JUDICIAL FINANCE COMMISSION

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O R D E R

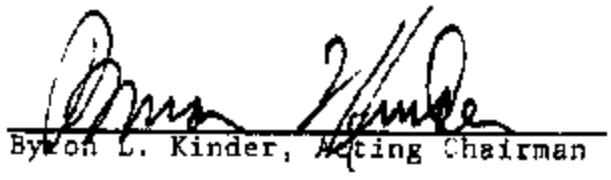
In re Circuit Court Budget of the 23rd Judicial Circuit of the State of Missouri

No. 89-0031

County Commission of Jefferson County, et al., Petitioners,	Benson Cytron P.O. Box 216 House Springs, MO 63051 (314) 375-3214
vs.	
Circuit Court of Jefferson County, et al., Respondents.	Eugene K. Buckley 314 North Broadway St. Louis, MO 63102 (314) 621-7755

I, Byron L. Kinder, Acting Chairman of the Judicial Finance Commission of the State of Missouri, certify that the attached opinion is a full, true and complete record of the decision of the Judicial Finance Commission, entered of record on the 26 day of July, 1989, in the above styled cause.

Given under my hand this 26 day of July, 1989.



Byron L. Kinder, Acting Chairman

JUDICIAL FINANCE COMMISSION

STATE OF MISSOURI

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STATEMENT OF THE CASE, FINDINGS OF FACT
CONCLUSIONS OF LAW AND DECISION

This matter appears before the Judicial Finance Commission upon a petition filed on January 29, 1989, by Jefferson County, Petitioner herein, seeking determination that the County is not legally obligated to provide any of the disputed budget items requested by the Circuit Court as detailed below.

Pursuant to § 50.640.2 RSMo 1986, a settlement conference was held on March 1, 1989, at the Jefferson County Courthouse, Hillsboro, Missouri, with Judicial Finance Commission members

Dowd and Huckstep in attendance. At that time, the Circuit Judges eliminated the request for funds for an executive chair; however, there was no resolution of the other issues.

Petitioners subsequently agreed to dismiss the issue of an additional fulitime juvenile officer from their appeal and the judges withdrew their budget request for a juvenile division automobile and maintenance therefor. Due to the continuing dispute regarding all remaining issues, a hearing was held in Jefferson City on June 6, 1989.

The County objects to the inclusion in the Circuit Court's budget of an item for a Division XII deputy clerk at an estimate of $5,280.00. This position, the County contends, is provided for by state statute, "The salaries of deputy circuit clerks and division clerks shall be paid by the state, and they shall be state employees." RSMo 483.245(6).

The Circuit Court argues that since the County previously authorized the salary for the deputy clerk in question, it is therefore bound to keep paying it. The Court cites In State ex rel Judges for the Twenty-Second Judicial Circuit vs. The City of St. Louis 494 SW 2nd 39 (Mo banc 1973), which held that a county could not refuse to make lawful expenditures required by the circuit court. Included as lawful expenditures were, "Those the local government unit, (in this case, the City), which is required to provide the funds to meet such expenditures, may have authorized previously, with or without request." State ex rel. Judges V. City of St. Louis, at 41.

We must disagree with the Court's reliance on State ex rel. Judges v. City of St. Louis, supra. In re 1979 Budget of the Juvenile Court of St. Louis County, 590 SW 2nd 900 (Mo banc 1979), held that the fact that the County previously authorized funding of certain court programs did not compel it to fund those programs in succeeding years. This case is analogous to the matter at hand. In the instant case, the salary for the deputy clerk was originally paid by a grant from the Mid-East Agency on Aging in order to create a position for an older person.

In In re 1979 Budget of Juvenile Court of St. Louis County, supra, certain juvenile court programs originated as the result of "seed money" funding by a federal grant program. The County initially funded 10% of this program. The County's share was later increased to 50% and finally the county paid all costs, so the program would not end abruptly. The Supreme Court found that "The previously authorized category of lawful expenditures in State ex rel. Judges for the 22nd Judicial Circuit states a presumption favoring past budget items of the Court. This presumption was not meant to shackle the county for all time to continue experimental programs regardless of the county's future assessment of the program under cost-benefit analysis." In re 1979 Budget of the Juvenile Court of St. Louis County, 590 SW 2nd 900, 901 (Mo banc 1979). Accordingly, we find that § 483.245, RSMo provides that the salaries of deputy circuit court clerks shall be paid by the state, and the fact that the County funded

the position in the past does not obligate it to continue to do so in the future.

The County similarly objects to the inclusion in the Court's budget of an item for funding a swing court reporter position in an amount up to $16,000.00. Section 485.065 RSMo provides, "The entire salary of each court reporter ... shall be paid out of the State Treasury."

The Court argues that the expense of swing court reporters is an administrative expense, which, since not payable by the state, shall be paid by the County. The Court points to the Circuit Court of the City of St. Louis and the Circuit Court of St. Louis County, which utilize swing court reporters paid by the City of St. Louis and St. Louis County, respectively. We find, however, that these are situations where the County voluntarily funds the swing court reporter positions. Jefferson County, in this proceeding, is not ready to voluntarily assume this expense.

Further, the County objects to the inclusion in the Circuit Court budget of an item for liability insurance for each of the circuit judges. The Supreme Court has acknowledged that "the swelling of judges' administrative responsibilities coupled with the trend toward narrowing judicial immunity may well warrant extending liability insurance coverage to judges and treating the cost of such insurance as a necessary court expense." In Re The 1983 Budget for the Circuit Court of St. Louis County, Missouri, 665 S.W. 2nd 943, 944 (Mo banc 1984). However, the court decided that the then newly enacted State Legal Defense Fund, § 105.711

et seq., RSMo 1986, provides comprehensive protection for "judges in the performance of their official duties and responsibilities." "In the absence of a showing that the coverage under the State Legal Defense Fund is so inadequate as to jeopardize the orderly operations of the courts, we cannot conclude that the acquisition of a separate insurance policy constitutes a reasonable cost of the Circuit Court chargeable to the County." id. at 945.

The presiding judge of the Jefferson County Circuit Court testified regarding instances where he speculated judges might not be covered by the State Legal Expense Fund. While the judge's speculation and concern is certainly understandable, it is insufficient to meet the burden of proof set out by the Supreme Court. Therefore, the County is not obligated to pay for the liability insurance.

Additionally, the County objects to a blanket increase in salary of four thousand dollars ($4,000.00) per year for all juvenile officers and the attorney for the juvenile department; $15,000.00 for the addition of a part-time juvenile attorney; and general salary increases granted to other juvenile department employees, including the detention home. With the exception of the attorney positions and the detention home employees, we find these requests to be excessive.

Evidence was presented that indicated that due to the current caseload and responsibilities of the present attorney,

the $4,000.00 raise and funding for a part-time attorney was reasonable. In regard to the detention home workers, the amount in dispute is negligible. Given the fact that the County found a salary of $6.00 per hour to be reasonable, we can not find the Court's request for $6.25 to be unreasonable.

In general, however, there must be some relationship of comparable pay for comparable positions. The County gave its employees salary increases of $2,500.00 per year for professional persons and department heads, and $1,200.00 per year for all others. Here, with the aforementioned exceptions, the Court did not carry its burden of proof for general increases greater than those given by the County.

Lastly, the County objects to the Court's budget estimate of $2,750.00 for a part-time maintenance worker for the detention center. The Juvenile Officer testified that due to delays by the County's maintenance department in making requested repairs, several incidents occurred at the home. Evidence presented by the County indicated that the County was not made aware of the problem.

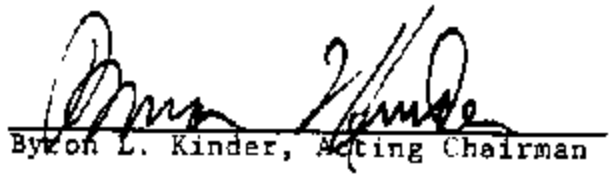
The County has a centralized maintenance department where supplies are purchased in bulk and carefully monitored. It does not appear economically reasonable that the detention center create its own maintenance department, albeit merely one part-time worker. If, in fact, all corrections are not made in a timely manner, those matters may be addressed by specific order of the Court. Thus, it appears uneconomical and unnecessary to

have two maintenance departments.

It is the decision of this Commission that Petitioner Jefferson County is obligated to fund the position of a part-time attorney for the juvenile department and the $4,000.00 salary increase for the present attorney. The County is also obligated to comply with the requested raises for the detention workers.

It is further decreed that Petitioner is not obligated to fund the positions of the swing court reporter, the part-time clerk, and the part-time maintenance worker, nor is the County obligated to provide the judges with professional liability insurance. Those items may be deleted from the budget. With respect to the general salary increase for the juvenile officers and clerical workers, the County is not obligated to fund an increase greater than what it has already approved.

Dated this 26 day of July, 1989



Byron L. Kinder, Acting Chairman

Hon. Robert G. Dowd, Chairman
Hon. John M. Yeaman
Hon. Floyd McBride
Hon. Gene Huckstep
Hon. Gerald Ohlms, Alternate
Hon. Eldon Hixson