

State of Montana



DISTRICT COURT COUNCIL

**Minutes of September 19, 2003
Best Western Heritage Inn
Montana/Alberta Room
1700 Fox Farm Road
Great Falls, Montana**

DCC Voting Members Present:

The Honorable Karla Gray, Chief Justice, Supreme Court
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:

Glen Welch, Chief Juvenile Probation Officer, 4th Judicial District

Staff:

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

Guests:

The Honorable James Rice, Justice, Supreme Court
The Honorable John Warner, Justice, Supreme Court
Bonnie Olson, Court Administrator, 11th Judicial District
Beth Brenneman, ACLU, Helena

I. Welcome

The District Court Council met on Friday, September 19, 2003, at 8:00 a.m. at the Best Western Heritage Inn, 1700 Fox Farm Road, Montana/Alberta Room, Great Falls, Montana. 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 July 18, 2003 DCC Minutes

II.(a) Motion to Adopt: Judge Thomas McKittrick, District Court Council Member, moved to adopt the July 18, 2003 District Court Council minutes. Judge John McKeon requested the language of his motion to be corrected on IV.(c) Motion to say: **“which will be determined on a case by case basis by findings 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 on a case by case basis by findings of the presiding judge.”** Judge Thomas McKittrick amended his motion per the language correction request of Judge John McKeon. Judge Ed McLean seconded the motion. Judge Ed McLean called the question. No further discussion. Motion passed unanimously.

III. Public Comment

Chief Justice Karla Gray asked for public comment. There was none.

IV. Administrator’s Report

Jim Oppedahl discussed the Juvenile Probation grants that were received from OPI, which provided 54 PC’s this year. Additional funds will start on October 1st for Juvenile Probation and Youth Court for operational costs.

Video conferencing sites are currently in 28 areas statewide. A grant request is in to the Montana Board of Crime Control for 4 more sites. The grant would cover video conferencing equipment at the Supreme Court, Attorney General’s office, the law school, and one at the Montana Law Enforcement Academy. Applications are in at the Department of Administration Enterprise fund that will assist the line and maintenance charges for video conferencing.

The first edition of the Handbook on the Payment of State Costs for Montana’s District Courts was emailed out to all District Court Judges, District Court Clerks of Court, County Commissioners and several attorneys on July 31, 2003. It is also available on the Law Library and State Bar websites. A second edition of the handbook will be out around the end of October.

Fiscal year 2003 bills are paid and the accounting department is now working on July and beginning of August bills. The Court Administrator’s office is obligated to pay the incoming bills 30 days from the date of receipt when it is received in the district court.

The total variable costs for the FY 2003 reimbursements were \$7,871,907. The variable appropriation was \$7,483,879, which left the counties’ responsibility at \$388,028.

Jim reported on the FY2004 district court variable projection. There are several counties that have not reported their public defender expenditures for July. A cut off date will be established for the counties to submit the monthly public defender bills. A month-by-month tracking of the appropriation spent will be done by the Court Administrator's Office.

The total fixed and variable appropriation for FY2005 is \$18,435,553. Reverted general fund carried forward to the 2004-2005 biennium in the amount of \$653,596. The fixed amount allocated to districts fully funds personal services and allocates operating expenses at 5% over fiscal 2003 "actuals". No funding is allocated to district budgets for equipment.

Jim contacted the Department of Corrections regarding the post-conviction costs. Department of Corrections is currently paying the post-conviction proceedings and will be seeking legal assistance for clarification of responsibility.

Jim contacted Penny Strong in Billings to review options for the indigency form and standards. The form is a work in progress and should be available for the October meeting to review.

The Youth Court Complaint Policy has a few amendments and will be presented to the Juvenile Probation Officers Association meeting in October for their review and comments. The policy will then be brought to the next DCC meeting in October.

SJR 31 – Study of Juvenile Probation – The Law & Justice Interim Committee is reviewing the Youth Courts, parental rights, and other issues. Their next meeting is scheduled for October 23, 2003.

Glen Welch asked if the cost containment funds that are held currently by the Department of Corrections moving to the Judiciary budget. Jim Oppedahl said there would need to be a statute change before this could be done.

Revert to VI. Uniform Reporting Standards

Judge Ed McLean presented the Council with the suggestions by the Montana Clerk of Court Association. Their results show that each case that is filed and each individual involved should be separate, with the exception of a criminal case of multiple crimes related to the same transaction, they should all be included under the same case number. Judge Ed McLean stated it is most helpful when information can be obtained from the same file regarding tracking and disposition of each individual youth for DJ cases and reoccurrences of mental disorders of DI cases.

Judge Ed McLean will draft a proposed rule regarding the Uniform Reporting Standards and provide it to the District Court Council members by email prior to the October meeting.

Jim Oppedahl suggested reporting in the Annual Report of the Judiciary be done on a fiscal year basis instead of calendar year as it currently is.

Chief Justice Karla Gray asked Judge Ed McLean to put an effective date in the proposed rule.

VI.(a) Motion to Adopt: Judge Thomas McKittrick moved to adopt the proposed Dependant Neglect paragraph stated in the September 18, 2003 proposal of uniform filings of cases. Judge John McKeon seconded. Judge Ed McLean called the question. Motion carried 3 – 1.

VI.(b) Motion to Adopt: Judge John McKeon moved to adopt the position of Judge Ed McLean on the September 18, 2003 proposal on DI commitments and DJ Juveniles. Judge Thomas McKittrick seconded. Judge Ed McLean called the question. Chief Justice Karla Gray asked if the Council would adopt the exact wording in the comments of Judge Ed McLean.

VI.(c) Amended Motion to Adopt: Judge John McKeon amended his motion to support the written comments of Judge Ed McLean of the September 18, 2003 proposal and adopt the proposal as suggested. Judge Thomas McKittrick seconded. Judge Ed McLean called the question. Motion carried.

V. Policy Proposals/Amendments/Updates

The Council discussed the proposed Travel Reimbursement Policy #880. The subject of the policy is indigent defense/public defender travel and per diem expenses. Jim Oppedahl checked with the Department of Administration and they would be able to provide a card for court appointed attorneys to receive state rates for lodging. There were various questions and concerns by the Council on the proposed policy. It was decided the policy would need to be reworked and brought back to the next District Court Council meeting in October to discuss.

The Council discussed the proposed Policy 850, Psychiatric Exam amendments, and action was deferred for references in state assumption language and MCA 46-14-202. A draft will be sent out to Council members by email prior to the October meeting.

Jim Oppedahl presented for information purposes amended Policy 770, which allows out-of-state travel when pre-approved by the Court Administrator's Office.

The other policies needing review for the October meeting are #710 – Fixed and Variable, #740 – Office/Operating Costs, #760 – Telephones, #1020 – Criminal Case Expenses, #1210 – Child Abuse, and #1240 – Youth Court.

VII. District Court Council Communications and Representation

Judge John McKeon will continue writing a short memorandum regarding the District Court Council meetings and will send it to Jim Oppedahl for distribution to Supreme Court Justices, District Court Judges, Clerks of District Court, and interested persons. It will be announced at the Montana Judges Association meeting in October that email will be a main source of communication.

VIII. Other Business

The next District Court Council meeting is scheduled for October 24, 2003, 8:00 a.m., 215 North Sanders, 4th floor, Attorney's Lounge, in Helena. Jim requested the District Court Council meetings be changed to every other month instead of monthly. The meeting following is scheduled for December 5, 2003, 8:00 a.m., 215 North Sanders, 4th floor, Attorney's Lounge, in Helena.

Chief Justice Karla Gray informed the Council that Judge Diane Barz is resigning from her position at the end of the year, which will create a vacancy on the District Court Council. The vacancy announcement will be noted in the memo from Judge John McKeon and also discussed at the Montana Judges Association. Any judge interested will need to contact Chief Justice Karla Gray. As a result of the vacancy, the Supreme Court will appoint the replacement.

Judge Ed McLean asked how the Information Technology progress is going with the conversion from Word Perfect to Microsoft Word. Jim Oppedahl said that the Judicial Assistants and Supreme Court Clerk's office is going to take around six months to convert the information they currently have because of the many macros that are used.

IX. Adjourn

Motion: Judge Thomas McKittrick moved to adjourn. Judge Ed McLean seconded. The meeting adjourned at 11:35 a.m. by order of the Chair, Chief Justice Karla Gray.