

State of Montana



DISTRICT COURT COUNCIL

**Minutes of September 13, 2002
Old Livestock Building
1310 East Lockey
Helena, MT 59620**

DCC Voting Members Present:

Chief Justice Karla M. Gray, Montana Supreme Court
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:

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
Shelly Hinson, Administrative Assistant

Guests:

Harold Blattie, Montana Association of Counties (MACo), Helena
The Honorable Bruce Loble, Water Court Judge
Gordon Morris, Montana Association of Counties (MACo), Helena
Bonnie Olson, District Court Administrator, Flathead County, Kalispell
Lynn Zanto, Legislative Fiscal Division, Helena

I. Welcome

The District Court Council met on Friday, August 16, 2002, at 8:00 a.m. at the Old Livestock Building, 1310 East Lockey, Helena, and MT 59620. Chairperson Chief Justice Karla M. Gray called the meeting to order. A quorum being present, the meeting duly convened and business was transacted as follows:

II. Approve August 16, 2002 DCC Minutes

II.(a) Motion to Adopt: Judge Diane Barz, District Court Council Member, moved to adopt the August 16, 2002 District Court Council minutes as presented. Judge John Warner seconded. Judge McLean called the question. No further discussion. Motion passed unanimously.

III. Section 62 Mandate - - Involuntary Commitments and Youth Court

Beth McLaughlin discussed the district court costs in the Youth Court Act. The district court costs should be under 3-5-901, MCA and not scattered in the Youth Court Act and other sections of statute. Involuntary Commitment costs were changed in Section 1, 53-21-132, MCA to be district court costs instead of county costs.

III.(a) Motion to Adopt: Judge Ed McLean, District Court Council Member, moved to adopt the Section 62 Mandate. Judge John Warner seconded. Judge McLean called the question. No further discussion. Motion passed unanimously.

Revert to VI. Reallocation Discussion

Rick Lewis discussed the gathering of information of what has been done nationally as well as specific states in the area of staff allocation. The National Center for State Courts established guidelines for assessing the need for staff.

Rick discussed the various techniques used. The Weighted Caseload technique assesses the actual time spent on various activities and the time it takes to process cases from filing to disposition. It translates actual caseload into workload.

The Delphi technique brings a group of "experts" together to estimate the amount of time it takes to process certain cases, events, or activities.

The Simulation technique is a computer model. This method projects staffing based on future changes to the system.

The Ratio model is a traditional technique used to compare the number of judges' staff per filing, number of judges per filing, number of staff per judges, etc.

Beverley Boyd discussed the different studies for caseload that could be used in the courts for the non-judicial staff. Discussion of the District Court Council's best combination for the studies resulted in using the Ratio and Delphi methods for the study in Montana. A uniform accounting from each judge is necessary to allocate the time for cases. The result of the studies will provide a guide when allocating resources in the future.

Chief Justice Karla Gray suggested that a plan be developed for the Council to review at the next District Court Council meeting. Considerations may be discussed to determine what criteria should be included in the study. In the interim, staff can be gathering basic data. The ultimate goal is to compare what is going on in various districts in some kind of an equalized fashion.

There was discussion between Council members on how to approach court staff with the study so no one will feel their position is being threatened.

IV.(a) Motion to Direct: Judge Diane Barz, District Court Council Member, moved to direct the Judicial Branch staff to explore resource allocation with the use of Ratio and Delphi methods. Judge Thomas McKittrick seconded. Discussion between council members covered the subject of what would be presented at the next District Court Council meeting. The understanding of the Council was staff would put together a format using the Ratio and Delphi methods and present it for review and revision. Judge McLean called the question. No further discussion. Motion passed unanimously.

Chief Justice Karla Gray suggested a list of basic data that would list General Fund (HB2) staff and their locations be provided at the next District Court Council meeting. Judge Ed McLean felt it necessary to include the grant-funded staff also.

Judge Thomas McKittrick brought up the issue of parity among the employees. Chief Justice Karla Gray addressed the issue by informing the Council that the best we can do with the Legislature is try to move up the employees that are below minimum. She could not guarantee the Legislature would even approve that. Judge Thomas McKittrick felt it was prudent to have the salary information for all the employees in case someone asked the District Court Council for that information. Chief Justice Karla Gray said that Beth McLaughlin could provide him that information, but she was trying to keep focused on the current tasks the Council needs to accomplish. Judge Ed McLean felt the salary issue was distinct from the issue at hand. Judge John Warner disagreed by saying the allocation of the resources are the dollars and

the people that are getting the dollars. Example: In one area an employee receives more pay for the same job a person in another area works and yet both areas receive the same allocation.

Chief Justice Karla Gray stated she was not convinced that the list would help rather than hurt the situation for staff and asked what would be made better by having exact salary numbers for all the corresponding positions.

Judge Ed McLean informed the Council that disseminating the salary information to staff would create more administrative issues for the judges.

Chief Justice Karla Gray informed the Council that the salary of any state employee is public information and anyone can request the list at any time they desire.

Judge Thomas McKittrick made the following motion:

IV.(b) Motion: Judge Thomas McKittrick, District Court Council Member, moved the salary list accompany any other data that we collect in using the Delphi and the Ratio model so that we can make some informed decisions. Judge John Warner seconded. Chief Justice Karla Gray opposed the motion, stating the Council cannot take on both issues at the same time and moreover, the Classification and Compensation plan is a separate item. Judge John Warner asked Beth McLaughlin if the motion passes whether the information would be readily available or if it would take considerable research and time. Beth informed the Council that it is available but it would be necessary to have the date of service along with the name, classification, and salary. This would show the longevity of the employee, which plays a significant role in each employee's salary. After the 4% cost of living increase, there are fewer than 20 employees that are below the minimum for their assigned pay rate. Judge Thomas McKittrick told the Council that if there is going to be a strong, independent, judiciary in the state of Montana, the Judiciary has to be properly funded. Judge Warner called the question. Chief Justice Karla Gray, Judge Diane Barz and Judge Ed McLean voted against the motion and therefore the motion failed.

Judge John Warner was interested in the process of the format of the reallocation form and wanted to be involved in the process.

As a formal request, Judge Thomas McKittrick requested from Beth McLaughlin a salary list that shows the job title. Chief Justice Karla Gray said the Classification and Compensation Plan was sent to all the Judges, which provided the job description and the salary information for it. Judge Thomas McKittrick requested another copy of that document. Judge John Warner and Judge Diane Barz requested the same list of information from Beth McLaughlin. Chief Justice Karla Gray then suggested that Beth McLaughlin send the salary information to

all the Judicial Members of the Council. Chief Justice Karla Gray noted Judge John Warner's interest in participating in putting the plan together by the next District Court Council meeting.

Revert to V. Water Masters Section 3-7-301

Beth McLaughlin discussed the repeal of Section 3-7-301, (1) (4) MCA, as submitted to the Council. As a result of repealing subsection 4, a Water Master would not serve at the pleasure of the Chief Water Judge, with the understanding that the Water Master is an employee of the Judicial Branch and falls under the Judicial Branch personnel plan and policies.

Chief Water Judge Bruce Loble addressed the Council with his reason for leaving the language in. He said the Water Masters have a broad discretion of authority in Montana and as Chief Water Judge, he should have the authority to remove or terminate a Water Master for wrong doings in his or her position.

V.(a) Motion to Adopt: Judge Ed McLean, District Court Council Member, moved to not adopt Section 3-7-301, (1) (4) MCA as submitted to the Council. Judge John Warner seconded. Judge McLean called the question. No further discussion. Judge Ed McLean, Judge John Warner and Judge Thomas McKittrick voted for the motion. Chief Justice Karla Gray and Judge Diane Barz voted against the motion. Motion passed.

Chief Justice Karla Gray stated Section 3-7-301 (1) (4), MCA, will be amended by removing "**AMENDING SECTIONS 3-7-301**" in the title, in reference to the language of Water Masters; and restore Section 1 as it has previously been before the Council. The other sections will be renumbered and presented to Legislature.

VII. Other Business

Gordon Morris requested a report on the status of FY02 reimbursements and an update on FY03 reimbursements and wondered if the project was within the 30-day time frame. Chief Justice Karla Gray asked Rick Lewis to have Lisa Smith update Gordon Morris and the Council on the reimbursement progress. Judge Ed McLean asked if the 65% reimbursement could also be reviewed. Chief Justice Karla Gray informed the Council that the subject regarding the 65% reimbursement would be on the agenda of the October 11, 2002, District Court Council meeting.

Judge Ed McLean asked Chief Justice Karla Gray if she was going to have a State of the Judiciary report to the Montana Judges Association on state assumption. Chief Justice Karla Gray asked Judge Ed McLean to contact Justice Jim Regnier to put her on the agenda for Tuesday, October 1, 2002, in

place of Judge McLean and Judge John Warner, as they will be in Glendive at that time.

The basics of what changes are proposed in the budget will be summarized and distributed to all the district court judges after the budget has gone to the governor's budget office. The summary should be ready to distribute to the district court judges after November 1, 2002.

The schedule for the District Court Council meetings is October 11, 2002 and November 15, 2002. The Council tentatively scheduled January 17, 2003 for January's District Court Council meeting.

VIII. Adjournment

Meeting adjourned at 10:30 PM by order of the Chair, Chief Justice Karla Gray.