

ARKANSAS JUDICIAL COUNCIL, INC.

JUSTICE BUILDING

LITTLE ROCK, ARKANSAS 72201

TEL: (501) 682-9400

FAX: (501) 682-9410

December 12, 2013

Senator Uvalde Lindsay, Co-Chair
Personnel Subcommittee of the Arkansas Legislative Council
State Capitol, Room 171
Little Rock, AR 72201

Representative Andrea Lea, Co-Chair
Personnel Subcommittee of the Arkansas Legislative Council
State Capitol, Room 171
Little Rock, AR 72201

Re: Interim Study Proposal 2013 – 162

Dear Senator Lindsay and Representative Lea:

I write this letter as President of the Arkansas Judicial Council, Inc. and on behalf of our Board of Directors. As you know, our membership includes the 121 circuit judges serving across our state as well as the members of the Arkansas Court of Appeals and the Arkansas Supreme Court. Through resolution, our membership has directed and authorized the Board of Directors to act on behalf of the organization concerning legislative matters which are before the Arkansas General Assembly. In furtherance of this responsibility, our Board has met on multiple occasions to discuss the issues associated with the employment of Trial Court Assistants and Court Reporters which have been a part of ISP 2013-162. The Board also appointed, with your approval, Judges Charles Yeagan, Earnest Brown, and Xollie Duncan to serve as our representatives to participate in the committee deliberations and to speak on our behalf. Judge Duncan has been unable to serve and I have now appointed Judge Beth Bryan to serve as our third representative. I have included as an attachment the names of the current

members of our Board of Directors so that you are aware of the judges who have been involved in the preparation of this response.

We are very appreciative of the leadership which you and the members of the Committee have provided to study the many difficulties which we have faced, especially in recent years, with the structure and funding of our circuit court employees. Our committee representatives have shared with our Board their appreciation for the work which you have done and your willingness to include them in that work.

Following the last meeting of your Committee our Board met and discussed at length the issues which have been raised. Our representative will be prepared to discuss the issues at your next meeting on December 18; however, this letter is intended to provide you with the official position of the Judicial Council, based upon recent votes of the Board of Directors, as well as our response to the request for information which was submitted by your staff to the Administrative Office of the Courts.

REQUEST FOR INFORMATION

Your first request for information concerned caseload data for the last five years for each circuit judge and broken down by case type. As an initial matter I should note that our Board discussed this issue and agreed unanimously that court caseload data is not a relevant or helpful factor in the determination of court employees' compensation. In an attempt to be responsive to your request, however, I have attached the caseload reports for the last five years. You will quickly see that the volume of information is indicative of the complexity of the issue. The Judicial Council has been engaged in the review and comparative analysis of caseload data since the state first created an agency to collect and report this data in 1965. In 1989 the General Assembly enacted legislation which formalized the process of receiving a recommendation from the Judicial Council prior to the creation of a new judgeship or judicial redistricting, based upon the analysis of caseload data and other relevant factors, A.C.A. 16-10-501. In furtherance of this responsibility the Judicial Council established a special committee – the Judicial Resources Assessment Committee – to perform these tasks. For several years the committee attempted to utilize an analytical framework which would “weigh” the cases, depending upon the type of case, its method of disposition, and several other factors. This analysis proved so unsatisfactory that the Judicial Council voted to discontinue its use.

The Administrative Office of the Courts is deeply involved in the collection and reporting of this data. Mr. Gingerich can provide you further information should you request it. It is the position and recommendation of the Judicial Council, however, that while the use of such comparative data at the circuit level for the purpose of analyzing the need for additional judgeships can be helpful, even if imperfect, it is completely unsuited and irrelevant to the task of establishing compensation levels for individual court employees.

Your second request for information concerned a list of criteria which could be used to calculate salary adjustments for court employees. Our Board has discussed this matter extensively and it is our position that the use of subjective factors to compare and contrast the ability and/or experience of employees has been one of the main causes of the salary disparities which currently exist. The Personnel Committee's use of an employment grid in years' past utilizing similar factors demonstrates the difficulty and lack of success in achieving fairness and equity in the complex employment structure which exists for these employees. The fact that there is no central "employer" common to all of the employees (each of the 121 judges acts as the employer unit for the two employees who report to that judge) the uniform application of such factors is not possible. As you will see in our recommendation below, it is our position that we should move away from the use of factors which analyze and compare the individuals who fill the positions and move instead to a uniform and appropriate entry level salary for the positions. For this reason we have not adopted a list of criteria, nor do we recommend that such a list be utilized in the future.

The final material which you have requested concerns a proposal to move the sources of funding for trial court employees from special revenue to general revenue. While this is a long-term goal which we have adopted, it is not a part of our current and more critical recommendations. In fact, prior to your last meeting our Board had already voted to remove this issue from the list of matters under consideration. This will not be a part of our proposal for the upcoming legislative session. Discussion of these issues in the abstract when no request for action has been made will only serve to detract from consideration of those matters which are more important and can be addressed in the upcoming legislative session.

JUDICIAL COUNCIL RECOMMENDATIONS

During the 2013 legislative session the General Assembly enacted legislation which was responsive to two of three primary issues concerning trial court employees which were proposed by the Judicial Council. The first item involved a more stable and reliable method of funding the Auditor of State's appropriation for trial court employees. Your approval of Act 504 of 2013 which provided priority in funding from the Administration of Justice Fund was responsive to this request. The second issue was to stabilize and increase the funding into the Administration of Justice Fund itself. Act 282 of 2013 closed a number of inequities in the application of court costs and filing fees which went into effect in August and which are now beginning to improve and stabilize AOJF fund balances.

The third item which we proposed but which was not approved was the full funding of the Auditor of State's appropriation so that the additional compensation promised to those Trial Court Assistants who completed course work to become nationally certified as trial court managers could be paid. As you know, the entitlement to this additional compensation was

first adopted by the General Assembly in 2009. In the 2013 legislative session the appropriation levels for the Auditor of State sufficient to make these payments were raised; however, the funding transfer amount from the Administration of Justice Fund in support of that appropriation was not increased.

***We recommend that the funding level from the Administration of Justice Fund to the Auditor of State – Trial Court Assistants Fund be increased to the amount which is sufficient to fully fund the following obligations:**

- 1.) the payment of current level salaries, the payment of cost of living increases and merit pay increases at the levels authorized by the General Assembly and Governor for other state employees, and an addition to the base annual salary of 10% for those employees who are certified as trial court managers by the National Center for State Courts;**
- 2.) the payment of employee matching and benefits;**
- 3.) the payment of travel expenses; and**
- 4.) the payment of substitute trial court assistants.**

The testimony during your committee deliberation and the excellent research provided by your staff have documented the inequities in pay which exist across all levels of service for both Trial Court Assistants and Court Reporters. The discussion by our Board members appears to be consistent with that of your Committee in agreeing that the historic process which allowed for adhoc adjustments to entry level pay, based upon a request to and approval by the Personnel Committee, has played a significant part in these inequities. These legislative actions were always prompted by a judicial branch request; so these comments are not meant to suggest that legislators were the cause of the problem. We acknowledge and take responsibility for the system which has been in place. We now believe, however, that the system has produced gross inequities for employees and is not an appropriate or efficient method of setting compensation rates for these employees.

***We recommend that a new uniform entry level salary be set for all new Trial Court Assistants and Courts Reporters; that the new rate be set consistent with the required education, skills and abilities required for the positions and the private sector market rates for similar positions; that statutory provisions and legislative procedures be amended to eliminate the possibility of special entry level rates of pay or additions to compensation for individual employees; and that, after initial employment, trial court employees receive only such additions to compensation (such as cost of living increases or merit adjustments) as are available for all other state employees.**

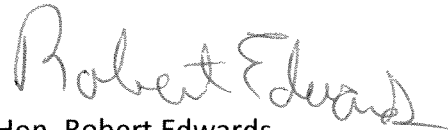
The adoption of a uniform salary rate for all employees will correct the compensation inequities in the future. There remains, however, the current situation of pay disparities within both classifications of employees. The current entry level rates of pay for both Trial Court Assistants and Court Reporters are too low. It is difficult for judges to recruit new employees who have appropriate levels of training and experience for these positions. The private market competition and the scarcity of licensed candidates make this even more difficult for the recruitment and retention of court reporters. Our recommendation for higher entry level rates of pay are, therefore, intended to respond to both the market conditions and to raise the compensation of those employees whose annual rates of pay are much lower than other employees with similar years of experience.

***We recommend that the pay grade for Trial Court Assistants be raised from C117 to C121 and that the minimum annual rate of pay of Trial Court Assistants currently employed be set at the entry level salary for a Grade C121 employee;**

***We recommend that the pay grade for Court Reporters be raised from C119 to C125 and that the minimum annual rate of pay of Court Reporters currently employed be set at the entry level salary for a Grade C125 employee.**

These are our primary recommendations for the Committee at this time. Our representatives to the Committee have participated in the discussions which led to these recommendations and will be prepared to provide further explanation and to respond to questions from the Committee. Again, we are grateful for your decision to study these issues and to allow us to be involved in your deliberations.

Sincerely,



Hon. Robert Edwards
Circuit Judge, 17th Judicial Circuit
President

RE/pks

Attachments

- Membership of the Judicial Council Board of Directors
- Circuit Court Caseload Reports, 2008 – 2012

ARKANSAS JUDICIAL COUNCIL, INC.
2013-2014

OFFICERS

Hon. Robert Edwards, President
Circuit Judge
1600 E. Booth Rd, Suite 500
Searcy, AR 72143
(501) 279-6212 Fax: (501) 279-6293

Hon. Vann Smith, Immediate Past-President
Circuit Judge
401 West Markham, Room 300
Little Rock, AR 72201
(501) 340-8538 Fax: (501) 340-6036

Hon. Gary Arnold, President-Elect
Circuit Judge
200 North Main
Benton, AR 72015
(501) 303-5664 Fax: (501) 303-5695

J. D. Gingerich, Secretary/Treasurer
625 Marshall Street
Little Rock, AR 72201
(501) 682-9400 Fax: (501) 682-9410

BOARD OF DIRECTORS

Hon. Mackie Pierce
Circuit Judge
401 West Markham, Room 360
Little Rock, AR 72201
(501)340-5620 Fax: (501)340-5657
Term Expires: October 2014

Hon. Lee Fergus
Circuit Judge
P.O. Box 1472
Jonesboro, AR 72403-1472
(870) 933-4548 Fax: (870) 933-7711
Term Expires: October 2014

Hon. Charles Yeargan
Circuit Judge
P.O. Box 820
Murfreesboro, AR 71958-0820
(870) 285-2900 Fax: (870) 285-2950
Term Expires: October 2014

Hon. Earnest Brown, Jr.
Circuit Judge
P.O. Box 6116
Pine Bluff, AR 71611
(870) 541-5461 Fax: (870) 541-5464
Term Expires: October 2015

Hon. Xollie Duncan
Circuit Judge
102 Northeast "A" Street, Room 309
Bentonville, AR 72712
(479) 271-1024 Fax: (479) 271-5706
Term Expires: October 2015

Hon. David Clark
Circuit Judge
801 Locust Street
Conway, AR 72034
(501) 328-4156 Fax: (501) 328-4157
Term Expires: October 2015

Hon. Rita Gruber
Court of Appeals
625 Marshall Street
Little Rock, AR 72201
(501) 682-7874 Fax: (501) 682-7494
Term Expires: October 2016

Hon. James Cox
Circuit Judge
901 S. "B" Street
Fort Smith, AR 72901
(479) 782-3035 Fax: (479) 784-1537
Term Expires: October 2016

Hon. David McCormick
Circuit Judge
108 Union Street, Room 108
Dardanelle, AR 72834
(479) 229-3580 Fax: (479) 229-1095
Term Expires: October 2016