

ARIZONA JUDICIAL COUNCIL
Northeast Regional Court Center
18380 North 40th Street, Jury Assembly Room
Phoenix, AZ 85032

D R A F T

Minutes of the
March 9, 2006, Meeting

Council Members Present:

Chief Justice Ruth V. McGregor
Judge James Angiulo
Jim Bruner
Judge Robert Brutinel
David Byers
Judge B. Robert Dorfman
Susan Edwards
Beverly Frame
Christine C. Iijima Hall, PhD.
Emily Johnston

Judge John S. Leonardo
William J. Mangold, M.D., J.D.
Miguel Montiel
Judge Barbara Mundell
Jones Osborn
Deborah Schaefer
Judge James Soto
Judge R. Michael Traynor
Judge David Widmaier

Council Members Absent:

Chris Herstam
Judge Douglas Holt
Judge John Pelander

Helen Perry-Grimwood
Jose de J. Rivera

Administrative Office of the Courts (AOC) Staff Present:

Mike Baumstark
Theresa Barrett
Leila Gholam
Jennifer Greene
Beth Hall
Melinda Hardman
Karl Heckart
Jerry Landau

Rob Lubitz
Robert Roll
Carol Mitchell
Janet Scheiderer
Lorraine Smith
David Withey
Amy Wood

Guests Present:

Vice Chief Justice Rebecca White Berch
Judge Norman J. Davis
Phil Knox

Marcus Reinkensmeyer
Professor Dan Strouse

Chief Justice Ruth V. McGregor, Chair, called the meeting to order at 9:00 a.m., at the Northeast Regional Court Center, 18380 North 40th Street, Phoenix, Arizona. The Chair welcomed those in attendance and asked the members to accompany Mr. Marcus Reinkensmeyer, Court Administrator for the Judicial Branch in Maricopa County and Mr. Phil Knox, General Jurisdiction Court Administrator, on a tour of the facilities.

Following the tour, the Chair reconvened the meeting.

Approval of Minutes

The Chair called for any corrections or additions to the minutes from the December 14, 2005, meeting of the Arizona Judicial Council. Dr. Mangold noted that the dates of the Leadership Conference listed as December 11-12, 2005 were incorrect and should be changed to December 12-13, 2005. The minutes were approved with this correction.

MOTION: To approve the minutes from the December 14, 2005, meeting of the Arizona Judicial Council, with the correction of the Leadership Conference dates changed to December 12-13, 2005.

Motion was seconded and passed. AJC 2006-01.

Public Health Law Benchbook Project

Professor Dan Strouse, Arizona State University, briefed the Council on the background of the project. Professor Strouse noted that he has been given a grant to develop an Arizona public law health benchbook. Professor Strouse reported that the content is currently being shaped with student research assistants, and he anticipates a late summer completion date. Professor Strouse stated that a small Judicial Advisory Board has been put in place to include Eric Carlson, Director of Administrative Services for the AOC and retired Judge Rebecca Albrecht. Mr. Byers noted that in addition to this legal benchbook, there will be numerous administrative problems that the courts may need to deal with if there is a pandemic. Mr. Byers stated the need to fund a project for the 50 states to get together and work on these administrative issues as a group and come up with solutions.

Mr. Dave Byers explained the proposed review process that the Presiding Judges had recently approved at their meeting. Mr. Byers noted the drafts would be reviewed by Presiding Judges, Chief Judges of the Court of Appeals, the Benchbook Committee under the Committee on Judicial Education and Training (COJET), etc. with

the final copy coming back to the Council at their October meeting for review and adoption to include a plan to institutionalize the project as well as information on upcoming training, etc.

MOTION: To approve the public health law benchbook project and review process as presented. Motion was seconded and passed. AJC 2006-02.

Maricopa County Family Court Improvement Plan

Judge Norman J. Davis, Family Court Presiding Judge, presented a PowerPoint presentation on the improvement plan providing background information; areas requiring attention; goals; and specific information on uncontested pre decree matters, contested self-represented, contested with attorney, contested family court cases, Title IV-D cases, post decree/post judgment cases, and other enhancements. Judge Davis also provided information on family court case filings FY01-FY-05, specific results/accomplishments, and 2006 goals. Judge Davis reported that of the 29 original initiatives, only 6 initiatives remain.

The Chair thanked Judge Davis for his great leadership and the work of this Committee.

Commission on Compulsory Arbitration

Mr. Mike Baumstark, Deputy Director of the AOC, provided an update on the history and status of the Committee on Compulsory Arbitration. Mr. Baumstark reported that the Committee has met three times, and after meeting with the researchers, the Committee identified 11 issues, in addition to the original 6, for a total of 18 issues they are looking at. Mr. Baumstark noted the Committee has worked through half of the issues at this time and will be meeting next week to finish the remaining issues. At that time, the Committee will prepare and finalize a recommendation and present it for review at the upcoming State Bar Convention and Judicial Conference in June, followed by review by the Committee on Superior Court, and finally back to the Council for review/approval of the final report with recommendations at their October 2006 meeting. Mr. Baumstark noted that rule/statute changes may be needed.

Arizona Code of Judicial Administration (ACJA)

Mr. Greg Eades, Legal Counsel for the Arizona Supreme Court, then presented the following code sections for review and adoption: 1-301: Equal Employment Opportunity and 3-402: Superior Court Records Retention and Disposition.

MOTION: To approve 1-301: Equal Employment Opportunity as presented. Motion was seconded and passed. AJC 2006-03

MOTION: To approve 3-402: Superior Court Records Retention and Disposition as presented. Motion was seconded and passed. AJC 2006-04

Mr. Eades noted that staff is making a concerted effort to complete as many of the remaining code sections as quickly as possible, so Council members will be reviewing more codes at upcoming meetings. Mr. Eades encouraged members to contact AOC staff, prior to the meeting, if they have any concerns regarding upcoming code sections.

Commission on Victims in the Courts

Ms. Carol Mitchell, Court Services Specialist with the AOC, and staff to the new Commission, reported on the proposed code section and administrative order to establish the new Commission on Victims in the Courts. Ms. Mitchell provided information on the Committee to include background, mission, and membership.

The Chair noted the Commission is not there to advocate on behalf of victims, it is to make certain that the court system is enforcing the laws that give rights to victims.

MOTION: To approve the adoption of Arizona Code of Judicial Administration § 1-111: Commission on Victims. Motion was seconded and passed. AJC 2006-05.

Victims Courtesy Notification Demonstration

Mr. Karl Heckart, Information Technology Director for the AOC, presented a PowerPoint presentation/demonstration on the new victims' courtesy notification system. Mr. Heckart stated the case notification feature of this web site is provided as a resource for information on historical and current court cases. It should be used only to gain a general understanding of a listed case's status. The Case Notification feature allows registered users of the Public Access application to flag case(s) that they are interested in tracking. When a change occurs on the "flagged" case, the user will be notified via e-mail that something has been updated on the case. At this point in time, the user will be able to follow the link to see the most recent change in the case.

Mr. Heckart then walked the members through each of the screens associated with the site, i.e., registration, etc.

Mr. Heckart stated they would be presenting this system to the Commission on Victims this week, and following that, they would release this technology, wrapped around the Maricopa County superior court criminal cases, via press release, assess the usability of this site to the public, and then decide next steps.

It was noted that this site does not replace the obligation of the County Attorney's Office to notify victims, it just adds another method of notification.

Rules – Electronic Comment System Demonstration

Mr. Gary Graham, Appellate Automation Manager with the Information Technology Division of the AOC, presented a PowerPoint demonstration on the new electronic comment system for Supreme Court rules which is currently under construction on the Supreme Court Internet site. Mr. Graham noted that the website was created in response to the Supreme Court looking at ways to get more involvement by judges, attorneys and the public in the rules making process. Mr. Graham explained that anyone can view current pending rule change petitions and comments to those rule change petitions, and, if desired, make additional comments. The site also allows anyone to file a new rule change petition on the website. New users must register before being authorized. Mr. Graham walked the members through the website screen by screen to include the registration process, filing comments and rule petitions, specific features, the rules cycle, etc.

Judicial Collection Enhancement Fund (JCEF) Probation 2006 Budget Modification

Mr. Mike Baumstark briefed the Council on the proposed budget increase to cover projected probation deficits in the remainder of the fiscal year. Mr. Baumstark asked the Council to approve a \$500,000 increase in the JCEF Probation budget to offset project deficits; leaving a fund balance at the end of the fiscal year of approximately \$1.2 million.

MOTION: To approve the \$500,000 budget modification as presented. Motion was seconded and passed. AJC 2006-06.

Juvenile Delinquency Guidelines

Judge Robert Brutinel, Presiding Judge in Yavapai County and Mr. Rob Lubitz, Director of Juvenile Justices Services for the AOC, briefed the Council on the Juvenile Delinquency Guidelines from the National Council of Family and Juvenile Court Judges and provided background information. Judge Brutinel reported that the Committee on Juvenile Courts approved a motion unanimously “that the Arizona Judicial Council endorse the National Council of Family and Juvenile Court Judges Juvenile Delinquency Guidelines as a framework for excellence in juvenile delinquency practice and encourage each juvenile court to explore ways in which the guidelines can be implemented in every county.”

Discussion ensued regarding adopting the key principles under Tab 2, Page 19, as recommendations to the juvenile courts across the state of Arizona as appropriate practice. Mr. Byers noted there are several recommendations in the report that are contrary to Arizona law or practice which the Council should have some discussion, debate, and advice on. Mr. Byers suggested it may be a good idea for the Committee

on Juvenile Courts to go through the recommendations, develop a specific package with recommendations and more details, and come back to the Council at a later date.

MOTION: To approve the key principles of a juvenile delinquency court of excellence, as permitted by Arizona law, and direct the Committee on Juvenile Courts to report back to the Council on specific ways to improve delinquency court practice throughout the state of Arizona. Motion was seconded and passed. AJC 2006-07.

Legislation Affecting the Judicial Branch

Mr. Jerry Landau, Director of Government Affairs for the AOC and Ms. Leila Gholam, Legislative Officer for the AOC, provided an update on legislation. Ms. Gholam updated the Council on the Judicial Branch's previously approved legislative proposals and status.

Mr. Landau then briefed the Council members on new legislation affecting the judicial branch.

HB2002: JUSTICES OF THE PEACE; DUTIES

Discussion: The Chair noted that she informed Representative Pearce that she would oppose this bill because it was a separation of powers issue, but she would continue to work with him on these issues within the judicial branch. Discussion ensued regarding impacts to counties other than Maricopa County. Concern was raised with the proposed committee's makeup (80% Maricopa County) although the general idea of the Committee was welcomed.

MOTION: To oppose HB2002 in terms of the separation of powers issue, but to support the idea of a committee with a more balanced membership to represent the justice courts across the state. Motion was seconded and passed. AJC 2006-08.

HCR2009/HB2373: INITIATIVE; SINGLE SUBJECT; SUPREME COURT

Discussion: The Chair noted the 45-day time limit is a very short amount of time for the Supreme Court to issue a decision, but they would continue to work with the Legislature.

MOTION: To continue work with the Legislature, but remain neutral on the general policy of HB2373. Motion was seconded and passed. AJC 2006-09.

HB2559: JUVENILE HEARINGS; JURY TRIALS

Discussion: Concern was raised regarding the provision that if the court does not terminate parental rights, another action to terminate parental rights shall not be brought pursuant to Section 8-537 or 8-863 within twelve months after the court issued its decision.

MOTION: To oppose the provision regarding not being able to re-file on severance actions for twelve months on HB2559. Motion was seconded and passed. AJC 2006-10.

HB2819: ADULT PROBATION; COUNTY RESPONSIBILITY

Discussion: Concern was raised regarding probation ratios not applying in Maricopa County. The Chair noted that the Presiding Judges agreed to oppose doing away with probation ratios, but didn't take a position as to the remainder of the bill.

MOTION: To oppose HB2819. Motion was seconded and passed. AJC 2006-11.

HCR2011: SUPREME COURT; JURISDICTIONAL LIMITS

Discussion: It was noted the Council already voted to oppose this bill at a prior meeting.

HCR2015: JUDGES; MERIT SELECTIONS; POPULATIONS

Discussion: Mr. Pete Dunn, Lobbyist for the Arizona Judges Association, urged the Council to oppose this bill noting the merits of the bill are bad, and it would set a dangerous precedent if it were to pass on the November ballot. Mr. Dunn asked for the Council's assistance on its defeat if it makes it onto the November ballot, noting that if it passes, there will be tremendous pressure on the Legislature to support a measure to put merit selection on the ballot in 2008 (changing Arizona back to election of judges). The Chair noted the Presiding Judges voted to oppose this bill.

MOTION: To oppose HCR2015. Motion was seconded and passed. AJC 2006-12.

HCR2020: SEPARATION OF POWERS; JUDICIAL LAWMAKING

Discussion: Mr. Landau noted the bill was dead at this time.

MOTION: To oppose HCR2020. Motion was seconded and passed. AJC 2006-13.

SB1376: CAPITAL CASE LITIGATION; PUBLIC DEFENDER

Discussion: Mr. Landau noted that both the Attorney General's Office and Arizona Prosecuting Attorneys Advisory Council are both in support; the Maricopa County Attorney's Office is not in support.

MOTION: To approve the concept of the central office, but not the specifics, of SB1376. Motion was seconded and passed. AJC 2006-14.

SCR1013: JUSTICES AND JUDGES; RETIREMENT AGE

Discussion: Although there was general support, the Chair cautioned that this bill treats our trial court judges differently from our appellate judges and, from that standpoint, sets a dangerous precedent. The Chair reported that the Presiding Judges voted on this bill: 6 approved, 6 opposed, and 2 abstaining. Pete Dunn noted the Judges Association voted 4 to 1 to support this bill.

MOTION: To support SCR1013. Motion was seconded and passed. (7 approved; 5 opposed, and 1 abstention). AJC 2006-15.

Call to the Public/Adjourn

The Chair made a call to the public; there was none.

The meeting adjourned at 2:45 p.m.