

**DISTRICT COURT COUNCIL
MINUTES OF APRIL 21, 2006
UNIVERSITY OF MONTANA SCHOOL OF LAW
MISSOULA, MONTANA 59812-0004**

DCC Voting Members Present:

The Honorable Karla Gray, Chief Justice, Supreme Court
The Honorable Thomas McKittrick, District Court Judge, 8th Judicial District
The Honorable Ed McLean, District Court Judge, 4th Judicial District
The Honorable John McKeon, District Court Judge, 17th Judicial District
The Honorable Katherine Curtis, District Court Judge, 11th Judicial District

DCC Non-voting Members Present:

Lori Maloney, Clerk of District Court, Butte
Glenda Travitz, Court Reporter, 21st Judicial District
Mike Hutchin, County Commissioner, Polson
Glen Welch, Chief Juvenile Probation Office, 4th Judicial District

Staff:

Lois Menzies, Court Administrator
Beth McLaughlin, Court Services Director

I. Welcome, Introductions, and Approve January 20, 2006 Minutes

The District Court Council met on Friday, April 21, 2006 at 1:30 p.m. at the University of Montana School of Law in Missoula, Montana. Chairwoman Chief Justice Karla Gray called the meeting to order. Lois Menzies was welcomed as the new Court Administrator. A quorum being present, the meeting duly convened and business was transacted as follows:

- a. **Approve January 20, 2006 DCC Minutes**
Motion was made to adopt minutes. Motion seconded, question called.
Motion carried unanimously.

II. Public Comment

None

III. Administrator's Report

- a. **Budget Update**
District Court fixed costs are still within budget. Variable costs continue to be high and are currently projected at a \$3.1 million deficit. If we don't

pay DPHHS for the unfit-to-proceed cases we are only \$2.5 million over budget at this point. We do have authority from the governor's office to not pay DPHHS. Currently, the plan is to pull money forward from the 07 budget to pay the 06 costs. This will result in a need for supplemental appropriate fairly quickly into the 2007 Legislature. .

b. 2007 Budget Proposals

- The major proposal is a one time only request for \$4 million to put in place a full District Court case management system.
- Pay equity request for \$1.5 million.
- Supreme Court is coming in with two proposals from last year's session; one is for an Appellate Mediator and the second is for a Pro Se law clerk.
- Increase of 3.95 FTE in district and youth courts.
- Leased motor pool vehicles for Judges and JPOs.
- Transfer juvenile placement funds to Judiciary, currently funds are at Department of Corrections. JDIP money transfers \$6.5 million to Judicial Branch.
- A new \$1.5 million status offender program for Youth Courts.
- One time only request for \$300,000 for court security, based on review done by DOJ.
- Increase judicial education funding.
- Funding to finish the workload study about \$75,000.
- CASA increase from \$113,000 to \$183,000 for each year, for a total of \$300,000 per year.
- Psychological evaluations not sure on cost because the State Public Defenders Office will now pay the ones that they order.

c. Court Security Report

Beth McLaughlin reviewed the court security report produced by the Department of Justice. The report recommends a number of steps including the development of safety training and in-house safety protocol. DOJ officials will continue to work with the courts on training and protocols. The officers will also produce individual county recommendations for those that requested them. The report was sent to all judges and staff and was posted on the web site.

IV. Resource Allocation-Youth Court

a. Review and approval of proposal from the Court Administrator's Office

JCATS system was demonstrated in the January meeting. The reports from JCATS showed that resource allocation was needed. A subcommittee of three chief probation officers worked with the OCA to develop a standard for determining the appropriate number of staff in each district. That proposal went to all the Chief Probation Officers at their

March meeting. Smaller districts need a lower staff to youth ratio, because of travel and lack of resources. FTE is based on the number of youths, not the number of intakes.

The staffing pattern is as follows:

Youth Courts that have 200 or fewer kids per year there will be one staff person for every 35 kids. Youth Courts serving between 200 – 500 juveniles per year would have one staff person for every 50 kids. Youth Courts serving more than 500 juveniles would have one staff person for every 65 kids.

It will be refined and changed in the future with new data. Currently we have five vacant FTEs, they need to be placed where they are needed most. Existing staff would not be laid off to accommodate the changes. This is a reasonable proposal for the data we currently have.

A motion was made to adopt the recommended resource allocation for Youth Court. Motion seconded, question called. Motion carried unanimously.

V. Policy Proposals/Amendments/Updates

a. Revisions required due to creation of the public defender system

• Deleted Items

- The OCA brought nine policies to be deleted in keeping with the changes in the indigent defense system. The nine were:
 - Policies 710, 810, 830, 840, 885, 890, 1020, 1240, and 1280.
 - A motion was made to delete all policies listed in the report dated April 3, 2006. Motion seconded, question called. Motion carried unanimously.

• Revisions

- Revised Table of Contents of the Judicial Branch Policies and Procedures listing the Public Defenders Office.
- **Policy 820** GAL child advocate policy and the costs associated with that. Judiciary continues to pay for court appointed GAL or child advocates. Currently the Court Administrator's Office and District Courts do not have the authority and policy to enter into contract with GALs. We want the ability to do that. In some districts the county Public Defender's Office has an existing contract with a person who provides GAL services. If we don't have authority through Court Administrations those

contracts will be gone. Reasonable compensation for a GAL is \$60/hour. \$400/case for CASAs. Language about how claims need to be submitted.

- Section 4.0 Item e & f states that we are not responsible for costs of counsel appointed to represent a parent or a child.
- 3.0 Chief Justice Karla Gray recommends changing contracted counsel/GAL, we need to take the word “counsel” out.
- 4.0a Refers to non-CASA appointed GALs. Beth will reword it to clarify.
 - Policy to appoint a single GAL for a family group. Cleans up current issue with GAL policy and Uniform Case Filing Standards.
- Except for 4.0a the policy is good. Staff will rewrite it than send out for review and then at MJA revisit it.

A motion was made to authorize administrative staff, with regard to any or all of these five policies we’re considering revising today, to go back and make appropriate and purely non-substantive editorial or clarifying changes. Motion seconded, question called. Motion carried unanimously.

- Staff will reorganize 3.0 & 4.0 to one policy section and one payment related section.
 - When GAL is being paid the presumption is one per family. There needs to be a note to leave it to the judge’s discretion whether or not to appoint one CASA/GAL or more. Need to be clear that we pay for one CASA/GAL per family unit.
- **Policy 850 Psychiatric exams and associated costs:** If a defendant’s fitness-to-proceed is raised by the public defender, it’s an OPD cost. If it is raised by the District Court or requested by the prosecution it is a District Court costs. All associated expenses will now be a state responsibility rather than a county responsibility.
 - 3.0 No change
 - 4.0 Civil involuntary commitments there are no responsibility in the Judiciary for those costs.
 - Add a provision to this policy that the court should clearly identify in the order who has made the motion for the psychological evaluation. Staff will word and add to the appropriate section.

- **Policy 1010 District Court Trial Expenses:** All remaining court expenses including transcript fees, witness fees and juror costs.
 - Witness fees when called by the prosecutor or an indigent person acting Pro Se it is the States expense.
 - Add **2.3** that identifies who made the request for the transcript in the court order.
 - **4.5** Witnesses paid \$10. Add a note additional fee for an expert witness
 - **7.1** Court Administrators Office will reimburse within 30 days of an approved claim. Put in more clarifying language.
- **Policy 1210 Child Abuse & Neglect Proceedings** DN Cases - OPD will pay for counsel for parents.

Motion was made to approve policy number 1210. Motion seconded, question called. Motion carried unanimously.

The remaining policies will be edited and reviewed at a special DCC meeting on May 18 at 9 a.m. in Great Falls.

VI. Other Business

- a. Judge McLean and Lori Maloney's terms expire June 30, 2006. MJA and the Clerks' Association will need to consider appointments.
- b. The next District Court Council meeting will be October 11, 2006 at Fairmont Hot Springs at 8 a.m. in conjunction with the MJA Training Conference.

Motion to move the fall meeting of the District Court Council in 2006 and subsequent years, subject to any revisions by future District Court Counsel would be held in conjunction with the MJA training conference. Motion seconded, question called. Motion carried unanimously.

VII. Adjourn

The meeting was adjourned at 4:00 p.m., by order of the Chair, Chief Justice Karla Gray.