

DISTRICT COURT COUNCIL  
Minutes of August 24, 2001  
Conference Room - State Law Library  
Helena, MT

Members present:

**Chief Justice of the Montana Supreme Court:** Hon. Karla Gray

**District Court Judges:** Hon. Ed McLean, Hon. John Warner, Hon. Thomas McKittrick, and Hon. Diane Barz

**Ex Officio Members:** Glen Welch, Juvenile Probation Officers Association; Tim Smith, Court Reporters Association; Mike Hutchin, MACo; and Lori Maloney, Clerk of District Court (Butte)

**Staff:** Lisa Smith, Acting Court Administrator; and Mary Bryson, Temporary District Court Council Liaison

Guests:

Gordon Morris, MACO; Larry Finch, Department of Revenue; Sandy Oitzinger, Lobbyist; and Connie Erickson, Legislative Services Division

Chief Justice Karla Gray called the meeting to order at 8:10 a.m. She asked for a round table introduction of each member of the Council and also asked the audience members to identify themselves for the Council.

Overview of SB 176 - by Mary Bryson

Mary Bryson gave an overview of SB 176 (presentation attached to file copy minutes).

There was discussion/concerns about whether district court personnel issues and the pay matrix would be considered by this council. Various council members indicated they thought personnel issues came under their purview.

Per statute, the DCC will focus on administration of the state funding of district courts and the Supreme Court will focus on the Judicial Branch personnel plan.

Mary Bryson outlined the initial Council duties, goals and objectives, and the proposed work plan.

Establish Council Goals and Objectives

At the conclusion of the presentation there were several questions and discussion regarding the various aspects of the Council's duties, goals and objectives. In its deliberations, the Council adopted the following purposes and initial goals and objectives:

Purposes:

- 1.All decisions made by the District Court Council shall be in the best interests of a strong, independent judicial system in Montana.
- 2.The District Court Council will establish policies for statewide administration of the district courts.
- 3.The District Court Council will provide a forum, through its members, for input on administrative policies, procedures, and other issues in the statewide district court program.

There was discussion about whether this Council would allow public comment and questions at these meetings. **The Council decided that the public would be allowed to speak only through the representatives of the Council.**

Discussion of Proposed Work Plan

The Council discussed the components of the proposed work plan. These components include the adoption of policies and procedures, the guarantee share process and the requirement to address the inequities in disbursements of district court expenses, especially those related to involuntary commitment proceedings and youth court proceedings.

These are the inequities SB 176 directs the Council to address in order to make recommendations to the 2003 Legislature. The Council concluded that there are likely other inequities amongst the districts as there are the "haves" and "have-nots" districts. However, to a large extent, they will not be able to address other perceived inequities for a couple of years.

The Court system, through the Council has a huge transition to get through first - get the funding in place and meet its statutory obligations in this short time-frame. Once that work is completed the Council will likely be able to take on the more challenging tasks of looking to see what inequities there actually are and trying to minimize them. We want all people in Montana to have access to a strong court system. In addition, the Council must evaluate workload and resources in the statewide district court system.

Chief: We need, over time, to figure out what the fair, correct, and equitable way is of taking into account that we essentially have urban judges with small geographic spaces and rural judges with large geographic spaces. Those are all challenges to come. Okay, we need to focus on at least the ordering of the first two or three of these items so that we can come up with some specific game plan steps for them and get moving.

The Council discussed two primary categories to start on immediately: 1) the policy discussion regarding the court reporter issue, and 2) the guarantee share process.

### **Court Reporter Issue**

Discussion about the Court Reporter issue included the variables associated with the rural judges needing access to court reporters, and usually bringing a court reporter with them to the various counties. In addition, the amendments to statute were to provide low budget counties the ability to somehow fund the computer equipment a court reporter might need to take advantage of technology, but not be able to undertake to purchase on their own. Each district needed the flexibility to make the court reporter system work as economically as possible.

The Council discussed what tasks before it deal with the court reporter issues. Basically the legislation is very specific, so it should be fairly easy to dispense with. The Council can direct staff to determine the intent of the legislation, to evaluate the legislative requirements as it relates to court reporters -- looking at transcript fees, the equipment, and the options and then formulate a policy around those things. To say, at this point in time, until we have this transition completed, we're going to adopt a policy associated with what the legislation requires and put that in place.

Judge Warner: The Council can develop a policy that says to the court reporters that by "x" date, you will make a determination on an option and you will do so by sending a letter to this group and then that's kind of in our job jar, as I understand it?

Chief: And my sense of it is, one of the reasons the item might have been thrown up first on the work plan was that it is a fairly discreet, finite piece -- the gathering of information is easier and quicker and can be done in a more compressed time frame than some of these things that are going to be ongoing through many meetings. My thought would be that we ought to leave that one up first, let's get on with it and let's also give ourselves that sense of accomplishment.

Mary Bryson: The other thing is that it gives you the opportunity to establish a form or a framework for the kind of policies you develop. When you adopt policies, you're going to want to have some basic standardization. And because this one is fairly straight forward and finite, we can at the same time spend the time to set up a form for future policies and how they are going to look, so they all kind of have the same look and feel. They may take a meeting or two to go through that.

Chief: In the interim, if the court reporter task is one of the ones we decide to start with right now, there are a variety

of policies and forms used in state government and everywhere else. We don't need to start from scratch re-inventing the wheel - there are forms out there that we can look at.

Judge Warner moved and Judge McKittrick seconded a motion to adopt the work plan as presented with regard to the court reporter item and instruct staff in the interim to gather a variety of policies and forms used in state government for review by the Council at the next meeting. Motion passed.

### **Guarantee Share Process**

The Council discussed the steps associated with developing the guarantee share. Mary Bryson briefed the Council. One of the steps in the guarantee share process will be to obtain the information from the Department of Revenue. The information will help distinguish between fixed and variable costs. Then the question becomes presenting to the council a discussion of "these are generally the fixed costs and this is how we categorized them" and "these are generally the variable costs and you'll have a decision point on that" - and then you'll have to have the discussion of how you allocate the variable. I think that caseload is one of the items that's mentioned in the statute, but you may want to include others in your deliberations. But you won't have that information for the next meeting, we may have some base to say "here's kind of the numbers you're looking at for state-wide district court budget."

The Council then discussed at length what information might be available to it at the next meeting. Commissioner Hutchin presented information from Lake County as an example of what the counties might be able to provide. Larry Finch, Department of Revenue, discussed information the counties are preparing for the state right now. This information is due back to the Department of Revenue by August 28, 2001.

Larry Finch: I will just offer what we are going to be collecting in the way of information. These are the spreadsheets that we have asked every county to send back to us - all 56 counties. It's not budgets, it's actual expenditures. The only year that we're getting is for fiscal year 2001, and we're not doing any auditing of any of these numbers, but for any of the various functions of the court, you'll be getting a very detailed picture of every FTE - the position number, the salary, the benefits and other compensation - so you get the total personal services picture, the operating expenses by supplies, by repair and maintenance - 10 or 12 categories of operating expenses - you get contract services which are broken down into jury and witness fees for various types of programs for criminal, civil, witness fees, public defender services, psychiatric services -- basically the breakdown for district court operations. We have a section for allocated expenses, in order for counties where there is a central, for example, computer services -- where you can allocate a portion of those to the district court costs. The level of detail here, if completed...you have 56 counties, you have the ability to allocate these items in a form -- and I think that would provide you with the information you need.

The Council determined it was likely that each county might present the same information differently, calling an expense something different. There was discussion about focusing on two or three districts initially to get a sense of the information. Maybe on the front end we should pick out two or three districts. You see a compilation of Lake County's share of the 20th judicial district, but there's Mineral County over there and fortunately in this case, Mineral County is fairly close to the same thing so we could then total the two and look at them and say "these are variable, these are fixed", but we ought to maybe take on four districts or three districts rather than all 22 in the front end to help us determine what is variable and what is not.

In its directions to staff, the Council requested examples of 4 or 5 counties and some discussion of fixed and variable costs.

Judge McKittrick moved and Judge Barz seconded a motion to adopt the work plan associated with the development of the guarantee share process on the listed time line and direct staff that before the next meeting staff obtain some examples of the county reports. Motion passed.

### Meeting Summary

Chief: Those appear to me to be the first two items on the work plan and maybe that's enough, especially for us to take on for the next meeting. Does that seem rational and sensible? The other items, as I look at the work plan, appear to come enough later that we could at least wait until the next meeting to see...

Mary Bryson: In summary, **what we will be starting with at the next meeting is we will begin with policies associated with court reporting and we will also be bringing back to you format suggestions - 2 or 3 options - and then the second major item will be some discussion about the data that is available on the guarantee share financial information and some examples of fixed and variable costs based upon information that the Department of Revenue is collecting and then our expectation would be to get some direction at the next meeting from the council on the fixed and variable portions and which ones you want us to deal with and then bring back to the following meeting an analysis of allocation costs.**

Chief: Absolutely. You said it almost in the same order as the rest of us did, but said it in a way that the rest of us could understand.

Mary Bryson: **And then the next item that would be discussed on the work plan would be going into that inequities discussion which is scheduled for starting in November. At the next meeting or the following meeting, we'll want to have a discussion about the next set of policies you want to go through.**

Judge Warner: There's an administrative matter probably and maybe we can do this at this meeting -- and I don't think the legislature provided for it - at least set for when our terms start and...

Chief: I thought that the legislation did so provide? I'm not certain that the judges - the judges are on staggered terms and I'm not sure that you folks figured that out. Just come up with something according to legislation and let us know for the record. This isn't a decision that the Council makes -- the judges were supposed to be elected to staggered terms and if you haven't come up with the staggered terms I would encourage you to do so and we'll make it a matter of record so we can keep track. I believe the ex officio members terms are specified - three years. I think it ends up that one of the ex officio members pegs up to the same term as one of the judges so that everyone is staggering except for the chief.

After some discussion regarding staff resources with the Court Administrator's Office, Judge Barz moved and Judge Warner seconded that the District Court Council advise the Court that we want an assistant administrative liaison in place as soon as possible. Motion passed.

Judge Barz agreed to draft the letter to the Court from the District Court Council.

The Council then set the dates for the next meetings:

Next meetings: September 21, 2001; October 19, 2001; and November 30, 2001. The meetings will begin at 8:00 a.m.

Meeting adjourned at 12:00 p.m.