

ARIZONA JUDICIAL COUNCIL

J.W. Marriott Starr Pass Resort
3800 W. Starr Pass Blvd.
Tucson, AZ 85745

June 18, 2018

Meeting Minutes

Council Members Present:

Chief Justice Scott Bales	Gary Krcmarik
Judge Janet Barton	Judge Dorothy Little
Ken Bennett	Judge David Mackey
Judge Kyle Bryson	R. Tony Penn
David Byers	Steve Peru
Judge Louis F. Dominguez	Judge Antonio Riojas, Jr.
Judge Peter Eckerstrom	Judge Keith E. Russell
Victor Flores	Judge Monica Stauffer
Judge Charles Gurtler	Judge Samuel Thumma
Clerk of Court Juan Pablo Guzman	Jeff Willis proxy for Alex Vakula
Athia Hardt	Lisa Urias
Mike Hellon	

Council Members Absent (excused):

George Weisz	Lea Márquez Peterson
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Administrative Office of the Courts (AOC) Staff Present:

Mike Baumstark	Jerry Landau
Stewart Bruner	Heather Murphy
Catherine Clarich	Marcus Reinkensmeyer
Karl Heckart	Lorraine Smith
Susan Hunt	Kathy Waters
Don Jacobson	David Withey
Kevin Kluge	

Presenters and Guests Present:

Vice Chief Justice Robert Brutinel	Ron Overholt
Theresa Cummings	Cynthia Oxman
Paul Cummings	Wendy Petersen
Patricia Cummins	Steve Pierce
Frankie Jones	Christie Renick

Martin Lynch
Patty Machelor

Michelle Madrid
Eric Silverberg

Chief Justice Scott Bales, Chair, called the meeting to order at 11:00 a.m. and welcomed the Council's newest member: Honorable Juan Pablo Guzman, Clerk of Court in Santa Cruz County. He introduced incoming members Eric Silverberg, Court Administrator in Cochise County; Public Member Steve Pierce; and incoming State Bar President Jeffrey Willis who will join the Council in October.

Approval of Minutes

The Chair called for any corrections to the minutes from the Council's March 22, 2018, meeting.

MOTION: To approve the minutes from the March 22, 2018, meeting of the Arizona Judicial Council, as presented. The motion was seconded and passed. AJC 2018-08.

Commercial Court Review Committee Report

Mr. David Rosenbaum, Chair of the Commercial Court Review Committee presented the Committee's report and recommendation and asked the Council to approve the report and authorize the Committee to file a rule petition seeking amendments to, and permanent adoption of, Rule 8.1 of the Arizona Rules of Civil Procedure.

MOTION: To approve the Committee's report, as presented. The motion was seconded and passed. AJC 2018-09.

Judge Janet Barton expressed her concern with the rule petition's transfer-out provision. She noted she would file a comment with her concerns.

MOTION: To authorize the Committee to file a rule petition seeking amendments to, and permanent adoption of, Rule 8.1 of the Arizona Rules of Civil Procedure, as presented. The motion was seconded and passed. AJC 2018-10.

Judicial Branch Budget Update

Mr. Kevin Kluge, Chief Financial Officer and Director of Administrative Services for the AOC updated the Council members on the FY19 budget, budget bill SB1520, impacts, and revenues.

Judicial Branch Legislative Update

Mr. Jerry Landau, Government Affairs Director for the AOC updated the Council on the 2018 legislative session.

Commission on Technology

Mr. Karl Heckart, CIO for the AOC briefed the Council on FY 2018-19 automation projects, automaton priorities for FY19-20, and projects planned for FY19-20.

Mr. Kevin Kluge briefed the Council on the Judicial Collection Enhancement Fund (JCEF) revenues; ongoing commitments; comparison of revenue to expense; and the projected year-end fund balance, subject to action of the Legislature.

MOTION: To approve the proposed JCEF automation budget, as recommended by the Commission on Technology. The motion was seconded and passed. AJC 2018-11.

MOTION: To approve the JCEF probation budget, as recommended by the AOC Administrative Director and as appropriated by the Legislature. The motion was seconded and passed. AJC 2018-12.

Report on Legal Future

Ms. Frankie Jones, Chair of the Commission on Minorities spoke on a law student outreach program entitled “Legal Futures: Why Diversity and Inclusion Matter” that was held in April. She noted that the event was successful, and the Commission will host another student outreach event next year.

Arizona Code of Judicial Administration (ACJA) (taken out of order)

- ACJA §1-304: Discrimination and Harassment

Mr. David Withey, Chief Counsel for the AOC presented the proposed code section and outlined the provisions. The Chair suggested the following changes to paragraph A: start the paragraph with the words “Discrimination and harassment ...; change “is prohibited” to “are prohibited;” and reword the last 3 sentences to read “Such conduct is grounds for discipline of judicial branch employees, up to and including dismissal; grounds for discipline of judges by the Commission on Judicial Conduct; and grounds for termination of vendor contracts when the conduct is by a vendor employee.”

- **MOTION: Approve ACJA § 1-304: Discrimination and Harassment with the suggested changes.** The motion was seconded and passed. AJC 2018-13.

Reentry and Probation Tails

Ms. Kathy Waters, Director of the Adult Probation Services Division of the AOC presented an update on the sentencing practice of reentry and probation tails.

Ms. Kathy Waters presented the following code sections for the Council's approval:

- 6-201.01: Standard Probation Evidence-Based Practices

MOTION: To approve ACJA 6-201.01: Standard Probation Evidence-Based Practices, as presented. The motion was seconded and passed. AJC 2018-14.

- 6-202.01: Adult Intensive Probation Evidence-Based Practices

MOTION: To approve ACJA 6-202.01: Adult Intensive Probation Evidence-Based Practices, as presented. The motion was seconded and passed. AJC 2018-15.

- 6-204.01: Interstate Compact Probation Evidence-Based Practices

MOTION: To approve ACJA 6-204.01 Interstate Compact Probation Evidence-Based Practices, as presented. The motion was seconded and passed. AJC 2018-16.

- 6-211 Intercounty Courtesy Transfers

MOTION: To approve ACJA 6-211: Intercounty Courtesy Transfer, as presented. The motion was seconded and passed. AJC 2018-17.

Fair Justice Task Force – Mental Health Subcommittee Report & Recommendations

Mr. Kent Batty, Chair of the Subcommittee presented their report and recommendations and asked for the Council's approval.

MOTION: To approve the report and recommendations, as presented.
The motion was seconded and passed. AJC 2018-18.

Judicial Performance Review (JPR) Update

Chief Justice Bales reported on discussion among the justices on the need for a review of the JPR process and the development of model practices. He reported that a Task Force will be established to be chaired by former Chief Justice Ruth McGregor and will include Mike Hellon, Chair of JPR and other members to be determined. Justice Bales noted that the charge will be an assessment of where we are with JPR practices and ways to make improvements.

Update on Possible Coconino County Merit System Ballot Item

Chief Justice Bales briefed the Council members on the possible constitutional change to merit selection for its judges in Coconino County if its population surpasses 250,000. Mr. Gary Krcmarik provided additional information from a recent town hall in Coconino County.

Online Dispute Resolution (ODR) Update

Mr. Marcus Reinkensmeyer, Director of the Court Services Division of the AOC updated the Council members on ODR planning and considerations for courts. He explained the ODR process and Arizona's proof of concept. He noted there are pilot projects in the Superior Court in Yuma, Pinal, and Maricopa counties, as well as Scottsdale Municipal Court. Mr. Reinkensmeyer reported that they hope to implement this Fall and that he will come back to the Council with an update at that time.

Pima County Criminal Justice Improvements

Presiding Judge Kyle Bryson, Court Administrator Ron Overholt, Assistant County Administrator Wendy Petersen, and Manager of Pretrial Services Michelle Madrid briefed the Council members on criminal justice improvements taking place in Pima County.

Ms. Petersen provided a project overview and progress update on the Pima County Safety and Justice Challenge as well as the MacArthur Foundation grant and initiatives.

Call to the Public/Adjourn

The Chair made a call to the public.

Ms. Patty Machelor provided public comment. She stated the need to reduce costs for services in family court and solicit more community input.

Mr. Martin Lynch provided public comment and asked the courts to participate and seek real reforms.

Ms. Cynthia Oxman, a jail nurse in Pima County provided public comment regarding the need to address mental health and addiction issues in the jail. She spoke on family court and expressed her concerns with the effects on children and stated that the current system does not work in high-conflict custody cases.

The Chair presented a Certificate of Appreciation to outgoing Council members R. Tony Penn, Gary Krcmarik, and Alex Vakula and thanked them for their service on the Council.

The meeting adjourned at 3:52 p.m.