

United States District Court

Southern District of Illinois

750 Missouri Avenue

P. O. Box 249

East St. Louis, Illinois 62202

JAMES L. FOREMAN
CHIEF JUDGE

STUART J. O'HARE
CLERK OF COURT

May 24, 1991

Mr. Abel Mattos
Chief, Court Program Branch
Administrative Office of the
United States Courts
Washington, D.C. 20544

Dear Abel:

I promised you that I would mail you copies of our Civil Justice Reform Act Advisory Committee meeting minutes. I forgot to do so. Please forgive me.

Enclosed are copies of the minutes of the meetings held on March 28, 1991 and April 26, 1991. Our next meeting is scheduled for May 31, 1991 here in East St. Louis. I shall forward copies of those minutes to you in a more timely fashion.

After you have had a chance to review them, if you have any thoughts or suggestions, please give me buzz. Until then,

Sincerely yours,



Stuart J. O'Hare
Clerk of Court

SJO:sml

Enclosures

MINUTES OF THE CIVIL JUSTICE REFORM ACT ADVISORY GROUP MEETING HELD ON MARCH 28, 1991

Present: District Judge William L. Beatty
District Judge William D. Stiehl
Mr. Richard E. Boyle
Mr. Milan Chestovich
Mr. Harry Crisp
Mr. Donald J. Dahlmann
Mr. Larry E. Foster
Mr. David R. Freeman
Mr. Mark C. Goldenberg
Mr. Richard O. Hart
Ms. Mary Ann Hatch
Mr. Jack Hensel
Mr. Richard Horstman
Mr. Thomas E. Kennedy III
Mr. Gordon Lambert
Mrs. Alexis Otis-Lewis
Mr. Theodore J. McDonald
Mr. Robert Shanks
Mr. Robert Simpkins
Mr. Donald E. Wehl
Mr. Melvin C. Wilmsmeyer
Mr. Stuart J. O'Hare, District Clerk (Recording)

Pursuant to Administrative Order No. 52, the meeting was called to order by Judge William L. Beatty at 10:00 a.m. in the United States Courthouse, East St. Louis.

Judge Beatty extended Judge Foreman's regrets at not being able to attend this first meeting of the Advisory Group. Chief Judge Foreman underwent quadruple by-pass surgery yesterday. His doctors advise the operation went smoothly, and they are optimistic about a speedy recovery and quick return to work.

Judge Beatty discussed the history of the Civil Justice Reform Act. The Senate initiated inquiry into the civil area of the Court system. Initially, the Act was commonly referred to as "the Biden Bill". There was considerable concern among members of the federal judiciary that they did not have sufficient input. The Bill was amended, resulting in the Act which is now before this Advisory Group. Judge Beatty emphasized the importance of the Advisory Group (AG). The AG will be an ongoing Advisory Group and will have a long-range impact on this Court. The AG is charged with reviewing the Court's case management practices and overall

court operations and making recommendations to the Court, resulting in a justice expense and delay reduction plan. The AG was handpicked by the Court, ensuring that a diverse group of lawyers and laymen representative of the major categories of litigation in our court were selected. Judge Beatty stated that the non-lawyers should not feel that they have to defer to the lawyers. It is the non-lawyers who are paying the bill and may have views of real problems quite different than the lawyers.

Judge Beatty and Judge Stiehl stated that they felt this court does not have a single large problem. Each Judge stated that they would be happy to discuss their feelings with members of the Committee.

Judge Beatty stated that this committee would set up its own rules, select a Chair, and perhaps a Vice-Chairperson. The Court has appointed Dean Haynsworth, from the School of Law, Southern Illinois University at Carbondale to act as the Reporter. Due to a prior longstanding commitment, Dean Haynsworth was unable to attend this meeting. Further, the AG must determine where and when to meet. It is the Court's preference that the committee, whenever possible, meet in the Courthouse in East St. Louis or Benton.

The Court will make itself available whenever the AG needs guidance or seeks information, but regrets it cannot assist when it comes to money. Eventually, Congress may make appropriations available; however, at this time, there is no funding.

The first task the AG may want to consider is to select a temporary Chairperson and take care of other housekeeping chores, suggested Judge Beatty. He proposed that the AG tour the courthouse complex to better familiarize themselves with the physical layout.

Judge Stiehl then addressed the group and said that there was great exception to the original Biden Bill. There was no input sought from the judiciary, and through compromise, the present bill was passed. The Biden Bill also provided one temporary Federal Judge for this District.

Judge Stiehl said that public perception regarding the delay and cost reduction in the Court system lies more in the civil area than criminal. This is perhaps due to the fact that criminal cases, pursuant to the Speedy Trial Act of 1974, take precedent.

Judge Stiehl stated that the AG, pursuant to the Act, must first study the Court's operation, leading to recommendations on time delay and cost reduction and, only then, design a plan which would be presented to the Court. The final plan must be filed on or before December 31, 1993.

He stated that it is the Court's position that they will make themselves available to answer any questions the AG may have regarding the Court's procedures or operation. The Court would like to relay their reasons for doing things in a certain manner. Judge Stiehl stated that the Court does not want to influence the AG's opinions. He suggested that the AG have no inhibitions whatsoever in making any recommendation it feels appropriate. The AG may want to involve other members of the Bar or predominant litigants in the system through personal interviews. To do this, the AG may decide to set up various sub-committees.

Judge Stiehl further advised that there may be certain financial advantages in opting for an early implementation of a delay and cost reduction plan. If the committee opts for early implementation, our plan must be finalized no later than December 31, 1991. The Court would not discourage early implementation, however, the Court does ask the AG to take as much time it needs to prepare or develop a comprehensive plan. Some of the financial advantages may be additional funding for automation or personnel.

Mr. O'Hare stated that the Court has appointed him as an ex officio member and designated him as Secretary to the AG. By necessity, his office will be intimately involved with this project. All statistical information, dockets, files, and administrative orders are maintained by his office.

He advised that the Clerk's Office is undergoing a major procedural change from manual to automated dockets. A nationwide system entitled ICMS (Integrated Case Management System) is being implemented in this Court. Presently, only statistical information is being placed in the database. Staff will be undergoing training during the first three weeks in April, with an anticipated abbreviated "live" date scheduled for April 29, 1991. During the months of May and June, his deputy clerks will be inserting critical case management information in the computer's database. These matters will include dates contained in preliminary pre-trial scheduling orders, trial dates, hearing dates, all pending motions, and other case management information regarding each pending civil case.

A question was asked if any training would be made available to members of the AG. Mr. O'Hare stated that a seminar is being proposed by the Federal Judicial Center, the training arm of the Courts. This seminar is tentatively scheduled for May 16 in Washington, D.C. Funding for the designated individual would be allocated. Further, he advised that he will be attending a nationwide District Court Clerks' Conference in Houston, Texas during the week of April 15. Two days have been devoted to discussing the Civil Justice Reform Act. He will prepare a report and submit it to the members of the AG.

TOPICS DISCUSSED DURING OPEN SESSION

-- Mr. O'Hare was asked what type of statistical reports his office maintained. He said detailed monthly statistical reports are required by the Administrative Office of the U.S. Courts. Additionally, he keeps various "in-house" statistics, i.e., number of hours spent in court broken down by civil, criminal and other hours, hours spent on various matters handled by the Magistrate Judges.

-- Mr. O'Hare was asked about the type of automation his office has and what role automation would play in the future. He advised that his office is presently running two parallel

computer systems during the initial implementation stage. Long term, a single UNIX-based 386 computer will track the civil, criminal and financial application in the Court.

-- Long-range goals are to have a fully automated docket encompassing criminal and civil cases and to have the dockets available to judicial chambers, private attorneys, the public and the litigants. They could access the system either through direct linkage within the Courthouse or via modems installed in the attorneys' personal computers. He anticipates providing this service, for civil case tracking only, by the end of the year, depending on how smoothly the conversion from paper to automated dockets progresses. Criminal cases will be converted in approximately one year.

-- Mr. O'Hare suggested that each member introduce him or herself through a short biography and requested the attorneys give a synopsis of their legal practice area and the non-attorneys to give a sketch of their position and business. (Thereupon, a round table introduction was conducted.)

-- After the introductions, Mr. O'Hare suggested that now may be a good time to select a temporary Chairperson. Mark Goldenberg nominated Donald Wehl as the temporary Chairperson. The motion being seconded with no opposition, Donald Wehl was elected as the temporary Chairperson.

-- Mr. Wehl inquired as to the benefits of an early implementation date. Mr. O'Hare stated that there is nothing in concrete at this time, just the possibility of additional automation equipment, and perhaps additional staff. Mr. O'Hare stated that he and Chief Judge Foreman discussed early implementation before the Judge entered the hospital. Chief Judge Foreman asked the AG to give consideration to early implementation. However, he desires a thorough, comprehensive evaluation of our policies, practices and procedures. Mr. O'Hare was asked what, if any, impact the new temporary judgeship would pose. He said the Court's caseload would be redistributed. The Court is reviewing this process now. He said Chief Judge

Foreman and Judge Beatty are eligible to take Senior status during 1992, thereby creating two new judgeships.

-- Mr. Weihl pointed out that the literature each member received prior to the meeting limits the scope of investigation to this District. He suggested, however, that perhaps a comparison of State Court statistics to Federal Court statistics might be beneficial. He further suggested that the AG may want to consider interviewing the State Court Administrator, Joseph Cunningham, for this purpose.

-- It was suggested that separate subcommittees should be formed, one to review the civil docket and another to review the criminal, in an effort to pinpoint possible delay and expense reductions.

-- It was suggested that any AG member who is familiar with the Court and perceives a problem area, or an area that he or she feels is in need of review, should write a letter to Mr. O'Hare. Mr. O'Hare would collect all of the letters and then send them to Mr. Weihl.

-- A suggestion was made that specific concentration should be spent on time frames, re date of filing to final disposition, in an effort to tighten them up. Further, perhaps depositions and various discovery matters, which are not required to be filed with the Court, may be curtailed or eliminated.

-- A suggestion was made to look at the type and power of automation within the system. Is it sufficient to handle the task?

-- Mr. Weihl inquired of the AG as to how frequently meetings should be held. After discussion, it was the consensus that for the AG to fulfill its mandate, a minimum of one monthly meeting is required. If sub-committees are formed, any additional meetings would be within that sub-committee's purview.

-- It was the consensus that the fourth Friday of every month be designated as the official meeting date. It was further decided that the meetings would alternate between the

courthouse in East St. Louis and the facilities at Rend Lake. The next meeting was scheduled for Friday, April 26, 1991 at Rend Lake. The May meeting was tentatively set for May 24, 1991 in East St. Louis. *(Note: During the luncheon, several members expressed concern because this date falls within the Memorial Day weekend.)*

Thereafter, at 11:55 a.m., the meeting was adjourned. All participants were invited to attend a court-sponsored luncheon in the jury assembly room.

Respectfully submitted,

Stuart J. O'Hare

**MINUTES OF THE CIVIL JUSTICE REFORM ACT ADVISORY GROUP
MEETING HELD ON APRIL 26, 1991**

Present: Chief Judge James L. Foreman (for part of meeting)
Mr. Donald E. Weihl, Temporary Chairperson
Mr. Richard E. Boyle
Mr. Milan Chestovich
Mr. Donald J. Dahlmann
Mr. Larry E. Foster
Mr. David R. Freeman
Mr. Mark C. Goldenberg
Mr. Richard O. Hart
Ms. Mary Ann Hatch
Mr. Jack Hensel
Mr. Richard Horstman
Mr. Robert Shanks
Mr. Robert Simpkins
Mr. Melvin C. Wilmsmeyer
Mr. Stuart J. O'Hare, District Clerk (Recording)
Ms. Terry Ward, Assisting Mr. O'Hare

Pursuant to notice, the second meeting of the Civil Justice Reform Act Advisory Group commenced promptly at 10:00 a.m. this date at Rend Lake Conservatory, Benton, Illinois. The meeting was chaired by Don Weihl, Temporary Chairperson.

I. Approval of Minutes of March 28, 1991 Meeting

Don Weihl moved that the minutes of the 3/28/90 meeting be amended to reflect that Mark Goldenberg was selected as temporary co-chair. The motion was seconded, and without objection, the motion carried.

II. Temporary Chairman's Activity Report (Weihl)

A. Meeting with Judges Beatty and Stiehl

Don Weihl reported that a luncheon meeting was held with Judge William L. Beatty, Judge William D. Stiehl, Mark Goldenberg and Stuart O'Hare.

Don Weihl reported that the Judges advised how the Advisory Group members were selected. The Court was carrying out its mandate in selecting active attorneys and members of major litigants in the Court.

The Judges pointed out that the issue of a permanent reporter should be addressed. The Reporter's role is critical, and the issue to either replace or retain Dean Haynsworth in this position should be confronted early. Dean Haynsworth will be unable to attend the next two meetings. The Judges reiterated that the final appointment of the Reporter lies solely within the discretion of the Chief Judge, but that the Chief Judge was seeking help from the AG.

Judges Beatty and Stiehl stated they are not forcing early implementation. They want the best possible review of the Court's policies and procedures before the final plan is written.

The Judges were asked about their feelings on a survey of active attorneys regarding each judicial officer's procedures. The Judges stated no objections, only that they didn't want to read about it in the local newspapers.

The District Judges made it perfectly clear that they would not participate in the AG meetings. They would, however, comment on any issues addressed by the AG if asked and reiterated the fact that they were always available to help in any way the AG sought.

B. Overview of Advisory Group Work (see attachment).

No discussion.

C. Advisory Group Chairpersons' Meeting at the Ritz-Carlton Hotel, Naples, Florida - May 16, 1991

During the course of the meeting, Don Weihl was elected Chairperson, and Mark Goldenberg elected as vice-chairperson. Mr. Weihl advised that due to a prior commitment he would be unable to attend this meeting. Upon proper motion and a second, it was unanimous that Mr. Goldenberg would attend this meeting.

D. Discussion of Materials to be of Assistance to Advisory Group

✓ Mr. Weihl stated the AG is looking at saving money, for the Court and the litigants. We need to gather input from the players. Mr. Weihl stated there is an excellent article in the "Duke Law Journal" on how to handle litigation. It addresses attorneys' fees (Christenberg rule) and is applicable to defendants and plaintiffs. Further, he will get from the Legislative Services of the Illinois State Bar Association a gender bias report and forward to Stuart O'Hare before the next meeting for distribution. *Mr. Shephard*

E. Program and Date for May Meeting in East St. Louis

After discussion, motion and vote, the next AG meeting date was moved from May 24 to May 31, 1991. The meeting will be held in Chief Judge Foreman's courtroom in East St. Louis. The time was changed to **9:00 a.m.**

Mr. Weihl asked Judges Beatty and Stiehl if it would be possible for their law clerks to address the AG during its next meeting. He felt they could give a 10-15 minute presentation on policies and procedures followed in each chambers. Each Judge agreed and this will be placed on the meetings agenda. Mr. O'Hare was asked to speak with each law clerk advising them of what the AG is looking for.

III. Presentation on the Filing of a Federal Court Lawsuit from the Perspective of the Clerk of the Court (O'Hare)

A. Case Filing by Type of Case

Mr. O'Hare furnished a breakdown of pending cases and their weight. He explained that civil cases are "weighted" based upon expected judicial time spent on each case. He pointed out that since our per judge weighted filings exceeded 400 cases per judge, a temporary judgeship was created for this district. (See handout I)

B. Case Assignments

Mr. O'Hare explained how cases are assigned to the judicial officers and pointed out the applicable Local Rules.

C. Role of Rule 39 - Alternative Dispute Resolution

After proper solicitation for comments among the bar, and because there were no comments or objections submitted to proposed Local Rule 39, the rule is in full force and effect. Mr. O'Hare advised that Chief Judge Foreman has utilized this procedure in the past and found it be very effective. Mr. O'Hare advised there are several districts that have a similar local rules. It is very effective in larger civil cases. Mr. Weihl asked Mr. O'Hare to furnish any additional information he may have regarding summary jury trials.

IV. Early Implementation District - Pros and Cons

Mr. Weihl reminded the AG that once the final Delay and Cost Reduction Plan is established, the AG is not automatically disbanded. This is a continuing assignment, and it may be beneficial to opt for early implementation. He stated there is a lot of billable hours within the AG, and an early plan with updates may be cost effective for everyone.

Mary Ann Hatch questioned early implementation; how does it affect the budget. Mr. O'Hare advised 5.2 million dollars is allocated for the duration of FY91. He stated that money would be distributed based upon implementation dates. The ten pilot courts receive priority, courts desiring to pursue early implementation receive second priority and the remaining Courts would share the any excess funds. He stated that the Reporters compensation is limited to \$5,000, consultants \$1,000 (one per court), and that mileage and subsistence is governed by the Guide to the Judiciary Policies and Procedures. Congress is being asked to budget 12.5 million for FY92.

Mr. O'Hare advised that out of eighty-seven Clerks attending the Houston workshop, approximately 25% were opting for early implementation.

Mary Ann Hatch moved that the Southern District of Illinois opt for Early implementation. Motion seconded by Milan Chestovich and the motion carried unanimously.

The consensus was to continue holding meetings once a month until June. The subcommittees may want to hold more frequent meetings. After June, consideration should be given to holding a consolidated meeting every three weeks.

V. Division of Advisory Group into Subcommittees (Goldenberg)

Mr. Goldenberg stated that the AG's mandate is Civil Justice Reform, not criminal. Delays in moving civil cases may be a result of criminal case processing and should be taken into consideration.

Mr. Goldenberg outlined suggestions regarding the formation of subcommittees. After considerable discussion among AG members, the following subcommittees were agreed upon:

Subcommittee on Survey on Practicing Bar and Maximizing Benefits of Automation

- This will be a very early active committee
- Judges' management of docket
- Design survey and make meaningful report
- Mr. O'Hare will compile a list of active attorneys who frequently practice in the court

Subcommittee on Filing Process, Discovery & Motion Practice:

- Pre-filing of motions up to trial

Subcommittee on Trial, Post-Trial Motion and Alternate Dispute Resolution.

- Mr. O'Hare was asked to act as a conduit and advise committee members when trials start
- District level only (not appellate)
- Mr. Wehl stated he felt it was important to have at least one non-lawyer on each committee

Subcommittee on Magistrate Judges' Role and Prisoner Petitions

Mr. O'Hare prepared and distributed subcommittee headings and asked each member to select a preference for serving on a subcommittee(s).

Each subcommittee should consider our present Local Rules which may affect them.

It was suggested that each subcommittee start by asking if there is a problem and how to correct it.

It is anticipated that each committee will prepare status reports/minutes, which Mr. O'Hare would circulate to all members of the AG.

VI. Lunch (Hosted by Larry E. Foster, Executive Vice President, Rend Lake Conservancy District)

The AG voted a special thanks to Mr. Foster for the fabulous lunch and meeting room. Well above the call of duty.

Chief Judge Foreman addressed the AG during the luncheon. Regretfully, heart surgery prevented him from attending the first meeting. He expressed his appreciation for everyone accepting this very important assignment. The chief judge said that the product of this committee will be the guiding light for many years to come. The Court is very grateful to the non-lawyers for accepting this post.

The Chief Judge said that the Court stands ready to assist in any way possible. The Court will not steer the AG in any way. It is the AG's responsibility to propose recommendations to the Court for improving any delay and costs to the litigants.

The Chief Judge was glad to hear that the AG decided for early implementation, and he fully endorsed the decision. He asked for input regarding continuing the appointment of Dean Haynsworth or recommending another member to replace him. He said that it is his responsibility to appoint the Reporter but he would appreciate guidance from the AG.

The Chief Judge said that Mr. Horstman advised him that he was being transferred out of the district. Mr. Horstman wants to remain on the AG unless there is a problem with his physical absence from the district. The Chief Judge did not feel that there was a problem and would like him to remain on the AG.

VII. Individual Subcommittee Break-out Group Meetings to Consider Objectives to be Addressed by Subcommittees

Since subcommittees were not formally selected, this agenda item was moved to the next meeting.

VIII. Brief Reports by Subcommittee Chairmen

Since subcommittees were not formally selected, this agenda item was moved to the next meeting.

IX. Old/New Business

Mr. Hart inquired as to whether Local Rules from other districts would be helpful. Mr. O'Hare advised that last year, a Committee appointed by the Court reviewed all of our local rules. That Committee was chaired by Russell Scott. Mr. O'Hare was asked to gather a small sampling of Local Rules from Courts that equal the size of the Southern District of Illinois.

Mr. Wehl stated that he felt the AG should avoid statistical analysis. Additionally, he suggested that the discovery process may be far too in-depth and too expensive. This area should be studied.

The issue of the Reporter was again discussed. Mr. Wehl felt that since the AG is still in design stages, that the subcommittees should begin their preliminary work. The Reporter will become critical in the next several months. He suggested that he, Mark and Stuart prepare a report on what the duties of the reporter are. This will be distributed prior to the next meeting.

Mr. Hart suggested that prior to the next meeting, any suggestions, observations or comments should be committed to writing and disseminated prior to future meetings. This would give everyone time to prepare.

X. Adjournment - 2:00 p.m.