

## ARIZONA JUDICIAL COUNCIL

Arizona Golf Resort  
425 S. Power Road  
**Fairway 5 Meeting Room**  
Mesa, AZ 85206

October 17, 2013

Meeting Minutes

### **Council Members Present:**

Chief Justice Rebecca White Berch  
Jim Bruner  
David Byers  
Judge Peter Cahill  
Judge Rachel Torres Carrillo  
Whitney Cunningham, J.D.  
Judge Norman Davis  
Mike Hellon  
Yvonne R. Hunter, J.D.  
Michael Jeanes  
Judge Diane Johnsen

Emily Johnston  
Gary Krcmarik  
Judge David Mackey  
William J. Mangold, M.D., J.D.  
Janet K. Regner  
Judge Antonio Riojas, Jr.  
Marilyn Seymann, Ph.D.  
Judge Sally Simmons  
Judge Roxanne Song Ong  
George Weisz

### **Council Members Absent (excused):**

Athia Hardt  
Judge Joseph Howard

Judge Robert Carter Olson  
Judge David Widmaier

### **Administrative Office of the Courts (AOC) Staff Present:**

Mike Baumstark  
Chad Campbell  
Cindy Cook  
Jerry Landau  
Amy Love  
Alicia Moffatt

Heather Murphy  
Marcus Reinkensmeyer  
Lorraine Smith  
Cindy Trimble  
Kathy Waters  
David Withey

### **Presenters and Guests Present:**

Vice Chief Justice Scott Bales  
Justice Robert Brutinel  
John Furlong

Marty Herder  
John MacDonald  
Jodi Rogers

Chief Justice Rebecca White Berch, Chair, called the meeting to order at 9:00 a.m. in the Fairway 5 meeting room at the Arizona Golf Resort, 425 S. Power Road, Mesa, Arizona. The Chair welcomed those in attendance and recognized the newest Council member: Judge Diane Johnsen, Chief Judge, Court of Appeals, Division One.

### **Approval of Minutes**

The Chair called for any omissions or corrections to the minutes from the June 24, 2013, meeting of the Arizona Judicial Council. There were none.

**MOTION: To approve the minutes from the June 24, 2013, meeting of the Arizona Judicial Council, as presented.** The motion was seconded and passed. AJC 2013-13.

### **2014 Meeting Dates**

The Chair called attention to the proposed meeting dates for 2014: Thursday, March 20; Monday, June 23; Thursday, October 23; and Thursday, December 11.

The Chair asked members to let staff know if they have meeting date conflicts.

**MOTION: To approve the proposed 2014 meeting dates, as presented.** The motion was seconded and passed. AJC 2013-14.

### **2014-2019 Strategic Agenda**

Vice Chief Justice Scott Bales spoke on the new strategic agenda. He explained the development process and timeline for completion. Justice Bales expressed his appreciation for the input and assistance received in developing the draft plan.

Mr. Mike Baumstark, Deputy Director of the AOC, explained the process and how the agenda evolved. He recognized Ms. Cindy Trimble, Internal Auditor for the AOC, for her assistance in the development of the draft agenda. He noted the emerging themes that have been identified include courts serving Arizona communities, access to justice, expand the use of evidence-based practices, judicial excellence and workforce development, and infrastructure improvements.

Mr. Baumstark presented the 5 goals of the draft agenda: Goal 1: Promoting Access to Justice; Goal 2: Protecting Children, Families and Communities; Goal 3: Improving Court Processes to Better Serve the Public; Goal 4: Enhancing Professionalism Within Arizona's Courts; and Goal 5: Improving Communications and Community Participation.

Mr. Baumstark reported the final agenda will come to the December 2013 Council meeting for adoption; the agenda design, title, and publishing will be finalized by March 2014; and the plan will be launched in July 2014.

Mr. George Weisz stated the need to stay flexible and fluid and identify and prioritize what can be accomplished, i.e., sub-goals. He also suggested the need to work with other agencies and criminal justice partners.

### **Steering Committee on Arizona Case Processing Standards**

Justice Robert M. Brutinel, Chair of the Committee, provided a brief update on the Committee's process and shared the provisional set of standards that were developed.

Mr. Gary Krcmarik noted that Coconino County has had standards since 1995, and their judges have successfully adopted them. He stated he would support these standards for both accountability and transparency reasons. A motion was moved and seconded to approve the standards. Mr. Mike Hellon raised concern with the time standards and the ability to tighten them over time. Justice Brutinel noted they are provisional standards at this point and subject to change. Mr. Hellon suggested that when monitoring results, someone should look more deeply into anomalies and be able to identify specific defects in our processes that can be fixed.

**MOTION: To extend the Committee for an additional year and adopt the preliminary standards.** The motion was seconded and passed. AJC 2013-15.

Mr. Jerry Landau, AOC Director of Government Affairs, and Legislative Liaison Amy Love updated the Council on the upcoming session and presented the Judicial Branch legislative package:

2014-01: Probation officers; enforcement of pretrial release conditions

**MOTION: To support 2014-01: Probation officers; enforcement of pretrial release conditions, as presented.** The motion was seconded and passed. AJC 2013-16.

2014-02: Veterans' court; establishment; eligibility for referral

Discussion: This proposal will do for veterans' courts what has been already done for the homeless courts.

**MOTION: To support 2014-02: Veterans' court; establishment; eligibility for referral, as presented.** The motion was seconded and passed. AJC 2013-17.

2014-03: Prescription information; probation officers

**MOTION: To table 2014-03: Prescription information; probation officers and assign to the adult probation division to work with our probation departments and the medical community to find a better way**

**of doing this and report back at the December Council meeting.** The motion was seconded and passed. AJC 2013-18.

2014-04: Physician assistants; excused jury service

**MOTION: To support 2014-04: Physician assistants; excused jury service, as presented.** The motion was seconded and passed. AJC 2013-19.

2014-05: Issuance of warrants; authority

Discussion: Mr. Whitney Cunningham raised the issue of subpoenas, and stated that attorneys issuing their own subpoenas will be an important improvement. Judge Davis explained the proposal and noted there is concern over who will issue the warrant -- the clerk or the court. He stated the proposal will allow either the clerk or the court to issue the warrant, will enhance both speed and accuracy, and is only a minor cleanup issue.

Mr. Michael Jeanes stated the clerks are in support of continuously improving the judicial branch of government and increasing efficiencies. He noted this proposal was sent to staff and other clerks for their review, and concern was raised that the issue goes beyond warrants, i.e., that it extends to subpoenas and other process, and they have questions as to how this will work. Mr. Jeanes stated the Clerks are in opposition regarding logistical issues and questions that need to be resolved. Mr. Jeanes reported that 14 Clerks have said this is not an issue in their county, and they see no need for a change.

Judge Simmons stated that the change in the statute seems to be more progressive and accurate because judges will view the warrant in the courtroom, and staff will be working together. She moved that the proposal be supported, and the details can be worked out. Judge Simmons stated the proposal is the way of the future, and we need this in order to increase efficiency and accuracy.

Dr. Bill Mangold suggested tabling and allowing staff time to work on a compromise. The Chair noted that Maricopa County is ready to go, and this proposal only affects Maricopa County at this time. She understands that there are issues to be worked out. Judge Mackey stated that his clerk opposes the proposal and wants more time to study and get other changes included. He noted that more work needs to be done on the proposal to ensure we have a united front within our court family, and he opposed supporting. Mr. Byers suggested supporting the proposal, but have the Clerks and Judge Davis work out the issues and details. Judge Davis stated that tabling will stall technology, but he is willing to sit down and talk with the Clerks. Mr. Hellon noted the proposal is permissive not mandatory, and he supports it. Ms. Regner stated the proposal needs more work and is not ready at this stage. She proposed a friendly amendment to the motion to work out logistical details and issues and come back in December. Judge Davis agreed to limiting to warrants and deleting other processes language, but cautioned that would be a mistake. Mr. Byers offered a friendly amendment to move forward and adopt, but give Maricopa County a chance to work out logistical questions and bring the proposal back in December.

The amendment was accepted by the motion maker. Mr. Landau suggested we could open a file without taking action until the December meeting.

**MOTION: To support 2014-05: Issuance of warrants; authority and have Maricopa County staff work out logistical issues and bring back to the December Council meeting for final approval.** The motion was seconded and passed (2 opposed). AJC 2013-20.

2014-06: Access to background checks; superior court

Judge Mackey moved to support the proposal with the amendment that we add a sentence, "Information shall be provided on submission of the applicant fingerprint card."

**MOTION: To support 2014-06: Access to background checks; superior court, with the addition of the sentence "Information shall be provided on submission of the applicant fingerprint card."** The motion was seconded and passed. AJC 2013-21.

2014-07: Dependency cases; court programs

Discussion: Judge Davis moved to support in concept, work on clarifying language, and bring back to the December meeting for final approval.

**MOTION: To support 2014-07: Dependency cases; court programs in concept, work on clarifying language, and bring back to the December Council meeting for final approval.** The motion was seconded and passed. AJC 2013-22.

2014-08: Lengthy jury trial fund

Discussion: Mr. Byers clarified that staff did not notice the sunset clause which resulted in an emergency clause. Ms. Love noted this will be an uphill battle because it will appear to be a new fee even though it is an existing fee.

**MOTION: To support 2014-08: Lengthy jury trial fund, as presented.** The motion was seconded and passed. AJC 2013-23.

2014-09: EORP contributions; judges (*all elected officials*)

Discussion: There are still some outstanding issues.

**MOTION: To refer 2014-09: EORP contributions; judges (*all elected officials*) back to the Arizona Judges Association to work out the outstanding issues and report back at the December Council meeting.** The motion was seconded and passed. AJC 2013-24.

2014-10: Court process; conforming changes

Discussion: The three provisions are not worth running a separate bill for, and it is recommended we split up the 3 provisions and tack them onto other bills.

**MOTION: To split up the 3 provisions of 2014-10: Court process; conforming changes and tack them onto other bills if available.** The motion was seconded and passed. AJC 2013-25.

Mr. Landau and Ms. Love presented bills from other entities including:

2014-D: Peace officers bill of rights; probation officers (Rep. Justin Pierce)

Discussion: There is an issue with a statute that needs to be cleaned up to include juvenile detention officers.

**MOTION: To support 2014-D: Peace officers bill of rights; probation officers, with the inclusion of juvenile detention officers.** The motion was seconded and passed. AJC 2013-26.

2014-H: Searching of probationers and parolees (Arizona Association of Counties)

**MOTION: To oppose 2014-H: Searching of probationers and parolees, as presented.** The motion was seconded and passed. AJC 2013-27.

Mr. Byers noted that a representative of the Arizona Association of Counties is welcome to attend the December meeting to provide more information on this proposal.

### **Arizona Code of Judicial Administration**

Mr. Chad Campbell, Director of the Juvenile Justices Services Division of the AOC, presented the following code sections:

6-105.01: Powers and Duties of Officers Evidence-Based Practices (amendment), 6-301.01: Juvenile Standard Probation Evidence-Based Practices (new), and 6-302.01: Juvenile Intensive Probation Evidence-Based Practices (new).

**MOTION: To approve 6-105.01: Powers and Duties of Officers Evidence-Based Practices (amendment), 6-301.01: Juvenile Standard Probation Evidence-Based Practices (new), and 6-302.01: Juvenile Intensive Probation Evidence-Based Practices (new), as presented.** The motion was seconded and passed. AJC 2013-28.

Ms. Kathy Waters, Director of Adult Probation Services Division of the AOC, presented code section 6-202.01: Adult Intensive Probation Evidence-Based Practices (amendment) which conforms to the juvenile code.

**MOTION: To approve 6-202.01: Adult Intensive Probation Evidence-Based Practices (amendment), as presented.** The motion was seconded and passed. AJC 2013-29.

Ms. Kathy Waters presented code section 6-106: Personnel Practices

**MOTION: To approve 6-106: Personnel Practices, as presented.** The motion was seconded and passed. AJC 2013-30.

Mr. David Withey, Chief Legal Counsel for the AOC, presented code section 1-402: Procurement (amendment) and explained the content and changes to the procurement code.

**MOTION: To approve 1-402: Procurement (amendment), as presented.** The motion was seconded and passed. AJC 2013-31.

### **Elected Officials' Salary Increase**

Mr. Jerry Landau provided an update on elected officials' salaries, which includes judges who are seeking a pay raise. He explained the salary commission process and noted that judges can only receive a salary increase at the beginning of a term, and the beginning of the next term is 2015. Mr. Landau stated that legislation will have to be adopted in 2014 to allow an increase for 2015. He noted if this was not approved, the next opportunity would not take place until 2017. Mr. Landau reported the Arizona Judges Association is working on this proposal, which is an important issue, and more information will be presented in December.

### **Mental Health Courts**

Mr. Marcus Reinkensmeyer, Director of the Court Services Division of the AOC, provided an update on HB2310: Mental Health Court Evaluation. He noted staff would be back next year to present policy issues to the Council. He stated this bill was signed into law last session and the challenge will be defining these courts. He reported that standards will need to be developed for the Council's approval, and the final report will be filed with the Governor and Legislature in December 2014.

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

Chief Justice Berch welcomed and introduced Ms. Heather Murphy, the new Communications Director for the Arizona Supreme Court.

Chief Justice Berch announced the formation of a committee to address court reporters and governance and look at the code provisions. She noted that Vice Chief Justice Bales will Chair the Committee. The Committee plans to report back at the December Council meeting.

**MOTION: To adjourn the meeting.** The motion was seconded and passed.  
AJC 2013-32.

The meeting adjourned at 11:55 a.m.