

State of Montana



DISTRICT COURT COUNCIL

**April 19, 2002
Minutes of April 19, 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:

Mike Hutchins, Lake County Commissioner, Polson
Tim Smith, Court Reporters Association, Billings
Glen Welch, Juvenile Probation Officers Association, Missoula
Lori Maloney, District Court Clerk, Butte

Staff:

Rick Lewis, Supreme Court Administrator
Beverley Boyd, Court Services Director
Beth McLaughlin, Human Resource Director
Lisa Smith, Administrative Services Director
Dan Chelini, Information Technology Director
Shelly Hinson, Administrative Assistant, Court Administration

Guests:

L. Harold Beattie, Montana Association of Counties (MACO), Helena
Matt Bugni, Office of Budget and Program Planning, Governor's Office
Becky Buska, Court Administrative Services
Tim Callahan, State Representative, Juvenile Probation Office, Helena
Doug Dellwo, CASA/GAL
Connie Erickson, Legislative Services Division, Legislative Branch, Helena
Sandra Oitzinger, ED, M&POA, Helena
Bonnie Olson, District Court Administrator, Flathead County
Jim Oppedahl, Montana Board of Crime Control
Cathy Pennie, Court Administrative Services
Ed Zimny, National Center for State Courts, Denver, Colorado

The District Court Council met in regular session on Friday, April 19, 2002, at 8:00 a.m. at 1310 East Lockey, Helena, 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:

(Item No. 1)

Welcome and Introductions

Rick introduced Ed Zimny of the National Center for State Courts in Denver, Colorado. Lisa Smith introduced two new employees to the Court Services Division, Becky Buska and Cathy Pennie. They have accepted the position of Accounting and Fiscal Policy Analyst and will begin work on April 22, 2002.

(Item No. 2)

Approval of the March 15, 2002 minutes.

The Chairperson presented the March 15, 2002 minutes. Mike Hutchins mentioned on page 2, Item 3a, that he did not recall making a motion. It was determined that Judge Warner made the motion. It was requested by the Chairperson to change the minutes to reflect correction.

Motion to approve the minutes of March 15, 2002 as corrected was requested by District Court Council Member, Judge Barz. Motion to adopt as corrected was seconded by District Court Council Member, Judge McLean. No further discussion.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

(Item No. 3) POLICIES

Travel Policies

Lisa Smith asked that any policies approved today be approved and grant authority to make editorial changes. A management authority has been defined for state travel, which is basically the judge or a designee in each district that makes variances in the policies if needed. It is required that a state vehicle be used by state employees when possible. The judge will have the discretion to allow employees to take their own car and reimburse mileage. Out of state travel should be kept to a minimum. Employees are allowed to charge for the time they are in a travel status to get to a conference and while they are at the conference, work related. In the evening during social activities and dinner, that time is not chargeable. As funding allows, the state motor pool will be a resource available to lease vehicle for state travel. The lease includes repair and maintenance and all fuel.

Policy 3.2 requires a signed State Vehicle Use form to be signed by any employee before they drive a state vehicle.

To Do: Lisa Smith will change on paragraph 3(b) from “the employee will receive per diem and hotel expenses, etc.” to “the employee will receive meals and hotel expenses, etc.” On policy 3.1 the summer rate of \$55.00 for hotels was not listed and should be shown on the policy.

WHEREAS, The District Court Council has reviewed the Employee Travel Policy as amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the Employee Travel Policy subject to editorial amendments by District Court Council Member, Judge McKittrick. Judge Barz seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves the Employee Travel Policy subject to editorial amendments.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

Procurement Policy

Lisa Smith discussed purchasing items through Central Stores. The Judicial Branch is obligated to consult with Central Stores by the Montana Procurement Act. The District Court Judge or a designated staff member can order major purchases more than \$5,000 through the Central Stores program. There will be no additional delivery charge by Central Stores for items purchased through them. Items less than \$5,000 can be purchased locally if Central Stores is contacted first and their cost is higher. If the item is purchased locally, a note stating the item was less than Central Stores must be made on the invoice. The prices showing in the Central Stores catalog are not the actual price given to the state. An item-by-item discount is given. Therefore, it would be beneficial to have one person within the court to be responsible for purchasing.

It was suggested by Glenn Welch to include county central stores purchasing in 3.1(e).

WHEREAS, The District Court Council has reviewed Procurement Policy 3.1 (e) to include county central stores purchasing as amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to amend Procurement policy 3.1(e) to include county central stores purchasing by District Court Council Member, Judge Warner. Judge Barz seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves to amend Procurement policy 3.1(e) to include county central stores purchasing.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

REQUESTING THE COUNCIL TO ADOPT THE PROCUREMENT POLICY

WHEREAS, The District Court Council has reviewed the Procurement Policy as previously amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the Procurement Policy as previously amended and subject to editorial changes by District Court Council Member, Judge Warner. Judge McLean seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves to adopt the Procurement Policy as previously amended and subject to editorial changes.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

ADMINISTRATIVE SERVICES DIVISION POLICIES

Lisa Smith and Beverley Boyd presented a list of policies. Chief Justice Gray stated that the packet of policies is provided to get the District Court Council's conceptual approval of the policies and put them into format for quick review and approval at the next meeting.

Policy #1 – Fixed & Variable Costs

This needed to be defined so the guaranteed share could be calculated. Variable costs that will be included, like travel and training may fluctuate for reasons other than changes in caseload. Fixed costs do not fluctuate.

Judge McKittrick was concerned that listed under Variable Costs, under Criminal, was listed psychiatric examinations. Cascade County has more cost in civil commitments and asked if it included housing the patient in the local hospital? Lisa Smith pointed out that Involuntary Commitment was listed under Variable Costs and is addressed in policy #14.

Policy #14 – Involuntary Commitment & Youth Court

Judge McLean mentioned that under the second paragraph it states “Any other costs incurred such as treatment, lodging, and transportation is the responsibility of the entity initiating the proceeding.” The county is always responsible for that cost and gets reimbursed. His understanding is the court reimbursement program not going to have enough funding for the program. Judge Warner explained the process of Involuntary Commitment as the petition goes to the judge, the judge signs the order finding probable cause to hold the person in a psychiatric care place, pending reading of the initial rights at trial, which must be within 5 days. His understanding for Hill County is, until the judge signs the order, the person is committed involuntarily. That cost is paid by the county and is not reimbursed by the District Court Reimbursement Program. Chief Justice Gray stated she knows of no authority for the state to pay for the voluntary commitment before they are actually committed. If the budget was submitted in that form, it will need to be reviewed and get the money from the appropriation back that corresponds to those items, so that state assumption can start out as clean as possible. Judge McLean understands that any involuntary commitment before the judge’s order is paid for out of the District Court budget.

Lisa Smith asked if the biggest cost was the commitment prior to the judge’s order. Judge Warner stated that it is due to the order from the County Attorney and the cost for transport and the psychiatric unit.

Chief Justice Gray suggested in this conceptual policy of Involuntary Commitment, second paragraph, starting at the end of line 12, that the language should be changed from “any other costs incurred” to “any other pre-commitment costs incurred.”

WHEREAS, The District Court Council has reviewed Involuntary Commitment Policy as amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to amend Involuntary Commitment Policy, second paragraph, starting at the end of line 12, that the language should be changed from “any other costs incurred” to “any other pre-commitment costs incurred” by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves to amend Involuntary Commitment Policy, second paragraph, starting at the end of line 12, that the language should be changed from “any other costs incurred...” to “any other pre-commitment costs incurred”

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

WHEREAS, The District Court Council has reviewed Involuntary Commitment Policy as amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to have a separate policy addressing Youth Court proceedings that are presumably along the same lines as what it currently states by District Court Council Member, Judge Warner. Judge McLean seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves to have a separate policy addressing Youth Court proceedings that are presumably along the same lines as what it currently states.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

TO DO: Lisa Smith contact the Juvenile Probation Officers of all districts to find out if the District Court provides the transportation and accommodations for secure and non-secure placement of detention facilities.

POLICY #2 – Law Library

State employees will be provided assistance from computerized research or the State Law Library. Access to County law libraries for attorneys and the public will be a District Court expense. Beverley Boyd is gathering the surveys from the districts that will have what resources are being used in the court. Once the spreadsheet is completed with all the district's information, the results will be discussed with Judy Meadows to see what can be done to reduce costs.

REQUESTING THE COUNCIL TO ADOPT THE LAW LIBRARY POLICY

WHEREAS, The District Court Council has reviewed the Law Library Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the Law Library Policy as stated by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge Warner discussed the use of computerized research instead of books. Judge Warner called the question. No further discussion

THAT, The District Court Council hereby approves to adopt the Law Library Policy as stated.

Ayes: Chief Justice Karla M. Gray

District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: District Judge Diane Barz

The Chairperson thereupon declared said motion carried and adopted.

REFERENCE BACK TO POLICY #1 – Fixed and Variable Costs

REQUESTING THE COUNCIL TO ADOPT THE FIXED AND VARIABLE COSTS POLICY

WHEREAS, The District Court Council has reviewed the Fixed and Variable Costs Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the Fixed and Variable Costs Policy as stated by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge Warner discussed the use of computerized research instead of books. Judge Warner called the question. No further discussion

THAT, The District Court Council hereby approves to adopt the Fixed and Variable Costs Policy as stated.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

POLICY #3 – Vehicles

All county vehicles prior to July 2002 have been an expense to the counties. The county vehicles will be state assumed after July 1, 2002. Exclusive use of any vehicle by state employees will be a cost of the state. If Youth Court does not have use of a vehicle, the sheriff should be responsible for transportation.

REQUESTING THE COUNCIL TO ADOPT THE VEHICLE POLICY

WHEREAS, The District Court Council has reviewed the Vehicles Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the Vehicles Policy as stated by District Court Council Member, Judge Warner. Judge McLean seconded the motion. Judge McLean called the question. No further discussion

THAT, The District Court Council hereby approves to adopt the Vehicles Policy as stated.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

POLICY #4 – Office Equipment and Furnishings

If there are particular items that the County is concerned about, like antiques, those items will need to stay where they are until they are replaced. Once the item is replaced, the County is able to purchase the original item from the State.

Judge McLean requested a further refinement on the matter of historic artifacts. Chief Justice Gray suggested changing the first sentence of the policy from “Current office equipment/furnishings in district courts becomes state owned.” To “Current county owned office equipment/furnishings in district courts become state owned.”

Harold Blattie asked about the courtrooms and the ancillary offices. Would the council give assurance to the Justice of the Peace of each county that they will be allowed to continue to use the courtrooms? Chief Justice Gray assured Harold Blattie that a notice would be sent out to the judges of the Courts of Limited Jurisdiction.

WHEREAS, The District Court Council has reviewed Office Equipment and Furnishings Policy as amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to defer action on Office Equipment and Furnishings Policy for further refinement and classification by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves to defer action on Office Equipment and Furnishings Policy for further refinement and classification.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

POLICY #5 – Telephones

The State would prefer using the existing phone systems in each county and the counties charge a reasonable fee for that use. We are contacting cell phone companies to see if a statewide rate is available. If current employees are using a cell phone, such as Juvenile Probation officers for safety issues, that is a legitimate state assumed cost.

REQUESTING THE COUNCIL TO ADOPT THE TELEPHONES POLICY

WHEREAS, The District Court Council has reviewed the Telephones Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to conceptually adopt the Telephones Policy to include the information or advisory by Dan Chelini, Information Technology Director, by District Court Council Member, Judge Warner. Judge McKittrick seconded the motion. Judge McLean called the question. No further discussion

THAT, The District Court Council hereby approves to adopt the Telephones Policy as stated.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

POLICY #6 – Office/Operating Expenses

Postage, copies, repair and maintenance of machines will be a cost assumed by the state. Shared equipment between state and county employees should be a shared cost.

Judge Warner suggested inserting language indicating specific costs do not include pre-commitment cost of involuntary commitment. Further, what is the law and is provided, relating to office space costs, such as maintenance, such as replacing light bulbs, replacing carpet, etc? Lisa Smith indicated that these items would be covered under maintenance.

Judge McKittrick mentioned security issues and requested a definition of “standard security”. Council members discussed security concerns and what would be defined as standard security. Judge McLean requested a paragraph to be inserted between the third and last paragraph of the policy to state the District Judge has authority to provide reasonable and necessary security from the bailiff and or other law enforcement that may be required on a case-by-case basis. Concerns on transporting of juvenile offenders to secure and non-secure placement were discussed to see if the Youth Probation officers or the Sheriff is responsible.

WHEREAS, The District Court Council has reviewed Office/Operating Expenses Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to defer action on Office/Operating Expenses for further investigation, refinement and classification by District Court Council Member, Judge Warner. Judge Barz seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves to defer action on Office/Operating Expenses Policy for further investigation, refinement and classification.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

POLICY #7 – Computer Services

SB176 does not provide funding for automation. The five-dollar surcharge is the funding for automation. Computers will not be replaced statewide or upgraded on July 1, 2002. Court Automation will continue as it is until more funding is available. A reasonable fee will be paid to the Counties for wiring.

Chief Justice Gray requested to amend the second paragraph of the policy stating: The OCA will work with the newly established Judicial Information Technology Commission, the Chief Justice of the Supreme, district court judges and personnel, the state Department of Administration, Information Technology Services Division and the Legislature to obtain adequate funding for an integrated information technology system in the Montana Judiciary.

WHEREAS, The District Court Council has reviewed Computer Services Policy as amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to amend Computer Services Policy, second paragraph, to include the Chief Justice of the Supreme Court, by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves to amend Computer Services Policy, second paragraph, to include the Chief Justice of the Supreme Court.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

POLICY #8 – Criminal Case Expenses

The statute requires the state will be responsible for the costs of fees for transcripts requested by the county attorney, attorney general, or judge for transcripts.

Chief Justice Gray is going to suggest, later this summer, an amendment for the bill that the county attorney and attorney general requests for transcripts to be District Court costs.

REQUESTING THE COUNCIL TO ADOPT THE CRIMINAL CASE EXPENSES POLICY

WHEREAS, The District Court Council has reviewed the Criminal Case Expenses Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the Criminal Case Expenses Policy as stated by District Court Council Member, Judge McLean. Judge Warner seconded the motion. Judge McLean called the question. No further discussion

THAT, The District Court Council hereby approves to adopt the Criminal Case Expenses Policy as stated.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

POLICY #9 – Special Proceedings

This policy addresses the line in SB176 stating the state DC program will assume the costs for post conviction proceedings, habeas corpus, and appeals.

REQUESTING THE COUNCIL TO ADOPT THE SPECIAL PROCEEDINGS POLICY

WHEREAS, The District Court Council has reviewed the Special Proceedings Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the Special Proceedings Policy as stated by District Court Council Member, Judge Warner. Judge Barz seconded the motion. Judge McLean called the question. No further discussion

THAT, The District Court Council hereby approves to adopt the Special Proceedings Policy as stated.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

POLICY #10 – Child Abuse and Neglect Proceedings Expenses

The state DC program is responsible for transcript fees, witness fees and necessary expenses, and expenses for medical and psychological examinations in child abuse and neglect proceedings. However, this does not include costs for transportation, lodging, meals, or treatment.

WHEREAS, The District Court Council has reviewed Child Abuse and Neglect Policy as amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to amend Child Abuse and Neglect Policy to review the statutory language to include parental contributions, by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge Warner called the question. No further discussion.

THAT, The District Court Council hereby approves to Child Abuse and Neglect Policy to review the statutory language to include parental contributions

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

POLICY #11 – Grand Jury Costs

The state DC Program includes grand jury costs for juror fees, witness fees, and witness expenses.

REQUESTING THE COUNCIL TO ADOPT THE SPECIAL PROCEEDINGS POLICY

WHEREAS, The District Court Council has reviewed the Grand Jury Costs Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the Grand Jury Costs Policy as stated by District Court Council Member, Judge Warner. Judge McLean seconded the motion. Judge McLean called the question. No further discussion

THAT, The District Court Council hereby approves to adopt the Grand Jury Costs Policy as stated.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

POLICY #12 – Court Sanctioned Education Program – Dissolution of Marriage

State DC costs include the cost of court ordered parenting evaluations; guardian ad litem or child advocate services appointed by court order; and the cost of parenting education as determined and ordered by the judge.

Judge McLean discussed the general rule of parenting evaluations are the parents split the cost 50/50. Requests for parenting evaluations are increasing to 80% unless the divorce is not contested. Judge Barz said there was a special fund set up with a petition for each county to use for modification of divorce decrees regarding custody, provides for \$120.00 fee to go towards the parenting evaluations.

Chief Justice Gray recommended deferring action on Policy #12.

WHEREAS, The District Court Council has reviewed Court Sanctioned Education Program – Dissolution of Marriage Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to defer action on the Court Sanctioned Education Program – Dissolution of Marriage Policy, by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge Warner called the question. No further discussion.

THAT, The District Court Council hereby approves to defer action on the Court Sanctioned Education Program – Dissolution of Marriage Policy.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

POLICY #13 – Civil Jury Trial Expenses

This policy basically says the District Court will pay all costs if these costs were paid out of the District Court budget in fiscal year 1998 or 1999.

Lisa Smith explained the District Court Fund is different than the District Court Budget. The clerk of court's budget and the district court's budget are part of the District Court Fund. If somebody else paid the civil jury trial expenses, such as the clerk of court or if they were paid out of the County General Fund, the costs are not assumed by the state.

TO DO: Send a request out to the District Court Judges, Clerks of Court, and County Commissioners for documentation, such as a copy of their expenditure reports that shows where the civil jury trial expenses were paid from with a May 31, 2002 deadline. If they were paid out of the District Court budget they will become state costs.

WHEREAS, The District Court Council has reviewed the Civil Jury Trial Expense Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt Civil Jury Trial Expense Policy as written and further direct the Court Administrator's Office to distribute a mailing to the District Judges, Clerks of District Court and the County Commissioners stating pursuant to SB176 the law requires documentation be provided to the Court Administrator's Office and the return of response is due May 31, 2002, by District Court Council Member, Judge McLean. Judge Warner seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves to adopt Civil Jury Trial Expense Policy as written and further direct the Court Administrator's Office to distribute a mailing to the District Judges, Clerks of District Court and the County Commissioners stating pursuant to SB176 the law requires documentation be provided to the Court Administrator's Office and the return of response is due May 31, 2002

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

Policies #15 thru #19 are in process and will be discussed at the next meeting.

(Item no. 4)

Pro Card Presentation

Lisa Smith discussed the pro card and with approval of the procurement policy, it was approved to use. The District Court Judges will have to decide who in their office will

have access and how many cards they will need. Lisa asked for approval to mail out a packet to each District Court Judge next week to get the preliminary work done on getting it set up.

WHEREAS, The District Court Council has reviewed the Pro Card

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to approve mailing of the Pro Card packet by District Court Council Member, Judge McKittrick. Judge McLean seconded the motion. Judge McLean called the question. No further discussion

THAT, The District Court Council hereby approves mailing the Pro Card information

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

POLICY #10 – Child Abuse and Neglect Proceedings Expenses

The state DC program is responsible for transcript fees, witness fees and necessary expenses, and expenses for medical and psychological examinations in child abuse and neglect proceedings. However, this does not include costs for transportation, lodging, meals, or treatment.

WHEREAS, The District Court Council has reviewed Child Abuse and Neglect Policy as amended

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to amend Child Abuse and Neglect Policy to review the statutory language to include parental contributions, by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge Warner called the question. No further discussion.

THAT, The District Court Council hereby approves to Child Abuse and Neglect Policy to review the statutory language to include parental contributions

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

(Item no. 5)

Court Reporter – Workers Comp Review/discussion

Beth McLaughlin discussed the two options for the intermittent and fill-in court reporters. The first option is the intermittent court reporter. This is designed for reporters who are not a business entity or not operating as a business but are independent. The reporter in this case would be paid an hourly rate of \$20.00 per hour, fill out a time sheet to the judge, and would receive a paycheck instead of a voucher. This pay rate would be applied for all the hours worked with no premium time, no hours over eight hours. The employee who is short-term cannot work over 90 days a year. All taxes will be covered by the state. They will also be reimbursed for travel. A W-2 will be provided instead of a 1099 tax form.

The second option is the intermittent business court reporter. If there are current contracts in place with intermittent coverage for the courts, the District Court Council needs to be informed prior to May 20, 2002 to see if we are in compliance. The intermittent business court reporter will be responsible for their workers compensation, insurance, liabilities, taxes and travel costs. Proof will need to be shown of their workers comp insurance to work in the court. There is no rate established for transcribing. They will receive a transcript fee.

WHEREAS, The District Court Council has reviewed the Special Proceedings Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the Special Proceedings Policy as stated by District Court Council Member, Judge Warner. Judge Barz seconded the motion. Judge McLean called the question. No further discussion

THAT, The District Court Council hereby approves to adopt the Special Proceedings Policy as stated.

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

POLICY #10 – Child Abuse and Neglect Proceedings Expenses

The state DC program is responsible for transcript fees, witness fees and necessary expenses, and expenses for medical and psychological examinations in child abuse and neglect proceedings. However, this does not include costs for transportation, lodging, meals, or treatment.

WHEREAS, The District Court Council has reviewed Court Reporter-Workers Comp subject

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to approve procedure to follow for court reporters, by District Court Council Member, Judge McLean. Judge Warner seconded the motion. Judge McLean called the question. No further discussion.

THAT, The District Court Council hereby approves procedure for court reporters to follow

Ayes: Chief Justice Karla M. Gray
District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion passed.

Chairperson, Chief Justice Gray excused herself from the meeting briefly to attend a meeting and appointed District Court Council Member, Judge Diane Barz to preside in her absence.

(Item no. 6)

Grant Funded Positions

Beverly Boyd discussed the employees of the grant funded positions will change to state employees, they will be modified positions which means they will be paid with grant funds. When the grant funds run out, the employee's position ends. The counties will have an opportunity to reapply for grants. A contract will be in place with the counties to run the grant-funded program. The county will then have the money to pay the grant-funded positions. Beverly said there are 29 grant-funded positions in the state.

Judge McLean requested district court council minutes be sent to the different county agencies so they are more informed in the changes. Rick Lewis mentioned a schedule for some staff road shows to go to different areas of the state to talk to the staff and judges in terms of the issue of District Court Assumption and the policies that are established in that regard. The schedule is projected to begin near the end of May, first part of June after presentation to the District Court Judges during their training session May 16 and 17, 2002.

Jim Oppedahl spoke about the grant funded positions that are available each year that need to have the Board of Crime Control approval and be reapplied for annually. His long-term concern is that federal funds, because of homeland security and shifting funds will cause a decline in grant funding.

Lori Maloney mentioned for the record, some of the employees are funded by grant and local funds. Four or five of these employees are currently going through the law enforcement academy for JPO training. Investments are being made in these trainings with other juvenile probation officers.

(Item no. 7)

Recruitment Policy

Beth McLaughlin stated this policy is basically defined to do three things: 1. Take the administrative functions of filling the position, posting the job, accepting the application, placing advertising in the newspapers, notifying unsuccessful applicants and moving those functions to the Human Resource's office. 2. Assume the decision-making authority for interviewing, hiring and filling the positions rather than the district court judges or whoever is designated as the hiring authority. 3. Insure, in general, that we comply with all the laws related to recruitment and selection.

If a job needs posting, a request will need to be sent to Human Resources (HR). HR will produce an announcement and will be posted wherever the announcement needs to be posted. It will also be posted in the State of Montana web page that Job Service provides. Once the job closes, the actual applications of the people who have met the minimum qualifications will be sent to the area that requested the job posting. Additional screening will also be provided if requested. There is a background check required for all applicants to be interviewed.

Beth would like to have approval to use the Montana State Job Application until a Judicial Application is designed.

REQUESTING THE COUNCIL TO ADOPT THE MONTANA STATE JOB APPLICATION

WHEREAS, The District Court Council has reviewed the Montana State Job Application

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to adopt the State of Montana Employment Application as a hiring resource, as an alternative application, until a Judicial Application is provided, stated by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge McLean called the question. No further discussion

THAT, The District Court Council hereby approves to adopt State of Montana Employment Application as a hiring resource, as an alternative application, until a Judicial Application is provided.

Ayes: District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried and adopted.

REQUESTING THE COUNCIL TO APPROVE THE RECRUITMENT POLICY

WHEREAS, The District Court Council has reviewed the Recruitment Policy

THEREFORE BE IT RESOLVED BY THE DISTRICT COURT COUNCIL

Motion to approve the approved as stated, by District Court Council Member, Judge McLean. Judge McKittrick seconded the motion. Judge McLean called the question. No further discussion

THAT, The District Court Council hereby approves the Recruitment Policy as stated

Ayes: District Judge Diane Barz
District Judge Thomas McKittrick
District Judge Ed McLean
District Judge John Warner

Nays: None

The Chairperson thereupon declared said motion carried.

(Item no. 8)

Human Resources

Beth McLaughlin gave a quick update on the employee's transition. Now that the recruitment policy has been approved, it will be presented with the other policies to the Justices of the Supreme Court for approval. The Court Reporter election forms were sent out shortly after the last District Court Council meeting. Half of the forms have been returned and the deadline for the forms is the first part of June. After all policies are done and payroll is operational, sometime in August or September, policy training will be provided for managers and supervisors. The individual classification forms were sent out to employees. The employees have the opportunity to appeal their position by April 26, 2002. The post-salary plan will be completed sometime near the end of May.

Judge Warner discussed the District Court Administrators in the state and felt the classification for a District Court Administrator was not individually correct. Judge Barz explained it wasn't just the single districts that are troubled by the classification. Rick Lewis clarified the classification system has not been given to the Supreme Court for approval. It is currently out to the employees for review and appeal, if needed.

Beth continued reporting employees reviewed the insurance packets and approximately 150 opted to have the insurance. State Fund and Risk Management are being consulted on the issue of workers compensation for the court reporters. New hire packets have been sent out to new state employees. The information from the packets provides Human Resources with position numbers in the system and employee information input in the payroll system. This will be completed by July 1, 2002. The new employees will be reporting their time worked on the on-line form on the state website. A staff member from the IT department will provide training in the districts for the time entry on-line.

(Item no. 9)

SB176 History

Harold Blattie gave a short history of the reimbursement program rather than the SB176 history. The reimbursement program was started in the 1980s as a catastrophic

insurance program. In its entire history it has always funded the 100% reimbursements that were eligible. In addition, if there was money left, the grant program went into effect. Last year 10% of the flat fees generated somewhere around 65 million dollars. There has been a significant decrease due to HB540. When the flat fee went into effect, the revenue decreased. The legislative/fiscal office reported, by their projections, there will be 61 million dollars motor vehicle revenue to fund the reimbursement program. The understanding of the intent for that block of money would still tend to be identified for reimbursement and the administrative cost would not consume the money originally designated for those other purposes.

Judge Barz questioned where the motor vehicle tax would be going. Harold stated it would be going into the state general fund. Now that the flat fees are based upon the age of the vehicle rather than the value of the vehicle, the revenue is projected to decrease.

Chief Justice Gray returned and assumed her position as Chairperson.

(Item no. 10)

Information Technology

Dan Chelini spoke about the upcoming changes for automation. There is limited staff to support all areas. The District Court Assumption is currently the high priority for the automation staff. Trainers are currently working on Full Court issues and getting closer to standardizing the system. ITSD is working with automation on setting up the new employees with access to the automated time sheet for recording their hours. The Outlook program is secondary priority. Addressing the phone situation and other issues are to follow. Connectivity for state employees was reported to be mainly County connections. It is planned for an agreement between the state and the counties to have access to the internet. Outlook may not be available for all employees by July 1, 2002, but will be implemented as time allows. The phones will continue as they are and the state will work with the county to pay the state's share of the billing. For automation support, it is important that all calls go through the Help Desk. The calls through the Help Desk will be logged and will be addressed in a more efficient manner. The Help Desk phone number is 800-284-6017 for software and desktop support.

The Chairperson noted this was the last official item on the agenda. Ed Zimney from the National Center for State Courts was invited to give his thoughts or observations.

Ed Zimney complimented the new staff of the Court Administration and the District Court Council for the work that has been done getting the state assumption into place. Mr. Zimney mentioned most states that have done court unification or state funding have included a broader range of employees and suggested that maybe later on the employees that did not opt to switch to state employees may be given the opportunity to do so.

(Item no. 10)

Other Business

Judge Warner passed out the Guardian ad Litem information for Cascade and Hill counties.

Judge Barz wanted to know about budget information for Outlook. Lisa mentioned Becky and Cathy will be on that project and will be making calls to the Districts to gather information. The results will be provided at the May meeting.

Schedule

Next meeting is scheduled for May 10, 2002, 8:00 a.m., at the Old Livestock Building.

There being no further business come before the District Court Council, upon motion made, seconded, and carried, the meeting was adjourned at 1:30 p.m.

Chief Justice Karla M. Gray
Chairperson, District Court Council

Shelly J. Hinson
Pro Tem Custodian and Recorder of Records