, Strategic Communication Plan, Public Relations Society of America, Utah Chapter. He congratulated Ms. Volmer on receiving this honor.

Governor's Budget. The Governor has released his budget recommendations to include the following related to the courts request: 1) the supplemental budget request to advance the juror/witness/interpreter fund; 2) lease, O & M increases; 3) a 1% cost-of-living increase for state employees; and 4) fund 90% of the increases for insurance and retirement costs, employees will cover 10% of the increase.

New Judge Orientation. New judge orientation was held last week with eight judges and one commissioner. The structure for new judge orientation was recently revised and was used for this orientation session.

JPEC. The Judicial Performance Evaluation Commission (JPEC) has finished their certification process, and final reports will be released at the end of January. Ms. Slotnik was unable to update the Council on the work of the Commission at the December Council meeting, and she has rescheduled to present at the January Council meeting.

#### **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:***

Justice Parrish reported on the following:

A brief meeting was held prior to the Council meeting to review several pieces of legislation being considered in the upcoming legislative session. The committee will begin holding weekly meetings in January.

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

No meeting was held in December.

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

Mr. Rice reported on the following:

The Bar Commission has approved the purchase of a new database to help manage the Bar's electronic information. Implementation will take place in the next quarter.

The Bar's public relations billboard campaign efforts will be rolled out in February along the Wasatch Front and in Washington County. Preliminary mockups are available for viewing, upon request.

Mr. Sean Toomey met with the court executives at their December meeting to discuss the use of the Modest Means Program.

#### **5. PROBLEM-SOLVING COURT CERTIFICATIONS (Judge Dennis Fuchs and Rick Schwermer)**

Judge Fuchs and Mr. Schwermer were welcomed to the meeting.

Mr. Schwermer reviewed the process for certifying the problem-solving courts. A checklist and forms are provided to the drug courts being considered for certification ahead of

time. A more informed checklist will be used in the future when certifying problem-solving courts. A total of 18 problem-solving and mental health courts were visited.

The process for certifying mental health courts is in the initial phase. Site visits for each mental health court, in the state, has taken place with problem areas noted. A second visit will take place in the future where a checklist will be used to access such courts.

Thirty one out of 59 problem-solving courts have had site visits completed. The remainder will have site visits completed in 2014. All of the mental health courts have had site visits completed. It was noted that a minimum of 15 participants is required of problem-solving courts.

The drug courts being recommended for certification include:

- Sevier County, Richfield, Adult Drug Court, Judge Bagley
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- Kane County, Kanab, Adult Drug Court, Judge Bagley
- Summit County, Park City, Adult Drug Court, Judge Shaughnessy
- Cache County, Logan, Adult Drug Court, Judge Willmore
- Box Elder County, Adult Drug Court, Judge Allen
- Wasatch County, Adult Drug Court, Judge Pullan
- Davis County, Adult Drug Court, Judge Morris
- Utah County, Dependency Drug Court, Judge Noonan

The drug courts being recommended for conditional certification include:

- Emery County, Castledale, Adult Drug Court, Judge Johansen
- Tooele, Adult Drug Court, Judge Adkins

The mental health courts with positive site visits include:

- Weber County, Ogden, Adult Mental Health Court, Judge Hyde
- Salt Lake County, Salt Lake City, Adult Mental Health Court, Judge Boyden
- Salt Lake County, Salt Lake City, Juvenile Mental Health Court, Judge Nolan
- Davis County, Farmington, Adult Mental Health Court, Judge Dawson

The mental health courts needing follow-up include:

- Utah County, Provo, Adult Mental Health Court, Judge Howard
- Box Elder County, Brigham City, Juvenile Mental Health Court, Judge L. Jones

**Motion:** Judge Skanchy moved to certify the 11 drug courts being recommended for certification. Judge Hornak seconded the motion, and it passed unanimously.

Mr. Schwermer reminded the Council of the six-month extension granted to Judge Karla Staheli previously to remedy the problems with her dependency drug court in Washington County. The drug court was visited at the end of September, with some progress noted at that time. Since that time, Judge Staheli has been granted a leave of absence.

Judge Higbee has agreed to take over the dependency drug court, and he has asked for an additional 90-day extension to get the drug court in order.

Judge Fuchs noted that beginning in January of 2014, a checklist review of the mental health courts will take place. The standards used to certify mental health courts are different than the standards used to certify drug courts. Best practices are put into categories and used in the certification process. Mr. Schwermer reviewed the approach taken for certifying mental health courts.

Chief Justice Durrant thanked Judge Fuchs for his work in improving the effectiveness of problem-solving courts.

**6. LEGISLATIVE UPDATE AND INTERIM HIGHLIGHTS: (Rick Schwermer)**

Mr. Schwermer provided a legislative update to the Council.

He highlighted the following in his update: 1) an interim session had not been held since the last Council meeting, 2) Executive Appropriations met and adopted a point projection, 3) bills for the upcoming session have not been numbered yet, 4) the base budget bill will be approved at the onset of the legislative session, 5) the Liaison Committee met to review upcoming legislation, 6) the grand jury process is being discussed, and 7) review of the court task force issue will take place at the Liaison Committee meetings in January.

**7. WEST JORDAN JUVENILE DRUG COURT APPLICATION: (Rick Schwermer)**

Mr. Schwermer provided background information regarding the application for a proposed juvenile drug court to be created in West Jordan. It is a reinstatement of a juvenile drug court that was discontinued in 2011 due to a significant reduction in funding for juvenile drug courts statewide.

The Management Committee reviewed the application at their December meeting and requested the application, with regard to the target population, be amended to include more specific details as to what youth will have access to the drug court. The amended application was included with the Council agenda.

**Motion:** Judge Maughan moved to approve the West Jordan Juvenile Drug Court application. The motion was seconded, and it passed unanimously.

**8. SELF-HELP CENTER STAFFING: (Daniel J. Becker and Jessica Van Buren)**

Mr. Becker provided background information on past funding provided to staff the Self-Help Center. Two years ago, the Self-Help Center was approved to receive funding for one full-time attorney and five part-time attorneys. The volume and time required to staff the Self-Help Center is exceeding previous projections. With the economy improving, it has become more difficult to attract and retain staff in the existing non-benefitted positions.

It is being proposed to increase three positions from 25-hours per week to 30 hours per week and provide funding for the increases from the library restricted fund and the existing library budget. He recommended that the Council defer consideration of increasing the hours for the remaining two positions until April when the FY 2015 spending plan will be considered.

Ms. Van Buren and Ms. Ciccarello highlighted the following relative to the Self-Help Center: 1) the Self-Help Center staff are on the phones six hours per day, four days per week; 2) five staff members speak Spanish; 3) staff members are not allowed to practice law in addition to their work on the Self-Help Center; and 4) the amount of training necessary for staff was noted.

Discussion took place.

**Motion:** Judge Hornak moved to approve the increase of hours from 25 hours per week to 30 hours per week for three staff attorneys in the Self-Help Center and approve the use of funding as recommended. Justice Parrish seconded the motion, and it passed unanimously.

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

Ms. Adams-Perlac reported that the Policy and Planning Committee recommended that CJA 4-101 – Calendaring court sessions be repealed. The rule required that clerks of court prepare court calendars for display in the courthouses of each jurisdiction. With the calendars now being maintained on the court website, the rule is no longer necessary.

**Motion:** Judge Hornak moved to approve the recommendation made by the Policy and Planning Committee to repeal CJA 4-101 – Calendaring court sessions. Judge Sandberg seconded the motion, and it passed unanimously.

**10. SENIOR JUDGE CERTIFICATION: (Alison Adams-Perlac)**

The following retired judges have applied to be appointed as Inactive Senior judges: 1) Judge John R. Anderson, 2) Judge Paul F. Iwasaki, and 3) Judge Andrew A. Valdez. All three judges meet the minimum performance standards.

Judge Roger Livingston has applied to be appointed as an Active Senior Judge, and he meets the minimum performance standards.

**Motion:** Judge Dawson moved to forward the recommendations, on behalf of the Council, to the Supreme Court to certify Judge John R. Anderson, Judge Paul F. Iwasaki, and Judge Andrew A. Valdez as inactive senior judges and Judge Roger Livingston as an active senior judge. Judge Higbee seconded the motion, and it passed unanimously.

**11. EXECUTIVE SESSION:**

An executive session was held at this time.

**Motion:** Judge Hornak moved to enter into an executive session to address issues of professional competence. Judge Maughan seconded the motion, and it passed unanimously.

**12. STANDING COMMITTEE ON CHILDREN AND FAMILY LAW (SCCFL) – COMMITTEE APPOINTMENT: (Ray Wahl)**

The Standing Committee on Children and Family Law (SCCFL) recommended the reappointment of Judge Paul Lyman to serve a second term on the committee. The committee also recommended the appointment of Judge Paul Lyman to serve as the juvenile court co-chair as required by Rule 1-205 (1)(B)(vii) with the resignation of Judge Thomas Higbee, who recently was elected to serve on the Judicial Council.

With the resignation of Judge Higbee, there is a vacancy on the committee for a juvenile court judge representative. Judge Renee Jimenez, Third District Juvenile Court, and Judge Sherene Dillon, Second District Juvenile Court, submitted their names for consideration. Judge Renee Jimenez was recommended for appointment by the Management Committee at their December meeting to fill a vacancy for a juvenile court judge representative on the Ethics Advisory Committee; therefore, Judge Sherene Dillon was recommended to fill the vacancy on

the Standing Committee on Children and Family Law (SCCFL) for a juvenile court judge representative.

Efforts have been made to recruit a full-time mediator to the committee with no success. Ms. Nini Rich, Director of the Alternative Dispute Resolution Program, was recommended by the Management Committee at their December meeting to fill the vacancy on the committee as a mediator representative. Prior to the December Management Committee meeting, Mr. Wahl tried to contact Ms. Marcie Keck to inquire as to her willingness to serve on the Standing Committee on Children and Family Law (SCCFL) as a mediator representative, with no contact made. Ms. Keck has since responded to her willingness to serve, if appointed. Her background was provided.

Discussion took place.

**Motion:** Judge Dawson moved to approve the following appointments to the Standing Committee on Children and Family Law (SCCFL): 1) reappoint Judge Paul Lyman to serve a second term on the committee, 2) appoint Judge Paul Lyman to serve as the juvenile court co-chair of the committee, 3) appoint Judge Sherene Dillon to fill the juvenile court judge vacancy on the committee, and 4) appoint Ms. Nini Rich to serve as the mediator representative on the committee. Judge Hornak seconded the motion, and it passed unanimously.

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

Chief Justice Durrant welcomed Judge Elizabeth Lindsley and Ms. Dawn Marie Rubio to the meeting.

Judge Lindsley provided an update to the Council on the activities of the Board of Juvenile Court Judges. She highlighted the following in her update: 1) current board members were mentioned, 2) accomplished board goals for 2012-2013, 3) juvenile judicial weighted caseload, 4) juvenile clerical weighted caseload, 5) juvenile PO weighted caseload, 6) termination and related events, 7) current initiatives in juvenile court, 8) CARE initiatives, 9) probation activities, 10) other juvenile court initiatives, 11) juvenile court publications - judges, 12) juvenile court publications – probation officers, and 13) board goals for 2013-2014.

The accomplished board goals for 2012-2013 include: 1) designed “best practices” guide regarding juvenile court practices on immigration, 2) implemented the first year of the juvenile court two-year electronic conversion plan, 3) improved permanency for older youth, 4) input was given to the Juvenile Sentencing Guidelines Revision Committee, and 5) updated the bench book for new judges.

Juvenile court referrals in 2013 reflected a decline of 8% with 37,789 total referrals compared to 41,066 referrals in 2012. She highlighted the following referrals: 1) voluntary relinquishments, 8% increase; and 2) termination of parental rights, 15% increase.

Judge Lindsley highlighted the following CARE and miscellaneous initiatives in juvenile court: 1) reinstatement of parental rights proceedings, 2) continued implementation of e-records and plan for e-filing in juvenile court, 3) use of judicial workspace in CARE, 4) My Case expansion in CARE, 5) case planning toolkits available for probation use, 6) Carey Guides and NCTI interventions in probation, 7) ICWA compliance, 8) kinship website, 9) permanency compliance, and 10) CASA’s as education advocates.

She reviewed the board goals for 2013-2014 to include: 1) completion of two-year plan for electronic conversion of the juvenile court record, 2) judicial leadership in education of youth

in state care, 3) identify and apply effective approaches for addressing truancy through collaboration with agency and community partners, and 4) investigate the use of detention and consider alternatives statewide.

Discussion took place on the issue of reinstatement of parental rights proceedings.  
Chief Justice Durrant thanked Judge Lindsley for her update.

**14. ADJOURN**

The meeting was adjourned.