

State of Montana



DISTRICT COURT COUNCIL

Minutes of November 15, 2002
Old Livestock Building
1310 East Lockey
Helena, MT 59620

DCC Voting Members Present:

The Honorable Diane Barz, District Court Judge, 13th Judicial District
The Honorable Thomas McKittrick, District Court Judge, 8th Judicial District
The Honorable Ed McLean, District Court Judge, 4th Judicial District
The Honorable John Warner, District Court Judge, 12th Judicial District

DCC Non-voting Members Present:

Mike Hutchin, Lake County Commissioner, Polson
Lori Maloney, Clerk of the District Court, Butte
Vickie Pratt, Court Reporter, Helena
Glen Welch, Juvenile Probation Officers Association, Missoula

Staff:

Rick Lewis, Supreme Court Administrator
Beverley Boyd, Court Services Director
Beth McLaughlin, Human Resources Director
Lisa Smith, Administrative Services Director
Shelly Hinson, Administrative Assistant

Guests:

Harold Blattie, Montana Association of Counties (MACo), Helena
Ellen Bush, CASA/GAL, Helena
Bill Collins, CASA/GAL, Lewis and Clark County
Bonnie Olson, District Court Administrator, Flathead County, Kalispell

I. Welcome

The District Court Council met on Friday, November 15, 2002, at 8:00 a.m. at the Old Livestock Building, 1310 East Lockety, Helena, and MT 59620. Vice Chairperson Diane Barz called the meeting to order. A quorum being present, the meeting duly convened and business was transacted as follows:

II. Approve October 11, 2002 DCC Minutes

II.(a) Motion to Adopt: Judge John Warner, District Court Council Member, moved to adopt the October 11, 2002 District Court Council minutes as presented. Judge Thomas McKittrick seconded. Judge McLean called the question. No further discussion. Motion passed unanimously.

Revert to V. Involuntary Commitment

The District Court Council members discussed the matter of paying the “friend of the respondent”. The Council decided that “friend of the respondent” costs would not be paid by the courts because a “friend of the respondent” is a voluntary position.

V.(a) Motion to Adopt: Judge Ed McLean moved to adopt a no pay policy under Involuntary Commitments under title 53-21-102, MCA, that the “friend of the respondent” is not a fee generated position and is performed pro bono. Judge Thomas McKittrick seconded. Judge Diane Barz called the question. No further discussion. Motion passed unanimously.

Revert to VII. Legislation Update

Beth McLaughlin discussed that Lisa Smith will be forwarding a budget fact sheet to District Court Judges and Chief Probation Officers. Beth stated that all the court legislation is ready to be introduced by the Legislature. Judge McLean requested the District Court Council review the budget fact sheet prior to its distribution to the District Court Judges.

Harold Blattie said the 2001 Legislature passed a bill that authorized a review of the lobbying rules. Commissioner Lynn Boyd chaired a committee that met over the course of the interim that drafted new lobbying rules, which have been unofficially adopted and have yet to be posted through the Secretary of State. During a review of the rules it was discovered that local elected officials are required under current statute to register as lobbyists. Statewide elected officials and legislators are exempt. MACo drafted two bills that would exempt local elected officials. Harold suggests that the Office of the Court Administrator investigate Juvenile Probation Officers to see whether they need to be registered

as lobbyists. Harold didn't know whether District Court Judges were included as statewide elected officials or local elected officials. Rick Lewis was asked to find out how the District Court Judges would be considered, either as statewide elected officials or local elected officials. Rick was asked to report his findings to the Council.

Revert to III. Budget

Status on 2002 Reimbursement:

Lisa Smith reported that February and March reimbursement claims are complete. Lisa estimated that the reimbursement project will be complete within six weeks. Based on averages from the January through March reimbursement amounts, there should be enough money in the budget to reimburse through June for the Criminal and Youth in Need of Care. There will not be money left for grants. The amount accrued from July through December of 2001 was 2.56 million. January 2002 District Court Criminal Reimbursement was \$424,000 and Youth in Need of Care was \$37,900; February 2002 Criminal Reimbursement was \$377,000 and Youth in Need of Care was almost \$40,000; and March 2002 Criminal Reimbursement was \$400,900 and Youth in Need of Care was about \$50,000.

Status of the 65% Reimbursement:

Lisa Smith reported that budget status reports would be complete by the end of November. Lisa asked the Council if appointed council costs should be standardized. The Council discussed the various rates that are used throughout the state.

III.(a) Motion to Adopt: Judge Thomas McKittrick moved that the old format with an amendment to accommodate staff with the information needed be adopted uniformly with for District Court and Youth Court and that the appointed counsel fee should not exceed \$60.00 per hour.

III.(b) Amendment to Motion: Judge John Warner amended the motion to add that any orders exceeding this range shall be by written order stating the reasons and circumstances.

III.(c) Amendment to Motion: Judge Thomas McKittrick amended the motion to read, "the old format with an amendment to accommodate staff with the information needed be adopted uniformly for District Court and Youth Court and that the appointed counsel fee should not exceed \$60.00 per hour as guidelines for reimbursement." Judge John Warner seconded. Lisa Smith mentioned it would be an administrative services internal operating policy. Judge Diane Barz requested the policy be drafted to formally approve it at the next meeting. Judge Diane Barz called the question. No further discussion. Motion passed unanimously.

Lisa stated that Shelly, Charlotte (temporary staff), and Cathy are working on the old District Court Reimbursement, she and Becky will focus on the current year reimbursement starting with July and will try to get one month done before the end of November. It will then be on the state accounting system and Lisa will develop a budget status report for the next District Court Council meeting. This will provide some information to the Council to decide if the 65% is a reasonable figure for reimbursement. Judge Diane Barz instructed the new form be created and distributed to all the districts requesting them to resubmit their reimbursement claims since July 2002.

IV. CASA

Beverly Boyd introduced Ellen Bush, the new director of CASA at the Supreme Court and Bill Collins who is with the local CASA program in Helena. Lisa reported on CASA payments throughout the districts. She asked for Council direction on how CASA and GAL expenses will apply to the reimbursement discussion. The Council discussed the needs for CASA and GAL and the need for a standard rate. Lisa told the Council that the average statewide rate for CASA is \$750 for each case for administrative costs. Judge Diane Barz stated that CASA is charitable organization and needs to depend on local and charitable fundraising. Bill Collins responded that the average cost per case in Lewis and Clark County is \$650 and that grant writing and fund raising supplements their expenses.

IV.(a) Motion: Judge Ed McLean moved that CASA be reimbursed, starting now, at \$400 per case to CASA up until January 2003 and that no policy be adopted until CASA can make a presentation to the Council. Judge Thomas McKittrick seconded. Lisa Smith said regardless of the different expenses throughout the state, available funding is only \$400 per case for CASA. No further discussion. Judge Diane Barz called the question. Motion passed unanimously.

IV.(b) Motion: Judge Ed McLean moved that GAL be reimbursed up to the maximum rate of \$60.00 per hour unless it is paid out of a contract or an existing office, such as the public defender, then it is to be reimbursed at the going rate of the those offices. Judge John Warner seconded. No further discussion. Judge Diane Barz called the question. Motion passed unanimously.

Revert to VIII. Allocation of Resources

Judge John Warner discussed the Juvenile Probation Survey that will be sent to chief juvenile probation officers. Judge Warner asked that District Court Council letterhead be designed and used for a cover memo, and signed by the Judge to accompany the survey. The survey results will help determine how to

allocate the resources in juvenile probation. The Council agreed to the letterhead and the memo signed by Judge Warner.

Judge Ed McLean will refer the issue to the Montana Judge's Association of the extensive costs being created for the public defender's office for the third offense juvenile appearing before the District Court Judge.

Judge John Warner reviewed the "District Court FTE by Case Volume and Recommended Model" spreadsheet that was presented to the District Court Council and disagreed with the way the courts were listed. The judge believes that the courts should be listed as the District Court FTE by average caseload per judge.

Rick Lewis discussed the spreadsheet and explained that it is an example to show how many FTE's per District Court Judge and that as the recommended model is constructed, the group can find ways to enhance, improve, and make it more realistic to meet the actual needs.

IX. Other Business

Lisa Smith told the Council that State agencies may not by policy pay the dues and licensing/certification fees of state employees. Members of the Council didn't agree that the Judicial Branch was a state agency. Therefore, licensing/certification fees that are required as a condition of employment should be at the discretion of the District Court Judges.

IX.(a) Motion: Judge John Warner moved as an allocation of resources within the jurisdiction of this Council that the staff pay license fees and fees for membership in an organization of Judicial Branch employees that are required as a condition of their employment. Judge Thomas McKittrick seconded. Judge Ed McLean called the question. No further discussion. Motion passed unanimously.

The Council discussed the subject of dues and whether if dues are currently being paid should payment by the court continue. The Council tabled the matter for discussion at the next District Court Council meeting.

The Council members discussed issues and concerns regarding court automation. Rick said that prior to himself and Dan Chelini, that some districts got more attention from automation. Since the state assumption, there has been an added responsibility, such as Youth Court, and Dan has tried to focus on the needs of the state. Currently, IT is supporting over 900 users statewide. The reality is not having enough resources to meet the needs. The Commission on Technology is currently addressing the IT problem by establishing a long-range strategic plan for information technology.

Rick Lewis asked what issues are not being addressed. Rick will discuss the issues with Dan Chelini.

The next District Court Council meeting is January 17, 2003.

X. Adjournment

Meeting adjourned at 11:50 AM by order of the Vice Chair, District Court Judge Diane Barz.