

**JUDICIAL COUNCIL
PLANNING SESSION
MINUTES**

August 27, 1998

**Park City, Utah
Chief Justice Richard C. Howe, Presiding**

Members Present:

Chief Justice Richard C. Howe
Hon. Pamela T. Greenwood
Hon. Leonard H. Russon
Hon. Stephen A. Van Dyke
Hon. John Sandberg
Hon. Kent Nielsen
James C. Jenkins, Esq.
Hon. Kay A. Lindsay
Hon. Michael Glasmann
Hon. Michael K. Burton
Hon. Anne M. Stirba
Hon. Anthony W. Schofield
Hon. Robert Braithwaite
Hon Stan Truman

Staff Present:

Daniel J. Becker
Myron K. March
Fred Jayne
Raymond H. Wahl
Tim Shea
Blake Swain
Holly M. Bullen
Barbara Hanson
Gordon Bissegger
Marilyn Branch
D. Mark Jones
Richard H. Schwermer
Peggy Gentles
Cindy Williamson

Guests:

David Walsh

Welcome:

Chief Justice Howe welcomed guests, members and staff to the meeting.

Overview of Agenda:

Initially, there will be a review of Mr. Becker's recommendations. After that, time will be used to discuss the market salary plan and proposals, and then the Council will set priorities. There will also be a review of the proposed legislative agenda.

Staff Analysis:

The purpose in preparing the court administrator's recommendations is to look at the Governor's Guidelines, the needs of the Judiciary from a system wide perspective, and suggest

how the Judiciary might advance a building block that will fit within the 2% Guidelines. The Boards and Committees that have made presentations to the Council have their individual perspective and the Council should balance both perspectives.

Mr. Becker advanced a request at the 2% funding level that totals \$1,669,914. There are four elements to Mr. Becker's recommendations: a) clerks offices, i.e., deputy clerk positions, salary selectives, and CORIS enhancements; b) base budget increase; c) district court law clerk; and d) guardian ad litem.

Mr. Becker proposed 20 new clerk positions. These positions would be positions allocated both to the District and Juvenile Courts. The combined request from both courts was for 31 positions. Since 1994, clerk personnel has only increased by 5.6%. The allotment of clerks between court levels would be reviewed in July of 1999 when the most recent data has been obtained from the Clerical Weighted Caseload Study. Besides Mr. Becker's recommendation for new clerk positions, he recommended \$250,000 for an upgrade to CORIS; \$200,000 for the base budget; one district court law clerk at \$59,400; and four part-time Guardian ad Litem attorneys at \$100,000. Recommendations outside the Governor's two-percent guideline include: a) leases O&M; b) security; c) court connection to the State Human Resource Payroll System; and d) juvenile child welfare mediation.

Next, Mr. Becker proposed alternative recommendations to be funded by a means other than the General Fund which would not compete with funding priorities under the 2% Guideline. Mr. Becker recommended the following: a) juvenile drug court; b) pro-tem juvenile court judge (2); and c) juvenile automation, be funded through federal grant programs.

Following Mr. Becker's budget recommendations, he made a presentation on clerk salaries. Mr. Becker proposed that the entry level clerks' salary be raised to \$8.83 an hour. Although this will cause salary compression, the market survey and a very high turnover rate of employees at the entry level, show that these positions require attention. In addition, supervisors have noted that it is very difficult to attract and keep experienced, mature employees in the entry level positions. In increasing the deputy court clerk I salary, the proposal also suggested that the deputy clerk positions II and III be combined into a single position and that the qualifications be upgraded. Under the proposal, supervisors will be able to underfill the position if the candidate does not meet the job requirements. In order to address compression, the plan provides for providing in-range adjustment for deputy clerk II & III and lead clerks.

Discussion:

Judge Stirba proposed an adjustment to Mr. Becker's recommendations by providing that deputy court clerks III and above receive salary adjustments first because encouragement should be given to those employees with the greatest responsibilities. Judge Nielsen proposed reducing the number of clerks requested and designating the money for CORIS improvements.

The Board of District Court Judges, the Board of Juvenile Court Judges, court executives and clerks of courts support the proposal to raise entry level salaries because of the need to attract and keep qualified individuals in the court system. It was noted that court clerk III's and lead deputies received increases from the market survey in 1996, while entry level positions did not.

Motion:

A motion was made by Judge Braithwaite to adopt the salary survey and implementation proposal, effective October 1, 1998. The motion was seconded by Mr. Jenkins. The motion carried with one vote opposed.

Judge Stirba requested that the record reflect that she favors the 1998 salary survey, she voted in opposition to the motion because she believes the Judicial Council should address the deputy clerk III and lead deputy clerk salaries first.

Proposal:

Judge Van Dyke proposed that the Judicial Council send a message to the Legislature that the judiciary is a separate branch of government. Furthermore, that the judiciary's needs are real and substantial although just a small portion of the total state budget. Judge Van Dyke suggested that the judiciary's budget request be doubled. Judge Nielsen stated that funds received by state entities are the result of taxes paid by state residents and that if the judiciary increases its request, then other agencies will follow suit and this will result in increased taxes to residents. Judge Nielsen opposed Judge Dyke's proposal and indicated the judiciary should work within the 2% guidelines.

Judge Lindsey and Justice Russon asked about the history of the 2% guideline. David Walsh, Director of Planning and Budget, indicated that a number of years ago the Governor's office asked agencies to submit no more than a 10% request and that was unrealistic because agency budgets could not be funded at 10%. This resulted in a subsequent request to agencies within the last four to five years that budget requests be more reasonable i.e., in the 2% range. Mr. Walsh stated that the Legislature appreciates the Judiciary's attempt to work within the 2% guidelines and that some items are granted outside the guidelines.

James Jenkins said the he appreciates the sentiment of Judge Van Dyke's suggestion but as a practical matter the Judicial Council should take advantage of setting its own priorities and participating within the rules applied to government generally. Mr. Jenkins indicated that failure to do so may result in the Judiciary losing some of its credibility

Motion:

A motion was made by Judge Van Dyke to increase the judiciary's request to 4%, rather than 2%. The motion was seconded by Judge Stirba. The motion failed for lack of a majority vote.

Motion:

A motion was made by James Jenkins that the Judicial Council request funding for capital expenditures for building projects. The motion was seconded by Judge Burton and carried unanimously.

Legislation:

Tim Shea presented a summary of proposed Legislation.

Appellate Mediation Office - Legislation provides immunity for mediator.

Court Jurisdiction Amendments - Legislation provides that small claims actions cannot be brought against a governmental entity. In addition, this legislation clarifies amendments made by HB460.

Motion:

A motion was made by Judge Schofield to approve the Court Jurisdiction Amendments. The motion was seconded by Judge Stirba and carried unanimously.

Proposed Amendments to Cohabitant Abuse Act; Juvenile Court Act - Legislative intent is to leave cohabitant abuse petitions between adults in the district court; when the petition is on behalf of a child between parents it would also be in district court; when the petition is on behalf of a child between non-parental petitioners then the petition would be in juvenile court.

Motion:

A motion was made by Judge Stirba to approve the proposed amendments to the Cohabitant Abuse Act; Juvenile Court Act. The motion was seconded by Judge Van Dyke and carried unanimously.

Fine Collection Program - Legislation delineates agency responsibility for maintaining and collecting past due accounts.

Motion:

A motion was made by Judge Stirba to refer proposed Legislation on the Fine Collection Program back to the Liaison Committee for redrafting, taking into consideration the jurisdictional issues as well as others. The motion was seconded by Judge Nielsen and carried unanimously.

Prioritization Vote:

The Judicial Council, by individual vote, after a lengthy discussion and debate prioritized requests from the various boards and committees.

The final prioritization by the Judicial Council is as follows:

1.	15 District Court Clerks	619,125
2.	Data Pro. CORIS	318,000
3.	Salary Selectives	235,000
4.	Capital Law Clerk	59,400
5.	7 th Juvenile Judge	230,800
6.	GAL	100,000
7.	Base Budget	<u>107,575</u>
		\$1,669,900

8.	Appellate Mediation	90,000
9.	1 st Juvenile Judge	<u>230,800</u>
		\$1,990,700

Adjourn:

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