

**JUDICIAL COUNCIL PLANNING AGENDA
AUGUST 26 & 27, 1998**

Wednesday, August 26, 1998

8:30 a.m. Continental Breakfast

I. Overview

9:00 a.m. Welcome
Chief Justice Richard C. Howe
Overview of Planning Agenda
Dan Becker

9:15 a.m. Executive Branch Remarks
Ted Stewart, Chief of Staff, Governor's Office
Lynn Koga, Director, Office of Planning and Budget

9:45 a.m. Placing Budget Proposals in Context
Workload/Demographic Trends
Dan Becker and Eric Leeson
Fiscal Trends & Budget Process
Dan Becker and Fred Jayne
FY 2000 Proposals in Summary
Dan Becker

10:30 a.m. Break

II. Building Block Presentations

10:45 a. m. Base Budget
Myron March

11:00 a.m. Appellate Courts
Judge Michael J. Wilkins
Marilyn (Matty) Branch

11:15 a.m. District Board Report
Judge J. Michael Lyon

Wednesday, August 26 cont.

12:15 p.m.	Lunch Break
1:30 p.m.	Technology Committee Report <i>Judge Michael J. Wilkins</i>
2:00 p.m.	Juvenile Board Report <i>Judge Hans Q. Chamberlain</i>
2:30 p.m.	Facilities Committee Report (Including Capital Projects) <i>Judge Hans Q. Chamberlain</i> <i>Gordon Bissegger</i>
2:45 p.m.	Break
3:00 p.m.	Security Committee Report <i>Myron March</i>
3:30 p.m.	Guardian ad Litem <i>Kristin Brewer</i>
4:00 p.m.	Other Judicial Compensation <i>Myron March</i> <i>Fred Jayne</i>
4:15 p.m.	Supplementals <i>Fred Jayne</i>


Administrative Office of the Court

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MEMORANDUM

To: Judge Michael J. Wilkins
Judge J. Michael Lyon
Judge Hans Q. Chamberlain
Kristen Brewer

From: Dan Becker 

Date: August 19, 1998

Subject: Court Administrator's Review and Recommendations: FY 2000 Budget Plan

The enclosed material is being provided to the Judicial Council for their consideration during the Budget Planning Session next week. In that each of you are making budget presentations and my recommendations address some or all of the requests you are advancing, I wanted you to have the benefit of what I am providing the Council.

The purpose in preparing this material is to provide yet another perspective to the budget requests which the Council will be considering. In this instance, a state-wide perspective which considers all the requests within the context of the limitations imposed by the budget guidelines of the Governor's Office of Planning and Budget. The presentation you will make will be from the perspective of the needs of the court level or office you represent and it is important for the Council to hear what those needs are in their entirety, without the guideline limitations.

I will look forward to seeing you next Wednesday.

pc: Myron March
Mark Jones
Gordon Bissigger
Ray Wahl


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Memo

To: Judge Michael Wilkins
Judge Michael Lyon
Judge Hans Q. Chamberlain
Kristin Brewer

From:  Cindy Williamson

Subject: Meeting Location

Date: August 20, 1998

The Judicial Council will be holding their Annual Planning Meeting in Park City at the Lodge Resort Center, 1415 Lowell Ave. in the Payday/Lake Placid Room.

Court Administrator's Review and Recommendations: FY 2000 Budget Plan

The following material reflects recommendations prepared by the court administrator for the Judicial Council as a supplement to the budget planning material prepared by the individual boards, Council standing committees and offices. Each of the budget requests advanced for consideration has been prepared from the perspective of the individual court level, committee, or office and represents their specific needs, initiatives, and priorities. The Court Administrator's recommendations attempt to examine these requests from a system-wide perspective within the realities imposed by the budget preparation guidelines issued by the Governor's Office of Planning and Budget (GOPB).

For Fiscal Year 2000, the GOPB guidelines set a limit on requests for new General Fund appropriations at 2% of the FY 1999 ongoing state fund appropriation. The same limit set last year. The FY 1999 General Fund budget for the courts is \$83,495,700 and 2% of that amount equals \$1,669,914. A total of \$5,292,500 in new building block requests were submitted to the Judicial Council for consideration in the FY 2000 Budget Plan. The recommendations set out below are based on the assumption that, as in past years, the Judicial Council will advance a budget plan consistent with the spirit of the guidelines issued by the Governor's Office. The recommendations reflect the perspective of the Court Administrator's Office and are intended to provide a point of departure for the Council's discussion and consideration of other perspectives.

The recommendations which follow depart from the last two years in several ways: 1) the number of individual building blocks have been reduced by about half the number included in the plan the last several years; 2) there is a predominant focus, namely strengthening the clerk of court operation; and, 3) a reliance on grants and funds other than the general fund to address select requests.

Recommendations at the 2% Funding Level

The following items are recommended for inclusion in the budget plan at the level of 2% of the existing General Fund appropriation:

1. Strengthening the Clerk of Court Operation
 - New Deputy Clerk Positions (20) 825,500
 - Selective Salary adjustment for clerical positions 235,000
 - CORIS Performance Enhancements 250,000
2. Base Budget Increase 200,000
3. District Court Law Clerk (1) 59,400

4. Guardian Ad Litem (4 part-time attorneys)	100,000

Total	\$1,699,900

Strengthening the Clerk of Court Operation: From the perspective of the court administrator, strengthening the Clerk of Court operation should be our highest priority for the coming year. The extent to which the courts at all levels receive appropriate support, and the public receives the services to which they are entitled, depends on our clerks offices being adequately staffed, personnel being paid a salary which will permit the recruitment and retention of a quality work force, and dependable and effective modern business tools being in place. All three of these areas require attention.

Both the District Court and the Juvenile Court Boards advanced requests for additional deputy clerk positions, for a total of 31 positions. The District Court Board made additional clerks its highest priority. Every other component of the trial court system has seen material change in response to the caseload increases facing the courts, with the exception of the clerks offices. Additional judges, both District and Juvenile Court, have been provided over the past five years, and the Juvenile Court probation staff was increased substantially with funding resulting from the work of the Juvenile Justice Task Force. Increases in clerk staff, however, have been limited to positions which have accompanied new judgeships, or in response to the fiscal notes attached to new legislation which place additional burdens on the office. In some instances, such as the domestic violence legislation passed several years ago, the fiscal note providing additional staff did not accompany the passage of the legislation. As a consequence, clerks offices have been shouldering an increasingly heavy workload. Contrasting clerks with other trial court personnel, shows that since FY1994 the number of judges have increased by 25.6%, probation officers by 96.5%, while the number of clerk personnel increased by 5.6%. In addition to addressing workload per clerk, consideration should be given to using this increase in staff to enhance customer service by extending the hours which Clerk Offices are open to serve the public.

Attracting and retaining a qualified workforce for the clerk's offices has become increasingly difficult. Separations of experienced employees are increasing and the turnover rate of new employees is alarming. The pay plan which is in place for clerks needs to be changed if we are to be able to attract and retain a workforce capable of performing work which is becoming increasingly complex and stressful. A market analysis for clerk positions completed by the Administrative Office of the Courts shows that adjustments to the pay scale are required. Implementing a new pay plan will require an adjustment of the entry level pay, as well as select in-range adjustments for the existing workforce. Funds available through turnover savings in FY1999 will cover approximately half of the cost of implementing these adjustments. It is recommended that a building block of \$235,000 be advanced for the balance of the cost for full implementation.

As of July 30, 1998, the CORIS system is operational in every court-site in the state. Full implementation was possible as a result of an accelerated schedule which required other automation projects and CORIS enhancements to be deferred. This implementation was also accomplished in a year in which the budget for data processing had been reduced by \$462,100. With implementation now complete, it is apparent that the effectiveness of this tool is being seriously compromised by needed software, hardware, and line upgrades. The response time in those locations requiring one or several of these upgrades is adversely effecting the speed with which staff are able to complete their work. In addition, user experience has identified changes which should be made to both increase speed and enhance the tasks performed by the system. The \$250,000 recommended is capped by the 2% and other demands, not by the actual need.

Base Budget Increase: An increase in the base budget is necessary to make up ground up in the reduced spending power of the courts dollar as a result of inflation. That need alone is sufficient to seek and prioritize an increase for the base budget. However, the need for some adjustment is exacerbated by the fact the Legislature has not funded capital equipment budgets and has required that salary selective adjustments be funded within existing budgets. These pressures have placed the base budget under considerable strain.

The guidelines provided by GOPB state that "agencies are to fund inflationary increases for FY 2000 within existing budgets." This same language has been included in the guidelines for a number of years. The cumulative effect of this policy has become increasingly burdensome for the courts because of the high percentage of our budget which is in fixed personnel and lease costs, which is less the case in many other agencies. In this instance, I would suggest a departure from the GOPB guidelines and recommend that we seek a building block for the base in the amount of \$200,000, which is only a portion of that required to keep pace with inflation.

District Court Law Clerk: The District Board requested funding for five additional Law Clerks, one of which would be replacement funding for the Capital Law Clerk currently funded through a grant from the State Justice Institute. At the 2% level, it is recommended that only one Law Clerk position be funded.

Currently, six of the eight districts have Law Clerk service. Of the two remaining districts, the 6th and 8th, the 8th District has requested a clerk this year. The District Board placed a priority on continuing the Capital Law Clerk. Assuming that the District Court Board continues to regard the Capital Law Clerk position as effective, it is recommended that this position be funded if only one Law Clerk is advanced. This position is a state-wide resource and the Board has also advanced the proposition that this position could assist the Board in developing and maintaining an automated bench book.

Guardian ad Litem: Two years ago at the Budget Planning Session, the request from the Guardian ad Litem was for \$899,000 in new funding to address the increase in caseload. In the Court Administrator's recommendations it was acknowledged that, given competing demands, such an increase would have to be addressed incrementally. Approximately a third of that

amount was advanced as a building block and the Legislature provided approximately \$410,000 through a combination of general fund, Childrens' Legal Defense funding, and a percentage of the criminal surcharge. Last year, a building block of \$55,000 was advanced and the legislature provided no new funding. This year's request by the Guardian ad Litem of \$632,900 is relatively consistent with the remaining two thirds of the amount advanced two years ago.

A recommendation of \$100,000 is made which will enable the employment of part-time attorneys in the most critical areas. In this year's request, it should be noted that much of the growth which this office is trying to respond to is in the District Court rather than the primary area of responsibility, the Juvenile Court. It is now apparent that the need and reliance on the Guardian ad Litem by the District Court has grown considerably from the estimates advanced when the statute was amended to provide for representation in District Court domestic relations cases. This portion of the workload now accounts for 25% of the caseload state-wide, and up to 50% in some districts. The caseload and, in turn, the budget demands of this office will likely increase. Advancing an adequate budget is not possible within the 2% guidelines. If the budget can not be increased, consideration should be given to revisiting the statutory responsibilities of the Guardian ad Litem, including whether responsibilities in domestic relations cases should be reconsidered. Other options to increase coverage and reduce costs in these cases, such as pro bono services, have already been implemented and the demand continues to increase.

Recommendations Outside of the 2% : For the past two years we have requested of the Governor's Office an exemption for select types of funding requirements which we felt should lie outside of the 2% guideline because they involved expenditures over which there was little or no discretion. Last year, our request that increases for leases and security be considered outside of the 2% was honored. This year I would recommend that we advance the following as requests which should lie outside the 2%:

-	Leases O&M	\$996,800
-	Security	\$328,350
-	Court Connection to State Human Resource System	\$59,745
-	Juvenile Child Welfare Mediation	\$80,300 (One time)

Leases: This year in the GOPB guidelines Leases O&M for the courts was included on a list of items specifically exempted from the 2% guidelines. In that these expenses reflect obligations made when the individual projects was approved or contracts let, approval of the amount requested is recommended.

Security: It is recommended that, like last year, the request for security also be advanced as exempt from the 2% guideline. This is justified on the basis that security funding is essentially

passed through to county sheriffs budget under a contract with the court. We are presently receiving more security services than what can be reimbursed under the existing budget. While security demands are considerable, they are competing directly against funding required for other court priorities. The need, as reflected in the request, is substantially greater than the amount requested. However, the total amount required is such that it will have to be addressed incrementally, if other court needs are to be addressed.

It should also be noted that the Ad Hoc Security Committee's recommendation that funding for juvenile court security be taken over as a state responsibility has not been addressed. Unsuccessful efforts to have this issue studied by the legislature should be renewed.

Human Resource Automation Connection: The courts have received notice that the present automated personnel system provided through the Department of Finance will no longer be available as of July 1, 1999. A new replacement system has been developed for State Human Resources (HR Enterprize) to which the courts will need to connect. We have been informed that the annual cost for these services is \$59,745. Both the Legislative and Judicial Branch will have to begin using this system, or develop or purchase their own independent systems, which is not a viable option because of cost. In that the need and fee for this service is non discretionary, the funding for this service should be outside of the 2%.

Child Welfare Mediation: The Child Welfare Mediation Program operating in the 2,3,4, and 7th Districts is a pilot program initiated through the federally funded Court Improvement Project. Funds to support this program will expire as of January 1, 2000. A request has been made to request state funding for this program for FY2000. Unfortunately, not enough time has passed to fully assess the effectiveness and impact of this program. Early indications are that mediation of child welfare cases hold considerable promise, both as a better forum for the resolution of these cases and as a program which could reduce substantially the amount of court time required for these cases.

It is recommended that the Legislature be asked to provide one time funding to allow the courts to continue this pilot program for the last six months of FY2000. This conservative approach would provide time for additional experience to be gained and an evaluation to be completed. If the early indicators hold true, The Judicial Council can consider at next year's planning meeting whether to seek a building block for FY 2001. The one time cost for continuing this program for the last six months of FY 2000 is \$80,300.

Alternative Funding Recommendations:

There are three funding requests which have been advanced which may be funded by a means other than the General Fund and, therefore, do not compete with funding priorities under the 2% guideline. The following are recommended:

- Juvenile Drug Court
- Continue Byrne Grant

- Pro-Tem Juvenile Court Judge (2) \$26,690 (grant match)
- Juvenile Automation \$147,680 (grant match)

Juvenile Drug Court: The 3rd Juvenile Court has operated a Juvenile Drug Court since October of 1995 through a series of federal grants. The present Byrne Grant will expire in June of 1999. The request by the Board was for this program to be funded through a general fund appropriation. In that this is a "specialty court" and the Judicial Council has determined that it will examine and evaluate all speciality courts in August of 1999, it is premature to advance a request for on-going general funds.

As an alternative, it is recommended that the 3rd Juvenile Drug Court continue to rely on funding through the Byrne Grant. This program is eligible and prioritized for continued Byrne Grant funding through June of 2001. Relying on continued use of Byrne Grant funding will provide additional time to evaluate the process.

Pro Tem Juvenile Judges: The Juvenile Court Board also requested funding for new judgeships in the 1st District and 7th District, with a priority on the 7th District Juvenile Court. As the figures which will be presented to the Judicial Council at the Planning Session will show, referrals in the Juvenile Court are down for the second year in a row. With the addition of two new Juvenile Court judges in the last three years, the average caseload per judge has also been reduced. Using the Juvenile Court weighted caseload formula, it would appear state-wide the number of Juvenile Court judges state-wide is reasonably well matched to the caseload. The issue is that the caseload is not evenly distributed among districts and some districts are carrying a considerably heavier caseload. That is the case with the 1st and 7th districts.

While the caseload per judge is disproportionately high in the 1st and 7th Districts, both Districts experienced a drop in referrals in FY 1998, 15.53% and 11.53% respectively. In the case of the 7th District, this follows a decrease in referrals of 8.91% in FY1997. In the 1st and 7th Districts the particularly time-consuming dependency, abuse, and neglect cases dropped substantially this past year, 30.91% and 15.57% respectively. State-wide it is projected that the Juvenile Court referrals will continue to drop over the next year and then level out through 2002. We can not be as certain as to whether the referrals in the 1st and 7th Districts will follow this trend.

The State of Utah has recently been awarded \$2.8 million in the form of a Federal Juvenile Accountability Block Grant. This block grant specifically provides that these funds can be used to employ juvenile courts judges. There are obvious problems with relying on grant funds to employ a judge. However, an option which I would recommend the Judicial Council

consider is the use of these funds to employ time limited pro-tem juvenile court judges. The model which this would follow would be the use of pro-tem judges for the permanency project several years ago. This approach has the benefit of buying additional time to determine juvenile filing trends before committing to permanent resources.

Two full time pro-tem judges would cost \$265,958 for one year. The match requirement of 10% would require a one time appropriation of \$26,690. The juvenile court weighted caseload formula suggests that approximately a two-thirds time judge is needed at the present time. If this is accurate, then an approach that might be taken would be to assign one pro-tem judge each to the 1st and 7th District as a primary assignment accounting for two-thirds of the available time, and making the other third of the time available to other districts for the purpose of reducing the size of pending dockets. Pro-tem judges are limited to a six month appointment which can be extended by the Supreme Court for an additional six month period. Taking advantage of the availability of these block grant funds will allow the Judicial Council to defer action on this request for one year in order to better assess whether permanent resources are required.

Juvenile Court Automation: Last year the Council approved the application for a Byrne grant to contract for a needs assessment for the re-engineering of the Juvenile Court automation system. That grant was awarded by the Commission on Criminal and Juvenile Justice and a report has been prepared and studied by the Standing Committee on Automation. The Standing Committee is recommending that this project move forward and is suggesting that the Juvenile Incentive Block Grant be used to begin what will be a multi-year effort to design and implement a new system. The guidelines for this grant provide that automation projects are eligible for funding. The amount requested by the Standing Committee is \$1,476,800.00 and this represents the amount that could realistically be spent within the two year limit set by the grant. Additional funding would have to be sought to complete the project. It is possible, though not a certainty, that additional federal funds may be available for the additional work required to complete this project.

It is recommended that the courts take advantage of this one time funding to begin this re-engineering effort, provided that funding is available through the grant. This effort should not compete with the on-going requirements to enhance and maintain CORIS. Existing staff should remain dedicated to CORIS.

It is recommended that the match requirement for both the pro-tem judges and the Juvenile Court automation project be sought as supplemental funding for the present fiscal year.

Fiscal Note Funding:

Court of Appeals Mediation: The Appellate Court Board has advanced only one request: on-going funding for the Court of Appeals Appellate Mediation Office. The Court of Appeals has established this office by temporarily diverting existing resources in order to assess the

effectiveness of mediation in the appellate court setting. The early results of the program has proven effective both in terms of settling cases and the satisfaction of litigants. A benefit of mediation in this context which should not be undersold, is reducing the considerable cost of appeal to litigants. The request of \$180,100 would allow the office separate funding and enable the Court to eliminate the diversion of existing resources for this purpose. Because there is enabling legislation accompanying this request, the form in which it has been advanced would have it competing for fiscal note funding.

It is recommended that legislation and an accompanying fiscal note be requested outside of the 2% guideline. It is also recommended that the amount requested also be reduced. While existing resources have been diverted for this program, this diversion occurred at a time in which the Court of Appeals was experiencing a reduction in case filings. The alternative funding approach recommended is to seek half of the cost (\$90,050) through the fiscal note accompanying the legislation. In this way, the Court is taking advantage of the reduced filings and funding half of the on-going cost through a continued diversion of a portion of existing resources.

Supplementals: Supplemental funding has been requested for a number of items, including Juror, Witness, and Interpreter Fees (\$375,000 for FY98 & FY99), and a lease adjustment (\$150,000 for FY99). Supplemental requests are one time in nature, and apply to current fiscal year. Accordingly, they do not impact the FY 2000 budget and do not count against the 2 % guideline. It is recommended that both of these supplementals be approved.

In addition to the above supplementals it is recommended that two other requests be advanced as supplementals rather than building blocks, in that they involve one time funding. The request of the Guardian ad Litem of \$86,900 for computer equipment involves a one time expenditure and it is recommended that this be pursued through a supplemental.

Set out above under **Alternative Funding Recommendations** is a recommendation that federal funds under the Juvenile Accountability Incentive Block Grant be sought for addressing select requests from the Juvenile Court Board and the Standing Committee on Automation. The grant match requirement for these two projects would be \$174,370. Because these are one time expenses, this match requirement could be addressed through supplemental funding.