

**Massachusetts Workers' Compensation
Advisory Council Minutes**

January 8, 1997
Department of Industrial Accidents
600 Washington Street
Boston, MA 02111

Chair: Edmund C. Corcoran, Jr.

Vice Chair: William H. Carnes

Present: Chairman Edmund C. Corcoran, Jr.; Vice Chair William H. Carnes

CM: Jeanne-Marie Boylan; Lawrence Morrisroe; John Gould (Donald Baldini); John Perry; Robert Banks; Alan S. Pierce; Dept. of Labor & Work Force Development (Spencer Demetros and Joan Cunningham)

Staff: Andrew Burton; Matthew A. Chafe; Ann Helgran

Also Present: DIA: Commissioner Campbell; Senior Judge Jennings; Vinny Luca; Donna Ward; Neil Gibbons (WCRIB); Carol Arrick Wells (Department of Mental Retardation); Carol Falcone

Absent: CM: Robert Jones; Edward Sullivan, Jr.; Tony Frias; Amy Vercillo; J. Bruce Cochrane; Economic Development

Agenda:

DIA Update

Action Items - Minutes - December 11, 1996

DIA Budget Subcommittee Update

Annual Report - Concerns & Recommendations

Division of Insurance - Workers' Compensation Manual

Executive Director Update

Chairman Corcoran conducted today's meeting.

DIA Update

Senior Judge Jennings updated the Council. The conference queue has increased to 1,664. There are now six judges off line. The reviewing board has 69 cases waiting to be scheduled; they have resolved 1,023 in the second quarter of the fiscal year and 1,019 in the first quarter. The impartial exams conducted in the first six months of this fiscal year; 2,657 including 50 fees that were waived.

Discussion followed. Chairman Corcoran asked for Senior Judge Jennings' view on the O'Brien case. Chairman Corcoran inquired about the change in the panel makeup of the Reviewing Board and the number of judges being requested. Judge Jennings stated that the makeup of the panel is pending; until this position is filled, he probably will keep only one panel functioning. The Senior Judge could not comment on the number of judges appropriate for the DIA. Chairman Corcoran felt that Judge Pickett and Vergados served a useful task at the Department and Senior Judge Jennings agreed that they were cost effective. Chairman Corcoran requested that the Executive Director arrange to send a letter to the Governor requesting that action be taken on the appointment of judges.

Further discussion was held regarding the acquisition of computerized stenographic equipment. Chairman Corcoran stated that the Advisory Council would support a process in which a vendor or series of vendors would come into the DIA and present a proposal for the installation of such equipment. He requested that the Executive Director obtain information regarding the purchase of such equipment, and have information available for the next Council meeting.

Stop Work Orders

Vinny Luca updated the Council on stop work orders. December Investigations, 338; total SWO's issued, 155; total fines imposed, \$13,500.00

Chairman Corcoran noted that each month DIA Budget issues will be discussed as part of the DIA update. He stated that the subcommittee had met with the Department the preceding Friday and inquired where funds allocated for the MUTTS program had been spent. He asked that Vinny Luca update the Council regarding the transfers between accounts.

Mr. Luca informed the Council he had given a copy of the money transferred from all subsidiary accounts to subcommittee members. The bulk of the transfers went from HH (consulting services) to the KK

account (equipment purchase). All other transfers were included in the memo he submitted. Council Members again reiterated their request for an accounting of MUTTS' money. Donna Ward stated that she could only estimate that \$400,000 has been spent since the inception of the MUTTS program. Mr. Luca explained that he was not able to state how much was spent on the projects, but that money not spent on MUTTS either went to buy equipment or was held as a surplus.

Chairman Corcoran thanked Mr. Luca for the Department's cooperation and stated that a monthly update would be helpful and appreciated.

Action Items - Minutes - December 11, 1996

Chairman Corcoran asked for a motion to accept the December minutes.

Motion made to accept the December minutes.

MMS - passed

Budget

Chairman Corcoran noted that the Advisory Council Budget Subcommittee has met on separate occasions with the Department. They met on Friday, January 3rd and discussed the MUTTS program and other budget matters. He referred to the Subcommittee's memo which was included in Council Members' packets (attached to minutes). He then asked the Executive Director to review the memo. Chairman Corcoran stated that the subcommittee hoped to make recommendations by the end of the month.

Mr. Luca stated that an attempt will be made to issue an RFP for an insurance audit.

Chairman Corcoran asked as to when the Council could expect an update on MUTTS. He was informed that it would be March.

Draft Fiscal Year 1996 Annual Report

Chairman Corcoran referred to the draft annual report that had been sent to Council Members. The Council then proceeded to review and discuss the Concerns and Recommendations section. Vice Chair Carnes noted that the Council could only make recommendations and should move forward with its recommendations.

The Council discussed employer fines for violation of the insurance mandate. Council Members were skeptical of supporting fines based on the amount of premium avoided because of administrative difficulties. They advised that concern be expressed in the Annual Report that the fines appeared inadequate and lenient and that a specific recommendation would be forthcoming. The Council discussed year end balances associated with the DIA, and that the requirements of Ch. 152, §65 (4) (c) ought to be amended. The Council next discussed the appropriate number of judges, and recommended that the DIA calculate this number based on demands placed on the system. The Council discussed the need for an audit on insurance carrier payments of DIA assessments, and recommended that the agency proceed with the audit as soon as possible. The Council then discussed the regional offices of the DIA, and recommended that a study be conducted to determine the feasibility of operating some of the offices on a part-time basis and having regional employees float between offices. Finally the Council discussed the DIA budget, and expressed concern about its growth, the use of inter-subsidiary transfers and a cost-benefit analysis of the MUTTS project.

Chairman Corcoran again voiced concern that the number of judges for the DIA still had not been disclosed. He felt it unfortunate that the Advisory Council was being viewed as the body looking to implement layoffs. He felt the DIA should acknowledge the need for making its operations more efficient, layoffs were not necessarily the only means.

Concern was also voiced by Vice Chair Carnes regarding the Council's role in the DIA budget process. Vice Chair Carnes asked that it to be recorded that the Advisory Council is charged with overseeing the budget of the DIA. Denial of information was prohibiting its review of the budget.

Chairman Corcoran asked for a motion to accept the Concerns and Recommendation section of annual report as discussed.

MMS - passed

Workers' Compensation & Employer's Liability Manual

The Executive Director stated that Commissioner Ruthardt issued her decision on the Massachusetts Workers' Compensation and Employer's Liability Manual. It was approved in part, and denied with respect to the section on classifications. He then reviewed his memo regarding her decision (attached to memo).

Executive Director Update

O'Brien Decision

He explained that the SJC upheld the §11A impartial system, as detailed in his memo (attached).

Chairman Corcoran asked for a motion to adjourn.

Motion made to adjourn.

MMS - passed - meeting adjourned 11:00 A.M.

The next regular meeting of the Advisory Council will be held on February 12, 1997, 9:00 AM, at the Department of Industrial Accidents, 7th Floor Conference Room, Boston, MA 02111.