

**Judicial Council Meeting
Minutes**

Tuesday
September 9, 1997

Snowbird

Chief Justice Michael D. Zimmerman, Presiding

Members Present:

Chief Justice Michael D. Zimmerman
Hon. Pamela T. Greenwood
Hon. Anthony W. Schofield
Hon. Michael K. Burton
Hon. Stephen A. Van Dyke
Hon. Leonard H. Russon
Hon. Robert Braithwaite
Hon. Jerald Jensen
James C. Jenkins
Hon. Joseph Jackson
Hon. Rodney S. Page
Hon. Kent Nelson

Staff Present:

Daniel J. Becker
Myron K. March
D. Mark Jones
Timothy Shea
Richard H. Schwermer
Marilyn Branch
Jan Thompson
Cindy Williamson

Members Excused:

Hon. John Sandberg
Hon. Anne M. Stirba

Guests Present:

Steven Stewart, Exec. Director
Judicial Conduct Committee
Hon. Lynn W. Davis, Chair
District Board
Robert Gross, Governor's Chief of
Staff
Lavell Prince, Mayor, Taylorsville City
John Brems, City Attorney, Taylorsville City

Welcome:

Chief Justice Zimmerman welcomed members and staff to the meeting.

State Court Administrator's Report:

Dan Becker distributed a list of Judicial Council budget priorities which were voted on during the Council's Budget Planning Session in August.

3rd District Court Judge	239,050
Law Clerks	296,875
Computer Network	245,450
Base Budget (all levels)	300,000
2nd District Juvenile Court Judge	216,050
Legal Institute (Justice Courts)	33,900
Operating funds (Education)	33,275
GAL Operations	55,000
Clerical Reserve (all levels)	100,000
Computer Network	<u>19,200</u>
Total	1,528,800

The National Association of Women Judges (NAWJ) is holding their annual conference in Salt Lake City at Little American from September 24-27, 1997. Currently, there are more than 200 judges registered for the conference from across the country. Justice Christine Durham is being honored at the conference.

Recently, eight Egyptian judges visited the Administrative Office of the Courts and showed a keen interest in judicial education. In the near future, a group of Macedonian judges will also be visiting the Administrative Office.

A workshop on Alternative Work Strategies is scheduled for September 17, 1997. The workshop will present a positive focus on alternative work arrangements that include flex time, compressed work weeks, and telecommuting.

Judge Kimberly Hornak previously reported to the Judicial Council in Logan on the Court Improvement Project. Items before the committee are foster care and dependency issues. A mediation project is now planned as part of Court Improvement Program. Mediators will be employed through grant funding. The mediators will mediate dependency cases within the Second, Third and Seventh Judicial Districts. The Seventh District was chosen because of a recent request for a juvenile judge. It is hoped that by extending this program it will offer some support within that district. This is a very innovative project and represents a great opportunity for the courts to do business in a different way.

As a result of recent planning efforts by the Judicial Council, Dan Becker has prepared a list of initiatives built around the top three objectives of the Council which were to develop

When questioned, Mr. Stewart indicated that the vast majority of complaints are without merit. Neither is there any pattern which might indicate that the judiciary is not following the standards set forth in the rules. Mr. Stewart stressed that all judges carefully consider Canon 3 which states: "A judge shall perform the duties of the office impartially and diligently." Mr. Stewart concluded his presentation with the thought that complaints have decreased because the judiciary has been better educated about ethics.

Board of District Court Judges Report

Judge Lynn W. Davis, Chair of the District Court Board, was present to report on recent developments of the Board. The Board's composition will change due to term expirations of Judges Davis, Hanson and Payne.

Recently, the Board of District Court Judges requested an opinion from the Judicial Ethics Advisory Committee on the issue of the legislative juror check off program for CASA. The Board has reservations about this bill because it may violate Canon 4 which states: "A judge shall so conduct the judge's extra judicial activities as to minimize the risk of conflict with judicial obligations."

Another concern of the Board exists with the Weighted Caseload Study. Members of the Board have expressed the opinion that there is an inherent mistrust associated with the study. There is the argument that the caseload results should only be one factor with which to consider performance and that the study is not sufficiently valid to be used as a legitimate tool. Members of the Council stressed that the study is subject to modifications based upon experience and it not meant to be something that is cast in stone.

Judge Jensen indicated that traditionally you cannot ask someone who is being evaluated to approve of the evaluative measure and that at some point, a decision needs to be reached. Judge Jackson concurred with those thoughts and stated that the present study can work within a high degree and level of fairness.

Judge Davis recommended that Judge Gordon Low from the First District, Judge Ronald Nehring from the Third District, and Judge Guy Burningham from the Fourth District, work closely with Tim Shea and be part of the solution. Judge Davis said it is in the best interest of everyone if judges have confidence and trust in the study. Council members reminded Judge Davis that district court judges have been a part of this process and should offer more than a subjective point of view. Mark Jones suggested that improved communications between members of the Council and Board may be helpful.

Motion:

A motion was made by Judge Jackson that members of the Judicial Council appoint Judges Low, Nehring and Burningham to work with Tim Shea on the Weighted Caseload Study;

the courts. Next, Judge Jensen said he is concerned about the erosion of judicial independence. The judge has enjoyed all of the associations made through the Council and he has had the opportunity to gain a perspective on court operations.

Chief Justice Zimmerman thanked each of the judges for their service on the Council, their representation of the judiciary and the manner in which they conducted themselves while on the Council. The Chief Justice presented each member with a recognition plate citing their years of service on the Council.

Executive Session:

A motion was made that the Judicial Council go into executive session. The motion was seconded and carried unanimously.

Adjourn:

Upon conclusion of the executive session, Chief Justice Zimmerman adjourned the meeting.

Other:

At the conclusion of the Council meeting, Robert Gross, Governor Leavitt's Chief of Staff, joined members of the Council for lunch.