

## **ARIZONA JUDICIAL COUNCIL**

JW Marriott Starr Pass Resort  
3800 W. Start Pass Blvd.  
**Tucson Room G-J**  
Tucson, AZ 85745

June 23, 2014

Meeting Minutes

### **Council Members Present:**

Chief Justice Rebecca White Berch  
Jim Bruner  
David Byers  
Judge Peter Cahill  
Judge Norman Davis  
Victor Flores  
Athia Hardt  
Mike Hellon  
Judge Joseph Howard  
Yvonne R. Hunter, J.D.  
Michael Jeanes  
Jack Jewett  
Judge Diane Johnsen

Emily Johnston  
Gary Krcmarik  
Judge David Mackey  
William J. Mangold, M.D., J.D.  
Judge John Nelson  
Richard Platt  
Janet K. Regner  
Judge Antonio Riojas, Jr.  
Judge Sally Simmons  
Judge Roxanne Song Ong  
George Weisz  
Judge David Widmaier

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

Judge Rachel Torres Carrillo

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

Mike Baumstark  
Karl Heckart  
Susan Hunt  
Ann Hunter  
Kevin Kluge  
Jerry Landau  
Amy Love  
Alicia Moffatt

Marcus Reinkensmeyer  
Jeff Schrade  
Patrick Scott  
Lorraine Smith  
Kathy Waters  
Mark Wilson  
David Withey

## **Presenters and Guests Present:**

Vice Chief Justice Scott Bales  
Justice Robert Brutinel  
Susan Edwards  
Michael Flanagan  
Kris Jacober

Justice John Pelander  
John Phelps  
Jodi Rogers  
Tamera Shanker

Chief Justice Rebecca White Berch, Chair, called the meeting to order at 11:30 a.m. in Tucson Room G-J at the JW Marriott Start Pass Resort, 3800 W. Start Pass Blvd., Tucson, Arizona. The Chair welcomed those in attendance including new Council member Richard Platt, Arizona State Bar President replacing the outgoing President, Whitney Cunningham.

## **Approval of Minutes**

The Chair called for any omissions or corrections to the minutes from the March 20, 2014, meeting of the Arizona Judicial Council. There were none.

**MOTION: To approve the minutes from the March 20, 2014, meeting of the Arizona Judicial Council, as presented.** The motion was seconded and passed. AJC 2014-14.

## **Department of Child Safety Update**

Mr. Charles Flanagan, Director of the new Department of Child Safety, showed a PowerPoint presentation outlining the following information on the new system: operational improvements, intake process improvements, operational “tracks,” staff hiring, staff culture changes, training, risk and needs assessment tool, major provisions of legislation, inactive case backlog (13,024 total cases as of June 2, 2014), backlog history and process, impact to courts, and call to action

Director Flanagan noted it will take 12-18 months to deal with all the capacity issues, but the cultural changes could take up to 4-6 years to resolve.

Director Flanagan addressed the backlog of cases. He stated they have learned a lot of lessons, and most of the cases are in some stage of investigation. Director Flanagan reported they have obtained specific funding for overtime and stipends to work these cases, with the goal to be able to assess and identify the riskiest and neediest and respond to those cases sooner. He reported that each of the 13,024 cases will be reactivated by the end of December.

Director Flanagan added that the new agency will publish outcomes and a report card, will keep the public in the know, and will resolve the situation when they do something wrong.

## **Arizona Code of Judicial Administration (ACJA)**

Mr. Jeff Schrade, Director of the Education Services Division for the AOC, presented ACJA § 1-302: Education and Training (amendment) for the Council's consideration. He noted there were no controversies regarding the proposed amendment.

**MOTION: To approve ACJA § 1-302: Education and Training (amendment), as presented.** The motion was seconded and passed. AJC 2014-15.

Ms. Ann Hunter, Manager for the Certification and Licensing Division of the AOC, presented ACJA § 7-201: General Requirements (amendment) for the Council's consideration. Ms. Hunter noted there were no controversies regarding the proposed amendment.

**MOTION: To approve ACJA § 7-201: General Requirements (amendment), as presented.** The motion was seconded and passed. AJC 2014-16.

## **Commission on Technology (COT) Update**

Vice Chief Justice Scott Bales presented information on the project prioritization from the recent COT annual meeting for the items contained in the Judicial Collections Enhancement Fund (JCEF) budget request. Justice Bales reported the vendor (AMCAD) for the limited jurisdiction and rural superior court CMS revisions is withdrawing from the justice software solutions business effective today. He noted this may have some impact down the road.

Mr. Kevin Kluge, Chief Financial Officer for the AOC, provided information on funding details. He spoke on the fiscal condition of JCEF, legislative fund sweeps, expenditures, revenue projections, and on-going budgets.

Mr. Kluge noted that there are ongoing commitments to both the general jurisdiction and limited jurisdiction automation projects, and changes will need to be made and funds redirected. He stated that revenues do sustain our ongoing commitments

Chief Justice Berch clarified that the motion would approve the JCEF operating budget without taking into account the situation with AMCAD, which we would deal with in the coming year.

Judge Mackey noted the limited jurisdiction rollout is critical and asked about adding contingency funding. Mr. Kluge noted there are no extra funds available.

Mr. Mike Hellon stated that based upon new information, we should have authority to move money from one source to another, if needed. Chief Justice Berch stated the need to approve the COT recommendation as a framework, but allow some flexibility within it.

She asked that this language be included as part of the motion. The motion maker agreed.

Mr. Kluge stated we will adjust spending based on revenues.

**MOTION: To approve the JCEF operating budget, including spending on previously approved technology projects, as recommended by the Commission on Technology, as a framework, but allow some flexibility within it.** The motion was seconded and passed. AJC 2014-17.

### **eFiling Update**

Mr. Marcus Reinkensmeyer, Director of the Court Services Division of the AOC, briefed the Council members on the status of eFiling, eAccess, and eBench and highlighted planning for the upcoming year.

### **ACJA § 5-206: Fee Deferrals and Waivers (amendment)**

Mr. Patrick Scott, Court Management Specialist for the Court Services Division of the AOC, presented an amendment to ACJA § 5-206: Fee Deferrals and Waivers to correct a drafting error and remove the reference to § 12-284.

**MOTION: To approve ACJA § 5-206: Fee Deferrals and Waivers (amendment), as presented.** The motion was seconded and passed. AJC 2014-18.

### **Arizona Case Processing Time Standards**

Justice Robert Brutinel, Chair of the Arizona Case Processing Time Standards Steering Committee, presented the Committee's recommendation that the provisional case processing time standards for 6 out of the 19 case types be adopted as final. He presented information on each of the following 6 case types: superior court civil, felony, DUI misdemeanor, juvenile delinquency and status offense, juvenile neglect and abuse (permanency hearing only), and juvenile termination of parental rights.

Discussion took place regarding the issue of data cleanup. Judge Mackey stated the JOLTS system is not a good indicator of the judge's compliance, and it could be problematic if someone asked to see the JOLTS reports. Concerns were also raised regarding business practices, data entry, and the need for something to protect judges on dependency standards. It was noted that data needs to be appropriately entered and cleaned up. Judge Mackey asked that language be included in the motion or at least understood that a lot of work needs to be done on the data portion of the dependency standards.

Judge Mackey suggested using the words "Judge A, B, C," rather than using the judge's name. He stated the information should not be public until it comes back to the Committee

and the data is accurate. Judge Mackey expressed great concern with the accuracy of the data, but stated he does not disagree with the standards.

Chief Justice Berch clarified that we are not dealing with how and to whom they get reported, we are only recommending the 6 case types at this time to the Supreme Court, and the Supreme Court will have to adopt/approve them.

Judge Davis spoke on public records requests and having no control with what goes out to the public, i.e., if documents exist, then the public and media can request them once they are approved as standards. He suggested calling them target guidelines while we clean up the data, and once cleaned up, they will become standards. Mr. Byers stated they would not be considered public records if they are draft, which they are.

Judge Mackey asked that language be included in the motion that recognizes that we are not currently in a position to accurately measure compliance with the juvenile neglect and abuse (permanency hearing only) and juvenile termination of parental rights case types. Chief Justice Berch noted that the quality of data input will be a consideration.

**MOTION: To recommend that the 6 case processing time standards be approved for final adoption by the Arizona Supreme Court, as presented.** The motion was seconded and passed (2 opposed). AJC 2014-19.

### **Arizona Friends of Foster Care Foundation**

Ms. Tamera Shanker and Ms. Kris Jacober from the Arizona Friends of Foster Care Foundation, provided information on the Foundation and its work, i.e., why they are in existence and what they do.

Ms. Shanker noted that there are 6,000 kids currently in foster care in Arizona

Ms. Jacober stated the Foundation provides children in foster care with athletic, educational, and social opportunities that are not covered by the State. She noted they want to get the message out that they are here, and they can help.

Ms. Jacober and Ms. Shanker asked for Council members to spread the word on the Foundation by being an ambassador, keeping cards on benches in courthouses, and sharing about their services, to include tax credit information. They noted that additional funding can make a real difference in the life of a child in foster care. They stated that they would be happy to come and speak in each of the member's communities if invited.

### **Judicial Performance Review Commission (JPR)**

Ms. Susan Edwards, member of the Judicial Performance Review Commission, presented a PowerPoint designed to acquaint citizens with merit selection, the JPR

process, JPR's quality improvement element, and the importance of "finishing the ballot." i.e., voting on judges standing for retention.

Ms. Edwards asked the Council members for their assistance in referring names of contacts at clubs and organizations they are involved in to set up speaking engagements for these groups and spread the word regarding JPR.

Ms. Edwards noted the Commission plays a very important role, and they are starting to see a correlation between JPR votes and the ballot results. She stated this election year will be very telling.

### **Judicial Branch Legislative Update**

Mr. Jerry Landau, AOC Director of Government Affairs, and Legislative Liaison Amy Love updated the Council members on news and notes, hot topics, review of AJC bills (all passed) and other bills of interest, vetoed bills, retirement update, and the Special Session on the Department of Child Safety.

Mr. Dave Byers provided a brief budget update. He noted that during this past legislative session, no money was swept and there were no big cuts. He stated we are at status quo, and we continue to be in recovery mode.

### **Maricopa County Search Warrant Pilot Program**

Judge Norman Davis provided an update on the Maricopa County search warrant pilot program to include: timeline on eSearch Warrant; affidavit/search warrant development process; timeline on eReturn, which was made possible from Governor's Office of Highway Safety grant; eReturn development process; participating law enforcement agencies; and the technology behind the program. He shared that the program is portable and web-based and can be used by anyone in the state, and he is happy to share it with everyone.

Judge Davis noted the program has resulted in a tremendous reduction in travel time and has sped up Maricopa County's processes. He stated the project is limited to DUI warrants at this time, but additional enhancements and other warrants are in the works. Judge Davis stated the project is no longer a pilot and will be made permanent at the end of May.

### **New Strategic Agenda Unveiling**

Vice Chief Justice Scott Bales thanked all the staff and individuals who assisted in the creation of the new strategic agenda.

He walked the Council members through each of the 5 goals below and presented information on sub goals, strategies, and initiatives currently in the works.

- Goal 1: Promoting Access to Justice
- Goal 2: Protecting Children, Families, and Communities
- Goal 3: Improving Processes to Better Serve the Public
- Goal 4: Enhancing Professionalism within Arizona's Courts
- Goal 5: Improving Communications and Community Participation

### **Call to the public**

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

The Chair noted that the terms for Council members Emily Johnston and Chief Judge Joseph Howard have ended. She thanked them for their service and presented a certificate of appreciation to each of them.

Justice Bales presented a certificate of appreciation to Chief Justice Berch for her service as Chair of the Council for the past 5 years.

The Chair announced the next meeting is scheduled for Thursday, October 23 at the Marriott in Mesa, Arizona.

Meeting adjourned at 4:55 p.m.