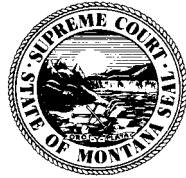


State of Montana



DISTRICT COURT COUNCIL

**Minutes of July 18, 2003
Justice Building 215 N. Sanders
Attorney's Lounge on 4th Floor
Helena, MT 59601**

DCC Voting Members Present:

The Honorable Karla Gray, Chief Justice, Supreme Court
The Honorable Diane Barz, District Court Judge, 13th Judicial District
The Honorable Ed McLean, District Court Judge, 4th Judicial District
The Honorable Thomas McKittrick, District Court Judge, 8th Judicial District
The Honorable John McKeon, District Court Judge, 17th Judicial District

DCC Non-voting Members Present:

Lori Maloney, Clerk of the District Court, Butte
Mike Hutchin, County Commissioner, Polson

Staff:

Jim Oppedahl, Court Administrator
Lisa Smith, Administrative Services Director
Shelly Hinson, Administrative Assistant

Guests:

The Honorable Ted Lympus, District Court Judge, 11th Judicial District
The Honorable Kathleen Curtis, District Court Judge, 11th Judicial District
Bonnie Olson, Court Administrator, 11th Judicial District
Katrina Martin, Helena
Harold Blattie, MaCO, Helena
John Stromner, Missoulian

I. Welcome

The District Court Council met on Friday, July 18, 2003, at 8:00 a.m. at the Justice Building, 215 N. Sanders, Helena, MT 59601 in the Attorney's Lounge on the 4th floor. 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 June 20, 2003 DCC Minutes

II.(a) Motion to Adopt: Judge Ed McLean, District Court Council Member, moved to adopt the June 20, 2003 District Court Council minutes. Judge Thomas McKittrick seconded. Judge Ed McLean called the question. No further discussion. Motion passed unanimously.

III. Public Comment

Chief Justice Karla Gray presented a copy of the letter that was addressed to the 11th Judicial District advising them that the order they had entered did not comply with Policy 810 and counsel would not be paid under the Order from the 11th Judicial District, that they would be paid \$60.00 per hour under Policy 810.

Judge Ted Lympus, Judge Katherine Curtis, and Bonnie Olson explained to the council that the 11th Judicial District does not have a county created/run public defender office, has a very high criminal case load, cannot function in a system where by the judges would have to appoint public defenders on a case by case basis, and a system where there is not someone to administer the public defender system.

IV. Public Defender and Indigent Defense Policies

IV.(a) Motion: Judge Diane Barz, moved to amend Policy 810 by inserting after the word “appointees”, the following: **“to include administration and appointment on such basis as deemed appropriate by order of the district court judges with a fixed amount at \$60.00 per hour”**. The amended section 4 then reads: **“Pursuant to 3-5-901, MCA the state district court program shall directly pay court appointed counsel or certain other appointees to include administration and appointment on such basis as deemed appropriate by order of the district court judges with a fixed amount at \$60.00 per hour”**. Judge Tom McKittrick seconded the motion.

Judge Ed McLean suggested Judge Barz amend the motion to state following after the words *district court judges*: **“which will not exceed \$60.00 per hour subject to intermittent auditing by their court administrator”**.

IV.(b) Amended Motion: Judge Diane Barz amended the previous motion to include the following language in 4.0, at the end of the underlying proposal, add the following: **“which will not exceed \$60.00 per hour subject to intermittent auditing by the court administrator”**. The Council members discussed the amended motion. Amended **motion failed** for lack of a second.

Revert to IV.(a) Motion: Judge Ed McLean called the question. **Motion carried** 4 – 1.

IV.(c) Motion: Judge John McKeon moved to amend Policy 810, 6.0(a) to insert after the word “circumstances”, the following: “**which will be determined at the discretion of the presiding judge**”. The amended Policy 810, 6.0(a) then reads: “**Reasonable compensation is presumed not to exceed \$60.00 per hour in the absence of a showing of extraordinary circumstances, which will be determined at the discretion of the presiding judge**”. Judge Thomas McKittrick seconded the motion. The council discussed the motion. Judge McKittrick called the question. **Motion carried 3 –2.**

Jim Oppedahl presented the council with a beginning draft of a handbook on the payment of state costs for Montana’s district courts. The handbook will provide forms for claims, statutes, and policies for the administration of district court program.

POLICY 830

Jim Oppedahl recommended keeping Policy 830 as adopted after discussing the policy with the public defender offices. Chief Justice Karla Gray stated the policy had been adopted at the last meeting but the numbering needed to be corrected.

IV.(d) Motion: Judge Diane Barz moved to authorize the staff to correct numbering inconsistencies and typographical errors in Policy 830. Judge John McKeon seconded the motion. Judge Ed McLean called the question. Motion carried unanimously.

V. Clarification on Post Conviction Proceedings

The Council discussed what the state would pay regarding post conviction proceedings. Jim Oppedahl will contact the Department of Corrections on the statutes and present his findings at the next District Court Council meeting.

Jim presented the Council a draft copy of a Uniform Affidavit of Indigency Form. He asked them if they would like to further discuss this at the next meeting. The Council agreed that it should be placed on the next agenda for discussion.

VI. Budget Update

Jim Oppedahl reported on the reimbursement process. About 20 counties haven’t submitted their June bills. The calculations cannot be made for the final payout for FY 2003 reimbursements until all the claims are in. Jim requested the Council to set a date of August 8, 2003 as the deadline for the receipt of bills. If bills are not in by August 8, 2003, they will be denied reimbursement.

VI.(a) Motion: Judge Diane Barz moved: “**that counties be directed the deadline for FY2003 claims to be received in the Court Administrator’s**

Office is at the close of business on August 8, 2003”. Judge John McKeon seconded the motion. Judge Ed McLean called the question. Motion carried unanimously.

There will be a budget report of the FY2003 closing information and the allocation of FY2004 at the next District Court Council meeting.

VII. Uniform Reporting Standards

Judge Ed McLean informed the council that the district court clerks agreed on the cases to be filed as one-name, one-case basis. There will be a proposed policy and an effective date proposal for the policy to begin at the next meeting for the Council to review.

VIII. Youth Court Complaint Resolution

The Council discussed the draft Youth Court Complaint Policy and noted some unclear language in several areas. Glen Welch was asked to take the matter back to the committee to review and clarify the issues with Jim Oppedahl's help.

IX. Special Session Discussion

The Council generally discussed the possibility of a Special Session of the Legislature. Council members noted several concerns and decided that at this time they should simply be prepared to explain any financial concerns that may be present when and if a Special Session is called.

X. Other Business

The next District Court Council meeting is scheduled for September 19, 2003 in Great Falls during the State Bar convention at the Heritage Inn. The following meeting is October 24, 2003 at 215 North Sanders, 4th floor, Attorney's Lounge, in Helena.

VIII. Adjourn

Motion: The meeting adjourned at 11:45 a.m. by order of the Chair, Chief Justice Karla Gray.