

**ARIZONA JUDICIAL COUNCIL**

Request for Council Action

---

**Date Action  
Requested:**

December 14, 2005

**Type of Action  
Requested:**

Formal Action/Request

Information Only

Other

---

**Subject:**

Approval of Minutes

**FROM:**

Lorraine Smith, Staff to the Arizona Judicial Council

**DISCUSSION:**

The minutes from the October 19, 2005 meeting of the Arizona Judicial Council are attached for your review.

**RECOMMENDED COUNCIL ACTION:**

Approve the minutes as written.

**ARIZONA JUDICIAL COUNCIL**  
Arizona State Courts Building  
1501 West Washington, Suite 119  
Phoenix, AZ 85007

D R A F T

Minutes of the  
October 19, 2005, Meeting

**Council Members Present:**

Chief Justice Ruth V. McGregor  
Judge James Angiulo  
Jim Bruner  
David Byers  
Judge B. Robert Dorfman  
Susan Edwards  
Beverly Frame  
Christine C. Iijima Hall, PhD.  
Chris Herstam  
Judge Douglas Holt  
Emily Johnston  
Judge John S. Leonardo

William J. Mangold, M.D., J.D.  
Judge Barbara Mundell  
Miguel Montiel  
Judge William J. O'Neil  
Jones Osborn  
Judge John Pelander  
Helen Perry-Grimwood  
Judge Fred Newton  
Deborah Schaefer  
Judge David Widmaier  
Judge R. Michael Traynor  
Judge Sheldon Weisberg

**Council Members Absent:**

Jose de J. Rivera

**Administrative Office of the Courts (AOC) Staff Present:**

Mike Baumstark  
David Benton  
Mike DiMarco  
Stacey Feldman  
Cari Gerchick  
Beth Hall  
Megan Hunter  
Jerry Landau  
Rob Lubitz

Marna Murray  
Konnie Young Neal  
Nina Preston  
Janet Scheiderer  
Lorraine Smith  
Nancy Swetnam  
Kathy Waters  
David Withey

**Guests Present:**

Arny Bain  
Vice Chief Justice Rebecca White Berch  
Richard Boltan  
Ed Cook  
Channin DeHaan  
Paul Davenport  
Judge Doug Holt  
Dale Lind

Michael O'Neil  
Judge Barry Schneider  
Teresa Schmid  
Diane Sikokis  
Jennifer Sweeney  
Christine Thompson  
Dale Wiebusch

Members of the Committee on Rules of Procedure in Domestic Relations Cases

The Chair, Chief Justice Ruth V. McGregor, called the meeting to order at 10:00 a.m., at the State Courts Building, 1501 West Washington, Suite 119, Phoenix, Arizona. The Chair welcomed those in attendance and introductions were made around the room to include the newest Council members: Judge James Angiulo, Justice of the Peace, Tucson Justice Court; Judge David Widmaier, Justice of the Peace, Pinetop/Lakeside Justice Court; Jim Bruner, Public Member, First National Bank of Arizona; and Beverly Frame, Clerk of the Court, Superior Court in Yuma County.

The Chair noted that at 1:00 p.m., the Council would be visited by a delegation of jurists from Kosovo who are on a two-week trip sponsored through USAID and Arizona State University's Russian and East European Studies Center to learn more about maintaining an independent judiciary.

**Approval of Minutes**

The Chair called for any corrections or additions to the minutes from the June 20, 2005, meeting of the Arizona Judicial Council. Susan Edwards noted that she had a few editing suggestions.

**MOTION: To approve the minutes from the June 20, 2005 meeting of the Arizona Judicial Council with the editing suggestions submitted by Susan Edwards.** Motion was seconded and passed. AJC 2005-23.

**Approval of 2006 Meeting Dates**

The Chair called for any changes to the proposed meeting dates for 2006: Thursday, March 9; Monday, June 19; Thursday, October 12; and Thursday, December 14; there were none. A motion was made to approve the proposed meeting dates as presented:

**MOTION: To approve the proposed meeting dates for the year 2006 as presented.** Motion was seconded and passed. AJC 2005-24.

Dave Byers suggested holding a future Council meeting in another location, i.e., one of the new regional court centers in Maricopa County. Mr. Byers explained that members could then tour the facility and see some of the court operations that are coming online.

### **Strategic Plan/Citizen Input Report**

Michael J. O'Neil, PhD, O'Neil Associates, Inc. then made a PowerPoint presentation on O'Neil Associates' research survey results, "Attitudes Toward the Arizona Judicial System." Dr. O'Neil noted that this random statewide survey of voters was conducted between March and early May of this year with a sample size of 1,065. Dr. O'Neil presented survey results in the areas of trust and confidence, facilitating court access, jury service, judicial perception, judicial selection, judicial elections, and Arizona court rule. Dr. O'Neil noted that the "don't know" responses were eliminated from the percentages.

### **Communication Plan Update**

Cari Gerchick, Communications Officer for the Supreme Court, briefed the Council on the progress of the communications plan "Good to Great." Ms. Gerchick noted that, during presentations being made around the state, input cards are being distributed to attendees for them to fill out to obtain email updates on the "Good to Great" agenda. Ms. Gerchick reported that a "Good to Great" website has been created, along with enhanced communications with the media, and the updating of our email distribution lists. Ms. Gerchick then reported that members of the court have attended many presentations over the summer reaching out to more than 11,000 people statewide. Ms. Gerchick asked that members advise her of other opportunities to speak to different groups and to send their suggestions to [goodtogreat@az.courts.gov](mailto:goodtogreat@az.courts.gov).

### **Judicial Administrative Leadership Conference - Overview**

Marna Murray, Director of the Education Services Division for the AOC, then presented an overview of the upcoming conference. Ms. Murray noted that the conference will be held December 12-13 at the Sedona Hilton, and it precedes the next Council meeting scheduled for December 14. Ms. Murray stated the purpose of the conference is to pull together the court leadership from Arizona, which is the first gathering of a group of that nature. Ms. Murray noted there will be an opportunity to hear from Roger Warren, former president of the National Center for State Courts, to glean the national perspective. In addition, the Chief Justice will take the opportunity to engage the court leaders in getting behind the strategic agenda and working together to implement that agenda. Leaders will have an opportunity to work in their respective county groups to understand and explore what their specific obstacles are and how they might overcome those. In addition, information will be delivered on the initiatives that have been undertaken, those to come, as well as specific programs and information that will enhance their administrative skills. Participants will identify issues important to them

and will help develop a strategic plan for the next conference scheduled for December 2006. Chief Justice McGregor announced that Council members were invited to attend, and registration information will be mailed out in early November.

### **Legislative Issues - Lengthy Jury Trial Program (taken out of order)**

Dave Byers briefed the Council on this issue noting that the Council supported legislation in 2003 to create the lengthy trial fund. The fund reimburses jurors not paid by their employers while on jury duty, who serve on a trial lasting more than 10 days. Mr. Byers noted that based on 18 months experience, more money is being generated than needed. Mr. Byers suggested that the Council recommend the fee be reduced or that the number of days to qualify, now eleven, be reduced so that more citizens would receive monies from the fund. Mr. Byers reported that the presiding judges voted 12 to 2 in support of going to the legislature and asking them to reduce the number of days to qualify.

Discussion ensued, and it was suggested that the number of days be moved back to as soon as possible after the fifth day, which would start the reimbursement at the beginning of the second week. It was also suggested that we look into the possibility of applying lengthy trial reimbursement to grand jurors, triggering back to day #1 for lengthy trials for reimbursement, and increasing the current \$12 reimbursement overall.

**MOTION: To work to move lengthy trial reimbursement to begin as soon as possible after the fifth trial day, and to look into the possibility of reimbursement for grand jurors and increasing the \$12 reimbursement rate overall.** Motion was seconded and passed. AJC 2005-25.

### **Family Court Initiatives**

The Chair welcomed members of the Committee on Rules of Procedure in Domestic Relations Cases. The Chair noted this Committee has developed a set of rules of procedure for our family law courts, which will apply statewide. The Chair acknowledged the Committee members for all their hard work.

Judge Mark Armstrong, Chair of the Committee, then spoke and thanked the Committee members and staff for their efforts and explained the need for the rules, which will guide the family courts in the future. Judge Armstrong noted this is a momentous occasion in Arizona judicial history to have these rules, which are the most comprehensive set of family law rules in the country. Judge Armstrong and Konnie Young Neal, Committee staff, then provided a brief update on the status of the rules and noted the Committee is recommending a two-year review of them. The Chair then signed the Order and ordered the rules promulgated. Channel 15 and the AOC videographer were present to videotape the presentation and signing.

## **Judicial Branch Legislative Package**

Jerry Landau, Director of Government Affairs for the AOC, and David Benton, Legislative Officer for the AOC, then presented the 2006 legislative proposals for the Council's approval to include, not to include, or recommend something else.

### **06-14 Case Management System: Funding (taken out of order)**

Discussion: Judge Mundell expressed her concern with this proposal, noting that the increase in the filing fees would result in more than 50% of the funding coming from Maricopa County, which does not receive state funding. This would give the appearance that the County Board is subsidizing automation for the courts outside of Maricopa County. The Chair noted that if we go this route, we anticipate the filing fee would be divided partly to local Judicial Collection Enhancement Fund (JCEF) and partly to state JCEF.

**MOTION: To support the concept of 06-14 in the judicial branch legislative package.** Motion was seconded and passed. AJC 2005-26.

### **06-01 Mental Retardation Evaluations for Capital Defendants: A Right to Object**

Discussion: It was suggested that this proposal be referred to the prosecution or defense bar.

**MOTION: Not to include 06-01 in the judicial branch legislative package and to refer it to the prosecution or defense bar.** Motion was seconded and passed. AJC 2005-27.

### **06-02 Fingerprinting Court Contractors, Licensees, and Volunteers**

Discussion: It was suggested that court volunteers not be asked to pay for fingerprinting, i.e., CASA's and that methods other than fingerprinting be included.

**MOTION: To include 06-02 in the judicial branch legislative package with the amendments that court volunteers not be asked to pay for fingerprinting and that methods other than fingerprinting are included.** Motion was seconded and passed. AJC 2005-28.

### **06-03 Availability of Retired Judges for Certain Legal Services; Compensation**

Discussion: None

**MOTION: Not to include 06-03 in the judicial branch legislative package.** Motion was seconded and passed. AJC 2005-29.

#### **06-04 Retirement of Justices and Judges**

Discussion: Although there was general support, it was noted that this may not be a wise use of our political capital and it was questioned if this was a high priority. It was suggested that someone else take this legislation forward. It was noted that the Judges Association is split on this issue.

**MOTION: Not to include 06-04 in the judicial branch legislative package.** Motion was seconded and passed. AJC 2005-30.

#### **06-05 Communication Agreements for Grandparents of Adopted Children**

Discussion: The question was asked if the Committee on Superior Court vote was based on the thought that the grandparents may not cooperate or could not be found and that would impede the process.

**MOTION: Not to include 06-05 in the judicial branch legislative package.** Motion was seconded and passed. AJC 2005-31.

#### **06-06 Revisions to Streamline Juvenile Restoration to Competency**

Discussion: The following questions were asked: could the court detain juveniles after charges are dismissed, does this tread on due process grounds, and were adults handled similarly?

**MOTION: Not to include 06-06 in the judicial branch legislative package.** Motion was seconded and passed. AJC 2005-32.

#### **06-07 Criminal History Check for Orders of Protection**

Discussion: Withdrawn

#### **06-08 Service of Process; Orders of Protection**

Discussion: A question was raised as to whose duty this would be, the Sheriff's Office or local police, and whether they would support the amendments to change the language to read "any" law enforcement agency.

**MOTION: To include 06-08 in the judicial branch legislative package.** Motion was seconded and passed. AJC 2005-33.

#### **06-09 Parental Payments for Juvenile Justice Diversion, Education & Treatment**

Discussion: Withdrawn

#### **06-10 Preparatory Release of Inmates**

Discussion: The Chair noted that the proposal as presented did not contain the appropriate language that was amended the prior day.

**MOTION: To include 06-10, with appropriate language, in the judicial branch legislative package.** Motion was seconded and passed. AJC 2005-34.

#### **06-11 Traffic Ticket Enforcement Assistance Program**

Discussion: The question was asked whether to limit to Title 28 offenses and to include parking tickets.

**MOTION: To include 06-11 in the judicial branch legislative package.** Motion was seconded and passed. AJC 2005-35.

#### **06-12 Interstate Compact: Finance**

Discussion: It was suggested that either the legislature be asked to fix the problem, that it be included on an omnibus budget bill, or that the State Council carry it forward. A motion was made to ask the legislature to fix the problem; there was no second.

**MOTION: Not to include 06-12 in the judicial branch legislative package, but to refer it to the appropriate group and support the legislation.** Motion was seconded and passed. AJC 2005-36.

#### **06-13 Class 6 Open-Ended Felonies: Collateral Sanctions**

Discussion: A suggestion was made to refer to the defense bar or another advocacy group.

**MOTION: Not to include 06-13 in the judicial branch legislative package.** Motion was seconded and passed (one opposed). AJC 2005-37.

#### **06-15 Availability of Competency Reports**

Discussion: None.

**MOTION: To include 06-15 in the judicial branch legislative package.** Motion was seconded and passed. AJC 2005-38.

The Chair noted that the Council members did not have adequate time to review Judge Brutinel's legislative proposal to add a section to Title 8 Arizona Revised Statutes to allow a juvenile court in a dependency case to join a behavioral health or other

provider as a party to determine why mandated services are not being provided. The Chair noted this proposal would be presented for consideration at the December meeting.

### **Legislative Issues – Other (continued)**

Dave Byers provided an update on the juror orientation videos, which will be updated next year, with new versions available by the spring of 2006. Mr. Byers noted the court would be launching a positive campaign to encourage people to do jury duty (a proposal will be brought before the Council).

### **Arizona Code of Judicial Administration (ACJA)**

Kathy Waters, Director of the Adult Probation Services Division for the AOC, then presented the three code proposal amendments: 6-201: Standard Probation, 6-202: Adult Intensive Probation, and 6-204: Interstate Compact Probation for the Council's consideration.

Kathy briefed the Council on 6-201, and a motion was made to approve 6-201 as presented.

**MOTION: To approve 6-201: Standard Probation as presented.**

Motion was seconded and passed. AJC 2005-39.

Ms. Waters briefed the Council on 6-202, and a motion was made to approve 6-202 as presented.

**MOTION: To approve 6-202: Adult Intensive Probation as presented.**

Motion was seconded and passed. AJC 2005-40.

Dave Byers drew the Council's attention to Page 3, Section D.2. of 6-201. Mr. Byers noted that the way this section is worded, these standards would not apply to Maricopa County since they no longer receive state aid. Mr. Byers made a move to reconsider adoption of 6-201 and offered an amendment.

**MOTION: To reconsider approval of 6-201: Standard Probation as presented.** Motion was seconded and passed. AJC 2005-41.

**MOTION: To approve 6-201: Standard Probation with the following amendment on Page 3: strike the words "receiving state funds to aid probation services."** Motion was seconded and passed. AJC 2005-42.

It was noted that the same language is contained in each of the three code sections.

**MOTION: To reconsider approval of 6-202: Adult Intensive Probation.** Motion was seconded and passed. AJC 2005-43.

**MOTION: To approve 6-202: Adult Intensive Probation with the following amendment on Page 3: strike the words “receiving state funds to aid probation services.”** Motion was seconded and passed. AJC 2005-44.

Judge Leonardo noted that an additional place in each code section also contains the same language (Page 5, E.8.b.) and suggested that we amend to strike wherever this language appears in the code.

**MOTION: To amend the language to strike the words “receiving state funds to aid probation services” wherever it appears in the three code sections.** Motion was seconded and passed. AJC 2005-45.

Mr. Byers noted that we do not have to modify the language about receiving funds, since the words “shall comply” are sufficient.

**MOTION: To approve 6-204: Interstate Compact.** Motion was seconded and passed. AJC 2005-46.

### **Drug Court Initiative/Funding Plan**

Rob Lubitz, Director of the Juvenile Justice Services Division for the AOC, then presented the concept for the drug court initiative/funding plan.

Mr. Lubitz noted that at least \$1 million would be available for allocation on July 1, 2006 to foster, fund and promote adult and juvenile drug courts in Arizona. Mr. Lubitz then laid out the plan/concept by priority. Mr. Lubitz stated that upon approval, the specifics would be developed and presented during the Administrative Leadership Conference in December.

Discussion ensued regarding including DUI courts and family drug courts, and the promotion of the Spanish speaking DUI court in Maricopa County. It was suggested that the concept be broadened to include other courts. Mr. Byers suggested that these ideas should be considered for the upcoming DUI initiative.

**MOTION: To approve the concept so that the plan details can be developed and finalized.** Motion was seconded and passed. AJC 2005-47.

### **DUI Initiative**

Jerry Landau, Director of Government Affairs for the AOC, updated the Council on the DUI Task Force. Mr. Landau provided background on the task force and

acknowledged members who were in attendance: Judge Angiulo, Judge Traynor, Judge Dorfman, and Judge Widmaier. Mr. Landau reported that eleven meetings were held over three months in Phoenix, Tucson, and Flagstaff, and comments were heard from more than 100 people.

Mr. Landau reported that information is still being gathered, and staff members are formulating a report to make recommendations to the Chief Justice. Mr. Landau noted that these recommendations would be presented at the December Council meeting.

The Chair announced that Judge Louraine Arkfeld, Presiding Judge of the Tempe Municipal Court, was selected as the recipient for the Rehnquist Award, National Center for State Courts. The Chair noted that Judge Arkfeld is the first noncourt-of-record judge to receive this award. The Chair added that Judge Arkfeld will receive her award on October 27, and she will be presenting the award to her. The Chair also announced that Judge Dorfman would be retiring after 33 years at the Phoenix Municipal Court. The Chair noted that Judge Dorfman was asked, and has agreed to continue to serve as a member of the Council.

### **Call to the Public/Adjourn**

The Chair made a call to the public; there was none.

The Chair stated the next meeting would begin with dinner on December 13, 2005 at the Sedona Hilton followed by the meeting on December 14.

**MOTION: To adjourn the meeting.** Motion was seconded and passed.  
AJC 2005-48.

The meeting adjourned at 2:40 p.m.