

**JUDICIAL COUNCIL
MINUTES**

July 2, 1997

Sun Valley, Idaho

Members Present:

Chief Justice Michael D. Zimmerman
Hon. Pamela T. Greenwood
Hon. Robert Braithwaite
Hon. Glen Dawson for Hon. Rodney Page
James C. Jenkins, Esq.
Hon. John Sandberg
Hon. Kent Nielsen
Hon. Anthony Schofield
Hon. Anne M. Stirba
Hon. Leonard H. Russon
Hon. Joseph Jackson
Hon. Michael K. Burton

Members Excused:

Hon. Jerald Jensen
Hon. Stephen Van Dyke
Hon. Rodney Page

Staff Present:

Daniel J. Becker
Myron K. March
Richard H. Schwermer
Timothy Shea
Marilyn Branch
Cindy Williamson

Guests:

Hon. Brent West
Hon. James Davis
Commissioner Lisa Jones
Hon. Lynn W. Davis

Welcome:

Chief Justice Zimmerman welcomed members, guests and staff to the meeting. Hon. Glen R. Dawson appeared on behalf of Judge Rodney Page. Mr. James C. Jenkins was recognized for his recent appointment as President Elect of the Utah State Bar.

year 2000 problem.

A grant has been received by the courts for a capital law clerk who will assist judges statewide with capital cases. The law clerk, with assistance from members of the District Court Board, will also be responsible for the development of a capital case benchbook. Other grants received by the court include Bryne funding for the Drug Court in the Third District and a National CASA grant in the amount of \$60,000 to assist in the areas of administration and training.

Chief Justice Zimmerman expressed his appreciation to Dan Becker and other staff members for their efforts in obtaining numerous grants for the courts.

The jury video *Selected to Serve* was nominated by the University of Utah's Media Department to receive a regional award. The video won the regional award and was therefore nominated for an international award for best audio/visual presentation. The video won and has received the "International Silver Cindy Award."

Judicial Council Sub-Committee Reports:

Management Committee Report:

As follow up to the Judicial Council's and Boards' meeting in November, a resource document prepared by Holly Bullen was distributed to members of the Management Committee. This document should be utilized when committee appointments are made in the future. The document will also be provided to the Appellate, District and Juvenile Court Boards for use when appointments are made.

Rule 3-111(C)(I) of the Code of Judicial Administration provides that justices of the Supreme Court demonstrate satisfactory performance by circulating not more than six principal opinions more than 180 days after submission.

Justices have relied upon a 6-month rather than 180-day standard. If a 180-day standard rather than a 6-month standard is applied, rulings may be classified as late-circulating under Rule 3-111.

Upon motion, the Management Committee referred a proposal for the 6-month standard to the Judicial Council for consideration and approval. A suggestion was also made that efforts be pursued which would examine the reporting standard of cases under advisement for district court judges. This matter was referred to the Board of District Court judges.

Rolen Yoshinaga provided an update on CORIS to members of the Management Committee and indicated that efforts are being undertaken to improve response time. There are three broad-based variables which affect the speed and response time of CORIS. The variables

Report from the Ad Hoc Committee on Collections & Warrants:

Hon. Brent West, Chair of the Ad Hoc Committee on Collections and Warrants, was present and presented the findings and recommendations of the committee to Council members for their consideration.

In 1997, the Legislature passed the following intent language:

It is the intent of the Legislature that Courts implement the recommendation noted in the Annual Accounts Receivable Report and approved by the Advisory Board to the Office of State Debt Collection. Courts will work with the Office of State Debt Collection to develop a plan of action whereby delinquent accounts can be transferred to the Office of State Debt Collection or its designee when an account is 60 to 90 days delinquent. The Office of State Debt Collection will be responsible to provide information as to the status of the transferred accounts so that judicial action can take place as required.

In January 1997, the Ad Hoc Committee made an interim report to the Judicial Council. The Council reviewed the report and directed the committee to work with the Office of State Debt Collection to develop policies and procedures.

The committee found that there is a need for a statewide system of collections in the courts. The committee further found that the collection programs in the court should perform the following functions: a) obtain "up-front" information about the financial status of defendants who are requesting time payment of their court-ordered debts; b) follow-up on defendants who miss a payment; c) facilitate the conversion of criminal judgments to civil judgments; d) facilitate the transfer of information about cases to the Office of State Debt Collection and e) that the Administrative Office of the Court and the Office of State Debt Collection review the policies and procedures after two years to determine their effectiveness to recommend whether they shall be continued or different policies and procedures be adopted.

Council members expressed their appreciation to Judge West and his committee members for outstanding progress in this area.

Discussion:

Judge Anthony Schofield expressed concern about the priorities of various entities, i.e., child support vs. restitution. Judge West explained that the State Office of Debt Collection may revise their priorities, which is established by statute. The courts' list priorities are established by the Judicial Council. The courts have recommended that the Office of Debt Collection reexamine their priorities and consider advancing victim restitution as a top priority.

Questions were raised regarding conversion of criminal fines to civil judgments. There is an expectation that collecting a criminal fine may be easier to accomplish than collecting a civil

permits. The draft permits all statutorily defined classifications of law enforcement officers to carry a weapon if properly certified, and finally, the draft includes changes from the Security Task Force.

Discussion:

James Jenkins stated that the court room should be as weapon free as possible. Mr. Jenkins advocated that the Council rule include a restriction that judges are not allowed to carry a weapon in the court room. This issue was further discussed between members of the Council and comments included that court rooms be weapon free while other rules be exercised in different areas of the court house. A question was raised regarding whether or not the rule should be uniform statewide.

Motion:

A motion was made by Judge Schofield to adopt Rule 3-414 as drafted, with the provision that each judge be able to exempt their courtrooms from the rule and that the rule be re-drafted to reflect the change. The motion was seconded by Justice Russon and carried unanimously.

Motion:

A motion was made by James Jenkins that each facility within each district be allowed to be more restrictive than the statewide rule and that the rule be re-drafted to reflect this modification. The motion was seconded by Judge Schofield and carried unanimously.

Next, Mr. Shea raised the issue of appropriate signage within court houses that should designate secure areas and the limitation of weapons in those areas. Chief Justice Zimmerman suggested that Mr. Shea research this issue, discuss it with administration and ensure compliance or a change in statute.

Justice Court Study Committee Progress Report:

Judge Anthony Schofield, Chair of the Justice Court Study Committee, reported on the committee's behalf. The committee has met three times with another meeting scheduled the week of July 7, 1997. The committee's process was to invite input from interested parties who have a stake in the Justice Court Study Committee, i.e., League of Cities and Towns, Utah Association of Counties, Statewide Association of Prosecutors and others.

The committee deliberately decided to have detailed minutes which are to provide members of the committee and other interested parties a clear, detailed description of the meetings.

after submission.

Justices have relied upon a 6 month rather than 180 day standard. If a 180 day standard rather than a 6-month standard is applied, rulings may be classified as late-circulating under Rule 3-111.

Motion:

A motion was made by Judge Burton that the Rule 3-111(C)(I) be modified and stated in terms of months rather than days. The motion was seconded by Judge Stirba and carried unanimously.

Release of Salary Information from the Director of Finance:

The Director of State Finance has recently released the salary information of state employees based upon W-2 information and not upon statutory information. This information should not have been released.

Motion:

A motion was made by Judge Braithwaite that the Judicial Council authorize Chief Justice Zimmerman to write a letter to the Director of State Finance requesting that office personnel stop releasing inappropriate salary information. The motion was seconded by Judge Greenwood and carried unanimously.

Informing Legislators:

Richard Schwermer provided a brief overview of what has been done in the past to inform legislators about the court system and what efforts will be taken in the future. In the past there have been general education efforts undertaken regarding the courts as a whole, as well as educational efforts about specific agenda items before the Legislature. There have been meetings with all legislators throughout the state in different forums, i.e., dinners, breakfasts during the sessions, and at one time there was an educational session for legislators held in conjunction with a program given by the governor. During these meetings there have been presentations made regarding general statistics, trends, videos have been shown and other background information provided.

Currently, efforts are underway to fully discuss matters with legislators and to invite them to join various judges in their court rooms to see court in process. Specific attention is also being given to individual legislators about their immediate concerns. Judge Stirba requested that ideas be developed using judges as resources when attempting to inform legislators.

This matter will be placed on a future Council agenda after legislative visits are held

Report on District Board Workshop:

Judge Lynn W. Davis commented on a recent District Board Workshop. Board members spent a day and a half discussing a vast number of topics which included the following: a) prominent displays of the mission statement; b) communication and management; c) Board priorities; d) judicial independence; e) presiding judge training; f) specific membership of the Judicial Conduct Commission; and e) the judicial selection process.

Next, Judge Davis reported that the Board is planning on having an annual training and workshop for the Board. Judge Davis commended Diane Hamilton for her facilitation efforts before the Board.

Presentation by Bar Section - Litigation Section:

David Jordan, member of the Utah State Bar and Chair of the Litigation Section, reported on activities of the Litigation Section. Mr. Jordan stated that the Litigation Section of the bar is the largest section of the bar with approximately 800-900 members. This section of the bar is financially sound.

The Litigation Section has focused a lot of activity into advocacy training. Recently, the section sponsored the Utah Trial Academy which consisted of six two and one-half hour sessions put together by a volunteer faculty of attorneys and judges. In addition, the section will develop and host lunch seminars. The focus of the seminars will be based primarily on discovery issues. The section also participates in new lawyer training. The section comments on all rules developed by the Judicial Council, reviews model jury instructions and hosts part of the Mid-Year and Annual Bar Conferences.

Members of the Judicial Council expressed their appreciation to Mr. Jordon for his presentation.

Other Business:

Judge Burton raised the issue of a recent CASA training and the possibility of conflict during a trial if the trial were to involve an abused child. He went on to question policy regarding the witness/juror fee of \$17.00.

Adjourn:

There being no further business, Chief Justice Zimmerman adjourned the meeting.